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# 114

## EDITORIAL

# FRANCISCANS AND THE FAMILY

On 4-25 October 2015 the 14<sup>th</sup> Ordinary Assembly of the Synod of Bishops is meeting in Rome to discuss the theme: “The vocation and mission of the family in the Church and in the contemporary world.” This Synod has already seen an intense period of preparation since the convening of the extraordinary meeting of the Synod last year, in order to pave the way for this year’s meeting.

The media gave extensive coverage of the preparations for the Synod, but unfortunately they concentrated their attention, as usual, on the sensational aspects of issues that were, according to their way of seeing things, intensely debated, and which saw a deep division among bishops. Such issues included the admission to the sacraments of divorced persons who remarry in a civil union or who live in a *de facto* union with another partner, the Church’s stand on homosexuality and its views of same sex unions, and the usual criticism of the Church as being outmoded on issues like contraception and abortion.

Indeed, very little has been reported on what the Church actually teaches on marriage in a Christian context. Pope Francis’ remarks on the debated issues mentioned above, often taken out of their context, were presented as a latent sign that the Church, under Pope Francis, is becoming more tolerant and humane, and that it welcomes in its fold all those who face difficulty in marriage or live in a *de facto* heterosexual or same sex union, as if they are living their Christian commitment as fully as other couples committed to faithfulness to the Church’s moral teaching.

It is a fact that traditional family values, especially in Christian societies, have foundered. The concept of a life-long commitment of faithfulness to a spouse, openness to the generation and care of children, respect for the sacredness of life from the moment of conception to the grave, are seen as things of the past by many secular societies and countries, even though the majority of their inhabitants are still officially Christian.

The debate on such issues, however, is not hitting the nail on the head. The real problem facing the family is not a question of traditional values, sacred though they may be. It is an issue of the very intrinsic meaning of what a family unit is. In other words, it is a question of accepting the sacredness of a reality that essentially calls for a life-long commitment of love and dedication in a spirit of sacrifice. This kind of language is far removed from current trends of thought and action. Our secularised societies do not want to listen to such terms, if these are seen to be a threat to individual freedom of action and the defence of would-be fundamental human rights.

It is easy for us to lament about the loss of traditional family values in our society as they have been lived out in a Christian context



for many centuries. It is more difficult to admit that the influence of such a secularised mentality have now invaded all social walks of life, including the religious sphere itself. A case in point is the life of those persons who have decided to consecrate their lives as religious.

The Catholic Church has seen a sharp drop in vocations in many countries. It has also had to face the criticism of having harboured in its fold a number of priests and religious who have committed *delicta graviora* (more serious crimes) particularly regarding sexual misconduct. We have witnessed even a recent example of a priest publicly declaring his open homosexuality on the eve of the opening of the Synod of Bishops, and criticising the Church for being intolerant and outmoded in its treatment of gays and lesbians.

The preoccupying factor in all this apparent confusion is the fact that religious and consecrated persons have been finding it ever more difficult to engage in a life-long commitment of faithfulness to their calling. The problem of religious life is no different from the one facing married life in the so-called traditional Christian context. It is no secret that people nowadays are afraid of life-long commitments. We are living in an age of uncertainty. Nothing is clear-cut any more. Not even sacrosanct values like marriage or consecrated life. No wonder that vocations are scarce, that religious and priests abandon their ministry. The relative number of scandals upon which the media hammer at the expense of the infinite number of committed lives in marriage and in the consecrated state have been instilling a certain fear and unwillingness to engage in a generous self-offering that binds one for life.

Francis of Assisi is an example of a man who was not afraid of a life-long commitment. His spiritual Testament is a sign of his decision never to turn back on what he decided to accomplish. Franciscan priests and religious today need to delve deep into the contents of this autobiographical document in order to discover the pure origins of their vocation. Francis' decision to follow Christ and his Gospel was no joke. He was aware of the fact that he would be misunderstood, that he would be considered a religious fundamentalist, a kind of visionary who believed in a utopia which is impossible to exist. Yet he trudged on, undaunted by any difficulty or opposition. To his friars he did not promise an easy life. He was a man who was capable of using infinite mercy and understanding, without betraying the ideal in which he believed and which he sought to live to the very end.

Maybe we need to rediscover this kind of persons in our times. In a world devoid of strong leaders who can inspire with their own example, who can defend true human values and not the will and pleasure of the majority, the vocation of the Church remains as precious as ever. Behind the soft-spoken style of Pope Francis we need to discover the spirit of faithfulness and commitment that marked the lives of great men like Francis of Assisi. It is only then that we can hope for a better future for our families and for our religious communities. It is a question of choosing between comfortable relativism that breeds confusion and the uncomfortable message of the Gospel, preached by Him who was crucified for the values He stood up for.

*Noel Muscat ofm*

# SAINT FRANCIS AND THE FOURTH LATERAN COUNCIL

*Noel Muscat ofm*

On 11 November 1215, exactly 800 years ago, Pope Innocent III officially inaugurated the Fourth Lateran Council in Rome. This Council was one of the greatest achievements of Pope Innocent III, and is a landmark in the history of 13<sup>th</sup> century Christianity. It was to shape the policy of the Church regarding its moral authority, regarding the need to re-conquer the Holy Land from the infidels, regarding sacramental discipline and particularly regarding the future of religious life in the Church. Celebrated at a time when new religious Orders were flourishing, particularly the Franciscans and the Dominicans, it is important for the understanding of how these new Orders were to become bulwarks of Christianity during the decades that followed the Council. For us it is important to note the presence of Saint Francis of Assisi during the same Council.

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## *Pope Innocent III*

Lotario di Segni was born in 1160/61 at Gavignano Castle near Rome and died in Perugia on 16 July 1216. He is known as the most important among the Popes of the Middle Ages. He was elected Pope on 8 January 1198, and immediately set about at reforming the Papal Curia, establishing his authority over central Italy, extending his influence to convoke a new Crusade to liberate the Holy Land, combating heresy in southern France and northern Italy, particularly the Cathar or Albigensian heresy, and establishing a clear discipline in the sacramental practice of the Church.

He was son of Trasimondo, Count of Segni, and was born in a noble Roman family. Lotario was educated in Rome, and then in 1180 circa he

was in Paris, where he studied theology under Peter of Corbeil and Peter the Chanter. Among his companions of study we find Stephen Langton, who as Pope Innocent III appointed archbishop of Canterbury. From Paris Lotario went on to study civil and canon law in Bologna.

Lotario was probably already a cleric in Rome. Pope Gregory VIII made him subdeacon in 1187. Pope Clement III elevated him to the rank of cardinal deacon of Saints Sergius and Bacchus in 1189/90. When Pope Celestine III died on 8 January 1198, the cardinals immediately elected Lotario as Pope. He took the name Innocent III, and was ordained priest on 21 February 1198 and consecrated bishop of Rome on 22 February.

At the beginning of his pontificate, Innocent faced several serious problems. Emperor Henry VI had died and there were two candidates for the imperial throne, namely Henry's brother, Philip of Swabia, and Otto of Brunswick. The German princes were divided over the succession. Southern Italy was in turmoil.<sup>1</sup> The Holy Land had been lost to the Muslims in 1187. The Cathar heresy was rampant in Provence and Lombardy. Papal authority over the Papal States had disintegrated and the Papal Curia needed reform.

Another thorny problem was the war between Philippe Augustus of France and King John of England. Innocent III had tried to defend John, but things took a turn to the worse when John did not accept the right of the canons of Christ Church in Canterbury, to elect the archbishop of Canterbury. Innocent decided to impose his own candidate in the person of Stephen Langton. When John refused to accept Stephen, Innocent III excommunicated him in 1209. In 1213 John promised allegiance to the Pope and was forgiven, thus making of England a papal fief. This action



**Pope Innocent III**

prompted the English barons to force King John to sign the *Magna Carta* (15 June 1215) and thus created tension with Innocent III who declared the charter null and void.

This great Pope died in Perugia on 16 July 1216. The account of his death is given to us by Jacques de Vitry, bishop of Acre (c. 1160/70 – 1240), in the Letter written in Genoa during the same year: “Departing from there (Milan), I arrived at Perugia. There I discovered Pope Innocent dead, but not yet buried. During the night some thieves had stripped his body of all the precious vestments with which he was to be interred, and left it there in the church virtually naked and already decaying. I went into the church and saw with utter faith how fleeting and empty is the deceitful glory of this world.”<sup>2</sup>

## *The Fourth Lateran Council*

Pope Innocent III summoned the Fourth Lateran Council on 19 April 1213, by publishing the Bulla *Vineam Domini sabaoth*. The solemn opening was fixed for November of 1215. All the bishops and abbots of Christendom were invited, together with the priors of capitular churches and of the religious Orders of the Cistercians, Premonstratensians, Hospitallers and Templars, together with the kings and civil authorities throughout Europe. The aim of the Council was declared by Pope Innocent in the Bulla: “The desire of our heart is of a double nature and it regards what we hold most dear to us in this world, namely, to regain the Holy Land and to reform the

universal Church.”<sup>3</sup>

The opening session of the Council took place on 11 November 1215. The following is an eyewitness account of the event:

“On Saint Martin’s day, then, the council was begun. At the break of dawn, the lord pope first of all celebrated mass in the church of the Saviour, which is known as the Church of Constantine. Only cardinals, archbishops, and bishops were admitted. When mass had been said, and when the bishops and abbots, who, unlike the bishops, wore no mitres, had been placed on the proper seats, many thousand, even ten times a hundred thousand clerics and people were let into the interior of the same church. When so many had entered that in spite of the church’s tremendous size hardly any room was left, the lord pope, a man more discerning than men and truly filled with the spirit of wisdom and understanding, standing with his cardinals and ministers in an elevated position, began to sing the hymn ‘Come Creator’. When the hymn had solemnly been sung to the end in a manner worthy of God, and not without tears flowing for spiritual joy, the lord pope added the following collect: ‘Our actions, we beg you, Lord’ and so on... Because no one was able to calm the tumult of the people, I could unfortunately only understand very little of his sermon. But I did not cease to search for it as best I could, until I obtained a copy and committed it to writing. Among other things in this sermon he most of all urged the recovery of the Holy Land. Then the patriarch of Jerusalem gave a sermon to the same effect. The lord pope also asserted in his sermon that, if the princes would take thought for the Holy Land, he would personally assume the task; if not, he promised to pay in addition for the preparation of ships for pilgrims leaving from Rome. These and similar matters were dealt with in the Lateran church on the first day of the council.”<sup>4</sup>

The sermon by which Pope Innocent III opened the Fourth Lateran Council had as its theme the text of Ezekiel 9:4: “Pass through the city [Jerusalem] and mark a Tau on the foreheads of those who moan and groan over all the abominations that are practiced within it.” This detail is very important, as we shall see, since if Saint Francis were present to listen to this sermon, he would have certainly understood the importance of the Tau as a symbol of the cross, which he would later on use to sign his autographs.

The business of the Council continued during

the remaining days of November 1215. Among other important issues that the Council discussed there was the issue of the establishment of a Latin patriarch in Constantinople. The fourth Crusade, which had ended disastrously in the ravaging of Constantinople on 12 April 1204 by the Venetians,<sup>5</sup> had established a Latin patriarch, but this led to bitter enmity with the Greek Orthodox Church.

Another pending issue was the solution of the quarrel between the bishops of Compostella and Toledo, about who should have the primacy.

The thorniest issue, however, was that regarding the wiping out of heresy, particularly the Albigensian or Cathar heresy, in southern France. The Council discussed the problem of Raymond VI, count of Toulouse (1194-1222), during whose reign the crusade on the Cathar heretics began. He himself was accused of embracing the heresy. Innocent III had declared an Albigensian Crusade, and demanded help by king Philippe Augustus of France, but the king was at war with England at the time. The fact that Raymond VI accepted to take the cross in the coming crusade might have calmed down Innocent III.

On Sunday 15 November Pope Innocent III proceeded to consecrate the basilica of Santa Maria in Trastevere, with great pomp and solemnity, accompanied by the Roman nobility and the Council fathers. The consecration took up the whole day.

On 18 November the Pope then went to the basilica of Saint Peter in order to celebrate the anniversary of the dedication of the basilicas of Saint Peter and Saint Paul in Rome.

On 20 November the Council dealt with the problem regarding the imperial succession. The bishop of Palermo spoke in favour of Frederick II, king of Sicily, of the house of Hohenstaufen, who had been elected emperor by the German princes in 1212. Innocent III had decided to support him against the house of the Welfs, represented by emperor Otto IV, whom Innocent III had originally supported and crowned as emperor in 1209. For the occasion Otto IV had passed close to Assisi on the Via Francesca, and Francis and the brothers, who were staying at Rivotorto, boycotted the imperial march. Francis even sent one of the brothers to tell Otto that his reign was to be short-lived.<sup>6</sup> Otto was eventually excommunicated by Innocent III, and during the Fourth Lateran Council his supporters attempted to gain absolution for him.

The last session of the Council was held on

30 November 1215, feast of Saint Andrew. After celebrating Mass the Pope asked all the bishops present to recite the articles of faith in the Creed and then the Council proceeded to condemn the heretical teachings of Joachim of Fiore (1130 ca. – 1202) and Amaury of Paris.

The Council concluded with the question of the holy cross and the upcoming Crusade which Innocent III wanted to organise. The Pope celebrated a solemn exposition of the relic of the true cross and announced that he wanted a new Crusade to convene in order to liberate the Holy Land.<sup>7</sup>

Innocent III had announced the Fifth Crusade with the Bulla *Quia maior* of April 1213,<sup>8</sup> and he reiterated his order in the decree *Ad liberandam* during the Fourth Lateran Council.

The Fourth Lateran Council published a series of 70 decrees, or constitutions. The most important among them regarding Franciscan history are those which deal with sacramental discipline and religious Orders.

Canon 13 regards the prohibition against new religious Orders. “Lest too great a variety of religious Orders leads to grave confusion in God’s Church, we strictly forbid anyone henceforth to found a new religious Order. Whoever wants to become a religious should enter one of the already approved Orders. Likewise, whoever wishes to found a new religious house should take the rule and institutes from already approved religious Orders.”<sup>9</sup> This canon had its repercussions on the newly founded mendicant Orders. Whereas Francis of Assisi had his rule orally approved by Pope Innocent III in 1209, and could thus bypass the application of the canon, Saint Dominic had to accept to follow the Rule of Saint Augustine when he founded the Friars Preachers.<sup>10</sup>

Canon 21 regards the yearly confession to one’s parish priest, and the precept of annual communion. “All the faithful of either sex, after they have reached the age of discernment, should individually confess all their sins in a faithful manner to their own priest at least once a year, and let them take care to do what they can to perform the penance imposed on them. Let them reverently receive the sacrament of the eucharist at least at Easter unless they think, for a good reason and on the advice of their own priest, that they should abstain from receiving it for a time. Otherwise they shall be barred from entering a church during their lifetime and they shall be denied a christian



burial at death.”<sup>11</sup>

## *Saint Francis during the Fourth Lateran Council*

Francis of Assisi was present at the Lateran palace in Rome in 1209, when he went to Pope Innocent III to ask for the oral approval of his primitive Rule of life. The episode of the dream of Innocent III regarding Francis who supported the basilica of Saint John Lateran on his shoulders to prevent its collapse is well documented in the sources.<sup>12</sup>

The presence of Saint Francis during the Fourth Lateran Council is held to be highly probable by historians. Pope Benedict XVI spoke about it on 4 November 2010, when he wrote a message to Cardinal Angelo Bagnasco, President of the Italian Episcopal Conference, which gathered in Assisi for its 62<sup>nd</sup> annual conference, stating that Francis programme of reform through the Order of friars Minor was a faithful act of obedience to the indications given by the that Council.<sup>13</sup>

According to the *Assisi Compilation*, 49, the famous encounter between St. Francis and St. Dominic, according to tradition, took place in 1215, during the celebration of the Fourth Lateran

Council. There is, however, no historic proof that this meeting actually occurred. The Franciscan Sources tell us, however, that the two saints met in the house of Cardinal Hugolino:

“Those two bright lights of the world, namely, Saint Francis and Saint Dominic, were once in the City with the Lord of Ostia, who later became Supreme Pontiff. As they took turns pouring out honey-sweet words about the Lord, the bishop finally said to them: ‘In the early Church the Church’s shepherds were poor, and men of charity, not on fire with greed. Why don’t we make bishops and prelates of your brothers who excel in teaching and example?’

There arose a disagreement between the saints about answering, neither wishing to go first, but rather each deferring to the other. Each urged the other to reply. Each seemed superior to the other, since each was devoted to the other. At last humility conquered Francis as he did not speak first, but it also conquered Dominic since, in speaking first, he humbly obeyed Francis. Blessed Dominic therefore answered the bishop, ‘My lord, my brothers are already raised to a good level, if they will only realise it, and as much as possible I would not allow them to obtain any other appearance of dignity.’ As this brief response



*The dream of Innocent III*

ended, Blessed Francis bowed to the bishop and said: 'My lord, my brothers are called 'lesser' precisely so they will not presume to become 'greater.' They have been called this to teach them to stay down to earth, and to follow the footprints of Christ's humility, which in the end will exalt them above all others in the sight of the saints. If you want them to bear fruit in the Church of God, keep them in the status in which they were called and hold them to it. Bring them back down to ground level even against their will. Never allow them to rise to become prelates.' These were the replies of the saints.

When they finished their replies, the Lord of Ostia was greatly edified by the words of both and gave unbounded thanks to God. And as they left that place, blessed Dominic asked Saint Francis to be kind enough to give him the cord he had tied around him. Francis was slow to do this, refusing out of humility what the other was requesting out of charity. At last the happy devotion of the petitioner won out, and he devoutly put on the gift under his inner tunic. Finally they clasped hands and commended themselves to each other with great sweetness. And so one saint said to the other: 'Brother Francis, I wish your Order and mine might become one, so we could share the same form of life in the Church.'

At last, when they had parted from each other, Saint Dominic said to the many bystanders: 'In truth I tell you, the other religious should follow this holy man Francis, as his holiness is so perfect.'"<sup>14</sup>

The famous biographer of Saint Francis, Paul Sabatier, states that "(Francis') presence at Rome during the Lateran Council (November 11-30, 1215) is possible, but it has left no trace in the earliest biographies."<sup>15</sup> Indeed, although the majority of historians state that Francis was present during the Fourth Lateran Council, this tradition cannot be proven simply by the documentary sources of the 13<sup>th</sup> century. There are, however, various indications that Francis was well aware of the Council's proceedings and of the need to implement its canons in the life of the friars.

Maybe the most evident reference to a progress in the approval of Franciscan rule by Pope Innocent III is that contained in the *Legend of the Three Companions*: "So he (Pope Innocent III) embraced him (Francis) and approved the rule he had written. He also gave him and his brothers permission to preach penance everywhere, with

the stipulation that the brothers who preach obtain permission from blessed Francis. Afterwards he approved this in a consistory."<sup>16</sup> The Latin expression is: *Et hoc idem postea in concistorio approbavit*. The word *concistorio* refers to a solemn gathering of cardinals with the Pope, and can be taken as a reference to the Fourth Lateran Council.

Indeed, a study of the *Earlier Rule* (*Regula non bullata*) shows how its formation from a simple collection of Gospel texts presented to Pope Innocent III in 1209 to its present form approved by the general chapter of 1221, is the result of the years immediately following the Fourth Lateran Council, from 1216 to 1221.<sup>17</sup>

Some examples might help to corroborate what we are stating. The original chapter 16 of the *Earlier Rule*, the first of its kind in Church history dealing with missionary evangelisation, speaks about the friars going "among the Saracens and other non-believers". It is certainly the direct result of Pope Innocent III's exhortation during the opening session of the Fourth Lateran Council, on the need to recover the Holy Land through a new Crusade. Francis obviously applies the Conciliar decree in a very original way, but is nonetheless a son of his times when he sends his friars as "sheep among wolves".<sup>18</sup> Chapter 17 of the *Earlier Rule* speaks about preachers. The dispositions of the Fourth Lateran Council for preachers imposed in a particular way the catholicity of the preacher, who acted under the mandate of his bishop, since the duty of preaching was a right reserved for bishops. That is why Francis commands the brothers: "Let no brother preach contrary to the rite and practice of the Church or without the permission of his minister."<sup>19</sup> The same thing can be affirmed regarding chapter 20: "Let all the blessed brothers, both clerics and lay, confess their sins to priests of our religion,"<sup>20</sup> a direct result of canon 21 of the Fourth Lateran Council. Chapter 18, dealing with the general chapter of the ministers on the feast of Saint Michael (annually) or at Pentecost (every three years),<sup>21</sup> is also the direct result of canon 12 of the Fourth Lateran Council, which legislated the practice of the general chapter of abbots and priors in each ecclesiastical province.

The link between Saint Francis and the Fourth Lateran Council is therefore evident in his writings, even though, as we have stated, we have no historical proof in the medieval sources that the saint was actually present for the Council



proceedings. The silence of the same sources, however, is not a denial of the possibility that Francis could very well have been present in Rome in November 1215, and that he might also have met Innocent III who had asked him to return to him when Francis had presented the primitive form of life in 1209. It was the right moment to ask the Pope for a stronger approval of the rule, which was slowly taking shape, and the Fourth Lateran Council was certainly a unique occasion for the subsequent developments in the Order's legislation, particularly during the general chapters at the Portiuncula, especially from 1217 till 1221.

One last note of interest for us is the link between Francis and the Basilica of Saint John Lateran in Rome, where the Pope used to reside during the 13<sup>th</sup> century and where the Fourth Lateran Council was celebrated. An account in *The Chronicle of the XXIV Ministers General of the Order of Friars Minor* mentions the restoration on the apse of the Basilica of the Lateran during the reign of Pope Boniface VIII, in 1296:

"During the time of the lord Pope Boniface VIII the apse of the basilica of the Saviour in the Lateran in Rome was restored. This section of the basilica is called *episcopium* (the bishop's place). For the placing of the mosaics of the apse, two expert friars Minor were commissioned. When they placed the images, which the same Pope had ordered them to depict in the mosaic, those friars saw that there were still some empty spaces, in which they could place other figures. Moved by a divine instinct they inserted in the mosaic the figures of Saint Francis and Saint Anthony."<sup>22</sup>

It was the Franciscan Pope Nicholas IV (1288-1292) who in 1291 commissioned brothers Jacopo Torriti, or de Torrita, and Jacopo da Camerino for this work of art. To this very day one can admire the figure of Saint Francis, who stands much smaller than the figures of Saint Peter and Saint Paul, behind the Blessed Virgin Mary, on the left hand side of the 6<sup>th</sup> century *crux gemmata*, at the foot of the *Pantocrator* and nine Serphim (4<sup>th</sup> – 5<sup>th</sup> century) in the apse of the Lateran Basilica.<sup>23</sup> This representation is a proof of the spiritual presence of the little man of Assisi in the "head and mother" of all the churches in the world, who like a "seraphic atlas" supported the edifice of the Lateran Basilica and prevented its collapse with his Gospel rule of life, which Innocent III approved when his dream convinced him of the lasting faithfulness of that *poverello* to the reform of holy mother Church,

which the Pope proclaimed in such a forceful way during the Fourth Lateran Council.

## NOTES

1. When Innocent was elevated to the papacy, the political situation in Italy and Germany was precarious because of Philip of Swabia's and Otto of Brunswick's competing claims for the imperial throne. The struggle for the succession to the throne would be the most difficult problem Innocent faced in his first years as Pope and would be complicated further by imperial and papal relations with southern Italy and Sicily. By the time of his death in 1197, Emperor Henry VI had subjected almost the entire Italian peninsula, including most of the Papal States, and Sicily to his rule. Henry's claim to the Norman kingdom of Sicily, a papal fief subject to the authority of the Pope, was strengthened by his marriage to Constance, the daughter of King Roger II of Sicily. The legitimate heir to the kingdom of Sicily was Henry's son, the future emperor Frederick II. Constance promoted Frederick's interests by putting him under the protection of Innocent. Fearing the ambitions of the Hohenstaufen Philip, Innocent supported Otto until the murder of Philip in 1208, at which point Otto violated his agreements with the Pope. In 1212 Innocent was forced to turn to Henry's son, Frederick, whose rule the Pope had hoped to limit to the Sicilian kingdom. (<http://www.britannica.com/biography/Innocent-III-pope>)

2. JACQUES DE VITRY, *Letter written in Genoa 1216* (FAED I: 579).

3. INNOCENT III, *Bulla Vineam Domini Sabaoth* (19 April 1215), in *Recueil des Historiens des Gaules et de la France*, Tome XXIX, Contenant la troisième et dernière livraison des monumens des Règnes de Philippe-Auguste et de Louis VIII, depuis l'an MCLXXX jusqu'en MCCXXVI, Epistolarium Innocentii III, Lib. XVI, 577-578: "Episcopo et episcopis, abbatibus, prioribus per Viennensem provinciam VINEAM DOMINI SABAOTH multiformes moluntur bestiae demoliri; quarum incursus adeo invaluit contra ipsam, ut ex parte non modica pro vitibus spinæ succreverint, et, quod gementes referimus, ipsae iam vites proferant pro uva labruscam, infectae multipliciter et corruptae. Illius ergo testimonium invocamus qui testis est in coelo fidelis, quod inter omnia desiderabilia cordis nostri duo in hoc saeculo principaliter affectamus, ut ad recuperationem videlicet Terrae Sanctae ac reformationem universalis ecclesiae valeamus intendere cum effectu; quorum utrumque tantam requirit provisionis instantiam, ut absque gravi et grandi periculo ultra dissimulari nequeat vel differri. Unde supplicationes et lacrymas frequenter effudimus coram Deo, humiliter obsecrantes quatenus super iis suum nobis beneplacitum revelaret, inspiraret affectum, accenderet desiderium et propositum confirmaret, facultatem et opportunitatem praestando ad ea salubriter exequenda. Quapropter, habito super iis cum fratribus nostris et aliis viris prudentibus frequenti ac diligenti tractatu, prout tanti sollicitudo propositi exigebat, hoc tandem ad exequendum praedicta de ipsorum consilio providum faciendum, ut, quia haec universorum fidelium communem statum respiciunt, generale concilium iuxta priscam Sanctorum Patrum consuetudinem convocemus, propter lucra solummodo animarum opportuno tempore celebrandum; in quo ad extirpanda vitia et plantandas virtutes, corrigendos excessus et reformandos mores, eliminandas haereses et roborandam fidem, sopiendas discordias et stabiliendam pacem, comprimendas oppressiones et liberatrem fovendam, inducendos principes et populos christianos ad succursum et subsidium Terrae Sanctae, tam a clericis quam a laicis impendendum, cum caeteris quae longum esset per singula numerare, provide statuatur inviolabiliter observanda circa praelatos et subditos regulares et saeculares, quaecumque de ipsius approbatione concilii visa fuerint expedire ad laudem et gloriam nominis eius, remedium et salutem animarum nostrarum,

ac profectum et utilitatem populi christiani. Quia vero ante biennium universale non posset concilium commode congregari, disposuimus interim per viros prudentes in singulis provinciis plenius explorare, quae apostolicae provisionis limam exposcunt, et praemittere viros idoneos ad Terrae Sanctae negotium procurandum, ut si, exigente necessitate, sacrum concilium approbaverit, nos personaliter ipsum negotium assumamus efficacius promovendum.

Credentes igitur hoc salutare propositum ab illo descendere a quo est omne datum optimum et omne donum perfectum, universitati vestrae per apostolica scripta praeciipiendo mandamus quatenus vos taliter praeparetis, quod a praesenti Dominici Incarnationis millesimo ducentesimo decimo tertio anno, usque ad duos annos et dimidium, praefixis vobis pro termino kalendis novembris, nostro vos conspectui praesentetis cum modestia et cautela, ita quod in vestra provincia unus vel duo de suffraganeis valeant episcopi remanere pro christianitatis ministeriis exercendis; et tam illi quam alii qui, canonica forte praepeditione detenti, personaliter venire nequiverint, idoneos pro se dirigant responsales, personarum et evectionum mediocritate servata quam Lateranense concilium definivit, ut nullus omnino plures, quivis autem pauciores secum adducere possit, nec quisquam superfluas faciat et promposas, sed necessarias tantum et moderatas expensas, ostendendo se actu et habitu verum Christi cultorem; cum non secularis applausus, sed spiritualis profectus, in hoc sit negotio requirendus. Iniungatis autem vos, fratres archiepiscopi et episcopi, ex parte nostra, universis ecclesiarum capitulis, non solum cathedralium, sed etiam aliarum, ut praepositos vel decanos aut alios viros idoneos ad concilium pro se mittant, cum nonnulla sint in ipso tractanda quae specialiter ad ecclesiarum capitula pertinebunt. Interim vero et per vos ipsos et per alios viros prudentes universa subtiliter inquiratis quae correctionis aut reformationis studio indigere videntur, et ea fideliter conscribentes ad sacri concilii perferatis examen, circa subventionem necessariam Terrae Sanctae, ubi Deus Rex noster ante saecula salutem in medio terrae dignatus est operari, opem et operam efficaciter impensuri, assistendo fideliter et prudenter iis quos deputaverimus ad hoc negotium specialiter procurandum. Nullus itaque se fallaciter excusando ab executione tam sancti operis subtrahat, si canonicam vult effugere ultionem. Nemo dissensionum obstacula vel itinerum impedimenta causetur, quae, Domino faciente signum in bonum, ex magna iam parte cessare coeperunt. Nam et quanto imminent maiora pericula, tanto potiora remedia convenit adhiberi. Nunquam enim navigabit per aequora, qui semper exspectat ut mare non concitet ex se fluctus.

Datum Laterani, XIII kal. Maii, anno sexto decimo.”

4 S. KUTTNER and A. GARCIA Y GARCIA, *A New Eyewitness Account of the Fourth Lateran Council*, in *Traditio* 20 (1964) 123-129.

5 Innocent III started his pontificate with an ardent desire to reconquer Jerusalem and the Holy Land, which had been lost to the Crusades during the Battle of Hattin (4 July 1187) and the subsequent retreat from Jerusalem on 2 October of the same year. On 15 August 1198 Innocent sent letters to the kings and bishops of Christendom, asking them to launch a new Crusade. The Fourth Crusade (1202-1204) was a disaster. The Venetians, led by the Doge Enrico Dandolo, took the opportunity of the superior numbers of ships and forces over the French and German contingents to change the Pope's policy and instead attack Constantinople. After a barbaric destruction of the imperial Byzantine city on 12 April 1204 relations between the Greek Orthodox and the Latin Church came to a standstill, and the Venetians established a Latin patriarch in the Byzantine city. (<http://www.britannica.com/biography/Innocent-III-pope>)

6 1C 43 (FAED I, 221).

7 “It is our ardent desire to liberate the Holy Land from infidel hands. We therefore declare, with the approval of this sacred council and on the advice of prudent men who are fully aware of the circumstances of time and place, that crusaders are to make themselves ready so that all who have arranged to go by

sea shall assemble in the kingdom of Sicily on 1 June after next : some as necessary and fitting at Brindisi and others at Messina and places neighbouring it on either side, where we too have arranged to be in person at that time, God willing, so that with our advice and help the christian army may be in good order to set out with divine and apostolic blessing. Those who have decided to go by land should also take care to be ready by the same date. They shall notify us meanwhile so that we may grant them a suitable legate a latere for advice and help. Priests and other clerics who will be in the christian army, both those under authority and prelates, shall diligently devote themselves to prayer and exhortation, teaching the crusaders by word and example to have the fear and love of God always before their eyes, so that they say or do nothing that might offend the divine majesty. If they ever fall into sin, let them quickly rise up again through true penitence. Let them be humble in heart and in body, keeping to moderation both in food and in dress, avoiding altogether dissensions and rivalries, and putting aside entirely any bitterness or envy, so that thus armed with spiritual and material weapons they may the more fearlessly fight against the enemies of the faith, relying not on their own power but rather trusting in the strength of God. We grant to these clerics that they may receive the fruits of their benefices in full for three years, as if they were resident in the churches, and if necessary they may leave them in pledge for the same time.

To prevent this holy proposal being impeded or delayed, we strictly order all prelates of churches, each in his own locality, diligently to warn and induce those who have abandoned the cross to resume it, and them and others who have taken up the cross, and those who may still do so, to carry out their vows to the Lord. And if necessary they shall compel them to do this without any backsliding, by sentences of excommunication against their persons and of interdict on their lands, excepting only those persons who find themselves faced with an impediment of such a kind that their vow deservedly ought to be commuted or deferred in accordance with the directives of the apostolic see. In order that nothing connected with this business of Jesus Christ be omitted, we will and order patriarchs, archbishops, bishops, abbots and others who have the care of souls to preach the cross zealously to those entrusted to them. Let them beseech kings, dukes, princes, margraves, counts, barons and other magnates, as well as the communities of cities, vills and towns -- in the name of the Father, Son and holy Spirit, the one, only, true and eternal God -- that those who do not go in person to the aid of the holy Land should contribute, according to their means, an appropriate number of fighting men together with their necessary expenses for three years, for the remission of their sins in accordance with what has already been explained in general letters and will be explained below for still greater assurance. We wish to share in this remission not only those who contribute ships of their own but also those who are zealous enough to build them for this purpose. To those who refuse, if there happen to be any who are so ungrateful to our lord God, we firmly declare in the name of the apostle that they should know that they will have to answer to us for this on the last day of final judgment before the fearful judge. Let them consider beforehand, however with what conscience and with what security it was that they were able to confess before the only-begotten Son of God, Jesus Christ, to whom the Father gave all things into his hands, if in this business, which is as it were peculiarly his, they refuse to serve him who was crucified for sinners, by whose beneficence they are sustained and indeed by whose blood they have been redeemed.

Lest we appear to be laying on men's shoulders heavy and unbearable burdens which we are not willing to lighten, like those who say yes but do nothing behold we, from what we have been able to save over and above necessities and moderate expenses, grant and give thirty thousand pounds to this work, besides the shipping which we are giving to the crusaders of Rome and neighbouring districts. We will assign for this purpose, moreover, three thousand marks of silver, which we have left

over from the alms of certain of the faithful, the rest having been faithfully distributed for the needs and benefit of the aforesaid Land by the hands of the abbot patriarch of Jerusalem, of happy memory, and of the masters of the Temple and of the Hospital. We wish, however, that other prelates of churches and all clerics may participate and share both in the merit and in the reward. We therefore decree, with the general approval of the council, that all clerics, both those under authority and prelates, shall give a twentieth of their ecclesiastical revenues for three years to the aid of the holy Land, by means of the persons appointed by the apostolic see for this purpose; the only exceptions being certain religious who are rightly to be exempted from this taxation and likewise those persons who have taken or will take the cross and so will go in person. We and our brothers, cardinals of the holy Roman church, shall pay a full tenth. Let all know, moreover, that they are obliged to observe this faithfully under pain of excommunication, so that those who knowingly deceive in this matter shall incur the sentence of excommunication. Because it is right that those who persevere in the service of the heavenly ruler should in all justice enjoy special privilege, and because the day of departure is somewhat more than a year ahead, crusaders shall therefore be exempt from taxes or levies and other burdens. We take their persons and goods under the protection of St Peter and ourself once they have taken up the cross. We ordain that they are to be protected by archbishops, bishops and all prelates of the church, and that protectors of their own are to be specially appointed for this purpose, so that their goods are to remain intact and undisturbed until they are known for certain to be dead or to have returned. If anyone dares to act contrary to this, let him be curbed by ecclesiastical censure.

If any of those setting out are bound by oath to pay interest, we ordain that their creditors shall be compelled by the same punishment to release them from their oath and to desist from exacting the interest; if any of the creditors does force them to pay the interest, we command that he be forced by similar punishment to restore it. We order that Jews be compelled by the secular power to remit interest, and that until they do so all intercourse shall be denied them by all Christ's faithful under pain of excommunication. Secular princes shall provide a suitable deferral for those who cannot now pay their debts to Jews, so that after they have undertaken the journey and until there is certain knowledge of their death or of their return, they shall not incur the inconvenience of paying interest. The Jews shall be compelled to add to the capital, after they have deducted their necessary expenses, the revenues which they are meanwhile receiving from property held by them on security. For, such a benefit seems to entail not much loss, inasmuch as it postpones the repayment but does not cancel the debt. Prelates of churches who are negligent in showing justice to crusaders and their families should know that they will be severely punished.

Furthermore, since corsairs and pirates greatly impede help for the holy Land, by capturing and plundering those who are travelling to and from it, we bind with the bond of excommunication everyone who helps or supports them. We forbid anyone, under threat of anathema, knowingly to communicate with them by contracting to buy or to sell; and we order rulers of cities and their territories to restrain and curb such persons from this iniquity. Otherwise, since to be unwilling to disquiet evildoers is none other than to encourage them, and since he who fails to oppose a manifest crime is not without a touch of secret complicity, it is our wish and command that prelates of churches exercise ecclesiastical severity against their persons and lands. We excommunicate and anathematize, moreover, those false and impious Christians who, in opposition to Christ and the christian people, convey arms to the Saracens and iron and timber for their galleys. We decree that those who sell them galleys or ships, and those who act as pilots in pirate Saracen ships, or give them any advice or help by way of machines or anything else, to the detriment of the holy Land, are to be punished with deprivation of their possessions and are

to become the slaves of those who capture them. We order this sentence to be renewed on Sundays and feast-days in all maritime towns; and the bosom of the church is not to be opened to such persons unless they send in aid of the holy Land the whole of the damnable wealth which they received and the same amount of their own, so that they are punished in proportion to their offence. If perchance they do not pay, they are to be punished in other ways in order that through their punishment others may be deterred from venturing upon similar rash actions. In addition, we prohibit and on pain of anathema forbid all Christians, for four years, to send or take their ships across to the lands of the Saracens who dwell in the east, so that by this a greater supply of shipping may be made ready for those wanting to cross over to help the holy Land, and so that the aforesaid Saracens may be deprived of the not inconsiderable help which they have been accustomed to receiving from this.

Although tournaments have been forbidden in a general way on pain of a fixed penalty at various councils, we strictly forbid them to be held for three years, under pain of excommunication, because the business of the crusade is much hindered by them at this present time. Because it is of the utmost necessity for the carrying out of this business that rulers of the christian people keep peace with each other, we therefore ordain, on the advice of this holy general synod, that peace be generally kept in the whole christian world for at least four years, so that those in conflict shall be brought by the prelates of churches to conclude a definitive peace or to observe inviolably a firm truce. Those who refuse to comply shall be most strictly compelled to do so by an excommunication against their persons and an interdict on their lands, unless their wrongdoing is so great that they ought not to enjoy peace. If it happens that they make light of the church's censure, they may deservedly fear that the secular power will be invoked by ecclesiastical authority against them as disturbers of the business of him who was crucified.

We therefore, trusting in the mercy of almighty God and in the authority of the blessed apostles Peter and Paul, do grant, by the power of binding and loosing that God has conferred upon us, albeit unworthy, unto all those who undertake this work in person and at their own expense, full pardon for their sins about which they are heartily contrite and have spoken in confession, and we promise them an increase of eternal life at the recompensing of the just; also to those who do not go there in person but send suitable men at their own expense, according to their means and status, and likewise to those who go in person but at others' expense, we grant full pardon for their sins. We wish and grant to share in this remission, according to the quality of their help and the intensity of their devotion, all who shall contribute suitably from their goods to the aid of the said Land or who give useful advice and help. Finally, this general synod imparts the benefit of its blessings to all who piously set out on this common enterprise in order that it may contribute worthily to their salvation." (<http://www.papalencyclicals.net/>)

8 J. BIRD – E. PETERS – J.M. POWELL, *Crusade and Christendom: Annotated Documents in Translation from Innocent III to the Fall of Acre, 1187-1291*, University of Pennsylvania Press, 107-112.

9 FOURTH LATERAN COUNCIL, Canon *Ne nimia religionum diversitas*, in *Enchiridion della Vita Consacrata. Dalle Decretali al rinnovamento post-conciliare (385-2000)*, EDB – Ancora, Bologna – Milano 2001, 58: "Ne nimia religionum diversitas gravem in ecclesia Dei confusionem inducat, firmiter prohibemus, ne quis de caetero novam religionem inveniat, sed quicumque voluerit ad religionem converti, unam de approbatis assumat. Similiter qui voluerit religiosam domum fundare de novo, regulam et institutionem accipiat de religionibus approbatis."

10 SALIMBENE DE ADAM OF PARMA gives us an account of this canon of the Fourth Lateran Council in his *Chronicle*, and states that Pope Innocent III preached on the text of Luke 22:15: *Desiderio desideravi hoc Pascha*. For the Italian edition of the



*Chronicle*, cfr. *Fonti Francescane. Nuova Edizione*, Editrici Francescane, Padova 2011, marginal number 2630.

11 (<http://www.papalencyclicals.net/>) Latin text: “Omni utriusque sexus fidelis postquam ad annos discretionis pervenerit, omnia sua solus peccata saltem semel in anno fideliter confiteatur proprio sacerdoti; et injunctam sibi poenitentiam pro viribus studeat adimplere, suscipiens reverenter ad minus in Pascha Eucharistiae sacramentum; nisi forte de proprii sacerdotis consilio ob aliquam rationabilem causam, ad tempus ad eius perceptione duxerit abstinendum; alioquin et vivens ab ingressu ecclesiae arceatur, et moriens Christiana careat sepultura.”

12 L3C 51 (FAED II, 97). This dream is also narrated in the *Life of Saint Dominic* written by Constantius Medici in 1244-45. According to this account the dream occurred in 1214, when Dominic arrived in Rome with Bishop Fulk of Toulouse for the celebration of the Fourth Lateran Council, some time before the successor of Innocent III, Honorius III, approved the Order of Friars Preachers on 22 December 1216.

13 BENEDICT XVI, *Message to Cardinal Angelo Bagnasco on the occasion of the general assembly of the Italian Episcopal Conference*, English translation in: [https://w2.vatican.va/content/benedict-xvi/en/letters/2010/documents/](https://w2.vatican.va/content/benedict-xvi/en/letters/2010/documents/20100426_benedict-xvi_en_letters_2010_documents/) “In these days you are meeting in Assisi, the town in which ‘a sun was born into the world’ (Dante, *Paradiso*, Canto XI). He was proclaimed Patron of Italy by Venerable Pius XII: St Francis, who keeps intact his freshness and timeliness — Saints never fade! — due to his being conformed totally to Christ, of which he was a living icon. The time in which St Francis lived was marked, like ours, by profound cultural transformations, encouraged by the birth of the university, by the development of the municipalities and by the spreading of new religious experiences. In this season, thanks to the work of Pope Innocent III — the Pope from whom the Poverello of Assisi obtained his first canonical recognition — the Church began a profound liturgical reform. An eminent expression of it was the Fourth Lateran Council (1215), that lists the ‘Breviary’ among its fruits. This book of prayers contained the riches of the theological reflection and prayerful life of the preceding millennium. By taking it on St Francis and his friars made their own the Supreme Pontiff’s liturgical prayers. So it was that the Saint assiduously listened to and meditated upon the word of God, to the point of making it his own and introducing it into the prayers he composed, as well as generally into all his writings. The Fourth Lateran Council itself, reflecting with special attention on the Sacrament of the Altar, introduced the term ‘transubstantiation’ into the profession of faith in order to affirm the real presence of Christ in the Eucharistic sacrifice. ‘His Body and His Blood are truly contained in the Sacrament of the Altar under the species of the bread and the wine, since through divine power the bread is transubstantiated into the body and the wine into blood’ (DS, 802).

The evangelical life of St Francis and his vocation to walk the way of the Crucified Christ flowed from serving at Holy Mass and from receiving Holy Communion devoutly. ‘The Lord’, we read in the Testament of 1226, ‘gave me so much faith in the Churches that I simply prayed and said: We adore you, Lord Jesus, in all your Churches throughout the world and we bless you because with your holy Cross you redeemed the world’ (*Fonti Francescane*, n. 111). The great deference in which he held priests and the order he gave the friars to respect them always and everywhere originated in this experience, ‘for I see nothing of the Most High Son of God corporally in this world other than his Most Holy Body and his Blood, which they [priests] alone consecrate and alone administer to others’ (*Fonti Francescane*, n. 113). Before this gift, dear Brothers, what a responsibility of life derives from it for each one of us! ‘Take care of your dignity, brother priests’, St Francis recommended further, and “be holy because he is holy!’ (Letter to the General Chapter and to all the Friars, in *Fonti Francescane*, n. 220). Yes, the holiness of the Eucharist demands that we celebrate this Mystery aware of its greatness, importance

and effectiveness for Christian life, but it also demands purity, consistence and holiness of life of each one of us, to be living witnesses of the one Sacrifice of Christ’s love. The Saint of Assisi never ceased to contemplate how ‘the Lord of the universe, God and Son of God, humbled himself to the point of hiding himself, for our salvation, in the meager appearance of bread’ (ibid., no. 221), and with vehemence asked his friars: ‘I beg you, more than if I did so for myself, when it is appropriate and when you deem it necessary, that you humbly implore priests to venerate above all the Most holy Body and Blood of Our Lord Jesus Christ and the holy names and words written of him that consecrate the Body’ (Letter to all the Custodians, in *Fonti Francescane*, n. 241).”

14 CA 49 (FAED II, 148-149). The same episode is found in 2C 148-150 (FAED II, 342-344); MP 43 (FAED III, 289-290). The meeting between St. Francis and St. Dominic at the house of Cardinal Hugolino according to the accounts of the journeys accomplished by both saints during their lives, could only have taken place between the end of 1220 and the beginning of 1221, or maybe also between the end of 1217 and 7<sup>th</sup> April 1218, since it was only on these occasions that we know that the three men were in Rome at the same time.

15 PAUL SABATIER, *Life of Saint Francis of Assisi*, Translated by L.S. Houghton, Hodder and Stoughton, London 1908, 199.

16 L3C 51 (FAED II, 98). Cfr. AC 101 (FAED II, 205); MP 26 [Sabatier] (FAED III, 276).

17 Francesco d’Assisi, *Scritti*, Edizione critica a cura di C. Paolazzi, Frati Editori di Quaracchi, Collegio S. Bonaventura, Grottaferrata 2009, 229: “Il nucleo originario della Regola, pur senza snaturarsi, già al tempo del Concilio Lateranense IV (1215) doveva essere cresciuto fino a costituire un insieme normativo rassicurante agli occhi della Chiesa, se la fraternità dei Minori non fu vincolata dal canone conciliare *De novis religionibus prohibitis* (can. 13), che vietava l’istituzione di nuovi Ordini religiosi e a chiunque volesse farsi religioso imponeva di scegliere ‘una delle religioni approvate’, con relativa ‘regola e istituzione’ normativa.”

18 ER 16 (FAED I, 74-75).

19 ER 17,1 (FAED I, 75).

20 ER 20,1 (FAED I, 77).

21 ER 18,1-2 (FAED I, 76).

22 ARNALD DE SARRRANT, *Chronica XXIV Generalium*, in *Analecta Franciscana* III, 157-158. English translation by N. Muscat, in <http://www.i-tau.com/franstudies/>

23 R.B. Brooke, *The Image of Saint Francis: Responses to Sainthood in the Thirteenth Century*, Cambridge University Press 2006, 448: “Jerome of Ascoli was among the group who drew up the decorative programme for the Upper Church; indeed it suggests that he was responsible for the iconographic scheme of that vault. But Nicholas IV’s bold innovation in the Lateran did not simply glory St. Francis; it was intended to do much more. The Lateran apse iconography conveyed not one but two images of St. Francis. As a person St. Francis had scaled the heights of sanctity. His conformity to Christ, signed and sealed by the stigmata, had earned him an incomparable place in heaven. But he was also the founder of the Order of Friars Minor; the image is given a wider context. His mission to renew the Church was not to be achieved single-handed. His personal exemplarity was the inspiration for a movement of renewal which was absolutely necessary to sustain and continue the momentum. This explains the presence of St. Anthony. The Order’s two saints were the two new apostles, entitled to stand alongside Christ’s apostles. Their positioning is extraordinarily explicit in making this claim visually; the humble are indeed exalted here. Though they are portrayed smaller than the other figures, St. Francis is placed in front of St. Peter, St. Anthony in front of St. John the Evangelist.

# THE CUSTODY OF THE HOLY LAND AND THE PATRI- ARCHATE OF JERUSALEM

Paolo Pieraccini

## English summary of the original study:

*Custodia di Terra Santa e Patriarcato Latino di Gerusalemme: nuove controversie giurisdizionali (1917-1923)*, Parte II, in *Frate Francesco*, anno 81, nuova serie, Aprile 2015, n. 1, 67-104.

## 3. The difficult journey towards a *modus vivendi* between the Custody and Patriarchate

### 3.1. The reaction of the Franciscans

The minister general, Serafino Cimino – although he himself had been Custos of the Holy Land (1914-1915), communicated the decisions of *Propaganda Fide* with a spirit of submissiveness, exhorting the friars of the Custody to be “true sons of Saint Francis, and always obedient to the will of the Church” by living humbly in the shrines and carrying out their normal duties for the good of the mission.

The Custos, Ferdinando Diotallevi, expressed his wish to continue furthering the spirit of union and concord with the Patriarch. But the friars were not always content. At the convent of Saint Saviour there were many protests against Patriarch Barlassina, who was ignoring the provisions of the Brief *Inclytum Fratrum Minorum conditorem* of Pope Benedict XV (4 October 1918), and was entrusting his own emissaries to collect

funds for the Holy Land in the same places where the Custody had the right to organise the annual collection for the mission. Regarding the shrines, Barlassina was dealing directly with the Greek Orthodox authorities without even consulting the Custos, also with the help of the French Consulate, thus creating problems with the British authorities who had the mandate in Palestine.

In his diary Diotallevi recounts how Barlassina had intervened in an inopportune manner in the quarrel between the Custody and the Greek Orthodox Patriarchate regarding the construction of the Basilica of the Agony in Gethsemane. By doing so, Barlassina recognised a right of the Greeks over the property and church of Gethsemane, which they had never possessed! When Diotallevi tried to intervene, Barlassina chided him for acting without his consent, and even went as far as irritating the British authorities by asking for help from the French consul!

Diotallevi was aware that Barlassina was very unpopular even with his own clergy, but he did not dare to deal with the Secretary of State, since *Propaganda Fide* would immediately step in and protest that it was the competent organ for negotiations and the Custos should not bypass it to go directly to the Holy See. On the local scene, Diotallevi was the only person that the British authorities wanted to deal with regarding the Shrines, and this was creating an embarrassing situation for him in front of *Propaganda*, which pretended that it should be consulted every time, and that the Patriarch should also have a say any

decision making.

Diotallevi was undaunted in his decision not to abandon his recourse to the Holy See, through the good services of Cardinal Oreste Giorgi, Protector of the Order of Friars Minor. Diotallevi explained that the decision to give the Patriarch the right of “vigilance” over the Holy Places and leave to the Franciscans the material custody of the Shrines, and at the mercy of attacks by the “schismatics”, was “the greatest wound ever inflicted upon the Custody and the Order of Friars Minor”.

The determination of the Custos had a double effect: on one part it embittered even more the already difficult relations of the Franciscans with *Propaganda Fide*, and on the other it lengthened the efforts of the Holy See to determine the relations between the Patriarchate and the Custody.

On 25 April 1921 Diotallevi had a cold meeting with Cardinal van Rossum, Prefect of *Propaganda Fide*. The same happened with Camillo Laurenti, secretary of the Congregation, who according to Diotallevi, had embittered van Rossum against the Custody. In another meeting with Cardinal Michele Lega, Diotallevi protested against Barlassina and surprisingly came to know that many protests against the Patriarch had arrived to the Secretary of State, and that Barlassina should never have been sent as Patriarch to Jerusalem!

Diotallevi was lucky to find support from many cardinals and even from Pope Benedict XV himself. The Custos asked the Pope to accept the dedication of the first volume of the second series of the *Biblioteca bio-bibliografica della Terra Santa e dell'Oriente francescano*, directed by Girolamo Golubovich. The Custos had a personal audience with Benedict XV on 23 April 1921, in which the Pope gave him “freedom and trust” to express his concerns. Diotallevi begged the Pope to correct the unwise decisions of *Propaganda Fide*. The Pope assured Diotallevi that “the Franciscans would always maintain the custody of the Holy Places.” In another audience held on 17 June the Pope told Diotallevi that he had been informed regarding the controversy between the Patriarchate and the Custody, and that he was of the opinion that a *modus vivendi* between the two institutions was necessary. The Pope did not accept Diotallevi’s suggestion to subvert the decisions of *Propaganda Fide*, but asked the Custos to present a *memorandum* on the relations between the

Custody and the Patriarchate.

The Custos returned to the general curia and in a few days produced the *memorandum*, which he sent to Benedict XV through the kind services of Cardinal Giorgi. In the document he presented a long description of the origins and rights of the Custody of the Holy Land, and then proceeded to explain how the re-establishment of the Patriarchate of Jerusalem had given rise to equivocal claims that were harmful to the Holy Places and to Christianity. He suggested that the Custody should be the sole custodian of the Holy Places, under the direct dependence of the Holy See, and showing respect to the Patriarch by consulting him in decision-making. The administration of the Holy Land as a mission should remain exclusively under the care of the Custody. The pastoral care of the Franciscan parishes in the Patriarchate should justly fall under the direction of the Ordinary, that is, the Latin Patriarch. The Franciscans of the Holy Land should continue to assist the Patriarch in the pontifical celebrations at the Holy Sepulchre, in Bethlehem and in the co-cathedral of the Holy Name in Jerusalem. The Custody was ready to continue donating 75.000 franks annually to the Patriarchate. The affairs concerning the mission should fall under the competence of *Propaganda Fide*, whereas those dealing with civil authorities should be dealt by the Secretary of State of His Holiness.

At the same time the Pope had asked *Propaganda Fide* to provide a *memorandum* outlining its view of a *modus vivendi* with the Custody. The document had to receive approval by the Holy See. This action enraged cardinal van Rossum, but he had no choice but to ask Diotallevi and Barlassina to provide their suggestions regarding the *memorandum*. Diotallevi promptly replied by sending to van Rossum the *memorandum* which he had prepared for the Pope.

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### 3.2. The criticism and counter-proposals of the Latin Patriarchate

When Barlassina came to know of the contents of Diotallevi’s *memorandum*, he hurried to Rome to defend his position and present his own *memorandum*. Regarding the request that the custody of the Holy Places be entrusted solely



to the Franciscans, Barlassina objected that not even before the decisions of 14 June 1920 did the Friars Minor enjoy the exclusive right as custodians. The decree *Licet* of 9 September 1851 had established that the custody of the Shrines fell under the competence of “the Patriarch or the Religious according to the instructions given”. Barlassina interpreted the dispositions as giving him the right to be the direct representative of the Holy See in controversies concerning the Holy Places, “patrimony of the universal Church”, independently from the religious congregation which possessed those Shrines. Barlassina was also angry at Diotallevi’s suggestion that the Custos should consult the Patriarch “in important matters” before taking any decision, as if the Patriarch were simply a member of the Custodial Discretorium!

The Patriarch noted that a good number of important Shrines were not in the hands of the friars of the Custody. The Holy Places could be divided into three categories: those in possession of catholic communities of the Latin or Oriental rite (Franciscans, White Fathers, Sisters of Sion, Benedictines, Assumptionists, Dominicans, Melkites and Armenian Catholics), those under the possession of the “heretics” and “infidels” (that is, non-Catholics and Muslims), and those “in common possession”, that is, the Shrines falling under the *status quo* (the Basilicas of the Holy Sepulchre and of the Nativity in Bethlehem). The Shrines of the first category were exempt from controversies that could interest civil authorities. The Patriarch possessed full powers to oversee these Shrines as a representative of the Holy See, including those possessed by the Custody (which, in truth, were and are the majority). The single religious communities had to provide religious service and maintain these Shrines. Regarding the second category of Shrines, the Patriarch had the duty to regain them to the Catholic Church and impede to the non-Catholic Christians to take over those Shrines under the care of the Muslims. The Holy Places of the third category were characterised by a series of agreements and customs, which the Greek and Armenian Orthodox tried to subvert at every moment. Regarding the controversies that often ensued in these Shrines the respective Patriarchs were entitled to intervene, and he could not understand why the Latin Patriarch should remain excluded from the negotiations in favour of the Custos of the Holy Land.



*Patriarch Luigi Barlassina*

Barlassina concluded his *memorandum* by noting that the *modus vivendi* proposed by the Friars Minor did not contain any concession to the Patriarchate, and that the document intended to perpetuate the “transitional situation” that had been existing during the last 60 years because of the “repeated opposition” of the Franciscans. Such a transitional status was progressively “taking a stable form to the detriment of the authority of the Patriarch, who was always subject to attacks, intrigues and lies on the part of the Friars Minor.” These should understand that the mandate conferred to them by the Holy See regarded “difficult times”, and now this patrimony entrusted to them by the Church had to be restored as soon as the Church requested them to do so.

Barlassina insisted that he, as Patriarch, was “the representative of the Holy See and the Ordinary of these Holy Places.” With Britain having the mandate over Palestine and the protectorates of the “Catholic powers” of Europe eclipsed, it was urgent that the various Latin communities fall under one direction and jurisdiction, that of the Latin Patriarch. Indeed, the Latin Patriarch could not be treated as inferior to the Greek and Armenian Patriarchs, who alone had jurisdiction to deal in matters pertaining to the *status quo* and to other controversies.

### 3.3. The proposals of the new Pope

*Propaganda Fide* found itself in difficulty to elaborate an “equitable *modus vivendi*” basing itself solely on the conflicting *memoranda*. In the meantime Benedict XV died on 22 January 1922. The Custos thought it wise not to lose time, and again made recourse to Cardinal Giorgi, stating that it was only the Franciscans who had a thorough knowledge of the intricate details of the *status quo*, whereas others might think such matters as trivial or even ridiculous, to the detriment of the interests of the Catholic Church in the Holy Land.

Diotallevi protested that, often, the Patriarch and even *Propaganda Fide* did not even care to answer the requests of the Custody. An example was provided in the case of the request to build the Church of the Visitation in Ain Karem, which remained without an answer on the part of the relevant authorities mentioned.

The Custos suggested to Cardinal Giorgi to speak with the new Pope, Pius XI, about the matter and to see to it that *Propaganda Fide* would not publish a new *modus vivendi* that would harm the Custody’s interests in the Shrines.

When Pius XI (1922-1939) was informed of the matter he took immediate action to resolve the controversy once and for all. Seeing that it was impossible to reconcile the two parties, he ordered that the *modus vivendi* desired by his predecessor should be prepared in his private office. The document would then be handed over to the attention of Barlassina and Diotallevi, in order to arrive at a compromise. It had to be written “according to the principles of common law and in agreement with the particular dispositions of the Holy See regarding the Mission in Palestine, not excluding the last decisions of 14 June 1920.”

### 3.4. The audience given by the Pope to van Rossum (26 June 1922)

The project on the *modus vivendi*, on which *Propaganda Fide* had begun to work during the pontificate of Benedict XV, was finalised during the summer of 1922. The work began after a long oral report given by van Rossum to the Pope on 26

June 1922. The Prefect insisted that the jurisdiction of the Custos on the Holy Land, except for some ancient privileges, was now obsolete and was to be enjoyed by the Patriarch. The same solution had to be found regarding financial administration. The only thorny problem that remained was the question of “custody of the Shrines.” He insisted that, when the Holy See had re-established the Latin Patriarchate, it had intended such an ecclesiastical jurisdiction to fall under the Patriarch. But it had refrained from deciding upon the question of the custody and defence of the Shrines. The Brief *Nulla celebrior* of 23 July 1847 had not stated anything regarding the matter.

Van Rossum also quoted the words of praise that the last four pontiffs had addressed to the Friars Minor in the Apostolic Constitution *Romani Pontifices* (1846), and in the Briefs *Salvatoris* (1887), *Cum ad nos* (1912) and *Inclytum* (1918). The “contradictions” between this last document and the decisions of the general congregation of 14 June 1920 on the Shrines were evident. It was high time to eliminate once and for all “doubts and uncertainties”. Van Rossum’s suggestion was clear: “either confirm to the Franciscans the custody with those limitations that are deemed to be necessary; or else take it away from them in an explicit manner, as has been done in the case of ecclesiastical jurisdiction, and entrust it to the Patriarch as the representative of the Holy See.”

### 3.5. The project of *Propaganda Fide*

We do not know the reaction of the pontiff to the arguments forwarded by van Rossum. The following day, the officials in the Congregation began to elaborate the *modus vivendi* as ordered by the Pope. It resulted in three chapters: (1) ecclesiastical jurisdiction (art. 1-4), (2) administration of funds (art. 5-9), (3) the custody and defence of the Holy Places (art. 10-15).

Regarding the first section Cardinal Michele Lega affirmed that the Franciscans were not opposed to the exercise of jurisdiction of the Patriarch, even in the case of the parishes and schools which they administered. The only thing they wanted was that the Holy See would recognise their “privileges of canonical exemption” from the local Ordinary and the other privileges which they

gained along the course of centuries. He suggested that the provisions of the Brief *Romani pontifices* of 18 August 1846 should be applied, namely: "The Regulars, who live in the missions, are to be declared exempt from the jurisdiction of the Ordinary, as long as they are Regulars living in the cloister, except in the cases explicitly mentioned by law, and generally in all those things which concern the care of souls and the administration of the sacraments."

The *modus vivendi*, as presented by *Propaganda Fide*, was as follows:

Art. 1. "The Friars Minor of the Custody of the Holy Land are to recognise in the Latin Patriarch of Jerusalem his full ecclesiastical jurisdiction, which is his by right as the local Ordinary and the resident Bishop according to the norms of law."

Art. 2. "In favour of the same Friars Minor, all the rights and privileges which pertain to them in force of canonical exemption are to remain unchanged; this also applies to the rest of particular privileges, which they received by the same Apostolic See, even after the restoration of the Latin Patriarchate, and which have been recognised and confirmed to this very day."

Art. 3. "The Friars Minor of the Custody of the Holy Land are to be dependent upon the wishes of the Latin Patriarch of Jerusalem in all those matters, which pertain to the spiritual governance of the Patriarchate regarding the good of souls, and they are to offer all their collaboration and help in this matter; in the same way they are to show reverence and obedience in this respect."

Art. 4. "The same Friars Minor of the Custody of the Holy Land are henceforth to continue to perform assistance to the Patriarch in the sacred functions over which he presides in the Church of the Holy Name of Jesus, in the Basilica of the Holy Sepulchre, and in the Basilica of the Nativity or in the church of Saint Catherine."

Art. 5. "All money offerings in favour of the Holy Land, whether they come from the Good Friday collection that is made annually in all dioceses according to the order of the Holy See, or from individual persons through the Commissaries of the Holy Land wherever these function, are to remain under the administration of the Custody of the Friars Minor of the Holy Land, and they are to be duly inspected and approved annually by the Sacred Congregation of *Propaganda Fide*."

Art. 6. "Regarding that part of the offerings, which the Friars Minor of the Custody

of the Holy Land are to devolve annually to the Latin Patriarch of Jerusalem, it should amount to 75.000 Francs, which the Patriarch is to spend for the needs of the Patriarchate; regarding the same offerings, as well as other offerings received by the Patriarchate, he is to render account in time to the Sacred Congregation of *Propaganda Fide*."

Art. 7. "The Custos of the Holy Land with his Discretorium has the faculty of making free use of the collection for the ordinary needs of the Custody or of the Shrines; however he is still firmly obliged to render account of all the expenses to the Sacred Congregation of *Propaganda Fide*. If it is a question of extraordinary expenses, which go beyond the sum of 20.000 Francs, he is bound to request the explicit consensus of the Sacred Congregation of *Propaganda Fide*."

Art. 8. "The other needs and extraordinary expenses that the Patriarchate deems necessary for the repairs of the other Shrines in Palestine, which do not fall under the direct care of the Custody, are to be met in an equitable manner by making use of the offerings collected by the Custody regarding the needs mentioned above, according to what the Sacred Congregation decides to establish."

Art. 9. "The right of the Patriarch of Jerusalem to confer the Decorations or the Investiture of the Military Order of the Holy Sepulchre or of the Ensign of the Holy Land is confirmed, as well as the right to receive offerings from them in favour of the Patriarchate. In these concessions to the Patriarch the number (of those decorated) should not exceed that which has been established by the Sacred Congregation of *Propaganda*. As regards other entries of the Patriarchate, the same Sacred Congregation is to be informed and to give its assent in due time. The favour of the Custody of the Holy Land, regarding the annual number of decorations which the Patriarch freely assigns (to its benefactors) (is to be retained), according to the requests which the Sacred Congregation for *Propaganda* receives for this reason, and which it permits according to its prudent judgement."

Art. 10. "The Friars Minor of the Custody of the Holy Land are to be confirmed in their right to take care and be custodians of the Holy Places, which have been entrusted to them by the Roman Pontiffs for many centuries, and is to be confirmed also in the future; the exception to the rule are those Shrines, which are entrusted to the presence of other Religious Institutes."



Art. 11. "The Franciscan Minors of the Custody of the Holy Land, to whose care the Shrines are entrusted, are obliged, as they have praiseworthy done in the past, to be vigilant that in the future they will continue to be their custodians; they are to defend them from the violence of the non-Catholics; they are to take all precautions so that the enemies of our Religion will not be able to usurp them by citing legal reasons for their actions."

Art. 12. "In cases of common and urgent need the Franciscan Minors of the Custody of the Holy Land can act in a direct and immediate manner (in favour of the Shrines); indeed, they are to do so in case of urgent danger; however they are obliged to give an account of their actions to the Patriarch as soon as they possibly can."

Art. 13. "In serious cases or moments and if there is available time, the Custos of the Holy Land, before proceeding, is obliged to listen to the Patriarch, and also to ask for his counsel. If they do not agree in their decision, they are to make recourse to the Sacred Congregation of *Propaganda Fide*. In cases of extreme nature and if there is a situation of imminent danger, the sentence of the Patriarch is to prevail."

Art. 14. "When it is a matter of defending the Shrines, and it is necessary that the Patriarch and the Custos examine together the method how to act in front of civil authorities, such a duty ordinarily should fall on the responsibility of the Patriarch; in the case in which it is more opportune for the Custos to act, the Patriarch is to willingly cede to him this duty with the necessary faculties and instructions."

Art. 15. "Regarding all that which pertains to the restoration of the Shrines, the Friars Minor, as well as the other Religious for the Shrines which they administer, can act in full freedom, as long as they are acting in the case of ordinary and necessary repairs, as has been said above. In the case of rebuilding (Shrines), which would entail the expenditure of enormous sums of money, or when they want to enlarge or change the edifices, they are to make recourse to the Sacred Congregation in order to obtain its consent."

Art. 16. "All new buildings of Chapels or Oratories or Churches are hereby prohibited, and if anyone wants to build these (sacred edifices) he has to obtain the explicit permission of the Sacred Congregation of *Propaganda Fide*."

Art. 17. "We confirm the Instruction that

has recently been communicated by this Sacred Congregation, namely that the Sacred Council prohibits the building of new Shrines whenever it is held that authentic new places have been recently discovered, and the cult in these places is permitted only if the same Council has pronounced its judgement on these same places, and its sentence has been recognised as proving their authenticity."

Art. 18. "Before starting any negotiations aimed at claiming Shrines which until this moment have been held by the infidels, one has to acquire the consensus of the Sacred Congregation, and one has to wait for the opportune instructions from the Sacred Council."

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### 3.6. *The observations of the minister general of the Order of Friars Minor*

The draft of this *modus vivendi* was sent to Barlassina and to the minister general of the Order of Friars Minor, Bernardine Klumper (1921-1927), for further comments. In the case of Barlassina, the comments were not different from the ones he expressed the year before in front of *Propaganda Fide*. On his part Klumper regarded as acceptable the contents of the draft of the *modus vivendi* presented by the Congregation. He only criticised the articles that established who was officially authorised to act for the custody and defence of the Shrines. He retained that only the Custos should possess such a faculty, since it had been exercised for many centuries "with the explicit consent of the Supreme Pontiffs [...] with faithfulness and sacrifices of all kinds, and often by paying the price of the blood and the life of the (Franciscan) Religious." Such a faculty had been reconfirmed by the Holy See after the re-establishment of the Patriarchate. The Custody also had the right to receive offerings from all dioceses of the world in favour of the shrines, some of which lay outside the territories administered by patriarchal jurisdiction.

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### 3.7. *The defence of Custos Diotallevi*

Pope Pius XI received the *memorandum* with the observations of Barlassina on 14 July, and after having examined the contents he also wanted



**Ferdinando Diotallevi OFM**

to listen to the views of the Custos. The attention that the Pope devoted for the person of Diotallevi was evident from the audience that he gave to the Custos on 31 May of that year. Pius XI was not happy that *Propaganda Fide* had emanated decisions contrary to the Brief *Inclytum*. The Pope told Diotallevi that the Franciscans should not be “treated badly”. The following day Pope Pius XI gave audience to Cardinal Oreste Giorgi. On 30 July Diotallevi convened the Discretorium of the Custody to inform them regarding the contents of the *memorandum*.

Diotallevi decided to send two *memoranda* to the Pope. One of them was dedicated entirely to the question of the calendar in the Basilica of the Holy Sepulchre. The Custos stated that the Basilica of the Holy Sepulchre was an “exempt church administered by regulars (religious)”, since the Franciscans had celebrated divine functions in it for seven centuries, with an explicit concession of the Holy See. The religious moreover lived permanently in a friary within the same basilica, which they officiated night and day. That shrine had never been assigned as a cathedral church to the Patriarch at the moment of the re-establishment of the Patriarchate, although it could be considered as such *ad honorem* because of its importance.

On the contrary, the decree *Licet* had stated that the Holy See wanted to exclude it “as a true and real Cathedral of the Patriarch” who, until he had constructed his own cathedral, could celebrate the solemn liturgical functions in the parish church of Saint Saviour. Diotallevi defended this decision, stating that, if the Basilica of the Holy Sepulchre were to be declared a cathedral, the Catholic Church would lose “all rights based on agreements imposed by local circumstances, established by the Franciscans and the other heterodox Communities who functioned in the same church.”

In the other *memorandum* Diotallevi dealt with the problem of the pontifical Masses, citing a document of *Propaganda Fide* of 15 January 1881 regarding the only right that the Custos still enjoyed in the Franciscan churches. If such a privilege would be taken away from the Franciscans, it would decrease the splendour of the religious functions, which was an important thing to keep in the oriental culture. He cited the example of the solemnity of Epiphany, when the Custos celebrated had the right to enter to incense the Nativity Grotto during pontifical Vespers, while the Greek Orthodox were celebrating Christmas with the pontifical divine liturgies of their Patriarch.

Regarding articles 13 and 14, the Custos supported the proposal of the minister general, stating that only the Friars Minor, who - “through tradition, study and daily life dedicate all their time for the Custody in defence of the Holy Places” – knew all the grave dangers which such a commitment entailed. It was only they who could adopt the appropriate decisions for the protection of the same Holy Places. The sentences of the Ottoman tribunals and the *firmans* regarding the Shrines had always been emanated in favour of the ‘Friars of the Cord’ - as the Turks called the Franciscans – and were jealously conserved in the Archives of the Custody. There was no doubt that the Patriarch was the representative of the Holy See. This office, however, could not be applied in the case of the Shrines. For seven centuries the popes had recognised to the Franciscans the right to be their sole ‘representative’ in the Shrines.”

On that same day Diotallevi contacted Cardinal Giorgi to insist that the intention of the Custody was that of “sustaining the integrity of the project of *Propaganda* and to uphold the just observations of the minister general.” According to him Barlassina was basing his pretensions on an

equivocal interpretation, namely that of presenting himself *in toto* as the “representative of the Holy See”. The Patriarch was the representative of the Holy See as the Ordinary of the Patriarchal diocese, but not “regarding the Holy Places, whose representation and custody had been entrusted by the Holy See to the Franciscans for seven centuries.” Diotallevi reminded that, whenever there was a question of contestation regarding the Holy Places, the other Christian communities would never recognise the Patriarch’s authority in any negotiations. Regarding Barlassina himself, Diotallevi underlined the fact that the British authorities, and even the governor of Jerusalem, Ronald Storrs, did not trust Barlassina.

The Custos decided to make recourse directly to Cardinal Gasparri and to the Secretariat of State and to appeal directly to the Pontiff. He insisted that the “integral custody of the Holy Places” had to remain in the hands of the Franciscans. He told the Pope that, leaving to the Franciscans the sole “custody” of the Holy Places without giving them the “right to defend” them would only have strengthened the provocations of the “schismatics”. Examples included the fact that the Copts were hindering the Latins from passing at the back of the Holy Tomb, and the Muslims had placed carpets and lamps in the Upper Room of the Coenaculum to insist that the place was a mosque.

### 3.8. The final objections of the Patriarchate

After having examined all the relative documentation, Cardinal Michele Lega concluded that the thorny problem regarded the right “to act directly with the Schismatics and with the Civil Authorities regarding the custody of the Holy Places.” The fact that the right had been given simultaneously to the Patriarch and the Custos had been the cause of inconvenient divergencies.

During the general Congregation of 13 November 1922, the fathers of *Propaganda Fide* decided to approve the *modus vivendi* elaborated during the preceding months, with some modifications that took note of the objections formulated by both parties. During that meeting, Pope Pius XI explicitly ordered that Cardinal Pietro Gasparri should participate, with the

Cardinal Protector of the Friars Minor, Oreste Giorgi, together with all the other cardinals of *Propaganda Fide*, who normally would convene, like William van Rossum and Michele Lega.

The *modus vivendi* elaborated in that occasion was presented to Pius XI, who wanted to “consider it in a mature way”. The Pope decided to approve it only during the audience given to the secretary of *Propaganda Fide* on 7 December 1922. The Pope also willed that the text should be sent to Jerusalem for the “last and definitive” observations.

Diotallevi promised that the Franciscans would observe the decisions of the Holy See with an open heart and strong will. The only minor observation regarded article 11, concerning the recourse to the documentation of each Community in cases of disagreement, and not necessarily to a judicial authority, which was inefficient in cases referring to the *status quo*.

Barlassina answered in a rambling letter and showed his sense of disapproval to the fact that it seemed that the Custody would regain the ecclesiastical faculties it possessed before 1847, and would become “the principal institution” of the diocese. He insisted that the diocese of Jerusalem was famous in the world because it included the Holy Places. The Latin Patriarchate had been reinstated for this reason and not for the small number of Catholic faithful present, which was even less than the number of Catholics in the parish of Saint John Lateran in Rome! The Patriarch lamented that the *modus vivendi* would limit the pastoral action of the clergy of the Patriarchate to Transjordan alone, since the major parishes in the Holy Land were in the hands of the Franciscans and were linked with the Holy Places.

Barlassina placed the guilt of the whole controversy squarely upon the shoulders of Diotallevi. The Franciscans wanted to demolish the authority of the Patriarch in order to further the “interests of the Franciscan Order”, linked with Italian nationalism. He lamented that the Congregation had not sent an apostolic visitor to the Holy Land to study personally the matter, and withhold any further decisions until the Custody would have a religious leader who would be loyal to the Patriarch and show respect to the orders of the Holy See. Barlassina said that Diotallevi had been “a disaster”.

Barlassina demanded that the third part of the *modus vivendi* be rewritten. Indeed, the Latin



Patriarch had to remain aside in favour of the Custos in questions relating to the Holy Places. It was the Custos who would thus be considered on equal footing with the other heterodox Patriarchs and with the civil authorities. Barlassina wanted a clear distinction between the “custody” and the “defence” of the Holy Places. He noted that, in the case of the Basilica of the Holy Sepulchre, the custody fell in the hands of “an autonomous community of monks, distinct from the Greek patriarchal clergy.” Yet it was always the Greek Orthodox Patriarch with his Synod to officially negotiate with the civil authorities regarding conflicts that often ensued. The *modus vivendi* hardly made any mention of the Shrines which were still in the hands of the infidels. Regarding article 11, Barlassina stated that the documents possessed by the Custody in its Archives, and which were important in the defence of the Holy Places, should not be left in the sole property of the Custody but should be made available to the Patriarch whenever need arose.

### 3.9. The “*modus vivendi*” of 12 April 1923 between the Patriarchate and the Custody

In spite of Barlassina’s objections, *Propaganda Fide* decided to ignore them completely. Nevertheless the Holy See waited for another four months before publishing the long awaited “*modus vivendi inter R.P.D. Patriarcham Hierosolymitanum Latinorum atque R.P. Custodem Terrae Sanctae OFM*”. The document, bearing the date of 12 April 1923, had a preface explaining that the pontiff had deemed it necessary to publish it in order to explain and determine in a more clear way the clauses of the Brief *Nulla celebrior*, of the Decree *Licet*, of the Apostolic Letter *Inclutum Fratrum Minorum conditorem* and of the decisions taken by the general Congregation of 14 June 1920.

In the first chapter, *Circa ecclesiasticam Jurisdictionem*, the document obliged the Custody to recognise, *ad normam juris*, the full exercise of the ecclesiastical jurisdiction of the Latin Patriarch of Jerusalem as the Ordinary and resident bishop (art. 1). The rights and privileges recognised and confirmed by the Holy See in favour of the Franciscans after the re-establishment of the

Patriarchate had to remain unchanged, and the rights of the religious in virtue of their canonical exemption had to be respected (art. 2). The Franciscans were bound to sustain and assist the Patriarch, according to their ability, in all questions concerning the spiritual government of the diocese, and to show towards him their reverence and obedience (art. 3). They also had to offer their assistance in the liturgical functions celebrated by the Patriarch in the basilicas of the Holy Sepulchre and of the Nativity, and in the church of Saint Catherine in Bethlehem (art. 4).

In the second chapter, *Circa Eleemosynarum favore Terrae Sanctae collectarum Administrationem*, the document decreed that the administration of the funds collected in aid of the Holy Land had to remain directly entrusted to the Franciscans, who had to administer the same funds according to the norms established by *Propaganda Fide*, which would control and approve the annual financial report (art. 5). A part of the same collection had to be handed over to the Patriarch, in the measure of an annual payment of 75.000 Francs; a percentage of this sum would be eventually restored to the Franciscans, according to agreements stipulated regarding time and according to the amount of other offerings that the Patriarchate would receive from other sources (art. 6). The Custos of the Holy Land and his Discretorium could make use of the collection at their discretion, “for the ordinary needs” of the Custody and of the Shrines, with the duty of handing in a report of all expenses to *Propaganda Fide*. In the case of extraordinary expenses exceeding the sum of 20.000 Francs, the Friars Minor were obliged to request the consent of the Congregation (art. 7). The Patriarch retained the right to confer the diplomas of knighthood of the Holy Sepulchre and of the ensigns of the Holy Land. He could keep the income resulting from these investitures, but had to present an annual report to *Propaganda Fide*, and assign part of the same to the Custody of the Holy Land in the measure established by the Congregation (art. 8).

In the third chapter, *Circa Sanctuariorum Defensionem*, it was established that for the defence of the Shrines “against the violence of the non-Catholics”, the Patriarch and the Custos had to act in mutual accord (art. 9). In the more urgent cases the Franciscans could act in a “direct and immediate” way, informing the Patriarch in the shortest possible time (art. 10). In cases which

were less urgent, the religious, according to canon 1526 of the Code of Canon Law, could not initiate any “judiciary action” without the permission of the Patriarch; the Custos had to treat the question with the delegate of the Patriarch. If the document regarding a dispute in the Holy Places were not to be found in the hands of the Franciscans and in cases where disputes regarded Shrines which did not fall under the care of the same Franciscans, the Patriarch had the right to act directly, together with a delegate of the Custos (art. 11). For the works of repairing Shrines, the Friars Minor and the religious of the other Orders who administered Shrines had the right to proceed with full freedom only in cases of urgent and ordinary repairs. In cases of restorations that called for enormous sums of money, or which would alter the structure or size of the sacred edifice, they needed to request the consent of the Patriarch (art. 12). The construction of new chapels and oratories without the permission of *Propaganda Fide* was prohibited (art. 13). It was also prohibited to declare the authenticity of new Shrines and celebrate the liturgy in those places without first having the official declaration of a council nominated by the Holy See to examine the matter (art. 14). Before initiating all kinds of claims in those Shrines pertaining to the “infidels” or to “non-Catholics”, the friars had to request the consent of *Propaganda Fide* and act on the basis of precise instructions (art. 15).

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### 3.10. *A more serene climate between the Patriarchate and the Custody (1924-1941)*

In the letter presenting the document to Barlassina and Diotallevi, Cardinal van Rossum recommended a “spirit of charity, or concord and union between the Custody and the Patriarchate”. It was necessary to avoid all divisions, which would strengthen the enemies of Catholicism and would be of scandal to the schismatics and the infidels.

Such an agreement was accepted with a heavy heart by the Patriarchate. On their part the Franciscans were, on the whole, satisfied. On 13 November 1922 the minister general ordered that a “votive Mass” be celebrated to thank God for the conclusion of this case of the Custody. The Franciscan authorities in the convent of Saint Saviour began to send letters of thanks to the Pope, to Cardinal Gasparri and Cardinal Giorgi,

for their efficacious defence of the “good cause” of the Custody. In the records, however, there are no letters of thanks sent to the Congregation of *Propaganda Fide*.

As soon as he received the document of the *modus vivendi*, Diotallevi went personally to Barlassina to make it clear to him that he and the friars were bound “at heart to live in the most perfect harmony” with the Patriarchate, and they hoped to find the same attitude on the other party. However, in his personal Diary, Diotallevi wrote that he could not show excessive enthusiasm for the outcome, knowing that Barlassina would still want to do a one-man show. Even though the right of defence of the Holy Places had returned “nearly entirely” in the hands of the Custody, he still nurtured some doubts. Diotallevi had wanted a clear-cut distinction between the office of Ordinary reserved for the Patriarch and that of the Custody of the Holy Places reserved for the Friars Minor.

Barlassina remained as Patriarch for another 25 years. On the whole there were no great problems between the Patriarchate and the Custody, but many trivial jurisdictional controversies cropped up every now and then, and reciprocal trust was sometimes lacking. Barlassina could be content that Ferdinando Diotallevi was not re-elected as Custos in August 1924, when he concluded his mandate and left the Holy Land. The nomination of the new Custos, Aurelio Marotta (1925-1931) was welcome to Barlassina, since he regarded the Custos as an “honest and serious person” with whom he was always in agreement.

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# PETER JOHN OLIVI

## FRIAR MINOR

*43<sup>rd</sup> Congress of the International Society of Franciscan Studies*

The 43<sup>rd</sup> edition of the Congress of the International Society of Franciscan Studies, held in Assisi on 16-18 October 2015, was dedicated to the figure of the Spiritual Franciscan Peter John Olivi.

Petrus Iohannis Olivi (Pierre-Jean Olieu) was born in Sérignan, near Béziers, in the Hérault department in the Languedoc region of southern France. He entered the Franciscan Order at the tender age of twelve, around 1259-1260. He was sent to study theology in Paris, and in the mid-1270s he was back in southern France as a lector. Although a great scholar, he never became master, maybe because of doubts concerning the orthodoxy of his teachings. From the very beginning, his thought was considered to be slightly dangerous. Angelo Clareno states that the minister general Jerome of Ascoli (1274-1279) had asked to examine some controversial questions on the Virgin Mary written by Olivi, and ordered them to be burned.

In spite of these difficulties Olivi continued to teach in his own province. In 1279 his minister provincial asked him to make a presentation regarding the deliberations that led to the Bulla *Exiit qui seminat* of Pope Nicholas III (14 August 1279), a papal declaration on Franciscan poverty. During that time Olivi was in Italy, where he probably met Conrad of Offida and other Franciscan Spirituals. When he returned to France he began to teach the apocalyptic prophecies of the Franciscan Spirituals, particularly those advocated by Joachim of Fiore.

Between 1279 and 1283 Olivi entered into a controversy with another lector. A commission of Paris scholars expressed suspicion regarding various propositions that it took from Olivi's writings, and he was eventually removed from his teaching post and his writings were confiscated. The censure of 1283 dealt with some propositions regarding Franciscan poverty, and particularly on the academic disagreement over whether the *usus pauper*, the restricted use of goods, was an essential part of Franciscan poverty.

With the censure by the seven Paris masters, Olivi's career in France was doomed. However Olivi was an undaunted and courageous defender of his views. In 1285 he composed a firm defence of his orthodoxy. The minister general Matteo di Aquasparta helped Olivi to gain another teaching position in 1287, this time as lector in the *studium* of the convent of Santa Croce in Florence. He stayed in Italy until 1289, when he was able to return to Montpellier in southern France. The minister general who sent him back to France was Raymond Goeffroi, who was his personal friend, and indeed was sympathetic towards the Spiritual Franciscans. It was he who had freed Angelo Clareno and his colleagues from prison, and sent them to Armenia, from where they returned during the short pontificate of Celestine V (1294).

Olivi was the author of various exegetical and apologetic works. The most famous is probably the *Lectura super Apocalypsim*, which was condemned as heretical by Pope



John XXII in 1327, after Olivi's death. Olivi spent the last years of his life in the convent of Narbonne, where he died on 14 March 1298. He had to defend himself once again during the general chapter of Paris in 1292. He was personally against the revolt of the Italian Spiritual Franciscans against Boniface VIII, after the abdication of Celestine V. After his death a cult developed around his tomb in Narbonne, but during the height of the poverty controversy between the Franciscan Order and Pope John XXII (1317-1318) his tomb was destroyed and his ashes were dispersed.

"Reference to Olivi's cult brings us to an important element in the story after this point, the beguins and beguines. A great deal was written about this group somewhat later when the inquisitors began to turn their attention to it, but we have little to go on in constructing a picture of lay religiosity in Languedoc ca. 1300, and even less with which to form a picture of Olivi's place in that religiosity. Some things *can* be said, though. First, the name "beguin" can be used to include those laypersons devoted to the defunct Olivi, but it cannot be limited to that group. Words such as *béguin* and *bizocco* (a term widely used in Italy, employed by Boniface VIII in describing disturbing Italian phenomena and by Jacopone da Todi in describing himself during the first ten years after his conversion) could be applied to laypersons acting like members of a religious order or simply to very pious laypersons. These laypersons might be considered quite orthodox, as is the case of Douceline, Hugh of Digne's sister, whose community of women lived according to a discipline and referred to themselves as beguins. Some beguins were members of the Franciscan third order, while others were not" (D. BURR, *The Spiritual Franciscans. From Protest to Persecution in the Century after Saint Francis*, Pennsylvania State University 2001, 91).

This phenomenon of the beguins in southern France was, as we have seen, linked with the cult attributed to Peter John Olivi, and was quite close to the Franciscan Spiritual circles in the same region.

The themes of the Congress on Peter John Olivi are the following: (1) Jacques Chiffolleau and Clément Lenoble (Lyon), "Friars Minor in the society of Provence and Linguadoc at the times of Olivi"; (2) Tiziana Suarez Nani (University of Fribourg), "The intellectual profile of Olivi and the project of a spiritual philosophy"; (3) Fortunato Iozzelli (Pontificia Università Antonianum, Rome), "Aspects of biblical exegesis of Peter John Olivi"; (4) Antonio Montefusco (Düsseldorf), "The vernacular writings of Olivi as seen through the manuscripts"; (5) Damien Ruiz (Aix-Marseille Université), "The life of the friars and the structure of the Order according to Peter John Olivi"; (6) Andrea Tabarroni (Università di Udine), "The political ideas of Olivi in the framework of the minorite tradition"; (7) Giovanni Ceccarelli (Università di Parma), "The *Tractatus de contractibus* of Olivi in the economic discussion of the Friars Minor"; (8) Marco Bartoli (Università LUMSA, Rome), "Peter John Olivi: a minorite ecclesiology?"; (9) Paolo Vian (Biblioteca Apostolica Vaticana), "The interpretation of history in the *Lectura super Apocalipsim* and the context of its reception"; (10) Louisa Burnham (University of Vermont, Middlebury), "Social contexts and spreading of groups of 'beguins' after Olivi"; (11) Alberto Forni (Rome), "Peter John Olivi in the Italian peninsula: images and influences between literature and history"; (12) Paolo Evangelisti (Archivio storico Camera dei Deputati), "The heritage of Olivi in the Iberian territories. An initial examination of the sources".

## The heart of what it is to be human

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*The wounds of the crucified Christ hanging on the cross in the dilapidated Church of San Damiano broke the chains that kept Francis a prisoner of his own selfishness and pride. The embrace of the disfigured human person of the leper cauterized the wounds of indifference in Francis' heart, allowing him to see for the first time true beauty and dignity of the person whom God had placed in his path. The embrace Francis received from the crucified Jesus and from the leper would slowly but surely lead him to embrace all those who were poor, all those who were aliens and strangers, and all those who were considered enemies. He found himself embracing the Muslim Sultan, embracing all of creation and, ultimately, embracing the last human frontier, death. Francis allowed the power that flows from the blood and water of the cross to lead him to a new understanding of his life and mission, the life and mission of all Friars Minor. Francis of Assisi took on the wounds of the world just as his Lord and Saviour had done. We too have been crucified for the life of the world through our baptism. Why do we pretend not to know this and to act on it in our lives? Why do we run away from the daily cross of violence, hatred, human displacement, and the destruction of the natural environment that afflict our world today? On this great feast I do not wish to make you feel badly because of these harsh words. On the contrary, I want to wake you up to the great invitation of God, the invitation to come back to life and to experience the liberating power of love, mercy, reconciliation, and joy that comes only from God. Nevertheless, in order for us to experience this power, we must leave the comfort of our indifference, embarking upon the same paschal mystery of suffering, death, and re-birth that Jesus undertook. We must abandon all those things that do not nourish our spiritual hunger. If we wish to be nourished spiritually; if we wish to feel alive within ourselves, alive for others and for God; if we wish to feel true joy; then we must offer our lives in ransom for the many. We must open our hearts, our homes and our lives to others, embracing all who are in search of the basic necessities of life, embracing even those whom we fear the most, the refugees and strangers who are coming to our shores and to our cities. We can no longer look askance and pretend as though they are not here, and as if their lives and needs have nothing to do with our lives and our faith.*

*Fr. Michael Perry ofm  
Minister General  
Homily for the feast of St. Francis  
Assisi, 4 October 2015*

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## Abbreviations

### Writings of St. Francis

Adm	Admonitiones.
CantAudPov	Cantico Audite Poverelle.
CantSol	Canticum fratris Solis.
LaudDei	Laudes Dei Altissimi.
BenLeo	Benedictio fratri Leoni data.
EpAnt	Epistola ad sanctum Antonium.
EpCler I	Epistola ad Clericos (Redactio prior).
EpCler II	Epistola ad Clericos (Red. posterior).
EpCust I	Epistola ad Custodes I.
EpCust II	Epistola ad Custodes II.
EpFid I	Epistola ad Fideles I.
EpFid II	Epistola ad Fideles II.
EpLeo	Epistola ad fratrem Leonem.
EpMin	Epistola ad Ministrum.
EpOrd	Epistola toti Ordini missa.
EpRect	Epistola ad populorum rectores.
ExhLD	Exhortatio ad Laudem Dei.
ExpPat	Expositio in Pater noster.
FormViv	Forma vivendi sanctae Clarae data.
Fragm	Fragmenta alterius RegulaeNB.
LaudHor	Laudes ad omnes horas dicendae.
OffPass	Officium Passionis Domini.
OrCruc	Oratio ante crucifixum.
RegB	Regula bullata.
RegNB	Regula non bullata.
RegEr	Regula pro eremitoriis data.
SalBMV	Salutatio beatae Mariae Virginis.
SalVirt	Salutatio virtutum.
Test	Testamentum.
UltVol	Ultima voluntas S. Clarae scripta.

### Sources for the Life of St. Francis

1C	Tommaso da Celano, Vita Sancti Francisci.
LCh	Celano, Legenda ad usum chori.
2C	Celano, Memoriale in Desiderio Animae.
3C	Celano, Tractatus de Miraculis S. Francisci.
LJS	Julian of Speyer, Vita Sancti Francisci.
OR	Officium Rhythmicum S. Francisci.
AP	Anonimo Perugino.
L3C	Leggenda dei Tre Compagni.
CA	Compilatio Assisiensis.
LMj	S. Bonaventura, Legenda Maior S. Francisci.
LMn	S. Bonaventura, Legenda minor S. Francisci.
SP	Speculum Perfectionis.
SC	Sacrum Commmercium S. Francisci.
ABF	Actus Beati Francisci et Sociorum Eius.
Fior	Fioretti di San Francesco.

### Sources for the Life of St. Clare

BICl	Blessing of St. Clare.
1-4LAG	Letters to St. Agnes of Prague..
LCl	Legend of St. Clare.
PC	Acts of the Process of Canonization.
PrPov	Privilege of Poverty.
RegCl	Rule of St. Clare.
TestCl	Testament of St. Clare.

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**Cover picture:**

*Giotto, St. Francis supporting the Lateran Basilica*