

## Declaratio Communitatis 'Circa materiam de usu paupere' (c. 1309–10)

*Translated from:*

Albanus Heysse, 'Ubertini de Casali opusculum "Super tribus sceleribus"', *Archivum franciscanum historicum* 10 (1917): 116–122.

Regarding poor use, it has been declared and defined by the Minister-General and the masters in theology now living in the Curia.

### 〈 MEANINGS OF POVERTY 〉

On the matter of poor use, it must be known that poverty is taken in two ways. [1] In one way, for an abdication of the lordship and ownership of things; and so it is taken in the Rule and the declaration *[[Exiit]]*. In the Rule, where it is said that the brothers should live 'in obedience, without anything of their own, and in chastity';<sup>1</sup> and elsewhere: 'They should not appropriate to themselves, not a home, not a place, not anything'.<sup>2</sup> In the decretal *Exiit*, where it is said: 'We say that the abdication of the ownership of all such things for the sake of God, both individually and in common, is meritorious and holy; which Christ even taught and confirmed by example, showing the way of perfection'.<sup>3</sup> And it falls under the vow in that way. [2] Poverty is taken in another way for penury and the strictness of use. And according to that understanding, sometimes penury and strictness of use of the things that the brothers use is understood (*accipitur*); for example, there is that *[[passage]]*: 'the brothers should dress in cheap clothing',<sup>4</sup> and that 'they must not ride',<sup>5</sup> and suchlike. And sometimes use is granted without penury and strictness; for example, there is that *[[passage]]*: 'they are allowed to eat of all the food set before them'.<sup>6</sup> And in the second way, it is not from the vow, but from the propriety (*condecencia*) of their state.

Poverty taken in the first way has certain grades and inseparable acts: for example, using granted things not as one's own, but as another's and not being able to claim them in court and so forth. And poverty falls under the vow in this way. It does not fall under the vow in the second way. Many things teach us this *[[conclusion]]*.

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<sup>1</sup>*RegB* 1.1.    <sup>2</sup>*RegB* 6.1.    <sup>3</sup>*Exiit*, 2:1112.    <sup>4</sup>*RegB* 2.16.    <sup>5</sup>*RegB* 3.12.    <sup>6</sup>*RegB* 3.14.

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### ⟨ ARGUMENTS FOR THE CONCLUSION ⟩

And the [1] first reason (*motivum*) is that our vow is such that we live without anything of our own, in obedience, and in chastity. Now, what is said—‘without anything of one’s own’—does not mean anything if not the abdication of the ownership and lordship of things; nor does it mean poor use, for someone can have abdicated the lordship of things, and yet still not use them penuriously: just like the brothers who live with princes or prelates, and have been raised from the orders of poverty to an ecclesiastic office (*prelationem*); just as, on the contrary, someone who has poverty can live strictly, /117/ just as hermits have something of their own and do not vow poverty. The abdication of lordship, however, and not the sparingness of use, is in the perfection of the Rule consists of. Hence, Christ even taught it by word, and confirmed it by example. Hence in the decretal, *Exiit*, it is said: ‘We say that abdication of ownership’, etc.<sup>7</sup> And it continues: ‘And so it is certainly clear from the aforesaid to all intelligent people that the Rule is, regarding such an abdication, not only observable, possible, licit, but also meritorious and perfect; and it is even more so the more its professors are removed by it from temporal things.’<sup>8</sup> Nor does this abdication seem to anyone to be of little difficulty since it follows on it that: [a] the brothers have no lordship, nor ownership of any thing; [b] they do not have any right in any temporal thing, but only a simple use of fact; [c] they can claim no thing as their own, and; [d] professors of this abdication ought to have, according to the propriety of their state, a strict use of the things they are to use.

[2] The second reason can be taken from the difference between poor and moderate use. For poor use, according to the meaning of the noun (*rationem nominis*), means a waning (*in defectum*) and a certain strictness of the use regarding the thing that is to be used. However, we are not always held by vow to a decreasing use (*ad usum . . . cum defectu*), as was made clear earlier. It is also clear from the diversity of the people making the vow: for, with this position having been made, due to the diversity of the people making the vow, one is obliged to something to which another person is not, because what is necessary for one person is not necessary for another: for instance, it is not necessary for a simple peasant from the countryside (*homini rustico de seculo venienti*) to eat delicate foods, which is necessary to one who has a delicate composition. Hence, if that position were true, many unique circumstances would arise in the colleges, which all religious orders (*religiones*) shun. For, as Augustine says *On Christian Doctrine*, and it is in the *Decretum* in dist. 15: ‘He is intemperate or full of religious fear

<sup>7</sup>*Exiit*, 2:1112.

<sup>8</sup>*Exiit*, 2:1114.

(*superstitiosus*) whoever seeks for himself more delicate, or more refined clothing or nourishment than those with whom he lives: intemperate if he seeks refined things, full of religious fear if he seeks more austere things.<sup>9</sup> A moderate use, however, excludes the excess in the use of the thing that is to be used; the more we vow a higher poverty, the more appropriate it is for us to observe this moderate use from the good and the fair, and from the propriety of our state. Hence it is said in the decretal, *Exiit*: ‘a moderate use, according to the Rule [...], is granted to the brothers’.<sup>10</sup> And the decretal, considering this propriety of poverty and of the abdication of lordship, says below: ‘for they must not have the use of all things’, etc.<sup>11</sup> /118/

[3] The third reason can be taken from the things expressed in the Rule, which sometimes indicate a strict use, and sometimes not. For if a strict use fell under the vow, a strict or poor use would not sometimes be advised for us, as it is here (*ibi*): ‘all brothers should wear cheap clothes’,<sup>12</sup> and they should not ride,<sup>13</sup> nor wear footgear,<sup>14</sup> and so forth. And sometimes [a use] without penury is granted to us, as here: ‘they are allowed to eat of all the food set before them’.<sup>15</sup> Christ even granted this use to the apostles in Luke 10: *Eat what is set before you*. Moreover, in Luke 7 Christ ate at the tables of the rich, and allowed his feet to be anointed with an ostentatious ointment. Therefore, poor or strict use does not fall under the vow, but [exists] only from the propriety of the state; for no one vows to never eat good bread, nor to drink good wine. For more must not be demanded by someone by reason of the vow than what falls under the vow. Hence Bernard *On Precept and Dispensation*: ‘May a prelate forbid me none of the things I have promised; let him demand no more than I have promised; let him not increase my vows without my will, nor diminish them without a certain necessity’.<sup>16</sup>

Lk. 10:3  
Lk. 7:38

[4] The fourth reason is: because things that fall under a vow oblige always and everywhere, for they are not local things. For example, that someone is bound to observe his vow in the house, not outside, in the refectory, not in the adjacent

<sup>9</sup>Cf. *De doctrina christiana* 3.12.18 (PL 34:73); D. 41 c. 1(!). This is not what Augustine said, which may explain why our text makes no sense here: ‘Whoever uses transient things more strictly than the customs [of those] with whom he lives hold them, is either intemperate or full of religious fear. But whoever uses them in such a way that he exceeds the limits of the custom of the good people among whom he lives is either demonstrating something, or is a profligate. For in all such things, not the use of things, but the user’s desire is at fault.’ (Quisquis autem rebus praetereuntibus restrictius utitur quam sese habent mores eorum cum quibus vivit, aut temperans aut superstitiosus est. Quisquis vero sic eis utitur ut metas consuetudinis bonorum inter quos versatur excedat, aut aliquid significat aut flagitiosus est. In omnibus enim talibus non usus rerum, sed libido utentis in culpa est.) <sup>10</sup>*Exiit*, 2:1113. <sup>11</sup>*Exiit*, 2:1114. <sup>12</sup>*RegB* 2.16.

<sup>13</sup>*RegB* 3.12. <sup>14</sup>*RegB* 2.14. <sup>15</sup>*RegB* 3.14. <sup>16</sup>Bernard of Clairvaux, *De precepto et dispensatione* 5 (PL 182:867).

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grounds (*foresteria*); then, wherever a man transgresses his vow, he sins in mortal sin, although sometimes he may be able to be excused due to circumstance. Many inconvenient things follow upon this, however: for example, that everyone sins who has a luxurious and rich use [[but]] who might have a poor one; and whoever can eat sparingly in the house sins against the vow by eating luxuriously with a prince or prelate. It will be difficult, or even impossible, for any person who vows to avoid transgressions of the vow; it will even be difficult to discern what a poor use will be, and how far it extends or not; there will even be a danger of schism in religion, with some saying that poor use only extends so far, while others are asserting the contrary. And for that reason, we reckon it a sound teaching to say that the vow of our Rule covers (*fertur super*) the certain and the determinate: for example, the abdication of lordship and ownership. But the vow does not fall on the uncertain and the indeterminate, such as poor use. For a vow that falls on the certain and the determinate, such as on the abdication of lordship, obliges all people equally; however, if it were to fall on poor use, it could not oblige equally because of the diversity of persons living in the Order for whom /119/ an equal use cannot be prescribed. And for this reason the breadth of use, which the diversity of persons living in the Order and community abandoned, does not permit it [[poor use?]] to fall under the vow.<sup>17</sup> And therefore, because it does not fall under the vow, we are not bound to a poor use by reason of the vow, but from the propriety of the state. The Rule, considering this propriety, sometimes advises a poor use, or expresses it, as here: ‘all the brothers are to wear cheap clothes’.

### ⟨ SOME OBJECTIONS REFUTED ⟩

[Obj. 1] It is thus objected against the aforesaid: Just as a Friar Minor vows chastity, so he vows poverty. But there is no chastity without usage (*usu*) and action, just there isn’t some other virtue [[without them]]. But the usage of poverty cannot exist unless there is poor use; therefore, by what reason poverty falls under the vow, its usage and act—inseparable from that [[poverty]]—falls under the vow.

It ought to be said that, just as there is a giving of a positive act in negative precepts, for example to wish to not lie or to not kill, so also is there a giving and positing [[of a positive act]] in the vow of poverty: because it does not consist in a simple negation of the acts of the will, but rather the act of willing poverty is to actually refuse to want (*nolle ... in effectu*) one’s own thing, neither individually nor in common, and to render one’s self unable to have (*impossibilem ad haben-*

<sup>17</sup>The syntax of this sentence is unclear.

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*dum*).<sup>18</sup> And on this follows the positive extrinsic act, which the one vowing poverty has regarding every thing that he uses, because he uses the thing always as not his own. And, for that reason, because an poor evangelical person uses the thing always as not his own, sometimes the action or use of a poor person and a rich person can be the same, as is clear when a poor person eats in the house of a rich man, and from the same food, and when a poor person lives in the house of a rich man, and lies in the bed of a rich man.

[Obj. 2] It is objected in the second place, because a poverty that is without use is mathematical and unfruitful, etc.

It ought to be said that it does not follow. Poverty does not have poor use by its own essence; therefore, it has not meritorious act by its own essence, for a poor use does not empty the whole extent of the meritorious action, since the interior action of poverty is to wish to not have one's own thing or lordship of some thing, which is more meritorious than poor use, for giving the will to God is more meritorious than to give an action. On this action, however, many actions follow: for example, to abdicate every temporal thing, using a thing always as not one's own, is to be unable to pass one's life in a way otherwise than by begging, through labour, or from freely offered gifts, etc.

[Obj. 3] It is objected in the third place: if poor use is not of the essence of the vow, some Rule could be given and a profession greater than the said Rule and profession, for it will be more perfect that vows the abdication of lordship and poor use, than that which vows only the abdication. /120/

It ought to be said that the perfection of the Rule ought to be received in the power of the abdication of lordship and ownership on which the vow falls, just as it falls on the certain and determinate; and, for that reason, that Rule is most perfect that vows the abdication than which there is none greater. However, the form of the argument is so against them, just as it is against others, since they posit a latitude in the poor use. Indeed, since latitude has a more and a less strict, that profession will be more perfect that will vow the abdication and a stricter use, which can be observed by the community than that which vows a poor use with a good latitude, which it has according to them; but a community can observe a stricter use. [Therefore, etc.]

[Obj. 4] It is objected in the fourth place: there is naught but a triple use of

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<sup>18</sup>It may be helpful to think of three possible acts of the will here: *velle*, *non velle*, and *nolle*. The first is (active) desiring, the second is (non-active) non-desiring, and the third is (active) refusing. A recent discussion of these three acts (in reference to Scotus) can be found in Mary Beth Ingham, 'Self-Mastery and Rational Freedom: Duns Scotus's Contribution to the *Usus pauper* Debate', *Franciscan Studies* 66 (2008): 358–59.

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things, namely: [a] of rich people, which is called ‘refined’, ‘moderate’ [[which] belongs to virtuous people living communally, and ‘strict’ or ‘sparing’, which necessarily ought to belong to religious because use ought to exceed use as much as state exceeds state.

It ought to be said that the argument does not prove more against the Friars Minor than against other religious, because every religious order exceeds the state of rich people and of virtuous people living communally. The form of the argument proves that prelates are bound to a strict use by the necessity of their state. Moreover, the distinction of states in the Church is not in the power of such uses. Moreover, the excess of a religious order, with respect to other states, ought to be received in the power of the abdication, on which it follows that rich people or virtuous people living communally can have many uses that religious cannot have, especially the Friars Minor, such as hoarding treasure and using things as not their own with respect to lordship and ownership and reclaiming them in court, etc. Where it is to be noted that a Friar Minor is bound to have, by supposition of his state, a certain use; for every single state supposes a law of nature, and for that reason, each one is bound to live according to the rule of right reason, for example, to eat and drink moderately, and to follow the acts of temperance and of the virtues; and the opposite of such a moderate use is granted to no one. There is a certain use to which the friars are bound by reason of their vow, such as to wish to not have a thing of their own as far as the interior action is concerned, and to use the thing as not their own as far as the exterior action is concerned. There is a certain use that is sometimes granted or permitted, such as eating of all the things that are served. And this use is not opposed to the first one because an abundant use, according to the reason of virtue, can be moderate. Hence, according to Augustine *On Christian Doctrine*: ‘In the fault is not use, but desire’. And it can occur that a wise person use the most expensive food without any fault of avarice or gluttony.<sup>19</sup> /121/

[Obj. 5] It is argued in the fifth from the sayings of the Gospels that we are bound to a poor use by vow. Matthew 10: *Do not possess gold*, etc.; Matthew 5: *Do not be anxious about what you eat*; [[Matthew]] 19: *If you wish to be perfect, sell*; Mark 6: *Take nothing on the journey and wherever you so enter*—which all seem to mean poor use.

It ought to be said that, from the decretal *Exiit*: ‘The friars are bound only to those evangelical counsels by the profession of their Rule that are expressed in it preceptively, prohibitively, or under equivalent words. But to some, through

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<sup>19</sup>Augustine, *De doctrina christiana* 3.12.18–19 (PL 34:73). See n. 9, above.

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evangelically given counsels they are held more than are other Christians (according to the demand of their state), the more (by the state of perfection, which they have assumed through such a profession) they have offered themselves as a choice holocaust to the Lord through a contempt of all mundane things.<sup>20</sup> On which account, if the aforesaid mean poor use, as some people say, we would not be held to it except as far as they are expressed in the Rule (except by the propriety of the state), just as that [verse], *Do not possess gold*, and about not wearing footgear and similar things, which are expressed in the Rule, and in the way in which they are expressed. Mt. 10:9

Moreover, Christ, who says, *Do not be anxious*, sometimes ate well at the tables of rich people; nor did he observe a poor use, but a moderate one; he even said *Eat what is set before you and eating and drinking what are there*. He did not say ‘moderately’ or ‘strictly’, or ‘of this food’ or ‘of that food’. Mt. 6:25  
Lk. 10:8  
Lk. 10:7

Moreover, if anxious concern (*sollicitudo*) says provision for the future, the order bewares this provision, just as the decretal says: ‘and not’, it says, ‘under the pretext of provision for the future’,<sup>21</sup> just as it bewares hoarding treasure, etc.; the decretal refers to this hoarding of treasure (*thesauricationem*) as provision for the future.

Now, when it is said, *stay in the stranger’s house*, we say this falls under the vow and we observe it because we do not appropriate a house, nor a place, nor anything. That [verse], *you shall take nothing on the journey*, was a counsel; the [verse], *go and sell* means ‘by the abdication of things’—which abdication we indeed say falls under the vow and on which a moderate and strict use follows from the propriety of the state. Lk. 10:7  
Lk. 9:3  
Mt. 19:21

[Obj. 6] It is objected in the sixth place from the Rule: they are to wear cheap clothing; those who are compelled by necessity can wear footgear; they must not ride; they may have one tunic with a hood; that they are not to receive money; that they not appropriate anything to themselves—all of which means poor use. /122/

It ought to be said that none of us denies that we are bound to some poor use, for example, to that which is expressed in the Rule, and in the way it is expressed; for we must not ride, nor wear footgear, nor dress in expensive clothes. And we say, ‘in the way in which it is expressed’, because we ought to observe ‘precepts as precepts and counsels as counsels’, as the decretal *Exiit* says.<sup>22</sup>

[Obj. 7] It is objected in the seventh place because it is said in the decretal *Exiit*: ‘In fact, [...] every sort of abdication appears in them, and necessity in

<sup>20</sup>*Exiit*, 2:1112.

<sup>21</sup>*Exiit*, 2:1114.

<sup>22</sup>*Exiit*, 2:1112.

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the use'.<sup>23</sup> Moreover: 'It was appropriate (*condecens*) for that profession, which spontaneously', etc., and 'be content with a necessary use'.<sup>24</sup> Likewise: 'From which words it is clear enough from the Rule that a necessary use of things was granted to the brothers for nourishment, clothing, divine worship, and sapiential study'.<sup>25</sup>

It ought to be said that, if 'necessary' refers to simple use of fact, because there can be no profession that excludes from itself a use of necessary sustenance by simple use of fact, then such a use does not convict (as is clear) a poor use regarding the thing to be used: for someone can have a use of simple fact at the table of a rich person, while not having poor or strict use. However, if necessary is divided against 'superfluous', then it refers to the propriety of the state, and is a certain following of the abdication of ownership and lordship. Hence in the decretal: 'It was appropriate for that profession'.<sup>26</sup>

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<sup>23</sup>*Exiit*, 2:1113.

<sup>24</sup>*Exiit*, 2:1113.

<sup>25</sup>*Exiit*, 2:1114.

<sup>26</sup>*Exiit*, 2:1113.