



FRATERNAL BONDS IN THE EARLY MIDDLE AGES

by ANETA PIENIĄDZ
translated by ANNA KIJAK



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IN THE EARLY
MIDDLE AGES**

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CONTENTS

List of Abbreviations	vii
Preface	ix
Chapter 1. Introduction.....	1
Chapter 2. The Meaning of the Terms “Brother” and “Brotherhood” in Early Medieval Sources.....	29
Chapter 3. Equality and Fraternal Hierarchies	53
Chapter 4. Between Love and Hate: Models of Fraternal Relations	97
Chapter 5. Fraternal Relations in the Context of Law and Social Practice	137
Chapter 6. Paternal Uncles and Nephews	189
Chapter 7. Brothers and their Wives	197
Chapter 8. Conclusion	207
Bibliography.....	211
Index.....	241

LIST OF ABBREVIATIONS

AA SS	<i>Acta Sanctorum.</i>
ArFranc.	<i>Annales regni Francorum.</i>
BHL	<i>Biblioteca Hagiographica Latina Antiquae et Mediae Aetatis.</i>
CCSL	Corpus Christianorum Series Latina.
CCCM	Corpus Christianorum. Continuatio Medievalis.
ChLA	<i>Chartae Latinae Antiquiores.</i>
CSEL	Corpus Scriptorum Ecclesiasticorum Latinorum.
MemLuc	<i>Memorie e documenti per servire all'istoria del Ducato di Lucca,</i> 4–5 (in 5 parts). Lucca: Bertini, 1818–1844.
MGH	Monumenta Germaniae Historica.
MGH DD	MGH Diplomata.
MGH Epp.	MGH Epistolae.
MGH LL	MGH Leges.
MGH SS	MGH Scriptorum.
MGH SS rer. Germ.	MGH Scriptorum rerum Germanicarum in usum scholarum separatim editi.
MGH SS rer. Mer.	MGH Scriptorum rerum Merowingicarum.
PL	<i>Patrologiae cursus completus. Series Latina.</i> Edited by Jacques Paul Migne, Paris 1844–1855.
SC	Sources Chrétiennes.
TrFr	<i>Die Traditionen des Hochstifts Freising.</i>
UStG1	<i>Urkundenbuch der Abtei St. Gallen, 1.</i>
UStG2	<i>Urkundenbuch der Abtei St. Gallen, 2.</i>

PREFACE

THIS BOOK WAS inspired by Paul the Deacon's well-known poem addressed to Charlemagne, in which the author asked the ruler for the release of his brother Arichis, exiled from Italy after Duke Rotgaud of Friuli's failed rebellion (775–776). The poet described his loss in a dramatic fashion:

Listen with serenity, highest of kings, to the words of your servant, look upon my tears with kindness.
I am more unhappy, and with reason, than almost anyone in the world;
for me there is always mourning and hours of sadness.
For seven years now a violent change has been creating
many anxieties and has broken my heart.
For so long my brother has been a captive in your land,
desolate and disheartened, naked and needy.
In our homeland his poor wife goes begging for food
by the highways and byways with trembling lips.
By this shameful means she brings up four children
whom she scarcely manages to cover with rags.¹

As I was reading the poem, I asked myself what was behind the poetic formula. What were the mutual obligations between Paul and Arichis, the two sons of Warnefrid and Theodelinda? What role was played by the fraternal bond in the maintenance of the cohesion of the family group and the position of its members in society, also in case of a threat? What were the relations between the brother, sister-in-law, and the nephews? What models and values shaped the author's idea of these relations? What did it mean to be a brother in the late eighth century?

Much to my surprise, a preliminary bibliographic survey showed that the question of the relations among brothers was not explored in any great detail in the literature. In fact, the only question analyzed extensively was that of the relations among Louis the Pious's sons and their rivalry over power. However, the authors of these studies focused primarily on systemic and political questions. On the other hand, scholars carried out intensive studies of the forms of medieval communities that drew on a metaphorically

¹ *Pauli et Petri diaconorum carmina*, 47: "Verba tui famuli, rex summe, adtende sereus, / respice et ad fletum cum pietate meum. / Sum miser, ut mereor, quantum vix ullus in orbe est; / semper inest luctus, tristis et hora nihi. / Septimus annus adest, ex quo nova causa dolores / multiplices generat et mea corda quatit. / Captivus vestris extunc germanus in oris / est meus, afflicto pectore, nudus, egens. / Illius in patria coniunx miseranda per omnes / mendicat plateas ore tremente cibos. / Quattuor hac turpi natos sustentat ab arte, / quos vix pannucis praeavalet illa tegi." Translation from Godman, *Poetry of the Carolingian Renaissance*, 83.

understood brotherhood. This lack of research into biological brotherhood seemed all the more surprising to me given that, when I studied various topics relating to the history of women and the family, the role of brothers often turned out to be of key importance. In the language of early medieval sources the terms “brother” and “brotherhood”, used both literally and metaphorically, are omnipresent.

The present study is an attempt to answer the questions posed above. I focus on an analysis of the relation among biological brothers—what it was in society’s life and how it was perceived. Yet mine is not a typical study on the history of the family. I believe that an analysis of the institutions of social life cannot be limited only to what can be described as “social practices,” which are usually the focus of such studies. In order to understand the functioning and the transformations of these institutions I also need to study the system of ideas, of models which determined thinking about relations among people and influenced the actions of various groups as well as individuals. In the case of the early Middle Ages such a research approach is particularly justified. This was a period marked by a profound redefinition of the ideological foundations of the social order, also on the level of relations within family groups. The conflict between various normative systems, legitimized by both tradition and religion, was reflected, for example, in the eighth- and ninth-century disputes over the institution of marriage.

When embarking on this study of fraternal relations as an independent research topic, I am aware of the fact that such a distinction is somewhat artificial. After all, fraternal relations were only one part of a complex system of connections constituting what is called the family or, more broadly, the kin group. I believe, however, that these relations do require a separate treatment for several reasons. First of all, the very definition of early medieval terms of “brother” and “brotherhood” is not as obvious as it might seem. While scholars are willing to note the historical changeability of the institution of marriage, and even of motherhood or fatherhood, relations between brothers are usually treated as constant and as such not requiring explanations. Consequently, they are marginalized. Yet even a perfunctory perusal of the sources suggests that the situation was, in fact, different. However, in order to capture this changeability, we need to change our research perspective and abandon the belief, firmly established in historiography, in the key role of marriage and of the resulting bond between ancestors and descendants in family relations.

It also needs to be stressed that fraternal relations occupy a special place in the medieval system of ideas, because they simultaneously function in two dimensions—the literal and the metaphorical. The notions of opposing fraternal communities born of the flesh and of the spirit—*fraternitas carnalis* and *fraternitas spiritualis*—play an important role in the early medieval model of society, evolving under the overwhelming impact of St. Augustine’s thought. Restoring the harmony between the carnal and the spiritual dimensions of brotherhood becomes an important topic in theological reflection. One of the questions I would like to answer concerns the way in which these deliberations among intellectual elites influenced the perception of relations among brothers, their legal definition and daily practice.

I embarked on this work fully aware of the source barriers restricting research into such a complex subject matter as the relations between people and the motivations of human actions. We always and inevitably remain bound to writing, which was a more or less elitist tool, irrespective of whether we are dealing with a theological treatise or a private document. What we can learn thanks to the available evidence is just a small fragment of the whole picture, created by authors whose ways of seeing and describing the world was shaped primarily by the Church's teachings and conforming to literary linguistic and rhetorical patterns.

The source-related limitations cannot be avoided, but we can certainly expand the field of observation. That is why I opted for a justifiable approach: to use a variety of sources, from theological treatises, through normative sources, to private documents. Obviously, such a huge and diverse body of material required some selection. I am aware of the fact that the expansion of the scope of my preliminary research may have resulted in some sources being left out. In many cases I have also been forced to give up detailed source analyses, undoubtedly important and interesting, but driving me away from the main topic. Adopting such a broad perspective enabled me to view the subject from different angles and, even more importantly, to follow the existing (or non-existing) connections between sophisticated theological reflection and the law and collective ideas concerning the essence of fraternal relations.

I have decided to limit the chronological scope of this study to the ninth century, only rarely reaching for older, mainly eighth-century sources. There are several considerations behind this decision. First of all, I consider the ninth century to be a key moment in the evolution of the model of the Western European family. This was a time when the Christian models of relations among relatives became gradually internalized. This process was accompanied by displacement of older practices and customs, which often led to conflicts. The many diverse texts originating in that period provide scholars with extensive research material. Its systematic analysis required me to give up my initial plan to include in this study also tenth-century sources. I can only hope that I will be able to return to them one day.

The topics I discuss have been arranged thematically. In the introductory part I examine the current state of research and our source basis. It is an important part of this study, because I try to demonstrate how interpretation patterns established in historiography, as well as various theoretical inspirations concerning the form and functioning of the family, have influenced the perception of brotherhood, and, more broadly, how they influence the formulation of research questions relating to the role of the bond of kinship in medieval societies. I have been forced to go beyond the area of historical reflection closest to me and to think about the role played by theoretical inspirations coming from the humanities and social sciences generally. I have also devoted much space to a description of the source basis—although it resulted by no means in an exhaustive description. Given the multiplicity of sources used in this study and their diversity in terms of genres, I have tried to signal at least the most important problems of interpretation and explain the limitations I came across in my research.

Chapter 2 is devoted to a discussion of the basic terms and concepts used by the authors of texts writing about brothers and the relations among them. A more detailed analysis reveals that the language used by them hides contents different from those which are ascribed to them in contemporary society and which scholars are often inclined to see in them intuitively. In this part of the study I also try to show how the terminology associated with fraternal relations was used in the Middle Ages in a metaphorical sense. The metaphor referred primarily to an ideal model of fraternal relations emerging from theological and moralist reflection going back to the beginnings of Christianity. I have decided not to carry out a detailed analysis of the development of the significance and function of the brotherhood metaphor with regard to medieval communities such as religious confraternities or monastic congregations. This is a separate and vast research topic, which has been amply analyzed in historiography, and goes beyond the main focus of this study.

A large part of my reflection is devoted to the question of hierarchical relations among brothers. This is a key issue in a historiographic discussion, which has been going on for some time, about the order of inheritance in pre-Carolingian and Carolingian Europe. The question is essential both when it comes to explaining the principles of the functioning of the medieval family group as the foundation of the social order and to better understanding specific cases—above all those relating to the inheritance policy in the Carolingian dynasty and the conflicts arising in connection with that policy. What has turned out to be particularly interesting in this context is an analysis of the legal position and the ideas, rooted in the biblical tradition, of the role of the firstborn and his relations with his younger brothers. Conclusions that can be drawn from such an analysis suggest that greater caution is needed in our approach to historiographic patterns referring to, for example, the uniquely early medieval egalitarianism of fraternal groups—patterns usually built on the basis of an analysis of just one aspect of the relations among brothers. Another aspect is the perception of relations among brothers: the early medieval sources reveal the Janus-faced nature of the fraternal bond, stretching between ideal love and hate, loyalty and rivalry, sometimes even leading to fraternal bloodshed. I have tried to demonstrate the role of the biblical tradition in the conceptualization and consolidation of the ambivalent image of the relations among brothers and how these ideas overlapped with social practice.

The social practice of relations among brothers is the focus of my attention in the last part of the book. Analyzing references recorded primarily in diplomatic sources from various parts of the Carolingian realms, I have demonstrated the ways and tools used in the fulfilment of brothers' mutual obligations and exercise of their rights as well as the interactions between brothers and other relatives. My reflections in this part of the book also serve to compare social practice with the models discussed in the previous chapters, that are present in various sources: models shaped, on the one hand, by often archaic custom, and on the other by Scripture and the teachings of the Church.

This book has been written thanks to the help and support of many people. I would like to thank Professor Roman Michałowski for including me in his research team and for his valuable remarks. I recall with gratitude Professor Henryk Samsonowicz († 2021) for his kindness and for the discussions during the Medievalist Doctoral Seminar at the Institute of History, University of Warsaw, where I was able to present successive chapters of the book. I am grateful to Krzysztof Skwierczyński, Grzegorz Pac, Michał Gronowski, and Piotr Węcowski for their advice and assistance in obtaining the necessary literature. My thanks go to Dr Anna Adamska from University of Utrecht for consultations and words of encouragement while preparing the English version of this book. I owe most to Professor Karol Modzelewski, my Master, who always supported me and always believed in me and who passed sadly away in 2019, before the translation was finished. I would like to extend special thanks to my family for bravely enduring the difficult period when I was writing and translating the book.

Chapter I

INTRODUCTION

The State of Research and Theoretical Framework

Until recently relations among siblings did not attract much interest among scholars studying the history of the early medieval family. They were mentioned primarily in discussions of marriage strategies used to safeguard the interests of family groups and in analyses of relations between families linked by marriage. Fraternal relations appeared as a research topic almost exclusively in studies dealing with political history, mainly those concerning power struggle, the best known example of which was the fratricidal conflict among Louis the Pious's descendants. Questions about the definition of the fraternal bond, about what it was and how it was perceived, almost never appear in historical studies. It could be said that fraternal relations were regarded as so obvious and immutable that they escaped scholars' attention. Consequently, the question of models and ideas of fraternal relations has not been studied in any detail either.

We can point to several reasons behind this neglect of the position and role of brothers in kin groups. First of all, what was all-important in the development of research into the history of the family, and not only in the early Middle Ages, was the input of cultural anthropology from the time when the discipline was dominated by the structuralist-functionalist methodological orientation. This influence was particularly evident in French- and English-language historiography. The emphasis put on the analysis of kinship structures and the search for models explaining their functioning in studies conducted by anthropologists in the 1960s and 1970s stimulated interest in the topic also among historians.¹ Even if George Duby and Karl Schmid, who in the 1950s defined new directions and methods in the study of the history of the family, had not yet read the works of great anthropologists, over the following decades it was precisely the methodological proposals of anthropology that encouraged many scholars, including medievalists, to take a closer look at the question of kinship, strategies of marital exchange, etc.² What made these proposals attractive was the fact that, as the structuralists argued, a multifaceted study of kinship was key to understanding basically all aspects of the functioning of human society, including its spiritual, economic, and political life. However, anthropologists focused generally on two main topics: recognizing filiation structures (kin groups) and strategies of building links between kin groups through relationships between men and women

¹ For an overview of sociological and anthropological inspirations in research into the history of the family and kinship in the Middle Ages in Western European historiography, see Crouch, *The Birth of Nobility*, 99–155 and Hummer, *Visions of Kinship*, 97ff. and passim.

² Morsel, "Le médiéviste, le lignage et l'effet de réel," 83–110.

belonging to different kin groups.³ Consequently, like anthropologists, historians, too, studied relations among siblings generally in the context of an exchange of women and goods between groups of brothers or in that of limitations of this exchange stemming from biological links between people (the question of marital exo- and endogamy).⁴

The structuralist inspirations and the resulting belief in the existence of universal models explaining the patterns in the development of social institutions contributed to the spread in historiography of a model of transformations of the family from broad structures of bilateral kinship of the early Middle Ages to the strictly agnate family of the high and late Middle Ages, with the principle of primogeniture being more or less rigorously observed. A turning point came apparently around the year 1000, when the break-up of the post-Carolingian social order was finally completed. The concept was formulated in the 1950s and 1960s.⁵ It was based on findings of German scholars in the prosopographic Freiburg School, gathered around Gerd Tellenbach.⁶ A decisive influence on its form came from the works of Karl Schmid,⁷ although, in fact, this scholar never aspired to be the author of a general theory of the development of family structures in post-Carolingian Europe. Methodologically innovative research, using as its source basis obituaries and other commemorative sources, made it possible to capture processes which until then had eluded scholars—processes such as the consolidation of patrilineal family structures, the weakening of the female line in the building of the family's position, and the privileged treatment of the eldest sons at the expense of their younger brothers when it came to inheritance.

The biggest role in promoting the concept of a profound change that occurred in family structures in the eleventh century as one of key factors in the emergence of a new, “feudal” order of the High Middle Ages was played by Georges Duby. Duby confronted the results of his German colleagues' research with his own findings obtained as he worked on his doctoral thesis devoted to the society of the Mâcon region in the tenth to twelfth

3 The anthropological theories of kinship are discussed concisely in e.g. Leaf and Read, *Introduction to the Science of Kinship*; Carsten, *After Kinship*; Stone, ed., *New Directions in Anthropological Kinship*, and, in the context of historical research: Yanagisako, “Bringing it All Back Home.”

4 Guerreau-Jalabert, “Sur les structures de parenté”; Guerreau-Jalabert, Le Jan, and Morsel, “De l'histoire de la famille.” As Hans Hummer noted, the interest in anthropological models was a consequence of the exhaustion of research tools used by historians and “the conviction that our modeling is wrong and that if we just had the right anthropology, we might create a machine that could stamp out some answers”; Hummer, *Visions of Kinship*, 2.

5 On the debatable nature of this breakthrough in the history of the family from the perspective of scholars studying the late Middle Ages and the early Modern Period see Sabean, Teuscher, and Mathieu, eds., *Kinship in Europe*. 4ff.

6 Concisely and critically on the role of the Freiburg School in research into the family organization of the elites of post-Carolingian Europe see Leyser, “The German Aristocracy,” 25–53, esp. 32ff.

7 Schmid, “Zur Problematik von Familie”; on Schmid's legacy and role see Oexle, “Gruppen in der Gesellschaft”; on the early criticism of his theses see Freed, “The Counts of Falkenstein,” 1–11.

centuries.⁸ He interpreted the similarities in the phenomena occurring in this area as a common tendency, explaining it by specific political circumstances (the collapse of the structures of the Carolingian state and the concomitant power vacuum, the resulting changes in the economic and symbolic foundations of the position of the elites, etc.). The model provided a convincing explanation of complex phenomena present in many regions of post-Carolingian Europe, for example the regionalization of the old Frankish *Reichsaristokratie* (imperial aristocracy), the concentration of settlement and the creation of indivisible domains around family castles accompanied by an increasingly strong genealogical awareness of the elites, and a tendency to treat the eldest sons in a privileged manner at the expense of their brothers and of women. Duby's later erudite studies, translated into many languages and devoted to the transformations of family structures, for a long time influenced not only the views of scholars but also the common picture of the transition from the early to the high Middle Ages, an influence that has continued to this day. It is enough to recall, for example, the international success of his study *Le chevalier, la femme et le prêtre*, seductive in its literary elegance but rather controversial.⁹ In this book it is hard not to notice the distant echo of the fierce and ideologically burdened disputes raised by anthropologists at the turn of the nineteenth and twentieth centuries over the historical evolution of human societies, especially over the inevitable replacing of matriarchal kinship structures with patriarchal ones.

As early as the 1970s critical opinions about the Schmid-Duby theory emerged, especially in German medieval studies,¹⁰ but it was not until the 1980s and 1990s that the model was thoroughly revised. The criticism came from many sides and concerned the very essence of the problem, that is the historicity of the profound breakthrough which apparently happened around the year 1000 and was commonly referred to as the "feudal revolution."¹¹ This was followed by a thorough revision of the basic interpretative categories, challenging the validity of using the very term "feudalism" to describe the reality of the past. On the wave of this criticism polemics also included the assumption—often accepted *a priori* in the past—that there were major differences in the form of the basic relations keeping societies together in the early and late Middle Ages, including the differences in family structures characteristic of these periods. In

8 Duby, *La société aux XI^e et XII^e siècles*, see also Bougard, "Genèse et réception"; nearly twenty years later Duby abided by his main theses in Duby, "Lignage, noblesse et chevalerie," 803–23. The role played by Duby and the discussion surrounding the breakthrough in social structures in the eleventh century are analyzed by Bisson, "Nobility and Family."

9 Duby, *Le chevalier, la femme et le prêtre*.

10 For a discussion of the arguments of the critics, including Friedrich Prinz, Karl Bosl, Wilhelm Störmer, and Karl Leyser, see Freed, "The Counts of Falkenstein," 1–11.

11 The 1990s were marked by the publication of numerous studies revising the established views on the "feudal revolution" of the eleventh century. The most important among them was the discussion on the pages of the *Past and Present* journal in 1994–1997. Its participants included Thomas Bisson, Dominique Barthélemy, Stephen D. White, and Chris Wickham. See also Bagge, Gelting, and Lindkvist, eds., *Feudalism: New Landscapes of Debate*.

France, the theory of a breakthrough was attacked especially by Dominique Barthélemy. He accused its advocates of not drawing conclusions from the changes happening in the eleventh century in the sources themselves (an increase in the number and emergence of new kinds of sources) and of being too hasty in equating the reality of the sources with social phenomena.¹²

A scholar who emerged as the main figure in the revolt against Duby's classic model in the English-speaking world was the English medievalist Constance B. Bouchard, who attacked the premises of the model, drawing on earlier sources than those used by the French scholar.¹³ Her analyses of texts from the Carolingian era and the early post-Carolingian period demonstrate the lasting nature of the privileged treatment of the male line in inheritance at least two centuries before the boundary of the year 1000. In addition, she has shown that kinship in the female line continued to play an important role as a factor in both the construction of identity and in the inheritance of property and position. Whether in a given family or at a specific point in time, the patrilineal or matrilineal orientation came to the fore, and whether sons or paternal uncles were ahead in the inheritance order depended on a complex combination of factors including the personal status of the various individuals, both men and women, within the family's political or economic interest at the time; it may also have been resolved simply through violence.¹⁴ The situation was similar in the following centuries. Bouchard deserves credit for pointing to the incompatibility of convenient structuralist-functional interpretative patterns with the rather complex reality of the sources, as well as to the shortcomings of the widely used methods of studying the organization of family groups (especially anthroponymic analyses).

The advocates of the theory of the breakthrough in family structures usually did not resist strongly, being instead inclined to revise Duby's theses in part. The French medievalist Regine Le Jan, for example, was willing to reduce the sharp opposition between the agnate and cognate family structures to various "tendencies" prevailing in a given period, and to acknowledge regional variability in the rhythm of the changes, remaining nevertheless convinced of the key significance of the late Carolingian era in this process.¹⁵ In the late twentieth and early twenty-first century the path indicated by Bouchard was followed by other scholars working on sources from various parts of post-Carolingian Europe.¹⁶ The differences in the conclusions drawn from earlier studies and, in the first place, the recent progress of regional studies are to a large extent a

12 Barthélemy, *La mutation de l'an mil a-t-elle eu lieu?*; the same idea can be found in Barthélemy's study devoted to kinship and published in the collection Duby, ed., *Histoire de la vie privée*.

13 Bouchard, *Those of My Blood*, 98–134; Bouchard, *Strong of Body*, 67ff.

14 For an overview of controversial issues see Goetz, "Coutume d'héritage," and Goetz, "Les 'affins' au haut Moyen Âge"; see also Ubl, "Zur Einführung Verwandtschaft."

15 Le Jan, *Famille*, 381–427; Le Jan, "Continuity and Change"; see also e.g. Aurell, "La parenté en l'an mil."

16 It is hard to list here all numerous studies of recent years. Worthy of note among them are: Evergates, *The Aristocracy in the County of Champagne*; Livingstone, "Kith and Kin"; Livingstone, *Out of Love for My Kin*; Everard, *Brittany and the Angevins*.

consequence of a change of the source basis—the broad use of documentary material analyzed independently of normative and narrative sources. They also stem from the different nature of the questions put to these sources—a move away from questions rooted in the history of law and political systems (normative systems regulating relations within groups, principles of inheritance, land trading, etc.) towards problems typical of anthropology and historical sociology (various coexisting forms of social bonds, individual strategies of building one's position within a group, the role of women, etc.). On the one hand, these studies have brought us much more information about the local diversity in the functioning of family groups; on the other hand, they have conclusively confirmed that it is high time to mothball the decades-long belief in the universality of the socio-political model initially created on the basis of source data originating at the centre of the Frankish domain.

Post-structuralist criticism is a strand represented by works of scholars who pointed to the dependence of the advocates of the eleventh-century breakthrough theory on the historical context in which the theory emerged.¹⁷ It was influenced by the nineteenth-century approach—evolutionistic and evaluative—of the agnate model of the family as a higher level in the development of European society, contrasted with the amorphous nature of “primitive” societies. Seen from this perspective, the shift from vast cognate structures to agnate lineages was not just a stage of development (progress), but really a historical necessity, which was to lead to the emergence in the late Middle Ages of the foundations of the social organization of early modern Europe, lasting until the nineteenth century. Yet critics also noted that the belief in the crucial differences between the early and late medieval family model stemmed from the number and nature of the sources. They pointed to two main questions challenging the framework of the theory of a revolutionary change in family structures between the early and high Middle Ages. This concerns primarily the fact that between the tenth and eleventh centuries the number and kind of sources available to historians changed: the eleventh century is much better documented than the previous periods (especially the tenth century). As a result, historians, having noticed a change in the types, structure, and proportions of sources, considered that it must reflect some profound social change. It has also been noted that in the late Middle Ages there was a greater chance for the emergence and survival of family archives and historiographical works recording family traditions hitherto transmitted orally and used to legitimize claims to power by representatives of the various families.¹⁸ It is precisely the study of these sources that has contributed to the emergence in historiography of a picture of old patrilineages well aware of their origins among the Western European aristocracy in the eleventh to fifteenth centuries. A question arises, however, as to whether we do not have earlier accounts of this type because the patrilineal genealogical awareness did not exist or because the way of

17 One of the most radical critics of the traditional research approach is recently Hans Hummer (*Visions of Kinship*).

18 Barthélemy, *La mutation de l'an mil a-t-elle eu lieu?*; from a slightly different perspective but in a similar spirit see Morsel, “Le médiéviste, le lignage et l'effet et l'effet de réel,” *passim*.

recording this genealogical memory changed. Obviously, we can reverse the problem and ask about the cause and effect in this case. That is, whether the sources create or reflect reality and whether by drawing on *ex silentio* conclusions we can say anything certain about the preceding period. Irrespective of what answers we give in this never-ending discussion, it seems right to point out to the advocates of the breakthrough theory their tendency to overuse retrogression and to underestimate the consequences of transformations of literacy to social history.

Yet Bouchard, Barthélemy, Hummer and other scholars who dared to challenge the authority of the great historians of the older generation deserve credit above all for overcoming the schematic pattern of thinking about the organization of the family as an ordered structure based on immutable and inviolable principles, doomed to a gradual decline with the emergence of the late medieval and then early modern institutions of the (nation) state and the law. It could be said that it was only with their studies that medievalists were able to liberate themselves from the impact—going as far as Marc Bloch's works—of the Durkheimian way of seeing the history of the family as an evolutionary series of successive developmental stages from fluid cognate groups, through the domination of agnate and patrilineal bonds, to the emergence of the modern nuclear family.¹⁹ The changes in the theoretical foundations of historical research coexisted with the transformations taking place in the 1980s and 1990s in sociology and anthropology in the way of thinking about the family and kinship, primarily with the questioning of the structural-functional paradigm according to which the family is a self-contained, relatively stable system best adapted to the existing conditions (which mean it can change only under the impact of external factors). The criticism of family studies in the social sciences concerned primarily the insufficient consideration of the cultural context in which the analyzed institutions functioned and the disregard for the role of individual circumstances in the emergence of family bonds (direct contact between family members, being brought up together, mutual care, etc.). Even such fundamental concepts in anthropology and sociology of the family as "kinship" were challenged, as they were seen as a construct created by scholars from a European cultural background, through which they tried not so much to explain but to translate phenomena incomprehensible to them from foreign cultures into the language of their own cognitive categories.²⁰ Under the impact of this criticism, at the turn of the century anthropology and sociology creatively managed to revise their own methods and conceptual categories, and to formulate new questions about the directions and objective of family studies.²¹ An important role was also played here by interpretations originating in the studies of psychological determinants of the functioning of the family

¹⁹ Crouch, *The Birth of Nobility*, 103ff.

²⁰ See especially Schneider, *A Critique of the Study of Kinship*; a critical analysis of Schneider's key studies is found in Feinberg and Ottenheimer, eds., *The Cultural Analysis of Kinship*.

²¹ Worthy of note among numerous studies is Marshall Sahlins's short book *What Kinship Is—and Is Not*, which contains a critical summary, important also for historians, of the main threads in the discussion from the point of view of social sciences at the beginning of the twenty-first century.

as well as interpretations, inspired by evolutionary biology, of altruistic behaviour in the family as a form of the evolutionary adaptation of human beings, subordinated to the overriding principle of genotype survival (especially the theory of “inclusive fitness”).²²

The change of paradigm in family studies in the social sciences led to a shift in the emphasis to topics other than those previously attracting scholars’ attention. From the point of view of research into relations among brothers, the most interesting are theoretical proposals concerning the analysis of the creation of kinship relations, factors strengthening or weakening them, and transformations of ideas about these relations under the influence of various systems of values. In this approach every kinship (system) is a primarily socio-cultural construct; consequently, studies should focus on understanding the perception and cultural meaning of this relationship in past society. These assumptions became the basis for Hans Hummer’s research on early medieval kinship.²³ In his view, the most notable weakness of the previously conducted research was the “genealogical and biogenetic presupposition,” which does not necessarily have to correspond to what the authors and recipients of the sources adopted when they thought and wrote about family relations.

The end of the twentieth century was also marked by a break with a tendency, dominating research since the 1970s, to look for a single, culturally legitimized and essentially abstract kinship and family model excluding all examples of otherness as deviations disrupting the functioning of society’s life. In more recent studies, sociologists and anthropologists emphasize the role of individuals and their individual choices in constructing the family and the resulting changeability of its forms. In other words, environmental factors do set the boundaries of human activity, yet within these boundaries individuals can shape forms of family life depending on their own needs, without violating the social norm; their actions are not without influence on the social order. This change in the approach to the family was also associated with sociologists and anthropologists appreciating the historical changeability of this institution.²⁴

In recent decades, as a result of inspiration from the social sciences within medieval studies, the structuralist-functionalist family model has clearly begun to give way to a dynamic processual approach in which the form of the family is not regarded as constant in the analyzed period. Depending on a variety of factors, both external and internal, various solutions may exist side by side and are not treated by contemporaries as a deviation from some abstract norms. Thus, even if the model of the family and family relations present in normative or moralistic sources seems to be fixed and durable, social practice may, although it does not have to, deviate considerably from this model, without the social system losing its stability and coherence.

22 On the significance of these studies to sociology of the family, see e.g. Szlendak, *Socjologia rodziny*; Giza-Poleszczuk, *Rodzina a system społeczny*.

23 Hummer, *Visions of Kinship*.

24 Segalen, *Historical Anthropology of the Family*; Szlendak, *Socjologia rodziny*, passim.

This new way of looking at the family and its changeability over time has given rise to an increased interest in bonds within it other than those bonds that were a consequence of marriage (kinship, filiation). The change was also influenced by an intensification of research into the topic in sociology, anthropology, and psychology.²⁵ More studies devoted to relations among siblings appeared after the year 2000. However, the revival of interest concerned primarily research into the late Middle Ages and the early Modern Period as well as studies of societies during the era of industrialization. This was largely associated with attempts to describe the (successive) turning points in the history of the family which historians were inclined to date to the fifteenth and sixteenth centuries and to the nineteenth century.

The impact of anthropology and psychology can be found in the clearly privileged position assigned to relations between siblings of the opposite sex as the object of analysis. Relations between sisters and brothers were examined both in the context of the pursuit of family property strategies and in that of the psychological and emotional significance of these bonds. Historians studied classic themes tackled by anthropology, such as the question of sexual taboo encompassing relationships between siblings and its impact on the relations among sisters and brothers. Similarly, the structuralist theory of exchange inspired scholars to analyze the flow of property between fraternal groups following marriages of their sisters or the role of these marriages in building the position of the families. In recent years, scholars have increasingly used the category of gender in sibling studies, for example in analyzing the power balance between brothers and sisters, or the construction of gender-determined social roles in the family.²⁶ The relations between same-sex siblings usually served as a background

25 Among the studies devoted to relations among siblings published in recent years in social sciences the one that can be useful as an introduction to the topic is a study by the French sociologist Buisson, *La fratrie, creuset de paradoxes*, because of its cross-sectional nature and the author's sensitivity to historical contexts; see also Coles, ed., *Sibling Relationships*; Alber, Coe, and Thelen, eds., *The Anthropology of Sibling Relations*; Buchanan and Rotkirch, eds., *Brothers and Sisters*.

26 The scholar who has studied the question of siblings in history, especially in the late Middle Ages, most intensely is Didier Lett. See *Histoire des frères et sœurs*, a revised version of the study: *Frères et sœurs: Histoire d'un lien*. See also important collections of studies: Godeau and Troubetzkoy, eds., *Fratries: Frères et sœurs*; Miller and Yavneh, eds., *Sibling Relations and Gender*; Johnson and Sabean, eds., *Sibling Relations and the Transformation of European Kinship*; among studies devoted to sibling relations in the nineteenth century is Davidoff, *Thicker than Water*; see also Hemphill, *Siblings: Brothers and Sisters*, and special issues of journals: "Fratello/sorella," *Quaderni storici*, 83, no. 2 (1993), "Sibling Relations in Family History: Conflicts, Cooperation and Gender Roles (Sixteenth to Nineteenth Centuries)," *European Review of History*, 17, no. 5 (2010), and "Frères et sœurs," *Médiévales* 54 (2008). In March 2012 an international conference was organized at the University of Toulouse, "Frères et sœurs du Moyen Âge à nos jours" (see volume: Boudjaaba, Dousset, and Mouysset, eds., *Frères et sœurs du Moyen Âge* and audio recordings of papers delivered: www.canal-u.tv/chaines/ouvrirlascience/open-science-european-conference-osec; for a summary of the main research threads discussed during the conference see Fine, "Frères et sœurs en Europe." Worthy of note are also studies devoted to siblings in Antiquity: Harders, *Suavissima Soror*; Cox, "Sibling Relationships in Classical Athens."

for such analyses and were not the subject of separate studies.²⁷ While it could be said that for the late Middle Ages and the early Modern Period relations among siblings of both sexes have been analyzed at least to some extent, the situation for the early and high Middle Ages is far from satisfying. There are basically just two extensive monographs devoted to the topic. Jonathan R. Lyon discusses the political aspects of the relations among brothers and sisters in German elites in the twelfth and thirteenth centuries.²⁸ Carolyne Larrington presents sibling relationships across medieval literature from a vast chronological and geographical perspective. She uses various sources written in many languages and in different cultural contexts (from *Beowulf* and Scandinavian sagas to Arthurian romance and the *Decameron*), and on this basis she formulates sometimes risky generalizations about a complex phenomenon.²⁹

In addition, there are also some case studies.³⁰ One of the few studies that asks broad questions concerning the place of siblings in family organization and symbolic social order in the seventh–tenth centuries is a conference paper by Isabelle Réal.³¹ The author emphasized the need for a parallel analysis of topics relating to anthropological reflection on the structure of kinship and the question of family strategies and topics relating to ideas and representations. However, in this article, too, the focus of the analysis is on interdependencies of brothers and sisters. The paper's overview-like nature does not make it possible to examine each topic thoroughly.

What is striking in nearly all studies touching upon the question of sibling bonds and dependence is a disproportionately limited interest in relations among brothers as a separate phenomenon, as well as a tendency to analyze bonds among brothers and sisters together. It seems that fraternal relations became marginalized in the social sciences, including history, largely because of an a priori and essentially intuitive assumption that these relations were invariably relations of solidarity and cooperation. I would like to refer here to the words of a classic of sociology by the author of one of the first sociological studies devoted to fraternal relations and roles, Florian Znaniecki. In his unfinished book, published posthumously, *Social Relations and Social Roles*, Znaniecki wrote:

When two male children have been born of the same parents, each of them is unconditionally obliged to accept the other as a brother, and neither has anything to

27 The rare exceptions include a study devoted to fraternal relations in ancient Rome: Bannon, *The Brothers of Romulus*.

28 Lyon, *Princely Brothers and Sisters*.

29 Larrington, *Brothers and Sisters*.

30 Primarily in the collection of studies: Cassagnes-Brouquet and Yvernault, eds., *Frères et sœurs* and the special issue of the journal *Médiévales*, 54, 2008; see also e.g. Bühner-Thierry, "Fratelli e sorelle: Solidarietà familiari." In May 2013 an interesting paper on the relations among brothers and sisters in the eighth–tenth centuries in the light of epistolographic sources was delivered at a conference in Kalamazoo (ICMS) by Hailey La Voy ("Brothers and Sisters: Sibling Bonds in Early Medieval Letters, c. 700–900"). I would like to thank the author for making the paper available to me.

31 Réal, "Représentations et pratiques."

say about it. Of course, the older boy is the first to accept the other boy as his brother; but eventually both of them, as they learn the standards and norms of their community, are made fully aware that they are innately and inseparably united as brothers, and will remain so, as long as they live—perhaps even in the next world, according to the religious beliefs of some communities. Their mutual acceptance implies mutual positive valuation; for, if one of them evaluated the other negatively, he should also evaluate negatively himself, since they share the same hereditary nature.³²

It was no coincidence that Znaniecki chose fraternal relations as an example of a social bond that is universal (it occurs in all human communities) and, at the same time, is an ideal type, a model for other social relations to follow. The excerpt from the Polish sociologist's book contains all the premises that set the direction of research into fraternal relations (or rather, no matter how paradoxically this may sound, would explain a lack thereof) in sociology and cultural anthropology, basically until the 1980s. They can be summarized in three points. Firstly, a relationship between the brothers emerges at the moment of birth; it is unbreakable and non-negotiable. Secondly, brothers are forced to accept each other, view each other positively and, consequently, collaborate; a deviation from this principle means questioning one's own value. And finally, brothers are united by their "hereditary nature," that is a brother is "another I," and thus brothers share an identity.

The concept of altruistic collaboration among brothers, an essential condition for the functioning of the family and likewise for the existence of a balance in the social system, was developed by functionalists in the 1950s and 1960s.³³ The scholar who comes to the fore among them is Alfred Radcliffe-Brown. Of key importance to brotherhood studies is his thesis that siblings are a separate whole within a broader kinship structure. This has its own internal structure, in which a crucial role is played by gender division and age difference, and its functioning is based on cooperation among the group members. For the English anthropologist, as for Znaniecki, this principle of solidarity and cooperation stemmed from siblings' biological unity (being of "one flesh and one blood").³⁴ It should be noted, however, that Radcliffe-Brown, like other anthropologists from this circle, was interested in relations among siblings (especially relations among brothers and sisters) only to the extent they could be used to explain the kinship structures he regarded as key. In other words, the research problem was the way in which sibling bonds were used to construct a "system." Scholars were not interested in relations among siblings as such, especially in relations among same-sex siblings. From their point of view these relations were insignificant, as they were wholly subordinated to the overriding objective of maintaining a structure based on links between ancestral relatives and descendants. Consequently, information from sources not conforming to a family model regarded as characteristic of a given period was seen

32 Znaniecki, *Social Relations*, 135.

33 Parsons and Bales, *Family: Socialization and Interaction*.

34 Radcliffe-Brown, "Introduction." In Radcliffe-Brown and Forde, eds., *African Systems of Kinship*, 83.

as a deviation without cultural sanction. Thus, cases of conflicts among brothers, their reluctance to engage in altruistic actions and collaboration, and even the very conflict of norms determining the brothers' conduct were viewed as a violation of the social order dangerous to the whole system.³⁵

Fraternal relations were treated in anthropology as serving to maintain the cohesion of the family group also by the structuralists, including the most representative and influential exponent of this school of thinking, Claude Lévi-Strauss.³⁶ The structuralists believed that fraternal groups constituted the foundation on which the social structure rested, but they did not explore the relations within these groups. The groups were important primarily as a collective entity in the process of marital exchange, of fundamental significance to social relations; it was men linked by blood ties who had power over women. The structuralists assumed an internal coherence of these groups of brothers, coherence based on natural bonds of cooperation existing among their members.

This way of seeing or, rather, not seeing fraternal relations as a stand-alone research topic was transferred, with inspirations of the structuralist school, to research into the history of the family. Even if references to fraternal relations do appear in this research, it is almost always with the implicit assumption that the relations were based naturally, as it were, on cooperation. And if fraternal relations were determined by biological bonds between brothers, then, essentially, studying these relations from a historical perspective does not make sense, for their nature is not, *ex definitione*, dynamic. If evidence of deviations from the "natural" rule—ordering altruistic fraternal relations—does appear, it is treated as breaking the "natural" community based on blood ties. Scholars have tried to explain such cases either by referring to disruptions in the mechanisms of the functioning of the structured family group, or to external determinants—and not by the institution of brotherhood itself.

The most important consequence—also from the point of view of historical studies—of the redefinition of concepts concerning family relations in the social sciences and of the application of new methodologies in research on this topic in the 1980s and 1990s was the rejection of the hitherto commonly accepted belief in the objective, universal nature of family relations. Scholars challenged the model of a fraternal bond based on positive values and cooperation, a bond that apparently emerged in the case of the elder child already upon the birth of his younger siblings and was then only consolidated through socialization. There were ever more advocates of the thesis that kinship and family relations were mainly cultural.³⁷ As Marshall Sahlins succinctly put it, "whatever is constructed genealogically may also be constructed socially."³⁸ Thus, it is not only that biology, "flesh and blood," determines kinship and relations among family members,

35 At this point I refer e.g. to opinions of anthropologists expressed in the introduction to Alber, Coe, and Thelen, eds., *The Anthropology of Sibling Relations*, 4ff.

36 Lévi-Strauss, *Les structures élémentaires*.

37 This view was developed recently by Hans Hummer, *Visions of Kinship*.

38 Sahlins, *What Kinship Is—and Is Not*, 2.

but the emergence, understanding, and form of these relations is influenced by a set of various factors and cultural categories, characteristic of a given community, and the relations themselves are constructed and re-constructed throughout an individual's lifetime. To put it very simply: brothers can be brothers by birth without regarding themselves and being regarded as brothers. Or they can be without any biological ties, but be brothers with regard to their social role, mutual relations, and the way they are perceived.

This seems to be a banal observation, but it does have far-reaching consequences. For, if being or not being someone's brother in the social sense depends mainly on cultural factors, there is no fraternal relation pattern common to all human cultures stemming from a biological bond. Fraternal relations and ideas about them should be treated dynamically, as changeable, not only depending on a given culture and period, but also on the circumstances in which siblings function. Accepting such an assumption also means rejecting the immutable and universal model, adopted *a priori*, of fraternal relations characteristic of European culture. As Klaus van Eickels rightly notes, a historian cannot see fraternal relations in the Middle Ages through the metaphors of brotherhood which are present in contemporary culture, which can be found between two ideals: that of the Christian *fraternitas* and that of the Republican *fraternité*.³⁹

In the light of these remarks what may emerge as a paradox is the interest, attracted for over fifty years, especially in German medieval studies, by those forms of social bonds which, not being bonds of biological kinship, did nevertheless refer to the ideal of brotherhood as a model.⁴⁰ However, the paradox is not hard to explain and stems from a different historiographical tradition in which studies into topics traditionally regarded as part of the history of the family in Germany could develop. Unlike in French- and, to some extent, also in English-language historiography, research into bonds of kinship has been part of a broader investigation of social groups, considered primarily in cultural terms. Thus, groups directly invoking genealogical criteria (such as kinship) and other groups, including those imitating family ties (understood metaphorically), have been analyzed as equal and interpenetrating elements of the organization of medieval societies.⁴¹ Consequently, topics intensively studied by German medievalists have included questions such as friendship as a form of social bond or history of various fraternities, beginning with monastic prayer communities and ending with guilds. Emphasizing the cultural nature of the relations within groups referring to the family model, groups whose members described themselves as "brothers," scholars seemed to lose sight of the basic question about what it meant to "be a brother" in the early Middle Ages and to what these bonds were really compared. Significantly, more or less in the

39 Eickels, "Der Bruder als Freund."

40 Among classic studies, see Schmid and Wollasch, "Societas et Fraternitas"; Oexle, "Conjuratio und Gilde"; Althoff, *Family, Friends and Followers*; and the collection Krieger, ed., *Verwandschaft, Freundschaft, Bruderschaft*.

41 Jussen, "Famille et parenté."

1980s, the interest in the emergence and functioning of groups clearly began to prevail over research into kinship relations (apart from genealogical studies). Thus today, topics like “friendship” or “spiritual kinship” seem to be sometimes studied more thoroughly than the question of bonds among biological kin.

What I have said so far has prompted me to formulate several initial theoretical assumptions. First of all, we need to reject the evolutionist belief in a single line of development common to a vast area of Western Europe, a line that supposedly led from the early medieval egalitarian model of relations among brothers to the principle of primogeniture, more or less strictly observed, characteristic of the late Middle Ages and early Modern Period. It cannot be demonstrated that changes in family structures were linear—elements which in traditional theories belonged to different orders (let us call them, following the German terminology, *Sippe-Geschlecht* model⁴²), occurring in parallel in the same areas. Even if in some periods and groups the tendency to treat the eldest male heirs in a privileged manner predominated, for example, this does not give us grounds to claim that this particular model was the only model legitimized in society. Thus, the phenomenon described by Bouchard—that is domination of patrilineal ties in the inheritance system in the early Middle Ages with a recognition of the significance of ties in the female line—is not inherently contradictory, but is rather a natural consequence of various choices made by individuals and family groups functioning in specific environments. Similarly, fraternal relations within a family cannot be examined with regard to a simplified family model which places the nuclear family (parents–children) at the centre. In such a model, all other forms of family relationships are by definition of secondary importance, distorting the picture emerging from the sources. If we consider the average life expectancy in the Middle Ages and the duration of marriages, it turns out that it was precisely the relationship among siblings that was the longest and most stable bond in the life of an individual within a kin group. This relationship changed over time, if only because it was established among children and lasted until the death of one of the siblings. Given the frequent premature death of one or both parents, resulting in children being orphaned quite early, it was the siblings, especially brothers, who were the most important partners for each other in family strategies; they supported each other, but it was among them that the biggest tensions arose as well.

What should also be emphasized, is the crucial difference in the relations among siblings of the same and of the opposite sex. This criterion is of key significance: the relations between brothers and sisters were determined by the social roles assigned to each gender and by the different social status of the brothers and of the sisters. The brother–sister relationship was a relationship of power and subordination, in which the brother had custody rights over his unmarried or widowed sister, who as a woman did not have full legal capacity. The relations between siblings of the opposite sex were strictly connected with the economy of honour; they played an important role in the building and preservation of the group’s symbolic capital. To this was added a system

42 For a summary on the genesis and evolution of this model see Hummer, *Visions of Kinship*, 35ff.

of ideas legitimizing and justifying the hierarchy in the relations between brothers and sisters. Finally, these are relations with different dynamics than those in the case of relations among same-sex siblings (sisters leaving the family group and entering their husband's family, the resulting conflicts of loyalty, the problem of the women's double identification, etc.). These factors did not appear in the case of relations among brothers, where we are dealing with a formally equal legal status and a shared sense of identity. Thus, treating siblings as a community of brothers and sisters is, in the case of the Middle Ages, methodologically dubious.⁴³

Singling out the problem of brothers and the relations among them from the broader context of family relations and kinship ties does require a more detailed justification. This decision is the result of the basic methodological assumption adopted in this study. Its aim is to analyze, as extensively as possible, the construction and functioning of fraternal bonds and the system of ideas about these bonds—the models of them and the deviations from them—as well as the meanings attributed to them. The study is not only a study of family history but above all an attempt to provide a comprehensive picture of fraternal relations as a cultural phenomenon. The fraternal bond is a unique example, because in the collective imagination, and not only of the Middle Ages, it is associated with a complex system of values. At the same time, it is a form of biology-based relationships between people most frequently referred to as a model to describe other relations, not associated with kinship. In the Middle Ages a metaphorical use of the term “brother” appears in many different contexts. A lack of explanation what hides behind the term means that the metaphors remain only seemingly obvious. On the other hand, the model of family relations in Carolingian Europe was redefined in the eighth and ninth centuries under the influence of the teaching of the Church supported by the ruler's authority. However, the changes were not linear: they took place as various norms and models, ideas and practices constantly clashed.

The pursuit of such a research objective requires the parallel analysis of both phenomena defined by the rather vague term of “social practice” and the models of fraternal relations. This is by no means an easy task. On the one hand, we are dealing with echoes of daily relations within families recorded in charters and other documentary sources (court records, *notitae*, etc.), and on the other with a large number of varied texts concerning the theological reflection and spiritual life of Christian elites, in which deliberations on social aspects of relations between people were subordinated to the main objective of life: the search for a road to salvation. This poses many risks primarily

43 In the Middle Ages we can speak of blood ties or affection uniting brothers and sisters, but the abstract concept of “siblings” is a much later construct; in any case, it is worth noting that the concept does not appear in all languages which emerged in the analyzed area. This is characteristic e.g. for Romance languages (French, Italian), which use the phrase “sisters and brothers” to refer to siblings. Historians and social scientists try to deal with this shortcoming by using artificial, generalizing (and imprecise) terms like “fratrie” or “adelphique” (e.g. “lien adelphique”). In the following part of the book I will deliberately avoid using the term “siblings” owing its such social as well as linguistic determinants.

of using conclusions drawn on the basis of analyses of sources belonging to one group to interpret phenomena present in completely different sources, made for completely different purposes.

A research topic formulated in such a way also makes it essential to ask questions concerning the normative system defining the acceptable and preferred ways for siblings to behave in the investigated society. In the case of early medieval societies, the task is particularly difficult, not only because of a limited source basis, but also because of the interpenetration and clash of norms and values originating in different orders—primarily customs sanctioned by ethnic traditions, which sometimes must have gone back to the pre-Christian era. However, customs underwent constant modifications under the impact of cultural contacts and changing living conditions as well as religion, which invoked sacred principles set down in Scripture as the source of God's law.

Research into the system of rules and values of societies in the ninth century cannot be limited to sources traditionally classified as normative, such as codes of laws, capitularies or synodal legislation. Just as relevant are sources rarely used in research into social history: theological texts, biblical commentaries, and homilies. It is impossible to understand the functioning of the legal systems of the Carolingian era, including its internal tensions and contradictions, without realizing the role played by the Bible in shaping the ideas of the legal order. In the ninth century, the text of the Bible was the main point of reference for elites determining the form and implementation of legal principles and having at their disposal tools of control enabling them to enforce them (more or less effectively).⁴⁴ Scripture, especially the Old Testament, was treated as a source of a law superior to any laws created by man. Interpreting the Bible was not just an attempt to explain complex meanings hidden behind the words, but was also used to discover the principles of God's law binding on every Christian.⁴⁵ In other words, early medieval exegesis did not deal with the abstract reality of the text, but, when formulating their commentaries on the revelatory text, exegetes spoke at the same time about the world in which they lived, about its history and future, and the laws governing it. This also applied to the order that should reign in Christian communities, including the family.

An obvious question arises. To what extent could complicated interpretations of the Word of God and norms derived from Scripture influence people's attitudes at the time? This is a question to which it is impossible to provide a definite answer. The ongoing discussion in historiography focuses on attempts to define the addressees of exegetical texts other than the clergy. Due to the scarcity of the sources, it cannot go beyond the dispute over whether biblical commentaries and homilies commissioned by rulers were read and analyzed at the courts of Carolingian monarchs (as is suggested by dedication letters attached to them), whether Carolingian elites, including secular

⁴⁴ De Jong, "Old Law and New-Found Power"; De Jong, "The Empire as Ecclesia"; Heydemann, "People(s) of God? Biblical Exegesis"; De Jong, "The People of God."

⁴⁵ Firey, "The Letter of the Law"; among older studies see Kottje, *Studien zum Einfluss des Alten Testaments; La Bibbia nell'Alto Medioevo*.

elites, had at their disposal appropriate intellectual tools enabling them to understand and assimilate the complex meanings of such works, and to what extent Bible-based models were translated into political decisions taken by them.⁴⁶ Although it is difficult to provide an unequivocal answer to the question about the audience of the analyzed writings, it is possible to indicate what threads from the teachings of the theologians found their way into normative texts, especially into royal legislation, and where there were contradictions between customary law and the principles of God's law derived from the Old Testament.

Exegetical and homiletic sources as well as hagiography constitute the basis for the reflection on models of attitude and behaviour towards other human beings disseminated through the Church's teaching. However, the problem we need to realize is the distortion of perspective stemming from the lack of sources that would make it possible to define alternative models of family relations to those of the Christian ideal. When analyzing texts of learned theologians, we need to bear in mind that through them their authors not only presented their attitude to the message of Scripture, but also engaged in constant dialogue as well as, just as often, polemic with ideas of social relations, power relations, etc. based in traditions other than the Christian traditions (or, to be more precise, many other coexisting traditions). The difficulty lies in the fact that, although we may try to examine these alternative models and ideas, either on the basis of normative or documentary sources or, less often, narrative texts, all the written evidence was created by authors who, because of their education, used categories borrowed from the language of the Church.

What I can do in order to solve this problem, at least partially, is to make an attempt to complement this picture through an analysis of the practice of fraternal relations. The term "practice" should be accompanied by a caveat. It is obvious that the barrier we cannot cross in our investigation of the everyday reality of human actions is the availability and structure of sources. In the case of the subject matter in question, the most numerous group of sources consists of charters traditionally (and imprecisely) described in source studies as "private" sources originating from or confirming various legal transactions. Another group comprises royal privileges and all kinds of documents relating to actions taken by rulers: from royal diplomas in the full sense of the term through agreements to court records of cases heard before public courts. All this evidence refers to concrete social situations; it documents legal relationships between specific individuals. But it has fundamental weaknesses: a formalized structure, a schematic nature and conventional terminology. Thus, although

46 On the literacy of the Carolingian elites, their intellectual formation as well as reception of theological thought outside the clergy, see McKitterick, *Carolingians and the Written Word*; Nelson, "Literacy in the Carolingian Government"; De Jong, "The Empire as Ecclesia"; De Jong, "Introduction—Rethinking Early Medieval Christianity" (a summary of a session at a conference organized in 1996 in Leeds, "The Bible and Politics in Early Medieval West," including also a broad historiographic overview); De Jong, "Exegesis for an Empress"; De Jong, *The Penitential State*, esp. 112–47; Shimahara, "L'écrit biblique"; Wormald and Nelson, ed., *Lay Intellectuals*.

it refers to practice, it uses a language which makes it difficult to get insight into that practice. In addition, these sources reveal only a small fragment of a complex social reality. This is a particularly acute problem when it comes to family relations. Power struggles and tensions among close family members rarely leave a trace in writing. The written evidence we have at our disposal today largely concerns exceptional situations or those aspects of fraternal relations which for various reasons required a charter to be drawn up (that is, usually in connection with relations with a world external to the family circle).

The Sources

For the purposes of this research it is assumed that, in the ninth century, the social framework of human actions and patterns of thinking were defined by norms rooted in overlapping traditions and customs that were changing under the impact of cultural contacts and Christian moral teaching and were disseminated by the elites and dealt with on the order of the world and humans' place in it. Answering the research questions that arise out of these assumptions requires a variety of sources. Before embarking on their analysis, we need to make several introductory remarks concerning problems associated with their interpretation. We will focus on three main groups of sources: exegetical and homiletic texts, normative sources, and diplomatic sources.

Carolingian exegetical texts began to attract more interest of scholars other than historians of the Church only relatively recently.⁴⁷ For a long time the dominant opinion in historiography was that of the imitative nature of biblical commentaries from the period, and this view persists. Their authors were seen as compilers (or even plagiarists), mechanically assembling writings by Church Fathers.⁴⁸ In recent years, however, exegetical sources, too, have seen their status enhanced. The most important novelty is a departure from assessment of the informative value of these sources by using the modern category of originality, understood as the authors' ability to formulate their own opinions, referring to the existing texts, but remaining autonomous with regard to them. Scholars have pointed out that the novelty of the exegetes writing in the period consisted primarily in using well-known texts from unquestionable authorities to express original thoughts and pursue various objectives. Therefore, the value of these sources is determined by the selection of texts used, and the authors' ability to construct new wholes out of them and thus give them new meanings. This seemingly simple observation has changed the way in which early medieval biblical commentaries are analyzed; it has also considerably increased the interest in them not only among

⁴⁷ Among studies by Catholic historians devoted to the history of exegesis, including early medieval exegesis, a central spot is still occupied by Lubac, *Exégèse médiévale*.

⁴⁸ Chazelle and Van Name Edwards, "Introduction: The Study of the Bible and Carolingian Culture," in Chazelle and Van Name Edwards, eds., *The Study of the Bible*, 6–8.

historians of theology but also among scholars studying a broadly defined history of the Church, culture, and society.⁴⁹

In commentaries and theological treatises explaining the meaning of Scripture our interest will focus on the presence of motifs associated with relations among brothers. This results from the assumption that by analyzing ways of interpreting the themes of Cain and Abel, Isaac and Ishmael, Esau and Isaac, or Joseph and his brothers it is possible to reconstruct models of fraternal relations referred to by early medieval authors writing about an ideal Christian society. Through the teaching addressed to the faithful, these models also influenced collective representations (at least among the elites of the Carolingian realm). Thus the object of this study is to follow recurring themes, establish interpretations common to various authors, and explain the differences between them. However, we should be aware of the consequences of such a choice: in aiming at an analysis of selected motifs of the biblical story simultaneously in many texts, we have to renounce a detailed discussion of the place occupied by these motifs in the structure of the various works. Nor has it always been possible to answer questions about the functioning of a given text and about its audience: this stems to a large extent from the still insufficient research into exegetical sources from the perspective of source studies. Basic critical studies are still needed even in the case of a large part of the legacy of such seemingly well-known authors as Hrabanus Maurus or Paschasius Radbertus.⁵⁰

A special group of sources is that of collections of homilies and sermons.⁵¹ For a long time early medieval, including Carolingian, homiletics was looked at by scholars with reserve for reasons similar to those with regard to biblical commentaries. Authors of homilies and sermons were accused of lacking originality and of relying slavishly

49 A quarter of a century ago the problem was pointed out by Le Maitre, "Les méthodes exégétiques." Among more recent literature see e.g. Cantelli Berarducci, "L'esegesi della Rinascita carolingia"; Chazelle and Van Name Edwards, eds. *The Study of the Bible*; De Jong, "The Empire as Ecclesia"; Shimahara, ed., *Études d'exégèse carolingienne*; Van 't Spijker, *The Multiple Meaning of Scripture*; Shimahara, *Haymon d'Auxerre, exégète*; Shimahara, "Charlemagne, premier souverain chrétien"; see also studies by Michael Gorman (e.g. Gorman, "The Commentary on Genesis"; Gorman, "Wigbod and Biblical Studies") and John L. Contreni (some reprinted in Contreni, *Learning and Culture*); and recently also Chevalier-Royet, *Les livres des Rois*.

50 It is worth noting that the corpus of texts associated with these authors has not yet been fully explored. It was not so long ago that a list of manuscripts with Hrabanus Maurus's writings (some never published) was released: Kottje, *Verzeichnis der Handschriften*, as was a very useful source edition of his biblical commentaries: Cantelli Berarducci, *Hrabani Mauri Opera Exegetica*. On Hrabanus's oeuvre, see also studies collected in Depreux, Lebecq, Perrin, and Szerwiniack, eds., *Raban Maur et son temps*; see also Phelan, "The Carolingian Renewal."

51 The classic late medieval distinction between a sermon and a homily, based on their formal features and functions (homilies as explanations of parables from the Bible, sermons as moral instructions, not necessarily connected with a given fragment of the Scripture), can be applied to early medieval texts only to a limited extent. In early medieval practice both genres can appear side by side in the same collections; in addition, the structure of the various texts can combine characteristics of a homily and a sermon. On the systematics of homiletic texts in the Middle Ages, see Kienzle, ed., *The Sermon*, on the problems with definitions of the early medieval homily and sermon, see Hall, "The Early Medieval Sermon," 203–12.

on patristic models; their allegedly limited oeuvre was contrasted with the wealth of preaching literature of the late Middle Ages.⁵² It was only detailed investigation conducted with growing intensity from the 1980s onwards that helped to overcome this schematic thinking. Studies by Raymond Étaix and many other scholars revealed the richness of the homilies of the Carolingian era, and their formal and functional diversity.⁵³ Drawing on an analysis of homiliaries originating in Auxerre, Henri Barré distinguished a unique type of homilies, unique in terms of their method of constructing the text, which he described as “Carolingian.” It was characterized by freedom in using patristic texts and originality in the authors’ commentaries. In addition, he raised the question of the audience (explored later as it is important to us as well) pointing out that in addition to being used in the divine office, the texts were also read privately.⁵⁴

Recent scholarship also points to the pastoral aspect of homiletic texts, previously underappreciated owing to a lack of direct evidence of homiletic practice in the Middle Ages. In recent years it has increasingly focused on attempts to establish the relation between the author and the audience of sermons and homilies, attempts associated with a discussion about the levels of literacy in early medieval societies, forms of transmitting and spreading the Church’s teaching among the laity (orality, literacy, use of vernacular languages, etc.), and the role of sermons in the implementation of the Carolingian religious reform, and their links to political events.⁵⁵

As we hear more and more about the existence of close links between exegetical, homiletic, and normative texts, especially about the teaching function common to all of them (e.g. in the work of Mayke de Jong), such a research approach is, we believe, justified. The tropological sense of the Scripture discovered by exegetes was for their contemporaries the key to understanding how humans should live and how the social world should function. Homiletics growing from exegesis (or even being “exegesis in action”) shaped the minds of those who could make decisions about putting God’s plan into practice either by introducing laws binding on all or through their own actions.

52 These non-substantive determinants are pointed out e.g. by Old, *The Reading and Preaching of the Scriptures*, XIIff. Until the 1980s the fundamental monograph devoted to Carolingian homilies, a book that is still valuable today, was a study by Barré, *Les homéliaires carolingiens*; more recent studies of the influence of the Auxerre school on the theological thought of the Carolingian period are collected in the volume Iogna-Prat, Jeudy, and Lobrichon, eds., *L’École carolingienne d’Auxerre*, the volume also includes studies devoted to the homiletic oeuvres of Haimo and Heiric.

53 Étaix, “L’homélaire composé par Raban Maur”; Étaix, “Le recueil de sermons”; Amos, *The Origin and Nature*; Amos, “Preaching and the Sermon”; Mitalaité, “La transmission de la doctrine”; Diesenberger, Hen, and Pollheimer, eds., *Sermo doctorum*.

54 See e.g. McKitterick, *The Frankish Church*, 80–114; among the more recent publications is Martin, “The Italian Homiliary” (including the bibliography).

55 An extensive discussion of the state of research, especially English-language research, can be found in the unpublished doctoral thesis, McCune, “An Edition and Study of Select Sermons,” 6–36; see also McCune, “The Sermons on the Virtues and Vices,” 250–90; Diesenberger, “Karl der Grosse und die Predigt,” 81–99; Diesenberger, *Sermones: Predigt und Politik*.

Yet despite a considerable intensification of research, thanks to which hundreds (!) of new, previously unknown texts were added to the corpus broadly discussed by scholars, it has to be said that Carolingian homiletics still remains underexplored.⁵⁶ This means not just that there is a lack of detailed studies devoted to the various collections or authors, but also that the catalogue of texts is still incomplete and that the manuscript tradition has been recognized only in part (this concerns even the best known collections), and consequently that there is an insufficient number of editions meeting the requirements of modern scholarship. Even the most famous collections of sermons and homilies by Hrabanus Maurus (d. 856) or Haimo of Auxerre (d. ca. 865), which influenced preaching in the following centuries, are available only in the outdated and incomplete edition of Migne's *Patrologia*.

I have chosen nevertheless to use these sources in this investigation by a belief, based on the findings of the more recent historians in the significance of Carolingian sermons and homilies for the transmission of complex theological context not only among the clergy but also among the secular elites. In this study I use the best-known homiletic collections of the Carolingian era—those by Hrabanus Maurus and the authors associated with the Auxerre school, Haimo and Heiric (d. 876). I will limit myself to following only the threads relating to brotherhood as they appear in homiletic texts in the period. I am aware of the fact that adopting such a method of using the sources is debatable, as it makes it impossible to present the broader context in which these threads functioned. This context encompasses both the composition of the various texts and the place of the homilies dealing with these topics in entire collections and in relations to similar works. However, given the wealth of material and the insufficient number of available editions, it is impossible to carry out in-depth analyses here. I have therefore decided to focus on the coexistence of brotherhood-related content in exegetical and homiletic sources, treating them primarily as tools by means of which the content influenced the faithful (both the clergy and the laity). That homilies were a tool of such influence in the highest circles of the laity is suggested, for example, by Hrabanus Maurus's dedication letters accompanying the homiliary commissioned by Emperor Lothar I and a collection of sermons sent to Archbishop Aistulf of Mainz.⁵⁷

The normative sources used in our research can be generally divided into three groups: law codes of the post-Roman kingdoms; royal legislation; synodal legislation and episcopal capitularies (treated as one group).

The first group contains most information, but at the same time it is the most problematic when it comes to interpretation. First, these sources emerged over a long period, from the fifth to the ninth centuries, undergoing numerous changes, receiving additions, influencing each other, and being revised. Consequently, it is very difficult to

56 The lack of the basic tools like repertories and inventories as well as a monograph on the Carolingian homiletics as a whole is stressed by McCune, "An Edition and Study of Select Sermons," 17–18.

57 MGH Epp. *Epistolae Karolini aevi*, 3, no. 6, p. 391; no. 51, pp. 505–6. For more on these collections see Étaix, "L'homélaire composé par Raban Maur"; Étaix, "Le recueil de sermons."

distinguish between successive layers, establish the circumstances of their introduction, and date them. However, these issues are covered by a standard set of research questions in source studies that have been developed for nearly two centuries.⁵⁸

A difficult question is the one about the objective of those deciding to record customary laws in writing. The problem has been extensively discussed in the literature on the subject for over 150 years, and scholars are still divided. The continuous relevance of the debate should not surprise anyone, for an answer to this question determines how codes of laws can be used as the basis of research into social history and related studies. I do not intend to sum up the whole historiographic discussion at this point.⁵⁹ In simplified terms, two opposing positions can be identified. On the one hand some contemporary scholars, the best known among whom was the English medievalist Patrick Wormald, are inclined to view codes of laws of Germanic *gentes* as a tool to build ideological foundations of power and pursue political objectives of the kings ruling the states which emerged from the ruins of the Roman Empire.⁶⁰ They see codifications as an attempt to draw on the legislation of Roman emperors, irrespective of the legal practice of the day. In their opinion, the content of the legislation was primarily an expression of values that were important from the point of view of the power elites; thus, the sources contain perforce a description of a postulated reality. Consequently, although the legal norms written down in the codes may have been reflected in social life, this is a secondary connection, as it was of no particular importance to the codifiers. In other words, there are no grounds to claim that the legal regulations recorded in the codes were applied in practice or that this was the only law in force, and attempts to reconstruct, on the basis of their analysis, actual relations in the society of the time are misguided.

Advocates of the opposite position argue that, irrespective of their ideological and religious functions, codes of customary laws were above all records of a living legal tradition rooted in a society's life, and the codifier acted primarily as a guardian of this tradition. The norms recorded in codes of laws defined the conduct of groups identifying themselves with a given ethnic-legal group.⁶¹ Thus, an analysis of these sources can be

58 Recently summarized briefly by Alexander Callander Murray, "The Law of the Post-Roman Kingdoms." See also, for instance, the review of contemporary research areas: Dilcher and Distler, eds., *Leges—Gentes—Regna*.

59 For the summary of the older literature, see Schott, "Der Stand der Leges-Forschung."

60 Wormald, "Lex scripta and verbum regis"; Wormald, *The Making of English Law*; Wormald, "The 'Leges Barbarorum,'" see also Nehlsen, "Aktualität und Effektivität."

61 This view was represented by German legal historians, who studied the laws of Germanic peoples already in the nineteenth century. For a summary of this stage of research see Brunner, *Deutsche Rechtsgeschichte*. However, their way of analyzing these sources was affected—in addition to presentism and non-historical implications of their research—above all by their focus on looking for an explanation of the origins of phenomena characteristic of the high Middle Ages in early medieval sources. In German historiography of recent decades, see numerous studies by Ruth Schmidt-Wiegand, devoted e.g. to the Salic law, collected in the volume *Stammesrecht und Volkssprache*; from a philological perspective see also Olberg, *Die Bezeichnungen für soziale Stände*.

the basis for drawing conclusions about the organization of early medieval societies and their social life practices. There is a divergence of opinion about whether the *leges*, codified and presented by kings as records of ethnic laws, were personal or territorial (or how the dynamic of the transition process from the personality to territoriality of law went). However, this is an issue of secondary importance here.⁶²

In recent discussions scholars more or less successfully try to go beyond this dichotomy, but it still remains the point of reference.⁶³ Siding with any party in the dispute is essentially a declaration of faith. However, such a declaration has far-reaching consequences: the adoption of the first of the two positions mentioned above basically means that codes of customary laws cannot be used in social history research. I am inclined to accept the second view, although with some reservations stemming from my own research practice and the experience gained in a parallel analysis of codes of laws and documentary material. Thus, codes of laws are treated here as a document of social life and an important source of information about legal solutions used both in the judicial system and in the practice of daily life. Yet I adopt this assumption while aware that the legal regulations recorded in codifications and royal edicts were not the only source of law: there was also a body of unwritten legal custom reflected only in practice that is largely eluding scholarly observation. Moreover, regulations recorded in legal sources were not treated as objective legal norms in the modern understanding of the term: they may have been modified depending on specific circumstances. At the same time, codes of laws may have included regulations which, although applicable at the moment of being written down, with time became obsolete and were not forgotten only because they were recorded in writing and had authority due to their age.

Other normative sources originating in the Carolingian period also cause many major interpretative problems. In the case of Carolingian capitularies, an additional difficulty is the heterogenous nature of the sources described by the term. The only editions of capitularies available to historians, those from the *Monumenta Germaniae Historica*, outdated from the point of view of the requirements of today's editorial practices, have created a distorted picture of this group of sources.⁶⁴ This is because past editors included under one category sources differing considerably in formal terms as well as in terms of their origin, purpose, and addressees. In addition, the codicological context of these sources has become blurred in the old editions of the capitularies. Yet this context is extremely important for their interpretation—it is enough to note that a vast majority of texts published by Alfred Boretius and Victor Krause as distinct, chronologically arranged wholes that probably never functioned in such a form. They have survived to the present usually as part of larger legal collections, which also

⁶² See e.g. the polemic between Karol Modzelewski and Stefano Gasparri over the nature of the Lombard legislation (Modzelewski, "La stirpe e la legge"). On the problem of personality of law, see an old study by Guterman, *The Principle of Personality of the Law*; Everett, "How Territorial Was Lombard Law?") and Hoppenbrouwers, "*Leges nationum* and Ethnic Personality of Law."

⁶³ See e.g. Faulkner, *Law and Authority*.

⁶⁴ MGH LL *Capitularia regum Francorum*.

contain, for example, codes of barbarian laws or synodal legislation, excerpts from the predecessors' capitularies, etc.⁶⁵ Waiting for a new edition of the royal capitularies,⁶⁶ we are forced, however, to use these imperfect editions, fully aware that many aspects of the sources published in such a form have become blurred.

The value of the capitularies lies not only in documenting the changes occurring in the legal system (or rather systems) of the Carolingian realm. Just as important are the moral admonitions which are included in them and which serve an equal (perhaps even more important) function in comparison with the administrative functions attributed to these texts. Thus the capitularies contain information about changes introduced by kings in the existing laws, legal foundations of their power, and the organization of the administration or the justice system; and they reveal their ideological justifications. What legitimized the kings' lawmaking above all was following (directly or indirectly) the precepts of that law the authority of which could not be questioned by humans: the law that came from God and was recorded in Scripture. Carolingian kings remained kings of peoples living according to their own laws, enshrined in their tradition. New laws could be effectively introduced by rulers, provided they combined two roles: that of guardians of the legacy and legal memory of the community and of those who had been chosen to lead the people entrusted to them to salvation. In order to cope with such a difficult challenge, it was necessary to use arguments referring to the sphere of ideas and values understood and shared by a wider circle than just that of the elite gathered around the court.

Obviously, as in the case of all medieval legal sources, what remains an open question is the relation between royal law and social practice. In a vast majority of cases we do not know whether and how the norms recorded in the royal legislation functioned in practice, whom they reached, how they were transmitted, and to what extent and with what methods they were enforced. All these questions are part of a lively discussion over the last thirty years about the use of writing in Carolingian administration, the degree of literacy among power elites, the role of the oral promulgation of laws, and the significance of capitularies as one of the tools of communication between the ruler and his subjects.⁶⁷ As research into court practice and conflict resolution methods in

65 A tool of major importance as an aid in working with the MGH edition of the capitularies is a catalogue of manuscripts featuring the capitularies edited by Hubert Mordek, *Bibliotheca capitularium*.

66 So far, only the collection of Ansegis's capitularies has received a modern edition: *Die Kapitulariensammlung des Ansegis*; since 2014, a project of a print and digital edition of capitularies has been implemented: Capitularia <https://capitularia.uni-koeln.de/project/>, see also Kaschke, "The New Edition of the Frankish Capitularies," 107–16.

67 For current bibliography see Capitularia, <https://capitularia.uni-koeln.de/en/resources/biblio/>; Bühler, "'Capitularia Relecta'"; Schneider, "Schriftlichkeit und Mündlichkeit"; Schieffer, ed., *Schriftkultur und Reichsverwaltung*; Mordek, "Karolingische Kapitularien"; Mordek, *Studien zur fränkischen Herrschergesetzgebung*; Nelson, "Literacy in the Carolingian Government"; Schmitz, "The Capitulary Legislation"; McKitterick, *The Carolingians*, 23–77; McKitterick, "Zur Herstellung von Kapitularien"; McKitterick, *Charlemagne*, 229ff.; Pössel, "Authors and Recipients of Carolingian Capitularies"; Patzold, "Normen im Buch"; Ubl, "Gab es das Leges-Skriptorium"; Depreux, "Charlemagne et les capitulaires."

the early Middle Ages has demonstrated, regulations collected in codes of law or royal edicts were just a part of a much broader corpus of rules governing human conduct. The privileged treatment of normative sources in research is obvious: only what has been recorded can be analyzed. However, the evaluative distinction between written law and custom or unwritten law is unjustified, from the point of view of legal practice. The belief in the key role of an internally coherent, stable set of legal norms framed by a coherent system of laws and customs regulating the relations among close relatives also stems from a modern view on legal norms as abstract and objective, operating independently of the individuals applying them. In the case of a society treating legal regulations as a resource it can, but does not have to use in specific circumstances, such a way of thinking turns out to be misguided.⁶⁸ A customary law, recorded in writing, with time combined with a royal law, may have been the main, but not the only and irrefutable, point of reference in defining such relations. In analyzing of the relations among brothers I will try to confront conclusions drawn from reading normative sources with evidence from sources of a different nature.

Royal legislation is strictly linked to ecclesiastical legislation. A special place in this latter group of sources is occupied by records of regional or provincial councils. In recent years our knowledge of Carolingian conciliar legislation has been considerably expanded by in-depth research conducted by Wilfried Hartmann during the preparations of editions of successive volumes of these sources for the MGH.⁶⁹ We also have at our disposal modern editions (also published in the MGH) of the so-called episcopal capitularies, that is ordinances issued by bishops for the clergy and the faithful in their dioceses.⁷⁰

Doubts concerning the functioning of legal texts in society prompt scholars to look for evidence that make it possible to determine whether and to what extent legal regulations and the patterns of behaviour behind them influenced people's individual decisions and actions, in other words: to what extent were they only a postulate and tool of the ideology of power, and to what extent did they influence social practice? Such a role can be played first of all by diplomatic sources, primarily charters traditionally classified as private, that is produced outside royal chanceries, drawn up on various occasions (property transactions, donations, last wills, etc.).⁷¹

68 Brown, "The Use of Norms in Disputes."

69 In addition to source studies prepared for the successive volumes of the MGH edition of synodal legislation, see the fundamental study: Hartmann, *Die Synoden der Karolingerzeit*; see also Hartmann, "La transmission et l'influence"; Kramer, "Order in the Church."

70 MGH LL *Capitula episcoporum*, 4 vols.; on the significance of this group of sources see McKitterick, *The Frankish Church*, 45–79; Brommer, *Capitula episcoporum*.

71 The division into private and public charters introduced and defined by nineteenth-century legal historians does not convey the essence of the diversity of early medieval diplomatic sources. These categories—derived from Roman law but transformed with the consolidation of the institutions of the early modern state—when applied to the early medieval material turn out to be misleading in many cases.

Owing to the considerable number, fragmentation and variety in quality of the editions of the diplomatic sources from the Carolingian era, it has been impossible to carry out a systematic survey of the entire surviving materials. The selection is based on two main criteria: I chose sources that illustrate the functioning of a local community over a longer period and that come from various regions of the Carolingian realms. Such conditions are met by monastic cartularies and archive collections associated with the work of early medieval ecclesiastical institutions. We have studied the four biggest collections of diplomatic sources from the period: those from the archives of the monasteries of Fulda⁷² and St. Gallen,⁷³ as well as the archives of the bishoprics of Freising⁷⁴ and Lucca,⁷⁵ most of which were published in print already in the nineteenth century and have been quite systematically studied. In addition, we have carried out a less detailed survey of documents from northern Italy (documents from the archbishopric of Milan⁷⁶ and court records from the entire Kingdom of Italy⁷⁷). In total, the corpus of diplomatic sources surveyed encompasses over 2000 charters originating between the late eighth and the late ninth century.⁷⁸ They have survived to this day in their original form (diplomas from the archives in Lucca and in St. Gallen), and in the form of copies, including those from cartularies (from the bishopric of Freising and from the monastery of Fulda).

I decided to use materials originating in various, very distant part of the Carolingian realms. This came from a belief in the need to go beyond the dominant local perspective and to attempt to compare social practices on a broader scale. Limiting the research perspective to one region (more precisely: to one set of sources associated with one ecclesiastical institution) does make it possible to carry out an in-depth analysis of the network of connections and ties of dependence in individual communities, but it makes it impossible to ask the question whether the phenomena observed were common and

72 *Codex diplomaticus Fuldensis; Urkundenbuch des Klosters Fulda.*

73 UStG1; UStG2; *Chartularium Sangallense*; document scans available on www.e-chartae.ch/en; on current research and the new edition of charters from the abbey of St. Gallen see Sonderegger, "Urkunden—mehr als 'nur' Rechtsquellen"; Zeller, "Language, Formulae, and Carolingian Reforms"; see also Goetz, "Beobachtungen zur Grundherrschaftsentwicklung."

74 *Die Traditionen des Hochstifts Freising.*

75 *Memorie e documenti per servire*, 4; *Memorie e documenti per servire*, 5/2; see also Pagano and Piatti, ed., *Il patrimonio documentario.*

76 *Codex Diplomaticus Langobardiae.*

77 *I placiti del 'Regnum Italiae'*; Keller, "I placiti nella storiografia"; Petrucci and Romeo, "Scrivere 'in iudicio'"; Mersiowsky, *Die Urkunde in der Karolingerzeit*; for a description of the sources and discussion of court practice see Bougard, *La justice dans le royaume d'Italie*; on the significance of early medieval court records as sources for the study of social history see Davies and Fouracre, *The Settlement of Disputes.*

78 Charters from before 800 and partly from the early ninth century were also published in the *Chartae Latinae Antiquiores*; for the St. Gallen monastery: 1–2 (1954–1956), 100–106 (2006–2013); and the Bishopric of Lucca, 30–40 (1988–1991), 72–83 (2002–2013).

were repeated on the supra-regional scale, or whether they were an example of local specificity (be it with regard to society or to a chancery).

In studies carried out on the basis of ninth-century diplomatic material the problem is the uneven geographical distribution of this type of sources: while in the case of East Francia, the Kingdom of Italy and the northern part of the Iberian Peninsula (Catalonia) we can speak of a relative abundance of material, the huge territory of West Francia is disproportionately underrepresented. This needs to be emphasized at the beginning of the present analysis. The picture that emerges from analysis may not be automatically generalized to encompass also those areas that are traditionally regarded as belonging to the centre of the Carolingian empire.

The available diplomatic material is one-sided, in the sense that both its production and preservation are related to the activities and needs of ecclesiastical institutions. This influences the perspective of the sources, which record primarily what was important in the eyes of the clergymen responsible for drawing up and securing documents. Research into early medieval diplomatics and archival practices—developing intensively in recent years—indicates that, in the case of archive materials associated with the work of ecclesiastical institutions, we are dealing with records of the more or less consciously constructed collective memory of these institutions. Selections made over centuries, the way of using and securing charters (their copying, transformations, including interpolation and falsification; and the organization of the archives) were subordinated not just to practical but also to ideological objectives, changing over time depending on the circumstances. This forces us to be cautious in treating these sources as a reflection of all aspects of the life of the local communities, although they are, of course, invaluable as evidence of the coexistence between an ecclesiastical institution and its social environment.⁷⁹

As far as their textual form is concerned, too, the charters are by no means uniform: in addition to charters in the full sense of the word (that is drawn up according to a fixed form and appropriately authenticated), we encounter all kinds of *notitiae*, *pro memoria* notes, inventories, court records, etc. It is also impossible to overlook time as a factor: over a period of more than a century scribal practices changed, and an important role was played by those drawing up the documents, as by the authors of cartularies and their individual habits and practices. In the analysis of documentary sources we also need to face a whole range of problems relative to their cultural role and functions: beginning with the question of language (differences in language between

⁷⁹ Especially worthy of note in the vast literature of recent years devoted to early medieval diplomatics is Mersiowsky, *Die Urkunde in der Karolingerzeit*; see also Heidecker, ed., *Charters and the Use of the Written Word*; Erhart, Heidecker, and Zeller, eds., *Die Privaturkunden der Karolingerzeit*; Mostert and Barnwell, eds., *Medieval Legal Process*; Brown, Costambeys, Innes, and Kosto, eds., *Documentary Culture*; Jarret and McKinley, eds., *Problems and Possibilities*; a good summary of the state of research is McKitterick, "Charters, Languages, and Communication"; on cartularies see Guyotjeannin, Morelle, and Parisse, *Les cartulaires*, and an important study by Patrick Geary, "Archival Memory."

that the local community and that of the source—especially in areas where Latin was the language of the clergy and a narrow secular elite, such as East Francia⁸⁰), through the literacy rate in society and the habit of using written proofs (there is a considerable difference between, for example, the Rhineland, where the use of writing in social life was a fairly new phenomenon, and Italy, where the tradition of using documents had been basically uninterrupted since Antiquity), to the consequences of the intellectual formation and erudition of the scribes writing them.

A separate group of the diplomatic sources are the royal diplomas.⁸¹ However, they provide us with little information that would be important to the subject matter in question. Diplomas issued by the royal chanceries contain many references to fraternal relations during the period when Louis the Pious's sons and grandsons fought for power, and when regulating the relations among them became the main political problem of the day. Consequently, the documents were evidence of and, at the same time a tool in, an ideological game, and they reflect a clash of rival concepts of power organization in the Carolingian realm rather than the actual relations among the royal brothers.

Among broadly defined diplomatic sources we have also used the early medieval collections of formulae published by Karl Zeumer, treating them, however (given their genre) as auxiliary material. Particularly useful have been the formularies from St. Gallen containing copies of charters relating to property transactions as well as letters.⁸² Epistolary sources have been also taken into consideration. Valuable information has been provided especially by the correspondence of Alcuin (d. 804), Einhard (d. 840) and Hrabanus Maurus, as well as by papal letters.⁸³

80 On this problem see Gallagher, Roberts, and Tinti, eds., *The Languages of Early Medieval Charters*.

81 MGH DD Karolinerum 2; MGH DD Karolinerum 4; MGH DD regum Germaniae ex stirpe Karolinerum 1; Bautier, "La chancellerie et les actes royaux"; Mersiowsky, *Die Urkunde in der Karolingerzeit*, 1:54–163, 2:543–782.

82 MGH LL *Formulae Merowingici et Karolini aevi*; see also the study devoted to early medieval formularies: Rio, *Legal Practice*; Brown, "Die Karolingische Formelsammlungen"; Brown, "Laypeople and Documents."

83 MGH Epp. *Epistolae Karolini aevi*, 5 vols. being MGH Epp. 4–8 (vol. 8 being in two parts); on Carolingian epistolography see Mersiowsky, "Regierungspraxis und Schriftlichkeit"; Hartmann and Orth-Müller, *Codex epistolaris Carolinus*.

Chapter 2

THE MEANING OF THE TERMS “BROTHER” AND “BROTHERHOOD” IN EARLY MEDIEVAL SOURCES

Biological Brotherhood

Legal systems in early medieval Europe generally agreed about the criteria according to which two individuals were regarded as siblings. In both the Roman vulgar law, which survived as the personal law of the indigenous population in vast areas of Europe, from Italy to Spain, and in customary laws of peoples that created the barbarian kingdoms in territories which once had belonged to the Roman Empire (*leges barbarorum*), the deciding factor was the existence of a biological bond between individuals, i.e. having at least one parent in common. The patrilineal organization of the early medieval family, in which the father wielded power over the children he acknowledged, children who inherited the property determining their position as well as the dominant patrilocality meant that of greater importance in terms of legal and social consequences was the relation between brothers who had the same father.

The terminology, too, seems to be clear: in Latin sources a brother is referred to as *frater*, with the word sometimes being accompanied by an additional term indicating the closeness of the brothers (full brothers, stepbrothers). The situation becomes more complicated when we try to define this relation in more precise terms. Legal sources contain no reflection on who should be called brother and what, in the ethical and moral dimensions, the bond between brothers was. A definition is possible only by indicating the rights and obligations which brothers had.

An additional difficulty is caused by the fact that normative texts, like early medieval codes of customary laws, were written down in Latin, so the terminology used in them was perforce derived from Roman law. Redactors of these texts were forced to translate concepts from the language of a given ethnic group into categories of a language which had at its disposal an incomparably larger corpus of legal terms—even if this was no longer the sophisticated language of the jurists of the classical period. A question arises at this point as to how the form of the laws recorded on parchment between the fifth/sixth and ninth centuries was influenced by contacts between societies adopting them and Roman culture, including Roman legal culture. In other words, to what extent legal institutions of these societies had become Romanized before the laws were written down, and to what extent traces of Roman legal terminology are a consequence of the fact that the scribe was forced to translate various phenomena from the sphere of oral transmission into the language of writing? It is impossible to provide an unequivocal answer to these questions; it is, however, relevant to point to the differences and similarities between norms belonging to the various legal orders.

In the Roman tradition the bond between brothers was considered to be the closest, unbreakable bond existing irrespective of other factors. Texts by ancient authors written over centuries contain the figure of the brother as the “other self,” an

approach substantiated by the established traditional (erroneous) etymology of the word *frater* (*fere alter*).¹ In his treatise *On Brotherly Love* (*De fraterno amore*), Plutarch of Chaeronea compared brothers to symmetrical members of one body.² This unity of the body translated into a similarity of the spirit, in the sense of shared goals and the duty of mutual support. *Pietas fraterna* became an ideal to which other forms of affection between people of the same sex (friendship, homosexual love) were compared. As a consequence of the belief in the role of common origin, a distinction was made between full and adopted brothers. Although an adopted son was equal in legal terms to biological sons (both had an equal share in the inheritance), in the ethical dimension his relationship with his brothers could never have had the same weight as the bond between brothers from the same father (*fratres consanguinei*).³

Such an approach to brotherhood found its confirmation in the Roman legal system. In the classic Roman order of intestate inheritance, based on agnation, both biological and adopted brothers were treated as lawful heirs, regardless of the status of the mother. This also applied to stepbrothers having the same father. Stepbrothers with the same mother but different fathers (*fratres uterini*) were excluded from the order of inheritance. This also affected the nature of the social bond between brothers. It was only Justinian who in his *Novellae* introduced a different division of siblings that was to be decisive in inheritance, namely a division into full brothers (*fratres germani*) and stepbrothers (with *fratres consanguinei* and *fratres uterini* being granted equal rights). In addition, sisters of the deceased were also given equal inheritance rights. At the beginning of the Middle Ages in Western Europe, the impact of Justinian's codification, in which the natural cognate principle was introduced, was—for obvious reasons—marginal.⁴ Consequently, what proved more durable was the influence of the classic family model, based on the dominant position of the father (*pater familias*), and thus also agnation. This had far-reaching consequences consisting, first of all, of full brothers excluding stepbrothers from inheritance, and also of siblings with the same mother but different fathers not recognizing their mutual inheritance rights.

The early medieval Roman vulgarized law contained the general principle of equality of all brothers with the same father and the same legal status (free men).⁵ This state of affairs was reflected in the terminology used with regard to kinship: in the male line a distinction was made between brothers and brothers patruei (*fratres* and *fratres patruales*), who were descended from a father's brother;⁶ full brothers and stepbrothers

1 Bannon, *The Brothers of Romulus*, 64.

2 Plutarch, *On Brotherly Love*, chap. 2, pp. 249–53.

3 Bannon, *The Brothers of Romulus*, passim.

4 On the separate development trajectory of the post-classical Roman law in the West, see the fundamental study by Levy, *West Roman Vulgar Law*.

5 *Lex Romana Visigothorum*, in *Leges Visigothorum*; int. 2, p. 136; title 8, 3, p. 332; *Lex Romana Burgundionum*, in *Leges Burgundionum*, title 10, 8, pp. 134–35.

6 *Lex Romana Burgundionum*, in *Leges Burgundionum*, title 10, 8, pp. 134–35.

of the same father (*fratres germani* and *fratres consanguinei*) were also distinguished,⁷ but there was no separate term to denote brothers who had the same mother but different fathers. These principles shaped the relations between children in families of the descendants of Romans and Gallo-Romans, for whom Roman law continued to be the personal law. Obviously, equality before the law in access to patrimony did not exclude some natural hierarchization among agnate siblings, stemming, for example, from age differences (especially when an elder brother took care of his younger brother). What was also acknowledged were social and moral obligations stemming from kinship in the female line, i.e. in the case of siblings the bond existed between the offspring of one mother but different fathers. It was also accepted to bequeath property to this group of stepbrothers by means of a will.

In the *leges barbarorum* the term *frater* refers to both full brothers and stepbrothers, without any distinction made between them. Despite the distance in time separating the various codes of barbarian laws (sixth to ninth centuries) as well as geographical distance, they do not differ much in this respect. They do not feature a term that would encompass brothers as a group and define relations between them—in other words, there was no abstract notion of siblinghood or brotherhood. The only example of the use of the term *fraternitas* to refer to moral obligations between brothers can be found in a provision of the *Leges Alamannorum*, which is an adaptation of the fratricide norm of canon law.⁸

It should be noted that the *leges* lack separate terms to make a distinction between full brothers and stepbrothers as well as between stepbrothers with the same mother or the same father. We can only assume, from indirect evidence, that the term *frater* generally referred to the full brothers or brothers with the same father. In the vast majority of cases the laws featuring the term "brother" concerned the rules of inheritance from the father's or brothers' obligations within the family group, in which the male line was given a privileged status.⁹ In documentary sources, too, we are dealing primarily with brothers having the same father, which is not particularly surprising given the fact that most of these charters deal with inheritance and other property matters. However, those documentary sources that make it possible to determine unequivocally that the siblings mentioned in them had the same mother indicate that in this case the term used was *frater* or *soror*, but

⁷ *Lex Romana Burgundionum*, in *Leges Burgundionum*, title 10, 8, pp. 134–35.

⁸ *Leges Alamannorum*, chap. 40, pp. 99–100.

⁹ *Lex Salica*, chap. 93, pp. 163–64; *Lex Ribuaría*, title 57, p. 105. In the Lombards' laws concerning the care of women belonging to the family we are dealing with characteristic usage: the woman's father and brother are listed as her closest relatives, with full custodial rights; in this case there is no doubt that the brother was of the same father, *Edictum Rothari*, in *Le leggi dei Longobardi*, e.g. chap. 181, p. 50; chap. 184, p. 52; chap. 191, p. 54; chap. 192, pp. 54–56; chap. 196, p. 56; chap. 186, p. 52 contains an additional confirmation: those listed as the woman's potential legal guardians are, in the following order: her father, brother and paternal uncle, cf. *Liutprandi leges*, in *Le leggi dei Longobardi*, chap. 12, p. 134; chap. 119, p. 188. The privileged position of the male line does not mean, however, that the family organization was strictly patrilineal; for criticism of theories assuming the existence of a unilineal system of kinship in Germanic society see Murray, *Germanic Kinship Structure*.

there was no separate term distinguishing this type of kinship. Yet cases in which we can identify stepbrothers or stepsisters with the same mother are not numerous.¹⁰

Leges and royal edicts promulgated after Christianity had become firmly rooted in early medieval societies made a distinction primarily between brothers from a formal marital relationship (from one or successive, initially probably also concurrent, marriages) and natural progeny acknowledged by the father. In customary law natural progeny was treated as a separate group within the family, with narrower but strictly defined inheritance and custodial rights (unlike in Roman law, which excluded such children from the group of legal heirs). For example, in the 643 Lombard code of laws of King Rothari both *fili legitimi* and *fili naturales* were mentioned as two categories—separate but with specific rights (share in the inheritance, mutual obligations concerning care, bloody revenge and assistance).¹¹ Significantly, however, the term *fratres naturales* or an analogous phrase is nowhere to be found, which is important information about how the family structure was thought about: what was significant for those writing down the customary norm was the bond between the father and the children with varying status, as the existence of the bond was crucial when determining the rights of the various categories of progeny and establishing the hierarchy and power relations between them. The horizontal relation between stepbrothers or stepsisters was of secondary importance, for it was a consequence of their relationship with their father.

It is difficult to say to what extent the *leges* and later royal legislation dealing with natural progeny relied on the influence of Roman vulgar law.¹² The terminology used in the sources seems to confirm this influence (for example, the already-mentioned distinction between *fili naturales* and *fili legitimi* in the Lombards' law came from the language of Roman law, in which *fili naturales* were children from a lasting and recognized concubinage or from the relationship between a master and his slave¹³). We should bear in mind, however, that we are dealing here with the problem of translation into legal Latin—a register of Latin more or less successfully used by the authors of the codes—of a legal practice and custom hitherto transmitted orally. It would, therefore, be unwise to treat the terminology both as evidence of the decisive influence of the Roman legal tradition or as just a neutral medium used to express in writing a German legacy untouched by external influences.

10 Such identification is possible, especially when the position of the mother was strong and she had a significant impact on the status of the children, for example, as in the case of Bertha of Tuscany (d. 925), illegitimate daughter of Lothar II and Waldrada, and mother of at least six children from two marriages to Theobald of Arles and Adalbert of Tuscany, Gandino, "Aspirare al regno: Berta di Toscana."

11 *Edictum Rothari*, in *Le leggi dei Longobardi*, chap. 154–62, pp. 42–44.

12 Faulkner, *Law and Authority*, 222ff.

13 Van de Wiel, "Les différentes formes de cohabitation," 335–36, 344ff.; on the meaning of the term *naturalis* in Roman law see Niziołek, "Meaning of the Phrase *liberi naturales*." A definition drawing on Roman law is also given by Isidore of Seville in his *Etymologies* (*Isidori Hispalensis Episcopi Etymologiarum*, lib. 9, chap. 5, 19): "Naturales autem dicuntur ingenuarum concubinarum filii, quos sola natura genuit, non honestas coniugii."

The question of origins is in any case not a crucial question given the interpenetration of the Roman tradition and Germanic legal customs in the letter and practice of the law in the early Middle Ages. Any attempt to separate them and interpret them separately will not contribute to a better understanding of the complexity of socio-cultural phenomena of the period and may even lead to artificial divisions in places where they did not exist. The practice recorded in narrative sources—although referring to the social elite—points to a decisive influence of the act of acknowledging fatherhood and not of the status of the relationship in which the child was born. This is confirmed by the Merovingian tradition, described by Gregory of Tours and Fredegar, as well as by the history of the Carolingians and the brilliant career of Charles Martel as the most characteristic example of the phenomenon.¹⁴ Thus, given that polygyny was accepted in fact, especially in ruling families,¹⁵ the relations between brothers with the same father were for a long time not defined according to the simple rule of dividing them into legitimate and illegitimate.

With the spread of the Christian model of a strictly monogamous marriage, progeny born out of wedlock or in parallel relationships became gradually delegitimized. As having been conceived in sin, illegitimate brothers lost their inheritance rights that had been guaranteed by customary law, and their situation depended solely on the will of their father (and after his death on the will of their brothers). The process was accompanied by a change in value judgements applied to children depending on the legal status of the relationship in which they were born. This was manifested in the language of the sources, for example, when the neutral term *fili naturales/fratres naturales* was replaced with the term *fili illegitimi/fratres illegitimi* or even *illiciti (inleciti)*.¹⁶ Illegitimate birth began to be stigmatized and individuals with such a status lost their customary rights.¹⁷ We will return to this problem later.

14 Wood, "Deconstructing the Merovingian Family"; McDougall, *Royal Bastards*, 66–93.

15 Stafford, *Queens, Concubines and Dowagers*; Esmyol, *Geliebte oder Ehefrau?* and, with an attempt to clarify the phenomenon in Merovingian kingdoms, Dailey, *Queens, Consorts, Concubines*, esp. 102–8.

16 *Leges Liutprandi*, no. 105, p. 180: the term *inlecitus* is applied to a child born *ante tempo*, which in this case may have meant born in a relationship that did not have all the formal features of a marriage (concubinage?); such an interpretation is suggested by the arguments of the legislator forbidding the recognition of such children as heirs, as everyone who wanted to marry should take a lawful wife ("omnes homo, qui vult, accipiat oxorem legetimam, nam non inlecitas contraat nuptias"). It should be noted, however, that the choice of a term to apply to an illegitimate child depended on the intention of the writer: for example, in the mid-ninth century the biographer of Louis the Pious used the term *frater naturalis* (Astronomus, *Vita Hludowici imperatoris*, 302) to refer to his stepbrother Pippin the Hunchback, while Louis the Pious's other stepbrother born out of wedlock, Drogo, Archbishop of Metz appears in the source without any term specifying his origin and are described as *frater suus*), like Louis's full brothers; conf. the terms used to denote Drogo and Hugh (Abbot of St. Quentin and St. Bertin, full brother of Drogo) in the Louis the Pious's diplomas, MGH DD Karolinorum 2/2, no. 356, pp. 886–87; no. 360, p. 898; no. 379, p. 947; no. 394, p. 976; no. 396, p. 981; no. 405, pp. 997–98.

17 For more on the transformations in the legal status of children born in extramarital relationships in the Middle Ages, with a discussion of the debate surrounding the question in German historiography, see Willoweit, "Von der natürlichen Kindschaft zur Illegitimität"; McDougall, *Royal Bastards*.

Yet it should be noted at this point that the process of evolution and absorption by early medieval societies of the precepts of ecclesiastical law dealing with marriage was a long one, that it came up against resistance, and that its speed varied in the various regions of the Carolingian Empire, depending on the advancement of Christianization of the local communities, the determination of ecclesiastical and secular authorities, the strength of local customs, and many other factors. As a result, children born at the same time in relationships with a seemingly similar legal status could be regarded as fully legitimate offspring in one place and illegitimate in another; children regarded as illegitimate (natural) could be regarded in one community (or even just one social group) as being without any rights, while in another they could enjoy some customary rights, for example relating to inheritance. The royal and ecclesiastical legislations, seemingly harmonizing the legal situation, were only one part of the legal legacy regulating the practices of social life in the vast Carolingian realms.

As we read legal and documentary sources, we have to deal with the problem of the laconic nature of these sources: it is not always possible to determine whether the word *frater*, used with regard to an individual, refers to a brother or a cousin. In the case of a cousin the difference was marked by adding the term *consobrinus* or *patruelis*. This was, for example, the term applied to Louis II (d. 875), son of Lothar I, by Carloman (d. 880), son of Louis the German, in charters for Italian receivers.¹⁸ It is likely, however, that such a distinction was not always made, a circumstance which inevitably resulted in people who were more distantly related being counted among brothers. On the other hand, such a tendency to use the same term to denote close male relatives (at least up to the second degree) is also significant. It suggests that the term "brother" was used to refer to a category of closely related individuals (especially in the male line) and not just to one specific bond stemming from the fact of having the same father. This practice is well documented anthropologically for various cultures and is confirmed by the results of research conducted by linguists.¹⁹ It is impossible, however, to verify the hypothesis on the basis of the early medieval material.

Authors of early medieval encyclopaedias divided biological siblings according to natural criteria based on birth—the relationship between the parents. Among others, Isidore of Seville and after him Hrabanus Maurus, in *De universo*, distinguished brothers born of one father and described as *fratres*, because they came from the same fruit (*ex eodem fructu*), i.e. the same semen (*ex eodem semine*). Brothers with the same mother and the same father were referred to as *germani*. Isidore derived the term from the word *genitrix*, opposing the view (correct from the point of view of linguistics) of those who saw its etymology in the work *germen* (family, tribe, germ). The third category comprised brothers with the same mother but different fathers, called

¹⁸ MGH DD regum Germinae ex stirpe Karolorum 1, no. 5, pp. 291–92; no. 6, pp. 292–93.

¹⁹ On the origin and evolution of the term *frater* from a linguistic perspective see Daniels, "Hansel und Gretel."

uterini, coming from one womb (*uterus*).²⁰ It is worth noting at this point that early medieval texts lack a precise term to denote twins; the most common phrase used in such cases is *uno partu genitus/geniti*. In any case, references to twins are extremely rare in that period.²¹ As we can see, medieval etymologies emphasize the carnal aspect as constituting and defining the bond existing between biological siblings. The bond emerges from the sexual act and is based on the earthly kinship of blood, irrespective of the inclination of the spirit.

Yet the most important distinction in the theological thought of the early Middle Ages was made between biological brotherhood, described as carnal (*fraternitas carnalis*) and spiritual brotherhood (*fraternitas spiritualis*).²² Owing to its connection to the sinful body, the former was presented as a form of relation incomparably inferior to the bonds of spiritual brotherhood. Biological brotherhood made people similar to each other, but it did not give rise to an important spiritual bond between them. As the body was weak, the relations between brothers could not achieve perfection unless they became bonds of Christian love. Under this doctrine, it was only brotherhood in Christ, going beyond and above all earthly bonds and limitations, that made it possible to achieve true spiritual unity.

The term *frater carnalis* also appeared in early medieval documentary sources, for example those dealing with property matters. Occasionally, more complex phrases would emerge: for example, in a charter from the St. Gallen archives the donors were described as

20 *Isidori Hispalensis Episcopi Etymologiarum*, lib. 9, chap. 6; Rabanus Maurus, *De universo libri viginti duo*, chap. 4, col. 190: "Fratres dicti eo quod sint ex eodem fructu, id est, ex eodem nati semine. Germani vero de eadem genitrice manantes, non (ut multi dicunt) de eodem germine, qui tantum fratres vocantur. Ergo fratres ex eodem fructu, germani ex eadem genitrice manantes. Uterini vocati, quod sint ex diversis patribus et utero uno editi: nam uterus tantum mulieris est." The term *fratres uterini* appears in the sources from the period rarely; an example of its use, from the turn of the ninth century, can be found in *Liudgeri Vita Gregorii*, 74; there is a questionable reading in *Agnelli qui et Andreas Liber pontificalis ecclesiae Ravennatis*, 366 (one of the manuscripts contains the phrase *uterini germani*, which could suggest that the original meaning of the two terms was being blurred).

21 It is known that Louis the Pious had a twin brother, Lothar, who died in infancy. In *Deeds of the Bishops of Metz* Paul the Deacon referred to the twin brother, using the term *uno partu est genitus* (*Pauli Warnefridi Liber de episcopis Mettensibus*, 265), which we also encounter in the *History of the Lombards* (*Pauli Historia Langobardorum*, 54); when writing about the birth of Louis and Lothar, the Astronomer used the phrase "Hildegarda binam edidisset prolem" (*Astronomus, Vita Hludowici imperatoris*, 288). Like Paul the Deacon, Agnellus in his *Liber pontificalis ecclesiae Ravennatis* described a multiple birth as "in uno partu, ex uno ventre parvulos sua peperit mater" (*Agnelli qui et Andreas Liber pontificalis ecclesiae Ravennatis*, 378). The interesting problem of the perception of twins in the Middle Ages requires a separate study, which, however, goes beyond the chronological scope of the present book.

22 On the juxtaposition of the terms *caro* and *spiritus* in the source terminology relating to kinship, see Guerroau-Jalabert, "La désignation des relations," 73ff.; Guerroau-Jalabert, "Flesh and Blood," 68ff.

secundum carnem germani.²³ It is interesting primarily because it confirms the use of the language we know from scholarly compendia or theological works in what could be called everyday situations. At the same time it should be noted that such complex descriptions of brothers were rare. In a vast majority of cases the scribes of charters use a general term of *frater* or a more precise term referring to full brothers—*frater germanus* or just *germanus*. In this respect the present observations do not diverge from the conclusions formulated by Anita Guerreau-Jalabert. In her wide-ranging research into the terminology relating to kinship and the significance of the references to the kinship of flesh and blood in descriptions of family ties, the French scholar notes that references to the biological (literally carnal) fraternal bond were an exception rather than a rule.²⁴

The contexts in which terms like *frater carnalis* appear in diplomatic sources also indicate that the terms were not associated with any value judgements; they were used as technical terms stressing the existence of biological bonds between brothers. Nevertheless, the very appearance in charters of a terminology based on a dualistic perception of the fraternal bond (body-spirit) points to one of the ways in which such a concept may have entered the collective imagination of society, also beyond the intellectual elites.

The Christian Metaphor of Brotherhood

Early medieval writers use the term "brother" in two main meanings: to describe either a bond of kinship between the closest relatives in the collateral line or metaphorically to describe persons linked by a spiritual bond. This ideological dichotomy, built on the basis of the Gospels and the teachings of St. Paul, is of crucial significance in the description and interpretation of fraternal relations in the life of society. The metaphorical use in Christian writings of the term "brother" with reference to a non-relative is by no means a culturally unique phenomenon.²⁵ It is based on a shared conviction concerning the positive values of the relations between brothers. A blood bond implies (or, at least, it should imply) a sense of community, a willingness to cooperate, and a strong, positive emotional bond. The Greek *philadelphia*, the Roman *pietas* praised by Plutarch, and the *fraterna caritas* are defined equally as virtues characteristic of virtuous men. Conflict, rivalry, and hatred between brothers stand in opposition to these fundamental values and provoke strongly negative reactions of the authors of the sources. However, in the ancient tradition the dark side of fraternal relations invariably accompanies its bright aspect—just as it was put under a cloud by Romulus's crime.²⁶

²³ UstG1, no. 146, p. 138.

²⁴ Guerreau-Jalabert, "Flesh and Blood," 67.

²⁵ It should be noted that the use of relations between siblings as a model for other social relations occurs in various cultures studied by anthropologists, see Alber, Coe, and Thelen, eds., *The Anthropology of Sibling Relations*, 14–17.

²⁶ For more on the Roman concept of brotherhood and its ideological foundations, see Bannon's study, *The Brothers of Romulus*; Armstrong, "'Bonds of Brothers:' "

From the very beginning of Christianity the idea of brotherhood as a fundamental natural form of bonds between people—in addition to parenthood—became an element of the description of the community of the faithful. Both St. Peter and St. Paul liked to use the brotherhood metaphor to refer to relations between Christians. In Christian tradition the use of the metaphor is justified by the words of Jesus from the Gospel of Matthew (12:46–50), where he points to his disciples as his real brothers, preferring spiritual kinship in God to blood ties. This mystical bond of kinship, arising at the moment of baptism, unites Christians not only with one another, but also with Christ as the only begotten and firstborn Son of God. In this sense, spiritual *fraternitas* becomes a gift from God and, consequently, its violation denotes a loss of grace and constitutes a threat to the mystical union of the Church as a community of brothers and sisters, sons and daughters. In the sixth and seventh centuries, and then also in the Carolingian period, theologians spent much time considering the nature of this spiritual kinship with Christ, also in the context of the polemic over the nature of Christ. A discussion of the various threads in the theological debate over the nature of the relationship between Christians and Jesus Christ, which took place in late Antiquity and the early Middle Ages, goes beyond the scope of the present study.²⁷ At this point I will limit myself to a brief presentation of the results of research into the concept of Christian *fraternitas*.²⁸

St. Paul did not create a coherent theological interpretation of Christian brotherhood, despite the fact that the metaphor often appeared in his texts. This brotherhood is understood in terms of the Greek *philadelphia*, i.e. a relationship based on equality, love, trust, and assistance (1 Thess. 4:9–12; Rom. 12:9–13). Paul's texts became a point of reference for further interpretations of the notion of Christian brotherhood, but it should be noted that Paul himself did not provide an unequivocal explanation of the concept. In Paul's language, metaphorical references to concepts relating to family organization and family life were used to describe an ideal model of Christian community, primarily in its eschatological dimension. However, as Reidar Aasgaard argues in his study, attributing to Paul the authorship of the concept of the Christian community as family of God (*familia Dei*) or brotherhood with Christ himself established through baptism, is an interpretation that goes too far.²⁹ These ideas would only be developed later by St. Paul's successors and commentators on his writings, who interpreted the words of St. Peter in a similar vein as well (1 Pet. 2:17; 5:9).

The doctrine of Christian brotherhood as we know it from the writings of early medieval theologians evolved gradually for centuries under the influence of the teachings of the Church Fathers. In the first centuries of Christianity the notion of spiritual brotherhood

27 A detailed analysis of the matter with reference to the first few centuries of Christianity can be found in Michel Dujarier's writings: *L'Église-Fraternité*, pt. 1, and more recently *L'Église-Fraternité: L'écclésiologie du Christ-Frère*, 2 vols.

28 For more details see e.g. Paszkowska, *Fraternitas*.

29 Aasgaard, "My Beloved Brothers and Sisters!" 137ff. On the role of the brotherhood metaphor in Paul, see also, a slightly different interpretation than Aasgaard's: Schäfer, *Gemeinde als 'Bruderschaft'*.

(*fraternitas*) encompassed all those who were baptized, regardless of their gender and status; the entire community of the Church of Christ was described as a fraternal community. For St. Cyprian of Carthage (d. 258) spiritual brotherhood was the essence of the Church, which was a community of the Spirit.³⁰ Tertullian (d. 240) expanded the concept of baptism as the moment when the spiritual bond of brotherhood between Jesus and a human being was formed, and through Christ also between all the faithful.³¹ In the third and fourth centuries, Tertullian's and Cyprian of Carthage's way of understanding the essence of the spiritual brotherhood in the community of the Church spread throughout Christendom. The idea was developed by St. Augustine, for whom one who through the Holy Spirit received the grace of baptism, and through baptism became a child of God, also became part of the holy fraternal community (*societas sanctae fraternitatis*).³² This adoption (*adoptio*), taking place upon baptism, also meant establishing a mystical fraternal bond with Jesus Christ, and through Christ being allowed to co-inherit the Kingdom of God. This special bond, based on charity (*caritas*), was the essence of the Church.³³

St. Augustine's interpretation was of key importance to thinkers in the following centuries. Several centuries later, the Venerable Bede (d. 735) expressed the notion of the brotherhood of all Christians as the foundation of the Church in the allegorical interpretation of the Temple of Solomon.³⁴ Bede compared the floor, the base of the temple, to the humble of heart united through the brotherhood in Christ with God the Father.³⁵

While St. Paul and thinkers of the early centuries of Christianity referred to the bond between biological brothers and sisters as a model for describing the ideal of the relationship between Christians in a way that was clear to the faithful, in later centuries the spiritual brotherhood of Christians became increasingly juxtaposed with biological brotherhood as a form of relationship that was far more perfect. The evolution of Christian ideas of the relation between kinship of the body and kinship of the spirit was associated first of all with ascetic tendencies which started to grow among Christians more or less from the third century after Christ. The Fathers of the Christian Church spoke, often radically, against the earthly family ties that encumbered the faithful in their search for a path to God. Theological discussion about the values of earthly bonds between

30 On the concept of *fraternitas* according to St. Cyprian, see Pietrusiak, "Kościół jako fraternitas."

31 Tertullianus, "De baptismo," chap. 20; Tertullianus, "Apologeticum," chap. 39.

32 Augustinus Hipponensis, *De sermone Domini in monte*, lib. 1, 73, 74; Dujarier, *L'Église-Fraternité: L'ecclésiologie du Christ-Frère*, 2:611–13.

33 Dujarier, *L'Église-Fraternité: L'ecclésiologie du Christ-Frère*, 2:606–58.

34 Beda Venerabilis, "De templo libri II," lib. 1, chap. 1, 173–74: "Namque tornaturae quae iuncturis tabularum apponebantur ut unum ex omnibus fieret tabulatum ipsa sunt officia caritatis quibus ad inuicem fraternitas sancta copulatur atque in unam Christi domum toto terrarum orbe componitur."

35 Beda Venerabilis, "De templo libri II," lib. 1, chap. 1, 185: "Diximus autem supra quod pauimenti aequalitas humilem concordiam designaret sanctae fraternitatis ubi cum sint Iudaei et gentes barbari et Scythae liberi et serui nobiles et ignobiles cuncti se in Christo esse fratres uniuersi eundem se habere patrem qui est in caelis gloriantur, neque enim de concordissima humilitate supernorum ciuium dubitare cuiquam fas est."

relatives stemmed from different interpretations of the words of Jesus, who demanded a renunciation of the family as a condition for true participation in the community of the faithful. The controversy surrounded primarily three fragments from the Gospels: Luke 14:26, Matthew 10:37 and Matthew 12:46–49. Luke's text in particular worried the exegetes, because it seemed to contradict the fundamental precepts of God's law: "If anyone comes to Me and does not hate his father and mother, wife and children, brothers and sisters, yes, and his own life also, he cannot be My disciple."³⁶ The conflict between loyalty to one's biological family and the duty to commit entirely and unconditionally to God moved the minds of the greatest thinkers of early Christianity, from Hilary of Poitiers (d. 367) and John Chrysostom (d. 407) to Augustine. Historians have paid much attention to an analysis of the polemics surrounding the interpretations of fragments of Scripture dealing with the family and to the resulting attempts to reconcile the Christian ideal and social reality.³⁷

Despite the controversy surrounding the interpretation of the various Gospel fragments, Scripture became the basis for juxtaposing family ties and the spiritual bond with God, superior to family ties in every respect. Even if language and language-related systems of ideas about the biological family as a structure that introduced order into the life of society were used to describe the relations between Christians, members of this Christian family by definition were asked to renounce earthly and bodily ties between themselves. The paradox of the perception of the fraternal relation, a paradox that accompanied Christian communities over the centuries, was to a large extent the result of this juxtaposition, dating back to the beginnings of Christianity. On the one hand, the concept of brotherhood became from the very beginning a fundamental point of reference in the definition of the relationship between members of the community; and on the other this concept of brotherhood was separated in a non-negotiable way from the blood ties that were constitutive of it. In other words, while the fraternal bond (and, more broadly, family bond), viewed in terms of the Roman *pietas*, was seen in a positive light, its biological, carnal aspect was criticized and, in extreme cases, rejected.

An important role in the construction of ideas concerning the dualistic nature of the fraternal relationship was played by a hierarchical distinction, specified by St. Jerome, between the forms of carnal and spiritual brotherhood. In his treatise *Against Helvidius, On the Perpetual Virginity of the Blessed Virgin Mary*, St. Jerome distinguishes four biblical types of brotherhood: derived from nature, that is having the same parent (like Jacob and Esau, Andrew and Peter, James and John or the Twelve Patriarchs); from being from one people (like the Jews calling themselves brothers); being from one family (*de paternitate, de cognatione, de familia*—in this sense Abraham and Lot

36 All Biblical quotations in English after the New King James Version, www.biblegateway.com, unless noted otherwise.

37 How much historians differ in the interpretations of these topics is evidenced by, for example, a comparison of the views of the following scholars: Clark, *Reading Renunciation*, esp. chap. 7; Jacobs, "'Let Him Guard Pietas'"; Hellerman, *The Ancient Church as Family*; for more on the subject, see also Moxnes, ed., *Constructing Early Christian Families*.

are called brothers); and finally the most perfect form of brotherhood, that deriving from affection (*affectus*). This, in turn, emerges as a spiritual bond or affection (*affectus spiritualis*) uniting all baptized in Christ, but also as a bond uniting all people (*affectus communis*) as descendants of Adam.³⁸ The opposition between biological and spiritual brotherhood became established in the early Middle Ages under the influence of Augustine and Jerome. Brotherhood of Christ or in Christ (*fraternitas Christi*) was consistently juxtaposed with brotherhood of blood (*fraternitas sanguinis*): on this opposition was based the image of the family and, more broadly, of society. The definition proposed by Jerome was taken over and developed by Isidore of Seville in his *Etymologies*;³⁹ in the ninth century it found its way into one of early medieval encyclopaedic works, in Hrabanus Maurus's *De universo*⁴⁰ and then in later compilations.

It should be noted at this point that attempts to define a system of ideas about social ties on the basis of a semantic analysis of various concepts used by early medieval authors require caution. An example of the interpretative problems to be tackled can be the term *germanitas*. As we have seen, the word *germanus*, derived from the noun *germen* used by Isidore, was unequivocally linked to physical kinship. The term *germanitas*, derived from *germen/germanus* was used by Jerome and then Isidore and Hrabanus to describe a relationship, the essence of which was common origin not in a narrow genealogical sense, but in the sense of common origin of all people created by God (as Hrabanus

38 Hieronymus Stridonensis, *De perpetua virginitate B. Mariae*, cols. 193–216, chap. 14–15, see Dujarier, *L'Église-Fraternité: L'ecclésiologie du Christ-Frère*, 2:717–20. The four-part, hierarchical order of fraternal relations formulated by Jerome was cited by canon law experts and theologians in the late-eighth-century dispute surrounding the teachings of the advocates of adoptionism, MGH LL Concilia 2/1, 1, no. 19, p. 147 (a. 794, council of Cividale del Friuli).

39 *Isidori Hispalensis Episcopi Etymologiarum*, lib. 9, chap. 6.

40 Rabanus Maurus, *De universo libri viginti duo*, chap. 4, col. 190: "Quatuor autem modis in Scripturis divinis fratres dici constat: natura, gente, cognatione, affectu. Natura, ut Esau et Jacob, Andreas et Petrus, Jacobus et Joannes. Gente, ut omnes Judaei fratres inter se vocantur. Unde dicit in Deuteronomio: Si autem emeris fratrem tuum, qui est Hebraeus. Et Apostolus: Optabam, inquit, ego anathema esse a Christo pro fratribus meis, qui sunt cognati mei secundum carnem, qui sunt Israelitae. Porro cognatione fratres vocantur, qui sunt de una familia, id est, patria, quas Latini paternitates interpretantur, cum ex una radice multa generis turba diffunditur. Et in Genesi dixit Abraham ad Lot: Non sit rixa inter me et te, et inter pastores tuos et pastores meos, quia omnes nos fratres sumus. Et certe Lot non erat frater Abrahae: sed filius fratris ejus Aaron. Quarto modo affectu fratres dici, qui in duo scinduntur, spiritale et commune: spiritale, quoniam omnes Christiani fratres vocamur: ut: Ecce quam bonum et quam jucundum habitare fratres in unum; in commune, cum et omnes homines ex uno patre nati pari inter nos germanitate conjugimus, Scriptura loquente: Dicitis his qui oderunt vos: Fratres nostri vos estis. Germana ita intelligitur, ut germanus eadem genitrice manans. Mystice Christus frater est, de quo in Canticis canticorum dicit: Frater meus et ego illi. Item fratres, Apostoli, sive omnes sancti, ut in psalmo: Narrabo nomen tuum fratribus meis. Et in aliam partem, ut in Job: Fratres mei praeterierunt me sicut torrens. Amici, apostoli vel omnes sancti: ut in Evangelio: Jam non dico vos servos, sed amicos. Et in aliam partem: Amice, quomodo huc intrasti non habens vestem nuptialem? Sodales apostoli, ut in Canticis canticorum: Ne vagari incipiam per greges sodalium tuorum."

Maurus wrote in *De universo*: "cum et omnes homines ex uno patre nati pari inter nos **germanitate** conjungimus," i.e. "as we are all born of one father, we are united in bonds of (full)brotherhood").

However, in many early medieval sources the concept of *germanitas* is used to describe spiritual brotherhood, similarly to the term *fraternitas (spiritualis)*. Such a synonymous use of the terms *fraternitas* and *germanitas* to define a spiritual bond among Christians can be frequently encountered in the writings of, for example, Ruricius of Limoges (c. 510),⁴¹ Bede,⁴² Winfrith-Boniface (d. 754) and Lul (d. 786),⁴³ and then in Alcuin's correspondence.⁴⁴ The words *germanitas* and *fraternitas* are used by these authors as synonyms in salutation formulas and analogous phrases meant directly for the addressees of their works. In addition, Alcuin, when writing to persons to whom he was linked by bonds of friendship (*amicitia*), would sometimes refer to himself as *germanus* to stress the intimate, familial nature of the relationship.⁴⁵ The equivocal use of the terms *germanus* and *germanitas* has led to scholarly disputes over the relations between the authors and addressees of correspondence. An excellent example of interpretative differences is a letter written in 837 by Lupus of Ferrières (d. ca. 862) to a person whose name we know only in its abbreviated form of *Reginb*.⁴⁶ The terms appearing in the letter and referring to brotherhood (*germanitas* and *pietas fraterna*) have prompted some scholars to regard this *Reginb*. as Lupus's brother or close relative. Their opponents point out that this phraseology does not differ from that of the letters addressed to other individuals with whom Lupus was on familiar terms, although he was not related to them.⁴⁷

41 For analysis of kinship terminology in Ruricius's letters see Hummer, *Visions of Kinship*, 237–53.

42 Bede, for example, uses the term *germana caritas* with reference to the relationship between monks, *Bede's Ecclesiastical History*, lib. 2, chap. 1, p. 124.

43 MGH Epp. *Epistolae Karolini aevi*, 1, no. 31, p. 282; no. 70, p. 338; no. 75, p. 346; no. 91, p. 376; no. 92, p. 378.

44 MGH Epp. *Epistolae Karolini aevi*, 2, no. 204, p. 338; no. 284, p. 442; no. 285, p. 443; no. 286, p. 445, where a monastic congregation is described as *germanitatis congregatio*; no. 237, p. 382, Alcuin's letter to Adalhard, Abbot of Corbie: "Numquid non me familia Sancti Petri, te hortante et deprecante, in gremium fraternitatis suae suscepit quasi unum ex illis? Si amico prodesse timuisti, quare non fratri et consocio germanitatis tuae?" Cf. letter by Lupus of Ferrières to *Reginb*.[?], MGH Epp. *Epistolae Karolini aevi*, 4, no. 6, p. 18, a. 837.

45 MGH Epp. *Epistolae Karolini aevi*, 2, no. 9, p. 34; The unusual nature of the term has been pointed out by Donald Bullough (*Alcuin*, 366–67). Thus Isabelle Réal is wrong when she says categorically that in the early Middle Ages the term *germanus* was used solely to describe blood ties (*Représentations*, 79). For an interesting analysis of terms used by Alcuin in his correspondence, depending on the relationship between the author and the addressees, see Steckel, *Kulturen des Lehrens*, 166ff.

46 MGH Epp. *Epistolae Karolini aevi*, 4, no. 6, pp. 17–18.

47 Scholars arguing for the existence of kinship between them included Réal, *Représentations*, 89, who followed the French editor of Lupus's letters in this respect; arguments against the thesis: Steckel, *Kulturen des Lehrens*, 425ff.

Nor is it easy to make a clear distinction between spiritual brotherhood and other forms of social relations referred to in the sources as, for example, friendship (*amicitia*).⁴⁸ In any case, a categorical distinction between them turns out to be contrary to the evidence of the sources, which display considerable terminological variability. Scholars studying the problem of social ties point to the similarity between fraternal relations and spiritual friendship, invoking the same values: selfless love, loyalty and mutual assistance.⁴⁹

However, irrespective of which of the terms was applied, the texts share a deep conviction concerning the superiority of a spiritual bond over a bond based only on consanguinity. To describe these relations, authors use the language and terminology referring to the human family, creating a kind of kinship network parallel to the earthly—and thus by definition defective—network. Unlike the case of biological brotherhood, forming spiritual brotherhood requires special moral virtues and mutual acceptance from those who wish to be united by such a bond.

In one of his sermons Maximus of Turin, a contemporary of St. Augustine, explained this dichotomy between brothers of the flesh and brothers of the spirit in the following manner:

We read in the book known as the *Acts of the Apostles* that under the influence of those men there was great devotion among the folk, and the germs of the Christian people flourished so when the Christian faith had been received that no one defended his home or laid claim to anything that was his own, but they shared everything by the law of brotherhood. Thus those who were joined by religion would also share life; so that where there is one faith, there should also be shared property; where Christ is common to all, property should be common as well. For those pious men considered it unworthy for someone who shared in grace not to be accepted as a sharer in property, so in the brotherhood of charity they possessed all things in common, since brotherhood in Christ is something greater than blood brotherhood. For blood brotherhood refers solely to a likeness of the body, while brotherhood in Christ manifests a oneness of the heart and the soul. For it is written: among the believers there was one heart and one soul. Verily, he is truly a brother who is related not so much by the body as by spiritual concord. He is a true brother, I say, who has the same spirit and desire as his brother; as I have remarked, brotherhood in Christ is better than brotherhood of the flesh. Blood brothers are sometimes each other's enemies, while brothers in Christ are always at peace. The ones divide things common to themselves by rivalry, the others share even what is their

48 On the concept of spiritual friendship in the early Middle Ages, see e.g. Michałowski, "Przyjaźń i dar"; studies from the volume Classen and Sandidge, eds., *Friendship in the Middle Ages*; for an overview see McGuire, *Friendship and Community*; on friendship as an important social bond, its roles in political life, taking into account primarily the situation in the following centuries, see Althoff, *Amicitiae und Pacta*, and Gilsdorf, *The Favor of Friends*; on the ambiguity of the concept, encompassing relations between equal partners, dependency, political relations between rulers and, finally, spiritual bonds, on the basis of an analysis of sources from the fifth to seventh centuries, see Epp, *Amicitia*; on this phenomenon in the peripheral area of Europe, but with very interesting general conclusions, see Hermanson, *Friendship, Love, and Brotherhood*.

49 Fiske, "Alcuin and Mystical Friendship," 751–75.

own in joy; the ones often despise their brothers what they possess together, the others frequently receive strangers.⁵⁰

Ninth-century commentators referred directly to the biblical text to justify the superiority of spiritual brotherhood over brotherhood of the flesh. This was the case, for example, of Paschasius Radbertus (d. 865), who, starting from a concept of the unity of Christians as God's children in Christ, wrote in his *Expositio in Mattheo*:

For if being born of one mortal unites us by a bond of such great love, we should be therefore the more cognisant of brotherhood in God the Father and venerate what can be known only spiritually. For how else, if not spiritually, can a rebirth be possible, when the gift of his affection can be comprehended and felt according to the internal human (*secundum interiorem hominem*)? For if with true faith and steadfast hope fatherhood, spread through the Holy Spirit, is venerated and loved, no carnal brotherhood can matter more for anyone, but nobility granted by God and the grace of affiliation are preferred to corruption.⁵¹

In this passage Paschasius Radbertus referred directly to St. Augustine and indirectly to St. Paul, making spiritual brotherhood a matter of the law of God, naturally liked by the spiritual human (internal human), and contrasting it with carnal brotherhood as a law of sin.

Towards the end of the ninth century Christian of Stavelot in his commentary on the Gospel of Matthew stressed that a blood bond, too, could be perfected, provided

50 Maximus Taurinensis, *Collectio sermonum antiqua*, 17: Legimus in libro qui apostolorum actibus adscribitur, tantam sub memoratis uiris deuotionem plebis fuisse, ita populi christiani floruisse primitiam, ut post acceptam fidem nemo domum propriam sibi defenderet, et nemo suum aliquid uindicaret, sed iure fraternitatis essent illis cuncta communia; scilicet ut qui eodem consortio religionis tenebantur, eodem consortio fruarentur et uitae; hoc est ut quibus erat una fides, esset et una substantia; et quibus erat communis christus, communis esset et sumptus. Nefas enim putabant religiosi uiri eum sibi participem non adsciscere in substantia, qui particeps esset in gratia, atque ideo fraternitate caritatis omnia communiter utebantur, nisi quod maior est fraternitas christi quam sanguinis. Sanguinis enim fraternitas similitudinem tantummodo corporis refert, christi autem fraternitas unanimitatem cordis animae que demonstrat, sicut scriptum est: erat autem credentium cor atque anima una. Vere ergo ille frater est, qui non tam corpore quam unanimitate germanus est; uerus, inquam, frater est, cuius idem spiritus et uoluntas in fratre est. Melior igitur est, sicut dixi, christi fraternitas quam sanguinis. Sanguinis fraternitas interdum sibi inimica est, christi autem fraternitas sine intermissione pacifica est; illa inter se communia cum aemulatione diuidit, haec etiam propria cum gratulatione communicat; illa in consortio despicit saepe germanum, haec adsumit frequenter alienum" (English translation after *The Sermons of St. Maximus of Turin*, 42), see Dujarier, *L'Église-Fraternité: L'ecclésiologie du Christ-Frère*, 2:682ff.

51 Paschasius Radbertus, *Expositio in Mattheo*, lib. 4, vv. 609–14: "Si enim carnalis natiuitas ex uno mortalium nos tanti amoris ligat uinculo multiplicius cogitanda est fraternitas ex Deo Patre et ueneranda quam nemo nisi spiritalis potest dinoscere. Alioquin si non spiritaliter renascatur quomodo ualet adprehendere aut sentire affectum secundum interiorem hominem huius amoris? Namque si uera fide et spe certissima haec paternitas ueneraretur et amaretur per Spiritum Sanctum caritate diffusa numquam fraternitas carnis amplius ualeret apud aliquos sed praeferrent nobilitatem ex Deo et gratiam adoptionis corruptioni."

it was subordinated to and united with a spiritual bond.⁵² This ideal—removal of the opposition between spiritual brotherhood and blood brotherhood—could be achieved only when brothers, in the love of God, managed to transgress the carnal bond that united them. In this sense holy men—described by early medieval hagiographers—who demonstrated their perfect love towards their biological brothers, did not do it in the name of kinship-based loyalty, but in the name of Christian love or charity (*caritas*).

Alongside theological reflection on the spiritual bond uniting Christians there emerged another strand of reflection on brotherhood. From more or less the fourth century onwards, the idea of Christian *fraternitas*, encompassing all Christians, began to be accompanied by a more exclusivist concept whereby this spiritual brotherhood united primarily priests and those who renounced earthly pleasures in favour of asceticism. They were apparently to be the most complete embodiment of the idea of the mystical brotherhood of the Church, achieved through baptism in Christ. This idea, making its mark in Eastern monastic circles, in the writings of Basil of Caesarea (d. 379), spread in the West after some delay.⁵³ In *De coenobiorum institutis* John Cassian (d. ca. 435) describes the monastic community, using the term *corpus fraternitatis*, which brings to mind the functional unity of an organism whose members are united harmoniously by fraternal love.⁵⁴ The concept was taken over from John Cassian by the early medieval Western monastic rules, for example, in the seventh-century Italian *Regula cuiusdam patris*, which stemmed from the Irish traditions (of St. Columbanus's circle).⁵⁵

Between late Antiquity and the early Middle Ages spiritual brotherhood, as opposed to brotherhood of the flesh, became a defining factor of a group raised above mere mortals owing to their way of life. However, in ninth-century writings both interpretations of the brotherhood of Christians appear side by side: on the one hand we have a belief in fraternal bonds uniting all baptized in Christ, and on the other a belief in special spiritual brotherhood established between people dedicated to God. The understanding of the term *fraternitas* changes depending on the context and the milieu in which a given work originated. For example, when Dhuoda (d. after 843) mentioned brotherhood (*fraternitas*) in her *Liber manualis*, written for her son, she meant the

52 Christianus Stabulensis, *Expositio super Librum generationis*, chap. 12, p. 266: "Iste qui ei hoc nuntiauit temptando faciebat, ut uideret si terrenis caelestia preponeret et desereret praedicationem propter carnalem cognacionem, sed ipse ostendit quia melior est spiritalis fraternitas quam carnalis. Si uero utraeque simul sunt, duplex bonum est, sicut erat in sancta Maria, quia mater efficitur quis cum aliquis per uerbum eius in Christo renascitur, sicut Paulus dicit: 'per euangelium ego uos genui.'"

53 Dujarier, *L'Église-Fraternité: L'ecclésiologie du Christ-Frère*, 2:720–28.

54 Iohannes Cassianus, *De institutis coenobiorum*.

55 Diem, "Disputing Columbanus's Heritage."

Christian bond uniting all the faithful, regardless of their status—all-encompassing love making everyone equal in their love for God.⁵⁶ On the other hand what emerges from the correspondence of eighth- and ninth-century clerical intellectuals is a belief in the superiority of the fraternal spiritual bond uniting them, a bond helping them to grow in faith. In a letter to Adalhard of Corbie (d. 826), Alcuin explicitly says that this bond is established and then develops thanks to Divine inspiration, becoming a sign of a special grace granted by God only to those who have devoted their whole life to him.⁵⁷ Spiritual brotherhood was manifested in a unique way in monastic communities—spiritual families implementing here, on earth, the ideal of the bond that should unite all Christians in this world and beyond. It is no coincidence that the term *frater spiritualis*, used with reference to fellow monks, appears in early monastic rules and then in the ninth century, through Benedict of Aniane among others, and eventually becomes the term defining mutual relations between monks. As brothers making up a family (*congregatio fratrum*) the monks could expand the bond uniting them to include other spiritual families, becoming united with them as brothers. Prayer communities, bringing together entire convents, emerged in the eighth and ninth centuries from the feeling of a spiritual bond transgressing all mundane limits and going beyond time and space.⁵⁸ Significantly, descriptions of these relations featured an ever-expanding phraseology, constantly acquiring new senses, derived from the vocabulary traditionally referring to the organization and functioning of kinship groups. When Alcuin as the abbot of Marmoutier announced to the monks of Montolieu his will to become united with them by a fraternal bond of prayer, he drew on a whole set of ideas associated with family life:

56 Dhuoda, *Manuel*, lib. 3, chap. 10, pp. 178–80: “Nam in subportationem vel vicissitudinis mutationem, dilectionem tam in maioribus quam in minoribus per compassionis fraternitatem omnimodis per puncta in generi humano ostendit esse tenendam. Haec etenim a pluribus retro, etiam et in sanctis apostolis illorumque similibus capaces, per omnia legimus esse completum. Scriptum est: Non enim erat quisquam egens inter illos, sed erant illis omnia comunia, habentes in Deum cor unum et anima una, compassionis fraternitatem in Christo Iesu inuicem semper tenentes.”

57 MGH Epp. *Epistolae Karolini aevi*, 2, no. 9, pp. 34–35, a. 790: “Nec me, etiam in peregrinatione morantem, tantum fratris vel sororis carnalis affectus taeduit, quantum tua spiritalis fraternitas moerore perfundit. Videbar enim mihi ex consolatione eloquii tui, Deo miserante, dignum incipere posse, quod tamen Dei solius perficere est; qui gratia sua tuum inspiravit intellectum ad loquendum et meam incitavit voluntatem ad audiendum. Quia sine illo nihil boni possumus nec velle nec perficere. Ideo semper ad eum toto corde implorandum est ‘Miserecordia tua preveniat me, misericordia tua subsequatur me’. Haec ideo, frater, tibi scripsi, ut scias, si tamen scire potes, qua te caritate diligo; nam me ipsum fateor edicere non posse—forsan etiam nec tu, qua me diligas—Deus scit, qui hanc infudit cordibus nostris.”

58 Among studies focused on an analysis of the social role of these relations, see especially Zettler, “Fraternitas und Verwandtschaft,” and Rappmann and Zettler, *Die Reichenauer Mönchsgemeinschaft*.

We welcome Olomund, your father in Christ and our brother in love, with familial affection, like a full brother from one family, worshipper of one Lord, and servant of one defender. And through him we welcome all of you like our most beloved brothers, imploring you to remember me and my own in your prayers.⁵⁹

The fraternal bond uniting the members of a monastic community went beyond the walls of one monastery, uniting in mutual spiritual love and collective prayer events very distant monastic congregations. In the ninth century this idea was manifested in formalized agreements concluded between convents, the most famous of which is probably the *fraternitas* of the monasteries of St. Gallen and Reichenau from 800. The essence and objective of the agreement was to create a community of prayer (*conventio et unanimitas precum*) encompassing all living and deceased members and providing spiritual support to the brothers nearing the end of their earthly life. The bond was based on infinite spiritual love (*caritas*). As we can read in the book of the confraternity of St. Gall under the year 846, "now and for all times the constant prayers flowing from true love will maintain a strong relationship between these holy places, not for any purpose but for love itself" ("nunc ac deinceps omni tempore series precum superius ex caritate vera compositarum ratam inter haec sanctissima loca teneat conexionem, sed neque finem habeat, nisi caritatem solam").⁶⁰ Similar relations of fraternal love were established not only between monastic communities but also between the clergy of the various churches and dioceses, for example during synods and other great events, such as the translations of relics.⁶¹

It was the exclusivity of monastic communities, built on a conviction that they were an embodiment of the ideal of Christian brotherhood, that was one of the reasons why they were attractive also to the laity. In the ninth century, the desire to become part of a monastic family and derive supernatural benefits from that fact was pursued in monastic confraternities. Such brotherhoods (*confraternitates*), usually affiliated with monasteries and encompassing all their living and deceased members in their prayers of intercession, brought together not only spiritual but also power elites. Membership in these fraternal communities became a privilege, which could be formally granted to all the faithful coming from outside, but the candidates had to meet very strict requirements. The communities became an important element in building social ties going far beyond

59 MGH Epp. *Epistolae Karolini aevi*, 2, no. 272, p. 430: "Patrem vero vestrum Olomundum in Christo, et fratrem nostrum in caritate, familiari pietate accepimus, quasi unius familiae germanum et unius domini cultorem et unius protectoris conservum; et in eo ipso vos omnes recipiens quasi fratres carissimos, deprecans, ut me meosque per eius manus familiariter in sanctas orationes vestras recipere dignemini."

60 *Libri confraternitatum Sancti Galli, Augensis, Fabariensis*, 142.

61 The problem is discussed extensively by Roman Michałowski, "Przyjaźń i dar," 2:30ff.; see also a classic study, Schmid and Oexle, "Voraussetzungen und Wirkung."

purely religious functions.⁶² A key role in them was played by commemorative practices, which not only created networks of mutual obligations and links between their secular and clerical members, but also made it possible to preserve the confraternities' "genealogical memory," as it were. At the same time, united by their fraternal bond, various communities and every one of their members provided support to each other in seeking spiritual perfection and in their never-ending struggle against the forces of evil. In the following centuries numerous new fraternities, monastic congregations, and religious movements emerging across Europe would use a concept of brotherhood stemming straight from the theological reflection of the early Middle Ages.

Spiritual Brotherhood Established through Baptism

A separate problem is how to define the nature of the relations between people united by spiritual kinship arising at the moment of baptism. Drawing on the teachings of Tertullian and other Church Fathers on the significance of the sacrament of baptism as a new birth, over the centuries there emerged a doctrine defining the nature of the bond between godparents and their spiritual children as well as between biological and spiritual siblings, with the importance of this relationship growing gradually. Researchers studying the

62 Research into the origin of religious confraternities in the Middle Ages has had a long history: from very theorizing nineteenth-century studies of legal historians, exploring the allegedly ancient Germanic institution of sacred confraternities or role of Roman associations, to studies of the social aspects of the functioning of religious brotherhoods in various regions of Europe. A turning point in the research into the social role of monastic confraternities in the early Middle Ages came with the studies by Karl Schmid and Joachim Wollasch (including their classic article "Societas et Fraternitas"), as well as Schmid, ed., *Die Klostersgemeinschaft von Fulda*, a model study devoted to the confraternity books of the abbey of Fulda and defining the methods and main directions of research into this group of sources and the subject matter in general. Scholars from Freiburg im Breisgau and Münster developed an original model of prosopographical analysis based on sequences of names included in monastic confraternity books (*Gruppensuchprogramm*), although interests of members of this school of research were much broader, from various forms of commemorative practices, through the problem of liturgical commemoration of the dead, to the questions touching upon collective consciousness and ideas of death. For a summary of this research with a bibliography: [J. Wollasch], "Mittelalterforschung in Münster," 380–429; an overview of research topics tackled from the early 1980s can be found in Schmid, and Wollasch, eds., *Memoria: Der geschichtliche Zeugniswert*; a good, concise presentation of the problem is Schmid, "Mönchtum und Verbrüderung," 117–46. Research carried out by the younger generation of German historians, connected to the University of Münster, has focused primarily on analyses of various forms of bonds that were the basis of social groups and referred to the metaphorical formula of brotherhood or related notions (friendship); the beginnings of this strand of research can be found in studies by Otto Gerhard Oexle devoted to the origins of various types of communities drawing on the Christian idea of selfless brotherhood of their members, see e.g. Oexle, "Gilden als soziale Gruppen." Among studies from the 1990s, this time from English language scholarship, I should mention e.g. McLaughlin, *Consorting with Saints*, see also synthetically, but focused on the later period: Eisenbichler, ed., *A Companion to Medieval and Early Modern Confraternities*.

topic quickly noted the social consequences of the establishment of such a bond between members of family groups.⁶³

In the period between the sixth and the eighth century in the East and in the first half of the eighth century in the West, there emerged a principle in canon law whereby a person's biological children and godchildren were to be treated as siblings, with all the legal consequences of such an approach. The very fact of presenting the child for baptism established a bond between the child's biological parents and godparents, a bond which can also be described as spiritual brotherhood (although the persons may have differed considerably in their position and status). In Western Europe the legal consequences of the existence of spiritual brotherhood established through baptism were defined in greater detail for the first time at the Council of Rome of 721.⁶⁴ The clergymen gathered at the Council referred to regulations introduced in the Byzantine Empire at the Council of Constantinople in 692. In practice these included a ban on marriages between people united by such a bond and their closest relatives. The decisions of the Council of Rome quickly became part of royal legislation. As early as in 723, Liutprand, King of the Lombards, included them in his edict and twenty years later they also appeared in Frankish laws.⁶⁵ For example, Liutprand condemned the relationship between a godson or goddaughter and a godparent's child and threatened those committing this forbidden act with confiscation of property, as it was not fitting for spiritual siblings (*spirituales germani*) to marry.⁶⁶ What is striking in the regulation is the term *germanus*, used to describe the relationship between full brothers and sisters: in this case, however, it was used to stress the closeness between spiritual siblings.

In the ninth century, as a result of the church hierarchy's efforts to impose Christian marital discipline on the broadest possible circles in society, synodal legislation, royal legislation, as well as didactic texts often featured reminders of canons referring to spiritual kinship as an obstacle excluding lawful marriage. In addition, historiographical sources contain information about the use of spiritual kinship as a tool to create a network of personal ties for the purpose of pursuing familial and political strategies. Yet neither group of sources provides detailed information about how the existence of spiritual kinship between individuals influenced their mutual relations and to what extent it determined specific behaviour.

Different Uses of the Brotherhood Metaphor

Apart from the already discussed metaphorical use of the term brotherhood to describe a bond linking unrelated individuals, scholars point to the use of the metaphor to

⁶³ Lynch, *Godparents and Kinship*; Jussen, *Spiritual Kinship as Social Practice*.

⁶⁴ See canon 4 of the Council of Rome convened in 721 by Pope Gregory II, *Sacrorum conciliorum nova et amplissima collectio*, 12, col. 263.

⁶⁵ MGH LL *Capitularia regum Francorum*, 1, no. 11, p. 26.

⁶⁶ *Leges Liutprandi*, chap. 34, p. 148.

describe also relations which are not directly associated with theological reflection and Christian teaching. It should be noted, however, that such observations with regard to societies of eighth- and ninth-century Western Europe are based on very scant sources. Yet the topic should be discussed, at least perfunctorily, if only because of the debate surrounding them.

In studies conducted in the past, mainly by anthropologists and scholars dealing with cultural studies, much attention was paid to the institution of blood brotherhood, i.e. relationships established between non-related individuals and confirmed by ritual gestures (including the mixing of blood), the objective of which was to create a bond, analogous to the bond of kinship, based on equality, friendship, trust, and collaboration.⁶⁷ Historians were inclined to look for relics of this institution also among medieval European societies. Their conclusions were formulated primarily on the basis of examples from Scandinavian sagas, with blood brotherhood being sometimes viewed as one of the institutions characteristic of Germanic societies organized around masculine and military values.⁶⁸ Some scholars also interpreted the institution of blood brotherhood as a socially accepted form of same-sex relationships.⁶⁹

In addition to a relation analogous to a fraternal bond, built around and with reference to the warrior ethos, scholars studying medieval societies also point to other forms of voluntary and mutual relationships between men present in Western European culture from Antiquity to the late Middle Ages.⁷⁰ In the 1990s a lively discussion ensued about the ceremony—known primarily from medieval Byzantine liturgical sources—of establishing artificial brotherhood by non-related men (*adelphopoiesis*). Taking place in church, in the presence of a priest blessing the newly made brothers, it survived in the practice of the Eastern Church for centuries (from the seventh to the fifteenth century), undergoing many transformations along the way. John Boswell saw this ritual as a form of legitimizing same-sex relationships, as a result of which a relationship analogous to heterosexual marriage was established. Boswell pointed to *adelphopoiesis* as evidence of the acceptance of homosexual relationships in medieval societies; moreover, he even argued that a similar phenomenon could also be found in the world of Western Christianity.⁷¹ In a detailed study, Claudia Rapp analyzed the origins of the brother-making ritual and the social and religious context of its use in the Byzantine world.⁷² She proved that *adelphopoiesis* had played vital role as an alternative to the kinship form of horizontal relations between individuals, particularly in the monastic milieu. It was an

67 Evans-Pritchard, "Zande Blood-Brotherhood"; Tegnaeus, *Blood-Brothers*.

68 Hellmuth, *Die germanische Blutsbrüderschaft*; Miller, *Bloodtaking and Peacemaking*, 173–74, where the author points to the blood brothers' mutual obligation of revenge.

69 An example of how such an interpretation can be overdone is Neill, *The Origins and Role of Same-Sex Relations*, 122ff.

70 See the proceedings of "Ritual Brotherhood in Ancient and Medieval Europe."

71 Boswell, *Same-Sex Unions*, 193ff.

72 Rapp, *Brother-Making*, see also Rapp, "Ritual Brotherhood in Byzantium."

association of spiritual mutual support which could not be reduced to a formalization of male–male sexual unions.

The discussion provoked by Boswell's controversial theses has led to a mostly critical revision of his findings, but also to a considerable expansion of our knowledge of artificial brotherhood in medieval societies. Elisabeth A. R. Brown studied sources from Western Europe in this respect, pointing to the fact that a metaphorical use of the notion of brotherhood to describe relations between men was common in the high and late Middle Ages, and should be analyzed in various contexts (economic, political, social). As a rule, pacts that established fraternal bonds between men were accompanied by obligations of mutual assistance and loyalty and were characterized by the principle of equality of the parties.⁷³ Even if there were homosexual relationships behind these bonds, this was not their only or decisive justification. The sources are usually silent about the motivation guiding the parties to such a pact, which prevents us from confirming or definitely excluding the possibility that the relations between men linked by blood brotherhood also involved sexual relationships. Research carried out by Brent D. Shaw has demonstrated that in the social practice of late Antiquity, too, there were some forms of brotherhood as a bond linking non-related individuals, although Roman law explicitly forbade such relationships.⁷⁴ In this case, the emperors as legislators were defending the rules of inheritance under Roman law, rules that could be violated by individuals claiming an inheritance on the basis of an informal "fraternal" pact established with the deceased. Although in his analyses Shaw does go beyond the late Empire period, he reaches only as far the sixth century and the writings of Gregory of Tours. The period between the seventh and eleventh centuries remains underexplored with regard to the existence of bonds of artificial brotherhood other than theologically justified bonds of brotherhood linking Christians. This is not particularly surprising, given the fact that there are very few sources that could be a starting point for such analyses and that the sources we do have give rise to a number of doubts concerning their interpretation. These few sources include the late eighth-century charter analyzed by Boswell which is found in the archives of the bishopric of Lucca. The issuer of this charter chose as heir a man who was not his relative, but with whom he had apparently established fraternal bonds. Boswell interpreted this document as evidence of a socially accepted method of providing maintenance to a partner in a same-sex relationship.⁷⁵ Significantly, however, the sources mention clergymen who inherited from each other the right to administer a church and celebrate divine service in it. This at least partly explains why the testator's own brother mentioned in one of the charters did not become his heir: as a lay person he could not take over his priestly duties.⁷⁶

73 Brown, "Ritual Brotherhood in Western Medieval Europe."

74 Shaw, "Ritual Brotherhood in Roman and Post-Roman Societies."

75 Boswell, *Same-Sex Unions*, 255–57.

76 MemLuc 4, no. 83, pp. 133–34; MemLuc 5/2, no. 161, p. 92; cf. MemLuc 5/2, no. 186, pp. 107–9; no. 187, p. 109

Similarly, there is no evidence confirming the existence of blood brotherhood and brotherhood in arms between men, analogous to the institutions known from Scandinavian practice.⁷⁷ Attempts to find traces of such a bond in our period are based on a projection of phenomena present in another place and time on the conditions of the early Middle Ages, a projection justified by a belief in the lasting nature of cultural phenomena. Scholars formulating such theses start from a more or less openly adopted premise whereby the relations based on brotherhood in arms were part of a shared ethos of militant Germanic tribes, an ethos that was weakened by Christianity but never disappeared completely, re-emerging in a new form in the high Middle Ages, which was expressed in courtly poetry and chivalric romances. As the sources are silent, such conclusions, based solely on the historians' deep convictions, are groundless. Obviously, this does not mean that we should exclude the existence of some forms of personal relations close to brotherhood, relations established and perhaps even formalized among warriors. Yet there is no source evidence that would make such a conjecture likely.

Not so long ago Klaus Oschema proposed a different interpretation of the recurring high- and late-medieval motif of blood brotherhood as a form of relationship allegedly typical of societies in which military values were highly regarded.⁷⁸ The German scholar demonstrates that the authors of the sources linked blood covenant rituals primarily with societies existing on the margins of Western Christendom. According to Oschema, this motif was used to construct a stereotypical image of the barbarian "other." Sometimes this narrative thread was also used to stress the distance in time separating the author from the legendary, wild past he was describing. In other words, if in sources from the twelfth and the following centuries we come across references to ritual blood covenants among distant peoples (in terms of time or geography), this does not have to mean that the authors of the sources preserved in their memories traces of practices that had indeed existed. It may have been a literary device, subordinated to the logic of the narrative and used to stress the cultural differences between the author/reader and the reality described. Before historians draw conclusions concerning early medieval rituals of fraternal blood covenants documented in late sources, they should ask themselves a question about the intention of the author describing such practices. Oschema is even inclined to question the existence of blood rituals in medieval Europe altogether, believing that references to them in various sources are adaptations of motifs appearing already in ancient descriptions of barbarians. This view could be regarded as too extreme (especially in the case of Scandinavian or Irish sources, as the scholar notes himself), but it cannot be ignored. Oschema's concept provides a partial explanation for the lack of references to blood brotherhood and brotherhood in arms in sources from the period that is of interest to us. Perhaps such an institution did not exist at all—or at least not in the form known from later sources.

77 Hermanson, *Friendship, Love, and Brotherhood*.

78 Oschema, "Blood-Brothers: A Ritual"; Oschema, "Das Motiv der Blutsbrüderschaft."

The reservations presented above do not change the fact that in early medieval societies various types of relations, similar to fraternal relations, may have been formed spontaneously, for example, when non-related boys grew up together. However, this is an area of everyday life which did not interest the authors of the available sources. For example, early medieval sources provide us with some information about milk brothers, whose closeness was rooted in their earliest childhood and lasted also in their adulthood, even despite the differences in their status. The best known example of a bond established at the breast is the one mentioned by Flodoard of Reims (d. 966) and allegedly linking Louis the Pious and the future archbishop of Reims, Ebbo (d. 851).⁷⁹ As Mayke de Jong rightly points out, the milk brotherhood of the emperor and the future archbishop, who had been born a serf, may have been an addition of the historiographer, writing half a century after the events and trying to find an explanation of Ebbo's dizzying career.⁸⁰ This is likely, given the fact that both contemporary sources and sources originating shortly after Ebbo's death (usually hostile to the bishop) stress his lowly birth as one of the main reasons of his unworthy conduct, but no source suggests that Ebbo's mother was Louis the Pious's wet nurse.⁸¹ Yet what matters to us is not what really happened, but the fact that Flodoard regarded milk brotherhood as a factor convincingly explaining why Louis had favoured Ebbo. Thus Flodoard confirmed the possibility of the existence of such emotional bonds between children and, at the same time, an awareness of their milieu and of the power and durability of such a relationship.

79 Flodoardus Remensis, *Historia Remensis Ecclesiae*, lib. 2, chap. 19, p. 175: Ebbo is described as Louis the Pious's *collocatus et conscolasticus*.

80 De Jong, *The Penitential State*, 253.

81 See, e.g., MGH LL Concilia 4:239–40; Theganus, *Gesta Hludowici imperatoris*, 232, 252.

Chapter 3

EQUALITY AND FRATERNAL HIERARCHIES

Quadrupartitus est autem ordo filiorum ita: unigenitus, primogenitus, medius, novissimus. Primogenitus, ante quem nullus: unigenitus, post quem nullus: medius, inter omnes: novissimus, post omnes.

Thus the order among the sons is fourfold: only-begotten, firstborn, middle and youngest. The firstborn before whom there is none, the only-begotten after whom there is none, the middle in the midst of the others, the youngest after all the others.

THIS IS HOW—using the words of Isidore of Seville—Hrabanus Maurus described the hierarchy among brothers in *De universo*.¹ He referred to the natural and simplest criterion of the order of birth, although without introducing any particular hierarchy of statuses. Isidore's and Hrabanus's classification seems to be indeed universal and seems not to require any explanations. However, in the case of an analysis of fraternal relations in the early Middle Ages, the matter turns out to be more complicated and requires more attention.

The difficulties encountered in any analysis of fraternal hierarchies stem to some extent from the interpretative pattern, firmly established in historiography, juxtaposing the alleged egalitarian nature of male sibling groups in the early Middle Ages with the primogeniture-seeking model of fraternal relations in the high and late Middle Ages. The factors contributing to the consolidation of this pattern I have already discussed; here I will analyze the specific grounds making it possible to revise this simplified picture.

Fraternal Hierarchies in the Early Middle Ages: A Legal and Historical Perspective

We will begin by taking a look at early medieval legal sources (in particular, codes of customary laws), on the basis of which scholars concluded that the position of all brothers in the family group was equal. These sources were often used in legal-historical analyses from the nineteenth century onwards, usually without any reference to other sources. Taking normative sources out of their social and cultural contexts and, above all, generalizing with regard to the conclusions drawn on their basis contributed to the creation of interpretative patterns which, although internally consistent, found little (if any) confirmation in practice. This shortcoming of the approach proposed by legal historians was revealed only by studies in which scholars abandoned the legal perspective in favour of an analysis of individual cases recorded primarily in charters.

The durability of the historiographic model of egalitarian relations between brothers, a model popularized in medieval studies in the late nineteenth and early

¹ Rabanus Maurus, *De universo*, col. 187.

twentieth centuries, can be understood only by referring to the context in which this model evolved. The interest of legal historians in relations between brothers (or, more precisely, in fraternal relations) was associated at the time with the need to explain the origins of such institutions of socio-economic and political life in the high Middle Ages as urban and rural communes, guilds or religious confraternities. This was accompanied by a discussion about the origins of a strictly agnate (as it was believed) organizational model of the chivalric clan of the late Middle Ages and the related mechanisms of land inheritance, and, consequently, the origins of the modern nobility. Simplifying this somewhat, according to nineteenth-century law historians (starting with Ernst Mayer²), with the consolidation of the structures of the king's power and under the influence of cultural transformations associated with the introduction of Christianity, in the high and late Middle Ages the original principle of indivisible family property (Old Norse *odal*), held by equal brothers, apparently declined and was replaced by a family model with a privileged status of the eldest son.

In the 1930s the nineteenth-century model explaining the egalitarian nature of early medieval fraternal relations became the subject of a polemic in which the most important role was played by Alfred Schultze. In his historical-legal study devoted to the institution of "fraternal community" (*Brüdergemeinschaft*), drawing on an analysis of Scandinavian normative sources, he criticized the above mentioned theories, especially the belief in the existence of a primeval Germanic principle of the indivisibility of land belonging to a family and held by all brothers together.³ Schultze demonstrated that the evolutionary pattern, from the indivisible *odal* to primogeniture, was a theoretical construct not confirmed by sources. Patrimony was divisible, and its parts were inherited also before the adoption of Christianity by Germanic peoples and before the emergence of early medieval states with their social organization. The German scholar also proposed a different theory of the origin of the free part of property at the disposal of a free man, irrespective of his share in the inheritance. Contrary to the opinions of the advocates of the Germanic origins of the institution (the polemic was addressed primarily to Heinrich Brunner), Schultze emphasized the influence of Christianity on its emergence. He stressed that division of inheritance was based on the principle of equal shares for all brothers, which also resulted in the equality of their position and lack of a legitimized hierarchy between them. Only in the case of minors were elder brothers obliged to provide care, though without violating the fundamental principle of their equal share in the inheritance. At the same time, brothers of the deceased were privileged in their access to inheritance, even at the expense of descendants.

The problem with Schultze's theory is that he was inclined to apply his findings—based on late sources from a peripheral region of Europe, relatively isolated and specific in terms of the development and reception of foreign cultural models—to

² Mayer, *Deutsche und französische Verfassungsgeschichte*, 1:524–54; on the inheritance law among Germanic peoples and the problem of primogeniture in the Late Middle Ages see Schulze, *Das Recht der Erstgeburt*.

³ Schultze, "Zur Rechtsgeschichte der germanischen Brüdergemeinschaft."

other Germanic peoples, and several centuries back in time at that. Schultze himself did not hide the fact that the use of Scandinavian sources was an attempt to deal with the problem of the ambiguity or lack of sources from Western Europe. The premise justifying such an approach was his belief in the similarity of legal institutions in all Germanic societies. Schultze was a legal historian and, like his contemporaries, was interested primarily in the letter of the law rather than in its functioning in society. The belief in the genetic links between legal institutions of various periods—despite all his explicit reservations—prompted him to misapply the retrospective method.

However, Schultze's theory did influence the ideas of egalitarian relations between brothers in the early medieval societies of the barbarian kingdoms, it and became an implicit premise also in many studies which differed methodologically from the works of the German school of legal history (*Rechtsgeschichte*) or were even decidedly critical about them. Echoes of this theory and the polemics surrounding it were also very evident in the already discussed disputes over the theory of a breakthrough in the chivalric family organization, disputes which has been taking place among historians since the mid-twentieth century.

As a result of older historians' interest in the problem of the evolution of law and the forms of political systems, as well as in the selection of source material stemming from this interest (with a resulting domination of normative sources and of diplomas produced by royal chanceries), the discussion about the relations between brothers in the early Middle Ages focused on the questions of succession to the throne and division of the state created by Charlemagne. An analysis of the legal origins of the successive divisions of the Carolingian realm (in 806, 817, 843 and 847) prompted scholars to ask questions about the connection between the principle of equality between brothers, included in *leges*, and evidence, present primarily in documentary sources, suggesting the privileged treatment of the eldest brother.⁴ The helplessness of scholars faced with the problem of reconciling the contradictory and unclear evidence of normative and diplomatic sources was succinctly summed up half a century ago by Reinhard Schneider, when he bemoaned the fact that deliberations concerning the status of firstborn sons based on ambiguous grounds could lead careless scholars astray.⁵

Matthias Becher, who has summed up and developed the criticism of the *Brüdergemeinschaft* theory, also starts from a revision of the findings concerning the inheritance of power among the Carolingians. Becher points primarily to the unjustified belief, questioned for many years, in the existence of common, pan-Germanic legal institutions, and in continuity between Antiquity (or, rather, the period before the adoption of Christianity) and the Middle Ages, as well as in many scholars' inclination to

4 A fundamental study in this respect is Mitteis, "Der Vertrag von Verdun," esp. 79ff.; an overview of the literature up to the early 1990s is found in Bauer, "Die *Ordinatio Imperii* von 817"; in recent years scholars have tackled the topic again, see e.g. Kasten, *Königssöhne*; Kaschke, *Die karolingischen Reichsteilungen bis 831*; Kaschke, "Tradition und Adaption"; Kaschke, "Die Teilungsprojekte der Zeit Ludwigs des Frommen."

5 Schneider, *Brüdergemeine und Schwurfreundschaft*, 174.

apply the conclusions drawn on the basis of specific information (especially information from codes of laws, in particular Scandinavian and Lombard codes) to other Germanic societies of the early Middle Ages without respecting chronological discrepancies, local specificity, circumstances in which a given account originated, etc.⁶ What is beyond doubt for Becher is the existence of a customary principle of equal share of male progeny in the patrimony. This principle was observed both when it came to material property (land) and inheritance of power. However, he rejects as unjustified the old concept whereby brothers making up a community (*Brüdergemeinde*) also had precedence when it came to inheriting from each other, before the sons of the deceased, which was to be expressed in arguments put forward by uncles against their nephews in the fight for power over the Carolingian realms. Becher points to many instances of methodological abuse by scholars trying to explain specific events from Carolingian political history by referring to timeless, abstract legal models, at the same time disregarding the non-legal contexts of these events. Yet, all in all, both Becher's study and studies by other historians of the younger generation (especially from German-speaking countries) show that the discussion concerning the hierarchical relations between brothers is still largely determined by questions posed by German historiography at the turn of the twentieth century.

Of key importance in the discussion about the existence of legal grounds for hierarchical differences between brothers is the fact that nearly all references to relations between brothers in normative sources of the early Middle Ages concern inheritance and related rights. This stems from the specificity of these sources, recording issues important to the functioning of a community that were related to property rights as well as to the transmission of wealth determining the status of individuals and groups in society. In the past, historians of law usually reduced the question of relations between brothers to these legal norms, seeing them as objective. However, in adopting such an approach they lost sight of everything that shapes the practice of relations between people, from the economic context to the sphere of ideas, everything that for obvious reasons cannot be recorded in legal sources. Given such premises, speaking of the egalitarian nature of fraternal relations is, as we will soon see, justified—but this is a narrowly understood egalitarianism, merely equality with regard to the rights defined by the lawmaker. This becomes risky when conclusions from an analysis of legal sources are used to describe social life in all its complexity. As English-speaking scholars (e.g. Warren Brown⁷) note, it is also a mistake to project, often without any reflection, into the past contemporary concepts of the role and functioning of various legal regulations (and, more broadly, norms) in society. For in the early Middle Ages these were not absolutely imperative, but were negotiation tools among other leading to a compromise. Another problem is the co-existence and interpenetration of various normative systems influencing

⁶ Becher, "Vater, Sohn und Enkel."

⁷ See e.g. Brown, "The Use of Norms in Disputes."

society's life—systems which often contradicted each other in principle, as in the case of customary laws and the Church's canon law.

Yet these reservations do not relieve us of the responsibility to look at the evidence of early medieval normative sources in which we will find references to relations between brothers. Before we move on to a brief discussion of this evidence, we will have to make several more caveats. The sources referred to below come from different periods and reached us via different routes. It is not my intention to compare here Visigothic laws from the fifth century and regulations of imperial capitularies from the ninth century. It is also impossible to analyze here the links between various norms recorded in various regions of Europe over a period of several centuries. Thus, they will be of interest to us as evidence of legal solutions which may display some similarities but which are, first of all, a point of reference for the legal practice in the period.

As has already been said, references to brothers and the relations between them appear in customary laws above all when the inheritance pattern concerning patrimony is defined. What they all have in common is the acknowledgement of an equal share of all brothers with the same father.⁸ A separate issue is the definition of a brother—as has already been mentioned, the *leges* illustrate a Christianity-influenced transformation of this seemingly obvious definition to the exclusion of brothers from outside lawful marriages. When it comes to brothers (full brothers and stepbrothers) whose status was beyond doubt, we can speak of egalitarianism in the share of patrimony. The legal principle of equality of all brothers as heirs was accompanied by equal rights and obligations concerning the duty of caring for non-married or widowed sisters (that is, the right to an equal share in the customary payments made by prospective husbands) and the right to an equal share in the *wergild* (the compensation for the murder, paid to the relatives of victim⁹) following the murder of one of the brothers.¹⁰ As the nearest collateral relatives, brothers also inherited from one another in equal shares, but only if the deceased left no offspring and his parents were dead as well.¹¹ In this respect we find a similarity between the regulations included in the *leges* and codes of vulgarized

8 *Lex Visigothorum*, in *Leges Visigothorum*, title 4, 2, 1, p. 174; *Liber Constitutionum sive Lex Gundobada*, in *Leges Burgundionum*, chap. 51, 1, pp. 82–83; *Edictum Rothari*, in *Le leggi dei Longobardi*, chap. 167, p. 46; *Liutprandi leges*, in *Le leggi dei Longobardi*, chap. 70, p. 162; *Leges Alamannorum*, chap. 85, p. 149; *Lex Baiuvariorum*, chap. 15, 9, p. 428: “Ut fratres hereditatem patris aequaliter dividant. Quamvis multas mulieres habuisset et totae libere fuissent de genealogia sua quamvis non aequaliter divites, unusquisque hereditatem matris suae possedeat, res autem paternas aequaliter dividant.”

9 About the concept of *wergild* in the early Middle Ages synthetically, see Esders, “Wergild.” See also other studies Bothe, Esders, and Nijdam, eds., *Wergild, Compensation and Penance*.

10 *Edictum Rothari*, in *Le leggi dei Longobardi*, chap. 161, 162, p. 44.

11 *Lex Visigothorum*, in *Leges Visigothorum*, title 4, 5, 4; pp. 200–201; *Lex Salica*, chap. 92, 2; 92, 6, p. 163 = *Pactus legis salicae*, chap. 59, 2; 59, 6, pp. 222–23; *Lex Ribuarica*, chap. 57, 2, p. 105; cf. *Lex Romana Burgundionum*, in *Leges Burgundionum*, title 12, 8, pp. 134–35; title 28, p. 148.

Roman law binding the descendants of the former inhabitants of the Empire.¹² The formal equality of brothers as heirs to their father's property did not mean equal shares in the inheritance, however.

This seemingly paradoxical statement can be easily explained. Apart from the legal sources, there was also a whole group of individual factors influencing the division of the inheritance among the heirs. The most obvious and, at the same time, the most difficult to pinpoint are personal preferences of parents, who may have wanted to offer privileged treatment to their favourite son and punish his recalcitrant brother. Codes of Lombard laws list the most serious misdemeanours for which a father could disinherit his son; it remains an open question is whether such specific norms of customary law were not by any chance attempts by the codifier to limit the freedom of parents to disinherit a child under some trivial pretext.¹³ On the other hand, the eighth-century laws of Liutprand, King of the Lombards, define in detail how much a father could add to the share of a favoured son. In promulgating the relevant regulation, the ruler invoked justice and his belief in its compliance with God's will. "For it is not right," claimed the king, "for faithful sons to remain without a reward, if even slaves could expect remuneration for their faithful service."¹⁴ If we leave aside at this point the Christian rhetoric, the law seems to point to a need to regulate an existing practice and its abuses rather than to a major change of existing customs. This is also confirmed by an interesting caveat made by Liutprand: a father could not take advantage of his right to expand the share of the sons from successive marriages when their mothers were still alive. For this might have led to accusations that he did it at the instigation of his current wife, who sought benefits for her own son at the expense of her stepsons.¹⁵ Thus the ruler abided by the general principle of equal division of patrimony among the sons, making an exception only for justified cases of special merits of one of the sons. Unfortunately, *leges* and royal legislation from other regions of Western Europe do not provide equally telling evidence of detailed regulations concerning brothers' right to inheritance.

The parental policy of offering privileged treatment to some sons at the expense of others by dividing the inheritance in a specific way is confirmed in documentary sources, especially those concerning the ruling elites of the Carolingian state.¹⁶ The evidence

¹² *Lex Romana Burgundionum*, in *Leges Burgundionum*, 12, pp. 133–35.

¹³ *Edictum Rothari*, in *Le leggi dei Longobardi*, chap. 168, 169, 170, pp. 46–48; The laws of the Alemanni and the Bavarians feature a case of a rebel son of a prince, who was to be excluded from his father's patrimony, *Leges Alamannorum*, chap. 35, 2, p. 93; *Lex Baiuvariorum*, chap. 2, 9, pp. 302–4; these regulations concerned an individual case and it is hard to say whether and how the norm was applied more broadly.

¹⁴ *Liutprandi leges*, in *Le leggi dei Longobardi*, chap. 113, p. 184.

¹⁵ *Liutprandi leges*, in *Le leggi dei Longobardi*, chap. 113, p. 184: "Quod si forsitan quisquam secundam aut tertiam mulierem duxerit, et habuerit filius et de anteriore conioge et de sequentem, non habeat potestatem illos posteriores, quorum mater vivit, meliorem facere, dum ipsa advixerit, nec dicat aliquis, quod per ipsa mulierem talis soasio facta fuisset."

¹⁶ See e.g. a document in which the father expanded his favourite son's share of the inheritance in *Cartae Senonicae*, MGH LL *Formulae Merovingici et Karolini aevi*, no. 23, p. 195. For more on the problem in the Italian context, see La Rocca, "Multas amaritudines filius meus mihi fecit."

provided by charters from the period illustrates first of all the practice of favouring elder sons, especially the eldest son, who were seen as continuators of their fathers' policy as well as heirs to the dignities and estates that were the core of the family inheritance. This privileged treatment also concerned the inheritance of symbolic objects (emblems of power, luxury goods, objects of religious value, etc.),¹⁷ with formal respect being shown to the overriding principle of equal division of the inheritance among all heirs. In other words, equal division of the inheritance between sons did not necessarily translate into equal sharing in inheritance of the prestige associated with the inherited property. This had obvious consequences for the social position of sons and heirs, both in the family hierarchy and in wider relations with their milieu: possibilities of entering into advantageous marriages, obtaining specific dignities, etc.

Another, obvious factor contributing to the emergence of hierarchies among brothers was their age. Elder brothers were obliged to take care, as their legal guardians, of their younger brothers until they came of age, respecting their equal share in the inheritance.¹⁸ This natural hierarchy, in which the elder brother replaced the father in his care duties, also led to the consolidation of subordination based most likely on both violence and authority. Ninth-century royal legislation even features provisions meant to prevent elder brothers from abusing their position and acting to the detriment of their underage siblings.¹⁹ Evidence of disputes among brothers—limited but significant—indicates that these regulations not only stemmed from the rulers' foresight, but were a response to a serious social problem.

Thus, if on the basis of legal sources we can say anything certain about equality among brothers before the law, this comes with a caveat that this equality included sharing in the inheritance from the father and brothers as well as equal sharing in other property obligations and rights. At the same time the sources testify indirectly to the fact that this formal equality could be negotiable; whether the principle was followed depended on a number of factors, above all the will of the testator and the capabilities of each brother.

Monastic Brotherhood

When considering the relations between brothers—simultaneously egalitarian and hierarchical in early medieval social ideas and practice—it is impossible to leave out their metaphorical understanding as determined by religion. An ideal model of a hierarchical relationship among brothers was the order in spiritual families, primarily in monastic communities. The monastic model is significant because on the one hand

¹⁷ See e.g. the inheritance policy of the Margraves of Friuli in the ninth century, evident in the dispositions of assets: La Rocca and Provero, "The Dead and Their Gifts," esp 249ff. On the prestigious significance of family heirlooms see Le Jan, *Famille*, 59–68.

¹⁸ Regulations concerning tutelage of younger siblings found in *leges* were clearly influenced by Roman law; the very term tutelage (*tutela*) is borrowed from this law, which does not change the fact that categories of Roman law were used most likely to describe a practice followed already in German societies; see *Lex Visigothorum*, in *Leges Visigothorum*, title 9, 3, 3, pp. 190–91.

¹⁹ MGH LL *Capitularia regum Francorum*, 1, no. 6, p. 219, undated Italian capitulary.

it was influenced by the secular milieu from which the monks were recruited, and on the other it influenced its social milieu and the collective ideas concerning the relations between brothers (be they spiritual brothers or brothers in Christ and, at the same time, brothers of the flesh). A monastic family became (or at least was supposed to become) an embodiment of the perfect divine order that should exist in every Christian family.

Early medieval normative texts drawing on the *Rule* of St. Benedict of Nursia stressed the equality of all brothers/monks before God; but at the same time emphasis was placed on the order of seniority that should be observed among them.²⁰ However, seniority among brothers did not stem from their biological age, but from the time that had passed since they made their vows, i.e. the moment in which they were born into a life devoted to God.

St. Benedict's description of order in a monastic congregation draws directly on the relations within a family, in which younger brothers (*iuniores, minores*) should respect their older brothers (*priores, maiores, seniores*), who in turn should surround the young with love. Interestingly, this respect shown to seniors by juniors was compared with respect due to the father. This was manifested by the fact that seniors were addressed as *nonnus*. Benedict explains this form as *paterna reverentia*. On the other hand, the seniors were to address the juniors always as "brothers"—*fratres*. Thus monks are brothers to one another, but the position of the seniors with regard to the juniors is analogous to that of fathers in the sense that the juniors should respect and obey them. In his *Concordia regularum*, Benedict of Aniane also referred, as a model for monks, to a fragment of the old *Rule of Paul and Stephen*, which spoke explicitly about this father-son relationship between older and younger brothers.²¹ A ninth-century commentator on the *Rule of St. Benedict*, Smaragdus of Saint-Mihiel, provided a significant addition to the fragment dealing with the duty of love between brothers: older brothers were told to imitate Jesus in their love for younger brothers, as Jesus, as the firstborn among many brothers, loved the Apostles with caring fraternal love.²² Worthy of note is the fact that in the terminology concerning the organization of the life of a congregation terms like *senior* or *maior* could refer both to the superior of a monk holding a position in a monastery, and to a brother that was a senior on account of his age or the length of stay in the monastery; a similar ambiguity can also be found in the case of the term *iunior*. Sometimes it is impossible to distinguish their meanings, which in itself provides significant evidence of the link between seniority and power. Underage boys residing in a monastery as oblates occupied a place similar to that of underage brothers in a family: all monastics who were of age and had taken their vows should jointly exercise custody over them, including the right to reprimand them, and the juniors remained subordinated to them.²³

²⁰ *La Règle de Saint Benoît*, e.g. chap. 63; chap. 71, 2.

²¹ Benedictus Anianensis, *Concordia regularum*, chap. 6, p. 92.

²² Smaragdi abbatis *Expositio in Regulam S. Benedicti*, 311.

²³ *La Règle de Saint Benoît*, e.g. chap. 63.

Primogeniture in the Early Middle Ages: A Historiographic Problem

As has already been said, customary laws providing a formal framework for society's life in early medieval kingdoms recognized equality of rights and obligations of all male descendants of one father (born in a legitimate relationship) and did not make a distinction among brothers on the basis of the order in which they were born. Yet evidence provided by non-legal sources shows that this principle co-existed with the practice of differentiating male siblings primarily on the basis of age. Obviously, in many cases this categorization was purely regulatory (for example, when successively born sons are listed); nevertheless, there is much evidence to suggest that behind such distinctions was a more complex content as well as concrete consequences for the status and rights of brothers with regard to each other and those around them. In order to explain this problem, we need to leave aside formal and legal questions and try to analyze texts dealing with non-legal aspects of this relationship. Let us begin, however, with some theoretical remarks.

Psychological and Cultural Determinants of the Position of the Firstborn in the Family

A special position accorded to the firstborn, especially the male firstborn, is a common phenomenon in human communities; scholars believe its determinants are non-cultural. According to theories advocated by evolutionary biologists, the first child owes its privileged position to two factors: first, the birth confirms the parents' ability to procreate, and secondly until the appearance of other progeny, the whole parental investment is in the firstborn. As years go by, as the eldest child in the family, the firstborn also benefits from the fact that he or she best confirms the ability to survive early childhood, the most dangerous period from the point of view of life expectancy.²⁴ Biological factors are reflected in many cultures where special qualities and rights are attributed to the eldest child, especially the eldest son. Psychologists have also pointed to the intellectual advantage of firstborns, a quality associated with their position in the family, which predestined them to play important roles in society—a quality that doomed them to success, as it were.²⁵ In the twentieth century, the birth order category was widely accepted in psychology as a fully legitimate explanation, though obviously not the only one, of personality differences among people.

The concepts became more widely circulated with the publication of a controversial book by the American evolutionary psychologist Frank J. Sulloway, *Born to Rebel*.²⁶ Sulloway argued (drawing on an analysis of selected examples, including historical ones)

24 Giza-Poleszczuk, *Rodzina a system społeczny*, 87–127.

25 Briefly about these theories and their criticism see Sutton-Smith, "Birth Order and Sibling Status."

26 Sulloway, *Born to Rebel*.

that birth order had a significant, if not decisive, impact on personality and thus on the choice of life strategies among siblings. In the model proposed by him it was the firstborns who displayed conservative qualities; they were reluctant to break the established rules and identified themselves more strongly with the family of their origin, while younger children, doomed to compete with their older siblings, had a tendency to rebel, break the established rules, and look for points of reference alternative to the family. The book became the subject of a heated debate, and Sulloway's theory was criticized, without really affecting its popularity. Most importantly, it prompted scholars, mainly those from the English-speaking world, to take a closer look at the relationships among siblings, which had been pushed to the background in analyses of the contemporary family and of the family seen in a historical perspective. In the case of historical studies, in which for obvious reasons we have access only to cultural evidence, these biological and psychosocial aspects are unavailable to us. We should nevertheless remember them, if only because they make us aware of how many factors that are potentially important to the understanding of these sources remain unknown to us.

In the few studies devoted by cultural anthropologists to the status of progeny in the family and to the relations among siblings, the problem of the position of the eldest children occupies an important place as well. Scholars studying such distant cultures as those of the traditional tribes of Oceania, Papua-New Guinea,²⁷ peoples of Sub-Saharan Africa²⁸ and indigenous inhabitants of Taiwan²⁹ note the common phenomenon of favouring the firstborns, especially firstborn sons, among the rest of the children. This is not just about their share in the inheritance, but it is a broader phenomenon of attributing to the firstborns (sons but sometimes also daughters) exceptional qualities as well as abilities (sometimes also magical ones). According to Meyer Fortes, who studies African cultures, favouring the eldest children did not depend on the model of kinship organization dominant in a given society: it appeared in societies with patrilineal, matrilineal and bilateral structures of kinship. On the other hand, advocates of radical evolutionism are inclined to challenge any cultural determinants in the preferment of a child by its parents, seeing in this only a product of environmental factors.³⁰

The special role of the eldest brother was reflected in belief systems. Comparatists, including Georges Dumézil, studying Indo-European mythologies have demonstrated a phenomenon, recurring in many cultures, of organizing the world of gods in hierarchical fraternal arrangements, in which the eldest of the divine brothers, endowed with special powers, ruled all the others.³¹ Structuralists and functionalists find the same order in historical narratives, in which the firstborns are often endowed with qualities of leaders and rulers—by definition royal qualities, as it were.

27 Scaletta, *Primogeniture and Primogenitor*.

28 Fortes, "The First Born."

29 Matsuzawa, *The Social and Ritual Supremacy*.

30 Hrdy and Judge, "Darwin and the Puzzle of Primogeniture."

31 See especially Dumézil, "L'idéologie des trois fonctions."

When it comes to the social practices of many cultures, we are dealing with multiple solutions in which the eldest child has special rights, though with the other siblings having considerable possibilities of building up their own position, also by participating in the division of joint property of a prestigious nature. In their studies of hierarchies of power in families, including inheritance models, anthropologists generally agree today, however, that primogeniture, i.e. the privileged position of the eldest (male) child at the expense of other children, is a rare, even extreme, phenomenon. That is why they are interested in European inheritance systems in which this unique system of family organization is well documented in the sources. When looking for answers to the question about the factors influencing the differentiation of family models, anthropologists like to refer to European historical evidence, though they analyze it using their own research tools. Both anthropologists and historians have been influenced particularly by the comparative studies of Jack Goody, who looked for the reasons behind the spread in medieval Europe of the untypical principle of strict primogeniture in a conscious policy pursued by the Church.³² Works by this scholar, well-known and regarded as a figure of authority also outside his own discipline, have provided new inspirations to scholars studying the history of the family, although Goody has also been heavily criticized in many aspects.³³

The Status of the Firstborns (Eldest Brothers) in Research on the Early Middle Ages

The question of the status of the eldest (male) progeny in the early medieval family has attracted the interest of scholars, though primarily in the context of the abovementioned discussion about the transformation of the family model in the eleventh–twelfth centuries. To put it simply, political and economic changes at the time apparently led to the replacement of the amorphous extended cognate family of the early Middle Ages with the patrilineal agnate family, with a privileged position of the eldest son as heir. The most far-reaching consequence of this process was the establishment of the principle of primogeniture in vast areas of Europe and the marginalization of younger sons, forced to look for alternative ways of building their position in society. A model example of the phenomenon was to be the social organization of the twelfth-century Norman elite in England, formally expressed in common law (e.g. in the *Tractatus de legibus et consuetudinibus regni Angliae* by Ranulf de Glanvill, ca. 1180).³⁴

32 Goody, *The Development of the Family*; Goody, *The European Family*. The interest in the problem of primogeniture among scholars from English-speaking countries may stem to some extent from the relevancy of the problem, especially in England, where until 1925 the principle was sanctioned by law; the consequences of its application left their clear mark on the culture, see recently Jamoussi, *Primogeniture and Entail*.

33 The discussion surrounding Jack Goody's theses as well as the impact of his model of European family transformations on research into the medieval family have been analyzed in detail by Bernhard Jussen, "Perspektiven der Verwandtschaftsforschung."

34 Concisely about the theoretical foundations of the concept: Crouch, *The Birth of Nobility*.

The power of this interpretative pattern was so great that for a long time historians ignored early medieval evidence challenging the thesis concerning the egalitarian nature of fraternal groups in the period.³⁵ Nor was a nuanced approach to this picture facilitated by a limited source base: as we have seen, early medieval normative texts on which reconstructions of family relations in the earliest period (from the fifth till the eighth and ninth centuries) were largely based provide strong arguments to substantiate the thesis concerning equality among brothers.

In general, it was only the already-mentioned criticism of the theory of a breakthrough in family structures and the shift of research interests towards local studies, based primarily on diplomatic source materials, and not just on normative sources, that led to the revision of views on the impact of birth order on the status of siblings and inheritance strategies. Constance B. Bouchard rightly notes that the model of shifting from the clan-based, amorphous structure of the early medieval cognate family to patrilineage with a dominant position of the firstborn son is based on a mistaken assumption: the identification of the concept of primogeniture with agnation-based inheritance. Yet, as she writes, “a man could intend his inheritance for his sons, and those sons identify themselves with their father rather than with other kin, without any presupposition that the oldest son should take precedence.”³⁶ The adoption of such a point of view makes it possible to separate two usually jointly discussed problems: inheritance strategies and the position of the eldest son. As we encounter traces of parents favouring their firstborn son in early medieval sources, we can analyze such evidence irrespective of the problem of the legal basis of property relations among brothers. This paves the way for a search for other, just as legitimate explanations of such relations. Thus we avoid the trap awaiting scholars using complicated hypotheses to fit source evidence into the structure of a model constructed on the basis of an analysis of just one aspect of the functioning of early medieval family groupings.

On the other hand, the institution of primogeniture in the full sense of the word (that is, a form of preference of the eldest son which resulted in the younger siblings being completely eliminated from inheritance or having their share in the patrimony reduced) did appear in various parts of Europe already in the eleventh and twelfth centuries, but this can be viewed as one of many tendencies rather than a clearly defined process of change. For primogeniture (or, to be more precise, its various forms) may have co-existed with other forms of land tenure and title inheritance, while the choice of the form of inheritance may have changed over successive generations, even within one family group, and depended on many factors (status, type of estate to be inherited, property structure, kinship relations, etc.). A general conclusion from studies based

35 This view was most emphatically articulated probably by Geneviève Bührer-Thierry (*L'Empire carolingienne (714–888)*, 49): “les fils d’un même lit, et mèsouvent tous les enfants issus d’un même père, forment une société fraternelle dans laquelle chacun jouit des mêmes prérogatives. L’idée du droit d’aînesse est totalement étrangère à la société franque, même si l’on voit bien dans tous les partages que certains fils sont favorisés par rapport à d’autres, mais jamais au point d’avoir autorité sur eux.”

36 Bouchard, *Those of My Blood*, 65–66.

on documentary sources is that there was considerable local variability in inheritance strategies and that there is no evidence of a clear shift.³⁷

What came to the fore in traditionally Franco-centric historiography were obviously the disputes shaking the Carolingian dynasty when succession rules were established and successive divisions of the Carolingian realm were carried out. This thread is evident especially in studies devoted to the rivalry over the throne among Louis the Pious's sons. Reflections are based primarily on two extant sources describing the division of the realm among the brothers: Charlemagne's *Divisio Regnorum* of 806 and Louis the Pious's *Ordinatio Imperii* of 817.³⁸

In her study of the political aspects of succession in the Frankish monarchy and the relations between the various generations of Charlemagne's heirs, the most extensive to date, Brigitte Kasten provides a detailed analysis of the evidence suggesting the existence of tension between the privileged position of the eldest son, predestined to some form of precedence over his younger siblings, and the principle, established in law and practice, of the division of the inheritance among all male heirs.³⁹ In Kasten's interpretation, the conflict between Louis the Pious and his eldest son, Lothar I, in the 830s, and especially the later fights among the emperor's sons, grew out of the impossibility of reconciling mutually exclusive models of monarchy: the model inherited from the Merovingians based on the emperor's sons equal share in power, and the idea of primogeniture, emerging already at the beginning of Louis the Pious's reign and ultimately formulated by Lothar I. When distinguishing the various stages of the evolution of the Carolingian idea of power organization within the dynasty, Kasten even describes the period of 840–855, that is between the death of Louis the Pious and the death of Lothar I, as a period of *Primogenitur-Modell*.⁴⁰ The concept collapsed as a result of many factors on which the rulers had no influence—as Kasten writes, it was too early for its adoption.⁴¹ According to her the history of the Carolingian monarchy in the ninth century becomes, in a way, a history of a failed political experiment, from the traditional division of the monarchy among all sons (under Pippin III), through the gradual strengthening of the position of the eldest son—but with all legitimate sons still having a share in power (under Charlemagne)—to the idea of the primacy of the eldest son (Lothar I).

37 See e.g. Livingstone, *Out of Love for My Kin*, 87–119, esp. 112ff.; Cassagnes-Brouquet and Yvernault eds., *Frères et sœurs*, 95–136.

38 The literature dealing with interpretations of these two sources is impressive and it is hard to list all items. Among older studies see especially Schlesinger, "Kaisertum und Reichsteilung"; Classen, "Karl der Grosse und die Thronfolge"; Hägermann, "Reichseinheit und Reichsteilung"; Boshof, "Einheitsidee und Teilungsprinzip"; see also Giese, "Die designativen Nachfolgeregelungen" and studies collected in Kasten, ed., *Herrscher- und Fürstentestamente*; Schäpers, *Lothar I. (795–855)*, 71–85.

39 Kasten, *Königssöhne*; Bühner-Thierry even called the *Ordinatio* of 817 a "little revolution," *L'Empire carolingienne*, 49.

40 Kasten, *Königssöhne*, 378–427.

41 Kasten, *Königssöhne*, 308, 378–427; cf. Patzold, "Eine 'loyale Palastrebellion.'" Patzold believes that the main cause of controversy among the political elite was the procedure of establishing the rules of succession, not the division of the state itself.

The elegant, erudite model proposed by Brigitte Kasten is, in fact, a development of earlier research proposals formulated by scholars of the German school of legal history. However, neither Kasten nor the other historians studying the problem of the inheritance order and the dilemmas facing Carolingian rulers with numerous male progeny paid much attention to an analysis of the broader cultural context in which political concepts of succession emerged. Yet asking the question about what it meant in the ninth century to be the eldest son or brother, which social ideas were associated with this position, and whether these ideas changed in the period under scrutiny, what was behind the notion of the “privilege of the firstborn,” and whether we can use the concept of primogeniture as a separate category in the period, seems not only relevant but also necessary. The problem will be discussed in the following pages of the book.

Terminology

Reflection on the place of the eldest son/brother in the family group should start with a discussion of the terminology. The basic distinction that should be introduced is between the notion of “the eldest brother/son” and “firstborn.” While the former is neutral—it refers solely to the biological birth order—the latter stresses the primacy of the firstborn among all siblings. In the Latin terminology of early medieval sources this distinction is clear, and the meanings of the two terms differ substantially.

Maior natu

The eldest child is usually described in sources from the period as *maior natu* (or *senior natu*⁴²), which indicates the birth order. The term was used with reference to both male and female progeny.⁴³ In addition to describing the order, the term also appears regularly as a justification of special prerogatives granted to the person to whom it refers. This was the case, for example, of Milogost (Milegast), Prince of the Obodrites—his choice as the ruler of the Veleti is explained by the author of the *Royal Frankish Annals* briefly as follows: “quia maior natu erat.”⁴⁴ Similarly, when writing about the split among the Aquitanian aristocracy following the death of Pippin, son of Louis the Pious, Nithard (d. 845) points out that some of the magnates sided with his son, also named Pippin, “quia natu maximus erat.”⁴⁵ Regino of Prüm (d. 915) used such a phrase in a similar context, when he wrote about the division of the Carolingian domain among the sons of Louis the Pious: Lothar I was to receive the central part as the one who “maior natu erat et imperator appellabatur.”⁴⁶ In this sense the

⁴² When analyzing the terminology referring to brothers in the *Ordinatio imperii* of 817, Sumi Shimahara is inclined to see in the term a reminiscence of vassalage (Shimahara, “La rivalité entre frères,” 109–12). This interpretation probably goes too far, if only because of the presence of the term with regard to the seniority of brothers understood metaphorically in older texts (like the Rule of St. Benedict) and in secular texts dealing with relations between siblings, see below.

⁴³ ArFranc., 131, with reference to Rotrude, Charlemagne’s daughter, who died in 810.

⁴⁴ ArFranc., 160, a. 823.

⁴⁵ *Nithardi Historiarum libri IV*, 12.

⁴⁶ *Reginonis abbatis Prumiensis Chronicon*, 75, a. 842.

term *maior natu* was sometimes also used to refer to an elder but not necessarily the eldest brother. For example, as an elder brother, Louis the German was the first to take the oath which was to cement his alliance with Charles the Bald against their elder brother Lothar I.⁴⁷ The term may have also been used to refer to older progeny, for example from an earlier marriage; in such cases these *seniores natu* were contrasted with their younger siblings.⁴⁸

Yet there are more meanings behind the term *maior natu*. In Carolingian sources, the term was also commonly used as a noun and in the plural (*maiores natu*) to describe people heading a group not linked by blood ties. It was mostly the political elite of a state, ethnic group or other community.⁴⁹ These elders were as a rule and in the authors' intention men of authority and were entitled to exercise some form of power over or (speak on behalf of) the group they headed.

The terminological similarity is not without significance, pointing indirectly to a similarity of position attributed to elder brothers and to elders in general. The privileged position was closely linked to birth, in the case of both hierarchical order among siblings and an individual place in broader groups in society.⁵⁰ In the latter case, seniority of birth obviously did not have to have anything to do with actual age, but the very term points to analogies in the understanding of social and family relations. Within a given community, *maiores natu* were in a way a collective equivalent of the eldest brother among siblings. They enjoyed similar prestige and were called to lead and represent the group outside.

Primogenitus

In addition to *maior natu*, in order to unequivocally distinguish the eldest son Carolingian authors used the term *primogenitus*. The Latin word *primogenitus* is a calque of the Greek term *prototokos*, used in the language of Scripture and of theological debates in the Byzantine Church.⁵¹ It is no coincidence that the term in its Latin version spread in the West during a period of intense doctrinal disputes over the nature of Jesus, disputes

⁴⁷ *Nithardi Historiarum libri IV*, 35, 36, a. 842.

⁴⁸ *Annales Mettenses priores*, 19, with reference to Drogo and Grimoald, deceased stepbrothers of Charles Martel.

⁴⁹ There are numerous examples of the use of the term; to list just a few: in 757 Duke Tassilo of Bavaria pledged an oath of fealty to Pippin III and to "eius homines maiores natu" (ArFranc., 16); a canon of the Council of Cividale del Friuli (796/797) imposed on the local elders ("vicini et maiores natu loci illius") a duty of verifying whether prospective spouses were not related (MGH LL Concilia 2/2, no. 21, chap. 4, p. 191); *maiores natu* was a term sometimes used in reference to church dignitaries, e.g. in the records of the Council of Soissons (a. 853) considering the legality of the ordinations carried out by Archbishop Ebbo of Reims (MGH LL Concilia 3, no. 27, p. 274); in document formulas *maiores natu* appear alongside church or secular dignitaries, see e.g. Louis the Child's document for the monastery of Niederalteich (a. 905), in which the ruler issued a privilege, urged by "episcopos, comites, ceterosque natu maiores et consiliarios nostros," (MGH DD regum Germaniae ex stirpe Karolinorum 4, no. 39, p. 157).

⁵⁰ Le Jan, *Famille*, 31.

⁵¹ Sheerin, "Christian and Biblical Latin," 143.

provoked by the heterodox teaching of the Toledan advocates of adoptionism. According to this concept, Jesus was the only-begotten (*unigenitus*) Son of God, but in his human nature the firstborn (*primogenitus*) among the many who were made sons by the grace of God.⁵² The debate culminated in the Frankish assembly and synod of Frankfurt in 794, during which the views spread by bishop Felix of Urgell (d. 818) were opposed by, among others, Alcuin and Paulinus of Aquileia (d. 802), proclaiming the dogma of Jesus as the only-begotten and firstborn Son of God.⁵³ A few years later Paulinus of Aquileia developed the synodal arguments in the treatise *Contra Felicem*,⁵⁴ soon after that Alcuin, too, again joined the dispute with his Christological writings.⁵⁵

From the beginning of the ninth century onwards, the word *primogenitus* became increasingly popular in the language of Latin works written in Carolingian court circles and began to be used also outside theological works, with reference to living individuals.⁵⁶ The term was often used by the author (or authors) of the *Royal Frankish Annals*: *primogenitus* was applied to Charles the Younger and Lothar I.⁵⁷ The word also appears multiple times in the *Annals of Metz*, compiled probably at the royal monastery at Chelles.⁵⁸ It was used by Nithard in his *Histories*,⁵⁹ as well as by biographers of Louis the Pious, Thegan (d. 849–853)⁶⁰ and an anonymous author called the Astronomer,⁶¹ later also by Regino of Prüm, among others.⁶²

Charles the Younger was described in that manner also in Charlemagne's act of succession, known as *Divisio regnorum*, of 806;⁶³ similarly, eleven years later *primogenitus* was used in reference to Lothar I in Louis the Pious's *Ordinatio Imperii*.⁶⁴ In a source

52 On early medieval adoptionism, Cavadini, *The Last Christology of the West*.

53 For more on the adoptionist polemic during the Synod of Frankfurt and its role in the shaping of Carolingian intellectual culture, see the studies collected in the volume Berndt, ed., *Das Frankfurter Konzil von 794*, 103–23, 767–86, 809–60.

54 Paulinus Aquileiensis, *Contra Felicem libri tres*.

55 On the role of Alcuin in these disputes, see Bullough, *Alcuin*, 419–31.

56 In the Merovingian period the few examples of the use of the term *primogenitus*, outside the obvious biblical context, come from hagiographic writings, though it should be noted that these cases concern descriptions of the offering of firstborn progeny, future saints, for consecrated life. The biblical analogy is thus clear in these cases as well, see e.g. the description of the baptism and death of the firstborn son in *Gregorii episcopi Turonensis Libri historiarum X*, lib. 2, 29, pp. 74–75; see also *Gregorii episcopi Turonensis Liber vitae patrum*, 1/2, p. 230; *Vita Audoini episcopi Rotomagensis*, 554; *Vita Wilfridi I*, 213.

57 *ArFranc.*, 18, 21, 146, 156.

58 *Annales Mettenses Priores*, 16, 44, 71, 78.

59 *Nithardi Historiarum libri IV*, 14.

60 Theganus, *Gesta Hludowici imperatoris*, 180, 216.

61 Astronomus, *Vita Hludowici imperatoris*, 380, 402, 412.

62 *Reginonis abbatis Prumiensis Chronicon*, 111.

63 MGH LL *Capitularia regum Francorum*, 1, no. 45, pp. 126–30.

64 MGH LL *Capitularia regum Francorum*, 1, no. 136, pp. 270–73.

originating in the abbey of St. Gallen and containing a list of members of the Carolingian dynasty known as *Breviarium Erchanberti* (more precisely, in its continuation for the years 840–881), the term was applied to the eldest sons of rulers from successive generations (Lothar I and Carloman, son of Louis the German).⁶⁵ That the terminology was used outside the circle of the ruling dynasty is evidenced by Dhuoda's *Liber manualis*, in which the author refers in this manner to her eldest son William.⁶⁶

The direct impact of the language of theological debate on historiographical and literary texts, and especially the emergence of the term *primogenitus* in documentary sources concerning the most important political issues, requires an in-depth analysis. The content behind the term cannot be reduced merely to a technical distinction of the order in which a ruler's children were born. The establishment of the notion of primogeniture in biblical language and tradition forces us to ask how these biblical models influenced the way relations between brothers were viewed and how they were used to create an image of these relations. However, in order to answer these questions I need first to analyze in greater detail the presence of the biblical motif of primogeniture as well as the values associated with the person of the firstborn in theological and exegetical works of the period.

Firstborns and Primogeniture in Ninth-Century Exegetical Writings

Locutus est Dominus ad Mosen dicens "sanctifica mihi omne primogenitum quod aperit vulvam in filiis Israel tam de hominibus quam de iumentis mea sunt enim omnia."⁶⁷

Then the Lord spoke to Moses, saying, "Consecrate to Me all the firstborn, whatever opens the womb among the children of Israel, both of man and beast; it is Mine."

Ex. 13:1–2

For early medieval theologians this fragment of chapter 13 of Exodus became a justification of the special elevation of the firstborn among all brothers. For all firstborns belong to God by birth and were chosen by God himself. Although the Old Testament passage speaks of the Levites as those whose role it is to serve at the altar of incense in the name of all firstborns, yet the firstborns did remain those who were united with God by a special bond. However, opinions differed as to the nature of this bond. The problem was discussed by Jewish scholars, and it attracted the attention of Christian commentators from the times of the Church Fathers.⁶⁸ Among the latter, controversy surrounded primarily the understanding of the term *sanctus* used with reference to firstborns in the Gospel of Luke (Luke 2:23).

In the ninth century the motif of firstborns consecrated to God became important during the dispute surrounding the sending of underage progeny to monasteries as

⁶⁵ *Erchanberti Breviarium Monachi Augiensis continuatio*, 329–30.

⁶⁶ Dhuoda, *Manuel*, lib. 1, 7, p. 116.

⁶⁷ All Latin quotations from the Bible after *Biblia Sacra iuxta Vulgatam Clementinam*.

⁶⁸ Brin, *Studies in Biblical Law*, 215ff.

oblates. This dispute is of particular interest to us, as it shows how the contents of biblical exegesis became part of polemics beyond the narrow circle of the intellectual elite.

The Old Testament theme of the bond uniting firstborns with God and the fact that they were destined for priesthood as a result was considered by Hrabanus Maurus in his *Book on the Oblation of Boys* (*Liber de oblatione puerorum*).⁶⁹ The work was written in response to accusations of illegitimacy of child oblation made by Gottschalk (d. 866–869), a monk from the monastery of Fulda.⁷⁰ Gottschalk, who came from a noble Saxon family, demanded that his monastic vows be annulled as illegitimate under customary law, which did not allow any free man to be deprived of his free status. For him the fact that he had been sent to a monastery as a child had deprived him of his liberty and reduced him to the status of an enslaved servant. He also raised objections concerning formal shortcomings in the oblation procedure, which he regarded as an act of donation. The donation was made in violation of the personality of law, for the witnesses were not Saxons but Franks. In the dispute, even the bishops to whom Gottschalk referred were not unanimous, and the matter eventually ended up being considered at the 829 Synod.

In his treatise *De oblatione puerorum*, addressed to no less a figure than Emperor Louis, Hrabanus Maurus vehemently opposed the arguments put forward by Gottschalk. The words from the Book of Exodus 13:1–2 were, Hrabanus believed, an argument justifying the legitimacy of the action of parents who consecrated their children to divine service before they reached maturity. The motif has been pointed out by Mayke de Jong in her study of the early medieval phenomenon of child oblation and in a detailed analysis of Gottschalk's case. The Old-Testament-derived biblical injunction to offer firstborns for the priesthood recurs also in hagiographic works from the late eighth century and the ninth century, analyzed by De Jong.⁷¹ As she notes, although its in-depth theological interpretation came only in the ninth century, its durability is evidence of the firmness of the belief in the special place of firstborns in the order of creation; she also points to the social consequences that may have arisen from this fact.

It was no coincidence that in *De oblatione puerorum* Hrabanus developed the biblical theme of the Levites chosen from among all tribes of Israel to serve God in place of all firstborns. They were chosen like one sibling among all siblings, by a decision of the equal brothers that were the Israelites. Following that decision, they lost their share in their inheritance in exchange for the special status of priests. Therefore, writes Hrabanus, if the brotherly tribes of Israel, equal in their status, could take such a decision, so too can parents offer one of their progeny to God, excluding him from his

69 Rabanus Maurus, *Liber de oblatione puerorum*, cols. 419–39.

70 Gottschalk is known in the literature primarily in connection with his unorthodox views on predestination (see Gillis, *Heresy and Dissent*). However, the matter of his forced ordination provoked an important dispute among higher clergy in the late 820s and early 830s, see letters in *Epistolarium Fuldensium fragmenta*, analyzed in detail by Mayke de Jong, *In Samuel's Image*, 77ff.; on the dispute between Hrabanus and Gottschalk see Patzold, "Hraban, Gottschalk"; Gillis, *Heresy and Dissent*, 24–51.

71 De Jong, *In Samuel's Image*, 163–69.

inheritance: for the power is theirs.⁷² And, although all firstborns are by birth marked in a special way by God, it is up to the parents to decide which of their children should be destined for monastic life. Thus, when parents choose one among their many sons, they in fact indicate the one who will have the privilege of performing the priestly function associated with the firstborn. He thus becomes elevated above the other brothers, even if he is the youngest among them.

In *De oblatione puerorum* the effort put by the author into resolving the conflict resulting from the contradictions between parallel normative systems in ninth-century Frankish society is striking. As Hrabanus himself wrote, opponents of child oblation invoked a customary law banning groundless deprivation of the liberty of a man who was born free.⁷³ Giving an underage child to a monastery, that is to God's service, was apparently interpreted as selling him into captivity in exchange for some expected grace. There is an interesting mixture of the concept of the reciprocity of gifts offered to God (*do ut des*), in which the child becomes an object of exchange, and ideas concerning the free status of man. In his response to his opponents' accusations, Hrabanus Maurus objected to human law (customary law) and God's law being considered equal. In the latter there was no distinction between free men and slaves; all the faithful were regarded as equal in Christ and serving God was seen as man's most noble vocation. Those who by birth (as firstborns) or by their parents' will (chosen as the biblical firstborn) were destined for monastic life became the closest to Jesus in the fraternal community of Christians.

What is important from our point of view, however, is another issue: Hrabanus's work, addressed to Emperor Louis the Pious, confirms that the argument concerning the special place of firstborns enshrined in God's law as recorded in the Old Testament could be effectively used in the polemic surrounding the application of customary law to the functioning of the Church, and involving not only learned theologians. In order for the argument to be accepted and regarded as decisive, it had to be understood. In other words, it is not only the ninth-century elites that must have understood the use of the Old Testament as a source of law (as is confirmed by sources in this particular case, but also in other circumstances), although not necessarily seen as superior to customary law (which quite understandably outraged Hrabanus Maurus). In challenging the legitimacy of his ordination, Gottschalk was not alone after all: he was surrounded by relatives and supporters, Saxon nobles who had been professing their belief in Christ for just two generations. They were the ones who confirmed that Gottschalk's oblation violated the personality of law principle and had at least an indirect impact on the effectiveness of the enforcement of the synodal ruling. The confrontation between legal systems drawing on different sources of law did not occur only in quiet monastic scriptoriums, in abstract reflections of exegetes and canon law experts. It occurred primarily in concrete situations of public life, also during court battles which decided the fate of individuals, and during which judgements were based on a side-by-side analyses of customary law

⁷² De Jong, *In Samuel's Image*, 156–57.

⁷³ Rabanus Maurus, *Liber de oblatione puerorum*, col. 419.

and Old Testament imperatives of God's law. Wherever the intricate theological matter had to be translated into the language of practice, it could also be understood by minds not trained in subtle theological disputes. In the dispute over Gottschalk's case, the biblical idea of primogeniture with all its consequences became not a distant abstract model, but a legal concept associated with the existing social order and inevitably clashing with customary law, which belonged to a different value system.

The Old Testament contains a unique definition of primogeniture: the firstborn (*primogenitus*) is the one who opens the woman's womb. Thus primogeniture is defined by the relationship between child and mother. According to this tradition, it was not necessarily the son coming to this world as the first in the family that was the firstborn (for example, the first son of a remarried widow would not be the firstborn, if she had children in her first marriage). Consequently, there could also be several firstborn sons from different mothers in the same family. This was the meaning of the multiple firstborns of one father mentioned by Hrabanus Maurus in his *Commentary on the Book of Joshua*, dedicated to Lothar I.⁷⁴ When listing the tribes of Israel beyond the Jordan River, he said that their special status stemmed from the primogeniture of their leaders: their tribes were led by Jacob's firstborn sons Reuben and Gad as well as Joseph's son Manasseh, adopted by Jacob. Reuben and Gad were Jacob's firstborns by different mothers, while his grandson Manasseh, whom he adopted, was his firstborn by Joseph's wife. Each of them, as the first son born to one father but different mothers, could be called firstborn, in accordance with the Book of Exodus 13:2.⁷⁵

It should be noted, however, that the term *primogenitus* used in the Latin translation of the Old Testament covers at least two different Hebrew terms referring to primogeniture. One of them, *bēkōr*, can be approximately translated as "the eldest son [of his father-mother]." In addition, there is the term *peter rehem* referring precisely to "the one who opens the womb."⁷⁶ In the Latin translation this distinction was blurred, but the context in which these words appeared pointed to their ambiguity. As a result of this lexical imprecision, Christian interpreters had problems with reconciling different contents behind this one Latin term, sometimes referring to the first child of a mother, and sometimes to the first child of a father.

From the point of view of Christian exegetes the definition of primogeniture recorded in the Book of Exodus caused considerable problems of a different nature as well. They included the need to explain the meaning behind the words of Luke the Evangelist, who invoked Moses's law of the firstborns when describing the presentation of Jesus in the temple (Luke 2:23). The controversy surrounded two fundamental theological issues: Jesus's human and divine natures, and Mary's virginity.

⁷⁴ Rabanus Maurus, *Commentariorum in librum Josue libri tres*, col. 1099.

⁷⁵ Similarly see Rabanus Maurus, *Enarrationum in librum Numerorum libri quattuor*, col. 805; Rabanus Maurus, *Enarrationis super Deuteronomium libri quattuor*, col. 855.

⁷⁶ Brin, *Studies in Biblical Law*, 212ff.; Greenspahn, *When Brothers Dwell Together*, 30–81, esp. 59ff.; Kim, *The Firstborn Son*, see also Paszkowska, *Fraternitas*, 75–91.

In the ninth century, the debate concerning Mary's perpetual virginity focused on two main topics. At its centre was a polemic with the teachings of Helvidius, a fourth-century author who claimed, drawing on his interpretation of the words of the Evangelist (Matthew 13:55–56), that Jesus had younger brothers whom Joseph begot by Mary and, consequently, Mary could not have remained a virgin after Jesus's birth. These views were criticized by St. Jerome in *The Perpetual Virginity of Blessed Mary*. In the early Middle Ages this work became a fundamental point of reference for exegetes, beginning with the Venerable Bede, struggling to interpret the above-mentioned fragments of the New Testament.⁷⁷

Supporters of the thesis concerning a physical relationship between Mary and Joseph claimed that if Jesus had not had brothers, he would not have been called firstborn. For "firstborn" is a term that could only be applied to the first of brothers—an only son could not be a firstborn, for he could not be described as first (*primogenitus*). Thus Mary must have given birth to other sons after the birth of Jesus, and so she could not have remained a virgin. In their polemics against this view various exegetists, including Paschasius Radbertus (*De partu virginis*), Hrabanus Maurus, Smaragdus of Saint-Mihiel and Christian of Stavelot, in their commentaries on the Gospel of Matthew reiterated Jerome's arguments, invoking the Old Testament definition of primogeniture recorded in the Book of Exodus. If the firstborn is the one who opens the woman's womb, there is no justification in saying that the firstborn is only the one who is the first among brothers. For what matters here is the very fact of being born of a hitherto childless woman. Thus Jesus could be both the firstborn by Mary and only-begotten by God himself, and, at the same time, Mary did not have other children apart from Jesus.⁷⁸ This view was succinctly summed up by the words of St. Ambrose repeated by ninth-century theologians: "firstborn, for none was [born] first before him; only-begotten because only he was [born]" ("primogenitum, quia nemo ante ipsum, unigenitum, quia nemo post ipsum").⁷⁹

However, the Old Testament definition of primogeniture as the opening of a woman's womb caused other interpretative problems as well. Even if it was possible to reject on its basis the view that Jesus had siblings, it was difficult to reconcile St. Luke's words with the belief in Mary's perpetual virginity, that is also after Jesus's birth. In the mid-ninth century a dispute over this fragment of the Gospel involving two eminent theologians from Corbie, Ratramnus (d. ca. 870) and Paschasius Radbertus—contributed to a clarification of a number of detailed questions, including the ambiguity of Jesus's primogeniture.

77 Beda Venerabilis, *In Lucae euangelium expositio*.

78 Paschasius Radbertus, *De partu virginis*, lib. 1, vv. 539–93, p. 64; Rabanus Maurus, *Expositio in Matthaum*, lib. 1, vv. 21ff.; Smaragdus S. Michaelis, *Collectiones in Epistolas et Evangelia*, cols. 24–25; see also Heiricus Autissiodorensis, *Homiliae per circulum anni*, 24, v. 117; Haymo Halberstatensis [Haimo of Auxerre], *In divi Pauli epistolas expositio*, cols. 825–26.

79 Ambrosius Mediolanensis, *De fide* lib. 1, chap. 14, v. 28; Florus Lugdunensis, *Collectio ex dictis XII Patrum*, p. 208, v. 2.

In *De partu virginis* Paschasius Radbertus argued that the phrase of the opening of the womb taken by the Evangelist from the Old Testament was not used in the literal sense, but to demonstrate that the law given by God to Moses and sanctifying all firstborns foreshadowed the coming of the Firstborn sanctified by nature.⁸⁰ Thus the womb remained closed and Jesus was a firstborn of Mary but only-begotten. At the same time, in accordance with the teaching of St. Paul (Romans 8:28), by his human nature he was also the first (firstborn) among all his brothers—the children of God—the one who had opened the womb of Mother Church, being the firstborn among all creation and through this the firstborn among all the dead (Revelation 1:5).⁸¹

From the point of view of the present analysis, the most interesting question is the one posed by St. Ambrose⁸² and repeated by Paschasius Radbertus, as he wondered about the essence of the sanctification of the firstborns. How is it possible, he asked, that under God's law every firstborn is to be sanctified, if many among the firstborns violated this law, like Ahab and Jehoram? Answering the question, he used the words of St. Ambrose: not every firstborn is sanctified by birth, but each can be called a saint as a prefiguration of Christ,

80 Paschasius Radbertus, *De partu virginis*, lib. 1, vv. 410–21, pp. 60–61: “Nam quod dicit euangelista: Quia omne masculinum adaperiens uuluam sanctum Domino uocabitur, non ideo dicit, ut nos cogat credere quod Christus uuluam matris aperuit, ut alii, sed ut doceret quod ideo sistunt eum Domino, ut facerent secundum consuetudinem legis pro eo quia omne masculinum adaperiens uuluam sanctum Domino uocabitur, in mysterio legis et sacramento sacrae praefigurationis. Non enim euangelista hoc testimonium de lege ideo adhibuit ut monstraret Christum uuluam uirginis reserasse sicut caeteri primogeniti, sed ut ostenderet eum sub lege factum, et de uulua uirginis prodisse, non qui uocaretur tantum sed qui esset essentialiter sanctus, cui iure patet omne clausum.”

81 Heiricus Autissiodorensis, *Homiliae per circulum anni*, 8, vv. 151–67: “Redemptor autem noster si spiritualiter perpenditur, et unigenitus est et primogenitus, tam secundum diuinitatem quam secundum humanitatem. Secundum diuinitatem unigenitus est, iuxta quod Iohannes dicit: Vidimus gloriam eius, gloriam quasi unigeniti a patre, quia in natura diuinitatis non habet alios fratres. Primogenitus etiam fuit secundum diuinitatem, quia ante omnem creaturam genitus est a Deo patre, sicut per Salomonem dicit: Ego sapientia ex ore altissimi prodiui, primogenita ante omnem creaturam. Secundum humanitatem quoque unigenitus est, quia beata uirgo ignara fuit maritalis amplexus, neque genuit nisi ipsum solum. Est autem per hoc primogenitus, quia ipsum primum genuit beatissima uirgo; est etiam primogenitus in multis fratribus, sicut apostolus dicit, quia habet multos fratres adoptiuos, de quibus Iohannes loquitur: Quotquot autem receperunt eum, id est crediderunt in eum, dedit eis potestatem filios Dei fieri; quos filios Dei fecit utique fratres sibi constituit, licet adoptiuos.”; Paschasius Radbertus, *De partu virginis*, lib. 1, cf. Smaragdus S. Michaelis, *Collectiones in Epistolas*, col. 527: “Ut sit ipse primogenitus in multis fratribus. Secundum quod unigenitus dicitur, fratres non habet, hoc est, secundum diuinitatem. Secundum id autem quod primogenitus dicitur, fratres habet, hoc est, secundum humanitatem, unde est et illud: Primogenitus ex mortuis, ut sit ipse primatum tenens ex resurrectione mortuorum”; Rabanus Maurus, *Expositio in Matthaem*, lib. 8, v. 10; Rabanus Maurus, *Enarrationum in Epistolas beati Pauli*, 111, col. 1469; 112, cols. 510–11; Sedulius Scotus, *Collectanea in omnes B. Pauli Epistolas*, cols. 79, 225; Haymo Halberstatensis [Haimo of Auxerre], *In diui Pauli epistolas expositio*, cols. 436–37; and in works by ninth-century commentators, see Atto Vercellensis, *Expositio in Epistolas S. Pauli*, cols. 211, 614; Remigius Antissiodorensis, *Homiliae*, col. 886; on the Carolingian commentaries on the letters of St. Paul see Heil, *Kompilation oder Konstruktion?*

82 Ambrosius Mediolanensis, *Expositio euangelii secundum Lucam*, lib. 2, v. 766.

even if he sinned. For Jesus opened the womb of his bride: the Church, as every firstborn under the First Covenant opens the womb of his mother—in order to bear offspring through the New Covenant. And as Mary remained unblemished, so too would the Church remain pure.⁸³

Thus, in line with Paschasius Radbertus's reasoning, all firstborns, although not sanctified by birth, were marked in a special way, being a sign of the Firstborn. This interpretation, supported by the authority of St. Jerome, and expanded and popularized in the ninth century by Hrabanus Maurus, Heiric of Auxerre, and other theologians, found three meanings in the biblical passage about the firstborns: under God's law, every firstborn is consecrated to God in the spiritual sense; all firstborns are a sign of Jesus Christ, who, only-begotten by nature, is the firstborn among all creation; in the moral sense, on the other hand, what is firstborn of the human soul is due to God, and every transgression committed by the five senses of the body should be redeemed through penance like the firstborns of all animals for five shekels of silver (Numbers 18:16).⁸⁴

Yet in the Old Testament tradition the firstborns are defined not just by their special connection with the sacred but also by their rights, making them unique among all brothers. The privilege of primogeniture (*ius primogenitorum*) is another topic of the theological debate which indirectly influenced the ideas of fraternal relations and, as I will try to demonstrate, to some extent also the practice of the family life of the Carolingian elites.

83 Paschasius Radbertus, *De partu virginis*, lib. 1, vv. 481–92: “Alioquin si litteram sequimur quomodo sanctus erat omnis masculus aperiens uulvam, cum multos sceleratissimos fuisse non lateat? Numquid sanctus Achab, aut Ioram, seu caeteri? Numquid sancti pseudoprophetae, quos ad Heliae preces ultor caelestis iniuriarum ignis absumsit? Non utique; sed in sacramento futurae praefigurationis uocabantur sancti, cum non essent, donec ueniret Christus essentialiter sanctus, qui et sponsae suae uulvam aperiret fecunditatem que pariendi filios refunderet. Ipse namque dominico dignus iudicatus est obtutu; caeteri omnes iuxta legis seriem typum fuisse futuri nemo qui ambigat. Et ideo sistunt eum Domino quoniam ipse est purgatio per resurrectionem octauae diei in Ierusalem, ut in eo condonetur et offeratur omnis adoptio filiorum Dei. In eo namque quod lex ait: Omne masculinum adaperiens uulvam sanctum Domino uocabitur; promittebatur uirginis partus uere sanctus quia immaculatus qui aperiret uulvam ecclesiae, ut in eo sanctificarentur reliqua omnia et essent primogenita”; similarly, Haymo Halberstatensis, *Homiliae*, cols. 99–100.

84 Heiricus Autissiodorensis, *Homiliae per circulum anni*, 24, vv. 101–16: “Quod dicit: Omne masculinum adaperiens uulvam, et de hominibus et de pecoribus dictum intellegitur. Omnia enim primogenita domino sanctificabantur et sacerdotum erant, ea tamen ratione ut pro hominis primogenito sacerdoti pretium daretur, primogenitum quoque pecoris quod immundum erat, quinque redimeretur siclis argenti. Spiritualiter autem omnia illa primogenita significabant dominum Ihesum Christum, qui cum esset unigenitus in natura Dei patris factus est primogenitus omnis creaturae, id est omnium hominum; et ipse est ueraciter et singulariter sanctus domino, quia peccatum non fecit, nec dolus inuentus est in ore eius. Moraliter quoque omnia primogenita nostra Deo offerenda sunt, ut quicquid boni in corde concipimus diuinae gratiae tribuamus; et sicut illi immunda animalia quinque siclis redimebant, sic nos praua opera quae gerimus redimere debemus, perfectam agentes paenitentiam de omnibus peccatis quae per quinque sensus corporis contrahimus.”

***lus primogenitorum* or the Privilege of Primogeniture**

In the *Instructio* for Louis the Stammerer (d. 879), son of Charles the Bald, Hincmar of Reims (d. 882), remembering years later the cause of the conflict among Louis the Pious's sons, wrote:

After the death of Emperor Louis, your grandfather, some of the finest men of his kingdom summoned Lothar from Lombardy and the noblest men who were with him. Some were with your father, Charles, some with Louis, your uncle. At the same time the most illustrious men in the kingdom, who stood by the three brothers, began, individually and each of his own, to argue among themselves how they could obtain the greatest and most numerous dignities; caring little about the oaths in the matter of the division of the kingdom and caring more about satisfying their greed than about the salvation of themselves and their lords or about the peace of the holy Church and its people. Those who stood by Lothar provoked him into disinheriting his brothers and oppressing the dignitaries who were with them because he was the firstborn and bore the title of emperor. Those who stood by Charles and Louis said that their lords were Lothar's brothers and that the kingdom had been divided among them under oath; therefore, neither by birth nor by power were they inferior to those who were with Lothar, and therefore they would not turn against them.⁸⁵

What is striking in Hincmar's story is the argumentation apparently used by the parties to the dispute trying to prove their point. We are dealing here with a juxtaposition of a right stemming from birth order and imperial title, and an agreement sworn by brothers of equal status. Lothar's primogeniture was used by his supporters as an objective and indisputable rightness-determining factor which could not be invalidated or undermined even by a pact sanctified by an oath. The polemic surrounding the legality of the firstborn's prerogatives thus found itself at the very centre of the dispute over the division of the inheritance after Louis's death.

A quarter of a century earlier Nithard, painting an idealized picture of his ruler, Charles the Bald, wrote about the attempt made by the king to resolve the conflict with his elder brother Lothar:

[Charles] sent envoys, namely Nithard and Adalgar ... to Lothar, urging and imploring him to remember the mutual obligation they had confirmed by an oath, and to take heed of what their father had decided between them; he also recalled their state as brothers

85 Hincmarus Rhemensis, *Ad Ludovicum Balbum regem*, col. 985: "Mortuo Ludovico imperatore, avo vestro, quidam de istius regni primoribus evocaverunt Lotharium, et primores qui cum illo erant, de Langobardia in istud regnum. Et quidam de regni primoribus fuerunt cum Carolo patre vestro, et quidam cum Ludovico patruo vestro. Interea coeperunt regni primores, qui cum tribus fratribus erant, singillatim certare de honoribus, quique illorum, unde majores et plures possent obtinere: et parvi pendentis sacramenta de divisione regni facta, et plus certantes de illorum cupiditate, quam de seniorum suorum et de sua salute, et de sanctae Ecclesiae ac populi pace, qui cum Lothario erant, immiserunt illum in hoc, ut fratres suos exhaeredaret, et regni primores qui cum illis erant annullaret, quoniam ipse primogenitus et in nomine imperatoris erat. Illi autem qui erant cum Carolo et Ludovico, dicebant, quia seniores illorum Lotharii fratres erant, et per sacramenta regnum inter eos divisum fuerat, et illi nec genere, nec potestate inferiores erant, quam illi qui cum Lothario erant, et ideo non se contra illos concredent."

and sons; to let him have what was his and let him hold without any dispute what their father had given him, promising that if he did, he would be loyal to him and obey him as he should be towards his firstborn brother.⁸⁶

The words of Nithard, who was sent on a mission to win over Lothar and therefore knew first-hand what the envoys were to say, also contain a reference to the special status of the firstborn, placing him above all other brothers. Charles, whom the author of the *Histories* consciously presents as a gentle and humble ruler, contrasting him with his aggressive and haughty brother, declares his obedience to Lothar not as emperor or even as his godfather (we need to bear in mind that Lothar had presented Charles for baptism), but above all as the eldest of the brothers.

However, neither source tells us what these extraordinary rights were to come from, treating them as obvious to the reader and not requiring an explanation. Yet as the earlier reflection on the legal position of the firstborns in the practice of societies living in the lands ruled by the Carolingians has demonstrated, in customary law systems being the oldest son was not associated with any special privileges. Even if in practice such privileges did arise, they stemmed from various circumstances (for example, considerable age difference between brothers and the need to take care of minors) rather than from the conviction, firmly established in the system of social ideas, that there was a link between birth order and specific qualities or values. Similarly, in the practice of power inheritance within the dynasty and among the political elites, until the mid-eighth century being born first was of no importance or of secondary importance. Thus the appearance of references to primogeniture in the language of historiographical sources from the late eighth and from the ninth century as a justification of claims to power over the other siblings should be regarded as evidence of changes that had happened (or, rather, were happening) at the time in the elites' ideas about the relations between the closest relatives, also—perhaps above all—within the ruling family.

Historians have come to see these changes primarily from the perspective of political history, that is when they are looking for the origins of the division of the Carolingian domains among Charlemagne's heirs. If we adopt this perspective, we will view, for example, the changes in Lothar I's status—from the *Ordinatio imperii* of 817 to the division of Verdun in 843—in terms of the birth and failure of a model of power alternative to the traditional model and seeking to introduce primogeniture legitimized by religion. The religious justification of the domination of the eldest son is regarded as one of the tools to achieve an overriding political goal. However, a question inevitably arises: should this phenomenon indeed be considered only as an element of political

86 *Nithardi Historiarum libri IV*, lib. 2, chap. 2, p. 14: "Missos, videlicet Nithardum et Adalgarium ... ad Lodharium direxit, mandans ac deprecans, ut memor sit sacramentorum. quae inter se iuraverant, et servet, quae inter illos pater statuerat; insuper etiam fraternae filioliq[ue] conditionis meminerit; haberet sua sibi et, quod illi pater suo consensu concesserat, absque conflictu illum habere permittat; promittens, si hoc faceret, fidelem se illi et subiectum fore velle, ita ut primogenito fratri esse oporteret."

strategies in which religious and symbolic arguments were subordinated to secular objectives? In other words, should we treat politics, social life, and religion separately in a world in which such a division did not exist and would not have been understood? When dealing with ninth-century Carolingian courts, where rulers commissioned the most outstanding theologians to write commentaries on biblical books in order to listen to them with members of their closest families, and exegetes dedicated their works to dignitaries as mirrors showing them paths to be followed, focusing only on the political aspects of the phenomena seems rather risky.

The appearance of references to the privileged status of the firstborns in ninth-century legal and historiographical works should thus be viewed from a different perspective, namely with the assumption that there was a close link between, on the one hand, a political project and relations within society, and on the other hand, interpretation and practical implementation of God's law as recorded in the Old Testament. In this sense it was not up to Lothar I's arbitrary decision whether the fact of being the firstborn should be used as an argument against his brothers' claims. For he had come into this world as the firstborn not by human but by God's will and therefore his destiny was to fulfil the duties of the firstborn and claim his rights. Charles the Bald's declaration of obedience to his brother thus reflects the same way of thinking: the Old Testament imperative is law which cannot be broken with impunity.

According to the Book of Deuteronomy (21:15–17), the first son of a father is to have a double share in the inheritance, even if the father has other progeny from another wife he loves more. The privilege of primogeniture, in this case limited to inheritance law, was immutable and invariable. The first son, even if in disgrace, remained uniquely distinguished among all progeny, for as the firstborn he had been chosen by God himself—as has already been said. The loss of the actual prerogatives of the firstborn (for example, stemming from the transfer of the father's blessing due to the firstborn, as it was the case of Esau, Reuben or Manasseh) did not deprive the eldest son of this special title and the authority stemming from it. This was even true in the case of Esau, who sold his birthright: Jacob acknowledged his seniority and bowed to him (Genesis 33:3). Similarly, Jacob's firstborn, Reuben, led his brothers and spoke on their behalf; although he lost his father's blessing through sin, he remained singled out as the firstborn. The firstborn had a duty to preserve the genealogical memory of the family. It was the first son of a widow married to the brother of her deceased husband who should bear his name, in accordance with the levirate principle, so that this name would not disappear in Israel (Deut. 25:6).

Thus, in line with the teaching of the Old Testament, the very fact of being the firstborn justified the demand for respect and obedience from the younger brothers. It must have been because of this Scripture-sanctioned way of thinking about the hierarchical order among siblings that the firstborn status of the eldest brothers was emphasized, in Lothar's case under discussion or the examples listed earlier (*maiores natu*). This idea is evident in the *Ordinatio imperii* of 817. Lothar should occupy a special place among his brothers, because he was the firstborn, thus chosen by birth, like his biblical predecessors, but at the same time the fact of being the firstborn was associated

with special obligations to his younger brothers.⁸⁷ The foundation of this relationship should be love—this encompassed both the obligation stemming from a blood-based relationship and Christian *caritas*.

The same set of positive ideas linked to firstborns was referred to half a century earlier by the English scholar Cathwulf in the well-known letter from ca. 775 addressed to Charlemagne. The letter, with features of a ruler's mirror, strikes with its complex composition and multi-level references to biblical motifs and patristic writings, and brings some important information about the early stage of Charlemagne's reign. That is why it has been the subject of many studies,⁸⁸ however, their authors do not analyze the topic of primogeniture present in it. And yet Cathwulf lists primogeniture alongside seven other signs of God's blessing enjoyed by Charlemagne. These signs are, in this particular order: royal birth; being the oldest son; avoidance of his brother's machinations; peaceful division of the kingdom, death of his brother Carloman (!) and seizing power over the entire state; victory over the Lombards; the capture of Pavia; arrival in Rome, and subordination of Italy.⁸⁹ Number eight was Cathwulf's indirect reference to the eight beatitudes recounted by Jesus in his Sermon on the Mount. What is symbolic here is the attribution of specific numbers to these signs of God's blessings: from one, which Cathwulf associated with the beginning, the birth of Charlemagne, to eight, symbolizing the eternal glory of the Risen Lord and second coming of Christ. Number eight is the number he associated with the climax of Charlemagne's reign, seizing power over Italy.⁹⁰ At the same time Charlemagne, in triumphing over his enemies, became in Cathwulf's rendition a David-like figure and, through him, a figure of Christ. David, Jesse's eighth son, marks a return of the symbolic meaning of the number eight. The eighth is also the first as the day of Christ's Resurrection is the first after seven days and symbolizes new creation.

In addition to other biblical references, the author of the letter also refers to a fragment of Psalm 88 (Psalms 88:28), which speaks about the firstborn who is greater than all kings. In a Christian interpretation this firstborn is, of course, Christ. However, Cathwulf clearly writes that the words of the psalmist can also be referred to

87 MGH LL *Capitularia regum Francorum*, 1, no. 136, chap. 5, p. 271: "Volumus atque monemus, ut senior frater, quando ad eum aut unus aut ambo fratres sui cum donis, sicut praedictum est, venerint, sicut ei maior potestas Deo annuente fuerit adtributa, ita et ipse illos pio fraternoque amore largiori dono remuneret."

88 MGH Epp. *Epistolae Karolini aevi*, 2, p. 502. Garrison, "Letters to a King"; Story, "Cathwulf, Kingship, and the Royal Abbey."

89 Cathwulf's letter must be read in the context of the political events of the early 770s. The year 771 was marked by the death of Charlemagne's younger brother, Carloman, with whom the future emperor had been in more or less open conflict for years (see, more broadly, Jarnut, "Ein Bruderkampf und seine Folgen"); the year 774 was marked by the capture of Pavia, the capital of the Kingdom of the Lombards.

90 Writing extensively about the symbolism of numbers in Cathwulf's letter (including, especially, the symbolism of the number eight) Joanna Story ("Cathwulf, Kingship, and the Royal Abbey," 9ff.) does not mention these meanings, focusing on an analysis of the symbolism of the eight pillars of the kingdom referred to there.

Charlemagne. Thus a parallel is made between the primogeniture of Charlemagne as a ruler chosen by God and the primogeniture of Christ, the Son of God: the king, a firstborn by the grace of God, rejoices in his victory over his enemies like Christ, the firstborn among all mortals, who overcame sin and triumphed over death. Thus Cathwulf pointed to primogeniture as a gift with which were associated God's blessing and, indirectly, legitimation of Charlemagne's royal power. As the firstborn, Charlemagne was in a unique relationship with God: the author of the letter invoked directly the words from the Book of Exodus defining this special status (Ex. 13:2).

The motif of God's blessing of firstborns also appears in hagiographical and panegyric works. A special idealized model of relations among brothers, the eldest of whom was endowed with unique qualities of the spirit from birth, was presented by Paschasius Radbertus in his *Life of Adalhard of Corbie*.⁹¹

Adalhard, a grandson of Charles Martel and one of the closest advisers of Charlemagne, fell into disfavour with his successor. Removed from the court with his siblings, he was forced to take monastic vows. Following a reconciliation with the emperor, he returned to the court, where he played an important political role until his death in 826.⁹² In his *Life*, which must have been written in the late 820s, Paschasius Radbertus severely criticized the actions of Louis the Pious, which had led to a crisis of the monarchy and the penance of Attigny in 822.⁹³

Adalhard, the firstborn among several siblings,⁹⁴ is presented as a spiritual guide and, at the same time, a leader of his half-brothers and half-sisters, with whom he created a perfect earthly family as well as a family in Christ. The eldest of the five siblings, called to sainthood both because of his seniority and because of his intrinsic virtues, he stood above his younger brothers and sisters as a guide and a carer. What is exceptional is the metaphor used by Paschasius Radbertus, when describing the mutual relations among the siblings. The harmony among them is compared to the musical harmony of the celestial spheres: all five are compared to a consonance, that is a (perfect) fifth, in which the ratio of brothers to sisters is 3:2, a *sesquialtera* proportion. At the same time Adalhard is a unison or prime, rising above a consonant fourth, which in mystical geometry is illustrated by a pyramid, a combination of the number four, symbolizing the world, and the perfect and indivisible number one, a monad. Thus Adalhard is compared to the apex of a pyramid at the top of a quadrilateral world-family. Like the unison towers above the fourth in perfect harmony, so too the fire of love of a holy man generates a flame enlivening the souls of his loved ones, raising them to God himself.

⁹¹ Paschasius Radbertus, *Vita sancti Adalhardi Corbeiensi abbatis*, cols. 1507–82.

⁹² Kasten, *Adalhard von Corbie*.

⁹³ For detailed analysis of the political context of the *vita* of Adalhard and his brother Wala (*Epitaphium Arsenii*) see: De Jong, *Epitaph for an Era*; see also the introduction to the English translation of *Epitaphium Arsenii: Confronting Crisis in the Carolingian Empire*, 1–46.

⁹⁴ Adalhard was son of Charles Martel's son Bernard and his first unnamed wife; two sons and two daughters were born from the second marriage of Bernard: Wala, Bernarius, Gundrada and Theoderada.

The number five contains two prime numbers—two and three—even and odd, symbolizing, according to the Pythagoreans, the complementary male and female elements. Five is given a positive value as a number of harmony and beauty, in particular the beauty of the human body understood metaphysically as a symbol of the microcosm. Thus Adalhard's siblings not only personify moral and spiritual virtues, but also become a model of a perfectly ordered Christian society.⁹⁵ Paschasius Radbertus then moves to another comparison: two pairs of brothers and sisters symbolize two kinds of life: active and contemplative, Mary and Martha, marital life and monastic life. Adalhard, the eldest among the siblings and especially beloved by God, combines both these forms of life. Adalhard's siblings become a figure of a perfect Christian life with an ideal balance between the active and the spiritual aspects—they represent two complementary orders.

In the *Epitaphium Arsenii*, written by Paschasius Radbertus in honour of Wala (d. 836), the image of the relationship between the two brothers Wala and Adalhard is built on a few oppositions: younger–older, strong in body–skilled in charity, dedicated to the worldly life–focused on the spiritual life. These features complement each other, but the hierarchy is maintained. Paschasius Radbertus refers to the metaphor of the relationship between father and son: As a younger brother, Wala was obliged to obey and respect his elder brother “as a father.” It should be stressed that Adalhard's paternal authority was based on Christian virtues and his monastic vow (he was called the father as the abbot of Corbie, as the teacher and as elder brother).⁹⁶ Consent to the (temporary) reversal of this hierarchy was a proof of Adalhard's extraordinary humility and brotherly love.⁹⁷

95 Paschasius Radbertus, *Vita sancti Adalhardi Corbeiensi abbatis*, col. 1527: “Video igitur in hoc eorum quinario numero dulci, sonum utrisque partibus revolutum personare musicum, et ad aliquid harmoniae horum quantitates concinere. Porro si primum inspicias viros, et secundo duas sorores, erit diapente Graecum et proportio sesquialtera quantitatibus, tres enim duplum medietate sui ad aliquid vincunt: et concinit unus, videlicet beatus senex noster, inter duos et duas: atque ita mellifluam musicae symphoniam artis et pyramidem geometricae disciplinae formam reddunt. Sed quod operatur unus, id est Adalhardus senex, inter quatuor, ut bene concinant; hoc vero isdem supereminens, ut in modum ignis quadrati coelestis patriae amore ardeant, invitat. Alioquin si respicias eos in negotio reipublicae praelatos, erunt rursus tres publicis, velut Martha, mancipati officii, et duo ad pedes Jesu intenti, tantum ut audiant verbum. Atque ita medius est pater noster senex, qui inter utrasque vitas, activam scilicet et contemplativam, interdum medie temperatus incedit. Denique si eos rursus diligenter attendis, tres eorum si quidem sunt qui continentiae triumphum sortiuntur, et duo qui primum castum meditantur connubium; ad postremum vero utriusque par jugum monasticae disciplinae trahunt. In omnibus igitur vestiti duplicibus, in omnibus consoni et concordantes atque conceleres praedicantur. Conspicio quidem eos cum Benjamin singulos inter patriarchas quinque indutos stolis; sed a Jesu nostro veste simpliciter nuptiali postmodum gloriosius decorari: contueor autem quoque talenta credita, sed his omnibus unum praemium lego super appensum”; see also Appleby, “Beautiful on the Cross.”

96 “Radbert's *Epitaphium Arsenii*,” 40–41: “Quamvis ergo carne essent fratres, et germanissimi fide et voluntate, moribus tamen in hoc disparibus videbantur, quod ille egregium in se omnibus representabat patrem, iste autem discipulum monasticae discipline et carissimum in omni subiectione filium ... verum in omni imperio regni sic emicuit et resplenduit, quasi videres duo caeli luminaria ubique clarescere, quamvis iste minus, ut ita fatear, et ille maius, quia ille pater erat, et iste filius”; De Jong, *Epitaph for an Era*, 52–56.

97 “Radbert's *Epitaphium Arsenii*,” 46.

The complex theological and symbolic sense attributed to the figure of the firstborn I have analyzed in the writings of ninth-century intellectuals was understood—quite obviously—only among the elites. However, their view that the privileged position of the first son enjoyed sacred legitimation may have influenced wider circles in society, mainly through the clergy, and may have overlapped with practice-derived ideas concerning the tasks of the eldest among the siblings. The responsibility of the firstborn for his brothers, stemming from his natural seniority, became not only a duty to the family, but also a privilege supported by the authority of the Church. However, not in all cases did the firstborn prove to be a clear-cut figure.

Loss of Birthright and its Justification

The indisputable privileged status of the firstborns (because it stems from God's law) became a problem in the case of a conflict within a family and the questioning of the first son's position. In reply to a question asked by no less a figure than Charlemagne, Alcuin argued that a son could lose the position due to him if he had committed despicable acts and opposed his father's will. Since he cited the stories of Esau and Reuben as evidence, it seems almost certain that it concerned the firstborn son in this case.⁹⁸

Alcuin's *Responsio* is not dated, but the editor indicates 798 as the year in which it may have been written. It may, however, be hypothesized that the writing of this particular text was associated with the 792 revolt of Charlemagne's eldest son, Pippin the Hunchback, who may have demanded his right to primacy among the ruler's heirs to be acknowledged. This is not the place to provide a detailed description of the context for these events or the many indications of the role played in them by various individuals from the highest circles of power (including Queen Fastrada).⁹⁹ What matters from our point of view is the fact that in this dispute the privilege of primogeniture, derived as it was from God's law, was regarded by both sides as a significant, if not the main argument. Thus Alcuin's assertion may have been an attempt to find an answer to the—hard to challenge—precept from Deuteronomy 21:15–17, whereby a father could not deprive his firstborn son of his due share, even if the latter was the son of an unloved wife.

It is no coincidence that the opponents of Pippin the Hunchback would later highlight the fact that he was born out of wedlock, which barely a few years earlier clearly had had no impact on his position in the royal family.¹⁰⁰ Illegitimacy apparently prevented him from being acknowledged as Charlemagne's firstborn son—the most important pretender to succeed him. What immediately comes to mind is an analogy with the biblical figure of Ishmael—I will return to this motif in a moment. Although we cannot be certain about the circumstances in which Alcuin's work originated, it does contain a

⁹⁸ MGH Epp. *Epistolae Karolini aevi*, 2, no. 132, pp. 198–99.

⁹⁹ For more on Pippin the Hunchback's rebellion, see Kasten, *Königssöhne*, 140ff.; Davies, *Charlemagne's Practice of Empire*, 149–52.

¹⁰⁰ Mentioned in the *laudes* in honour of the royal family from before 792 (Montpellier/Mondsee Psalter); see McKitterick, *Carolingians*, 252–55; McKitterick, *Charlemagne*, 338–39; in ArFranc., 91–93, Pippin is still described simply as Charlemagne's eldest son.

fragment indicating emphatically that the special status of the firstborns—sanctioned by Scriptures and indisputable—could pose serious problems in specific situations. biblical exegesis provided guidelines as to how such problems could be solved.

The same task was also tackled by Hrabanus Maurus, who in 834 tried to give Emperor Louis the Pious arguments confirming that the rebellion of his firstborn son Lothar against him was an attempt to undermine not only the existing power structure but also the order established by God. In treatise known as *De honore parentum et subiectione filiorum* the Fulda master indicated biblical examples confirming that God in his omnipotence could deprive any firstborn of his birthright if that firstborn proved to be unworthy, and could allow a son more loved by his parents to be elevated.¹⁰¹ Hrabanus found his point of reference in the three most important biblical stories about the relations between elder and younger brothers: the stories of Ishmael and Isaac, Jacob and Esau, and Joseph and his brothers. Before the early Middle Ages these themes had generated comments and interpretations: they were studied intensely, which was reflected in the writings of the Church Fathers (who drew extensively on the pre-Christian legacy of Jewish commentators on the Bible). Given the significance of these motifs in the evolution of early medieval ideas of fraternal relations, I must pay attention to them.

Ishmael

In the early Middle Ages the story of Ishmael and Isaac (Gen. 16, 17, 21, 25) was interpreted primarily as a story of the relation between the Synagogue and the Church, the Old and New Testaments, Jewish tradition and Christianity. Such an understanding of the figure of Ishmael in the history of salvation stemmed straight from the teachings of St. Paul. In his Epistle to the Galatians (4:21–31) Paul wrote that Ishmael was Abraham's son only of the flesh, while Isaac was his son of the spirit, as the child of the promise given to Abraham by God himself. Hagar and Sarah, on the other hand, personify the Old and the New Covenant—captivity and liberation respectively.

On this basis the Church Fathers, and following their example, early medieval exegetists built a complex construct in which Ishmael, although the firstborn, was associated with corporeality, devotion to earthly life, and moral inferiority—all viewed in a negative light. At the same time, authors stressed Ishmael's illegitimate origins as being born out of wedlock from a slave, which justified his exclusion from inheritance. This was emphasized by Alcuin, who juxtaposed Sarah (the Church), Abraham's only lawful spouse, with Hagar (the Synagogue), and Keturah (heresy), referring to both as concubines.¹⁰² Alcuin—following St. Jerome¹⁰³ and St. Augustine,¹⁰⁴ also explained

¹⁰¹ MGH Epp. *Epistolae Karolini aevi*, 3, no. 16, pp. 416–20.

¹⁰² Alcuin, *Interrogationes et Responsiones in Genesin*, col. 547; on the exegetical method of Alcuin see Fox, "Alcuin the Exegete."

¹⁰³ Hieronymus Stridonensis, *Commentariorum in Epistolam ad Galatas libri tres*, lib. 2, col. 415.

¹⁰⁴ Augustinus Hipponensis, *In Iohannis euangelium tractatus*, 11, par. 12.

the reasons behind the expulsion of Ishmael. He interpreted the enigmatic fragment of Genesis (21:9: Sarah saw Ishmael “*ludentem cum Isaac filio suo*,” where “*ludens*” can be translated as “playing” or “scoffing”) referring to it as an attempt by Ishmael to insidiously obtain the birthright he had been refused.¹⁰⁵ Ishmael, a firstborn who could not enjoy the privilege of primogeniture—was thus also perverse and Abraham’s decision was by all means just. By demanding that Hagar and her son be expelled, Sarah, on the other hand, was making sure that God’s promise would be fulfilled. Significantly, this concept invoked by Alcuin draws on the relationship between Esau and Jacob, and the transfer of birthright between them.

The most extensive early medieval interpretations of the figure of Ishmael can be found in the writings of Claudius of Turin (d. 827),¹⁰⁶ Hrabanus Maurus¹⁰⁷ and Haimo of Auxerre.¹⁰⁸ In their commentaries on St. Paul’s Epistles they expound on all the main themes borrowing from exegetic writings of the Fathers and from early medieval theologians.¹⁰⁹ They focus mainly on an allegorical interpretation of the figures of Isaac and Ishmael as representing the Church and the Synagogue, signifying Christians and Jews.

What is particularly interesting from the point of view of the present analysis is the juxtaposition of Ishmael’s birth of the flesh and Isaac’s birth of the spirit. Already St. Augustine, on whom both Claudius and Hrabanus drew extensively, presented Ishmael as an embodiment of what was of the earth and of the flesh, that is: what was imperfect by nature, while Isaac became the one who, originating from a promise given by God, was born against the flesh. As Claudius summed it up, “*Ismael carnis filius: Isaac fidei fuit*.”¹¹⁰ Thus Ishmael, born of the flesh, embodied devotion to earthly matters, while Isaac, conceived of a promise, embodied love for celestial matters and the desire for eternal life. In this sense Isaac also symbolized birth for Christ, which occurred when a Christian dissociated himself from earthly matters, i.e. was liberated from captivity, in order to devote himself entirely to spiritual matters.¹¹¹ Ishmael—a figure representing everything that was earthly in man, who is conceived in sin—was also inevitably morally flawed. His play with his younger brother—the reason for the expulsion—must have had dishonourable intentions behind it: “*quia lusio illa, illusio erat*” (“because this game was a mockery”), as St. Augustine wrote.¹¹² Following Augustine, Hrabanus Maurus said that, when playing, children imitated adults; therefore, if an elder sibling played with a younger child, the former had to be guided by a desire to deceive the latter.¹¹³

105 Alcuinus, *Interrogationes et Responsiones in Genesis*, col. 544.

106 Claudius Taurinensis, *Enarratio in Epistolam D. Pauli ad Galatas*, cols. 887–89.

107 Rabanus Maurus, *Enarrationum in Epistolas beati Pauli*, col. 334.

108 Haymo Halberstatensis [Haimo of Auxerre], *In divi Pauli epistolas expositio*, col. 690.

109 On the importance of these commentaries on Paul for theological thought of the early Middle Ages see Heil, “Haimo’s Commentary on Paul” and Boucaud, “Claude de Turin (†CA. 828).”

110 Claudius Taurinensis, *Enarratio in Epistolam D. Pauli ad Galatas*, col. 887.

111 Claudius Taurinensis, *Enarratio in Epistolam D. Pauli ad Galatas*, col. 888.

112 Verbraken, “Les fragments conservés de sermons,” 250.

113 Rabanus Maurus, *Enarrationum in Epistolas beati Pauli*, col. 334.

Here we come across an important motif, present already in Alcuin's writings and before that used both by St. Augustine and Jewish commentators, cited by Haimo of Auxerre: Ishmael sought either to make an attempt on Isaac's health and life or to persuade his brother to commit a despicable deed that would make his parents loathe him and transfer the birthright and inheritance to Ishmael. For otherwise Ishmael, despite being the firstborn and circumcised, that is belonging to the Covenant but being the firstborn of a slave, could not obtain that right. According to the exegetes, a conflict between the brothers was thus inevitable and was a consequence of original sin. As Haimo wrote, referring again to St. Augustine, death struck people through sin and though death sons had to inherit from their fathers.¹¹⁴ Thus in the earthly life, tainted by original sin as it was, children had to be born to inherit from their parents, although there would not be place for this lamentable earthly order in eternal life, for there would be no death there. Until then, humans were bound by the fetters of worldliness: a brother fought a brother, competing for earthly goods. This fatalistic image of fraternal relations was developed and confirmed in commentaries on the story of Esau and Jacob.

However, was the just an argument to show the reasons for disinheriting Ishmael, who had not committed any misdeed? Arguing for the justice of Abraham's deed, exegetes emphasized another motif, important in the present analysis, namely that Abraham was fulfilling God's will, which humans should not try to fathom with their reason. After all, it was God who decided that Ishmael should be deprived of all his rights—although he seemed blameless—and there was no earthly law that could opposed His will. Thus, Ishmael's birthright—even if he deserved it under human laws and customs—could be taken away from him.¹¹⁵ For grace depends on God's choice and not on human deeds, as St. Paul wrote in the Epistle to the Romans (9:6–18), referring to the example of Esau and Jacob.

Esau

In early medieval deliberations on the meaning of the relationships between brothers in biblical texts, the story of Esau and Jacob takes pride of place. The biblical story of a conflict between twins, which spoke to the imagination and was full of symbolic meanings, appeared both in theological writings and in polemical and political works of the early Middle Ages. Exegetes agreed in their interpretation of the conflict as enmity between two peoples of the Covenant: Jews and Christians. Esau, the firstborn who lost the blessing, became a figure representing the Synagogue, which had to give way to Jacob or the Church, chosen by God. At the same time, in an allegorical interpretation of the biblical tale of the lost birthright, Esau is a figure of the devil contrasted with the Christ-like figure of Jacob. Isaac's sons also personified two peoples among those who called themselves Christians: those living in sin and those filled with virtues. Interpreted in a moral sense, the conflict between them was a clash between good and evil. And like

114 Haymo Halberstatensis [Haimo of Auxerre], *In divi Pauli epistolas expositio*, col. 690.

115 Rabanus Maurus, *Enarrationum in Epistolas beati Pauli*, col. 1488.

Esau, older and more powerful, was stronger than Jacob, so too evil people outnumber good. But only those few will enjoy grace and be elevated above the sinners.¹¹⁶

The motif of the sale of the birthright was interpreted as Esau renouncing his priestly function, which was the responsibility of all firstborns under Mosaic law. The sale of the birthright for a pot of lentil stew also denoted a betrayal of a special spiritual bond with God in exchange for pleasures of earthly life.¹¹⁷ It became a starting point for further interpretations of the figure of Esau as a personification of earthly desires of the soul and immersion in matters of the world. Esau and Jacob were also encompassed by the dichotomy which appeared already with reference to Ishmael and Isaac: Esau was viewed as being born of the flesh, while Jacob was born of the spirit.

This corporeality defining Esau, expressed in his animal-like appearance (hairy body), was also confirmed by his actions. For early medieval commentators, Esau was primarily a hunter, like Ishmael, to whom the same qualities were attributed. Hunting, inextricably linked as it was to the treacherous killing of God's creatures, had a satanic aspect. At the same time, Esau's wild life became an allegory of the worldly life, in which man constantly gave in to temptations and was contrasted with the internal life, which was focused on a search for God and which was personified by Jacob.

The idea of linking Esau's and Ishmael's passion for hunting with their turning their backs on God's causes was explained clearly by Pope Nicholas I (d. 867) in a letter to Adalwin, Archbishop of Salzburg, in which he condemned the young bishop of Sabiona, Lanfrid, a passionate hunter.¹¹⁸ The pope juxtaposed Nimrod, Esau and Ishmael—hunters of birds and four-legged animals, only bodies—with the Apostles, that is fishers of souls. The two firstborns, Esau and Ishmael, personified through their hunting passions a model of earthly life devoid of the spiritual element; they were focused on the present. The pope stressed this domination of the body over the soul, repeating the words attributed to St. Jerome that there were no hunters among the saints.¹¹⁹ In his *Commentary on Ezekiel*, Jerome had even linked Esau to the sphere of death, understood also symbolically: not only as death of the body (through killed animals), but also death of the spirit (the death of the one who turned his face away from God towards earthly pleasures).¹²⁰ Thus, hunting itself was not a sin, but an expression of Esau's sinful renunciation of his innate bond with God. As an unknown author wrote, commenting on the fragment of the prophecy of Malachi concerning Esau referred to by St. Paul in his Epistle to the Romans (Rom. 9:13; Mal. 1:2–3), God hated sin in Esau, not Esau's human nature.¹²¹

116 Yuval, *Two Nations in Your Womb*. Cf. the interpretation of the Jacob and Esau motif in Jewish theological writings of late Antiquity and early Middle Ages, broad discussion of the problem recently in Langer, ed., *Esau—Bruder und Feind*; Kim, *The Firstborn Son*; and, above all, Shimahara, "La rivalité entre frères"; among older studies, see especially Cohen, "Esau as Symbol."

117 Alcuinus *Interrogationes et Responsiones in Genesin*, col. 549.

118 MGH Epp. *Epistolae Karolini aevi*, 4, no. 116, p. 632.

119 Hieronymus Stridonensis, *Tractatus sive homiliae in Psalmos*, p. 127, vv. 18–19.

120 Hieronymus Stridonensis, *Commentariorum in Hiezechielem libri XIV*, lib. 11, chap. 35, vv. 423–54.

121 Haymo Halberstatensis, *Homiliae*, col. 187; on the attribution of this sermon see Barré, *Les homéliaires carolingiens*, 50–51.

Giving in to earthly concupiscence also became a reason for the loss of birthright: Esau's craving was listed alongside gluttony, which had led to the fall of the Israelites acting against the Covenant (Ps. 78:30), and to the satiety of the mean daughters of Sodom (Ezek. 16:49).¹²² Concupiscence (*concupiscentia*), understood after Augustine as both a carnal desire and sin of the soul which gave in to earthly temptations,¹²³ was associated with Esau. And the concupiscence determining Esau's deeds came from Satan as the source of all sin; thus the pot of lentil stew became an equivalent of the fruit from the tree of the knowledge of good and evil, while Esau in his weakness was like Adam. He was juxtaposed with Jacob, who was free from the temptations of the flesh and contemplating God's causes and became a Christ-like figure. Paschasius Radbertus developed this allegorical interpretation in the following manner: he compared the goatskin with which Jacob covered himself to obtain a blessing from the blind Isaac to the sinful carnal cover Christ took when descending to earth. Jacob reveals the secret by throwing the hairy cover off his shoulders, just as Jesus Christ appearing in his glory in the mystery of the Resurrection.¹²⁴ Again, Jacob's hairy elder brother is presented as a personification of carnal sin, which holds the soul captive in its earthly life.

The climax in the story of Isaac's twin sons comes with Rebecca's ruse and Esau being deprived of the blessing he was entitled to. It should be noted, however, that the loss of the blessing did not mean that Esau ceased to be regarded as Isaac's firstborn. As interpreted by early medieval theologians, it meant a loss of grace but not of the privileged position among brothers. Isaac's blessing scene gives full expression to the three different ways of understanding primogeniture: as primacy among all siblings stemming from the order of birth, a primacy which cannot be taken away; as a privilege stemming from the order of birth and interpreted by Christian exegetes as the right to perform priestly functions, understood as a special relation with God; and finally as the grace of blessing, which should but does not have to be bestowed on the firstborn.

Of key importance is the third aspect of primogeniture: the right of the first son to receive a blessing from his father. Although the blessing is given by the father to the son, it does, in fact, come from God, with the father acting only as an intermediary. Explaining why Isaac was right in wanting to give his blessing to his eldest son, Alcuin quoted words attributed to St. Augustine that a "priest's duty is to bless, but it is God who gives blessings."¹²⁵ Thus Isaac's intention, although just according to the God-given law, could be thwarted by the will of God, whose plans were hidden from people (in the story of Esau and Jacob it is the mother, Rebecca, and not the father, Isaac, who is the person who knows).¹²⁶

¹²² Rabanus Maurus, *Commentariorum in Genesim libri quatuor*, cols. 583–84.

¹²³ Nisula, *Augustine and the Functions of Concupiscence*.

¹²⁴ Paschasius Radbertus, *De benedictionibus patriarcharum*, lib. 1, vv. 455ff.

¹²⁵ Alcuinus, *Interrogationes et Responiones in Genesim*, col. 549: "Sacerdotis est benedicere, Dei est effectum tribuere benedictionis"; Pseudo-Augustini *Questiones Veteris et Novi Testamenti*, 35–36, where Alcuin found his interpretation, is now considered to be a work of Ambrosiaster, Martini, "Le recensioni delle *Questiones Veteris*."

¹²⁶ For more on interpreting God's will in the context of Rebecca and Jacob's "deception," see Shimahara, "La rivalité entre frères," 114ff.

What also becomes clear in this context is the biblical story of Jacob's blessing for Joseph's sons, Manasseh and Ephraim. Despite Manasseh's seniority it was Ephraim who received the blessing from the grandfather, despite his father's protestations. Jacob—unlike Isaac—was aware of God's will and acted in accordance with God's judgements.

The blessing is thus not given to the firstborn unconditionally; he can receive it only when he displays the moral qualities which a firstborn should have precisely because he is the firstborn and because this is in conformity with the will of God himself. Thus, there is a close link between birthright and spiritual values. A loss of birthright means a loss not of the position in the earthly family order, but a loss of grace following a transgression against God's law (Reuben) or innate moral inferiority to other descendants (Esau). The essence of the birthright is above all a moral obligation. In the fragment of *De partu virginis* quoted above, Paschasius Radbertus, citing the words of St. Ambrose, explained in this spirit that not every firstborn was sanctified. As an example, he and other theologians referred to the figures of the immoral kings of Israel who had abandoned Faith and fell into idolatry—Ahab and Jehoram. Although both were firstborns, they lost God's grace.¹²⁷

In this context it becomes obvious why Cathwulf in his letter could praise Charlemagne as the one with the privilege of primogeniture as the elder brother and, at the same time, compare him to Jacob. By comparing him to Jacob, Cathwulf glorified Charlemagne's moral virtues that made him truly the firstborn chosen by God and endowed with his grace. Both Rebecca's successful ruse and Carloman's early death, paving the way for Charlemagne to reign supreme over the entire kingdom of the Franks, testified to the fulfilment of God's will.

Reuben

As has already been said, a transgression by the firstborn could lead to the loss of the father's blessing and its transfer to the most worthy among the other sons. In Christian exegesis the motif of sin and punishment inflicted on an unworthy son was expounded on in interpretations of the story of Reuben, the eldest among Jacob's sons.

Reuben appears in the Old Testament in three contexts: as the one who led his brothers when they were making an attempt on Joseph's life; in the story of the founding of mandrake; and in the scene when Jacob refused him his blessing for having had intercourse with his concubine. This third theme in particular attracted the interest of early medieval theologians. The figure of the firstborn Reuben, like those of Ishmael and Esau, was interpreted primarily as an allegory of the Synagogue and the Jewish people, which lost the privilege of primogeniture because it had broken the law given to it by God. In the ninth century the most extensive treatment of the topic could be found in Paschasius Radbertus's treatise *De benedictione patriarcharum Iacob et Moysi*, which sums up the views of the Fathers and the author's contemporaries.¹²⁸ Following Jerome and Isidore of Seville, Paschasius Radbertus and other commentators stressed

¹²⁷ Paschasius Radbertus, *De partu virginis*, lib. 1, vv. 481–92.

¹²⁸ Paschasius Radbertus, *De benedictione patriarcharum*, esp. lib. 1, vv. 675ff.

the ambivalence of Reuben, whom Jacob addressed in his blessing (Gen. 49:3–4), calling him “my might and the beginning of my pain” (“primogenitus meus, tu fortitudo mea, et principium doloris mei”). For every firstborn is a source of pain, because he is the first to move the parental womb. Reuben’s deliberate transgression against his father, his violation of God’s law, was closely associated with the firstborn being marked as an unwitting cause of suffering.¹²⁹ Thus, the loss of blessing to a younger son is in Reuben’s case a consequence of his carnal sin. The fatalism of the figure of the firstborn is encapsulated in his inextricable connection to carnal sin—as the one who is born first of the flesh of his parents and the one who himself gives in to carnal desires.

Significantly, as in the case of Esau, the exegetes stressed the weakness of Reuben as the one who had given in to earthly temptations, thus squandering his spiritual, priestly vocation. The term *concupiscentia* appeared with reference to both firstborns: Reuben gave in to bodily lust, when he defiled his father’s bed, just like Esau, who gave in to greediness when he sold his birthright for a pot of lentil stew. Yet both Esau and Reuben remained firstborns of their parents’ flesh, that is first among the brothers, although this was not associated with any special status vis-à-vis God.

Authors writing in the ninth century consistently drew on Jerome’s commentary on the Book of Genesis, which refers to Reuben being deprived of his birthright-related prerogatives, described as *regnum et sacerdotium*,¹³⁰ i.e. the privilege of power, in this case power to which the patriarch of the family was entitled. The commentary by Angelomus of Luxeuil (d. ca. 855) on Jacob’s blessing from Genesis 48:3–4 contains a concise definition of the essence of the privilege of primogeniture, explained after Jerome: “This is the meaning [of these words]: you are the firstborn, the eldest among the progeny and, by the order of birth, you should receive the inheritance, which should be the privilege of primogeniture: priestly dignity and reign.”¹³¹ Thus, although he did

129 See e.g. Alcuinus, *Interrogationes et Responiones in Genesis*, col. 559; Rabanus Maurus, *Commentariorum in Genesim libri quatuor*, cols. 618, 655, 658.

130 Hieronymus Stridonensis, “Hebraicae quaestiones in libro Geneseos,” 52: “In hebraeo ita scriptum est ‘Ruben primogenitus meus, fortitudo mea, et capitulum in liberis meis: maior ad portandum et maior robore: effusus es sicut aqua, ne adicias. Ascendisti enim cubile patris tui et contaminasti stratum in ascensu’. Est autem sensus hic: tu es primogenitus meus, maior in liberis, et sedebas iuxta ordinem natiuitatis tuae et hereditatem, quae primogenitis iure debebatur, sacerdotium accipere et regnum: hoc quippe in portando onere et praeualido robore demonstratur. Verum quia peccasti et quasi aqua, quae uasculo non tenetur, uoluptatis effusus es impetu, idcirco tibi praecipio ne ultra pecces sisque in fratrum numero, poenam ex peccato luens, quod primogeniti ordinem perdidisti.”

131 Angelomus Luxoviensis, *Commentarius in Genesis*, col. 232: “Est autem sensus hic: tu es primogenitus, major in liberis, et debebas ordine natiuitatis tuae haereditatem, quae primogenitis iure debebatur, sacerdotium accipere et regnum: hoc quippe importat honorem, et praeualidum robur quod monstrat. Dicamus per singula manifestius; patet litterae sensus. Quia beatus Jacob primum filium Ruben ex Lia uxore sua suscepit, qui se digne tanto patre tractaret, ad eum primogenita regnumque pertineret. Unde dicit eum sibi primogenitum, quasi cui deberentur dona primogeniti. Sed et fortitudinem suam eum nominat, eo quod robur imperii ad eum debuerit declinare.”

not cease to be the firstborn in the physical sense, because of his misdeed Reuben lost the sacred right to rule, stemming from being an intermediary between the other brothers and God.

Indeed, Angelomus's commentary, like those of other medieval exegetes, including Hrabanus Maurus, confirms the belief, based on the biblical text, in the royal prerogatives of the firstborn, to which he was entitled by birth alone, under God's law. The term *regnum* used by St. Jerome with regard to Reuben's rights was inextricably associated with royal power in the ninth century. Thus the figure of Reuben acquires a universal moral sense as the figure of a ruler who, as a result of his own weakness, became unworthy of performing the function entrusted to him by God himself, and lost power forever.

Privileged Treatment of Younger Brothers

When Thegan, the biographer of Emperor Louis the Pious, described the origins of his protagonist and his path to the throne, he added a characteristic commentary to his story:

But he [Louis], who was the youngest by birth, even as a child gave everything that belonged to him to the poor in the name of God. For he was the best of his [Charlemagne's] sons, for since the dawn of time a younger brother has often surpassed the elder brother in virtue. This happened for the first time with the sons of the first parents of humankind, when God in his Gospel called Abel just. Abraham had two sons, but the younger proved to be better than the elder. Isaac had two sons, but it was the younger who was chosen. Jesse had many sons, but it was the youngest, a shepherd, who was chosen and anointed on God's order to rule the whole Israel; and he was deemed worthy for the promise of Christ's incarnation to be fulfilled from his semen. Many more such and similar examples could be given.¹³²

When painting his idealized picture of the future emperor's youth, Thegan referred to biblical examples of younger sons who were superior in their virtues to their elder brothers and who were granted God's special grace. This recurring biblical motif intrigued Jewish and Christian exegetes.¹³³ As has been said earlier, according to God's law it was the eldest, especially firstborn sons who had special privileges, and if they

132 Theganus, *Gesta Hludowici imperatoris*, 178: "Sed ille, qui iunior natu erat, semper ab infantia sua timere Deum et amare didicerat, et quicquid sui habebat, propter nomen Domini pauperibus distribuebat. Erat enim optimus filiorum eius, sicut ab exordio mundi frequenter iunior frater seniore fratrem meritis precedebat. In filiis primi parentis generis humani primo declaratum est, quem Dominus in evangelio suo Abel iustum nominavit. Abraham duos filios habuit, sed iunior melior seniori effectus est. Isaac duos filios habuit, sed iunior electus est. Iesse multos filios habuit, sed novissimus, qui erat pastor ovium, ad regni gubernacula super omnem Israel Deo iubente in regem electus et unctus est; cuius de semine olim Christus promissus incarnari dignatus est. Talia et similia enumerare prolixum est."

133 For more on the interpretation of the motif of younger brothers surpassing the elder ones in the Judaic tradition, see Syrén, *Forsaken Firstborn*; Fox, "Stalking the Younger Brother"; Greenspahn, *When Brothers Dwell Together*; Kaminsky, *Yet I Loved Jacob*.

lost them, it was always by God's will. The disruption of the eternal order stemmed from an eternal plan hidden from the human mind. As Thegan understood this, the plan also included the premature death of Louis's elder brothers, Charles the Younger (d. 811) and Pippin (d. 810), which paved the way for him to ascend the throne.

Thus for Louis's biographer the fate of his protagonist was part of God's plan, unfathomable for the mortals. Louis's innate virtues made him similar to Abel, Isaac, Jacob, and David, chosen contrary to human judgements. In early medieval commentaries on the Bible, the figures of Abel, Isaac, and Jacob were interpreted allegorically as a representation of the Church, contrasted with its elder brother, the Synagogue. Abel and Isaac were simultaneously prefigurations of Christ himself and his blameless sacrifice. Similarly, David—the medieval model of a monarch—became a type of Christ the King. In Thegan's work the juxtaposition of these figures was meant first of all to show Louis as the one whom special fate awaited already from his childhood. The similarity between the future emperor and the younger sons of the Old Testament patriarchs was expressed in their innate virtues: Abel, Isaac, Jacob and David were men of the spirit, focused on the contemplation of God's causes, unlike their elder brothers, who are described mainly through their physicality (sometimes with almost animalistic features, like in the case of Esau) and impetuosity, which stemmed from the domination of the flesh. In Thegan's account, the conduct of Louis, Charlemagne's youngest son, already in his childhood testified to his moral superiority to those who were the first in birth.¹³⁴ The Astronomer adds one more element to this picture: when mentioning the premature death of Louis's twin brother, Lothar, he presents his protagonist as the one who was lucky from his birth and who was destined to live.¹³⁵

This opposition between an older brother and a younger one, physically weaker but morally superior, rooted in the biblical tradition, was constantly present in the medieval set of ideas concerning the relations between siblings.¹³⁶ It was used by Louis's biographer, and before him Cathwulf, in his letter to Charlemagne, and by Hrabanus Maurus in *De honore parentum et subiectione filiorum*. This was also how Nithard, the chronicler of the conflict among Louis the Pious's sons, constructed his story. In his narrative, the figure of Lothar was created in accordance with the model of the sinful

134 The image of Louis as an ideal ruler in Thegan's work is analyzed by H. Nelsen-Minkenbergh in her doctoral dissertation "David oder Salomon?"

135 Astronomus, *Vita Hludowici imperatoris*, 288.

136 The motif of a wise and noble younger brother, superior to elder brothers, is present in many cultures. The themes of rivalry between brothers, present in the Old Testament, must have been influenced by motifs borrowed from the traditions of ancient Egypt and Mesopotamia. Similar stories can be found in Greek and Roman cultures. The motif must have also been familiar to the pre-Christian cultures of the peoples of early medieval Europe, as is indirectly evidenced by the surviving relics of the Celtic and Scandinavian traditions (Larrington, "Sibling drama"). A compilation of themes from myths and folktales concerning younger, wise brothers in various cultures was made in the early twentieth century by Antti Aarne; it was subsequently complemented by Stith Thompson. For an updated version of their typology of fairy tales see Uther, Hans-Jörg, ed. *The Types of International Folktales* (e.g. themes nos. 402, 551, 610, 758C and others).

and wicked elder brother and was contrasted with the figure of the humble and pious Charles the Bald. Nithard attributed to Lothar a set of traits that reflected the biblical model: thus Lothar is a violent man, prone to brutal and bloody deeds, impetuous and haughty, from his youth failing to fulfil the duty to obey his parents, while Charles appears as a peace-loving and gentle ruler, devoted to matters of the spirit, a ruler whom God himself elevated above his firstborn brother. And according to God's judgement, the evil brother must be condemned for his iniquity ("ob suam nequitiam vindicta Dei ejecerit").¹³⁷

The elevation of the younger brother had yet another justification in the Bible. Early medieval theologians drew a parallel between Ephraim, Joseph's younger son, elevated above his elder brother Manasseh, and Jesus and John the Baptist. As Alcuin writes in his commentary on the Gospel of John, dedicated to Charlemagne's sister and daughter, it is not the birth order that determines dignity (*dignitas*), and of Jesus and John the Baptist the one who is born later will rule the one who is his senior. The one born first, like John the Baptist, should humbly accept what happens by God's decree.¹³⁸ The motif, borrowed from a homily of the Venerable Bede,¹³⁹ recurs in Heiric of Auxerre's sermon.¹⁴⁰ *Dignitas* becomes a key concept here: dignity depends on the will of God and merits of the spirit, and not on seniority (even if it is legitimized by law).

In the Carolingian period a special place among the biblical brothers was occupied by the figure of King David. David, a model ruler and prefiguration of Christ, personified virtues of the spirit but also those of a victorious leader, especially attractive for a monarchy laying the ideological foundations of power that transgressed the boundaries of lands and peoples. The best-known direct reference to David-related symbolism is the appellation given by Alcuin to Charlemagne and Alcuin's interpretation of his reign as the reign of a New David.¹⁴¹ As has already been mentioned, the monarch had been previously compared to David in Cathwulf's letter to Charlemagne.

The model of a good king—a New David—consistently present in Alcuin's writings, influenced thinking about an ideal ruler among writers serving the great emperor's heirs. The excerpt from Thegan's biography of Louis the Pious quoted earlier mentions the figure of David, an anointed king: from his house came the Saviour and to him Louis the Pious was compared. Nor was it without reason that Hrabanus Maurus used David as an example in *De honore parentum et subiectione filiorum*, presenting him as an ideal son, brother and ruler.¹⁴² In one of his sermons Heiric of Auxerre explained in

137 *Nithardi Historiarum libri IV*, lib. 2, chap. 2, pp. 14–15; lib. 4, chap. 1, p. 40; on signs of Charles's miraculous elevation, see, for example, the story of the delivery of the royal insignia by envoys from Aquitaine on the Holy Saturday 841, lib. 2, chap. 8, pp. 21–22; Airlie, "The World, the Text and the Carolingian."

138 Alcuinus, *Commentaria in sancti Joannis Evangelium*, letter to Gisla and Rodtruda, cols. 749–50.

139 Beda Venerabilis, "Homiliarum euangelii libri II," lib. 1, hom. 2.

140 Heiricus Autissiodorensis, *Homiliae per circulum anni*, hom. 4.

141 A classic study is Wallach, *Alcuin and Charlemagne*; see also Bullough, *Alcuin*, 368.

142 MGH Epp. *Epistolae Karolini aevi*, 3, no. 15, p. 406; cf. De Jong, "Hraban Maur as Mediator," 50ff.

a remarkable way why David was superior to Jacob, Isaac, or Abraham, and why the Evangelist referred to Joseph as son of David and used the same term with regard to Jesus: although David, like the patriarchs, was a shepherd, he also became a king and prophet. As none of the patriarchs enjoyed the royal dignity, Jesus could come only from the House of David.¹⁴³

A lot has been written already about the use of the David model during the reign of Charlemagne and his descendants.¹⁴⁴ What is important here is David's initially inferior place in the fraternal hierarchy. David was the eighth, youngest son of Jesse, and the only one who was not among the brothers presented by their father to Samuel (1 Sam. 16). Carolingian commentators juxtaposed Jesse's seven eldest sons with David, seeing in him a figure of Christ, while his brothers were seen as representing the people of the Old Covenant. Although David was the last by birth and living on the sidelines, as it were, and was treated by his father as unworthy to be singled out by Samuel, God's intention was fulfilled in him.

Let us sum up this part of the analysis. First, the discussion surrounding the question of the egalitarianism of fraternal groups or the origins of primogeniture in the early Middle Ages is to a large extent a debate over a problem created by historians who adopted as the basis for their research one group of sources, primarily normative sources. What is striking, however, is a lack of reflection on what this equality meant and how it was defined by contemporaries. If we were to continue exploring legal issues associated with property and the inheritance system, we can speak with certainty about equality in the sense that every male progeny of a relationship recognized as a marriage was equal to his brothers in access to the patrimony. However, there is no justification for making generalizations concerning findings based on an analysis of legal sources—which, moreover, deal with just one aspect of the functioning of family groups, expanding them to the entirety of fraternal relations.

For if we try to look at the problem of fraternal hierarchy from a perspective other than that of property law, the picture becomes more complex. In the ninth century, the privileged status of the eldest son found a comprehensive theological justification, and this teaching was not questioned even by those who in political life were very reluctant to recognize the firstborn's right to exercise power. This is evident, for example, in Nithard's work, in which the criticism is directed against Lothar I as the one who, through his numerous transgressions, lost the privilege of primogeniture. Obviously, a question now arises whether this teaching influenced wider circles of society or just the political elite associated with the court. In fact, this is a question about the extent to which Christian teaching on the most fundamental elements of social organization, including relations between brothers, was reflected in the conceptual system and in

143 Heiricus Autissiodorensis, *Homiliae per circulum anni*, no. 7.

144 Anton, *Fürstenspiegel und Herrscherethos*; On the David motif in iconography, see the classic study by Steger, *David Rex et Propheta*, see also Garipzanov, *The Symbolic Language*, 224–28.

socially accepted patterns of behaviour. There is no reason to deny such an influence in advance, just as scholars do not question the impact of the Church on the change of the marriage model and customs, despite limited sources about marital life practice in the early Middle Ages.

Let's summarize briefly the most important content of the Church's teachings on fraternal relations. First of all, the model of relations which emerges from the analysis of biblical texts introduces and legitimizes a clearly dichotomous division of brothers. The division juxtaposes the eldest (firstborn) son with the other children. The firstborn stands by birth above his brothers, not by human will but by the will of God, who took a liking to firstborns, assigning to them the function of priests. However, the inherent moral superiority of the firstborn does not stem from the very fact of birth. This moral superiority is a task the firstborn must face up to. The privilege of being chosen from among all the others is primarily a moral obligation. As the one chosen and called by God at birth, the firstborn may demand that his brothers acknowledge his superiority, but only as long as his conduct does not violate God's law. God makes higher demands on the firstborn than on other mortals.

In addition to the ideal model of a hierarchical fraternal group led by the eldest brother, who rules—justly—all the other brothers, can be found its opposite: a world of a reversed order in which the eldest brother, having sinned, must give way in terms of moral superiority to a younger brother. Thus his rightful privilege can become an object of rivalry between brothers: a rivalry in virtues, which can easily justify a rivalry for power, and not only symbolic power at that. A loss of the privilege of primogeniture—that is, special grace granted by God to every firstborn at birth—does not mean, however, a loss of the firstborn's privileged position. The firstborn always remains first among his brothers, though not necessarily first before God. Worthy of note is the fact that the arguments which in the following centuries would be used to justify theologically the eldest royal sons' claims to be sole rulers and to firstborns' claims to inheritance in aristocratic families were clearly presented in the writings of ninth-century scholars. It would be tempting to assume that just in this period, in the European tradition there emerged a juxtaposition of the firstborn and the other brothers, so typical for the later centuries, which was marked by mutual distrust. The sources do not allow us to determine whether this was indeed the case. The ground had certainly been laid already.

The problem of firstborns and fraternal hierarchy can also be viewed from a broader perspective. The ninth century was also a time when the idea of the omnipresent hierarchy of creation, from the order of the planets to the order of the earthly family, was developing, having been derived from the tradition of Antiquity and transformed by the Church Fathers. It was during the reign of Louis the Pious that the teachings of Pseudo-Dionysius the Areopagite, which drew on Neoplatonism, reached the West and quickly became the foundation of thinking about the hierarchical organization not only of the Church but also of society as a whole. In a cosmological concept in which the Church appears like the mystical body of Christ and the faithful are united with each other and

with God by bonds of baptism-based kinship, the earthly order is subordinated to the heavenly order, while forms of social organization are contained in this supernatural order of the Church.¹⁴⁵ This theological justification of hierarchical relations among brothers or the privileged position of the firstborn among them is not just a reflection on the sense of Scripture, but an explanation of the principles that should govern the earthly family.

145 For more on the hierarchical concept of the world order in the early Middle Ages, see studies collected in Bougard, Iogna-Prat and Le Jan, ed., *Hiérarchie et stratification sociale*, e.g. the introductory paper; Bougard and Le Jan, "Hiérarchie," 5–19 and the paper on the impact of Pseudo-Dionysius's ideas on Carolingian theologians, Iogna-Prat, "Penser l'Église," 55–81.

Chapter 4

BETWEEN LOVE AND HATE: MODELS OF FRATERNAL RELATIONS

IN EUROPEAN CULTURE fraternal relations have been associated with positive values for centuries. Fraternal love, loyalty, and collaboration constitute an ideal to which other relations between people are compared. However, this is by no means an unequivocal picture. There is a darker side, a lurking threat of rivalry or even open hostility between brothers. In his comprehensive study devoted to the notion of brotherhood in the Middle Ages, Klaus van Eickels points to the danger facing a scholar trying to tackle the topic. It stems from the fact that the modern language used to describe fraternal relations is imbued with symbolic contents very different from the meanings attributed to them in the past. The idea of the Republican *fraternité* interwoven with the concepts of Christian brotherhood developed by today's theologians is an important element of the contemporary culture of Western European civilization, strongly rooted in collective ideas about social order.¹ Historians are not free from their influence. It is very easy, even unintentionally, to give in to the temptation of using conceptual patterns of one's own culture to interpret phenomena that seem to be, at first glance, so similar to what is known well from the world around us. Yet although in the past, too, fraternal relations were treated as exceptional, a recognition of this uniqueness does not have to mean that the meanings attributed to them are shared. It is therefore important is to carry out a detailed analysis of the models and anti-models of fraternal relations characteristic of the period, the sources of values that lay at their foundation, and the transformations they underwent.

Fraternal Love: *amor, dilectio, caritas fraterna*

What comes to the fore in research into the notion of brotherhood in the Carolingian era is reflection on the meaning of the term *caritas fraterna*. It is, in fact, the only problem associated with relations between brothers thoroughly explored in medieval studies generally. The choice is by no means accidental: the term *caritas fraterna* appears frequently in Carolingian sources; most importantly, it appears in sources concerning relations within the dynasty during the break-up of Charlemagne's realm and disputes between the sons of Louis the Pious in the mid-ninth century. Older, especially German, historiography regards these sources (including synodal records, documents issued during the successive divisions of the Carolingian realm, and pacts between the ruling brothers) as the key to any study of the transformations of the model of relations

¹ Eickels, "Der Bruder als Freund," 195ff.

between the monarchs, the Church, and the ruling elites, which was the basis of the political order of late Carolingian and post-Carolingian Europe.

Reinhard Schneider, the author of a fundamental study devoted to the meaning of the notion *caritas fraterna* in the Carolingian era, set the direction of research and in some respects defined its scope, at least for German historians. Schneider was interested primarily in matters of the political system: he discussed the social and legal aspects of relations between brothers with regard to the relations between the sons of Louis the Pious during their fight for power and after the division of the empire. That is why he focused his attention on a group of texts produced during successive meetings and agreements concluded by Lothar I, Louis the German, and Charles the Bald as well as their successors, that is primarily royal diplomas, texts of agreements between the brothers, capitularies, and synodal records. According to this scholar, in the language and conceptual system of these sources the term *caritas* occupied a central place, while the transformations of its use reflected particularly vividly changes in the political organization of the Carolingian realm.²

In Schneiders opinion, the term *caritas fraterna* combined the secular ("Germanic") understanding of the relations between biological brothers, based on legally sanctioned collaboration and heritage sharing, with the Christian concept of fraternal love, which brought together all baptized people, and which was based on trust and faithfulness. In his interpretation, under the impact of clergymen representing the faction seeking to keep the unity of the empire (the *Reichseinheitspartei*), during the reign of Louis the Pious, there emerged a concept whereby Christian *caritas* was to cement the unity of Louis's sons. The combination of values derived from secular law (fraternal obligations) and from the teaching of the Church (love of one's neighbour) was to prevent an irreversible division of the Carolingian dominions. However, the plan failed in its confrontation with reality, and the language of the sources returned to the traditional "Germanic" understanding of the term *caritas* as a fraternal relation based on the renunciation of violence and mutual faithfulness, but not altruistic power sharing.

Another German scholar, Hans Hubert Anton, who more than a decade after Schneider resumed reflection on the definition of fraternal relations between Carolingian kings followed the path set by his predecessor. Anton was interested primarily in the question of why the notion of *caritas*, used to define the relations between the royal brothers in the 840s and 850s, practically disappeared from the language of royal charters in the 870s and was replaced by terms like *amicitia*. He tried to demonstrate what legal and political changes were reflected by this process.³ His analysis was based on sources produced during the great synods of 828–829 and related legislation from subsequent years. At that time, representatives of the imperial elite discussed the reform and improvement of Christendom, plagued, by divine decree, by disasters seen as punishment for the sins committed by Christians.⁴

² Schneider, *Brüdergemeine und Schwurfreundschaft*, 49ff.

³ Anton, "Zum politischen Konzept," 211.

⁴ MGH LL *Capitularia regum Francorum*, 2, no. 113.

Anton argued against the thesis advocated by Margret Wielers, who attributed the change in the language of the sources to the weakening role of traditional kinship ties in Carolingian politics and the emergence, under the influence of Christianity, of a new form of the law of brotherhood (*ius fraternitatis*).⁵ He also questioned Schneider's interpretation, which assumed the existence of an opposition between the Germanic institution of brotherhood and the Christian concept of a sacred bond between brothers in Christ. Looking for another explanation, Anton examined the mutual links between the concepts of *caritas*, *amicitia* and *fraternitas*. According to him, in the mid-ninth century the meanings of these words were similar and encompassed the traditional obligations of brothers to help each other and remain friends (according to the *consilium et auxilium* formula). In the 840s, through deliberate actions by representatives of the Church, the term *fraternitas* was imbued with Christian content; and on this basis there emerged a new legal construct, which was to become the ideological and political foundation of the Carolingian realm. The changes were reflected, first of all, by the constitutions of Frankish councils. Bishops believed that *caritas fraterna* encompassed ideal relations between royal brothers based on peace and concord, but also on the resulting duty to maintain unity and peace in the Church. The spread of such a concept of *caritas* was to be of crucial significance when the Carolingian dominion was to be divided, at a time when it became an urgent problem for the ecclesiastical elites to reconcile the idea of *unitas Ecclesiae* and the right of all descendants of Louis the Pious to have a share in the inheritance. According to Anton, in response to this challenge among the intellectual elite emerged a concept of brotherhood or fraternity (*fraternitas*), the essence of which encompassed both Christian love (*caritas*) and blood-based brotherly solidarity, confirmed by an oath (*amicitia*). Thus two legal institutions deriving from the "secular" order were combined and reconciled with the Christian concept of fraternal love: traditional *germanitas*, which united biological brothers with bonds of loyalty, and friendship confirmed by an oath (*amicitia*). At least from the 850s onwards this was the legal and ideological basis of the relations between Lothar I, Louis the German, and Charles the Bald. When it was no longer possible to control centrifugal tendencies and smooth over the brothers' conflicting interests, the model ceased to serve its purpose. According to Anton, this was the moment in which the advocates of the concept of the unity of the realm (*regnum*) as a joint dominion of brothers united by Christian brotherly love ultimately failed, and the relations between the rulers had to be considerably revalued in the direction indicated by Schneider, i.e. by pacts, alliances, and friendships (but no longer brotherly love) between sovereign monarchs ruling independent kingdoms.

The problem with Schneider's and Anton's interpretations stems from their assumptions that brotherhood existed as a more or less precisely defined institution in law (*Brüdergemeine*). Even when Schneider criticized the legal historians' concept of pan-Germanic brotherhood as the basis for relations within the family, his criticism

⁵ Wielers, *Zwischenstaatliche Beziehungsformen*.

concerned the way of defining the institution and not its very existence. Consequently, all of Schneider's interpretations were on the one hand tangled up in the dispute over the Germanic-pagan or Christian origins of early medieval brotherhood and on the other focused on examining the legal aspects of its functioning. In addition, both Schneider and Anton used the traditional division into and juxtaposition of the private and the public, the secular and the sacred. As a result of these dichotomies Schneider in particular, but to a large extent Anton as well, saw the way relations between brothers were described in the sources not as a product of many overlapping and intermingling patterns, but as a clash of competing and clearly opposing models which belonged not only to different normative systems but even to different orders (*sacrum versus profanum*).

What is doubtful about Schneider's interpretations is first of all the adoption of these distinctions as key to understanding the legal order of the Carolingian era. In more recent studies historians agree about the complementary nature of the religious and so-called secular elements of legal customs, royal laws, and ecclesiastical laws of early medieval societies and, consequently, in the political life of the period. The very term "secular" used with reference to phenomena from these areas is imprecise and may even be misleading, as institutions of social life were rooted in religion both before and after the adoption of Christianity. Thus Christianization denoted not so much the sanctification of institutions of social life, but replacement, by the Christian system of values, of legitimizing functions earlier performed by pagan beliefs.

What also does not stand up to criticism is the very concept of brotherhood (*Brüdergemeinschaft*) as a legal institution, as has been mentioned earlier. Both the older legal historians and, to a large extent, Schneider himself were convinced that there existed legal criteria defining relations between brothers not only on the level of specific obligations concerning ownership or legal aid, but also on that of mutual relations in general. Notions like loyalty, faithfulness, love, or fraternal help appearing in sources were treated by these scholars as legal categories that could be precisely described. Such an understanding of social relations in the early Middle Ages seems debatable today, to say the least.

The model proposed by Schneider and Anton lacked a broader non-political and non-legal context. Both scholars focused on diplomatic and normative sources—moreover, on a special group of such sources: those produced in royal and episcopal chanceries. Other sources, such as, for example, moralizing or homiletic texts, were treated as marginal, and this inevitably led to a one-sided approach. In addition, building complex hypotheses concerning an ideological and political programme only on the basis of an analysis of individual source terms that are, furthermore, hard to define precisely, prompts us to approach these scholars' findings rather cautiously.

Focused on an examination of legal institutions as they are, Schneider's and Anton's studies are nevertheless important to the present analysis—despite all the reservations concerning the assumptions adopted by these scholars. The sources they examined confirmed the role played by the ideal of fraternal relations shared (or challenged) by the elites—relations understood both as an earthly blood tie and a spiritual bond—in the political game involving rival members of the Carolingian dynasty. The notion of

caritas fraterna (*caritas fraternitatis*), which is key to defining these relations, requires a broader approach and a look at its functioning also in other types of sources.

I have already mentioned the significance of Paul's concept of Christian brotherhood to the emergence of the dualist model of fraternal relations. A crucial role was played by his interpretation of the biblical notion of fraternal love (Greek *philadelphia*, Latin *caritas fraternitatis*). Speaking of the Church as a fraternal community, St. Paul pointed, in accordance with Christ's teachings, to mutual love as a goal towards which this community should strive (Rom. 12:10; 1 Thes. 4:9). Yet he did not provide a precise definition of the essence of this fraternal love, clearly concluding this obligation as obvious in itself as stemming from the words of Jesus himself.⁶ Nor did he define the relation between the two terms appearing side by side and used to define the spiritual love between Christians, that is *philadelphia* and love of God and for God, *agape*. The very etymology of these words suggests a special link between the former and values traditionally associated with fraternal blood ties. In the Latin translation of the New Testament this original difference between the Greek terms was weakened, which resulted from the use of a single term to define them—*caritas* (sometimes replaced with the words *dilectio* and *amor*, used synonymously). A detailed discussion of the history and transformations of the very concept of *caritas* as one of the three theological virtues in late Antiquity and the early Middle Ages goes beyond the framework of the present study.⁷ However, it needs to be noted that the ambiguity of the term used in the Vulgate had a considerable impact on the interpretation of the essence of fraternal love in Latin culture.

The ninth-century dispute over the correct understanding of the Christian notion of (fraternal) love was part of a broader discussion about the principles that should govern the life of an individual and the functioning of the entire Christian community. It became particularly intense during the reign of Louis the Pious, an era marked by successive crises, but which also (and perhaps precisely because of that) produced many eminent thinkers, capable of original reflection on the order of the world, stretched as it was between the earthly and the eternal. The problem of the meaning of *caritas* in this order kept recurring in many exegetic works, especially in commentaries on the Gospel of Matthew and the Apostolic Epistles as well as in homilies.

An observation that is obvious but brings with it the furthest-reaching consequences—and which can be based on just a perfunctory analysis of references concerning Christian fraternal love in these sources—concerns the dialectical tension between the spiritual and the carnal in this relation. This dichotomy, which comes from Augustine, is combined with a fundamentally positive nature of fraternal relations: fraternal love stems from natural law; it is part of the eternal order created by God. Although by killing Abel Cain

⁶ For more on fraternal love in Paul's teachings, see Aasgaard, 'My Beloved Brothers', 151–77; see also Dujarier, *L'Église-Fraternité: Leclésiologie du Christ-Frère*, 1.

⁷ For more on the origins and meaning of the term *caritas* in general, see the classic study by Pétré, *Caritas* (mainly lexicographically); on the functioning of the term in the early Middle Ages, Schneider, *Brüdergemeine und Schwurfreundschaft* (leaving aside most exegetical texts).

imposed fatalism on this relationship, he committed the deed against God's will, violating the social order of the first human family introduced by God. Thus brothers born of the same parents are morally obliged to love each other. This love is an unbreakable duty of mutual support, loyalty, and trust, but is based above all on renouncing all envy (*invidia*). However, given the fact that brotherhood of the flesh is naturally tainted by sin, the ideal of fraternal love cannot be fully put into practice among people without acquiring a special spiritual dimension. This dimension can be acquired only when love is liberated from carnal entanglement, becoming an all-encompassing love, directed through love of people towards God. Thus love between brothers is a moral obligation, but it always remains imperfect, unless it becomes spiritual love, going beyond the earthly family and encompassing all brothers in Christ.

Early medieval authors were convinced that the fraternal love which biological brothers should have for each other and love among brothers in Christ were, in fact, the same, and that it was expressed in the same moral values: loyalty, unity, mutual, selfless help, and ability to forgive. There was no difference between them in this respect. Yet the affection uniting biological brothers differs from true fraternal love in the reason behind their mutual obligations: affection between biological brothers comes from the flesh and not from the spirit, not from the will of the soul, but from being born in sin, from the community of earthly life, not from the community seeking salvation. It is, therefore, inevitably flawed.

In his treatise *De videndo Deum* Hrabanus Maurus explained this dichotomy by referring to the words of Julian Promerius, who lived at the turn of fifth and sixth century: "One does not love if he loves someone because he or she is his brother or sister, father or son, mother or daughter, grandson or granddaughter: for one that loves thus loves carnally; instead we should love not those who are bound to us by kinship, but those ... who are of the same nature."⁸ This idea by Promerius was also referred to in *De varietate librorum*, attributed to Haimo of Auxerre, when author explained the essence of Christian love.⁹ For both theologians affection for one's relatives based only on the blood tie imperative is not truly Christian love; it may even lead to sin, for what it favours above selfless love for one's neighbour are earthly ties, which make humans unjust and blind to the misdeeds and defilement of the souls of those regarded as one's relatives.¹⁰

8 Rabanus Maurus, *De videndo Deum*, cols. 1291–92: "Neque enim ideo se diligit quisque, quia sibi frater aut soror, pater aut filius, mater aut filia, nepos aut neptis est, carnaliter quippe amat, qui taliter amat, quoniam non illi tantum proximi nostri esse credendi sunt, quos nobis gradus sanguinis jungit, sed proximi nostri esse credendi sunt omnes homines naturae nostrae, sicut dixi, participes."

9 Haymo Halberstatensis, *De varietate librorum*, chap. 7, col. 894.

10 Rabanus Maurus, *De videndo Deum*, col. 1292: "Jam si propinquos nostros, quamvis incompositos, turpes ac male moratos, plusquam quoslibet sanctos, quos a nobis secundum sanguinem vocamus, extraneos diligamus, non solum carnaliter diligimus, sed etiam graviter in tali eorum dilectione peccamus."

Fraternal love may achieve perfection only if brothers go beyond the earthly, excluding category of shared origins defining a group bound by ties of blood. This state can be sought only by practising virtues, by thinking not about earthly benefits for oneself and one's family, but about becoming closer to God and saving one's own and one's neighbours souls. The theologians and moralists writing about brotherhood believed that the social relations between brothers (irrespective of whether the brotherhood was physical or artificial) had to acquire a special sacred dimension to become a true bond between souls (Augustine's *vinculum mentium*). *Caritas fraterna* interpreted in such a way is one of the forms that can be assumed by omnipresent and eternal love coming from God and directed towards God. This idea is clearly expounded by Hrabanus Maurus in his sermon *De charitate*, referring directly to St. Augustine.¹¹

Blood ties and the obligations resulting from them were a constant point of reference for authors considering the essence of Christian fraternal love. They assumed that the closest relatives were bound by an unbreakable and innate positive bond—a bond which, however, was not selfless. By its very nature it was a relation limited to those sharing origins and, as such, it was exclusive and focused on those within a group. Such a love among brothers is uniting in opposition to the external world: of non-brothers. At the same time, it is a love entangled in earthly desires. Nevertheless, for authors writing in the early Middle Ages, as for their predecessors, this deficient fraternal love is the strongest and the best earthly relation between human beings—alongside paternal and maternal affection.

The superiority of spiritual fraternal love is based on going beyond this earthly, excluding category of shared origins defining a group bound by ties of blood. It is a love stemming from the fact of being chosen by the Father; all faithful in Christ become his children. God's all-encompassing love for human beings and human beings' love for God, and through God for all people, becomes the foundation of the Church. To describe this bond theologians used primarily categories applied to present relationships within earthly families—as these relationships were in their days. This is by no means surprising, given the fact that the metaphorical use of the concept of spiritual fatherhood and brotherhood has roots in the evangelical tradition. There are two obvious reasons. On the one hand, the authors referred to their own conceptual system, which enabled them to illustrate the complex meaning hidden in the words of Scripture; and on the

11 Rabanus Maurus, *Homiliae*, col. 86: "Quapropter, fratres charissimi, sectemini charitatem: ipsa videlicet est dulce ac salubre vinculum mentium, sine qua dives pauper est, et cum qua pauper dives est. Haec in adversitatibus tolerat, in prosperitatibus temperat, in duris passionibus fortis, in bonis operibus hilaris, in tentationibus tutissima, in hospitalitate latissima, inter veros fratres jucundissima, intra falsos etiam patientissima: in Abel per sacrificium grata; in Noe per diluvium secunda, in Abrahae peregrinatione fidelissima, in Moysae inter jurgia lenissima, in David tribulationibus mansuetissima, in tribus pueris blandus ignis innocenter spectat, in Machabaeis saevos ignes fortiter tolerat, casta in Susanna erga virum, in Anna post virum, in Anna (sic) praeter virum, libera in Paulo ad arguendum, humilis in Petro ad obediendum, humana in Christianis ad confitendum, divina in Christo ad ignoscendum"; it is a nearly verbatim quote from a sermon by St. Augustine (Augustinus Hipponensis, *Sermones*, no. 350, col. 1534).

other, their message could be understood only through reference to ideas concerning the social order shared by the writer and by the reader.

Writing about the consequences of love-based relations between Christians in his treatise *De fide, spe et caritate*, Paschasius Radbertus referred to concepts that in society's view were a constitutive element of the earthly fraternal bonds, a shared heritage. In any case, he invoked here the words of St. Paul himself, who in his Epistle to the Romans (8:14–17) wrote: "Quicumque enim Spiritu Dei aguntur, ii sunt filii Dei. Non enim accepistis spiritum servitutis iterum in timore, sed accepistis spiritum adoptionis filiorum, in quo clamamus: Abba (Pater). Ipse enim Spiritus testimonium reddit spiritui nostro quod sumus filii Dei. Si autem filii, et hæredes: hæredes, quidem Dei, cohæredes autem Christi" ("For as many as are led by the Spirit of God, these are sons of God. You did not receive the spirit of bondage again to fear, but you received the Spirit of adoption by whom we cry out, Abba, Father. The Spirit Himself bears witness with our spirit that we are children of God, and if children, then heirs—heirs of God and joint heirs with Christ"). The concept of Christians as brothers and (co-)heirs of grace was for centuries strongly present in the writings of the Church Fathers. It was developed by St. Augustine,¹² whose argumentation was followed by early medieval theologians. According to Paschasius Radbertus, from the love of one's neighbour emerges the love of God, thanks to whom Christians may be granted grace and become children of God. As brothers in Christ and children of one Father, all Christians become rightful heirs to earthly and eternal possessions. Like co-heirs (*coheredes*), so too brothers should have a just, equal share, without any exception, in this heritage, without envy and without greed, in mutual love.¹³ It is no coincidence that this metaphor referred the readers to their daily experience, in which disputes over heritage were a permanent element of social relations and equal sharing in the patrimony became a key political problem.

What early medieval texts have in common is the shared idea of an ideal state in which the fraternal bond appears as a relation of loyalty, solidarity, and mutual love. The ninth-century moralists often used terms like *caritas fraterna*, *dilectio fraterna*, or *amor fraternitatis* to define the fundamental value of both relations, that were both earthly and timeless. A brother truly loving his brother combined two forms of love into one perfect whole, as Christians should do with regard to their neighbours. However, in their carnal weakness humans easily give in to temptations, as a result of which the bond

¹² Dujarier, *L'Église-Fraternité: L'ecclésiologie du Christ-Frère*, 2:682ff.

¹³ Paschasius Radbertus, *De fide, spe et caritate*, lib. 3, v. 770: "Vnde quicquid sine dilectione agitur Dei et proximi nihil prodest. Nam dilectio proximi germanitatem seruat. Germanitas autem in adoptionem transit. Adoptio uero per gratiam filios Dei nos efficit. Hinc quoque quia fratres et filii uni patrifamilias sumus hereditas celestis fide et substantia huius mundi communis nobis est. Sic ergo largiri debemus proximis quasi coheredibus et quod eorum est singulis non negare. Quia secundum apostolum nihil aliud debere debemus nisi ut inuicem diligamus. Hinc quoque caritas non inflatur non est ambitiosa non querit que sua sunt. Quia profecto nouit ius nature et hereditatis ac gratie consortium. Sic itaque singulis que huius mundi sunt largiri satagit quasi debitum."

between biological brothers, as one based on the sinful flesh, is constantly put to the test. Envy (*invidia*)—the source of all sin—leads to disagreements between brothers and to fatal rivalry over earthly possessions, and it puts an end to the original unity. Only through spiritual love can Christians be fully united with their brothers.

Love between the faithful united by Christian brotherhood does not give in to evil and is not diminished even by sinful deeds of the one to whom this love is directed. A true brother should seek his brother's salvation at all cost, that is, he should support him on the path towards God, also by means of fraternal admonition (*admonitio*). In a letter to Queen and Abbess Æthelthryth, Alcuin wrote openly that fraternal love should be manifested in spiritual admonition and earthly solicitude ("in ammonitione spiritali et in solatio saeculari").¹⁴ Words to a similar effect were used by archbishop Amulo of Lyon in a letter sent in 851 or 852 to the rebel monk Gottschalk, in which he called on him to repent and return to the bosom of the Church. As he put it, truly Christian brotherly love did not demand reciprocity; instead, a brother loves his brother unconditionally, even despite his hatred.¹⁵

As the source of true brotherly love is beyond time and earthly bonds, a truly loving brother does not even have to know his brother in order to remain in a spiritual relationship with him. An embodiment of such selfless devotion was Justin, a martyr known from a Gallic hagiographical legend, who during the reign of Emperor Diocletian died for his faith, at the same time saving his elder brother from captivity. As a hagiographer wrote, Justin was still a child when he obtained the palm of martyrdom. Wanting to fulfil the will of God, miraculously revealed to him, the holy youth persuaded his father to undertake a risky search for his lost brother. During the journey they embarked upon together a reversal of roles took place: it was the juvenile but spiritually mature son who was the guide and teacher of his father. Inspired by grace, he overcame all obstacles and achieved his goal: he found his lost brother among the slaves of a nobleman. Miraculously, he was able to recognize him, although he had never seen his face before. He died a martyr's death when Roman soldiers pursuing the brothers and their father, the soldiers having been ordered to do so by the cruel Prefect of Gaul, Rictovarus. The decapitated body of the saint was found by his kinsmen. Obeying the martyr's will (the saint's severed head spoke to them), they buried the rest of his body and carried his head to his mother in Auxerre, where a cult of the martyr soon emerged.

The *Passion of St. Justin* (incorrectly attributed to the Venerable Bede) was written on the basis of the story of St. Just, a martyred youth venerated in Gaul already in the eighth

¹⁴ MGH Epp. *Epistolae Karolini aevi*, 2, no. 79, pp. 120–22.

¹⁵ MGH Epp. *Epistolae Karolini aevi*, 3, no. 2, p. 368: "Quod te in huius sermonis exordio fratrem nomino, quem fraternae unitati contrarium non ignoro, ea, in quantum Deum largitur, facio caritate, quam scriptura nobis precipit dicens: 'Dicite his qui oderunt vos, fratres nostri estis'. Quia etsi ex illorum parte qui eiusmodi sunt fraternitas deperit, non idcirco etiam in nobis frigescere aut perire debet ipsius fraternitatis affectus. Quod autem non solum fratrem sed etiam dilectissimum dico, Dominus novit, quia te fideliter diligo, hoc tibi cupiens quod et mihi."

century or perhaps even earlier. It is known from an eleventh-century manuscript, but scholars agree as to its ninth-century provenance. As early as in the ninth century the text was known in a paraphrase in verse (*Passio metrica*).¹⁶ The hagiographic pattern used in the story of St. Justin's martyrdom is subordinated to the overriding motif or perfect love. The seemingly hopeless journey of Justin—an innocent and defenceless child—is, at the same time, a journey of the soul towards perfection and a journey of the saint towards the martyrdom he longs for. It is no coincidence that the author of the *vita* stresses this many times: the "natural" emotional relation between brothers living under one roof did not matter much in this case. Justin set out on his journey having been inspired by God, and by God's will he found and recognized his brother in an unknown slave holding a lamp—for he was bound to his lost brother by a bond stronger than blood, a bond of spiritual love. He recognized his brother with the eyes of the soul and not with these of the flesh.

Obviously, in the hagiographical narrative the figure of the lost brother became a pretext enabling the saint to achieve the martyrdom he has longed for. What is important for the present analysis is an enhancement of the status of the fraternal bond, which could be achieved only by separating it from earthly entanglements and raising it to a higher, spiritual level. In both cases a fraternal relation was at the centre of the story, be it a relation between the protagonist and his brother or between his father and uncle. Another noteworthy fact is what the hagiographers treat as marginal—as something obvious, as it were—namely the biological brothers' duty to help each other. In the older story of St. Just, the pious boy urged his father to fulfil his brotherly duty in the name of God's love; St. Justin, on the other hand, encouraged his father to set out in search of his lost son, Justin's brother. As it seems, the story of sainthood in which loyalty to the family was harmoniously combined with the overriding principle of Christian love for one's brother was attractive for pilgrims arriving at the tombs of both saints also because of the fact that their stories could be referred to relations within families there and then.

Yet the evangelical ideal combining biological brotherhood with the perfect fulfilment of Christian love was embodied first of all by the Apostles Peter and Andrew. Drawing

16 An edition of the *Passio Iustini* in verse is in MGH *Poetae Latini aevi Carolini* 4/2: 841–56; the prose *Passio s. Iustini*, BHL 4579, is published in Röckelein, "Just de Beauvais," 351–56, where there is also an analysis of the history of the cult in which were merged two hagiographic traditions and stories of two martyrs: of Just of Beauvais and Justin of Auxerre. In a hagiographic tale of Just of Beauvais (ed. BHL 4590), known from several manuscripts written between the eighth and the tenth centuries, e.g. at St. Gallen and Corbie, Just was looking not for his brother but for his uncle. The cult of St. Just is confirmed in the eighth and ninth centuries in Picardy, Neustria, Alemannia, and England among others; the centre of the cult was the basilica erected on the alleged site of the saint's martyrdom (Saint-Just-en-Chaussée) and around 900, after the translation of his relics, Beauvais. Interestingly, when writing his passion of St. Justin and preserving in it the model known from the story of St. Just, the hagiographer made basically just one significant change (apart from the location and time of the events)—he replaced the uncle with the brother of the saint. We might ask why. Did he just want to introduce an element making it possible to make a distinction between the "old" and the "new" saint, or was the decision motivated by a need to play out the story of the special—spiritual and physical—nature of the fraternal bond?

on St. Augustine, early medieval exegetes compared their calling to that of Moses and Aaron—as the brothers Moses and Aaron were called by God to lead the people of Israel out of Egyptian captivity, so too Peter and Andrew, fishermen of souls, were to show the path to the Heavenly Jerusalem to Christians. Their earthly brotherhood, stemming from their shared lineage, became a symbol of spiritual brotherhood of all faithful in Christ. As Paschasius Radbertus wrote in his commentary on the Gospel of St. Matthew, “Their fleshly brotherhood should make us realize that all those are in Christ through regeneration [i.e. baptism], they should be brothers by faith and be called brothers.” (“Quorum [Petri et Andreae] fraternitas carnis debet nobis insinuare quod omnes qui sunt in Christo secundum regenerationem vitae germanis debeant esse per fidem et fratres nomine appellari.”¹⁷) The parallel use of terms referring to spiritual and biological brotherhood is striking. The faithful who will follow the path indicated by Peter and Andrew will become like biological brothers (*germani*) through their common faith, and through this bond they will be able to call themselves brothers in spirit (*fratres*).

Paschasius Radbertus expounded on the theme of the brotherhood of Peter and Andrew, as he explained the hidden sense of the order in which Matthew listed the Apostles called by Jesus (Matthew 10:2–4). This fragment of his commentary is of particular interest to us. The abbot of Corbie explained that it was no coincidence that the Evangelist first listed two pairs of brothers—Simon Peter and Andrew, as well as James and John. The reasons were threefold. Apart of the grace of calling and perfection of merits, Paschasius Radbertus pointed, although hesitantly, the fraternal bond between these two apostles. He interpreted their bond quite specifically. As brothers, the first Apostles were chosen not because they were brothers of the flesh but because the love of God and fraternal love of their neighbours were combined twofold.¹⁸ For the exegete the biological bond of brotherhood between the apostles became the foundation on which grew perfect spiritual love. The pairs of apostles—brothers of the flesh—were also pairs of people who should love one another, as the existence of a co-loving person

17 Paschasius Radbertus, *Expositio in Mattheo*, lib. 3, vv. 1144–46.

18 Paschasius Radbertus, *Expositio in Mattheo*, lib. 6, vv. 423–45: “Ordo autem eorum ut aiunt tribus ob causis ita distinguitur, quippe aut uocationis gratia aut perfectione meritum. Et ideo Petrus forte in exordio Iudas uero Scariothis in fine ponitur cui elogium denotationis iure semper adscribitur ut et culpa pateat ex hoc et distinctionem habeat ab alio apostolorum qui et Iudas nominatur. In quo sane sciendum quod solus scrutator cordium qui merita nouit singulorum eos ita distinxit et preordinauit ut et sacramenta redoleant de relatu et diuina in eisdem uenerentur ex affectu. Tertiam uero fatentur causam quasi ex cognatione carnis quod non satis approbo licet Petrus et Andreas, Iacobus et Iohannes simul fratres iungantur. Qui nimirum bini propterea ponuntur quia sic ad predicandum mittendi erant ut et caritas in eis gemina Dei uidelicet ac proximi quam predicaturi erant patesceret et germanitas eorum in spiritu solidior firmaretur. Vnde et fraternitas Petri et Andree pene ubique a principio designatur. Constat igitur caritatem non minus quam inter duos haberi posse. Idcirco satis dispensatiue duo simul reor iunguntur quatinus et ipsi prius eadem fibula caritatis annectantur et ceteros iugo dilectionis in hac Domini agricultura binos ac binos consociant si quo modo omnis structura domus compacta et consociata crescat in Domino. Habet enim Dei agricultura necesse ut sub uno iugo fidei bini caritatis loro adstringantur ne possit dissociari germanitas et lasciuire.”

is a prerequisite for the existence of love (*caritas*). Thus a human being cannot follow the path to salvation alone, but always with the other, a spiritual brother with regard to whom he can grow in virtue and, at the same time, thanks to whose mutual love he can be saved from temptation and from going astray. A familiar idea recurs here: in the most perfect order a brother of the flesh should become a brother of the spirit, like the apostles, and the one who loves his brother with earthly love must rise above it in perfect spiritual love, thus coming closer to God. In Paschasius Radbertus's interpretation, Peter and Andrew are the first pair of the faithful who, through God's grace, were united through spiritual love, becoming role models for others and the beginning of the Church. Their brotherhood of the flesh should therefore be interpreted allegorically as a mark of brotherhood in Christ of all who will be reborn through baptism.

The multifaceted nature of the interpretations suggested by Paschasius Radbertus makes his work stand out from the writings of other exegetes, who focused—like the Fathers—primarily on reflections on the meaning of the calling of the apostles, the symbolism of the names, and the professions of the first fishermen apostles, paying little attention to explaining the significance of their physical bond.¹⁹ If this theme did appear, it was usually used to demonstrate the superiority of spiritual love over affections stemming from consanguinity. Author of the *Sermon on the Feast of Andrew the Apostle* stated that it was no coincidence that the first apostles called by Jesus were full brothers: Jesus did so to indicate that “if we want to become his disciples, we need to be brothers not of the flesh but of the spirit, not in our origins (*genealogia*), but in love (*caritas*).”²⁰ Jesus chose them not to indicate through them that Christians should love both their neighbours and God, but to demonstrate that love was one, inseparable from God and through God encompassing all people above the ties of the earthly world. For Haimo, Andrew and Peter, and, in particular, James and John, sons of Zebedee, personified the overcoming of earthly entanglements, which restricted the human soul seeking the perfect love of God. The kinship of the apostles becomes here simply an

¹⁹ Christianus Stabulensis, *Expositio super Librum generationis*, 132; Rabanus Maurus, *Expositio in Matthaum*, lib. 2, v. 51.

²⁰ Haymo Halberstatensis, *Homiliae*, cols. 749–50: “Sed nec illud praetermittendum est, quod in prima sua vocatione carnales fratres elegit. Petrus enim et Andreas fratres erant non solum spiritu, sed etiam carne germani. Cum ergo carnis fratres elegit, ostendit, qui ejus discipulatu vultus adhaerere, fratres esse debemus non carne, sed spiritu: non genealogia, sed charitate. Omnes quoque qui in Christo regenerati sumus, unum Patrem habemus Deum, cui quotidie in oratione dicimus: ‘Pater noster, qui es in coelis’ de quo ipse ait in Evangelio: ‘Et patrem nolite vocare vobis super terram, unus est Pater vester qui in coelis est.’ Hujus filios nos esse gloriemur, dicentes cum Apostolo: ‘Filii Dei sumus, sed nondum apparuit quid erimus.’ Mater vero nostra sancta Ecclesia est, quae nos per fidem et sacramentum baptismatis quotidie spiritaliter generat. Quibus ergo unus est Pater Deus, et una mater Ecclesia, consequens est, ut fratres sint, id est ut unum sentiant, id ipsum sapiant, non dissideant, non discordent, ut in eorum numero computentur quibus Saluator ait: ‘Omnes enim vos fratres estis.’ Hos enim spiritales fratres admirabatur Propheta, cum dicebat: ‘Ecce quam bonum et quam jucundum, habitare fratres in unum’ Notandum autem, quod duos fratres elegit, ut non ostenderet quia suos discipulos geminam vult habere charitatem, dilectionem scilicet Dei et proximi.” Attribution uncertain, probably written by Haimo of Auxerre.

antithesis of spiritual kinship: they become more perfect in their Christian love of their fellow men the more the earthly ties of blood had bound them to each other before they got to know Jesus's truth.

Although it requires extraordinary spiritual discipline, the evangelical ideal of love between the brother apostles is nevertheless achievable for Christians. Paschasius Radbertus referred to this ideal while describing the relations between Adalhard of Corbie and his half-brother Wala. He compared their unanimity and affection to the cooperation of the oxen in a yoke. Shared faith, spirit, love of peace, and piety were at the heart of this profoundly spiritual relationship.²¹

Also in the already-mentioned hagiographic story of the life of his patron and mentor Adalhard (written around 830) Paschasius Radbertus painted precisely such a picture of Christian siblings achieving perfect spiritual unity in their mutual love. Adalhard and his two brothers and two sisters became, thanks to their practice of the virtues and God's grace, a truly Christian community. In a complex musical metaphor Paschasius Radbertus described this unity as a perfect concord of souls ("in omnibus consoni et concordantes atque conceleres").²² Adalhard's family reflected in a microscale the command concerning the entire Christian people united by a bond of brotherhood with Christ and in Christ. In Paschasius Radbertus's writings it became an earthly embodiment of the *fraternitas celestis* praised a few years earlier by Agobard of Lyon.²³

Given the circumstances in which the *Vita* was written—a time of crisis in Louis the Pious's kingship, conflicts between the emperor and his father's former advisers, including Adalhard's brother, Wala²⁴—the hidden, polemical message of the work becomes clear. Painting a picture of a profound spiritual and earthly bond uniting Adalhard's family, Paschasius Radbertus implicitly contrasted it with the Carolingian ruling family torn by internal strife. Adalhard's conduct with regard to his siblings stood in clear contrast to the deeds of Louis, who not only deprived Adalhard and his relatives of their influence, but also sent his own sisters away from the court, exiled his stepbrothers to a monastery, and caused the death of his nephew. Critical of the emperor, Paschasius Radbertus touched upon a sensitive subject, expounding at length on the harmony among Adalhard's half-siblings—a clear sign of God's grace—which was clearly absent from the family of their royal cousin.

In the *Vita Adalhardi* and in the *Epitaphium Arsenii* the constitutive features of the bond uniting the five siblings, perfect in their mutual love and love of God, were unity, mutual assistance, and concord. Paschasius Radbertus reflects a long tradition: *unanimitas* (*unitas*), *concordia*, and *pax* are central concepts around which Christian authors, beginning with St. Paul and St. John, built their portrayals of the fraternal bond. Cyprian of Carthage (d. 258) put it succinctly in his sermon "De bono

21 "Radbert's Epitaphium Arsenii," lib. 1, p. 40–41; De Jong, *Epitaph for an Era*, 52–56.

22 Paschasius Radbertus, *Vita sancti Adalhardi Corbeiensis abbatis*, chap. 34, col. 1527.

23 Agobardus Lugdunensis, "Aduersus legem Gundobadi," chap. 2.

24 De Jong, *Epitaph for an Era*, passim.

patientiae,” which was frequently copied and read in the ninth century: “love (*caritas*) is the bond of brotherhood (*fraternitas*), the foundation of peace, the stability and strength of unity which is greater than hope and faith, which take precedence over works and martyrdoms, and which will be with us forever in the kingdom of heaven.”²⁵ The concept was often invoked by Alcuin, who himself was united by a bond of fraternal friendship with Paschasius Radbertus protagonist, Adalhard. In his letters he clearly expounded on the essence of this special bond that could be experienced by those who were capable of loving each other with true spiritual love.²⁶

Paschasius Radbertus story of the perfect harmony achieved by the siblings thanks to God’s grace, was not unique in eighth- and ninth-century hagiography. A similar model appears—though without such complex symbolic and political connotations—for example, in the *vitae* of the brothers Willibald and Wynnebald written by Hugeburc, a nun from the Heidenheim monastery, in the late eighth century (around 786).²⁷ Around 720 the brothers decided to leave Wessex, England, where they were born, and set out on a pilgrimage to Rome with their father. Wynnebald decided to stay longer in the papal city, while Willibald continued his journey towards the Holy Land. After many years in Rome, Wynnebald, urged by St. Boniface, decided to go to *Germania*, to strengthen the faith among the newly converted or even pagan Thuringians. Around 752 he founded a double monastery in Heidenheim, where he settled. Later, after many years spent on pilgrimages, to the Holy Land among others, and after a long stay in the monastery of Monte Cassino, his brother Willibald, too, decided to travel to the European frontier of Christendom and, following the example of St. Boniface, to carry out missionary activities among the half-pagan people of Bavaria as bishop of Eichstätt.²⁸

The stories of the two pious men described by Hugeburc intertwine in many respects, and fraternal love and collaboration has a significant impact on key decisions in their lives. It was Willibald who managed to persuade his brother Wynnebald to leave home and set out on a dangerous journey to Rome. United by their brotherly love, they both managed to reach Rome, where they lived in harmony as pious monks for two years. A serious illness that struck both brothers, almost killing both of them, was for them a kind of not only physical but also spiritual test from which they emerged—thanks to mutual assistance and God’s grace—victorious, strengthened in their plans to work

25 Cyprianus Carthaginensis, “De bono patientiae,” chap. 14: “*caritas fraternitatis unculum est, fundamentum pacis, tenacitas ac firmitas unitatis, quae et spe et fide maior est, quae et opera et martyria praecedit, quae nobis cum semper aeterna in regnis caelestibus permanebit.*”; Florus Lugdunensis, *Collectio ex dictis XII Patrum*, 30.

26 See, e.g., letters to Adalhard: MGH Epp. *Epistolae Karolini aevi*, 2, no. 9, pp. 34–35; no. 181, p. 300. On Alcuin’s concept of spiritual friendship, see Fiske, “Alcuin and Mystical Friendship.”

27 *Vitae Willibaldi et Wynnebaldi*, 80–117; on the basis of the MGH edition: Hugeburc di Heidenheim, *Vita Willibaldi episcopi Eichstetensis*. On the debatable authorship of the work, see Head, “Who Is the Nun”; Watt, *Women, Writing and Religion*, 91–103.

28 On Willibald, including bibliography, in Wendehorst, *Die Bistümer der Kirchenprovinz Mainz*, 24–32.

for the salvation of themselves and others. According to the hagiographer, when one was resting on his sickbed, the other took care of him, and thus they served each other week after week, never ceasing, even for a moment, even when in great pain, studying the Word of God.²⁹ Many years later, when Wynnebald was dying, it was Willibald who stood by his bed. It was thanks to his persuasion that the gravely ill abbot of Heidenheim gave up his plans to travel to the Monte Cassino monastery, where he wanted to die, and to remain with his spiritual family. The love between the brothers extended beyond death: Willibald promoted the cult of St. Wynnebald and elevated the body of his late brother. What is fascinating, also in the context of reflections on the emotional bond between the brothers, is the description of Willibald's dilemmas as he was waiting for Wynnebald's grave to be opened. According to Hugeburc, who witnessed the events, he did not assist in the exhumation of the body, being too afraid to see the remains of his beloved brother decomposing after more than a decade after the burial. This made Willibald's joy all the greater when it turned out that the body was perfectly preserved—a clear sign of Wynnebald's holiness. The following description of the elevation of the venerable relics strikes the reader by the author's emphasis on the physical contact between the deceased and his living brother. Bishop Willibald was the first fervently to kiss the saint's body and was followed in this by Wynnebald's other relatives and companions: the order was determined by the bond of kinship, in which a privileged position was given to the saint's brother and sister.

A recurring theme in the stories of Willibald and Wynnebald is that of collaboration and of the unity of both brothers' thoughts and intentions. In *Germania* they supported and complemented each other in their work for the salvation of themselves and that of people in their pastoral care. They also encouraged other relatives to devote themselves to this service; these included Wynnebald's other (probably younger) brother as well as women from the family. The ideal pursued by the pious brothers was complemented by deeds of their relative Walburga (regarded as their sister as early as in the ninth century), who, after Wynnebald's death, took charge of the monastery he had founded. The *vitae* of both brothers and the later *vita* of St. Walburga³⁰ show their kinship primarily as a circumstance facilitating spiritual perfection. Of key importance is the support given by the siblings to each other in seeking their common overriding goal: the Kingdom of Heaven. The eldest, Willibald, chosen to serve God already in his childhood, becomes a guide for his younger brother and then also for his sister. Wynnebald, on the other hand, set out for England especially to win over other members of the family, including their brother, to the cause. Ninth-century hagiographers stressed the genealogical bond uniting Willibald, Wynnebald, and Walburga. The three saints personified not only the ideal of individual sainthood, but also perfect unity of the siblings in the love of God.

29 *Vita Willibaldi*, in *Vitae Willibaldi et Wynnebaldi*, 92; *Vita Wynnebaldi*, in *Vitae Willibaldi et Wynnebaldi*, 108.

30 The oldest, by Wulfhard, is dated to the late ninth century, AA SS, February, 6, 529–48.

The belief in the special strength of the relations between brothers who died in an aura of holiness may have been used as an argument in efforts to obtain relics. Such a motif can be found in the story of the translation of the relics of St. Gildard (Godard) from Rouen to the abbey of St. Medard in Soissons.³¹ There are many uncertainties around the oldest version of the translation, uncertainties concerning both the time in which it originated (scholars date it variously to a period from the late ninth century or as late as the early eleventh century) and its authorship.³² Generally, however, they agree that the main threads of the story must have originated shortly after the transfer of the relics to Soissons, that is probably between 843 and 847. According to the information preserved in the *Vita* of St. Gildard, he was apparently the twin brother of St. Medard and, like his brother, devoted himself to a career in the Church. The brothers were baptized on the same day, they were ordained bishops on the same day. Gildard was made bishop of Rouen, Medard—of Noyon (Vermand); they also died on the same day.

This is not the place for a detailed analysis of the literary origins of such parallel vitae; it should be noted, however, that the hagiographical story of Gildard, which features the theme of his and Medard's shared origins, was closely linked to the transfer of his relics to Soissons. Felice Lifshitz is inclined to see the link between Gildard and Medard as an attempt to justify the claims of the Soissons monks to the relics of the Rouen saint and to defend the method of their acquisition, which in the eyes of people unaware of the saint's real will could even be regarded as robbery. Thus, in the ninth century, the monks of Soissons, having discovered that Gildard was Medard's brother, simply drew a logical conclusion from the fact: if the brothers' earthly lives had been woven into one, and their spiritual vocation and its resulting special bond had made them follow the path to salvation in perfect harmony, it was fitting that in death their bodies should rest close to each other. Such arguments justifying the transfer of the blessed remains of St. Gildard were apparently used by no less a figure than Charles the Bald, on whose orders, according to the hagiographer, the monks from St. Medard's monastery were acting.³³

31 *Vita Sancti Gildardi*, 389–405.

32 For the overview of the state of research see Lifshitz, "The 'Exodus of Holy Bodies'"; Lifshitz, "The Migration of Neustrian Relics."

33 *Vita sancti Gildardi*, 403–4: "Si pater et mater beati Medardi carnales geminos carnaliter natos firmissimas sanctae ecclesiae Dei protulerunt columnas humana generatione, quos uno die natos, uno eodemque die clericatos ac simili modo in pontificatus honore sublimatos, unius vero horae tempore de hoc saeculo migrasse et regni caelestis bravia simul percepisse procul dubio cognoscimus, ut quid eorum corpora defunctorum spatia terrarum dividunt, quos in hac vita cum plenitudine divini operis caritas fidesque christianae religionis junxit ac sinus Abrahae in caelesti patria pariter complectitur? Studeat siquidem per nostram auctoritatem fraterna contio ad locum quantocius properare, in quo beatissimi Gildardi fratris domni nostri Medardi humana hactenus jacuisse noscuntur, et quia inibi indecenter tractari perpendimus, a Danorum finibus asportari faciamus, ac juxta fratrem condigno honore, prout ingenium nostrum fuerit, colloquemus."

The whole story is framed, as it were, by two key events: birth from the same womb to earthly life at the same time, and simultaneous death, that is simultaneous birth to eternal life. The genealogical bond uniting the twin brothers on earth becomes key to understanding that their timeless spiritual bond began already when they were conceived by their pious parents. It was God's will that singled out Medard and Gildard by the honour of joint birth so that they could double their merits. It could be said that the two bodies of one blood were imbued with one spirit.

The above examples of siblings fulfilling the ideal, advocated by theologians, of spiritual brotherhood combined with physical kinship were at least to some extent associated with monastic life as a path chosen by them in life (although this was not a key motif in the hagiographic narratives). This brings us to the problem, frequently explored in historiography, of Christian fraternal love as the ideological foundation of the life and identity of monastic communities. A monastic community, organized like a family, was to embody the ideal of the spiritual fraternal bond, separate from physical bonds and fully focused on God. According to the *Rule of St. Benedict*, brothers should constantly practise fraternal love,³⁴ which cannot exist without humility.³⁵ Writings from the eighth and ninth centuries express a sense of the uniquely privileged position of monastic families as those that are above earthly and by nature imperfect families, that are free from worldly desires and disputes.³⁶ The love uniting all monks, bound by spiritual brotherhood, must be constantly cherished and strengthened in joint prayer of the entire monastic community.³⁷ In the ninth century, with the gradual spread of Benedict of Aniane's idea of reform and the related reflection on the essence of monastic life, this model of a monastic community of brothers became the most important point of reference for reflections on what a truly Christian *fraternitas* was. Writing in the ninth century in his commentary on the *Rule of St. Benedict*, Smaragdus of Saint-Mihiel expounded on this idea, talking about love (*caritas*) as a prerequisite for preserving order and avoiding sin among monks.³⁸

This way of seeing the monastic community sheds light on cases—known not only from hagiographical but also diplomatic sources—of brothers entering the same

34 *La Règle de Saint Benoît*.

35 Benedictus Anianensis, *Concordia regularum*, chap. 70, 7.

36 The idea was explained lucidly by Alcuin in his letters, see e.g. letters to Abbot Arnold from the late eighth century, MGH Epp. *Epistolae Karolini aevi*, 2, no. 54, pp. 97–98, to Bishop Eligius, MGH Epp. *Epistolae Karolini aevi*, 2, no. 269, pp. 427–28, a. 804.

37 Benedictus Anianensis, *Concordia regularum*, chap. 72, 27: “1 Fratres spiritalis in uia, quando a se abscedunt, si uale sibi non faciant uel orationem communem offerant Domino uel pacem sibi tradant, 2 sciant se excommunicatos a caritate discedere, usque dum se reuideant et caritatis inter se uinculum nectant, 3 sicut in Vitas legitur Patrum: abscedens unus frater de partibus orientis, ueniens in partes occidentis, rememoratus quod uni fratri uale non fecerat, 4 praetermissae caritatis repedaui itinera, ut quod minus compleuit in fratre perficeret, 5 Vnde debent ad hanc caritatem fratrum fratres esse solliciti.” Benedict quoted here the *Regula Magistri*.

38 *Smaragdi abbatibus Expositio in Regulam S. Benedicti*, passim.

monastery. Such decisions may have been motivated—obviously—by the broadly defined interests of their families, but this is by no means the only explanation.³⁹ It can be presumed that these decisions were also based on a belief in the special merit of those brothers who would combine earthly fraternal love with the perfect Christian spiritual bond in the monastic family. Such a way of thinking about the mutual obligations of brothers may have been manifested by elder brothers' efforts to persuade their younger brothers to follow the monastic path together with them.

Returning to the topic with which I began this part of the present analysis—that is the ideological dimension of the relations between the brothers ruling the Carolingian kingdoms—as has already been said, values such as fraternal concord (*concordia*) and unity (*unitas*) became particularly significant during the normalization of the relations between Louis the Pious's sons in the 840s and 850s.⁴⁰ Theological reflection on the essence of the earthly and spiritual bonds between brothers translated into the way of thinking about the fratricidal political dispute and provided answers to the question of how the conflict should be resolved. The authors of the sources emerging in connection with the pacts concluded by the royal brothers (capitularies, agreements, or synodal proceedings) unanimously drew on a set of terms referring to the ideal social order present in the teaching of the Church and rooted in the conceptual system of the elite. These direct references to the evangelical understanding of fraternal love, which should reign among the crowned brothers after years of disputes, were a logical consequence of the way in which the text of Scripture was understood not as an external reality but as a continuum in which people lived and worked at the time. These authors did not create some new quality, allegedly a new political-theological construct, but drew on concepts that were clear to all well-educated readers and that were sanctified by the authority of the Church Fathers.

Contrary to Reinhard Schneider's position,⁴¹ there is no need to introduce an artificial division into secular and religious inspirations behind the message of the texts emerging in the 840s and 850s. Both *caritas* and the parallel term *fraternitas* belong to the theological dictionary used to describe both eternal and secular reality in the sense in which barely twenty years earlier concepts like *correctio* and *admonitio*, also derived from the language of the Church, had been used by contemporaries as a key to a description of and understanding the reasons behind the crisis of the monarchy as well as a way of overcoming it. I could, following Mayke de Jong,⁴² refer to the term "imagined community," coined by Benedict Anderson, which encompassed all actors on the political scene of the Carolingian kingdom. This was a community built around

39 The question of family ties between monks, and their significance to the functioning of the community and interests of family groups, is analyzed by e.g. Zettler, "Fraternitas und Verwandtschaft."

40 The political events of this complicated period in the history of Carolingian state have recently discussed in detail in Schäpers, *Lothar I*, 345–553.

41 Schneider, *Brüdergemeine und Schwurfreundschaft*.

42 De Jong, *The Penitential State*, 120–21.

Scripture—the source of law and models of conduct, a record of the historical memory of the Christian people, and the announcement of future events.

The formulas of successive pacts written down as a result of agreements concluded by Lothar I, Louis the German, and Charles the Bald in the 840s and 850s include a constantly recurring idea: peace will reign only when there is true fraternal love between the brothers. Although consanguinity imposed mutual obligations on brothers, their relations should be based not on this earthly and fragile basis but on spiritual love (*caritas*), which came from God and gave real strength to fraternal relations.

It is no coincidence that the decisions written down after the assembly in Meerssen in February 847 open with a chapter devoted to true love. United in this love, the brothers are to persevere in peace, concord, and unity: “Of the peace and concord and unanimity of the three brothers and kings, and that they are united by the truest and not feigned bond of love, and that no one henceforth provide an opportunity for scandal to arise among them.”⁴³ Behind the phrase *non fictum vinculum caritatis* lies a complex content which can be interpreted only in reference to the words attributed to St. Paul. In the First Epistle to Timothy (1:5) the author calls upon the faithful to devote themselves to love that comes from a pure heart (*de corde puro*) and to a sincere faith (*fides non ficta*), warning them against the danger stemming from a violation of this instruction. In the pact between the royal brothers what should be true and sincere is not faith, but love; however, the link between love and faith is obvious. After all, as St. Paul says (Gal. 5:6), faith is expressed through love (“*fides, qua per caritatem operatur*”). Educated as they were in Augustine’s *Enchiridion* or *De natura et gratia*, the author and the readers of the document saw the overriding truth revealed to them by this laconic phrase: that true love between brothers, that is spiritual and comes from God himself, was a prerequisite of faith. Without true love there would be no peace and the faith of the quarrelling rulers seemed uncertain. There is a clear echo here of the episcopal admonition addressed to the royal brothers at the council of Thionville three years before.⁴⁴

In a capitulary drawn up in 851 after yet another assembly featuring Lothar I, Charles, and Louis at Meerssen, the words attributed to St. Paul (Tim. 1:5) were quoted literally: the brothers pledged to preserve true love among them (*verae caritatis benignitas*) of a pure heart, with no insincerity, in order not to harm one another by devious scheming and unworthy deeds.⁴⁵

What becomes clear in this context is the meaning of recurring phrases in successive agreements between the brothers, in which the rulers declared that they would behave towards one another “as befits brothers.”⁴⁶ This was not about some ancient rule of

⁴³ MGH LL *Capitularia regum Francorum*, 2, no. 204, p. 69: “De pace et concordia atque unanimitate trium fratrum et regum inter se, et quod verissimo et non ficto caritatis vinculo sint uniti et ut nullus deinceps scandalorum inter eos occasiones serere possit”; Schäpers, *Lothar I*, 495ff.

⁴⁴ MGH LL *Concilia* 3, no. 6, chap. 1, p. 30.

⁴⁵ MGH LL *Capitularia regum Francorum*, 2, no. 205, chap. 2, p. 72; cf. no. 244, chap. 3, p. 166.

⁴⁶ MGH LL *Capitularia regum Francorum*, 2, no. 205, p. 74; no. 242, p. 154–55; no. 243, pp. 159–60; no. 245, p. 168.

secular “brotherhood,”⁴⁷ but about Christian love, which came from God and sought God, and the perfection of which should overcome the worldly urges of the sinful flesh that make a brother selfishly want to harm his own brother. *Consilium*, *auxilium*, *unitas*, and *concordia* are terms defining this true brotherhood of the rulers; the same terms were used by hagiographers to describe the ideal of fraternal holiness, and by members of monastic confraternities to define the essence of the bond uniting them. The *annuntiatio* attached to the 851 Meerssen capitulary delivered by Louis the German expounds clearly on the idea that the calamities that struck the lands and people ruled by the warring brothers were caused by a betrayal of these fraternal virtues.⁴⁸ However, concord, justice, and unity were not only a prerequisite for peace on earth. Without Christian brotherhood, born of true love, there can be no earthly order or salvation. Such arguments were apparently used by the bishops supporting Lothar II in his attempts to resolve another conflict between Charles the Bald and Louis the German in 860.⁴⁹

A spiritual fraternal bond could make people united by resistance to temptations leading to sin and to threats stemming from the operation of the forces of darkness. In a 793 letter to Æthelhard, Archbishop of Canterbury, Alcuin called on English bishops to stay united at all cost in the face of the Viking threat, citing a fragment from Scripture (Prov 18:19): “Frater si a fratre adiuvatur, civitas firma est.” (“a brother supported by brother is like a fortified city”)⁵⁰ The fragment appeared frequently in Alcuin’s letters as an argument confirming the spiritual strength of united brothers: spiritual brothers living in monastic communities, united in the service of God, or united by a personal bond of friendship. The same words were quoted half a century later by the bishops gathered at the council in Yüzt near Thionville (844), when they called on Lothar I, Louis the German, and Charles the Bald to persevere in peace and abide by the terms of the fraternal agreement. In one of the chapters of the extensive synodal constitution they indicated to the rulers how, thanks to the virtue of mutual love, they could demonstrate the grace granted to them by God and how, when united, they could overcome all the scheming that could, owing to Satanic prompting, threaten peace in the land entrusted to their rule.⁵¹

47 Incidentally, the problems of interpretation that led, for example, Reinhard Schneider to try to make a distinction between the “secular” fraternal bond (*fraternitas*) and Christian spiritual love between brothers (*caritas*) stemmed from the above-mentioned broad definition of the term *caritas* in early medieval Latin texts. Of key significance here is a fragment of the First Epistle of St. Peter, in which the Apostle called upon the faithful to perfect themselves in their mutual fraternal love (1:7) in order to achieve through it the perfect love of God. The terms *philadelphia* and *agape* appearing in the Greek original were rendered in the Vulgate by the Latin terms *amor fraternus* and *caritas*. This combination of two complementary concepts in the epistle, concepts referring to two degrees of Christian love, influenced the language of the patristic and then early medieval Latin texts.

48 MGH LL *Capitularia regum Francorum*, 2, no. 205, chap. 2, p. 74.

49 MGH LL *Capitularia regum Francorum*, 2, no. 242, p. 153: “Post hoc laboravit adiuvante Domino iste carissimus nepos noster, ut inter nos pax fieret, sicut per rectum esse debet, et ut monentibus episcopis ad illam caritatem et fraternam concordiam rediret, sine qua nullus christianus salvus esse non potest.”

50 MGH Epp. *Epistolae Karolini aevi*, 2, no. 17, pp. 47, a. 793.

51 MGH LL *Concilia* 3, no. 6, pp. 30–31; Schäpers, *Lothar I*, 472–77.

A relationship between brothers can be lasting and just only when, derived from blood ties (or perhaps even against them), it is built on faith. This way of seeing fraternal relations was reflected in a letter sent by the Bishop of Konstanz to an unnamed Italian bishop (perhaps Anthony of Brescia), probably in 878, and concerning, among other matters, the regulation of the relations between the sons and heirs of Louis the German: Carloman, Louis the Younger, and Charles the Fat.⁵² The bishop wrote emphatically that there was such great love (*caritas*) between the brothers that it seemed as if the change had happened through the Holy Trinity. The affection that united them was greater than any human weakness, with the brothers loving one another not only, as Scripture commanded, like themselves, but more than themselves.

Brothers united by love should complement each other, and the order born of love was a confirmation of the order encompassing the entire creation. An idea of this cosmic harmony can be found in the *Annals of Xanten*. Writing about the relations between Lothar I, Louis the German, and Charles the Bald after the death of Louis the Pious, the author described a miraculous phenomenon seen in the sky in mid-841, shortly after the bloody Battle of Fontenoy. The amazed believers saw three circles, the smallest of which, in the middle, shone the brightest, with the other two surrounding it, stretching from the east to the west.⁵³ The author did not comment on the phenomenon. However, for his contemporaries the parallel between the earthly order and signs in the sky was not difficult to interpret: three kingdoms belonging to three brothers should co-exist in peace, for the glory of God.⁵⁴ The supernatural sign was a warning, but it also brought hope that in the future the brothers would be united, in accordance with God's will.

Fraternal Hate: *malitia, invidia fraterna*

"Thus were destroyed the foundations of brotherhood, thus began vile parricides: when the just Abel was hated by the unjust Cain, when evil persecuted goodness with envy and hatred. The fury of envy pushed so hard for murder that there was no thought of fraternal love or the vileness of the crime, or fear of God, or punishment." This is what Hrabanus Maurus wrote about the first murder in human history.⁵⁵

Medieval theological works regularly feature the theme of fraternal hostility born of envy. The biblical story of the first brothers is marked by a fatalist belief in man's innate proneness to envy, which is stronger than the strongest ties of blood. In this

⁵² *Collectio Sangallensis*, no. 40, pp. 421–22.

⁵³ *Annales Xantensens et Annales Vedastini*, 11–12.

⁵⁴ For more on this fragment of the *Annals* in comparison with Carolingian literature devoted to visions and with analogies, see Dutton, *The Politics of Dreaming*, 120–21.

⁵⁵ Rabanus Maurus, *Homiliae*, no. 61, col. 115, *Contra invidiam et odium*: "Hinc ergo violata sunt fraternitatis primordia, hinc parricidia coeperunt nefanda: dum Abel justum Cain odit injustus, dum bonum malus invidia et livore persequitur. Tantum valuit ad consummationem facinoris aemulationis furor, ut nec charitas fratris, nec sceleris immanitas, nec timor Dei, nec poena delicti cogitaretur."

sense, *invidia* is close to a concept present in pre-Christian Latin literature: it combines aversion to a person whose success seems undeserved with opposition to the unfairness of the supernatural forces allowing this unjust elevation to happen.⁵⁶ In the Christian interpretation, however, *invidia* is born not of human will but of Satanic prompting, which human beings cannot resist in their weakness. There is no earthly bond that could withstand this destructive force, nor is there a proximity of the flesh that would prevent diabolical hatred sneaking in between people. The only way to overcome this threat lies in a sublimation of the relations between people into a spiritual bond based on faith and love of one's neighbour (*caritas*). In his biblical paraphrase in verse, *De sobrietate*, Milo of Saint-Amand (d. 871/872) expressed the idea very concisely: "the antidote of love (*caritas*) can heal the poison of hate, if the law of love taught by Christ and which the gracious Creator placed in the human heart is obeyed, that if they love one another the proper affection will unite two brothers."⁵⁷

Envy, which, according to Augustine, is the "hatred of another's prosperity," stands in opposition to love,⁵⁸ in opposition to the affection that should exist between brothers, both those bound by ties of blood and brothers in Christ. In the early Middle Ages it was treated as evil for which there was no justification. Cain not only envied his brother, but, above all, he challenged God himself, questioning the rightness of his judgments. Cain's rebellion against God's injustice was therefore an example of transgression against God's order of the world, which could not be questioned by a weak man. Cain's *invidia* was not only envy directed against another human being but also doubt in God's justice.

In Ambrosius Autpertus's (d. 784) dialogue between virtues and vices, written in the eighth century but popularized in the following centuries, envy is contrasted with brothers rejoicing together (*congratulatio fraterna*).⁵⁹ Envy, making human beings angry, was listed by ninth-century moralists right after pride among cardinal sins; it was closely linked to the crime of the first murder: fratricide.⁶⁰ In the history of mankind, the envy of Cain made real the death brought upon men by the pride of the first

56 Kaster, *Emotion, Restraint, and Community*, 84–103.

57 Milo, *De sobrietate*, lib. 1, 24, p. 635: "Antidoto poterit karitatis enorme venenum / Curari invidiae, si ius servetur amoris / Quem Christus docuit, quem conditor indidit almus / Pectoribus hominum, se si redamando vicissim / Debitus affectus fratrum coniungat utrumque."

58 Augustinus Hipponensis, *De Genesi ad litteram*, lib. 11, chap. 14, p. 346: "cum igitur superbia sit amor excellentiae propriae, invidentia uero sit odium felicitatis alienae, quid unde nascatur satis in promptu est."

59 Ambrosius Autpertus, "Libellus de conflictu," chap. 1, v. 19–23.

60 The order of the cardinal sins changed between late Antiquity and the early Middle Ages. Among the eight cardinal sins listed by Gregory the Great (Gregorius Magnus, *Moralia in Iob*, lib. 31, chap. 45, p. 1610) envy comes third. After Gregory the order was followed by ninth century-moralists, including Haltigarius of Cambrai (Haltigarius Cameracensis, *De vitiis et virtutibus*, col. 658). However, in the ninth century theologians would increasingly put envy at the top of the most serious transgressions of God's law committed by man, right after pride of which envy was born. For more on the medieval understanding of the notion of envy and its place in the catalogue of sins, although mostly in a later period, see Balint, "Envy in the Intellectual Discourse."

parents. After all, envy was pride's sister, as Milo of Saint-Amand wrote.⁶¹ Ninth-century moralists, including Jonas of Orléans (d. ca. 843) in *De institutione laicali*,⁶² Hincmar of Reims in *De cavendis vitiis*,⁶³ and Hrabanus Maurus in *De vitiis et virtutibus*,⁶⁴ lamenting the intrinsic weakness of human nature, pointed out, after Gregory the Great, that just as pride (*superbia*) prompted Eve to pick the forbidden fruit, so too envy (*invidia*), born of pride, prompted Eve's son, Cain, to shed his brother's blood. Thus Cain became a tool in the hands of Satan, who introduced death into the world because of envy (Wisdom of Solomon 2:24). Through the agency of the devil it was envy that guided Esau in his plan to kill his own brother. The same motif of fraternal envy prompting fratricide recurs in the story of Joseph's brothers.

For early medieval authors *invidia* was inextricably linked to the image of the evil brother: the one who violated the natural law telling brothers to love each other and live in peace. Such an opposition to the above-mentioned model of true brotherhood was the basis on which Prudentius, the author of the older part of the *Annales of St-Bertin*, built his portrait of Lothar I. It is worth quoting the entire fragment in which the annalist described the events of 840, as he used terms that are important to the present analysis:

Lothar, when he heard the news of his father's death, left Italy and thrust into Gaul—thereby breaching the laws of nature. Puffed up by the imperial title, he took up arms against both his brothers, Louis and Charles, and attacked first one, then the other, engaging them in battle, but with very little success in either case. The business was settled to the satisfaction at any rate of his own vanity, and on terms of some kind he left his brothers alone for the time being. But he did not stop plotting against them, secretly and openly, with all the evilness of his greed and cruelty.⁶⁵

As Prudentius wrote, Lothar violated the laws of nature. What did the author mean? Janet L. Nelson, who has analyzed and translated the *Annals*, seems to be linking this violation of natural laws with Lothar's departure from Italy ("left Italy and thrust into

61 Milo, *De sobrietate*, lib. 1, 24, 634–35: "Quisque huius virtutis honorem habitumque requirit, / Invidiam fugiat genitam de felle diabli. / Hoc scelus immensum, quo mors intravit in orbem; / Hunc imitantur et hi, Satanae qui in parte tenentur. / Quippe soror scelerata huic superbia iuncta / Transtulit angelicum saevos in daemona agmen. / Haec miseris penitens fraternum rumpit amorem, / Quae documenta dedit quondam nimis impia Cain, / Displicuit cui nil aliud de fratre benigno, / Quam sua dedignans melioris munera misso / Caelitus igne deus flammis sibi grata probavit."

62 Jonas d'Orléans, *Instruction des laïcs*, 1, chap. 5, pp. 166–70.

63 Hincmar von Reims, *De cavendis vitiis*, 160.

64 Rabanus Maurus, *De vitiis et virtutibus*, chap. 18, cols. 1358–59.

65 Transl. *The Annals of St-Bertin*, 49; *Annales Bertiniani*, 24: "Hlotharius, comperto genitoris obitu, ab Italia Gallias ingressus, iura naturae transgressus, imperatorio elatus nomine, in utrumque fratrem, Hludowicum videlicet et Karolum, hostiliter armatur, et nunc hunc, nunc illum praelio impetit, sed utrimque minus prospere. Secundum suam dumtaxat insolentiam patrato negotio, quibusdam conditionibus usque ad tempus ab utroque discessit; nec tamen contra eos, seu clam seu manifeste, pravitatem suae cupiditatis adque crudelitatis destitit machinari."

Gaul—thereby breaching the laws of nature”).⁶⁶ It appears, however, that the phrase refers to a whole sequence of events (let us leave aside the pun used by the author) leading to Lothar taking up arms against his brothers. In the narrative all actions taken by Lothar to seize power came down to his actions against his brothers and his violation of the innate principle of fraternal loyalty. In his relations with his brothers, Lothar was apparently guided by insolence (*insolentia*), cupidity (*cupiditas*) and cruelty (*crudelitas*). These vices were in stark contrast to the virtues that should characterize brothers, virtues like fraternal love (*caritas fraterna*), concord (*concordia*), and unity/unanimity (*unitas/unanimitas*). Similar terms were also used by Nithard in his description of Lothar and of the iniquities committed with regard to his stepbrother and godson Charles.⁶⁷ In the imagination of early medieval authors, shaped as it was by St. Augustine’s thought, the figure of Lothar is associated with a set of negative qualities, of key importance among them apparently being *cupiditas*, understood as the opposite of *caritas*.⁶⁸ *Caritas* is the beginning of all virtues, while *cupiditas* becomes the cause of all sin (“radix omnium malorum est cupiditas,” 1 Tim 6:10), for desire for earthly things closes the path to true love, leading instead to sinful pride and violence against others. Thus an evil brother is one who does not love his brother with selfless love, but enviously desires earthly profits and power, even if they are to be gained at his brother’s expense, and to satisfy his greed he is ready to raise his murderous hand to strike him.

The picture of the relationship between people closest to each other by virtue of their birth emerging from an analysis of historiographical works is deeply pessimistic. The durability of the fraternal bond—alongside the bond with one’s parents, seemingly the most natural among the relations between people—is questioned.⁶⁹ Theologians, too, are wary of it, as they are with regard to any imperfect relations built on blood ties. Brothers are obliged to love one another, but even where harmony seems to be reigning between them, there is a hidden threat of a rift. In their weakness human beings vacillate between desires of the flesh and imperatives of the spirit, and a beloved brother can become a hated enemy at any moment. A question can be asked whether the frequent reference to the motif of hatred dividing brothers by mid-ninth-century authors of homilies and biblical commentaries was not associated with the political situation at the time and was not an allusion to the events taking place there and then. The image of a fratricidal conflict, known from political polemics and historiographical texts, was undoubtedly influenced by the theologians’ vision of this world as a place of a constant clash between virtues and vices born of Satanic hatred. It is worth taking a closer look in this context at a fragment of the already-mentioned 876 letter by Pope John VIII to East Frankish bishops.

⁶⁶ *The Annals of St-Bertin*, 49.

⁶⁷ See, e.g., *Nithardi Historiarum libri IV*, lib. 4, chap. 1, p. 40.

⁶⁸ On the meaning of *cupiditas* in Augustine’s writings, see Nisula, *Augustine and the Functions of Concupiscence*; on the relation between *caritas* and *cupiditas*, see especially 139 sq.

⁶⁹ For more on the impact of the fratricidal war among the sons on the consolidation of this image of fraternal relations in the collective imagination of the Frankish elites, see Nelson, “The Search for Peace.”

For as those who, according to his command, guard the peace left to them by the Apostles are sons of God, those who violate this peace are sons of the devil. From the beginning he was a liar and did not stand in truth. It was because of his envy—as the Scriptures say—that death entered this world. For when hating the first people he laid the trap of deception, he gave the cup of death to the mortals, and those who through obedience were to be granted immortality in the future were contaminated by him with the poison of disobedience and thus he brought death on all people. Moreover, with the same deceptions with which he had led astray the progenitors he deceived the sons of Adam and with the hatred of his deception he separated the brothers' hearts, and so those who came from the loins of one father no longer rule the whole Gaul, but a brother hates the elevation of his brother; and just as he disregarded apostolic admonitions in matters of the highest importance, he now refuses to follow the admonitions of the Apostolic See, and just as Cain, an enemy of his brother, incited, rose against his brother, grinding his teeth, he tricked his faithful with deceptions, till perjury calling God's tremendous name, he breached the peace of the realm brought by his brother's efforts and, lured by accomplices in his sins, he directed his feet towards evil, despite the muddy fields of Fontenoy, which he had drenched in human blood in his youth. In his decrepitude, seething with threats and murder lust, he seeks to shed the blood of many Christians just for the sake of his ambition. And the one who out of fraternal love should hope for blessing through the merit of obedience to the Apostolic See, desires to subordinate another's realm by the force of arms, that is, to hold by force what he has gained by the force of arms and to burden the necks that were once free with a new yoke of servitude.⁷⁰

Thus the conflict between the royal brothers became a part—through the pope's pen—of the eternal story of the fall of humankind, in which both Cain and Louis the German, sons of Adam, rose against their own brothers by Satanic prompting. The inherent unity of brothers with the same father (or rather fathers)—the ancient progenitor Adam and the emperor Louis the Pious—was destroyed by envy and lust for power. By rising against his brother, a brother also rose against all faithful Christians, his

70 MGH Epp. *Epistolae Karolini aevi*, 5, no. 7, pp. 320–21: “Quapropter sicut filii Dei, qui ex testamento eius sibi per apostolos derelicto pacem custodiunt, ita nimirum diaboli sunt filii, qui pacem confundunt. Ille quippe ab initio mendax fuit et in veritate non stetit, eiusque invidia, sicut scriptum est, mors introivit in orbem terrarum. Nam dum protoplastis invidens deceptionis laqueum iam deceptus utique a semet ipso composuit, mortis poculum mortalibus propinavit et quos immortalis obedientiae merito futuros noverat, inobedientiae venenis infectis sicque in omnes homines mortis sententiam vitae hostis induxit. Denique iisdem laqueis, quibus protoplastos deceperat, adhuc Adae filios iugulat et odio suae ambitionis fraterna corda dissociat, ita ut quos unum patris femur tenuerat, iam Galliae omnes non capiant, fraternis provectibus frater invideat et quem monitis apostolicis saepius etiam in durissimis casibus obsequentem sequi despexerat, hunc a sede apostolica sibi praelatum doleat, immo ut Cain fratris hostia, scilicet obedientia, stimulatus contra fratrem frendens occurrat, fideles eius fraudibus diversis inficiat, ad peierandum terribilis Dei nomen impellat, pacem regni diuturno fratris studio radicatam corrumpere gestiat et lactatus a peccatoribus suis dumtaxat complicitibus adquiescens pedes suos ad malum currere faciat, madentibus adhuc campis Fontanicis, quos in iuventute sua humano sanguine tinxerat, in senectute decrepita minarum et caedis spirans ad fundendum christianorum multorum sanguinem pro sua singulari ambitione discurrat. Et qui amore fratris a sede apostolica obedientiae suae merito benedictionem sperare suumque piis operibus propagare debuerat, alterius regnum pervacaciter sibi suis armis subiugare desiderat, scilicet ut quos armis acquirit, ditone possideat et colla vetustae libertatis ingenua nova servitute prosternat.”

brothers in Christ. In the rhetoric of the papal letter, the battlefield at Fontenoy, which in 841 was bathed in blood in a fratricidal struggle, was akin to the field stained by the innocent blood of Abel. Although at Fontenoy Charles and Louis fought side by side against Lothar, the pope seems to put the main blame for the bloody slaughter on Louis.

The parallel between Louis and Cain, whose figure had acquired complex interpretations in exegetical writings, in fact denoted an accusation of not just violating the divine laws of kinship but also of acting against Christ himself. By comparing—though not explicitly—Charles to Abel, the pope perforce also drew on the Christological associations his figure evoked among his contemporaries. Charles's elevation, that is his recent imperial coronation, was a sign of God's grace just as the acceptance of Abel's sacrifice had been. The hatred between brothers, on the other hand, was born of Cain's envy of Abel and Louis's of Charles, when God refused them his favour.

The subject of fratricide appears frequently in works of early medieval authors, both in theological reflections and in commentaries on current events. The act of fratricide, as the form of murder seen, alongside matricide and patricide, as an attack on the most fundamental principles of the natural and the social orders, prompted writers to look for an explanation of the motives behind this deed, which violated all norms. It is therefore worth taking a closer look at the question of fratricide.

Fratricide

The ambivalent nature of the fraternal relation—stretched between love and solidarity on the one hand and hate and rivalry on the other—is a motif constantly presented, and not only in European culture. Conflict and the violence between brothers arising from it were part of the founding myth of ancient Rome and of Kraków, a city on the distant peripheries of Europe; Baldr, Odin's handsome son died at the hand of his blind brother Höðr; Eteocles and Polynices died in a fratricidal battle; the curse of fratricide plagued the Pelopids; a bloody feud separated the Pandavas and their elder brother Karna. Similarly, folk tales, those mirrors of collective experiences and perhaps also of the psyche of societies, feature many evil brothers and cruel sisters who are after their siblings' property or sometimes even their life. Examples can be listed endlessly, much to the delight of comparatists, who see in the recurring narrative and mythological threads a common Indo-European heritage and ascribe to them complex functions in systems of beliefs.

The crime of fratricide occupies a unique place in the Judaic and Christian traditions. The murder committed by Cain became man's first crime on earth and the burden of this guilt had to be borne by all generations. The story of the first brothers, alongside the story of the first parents, was of crucial significance to the understanding of God's plan implemented in the world and the place God allocated to man in this plan.⁷¹ Esau and

71 Aptowitz, *Kain und Abel*; Glenthøj, *Cain and Abel in Syriac*; Luttkhuizen, ed., *Eve's Children*, which also has a bibliography of studies devoted to Genesis 4, covering the period of 1980–2002, pp. 219–28; Byron, *Cain and Abel*; Kim *The Firstborn Son*, 49ff. An extensive study devoted to the motif of Cain and Abel in medieval exegetical texts is Dahan, "L'exégèse de l'histoire de Caïn." Dahan examines later sources, generally leaving out the legacy of early medieval exegetes; see also in a broad cultural context Quinones, *The Changes of Cain*.

Jacob, Ishmael and Isaac, Joseph and his brothers, Amnon and Absalom personified the dark side of the relationship between the closest blood relatives. Yet Cain was not only the first murderer and first fratricide: from him came all evil among people.

The fatalism of fraternal relations, stretched between hate and loyalty since the dawn of time, had an impact on the image of family bonds in society in the works of early medieval authors. It also determined the way history was perceived: a series of battles was how Gregory of Tours presented the history of the Merovingian dynasty, while the Venerable Bede often showed biological brothers in a negative context, in scenes marked by violence and death.⁷²

The motif of Cain the fratricide as the father of evil and sin appears in a more or less transformed form also in early medieval literary works. In the Old English epic poem *Beowulf*, Grendel, a personification of all crimes and vices, is described as a descendant of Cain, like the giants, elves, and other demonic creatures.⁷³ In his *Deeds of Charlemagne*, Notker the Stammerer, who deliberately refers here to John Cassian, writes about giants begotten by the sons of Seth from the daughters of Cain.⁷⁴ Thus he creates a metaphorical description of Charles Martel's enemies. What all these authors have in common is a belief in the sources of evil pervading the world: although it arose out of original sin, it also stemmed from the most heinous crime of fratricide.⁷⁵

The New Testament idea of the brotherhood of all Christians gives an additional meaning to Cain's crime. According to St. John (1 John 3:12–15), Cain, who belonged to the evil one, becomes a figure of all those who hate the righteous: "Anyone who hates a brother or sister is a murderer" (1 John 3:15), for death is born of hate.⁷⁶ In this sense every murder, born of hate, is at the same time a fratricide. Every murder becomes a repetition of Cain's deed, a deed that brought death upon the earth. A fratricide becomes like Cain, and his sin, like Cain's crime, has fatal consequences for all people. In the many commentaries on the Book of Genesis originating in the ninth century much attention is paid to the story of Cain and Abel. The thread was interpreted by Alcuin, Hrabanus Maurus, Angelomus of Luxeuil, Walafrid Strabo (d. 849), and Remigius of Auxerre (d. ca. 908). They considered the question of satisfaction for every crime of murder, including fratricide, as the most terrible in terms of its consequences, a violation of the divine order, and looked for an explanation of the meaning of the first fratricide in the history of humanity.

72 Szerwiniack, "Frères et sœurs dans l'Histoire," 239ff.

73 The theme of Cain's fratricide as a Judeo-Christian motif interwoven with the pre-Christian myth of the beginning in *Beowulf* has already been analyzed in detail e.g. in Mellinkoff, "Cain's Monstrous Progeny"; Williams, *Cain and Beowulf*; Quinones, *The Changes of Cain*, 42–48; Hodges, "Cain's Fratricide."

74 *Notkeri Balbuli Gesta Karoli Magni*, lib. 2, chap. 12, pp. 70–71.

75 For more on the links between the monstrous non-human creatures and the race of Cain, see e.g. Friedman, *The Monstrous Races*, 87–107.

76 Byron, *Cain and Abel*, 209ff.

Exegetes of the period found their point of reference primarily in the writings of St. Augustine.⁷⁷ Augustine interprets the motif of Cain and Abel in a twofold manner: following the Jewish scholar Philo of Alexandria, he considers the conflict between the brothers as a clash between evil/sin and goodness/virtue, and at the same time as a struggle between two contradictory aspects of the human soul. Typologically, the elder brother Cain becomes for Augustine a figure of the Synagogue/Israel, while Abel becomes one of God's Church. At the same time, the figures of Abel and his death are considered as figures of Christ and his passion, while Abel becomes the first martyr. A Christological interpretation of the Old Testament story, with Abel being presented as a figure of Christ and the Church, while Cain is a figure of the Jews and the condemned Synagogue, was developed by Augustine in the treatise *Contra Faustum*.⁷⁸ The allegorical meaning of the first two brothers as two peoples of the Old and New Testaments, Jews and Christians, would be taken up and highlighted by ninth-century theologians, including Hrabanus Maurus. In *The City of God* the bishop of Hippo presented an original interpretation of the figure of Cain as the founder of the earthly city personifying the sinful desires of the flesh and the spirit.⁷⁹ The city he erected after Abel's death was at its very origin tainted by the sin of his crime, and as such until the end of time it will be the opposite of the City of God, existing in a state of eternal enmity with it, like Cain with Abel: although born out of the same womb they are mutual opposites and are doomed to be in conflict. The murder of Abel, personifying the spiritual element and moral virtues of man, becomes a turning point in the history of humanity. It is a moment in which the sin committed by Eve bears its first poisoned fruit. However, Augustine did leave the reader with some hope, pointing to the significance of God's grace, thanks to which Abel could rise above the original sin. This grace can be granted to those human beings who will, of their own will, rise above sin and desires of the flesh, and turn to God.

In comparison with Augustine, St. Ambrose's work *De Cain et Abel*⁸⁰ had a limited impact on early medieval exegetes. Although Isidore of Seville and the Venerable Bede did refer to Ambrose in their commentaries on the Book of Genesis, their references were mainly indirect. Great authors of the Carolingian era, including Alcuin, seemed not to know Ambrose's exegetical writings at all; in any case there is no direct evidence in their works that they read the archbishop of Milan's texts. It is known that *De Cain et Abel* was copied in the Carolingian period; however, only one ninth-century manuscript containing the work—a manuscript originating in Italy—has been identified so far.⁸¹ Despite the fact that there are no traces of direct reception of the treatise, it is worth mentioning it, primarily because of the idea, developed by Ambrose, of penance as

⁷⁷ Augustine's interpretations of Cain and Abel motif are discussed by Rick Benjamins, "Augustine on Cain"; cf. Byron, *Cain and Abel*, passim.

⁷⁸ Augustinus Hipponensis, *Contra Faustum*, lib. 12, chap. 9–13, 337–43.

⁷⁹ Augustinus Hipponensis, *De civitate Dei*, lib. 15.

⁸⁰ Ambrosius Mediolanensis, *De Cain et Abel*, 339–409.

⁸¹ Gorman, "From Isidore to Claudius of Turin," 133.

satisfaction for the sin of fratricide, an idea which can also be found in writings from the early Middle Ages. Ambrose's thought found its way into the writings of early medieval theologians probably mainly through the writings of other early Christian authors.

Both Augustine and Ambrose considered the question of why Cain the fratricide was allowed to live and, by God's will, anyone daring to raise their hand against him should be punished. This thread would be of particular interest to exegetes also in the early Middle Ages. In this context Ambrose, after St. Cyprian, developed the concept of lifelong penance as the right form of satisfaction for the gravest of sins. According to Ambrose, God in his mercy gives the sinner a chance to atone for each sin and so He also orders a just judge to refrain from punishing a death by death. The sinner is punished by a life of fear and anxiety, to which Cain was condemned. However, while Ambrose stressed the significance of God's mercy, in their interpretations early medieval exegetes stressed above all the role of penance and the spiritual dimension of suffering to which continued life amounted for a fratricide. Invoking the authority of St. Jerome, the Venerable Bede⁸² indicated that by protecting Cain's life God condemned him to the agony of conscience lasting seven generations, from which he could be liberated only by death. This, too, was apparently a manifestation of the will of the Almighty, who punished Cain both for the sin of fratricide and for the blasphemy he committed when condemning himself instead of asking God for forgiveness. Thus, contrary to human judgements and human understanding of satisfaction for sins, Cain's life was to become a warning to others. This way of interpreting Genesis 4:13 was shared by ninth-century commentators. Jerome was referred to by Angelomus of Luxeuil,⁸³ Freulf of Lisieux (d. ca. 850),⁸⁴ and Hrabanus Maurus.⁸⁵ Remigius of Auxerre attributed a similar meaning to Cain's fate in his glosses.⁸⁶

Ninth-century theologians believed that Cain personified evil urges of the human soul, which prompted him to sin against God seven times.⁸⁷ He was guilty of unjustly dividing the sacrifice offered to God, of envying his brother, of leading him out into the field by deception and killing him there, and, finally, of denying his guilt and then, having confessed it, of condemning himself without penance. Every human being who out of hatred committed the crime of murder, especially fratricide, repeated Cain's monstrous crime and could redeem it only following Cain's example, not by death but by wandering through life in torment and suffering.

In the late eighth and early ninth century, the way murder and fratricide, a form of murder particularly dangerous to public order, were viewed was associated with

82 Beda Venerabilis, *Libri quattuor in principium Genesis*, lib. 2, chap. 4, pp. 78–79; e.g. *Sancti Eusebii Hieronymi Epistvlae*, no. 36 (Ad Damasum), chap. 2, pp. 269–70.

83 Angelomus Luxoviensis, *Commentarius in Genesis*, cols. 149–50.

84 Frechulfus Lexoviensis, "Historiarum libri XII," lib. 1, chap. 7.

85 Rabanus Maurus, *Commentariorum in Genesis*, lib. 2, chap. 1, cols. 505–6.

86 Remigius Autissiodorensis, *Expositio super Genesis*, vv. 1602–30.

87 *Sancti Eusebii Hieronymi Epistvlae*, no. 36, chap. 6, pp. 273–74.

reflection developed at the time among Carolingian theologians on the relation between sin committed by an individual and prosperity of the community of the faithful, and also on ways of providing satisfaction to God for violating his laws. The duty of constant admonition (*admonitio, correptio*) and correction (*correctio*) of sinners as a prerequisite for obtaining God's grace was the duty of all Christians, but especially of priests and those who wielded secular power. The idea of sin and penance preached by church authorities led to a change in the understanding of the consequences of fratricide, which became not just an attack on the foundations of the social order, but above all a *scandalum*—a transgression of moral principles that had to be publicly redeemed for the good of the whole community.⁸⁸

The moral teaching on the salvific role of penance found its way into legislation and social practice. Information about the mechanisms and the essence of this influence can be provided by an analysis of the regulations found in Carolingian capitularies. From the early ninth century, royal legislation and then gradually also judicial practice adopted a principle whereby those guilty of crimes regarded as the most serious transgressions of God's law should be subordinated to the jurisdiction of bishops. Only bishops as dispensers of penances could guarantee that the Christian community would avoid the fatal consequences of sin committed by any of its members. This change had far-reaching consequences.

In a capitulary promulgated in Aachen after 801 and addressed to all his subjects, Charlemagne made bishops responsible for the prosecution, within their dioceses, of persons guilty of the gravest sins, that is murder—especially patricide and fratricide, adultery, and idolatry (denial of their faith).⁸⁹ That these particular crimes were highlighted stemmed from an interpretation—going back to Origen and Tertullian—of the so-called *Apostolic Decree* from chapter 15 of the Acts of the Apostles. According to the early Christian tradition, those who had committed any of these deeds could not hope for absolution other than by the will of God himself, and thus they should perform a severe lifelong penance. In the early Middle Ages, following the teachings of St. Cyprian, St. Ambrose, and St. John Chrysostom, subsequently developed by John Cassian and Gregory the Great, they were treated more leniently; it was accepted that they might atone for their sin in their lifetime. Murder (especially of a family member), adultery, and idolatry continued to be seen as special sins, not only defiling the sinner, but also dangerous to the entire community of the faithful.

The question of what to do with the guilty of fratricide and patricide appears several times in the great capitulary for envoys (*missi*) promulgated by Charlemagne shortly after the imperial coronation (probably in 802). Chapter 32 features an extensive explanation of the motives behind the emperor's decision to change the traditional

88 On the concept of *scandalum* and its impact on political and social life in the first half of the ninth century see De Jong, *The Penitential State*, passim, esp. 232ff.

89 MGH LL *Capitularia regum Francorum*, 1, no. 77, p. 170.

approach to murderers, including murderers of their closest relatives.⁹⁰ This argument deserves detailed analysis, for it is an interesting illustration of one of the major problems lawmakers had to face, namely the need to reconcile two different legal systems existing side by side, customary law and the Church's teachings.

In the 802 capitulary the description of the way of dealing with murderers is preceded by a rhetorical introduction in which the lawmaker warns patricides and fratricides against the wrath of God. It is impossible to hide from this wrath, and its inevitable consequences not only affect the perpetrator, but also constitute a threat to the whole people of God. That is why a ruler's task is to force the perpetrators to give satisfaction for their crimes, and to prevent hatred from proliferating in the hearts of his subjects through Satanic prompting. Therefore, what should the perpetrator do? His duty is to pay the murdered victim's family an appropriate compensation in line with the principles of customary law. The victim's relatives may not refuse to accept this *wergild*, but, having accepted it, they should renounce bloody revenge on the murderer and his family once and for all.

In the early Middle Ages similar royal decrees, seeking to eliminate the practice of bloody revenge from society's life, were not a rarity. However, Charlemagne's capitulary stands out among them by virtue of its extensive theological justification featuring, in addition to the duty of material compensation to people, a categorical injunction to provide satisfaction to God for violating His law. The emperor ordered especially those who had raised their hand against their brother or relative immediately to accept the penance imposed on them and their subordination to their bishop. To seek with all their might reconciliation with the deceased's relatives (*eo ipso*—their own relatives) and to try to satisfy their material claims. Those shying away from this obligation should be deprived of their property, and their case should be submitted to the imperial court.

The rules for dealing with the murderers of relatives are specified by the legislator in chapter 37 of the capitulary.⁹¹ It lists patricides, fratricides, murderers of maternal and paternal uncles or other relatives as a group of murderers who should be specially controlled by imperial officials. If these murderers were to prove to be unrepentant sinners and did not want to submit to the penance imposed on them by priests, they should be seized and imprisoned in a place that would make them safe, but, at the same time, would prevent them from defiling the rest of the faithful with their presence until the ruler heard their case.

Thus patricides, fratricides, and murderers of other relatives were singled out among all murderers as a special group, whose deed, through its particularly monstrous nature, was a deadly threat not just to their souls, but also to the souls of all Christians. Emphasis was placed on the duty to do penance for the crime: it was not the death sentence for the murderers but serious penance that provided hope for the fatal consequences of God's

90 MGH LL *Capitularia regum Francorum*, 1, no. 33, p. 97; on the circumstances of promulgation and the political significance of this capitulary see Eckhardt, "Die Capitularia missorum"; Patzold, "Normen im Buch"; McKitterick, *Charlemagne*, 256–63.

91 MGH LL *Capitularia regum Francorum*, 1, no. 33, chap. 37, p. 98.

wrath to be averted from the community of the faithful. That is why the emperor had them subjected to the jurisdiction of bishops who, together with other priests, were the only ones with the right to impose penance on sinners and reconcile them with God. At the same time he ordered his officials to make the murderers safe, most likely in order for them not to be struck by bloody revenge on the part of their victim's relatives.

The capitulary chapters referred to above mark an important change in the way murderers of relatives were treated and, generally speaking, in the way the most serious crimes against life were dealt with. In customary law, a murder—both of a relative and of a stranger—remained a matter to be resolved between the feuding families, and the involvement of the ruler was restricted to limiting the fatal consequences of family vengeance and replacing revenge with financial compensation paid by the murderer to the victim's family. In fact, however, the life of the murderer remained in the hands of the avengers and this principle was not challenged by the legislator. It was the goodwill of the relatives and specific circumstances that determined which method of conflict resolution would be chosen in a particular case. This is not surprising, given the fact that what was at stake was the victim's family honour. Honour was the basis of the symbolic capital on which a group bound by blood ties built its social position.⁹² In the case of fratricide or patricide, the murder became an internal matter of the family to which the victim and the murderer belonged. It was the kinship group that was to decide how to wash away the dishonour and rebuild its internal bonds.

Charlemagne's capitulary contains a different way of dealing with murder. A crime against human life was not an attack on the family group's property, but, above all, a sin, which was a violation of the eternal law established by God. Thus its consequences affected not just the murderer, the victim, and their milieu, but also all the faithful, just as the crime of the first murderer, Cain, had affected all Christians since the dawn of time. The goal of the legislator was to protect murderers—especially murderers guilty of the most scandalous crimes of patricide, fratricide, and parricide—from human revenge not to show them mercy, but primarily to give them time for penance that would avert the terrible danger of God's wrath.

In 818 or 819 Charlemagne's successor, Louis the Pious, threatened anyone raising their hand against a penitent with severe punishment.⁹³ In the same capitulary he forbade bloody revenge on murderers, ordering his officials to force the parties to come to a financial agreement.⁹⁴ That the problem was still relevant, and that bloody revenge on the perpetrators was a phenomenon constantly present in society's practice

⁹² There is a fierce discussion among medievalists about the social and cultural importance of feud in early medieval societies, see e.g. Meyer, "Freunde, Feinde, Fehde"; Fletcher, *Bloodfeud*; Le Jan, *Famille*, 87ff.; Le Jan, *Société du haut Moyen Age*, 277ff.; Barthélemy, Bougard, and Le Jan, ed., *La vengeance*; Modzelewski, *Barbarian Europe*, 101–29; see also a classical study Wallace-Hadrill, "The Bloodfeud."

⁹³ MGH LL *Capitularia regum Francorum*, 1, no. 136, chap. 5, p. 282.

⁹⁴ MGH LL *Capitularia regum Francorum*, 1, chap. 13, p. 284; the order was repeated verbatim in the Worms capitulary of 829, MGH LL *Capitularia regum Francorum*, 2, no. 193, chap. 8, p. 20.

is evidenced by Charles the Bald's capitulary originating half a century later, in which the king defines the rules to be followed if a murderer was willing to do penance but, owing to a threat to his life on the part of avengers, could not do it. Charles ordered that the ordinances of his father, Louis the Pious, be observed.⁹⁵

The motives prompting members of kinship groups to commit fratricide and patricide were—at least in the opinion of the legislators—rather mundane: they came down primarily to a desire of earthly goods. This is clearly shown in a capitulary of Louis the Pious promulgated in August 829.⁹⁶ The first two chapters of the capitulary deal with murderers, especially fratricides, patricides, and matricides. In the first chapter, the legislator lists punishments that should be inflicted on those who shed their neighbours' blood in a church or outside a church but on consecrated ground. Chapter 2 is devoted in its entirety to the murderers of the closest relatives. Under the imperial decision, they were to be barred definitely from inheriting from their victims, whom they had killed out of greed, and their public penance was to be decided by the local bishop.

The circumstances surrounding the issuing of the capitulary are well known and have recently been thoroughly examined by Mayke de Jong.⁹⁷ Its promulgation was part of actions undertaken to correct errors and provide satisfaction for the sins committed by the ruler and his entourage. The influential part of the elites at the time felt that it was precisely despicable deeds and negligence on the part of the emperor that had led to a loss of favour of the supernatural forces, and, consequently, to an internal crisis and military defeats. The need for correction (*correctio*) became a dominant theme of the councils and assemblies convened that year. Supported and inspired by his reform-minded entourage, Louis implemented a number of new decisions concerning the legal and religious form of the Carolingian empire. The regulations of this capitulary were to make it easier to eliminate those crimes and misdeeds that could bring God's wrath down upon the perpetrator and the entire community.

A comparison between Carolingian legislation, older codes of customary laws, and royal edicts suggests that the killing of one's closest relatives in order to seize their property was a phenomenon which various lawmaking rulers had tried for a long time—clearly unsuccessfully—to combat. Among the Lombards, under an old law recorded as early as in the seventh century and made even tougher by King Liutprand in 720, a man guilty of the death of his brother was banned from inheriting from him, and his entire property was to be confiscated and given as compensation to the victim's descendants. After their claims were satisfied, any remaining possessions were transferred to the closest relatives.⁹⁸ The laws of the Alemanni included a norm whereby murderers of

95 MGH LL *Capitularia regum Francorum*, 2, no. 275, chap. 10, pp. 336, a. 869.

96 MGH LL *Capitularia regum Francorum*, 2, no. 193, chap. 1, p. 18.

97 De Jong, *The Penitential State*, 148–84.

98 *Edictum Rothari*, in *Le leggi dei Longobardi*, chap. 163, pp. 45–47; *Liutprandi leges*, in *Le leggi dei Longobardi*, chap. 17, pp. 136–38.

relatives were to be deprived of all their property in the presence of all family members; the murderers' descendants, too, lost their inheritance rights.⁹⁹

Property disputes, which sometimes led to the murder of one of the competing brothers, were seen as a visible sign of the operation of the infernal forces. They probably were not rare either. This is openly confirmed by Odo, the author of a mid-ninth century *Miracles of St. Maurus*.¹⁰⁰ The conflicts sometimes must have been so fierce that the common belief was that only a miracle could persuade the feuding sides to reconcile.

Examples of such supernatural interventions can be found in hagiographical sources. The miracles accompanying the translation of the relics of St. Calixtus to Cysoing, recorded in the second half of the ninth century, include a story of a reconciliation, by the agency of the saint, of two brothers mortally at variance with each other.¹⁰¹ The brothers, torn by rage and hate, like Cain the fratricide, were led to a place where the mortal remains of the saint had been laid to rest. The saint brought about such a sudden and unexpected transformation upon them that, filled with the fear of God, they fell to the ground and confessed their sins. The congregation praised God's graciousness and the brothers lived in harmony from then on. The miracle was regarded by the locals as so extraordinary that they decided to erect a cross on its site in eternal commemoration. In the story of St. Calixtus's miracle the narrative is constructed in such a way as to make the intense hatred between the brothers look like possession from which the brothers could be liberated only by divine intervention through the intercession of the saint. Interestingly, in this particular case the brothers were not willing to resort to the saint's intercession to end the feud dividing them, but were forced to do so, as it were, by their milieu. It could be said that those who every day watched the escalation of the conflict between the brothers were the most interested in nipping in the bud the evil threatening everyone. The story of the miracle of St. Calixtus is rare evidence indirectly confirming the social dimension of disputes among brothers, including their extreme and dramatic consequence: fratricide.

Owing to their character, the normative and hagiographical sources presented so far do not provide us with an answer to the question to what extent the phenomenon of a bloody conflict between brothers was present in society's life. Information about examples of such conflicts is rare and scattered, which makes it all the more valuable. These unique pieces of evidence include two papal letters written in the second half of the ninth century and addressed to bishops in the Frankish kingdoms. Around 860, Pope

⁹⁹ *Leges Alamannorum*, title 39, pp. 99–100.

¹⁰⁰ *Ex Odonis miraculis S. Mauri*, 470: "[Vulfuinus] Cinomanis profectus est, partem prediorum sibi competentium cum fratre suo Herveo nomine divisurus. Sed, exorta inter eos, ut in tali adsolet negotio, contentione, fratris dextera viscere tensu confossus interiit."

¹⁰¹ *Translatio S. Calixti Cisionium*, 421: "Qui [fratres] statim in conspectu aecclesiae adducti sunt. Et dum adhuc iniqua pleni cogitatione invidiaeque et iracundiae, ut Cain fratricida, facibus accensi ante presentiam martiris in medio constitissent, mirum in modum ita subito divinus eos timor perculit, ut in facies suas ruerent veniamque de suis erratibus similiter exorarent." On the translation, see Lorenz, "Papst Calixt I. (217–222)."

Nicholas I wrote to Bishop Donno and King Charles the Bald in the matter of a certain Hugo who had arrived in Rome on a penitential pilgrimage after the murder of his brother. As the pilgrim was zealously doing the penance imposed on him by the bishop, the pope asked the addressees of his letter for Hugo to have his property returned to him and to be allowed to be reunited with his wife, with all the restrictions and precepts binding on him as a penitent being preserved.¹⁰² A few years before Pope Benedict III (d. 858) had sent a similar letter to Bishop Solomon of Konstanz. In it, he specified the type of penance imposed on a fratricide and allowed him to return to his wife and carry arms, that is: to return to public life.¹⁰³

The letters are interesting for several reasons. Firstly, they confirm the very fact of cases of fratricide among the elites of the empire; secondly, they testify to jurisdiction being exercised over fratricides by the clergy as well as to the fratricide being bound by the precepts recorded in capitularies, synodal constitutions, and teachings of the Church Fathers. Moreover, the sources point to the existence of the practice of penitential pilgrimages in the case of the most serious transgressions against God's law. It should be noted that the bishops were aware of the risks involved in such pilgrimages and tried to limit them or to strengthen their control over the pilgrims.¹⁰⁴ The picture emerging from the papal correspondence is complemented by copies, preserved in Merovingian and Carolingian formularies, of a kind of safe conducts issued by local bishops to murderers of their closest relatives who set off on pilgrimages as part of their penance. In addition to the name of the contrite sinner, the documents contained a request to the clergymen from the countries through which the pilgrim was to pass to help him on his way, and they testified to the purity of the pilgrim's intentions.¹⁰⁵ A recurring reference in them concerns a seven-year period of penance for these gravest crimes, which is confirmed by information from other types of sources.

In this context, unique testimony dealing with penitential practices of fratricides—recorded probably in the ninth century, but preserved in a later edition (tenth–eleventh centuries)—is found in the *Miracle of St. Bertha*, the foundress of the monastery of Blangy-sur-Ternoise (Artois), who lived at the turn of seventh to eighth century. In the third quarter or the ninth century the saint's relics were transferred to Estrées (Strasbourg), when the entire convent left its original house because of a fear of a Viking invasion. The hagiographer places the events he describes during the reign of Charles the Bald.¹⁰⁶

102 MGH Epp. *Epistolae Karolini aevi*, 4, no. 131, p. 652.

103 *Acta pontificum Romanorum inedita*, 3, no. 4, p. 4, a. 855–58.

104 "Concilium Cabillonense," in MGH LL *Concilia* 2/1, no. 37, chap. 45, pp. 282–83.

105 *Formulae Senonenses recentiores*, in MGH LL *Formulae Merovingici et Karolini aevi*, no. 11, p. 217; *Formulae Salicae Lindenborgianae*, in MGH LL *Formulae Merovingici et Karolini aevi*, no. 17, pp. 278–89; *Formulae Bituricensis*, in MGH LL *Formulae Merovingici et Karolini aevi*, no. 13, pp. 173–74.

106 *Ex miraculis et translatione S. Bertae*, 564; edition of the life, translation and miracles of St. Bertha: AA SS, July, 2: 49–60.

According to his account, a nobleman named Salomon, having committed fratricide, accepted the most severe penance and, bound in iron fetters, set off on a pilgrimage to Rome. While in Rome, he received a sign in his sleep to go back beyond the Alps, to the relics of St. Bertha, through whose intercession he was to be cleansed of his sin. Salomon arrived in the monastery church in Blangy at a moment when a priest was celebrating a mass. The iron shackles cracked as soon as the fratricide, standing by the church door, raised his hand to make the sign of the cross, and the fetters, like an arrow from a bow, flew straight to the place where the mortal remains of the saints had been laid to rest. Although details of the story (the names of the bishops appearing in it) suggest caution when trying to date and determine the provenance of the account, it does provide us with some interesting information. First of all, the author clearly indicates the motives which pushed Salomon to killing his own brother: this happened during a quarrel over their shares in the inheritance. Here, again, we find a cause of conflict among heirs constantly present in other sources. Secondly, this late account, too, points unequivocally to a pilgrimage as the basic form of penance for fratricides. In this case, it was accompanied by a symbolic mortification of the flesh (fetters¹⁰⁷). It was the journey to Rome and other holy sites, ending with the penitent being readmitted to the community of the faithful by the saint's grave, that constitutes the central motif of the story and the essence of the penance.

An important source shedding light on the theological justification of such pilgrimages is Hrabanus Maurus's *Penitential*, prepared for Archbishop Otgar of Mainz and dated to the year 842.¹⁰⁸ The penitential later became the basis on which Carolingian synods clarified the rules of dealing with murderers. Hrabanus Maurus devotes a separate chapter to the murderers of relatives. He uses the term *parricida* to refer to this group. It encompasses all murders the victims of which were the perpetrator's relatives, that is also fratricide.¹⁰⁹ However, what constitutes a point of reference for him is Cain's crime of fratricide—Hrabanus invokes directly [chapter 4](#) of the Book of Genesis as a justification of the recommended treatment of such criminals.

According to Hrabanus and the biblical precept, a *parricida* should live like Cain in a state of eternal uncertainty and, like an outlaw, wander across the world. However, writes Hrabanus, today such murderers roam the country with impunity, committing new crimes and perpetrating infamies. That is why it seems just to order them to stay in one place so that they can be controlled to see whether they do their penance

107 Other ninth-century sources suggest that the practice was by no means unique. Charlemagne's *Admonitio generalis* features a provision against those who roam the country *nudi cum ferro*, under the pretext of penance. The ruler recommended that perpetrators do their penance in one designated place (*Die Admonitio generalis* chap. 77, p. 230); this royal decree was included e.g. in Regino of Prüm's legal collection.

108 MGH Epp. *Epistolae Karolini aevi*, 3, no. 32, p. 463. A fundamental study devoted to Hrabanus Maurus's *Penitential*, especially the sources used by Hrabanus when compiling it, is Kottje, *Die Bussbücher Haltigars*; see also Meens, *Penance in Medieval Europe*, 132ff.

109 On the unclear origins of the term *parricidium*, used in Roman and then in canon law, see Jońca, *Parricidium*, 11–17.

correctly.¹¹⁰ This is how Hrabanus explained the reasons behind abandoning the treatment of murderers, including parricides, grounded in the Bible. It was precisely the practice of penitential pilgrimages in the case of these gravest crimes that preceded forced penance in one place under strict supervision, as recommended by Hrabanus. This is an interesting example of an attempt to solve a moral dilemma (as well as a rather practical problem) of reconciling the unequivocal biblical text and the consequences of a literal interpretation of this text, dangerous to the existing order. The danger in this case lay in the use of the scripture-backed argument as a pretext enabling murderers to avoid the punishment provided for in the customary law and, even more dangerously from the theological point of view, in facilitating evasion of designated penance. Under the royal law, a murderer leaving the place where he lived under the pretext of doing penance did not have to fear revenge on the part of the victim's relatives. At the same time, bishops did not have effective tools to control penitents outside their dioceses. Thus, remaining outside the control of his own social group and the local bishop, a murderer could commit other trespasses against divine and human laws with impunity. That is why Hrabanus Maurus, in demanding greater control for bishops over the penance performed by repentant sinners, sought to change the existing penitential practice, an integral element of which was the long-term stay of perpetrators of cardinal sins away from their homes and families.¹¹¹ Hrabanus's precepts from Otgar's *Penitential* were incorporated in 847 into the statutes promulgated at the Mainz council. This is hardly surprising, given that the council was chaired by Hrabanus Maurus himself as archbishop of Mainz.¹¹² The canons were subsequently included in Regino of Prüm's compilation *De ecclesiasticis disciplinis*,¹¹³ and through it in Burchard of Worms's collection.

The practice of penitential pilgrimages, which spread across the continent under the influence of the teachings of Celtic monks, remained alive throughout the ninth century despite attempts by some bishops to restrict it. It was backed by the authority of popular penitentials. The penitential books used by the clergy from Italy to the Rhineland contained a precept whereby a murderer should spend at least part of his penance, lasting many years, in exile and return only after satisfying the claims of the victim's relatives.¹¹⁴ The popularity of these tariffs was not diminished by royal and episcopal

110 MGH Epp. *Epistolae Karolini aevi*, 3, no. 32, p. 463: "Sed quia in modernis temporibus parricidae profugi discurrunt per diversa loca, et variis vitiis atque gulae inlecebris deserviunt, melius mihi videtur, ut in uno loco manentes, paenitentia districta semepitosis castigent, si forte a Domini bonitate indulgentiam facinoris sui percipere mereantur." Cf. MGH LL Concilia 3, no. 14, chap. 20, p. 171.

111 For more on (monastic) seclusion as a form of penance that was to replace penitential pilgrimages, see Geltner, "Detrusio, Penal Cloistering in the Middle Ages," 93ff.

112 MGH LL *Capitularia regum Francorum*, 2, no. 248, chap. 20, p. 181.

113 Regino Prumiensis, *De ecclesiasticis disciplinis*, can. XXVII–XXIX (223–224), cols. 290–91.

114 The penance period in the case of fratricide ranged from fourteen years, including seven years in exile (Wasserschleben, ed., *Die Bussordnungen*, chap. 3, p. 538), or even fifteen years (a penitential from northern Italy known as *Poenitentiale Valicellanum II* provided for fifteen years of penance for fratricide, including five years in exile or in a monastery; Schmitz, *Die Bussbücher*, 351), to seven years (*Poenitentiale Merseburgense* from the late eighth century, providing for seven years of penance for fratricide, including three years on bread and water; Schmitz, *Die Bussbücher*, 313).

ordinances ordering penance rules to be harmonized and doctrinally suspect books to be destroyed.¹¹⁵

The form of penance in the case of fratricide was codified by Frankish bishops in the mid-ninth century. The bishops took as their point of reference primarily the regulations of general councils. Synodal legislation from the 860s provided for the following penance for fratricides: they were to stand for a year outside the church door in propitiatory prayer; after that year, they could be let inside the church, but were allowed only to listen to the Mass; after yet another year they could be allowed to receive the sacraments. They were banned from eating meat for life and had to fast every day, with the exception of feast days and Sundays; three days a week they were to refrain from drinking wine, mead, and honey beer. They were not allowed to use arms, unless fighting against pagans, nor were they allowed to travel on horseback or by means of any vehicle. They did not have to be separated from their wives and were allowed to get married during their penance period in order to avoid the sin of unchastity. The length of the penance period depended on the will of the local bishop, who should verify whether they meticulously abided by the restrictions imposed on them, and examine their conscience.¹¹⁶ In this respect bishops, at least those from East Francia, observed the papal instructions defined in a letter sent in the early 860s to the council of the archdiocese of Mainz.¹¹⁷ It should be noted, however, that although in the second half of the ninth century the penitential practice of fratricides gradually became stabilized, there was still much uncertainty concerning its details at the turn of the tenth century. This related, for example, to the decision whether penitents should remain chaste throughout the penance period. That the problem was serious is evidenced by a letter of Pope Nicholas I, in which he explained to Bishop Solomon of Konstanz that in exceptional cases a penitent could have sexual intercourse with his wife.¹¹⁸ The penance could also vary depending on the local customs in the diocese and individual decisions of the bishop.

The motif of fratricidal conflicts, both among rulers and in the lower strata of society, seems to have been an important element of the collective imaginary of the early Middle Ages. Descriptions of miracles in which only saints, thanks to God's grace, were able to rein in unreasonable hatred dividing brothers demonstrate human helplessness in the face of such feuds fuelled by the devious forces of evil. The vivid image of Cain—an exile stigmatized for his crime and wandering the earth—was made manifest by penitents on

115 See decisions of the Paris council of 829, MGH LL Concilia 2/2, no. 50, chap. 32, p. 633.

116 Council of Worms, May 868, MGH LL Concilia 4, no. 25, pp. 268–69; MGH Epp. *Epistolae Karolini aevi*, 4, no. 156, pp. 676–77.

117 MGH LL Concilia 4, no. 12, p. 131, a. 861–63. An identical canon dealing with the penance of fratricides can also be found in a letter by Pope Nicholas to the bishops of the Diocese of Worms, dated to the turn of the 860s. However, there are doubts as to the authenticity of the letter.

118 MGH Epp. *Epistolae Karolini aevi*, 4, no. 138, p. 658, a. 858–67.

pilgrimages to the holy sites of the Carolingian realm. On the other hand, the fields of Fontenoy became, in the imagination of the elites, a place in which the first human crime was repeated again and again, bringing God's wrath upon the combatants and the entire people. The fraternal bond, irrevocably tainted by sin, could be renewed only by being raised to a spiritual level and overcoming the earthly bonds of the flesh. The models of fraternal relations in these works were based on a paradox: on the one hand the bond uniting brothers and based on consanguinity became—as a synonym for loyalty and devotion—a point of reference for a description of the metaphorical spiritual bond of all brothers in Christ; and on the other hand this carnal bond was presented consistently as deficient and defiled by sin. Peace between brothers was by no means an intrinsic feature of this closest of human relationships; it could be achieved, but only if the love uniting them was truly Christian.

Chapter 5

FRATERNAL RELATIONS IN THE CONTEXT OF LAW AND SOCIAL PRACTICE

SO FAR I have been examining models of fraternal relations shaped by the Church's teachings as well as the values associated with them. In this part I will try to confront these models with testimony documenting the everyday reality of fraternal relations. This is by no means an easy task.

Among ninth-century descriptions of dramatic fratricidal rivalry between members of the Carolingian dynasty can be indicated many examples of the collaboration between and shared vicissitudes of brothers. Adalhard and Wala, relatives of no less a figure than Charlemagne; Rudolph and Conrad of the House of Welf, brothers of the Empress Judith; the Bosonids Hubert and Boso, brothers-in-law of Lothar II—these are just some of the better-known examples of interconnected careers. Brothers supported each other in their efforts to obtain the highest dignities as well as earthly and eternal possessions; they worked together to strengthen the position of their family and together bore the consequences of their actions. However, in addition to these almost exemplary models of fraternal solidarity, there are also references testifying to rifts between brothers, to efforts to pursue one's own plans against the will and interests of one's brothers, and even to betrayal. This happened for example in 776, when the leader of the anti-Frankish revolt, the Lombard Duke Rotgaud, and his brother Felix gave their lives, resisting Charlemagne till the end, while the third brother sided with the invader in order to keep his hereditary estates and position.¹

Authors of narrative sources rarely give any details concerning the nature of the relations between brothers; if they do so, they usually use recurrent narrative patterns to describe them. These references tell us little about individual motivations, nor do they make it possible to describe complex patterns of behaviour defining socially accepted and condemned actions of brothers with regard to each other and their milieu. In order to overcome these limitations, there is a need for use evidence hitherto used only sporadically, that of diplomatic sources. A comparison of information included in private charters, court records, and *pro memoria* notes, as well as legal norms recorded in codes of customary laws or royal capitularies, will make it possible to demonstrate how everyday behaviour was influenced by various, sometimes contradictory values, how and why models of behaviour changed, and what results were produced by going beyond the established patterns of collaboration, subordination, or repression within fraternal groups. I will explore sources from different parts of the Carolingian empire,

¹ MGH DD Karolinorum 1, no. 214, pp. 286–87.

looking in them for answers to the question concerning the local changeability of these patterns and factors contributing to the emergence of differences.

Mutual Rights and Obligations of Brothers

Property Rights

We have already discussed the reasons why scholars traditionally accept the view concerning the egalitarian nature of male siblings in the early Middle Ages. The theory that equality among brothers was a constitutive feature of the group has determined the way other aspects of the relations between them are viewed as well. It should be stressed once again that the belief in the equal status of brothers stems primarily from an analysis of normative sources which contain information about the rules of inheritance. Yet division of the inheritance is an extremely important, but not the only element defining fraternal relations. Findings by cultural anthropologists, sociologists, and psychologists provide us—by way of comparison—with indications concerning many other factors that may have influenced relations among brothers. The source base, dominated as it is by all kinds of property-related transactions and limiting the scope of the research questions that can be asked, forces us to focus on legal and economic questions, although it should bear in mind that this reveals only one detail of a complex picture.

This part of the analysis should begin with a discussion of several general issues associated with the inheritance system among brothers. After the closest ancestral relatives (parents) and descendants (issue), brothers were the third group in line to inherit. This order is confirmed both by normative sources (collections of customary laws and royal legislation) and by evidence of charters from various parts of the Carolingian realm. Yet, while codes of barbarian laws compiled between the sixth and the ninth centuries list other, clearly hierarchical groups of more distant relatives after brothers, relatives with clearly defined property rights and mutual obligations, in ninth-century documentary sources is noticeable a dichotomous division between ancestral relatives, descendants, and collateral relatives to the second degree according to the Germanic method of calculation (i.e. nephews) on the one hand, and more distant relatives on the other. The inheritance rights of the closest relatives and the resulting obligations were precisely defined in charters, with the obligations being ascribed to specific individuals. More distant relatives were treated as one uniform group (*coheredes*), with a general inheritance right, or were not mentioned at all. Worthy of note is the fact that ninth-century charters feature a standard term to refer to hereditary property: *hereditas paterna vel fraterna*, pointing to two basic sources of hereditary possessions at the disposal of a free man.

We can conclude on this basis that second-degree kinship was universally regarded in the ninth century as the boundary of the immediate family, with all the consequences of this state of affairs: members of this group were expected to show absolute loyalty, to collaborate, and their right to inherit from each other was not questioned. While reading documentary sources, we can see that in this particular group family solidarity

was manifested in the strongest possible manner, as was a sense of responsibility for the fate of female relatives and underage children. Representatives of this small group of closest relatives could also oppose arbitrary disposition of the inheritance, and inheritance claims under the law of propinquity were difficult to challenge. This division was by no means new: it corresponded to a distinction present in customary laws, for example the Salic law, where the most immediate family was defined with reference to the bond of brotherhood.² What is characteristic of situations described in documentary sources is the fact that in the ninth century the boundary of second-degree kinship of Germanic computation (that is children of brothers or possibly sisters) defined a group beyond which efforts were made to limit inheritance claims of more distant relatives in a variety of ways. Obviously, this does not mean that such claims were not recognized as legitimate at the time—on the contrary, charters indicate that it was precisely the legitimacy of such claims that was the most serious problem for testators.

An interesting testimony (though difficult to interpret owing to its unclear provenance) to legal sanctioning of the commonly recognized boundary between close and distant relatives is a chapter of a capitulary attributed to Charlemagne and dealing with the period at the end of which an estate passed to the possessor by prescription.³ According to this regulation, the prescription principle did not apply in the case of hereditary property, and heirs up to the third degree of kinship (unfortunately, it is not known how this was calculated) could claim their share regardless of how long another person (relative) had held the property.

The conclusions that can be drawn from an analysis of the diplomatic sources suggest caution when considering the thesis that individuals in the period functioned in a wide and amorphous circle of cognate kin. The phenomenon cannot be observed in the charters from various parts of Carolingian Europe (which, obviously, does not give us grounds to question it in general). Family strategies took into account primarily relations determined by the second degree of kinship, with a domination of agnate bonds. The end of the eighth century and the ninth century produced many last wills with detailed property dispositions. They present us with a more structured order of inheritance in the case of patrimony. According to a frequently recurring model, when the deceased left no closer heirs, the first to inherit were his parents, followed by brothers and brothers' sons, and in the absence of those, by sisters and sisters'

² This is suggested e.g. by title 58 of the law (*De chrenecruda*), analyzed by Modzelewski, *Barbarian Europe*, 114ff.

³ The regulation is among several decrees from different manuscripts and difficult to attribute and date, combined into one group and attributed (quite arbitrarily) by the editors of the capitularies to Charlemagne. It has survived to our times in a late (eleventh century) Italian manuscript containing the *Liber Papiensis*, Mordek, *Bibliotheca capitularium*, 246, 248. MGH LL *Capitularia regum Francorum*, 1, no. 105, chap. 16, p. 219: "Inter duos fratres anni curricula non computetur, sed semper equaliter dividant, quia de uno patre et matre nati sunt. Et haec curricula usque ad tertium sequantur gradum."

sons, followed by maternal uncles and their progeny.⁴ Usually, at the end the testator indicated an ecclesiastical institution.⁵ Obviously, the source material concerns unique situations, when, for example, a monastery was to be the recipient of the property and representatives of this particular institution were interested in drawing up and preserving a will as well as precise description of the order of inheritance. For this reason only a small and probably non-representative sample is available, on the basis of which it is hard to draw definite conclusions regarding the dominant inheritance practice. The privileged position of brothers and their sons, that is the male collateral line, is clear, although in the period sisters and their children, too, are a clearly distinguished group, listed immediately after the brothers in the order of inheritance. Sometimes—a fact that certainly should be noted—in the order of inheritance brothers and their sons were ahead of the daughters of the owner of the property, being listed right after his male descendants.⁶

After the death of the head of the family, the inheritance was usually divided by the closest descendants, that is the deceased's children of one or successive marriages. The problem is that, although this principle is beyond doubt, we generally do not have any documents that would tell us how exactly the property was divided among the sons (and daughters). The limited written evidence—for example, copies of agreements documenting the division of the inheritance among brothers, preserved in the collections of *formulae*—is without information that would allow us to specify in greater detail the circumstances in which the agreements originated (whether they were a consequence of a conflict or whether for some reason an uncontested division was documented).⁷ The lack of sources probably has a simple explanation: the divisions were carried out among the closest relatives on the basis of oral agreements, and in divisions of the inheritance among brothers the formally binding principle was, as has already been said, that of the equality of all male heirs from a lawful marriage (I deliberately leave aside the problem of illegitimate descendants, to which I will return later).⁸ It was only when a son was excluded from the inheritance or a share due to another son was

4 Some figures showing the share of brothers in the inheritance on the basis of documents from St. Gallen see Goetz, "Coutume d'héritage," 219ff.

5 An example of a precise regulation of the order of inheritance is a donation by a certain Ruadpert for the monastery of St. Gallen, in which he listed no fewer than seven kin groups with a right to inherit from him the right to use the property before it passed to the monastery (the donor's mother, children, his brother, his brother's sons, his sisters, their sons, his maternal uncle's sons), UstG2, no. 538, pp. 151–52, a. 868 (= ChLA, vol. 107, no. 33).

6 UstG2, no. 540, pp. 153–54, a. 868 (= ChLA, vol. 107, no. 36).

7 *Cartae Senonicae*, in MGH LL *Formulae Merovingici et Karolini aevi*, no. 29, pp. 197–98; *Formulae Salicae Merkelianae*, in MGH LL *Formulae Merovingici et Karolini aevi*, no. 21, p. 249.

8 What is significant is the justification of the equality of shares from the already-mentioned undated Italian capitulary (MGH LL *Capitularia regum Francorum*, 1, no. 105, chap. 16, p. 219), in which the legislator says explicitly that it stems from being born of the same mother and father (i.e. it concerns full brothers).

expanded, owing to some exceptional circumstances,⁹ or there was (or was predicted) a conflict over the division that sources were created: such circumstances prompted those concerned to record testamentary dispositions in writing—although these must have been exceptional cases.

Divisions of the inheritance were of crucial significance not only when it came to defining relationships within the family, but also to the self-determination of every heir as a member of the fraternal (family) group. The awareness that the property to be inherited by a man was part of a bigger whole—the heritage to which all brothers were entitled—was expressed in the language of the sources. Characteristically, in commonly used documentary *formulae* the allodial estate was defined as the share a brother got following a division among all brothers (“quicquid contra fratres suos in propriae hereditatis partem tulit,”¹⁰ “res mea que da germanis meis in sorte obvinet”¹¹) and was clearly separate from estates acquired individually from third parties (*adquisitio, conquesitum*) and from the property inherited from the mother. Similarly, if a father had adult sons with their shares following a division of the inheritance, the share that remained in his hands was described as a share *contra filios*. It was commonly believed (at least by the clerks drawing up the charters) that defining the status of property was inextricably linked to defining the group that could make claims to that property on account of the law of propinquity. The feeling that one had at one’s disposal a part of a whole, existing as a legal entity also after its actual division among the members of the group entitled to the inheritance, remained very much alive also among successive generations of heirs. Thus the fraternal bond was closely linked (it may even be said that it was considered equivalent) to an awareness of sharing the property inherited from the ancestors. This enables us better to understand the resistance to disposing of the patrimony—for this not only deprived family members of their property rights, but also struck at the very root of the symbolic ties within a kin group.

No reflection on the ownership structure among brothers can leave out the problem of the joint use of property, often referred to as the undivided property of brothers, that is, a form of collective ownership under which the brothers jointly managed their patrimony. When speaking of such undivided property jointly held by brothers in the early Middle Ages, it must be noted that we are not dealing here with a precisely defined legal institution. Normative texts which mention undivided property held by brothers do not specify what is behind such a concept. In legal provisions joint undivided property was usually defined by means of a descriptive formula whereby brothers lived together on their hereditary estate.¹² Diplomatic sources say little about the circumstances of the

⁹ Such cases are confirmed by document sources, e.g. *I placiti del ‘Regnum Italiae’*, no. 13, p. 36–37.

¹⁰ TrFr, no. 413, p. 354.

¹¹ MemLuc 5/2, no. 424, p. 255 (= ChLA, vol. 74, no. 38); no. 464, p. 278 (= ChLA, vol. 75, no. 28).

¹² See, e.g., *Edictum Rothari*, in *Le leggi dei Longobardi*, chap. 167, p. 46; *Liutprandi leges*, in *Le leggi dei Longobardi*, chap. 70, p. 162; chap. 74, p. 164; cf. MGH LL *Capitularia regum Francorum*, 1, no. 165, chap. 6, p. 330; MGH LL *Capitularia regum Francorum*, 2, no. 218, chap. 1, pp. 94–95.

emergence of joint property and the status of undivided property. In other words, it is not known why an estate was not divided and sometimes even whether the fact that brothers were acting as a group jointly making ownership decisions did indeed mean that a division had not taken place in the past. That is why in the following analysis I will use the concept of undivided property in a general sense, that is with reference to all estates jointly managed by brothers. We will not settle whether the joint use of hereditary property was derived from Roman co-ownership or other (Germanic?) legal traditions, which could be described (rather arbitrarily) as joint ownership. In this period there is no source confirming such distinctions.

I should begin by describing the most typical situation in which brothers became owners of undivided property. An estate remained temporarily undivided when a father, before his death, did not divide his property among his sons or when only the eldest of them had begun to live independently. The time between the death of the testator and the moment the brothers came into their shares of the inheritance was, from the point of view of the family group, one of the most difficult moments. Divisions of property, although formally based on the principle of equality among brothers, were in fact associated with the necessity of deciding which part of the property should be inherited by whom (if the father had not clearly expressed his will before his death). The divisions were not carried out according to some strictly defined abstract rules (everyone getting an equal share), but were a result of negotiations among brothers, sometimes turning into conflicts, which occasionally were long-lasting. The emergence, course, and intensity of these conflicts were influenced by the circumstances of the testator's death. The situation was different when the father left a will (oral or written) more or less precisely describing the rules of the division, and different again when death occurred suddenly or the father's divisions were questioned by the sons. Normative sources contain evidence showing that such conflicts among brothers, often born of different mothers and differing considerably in age, were a serious social problem.

In the customary law of the Alemanni and also in the royal laws of the Carolingian era, can repeatedly be found provisions prohibiting brothers from squandering their shares of the property before the inheritance was divided.¹³ Presumably this was about combating a *fait accompli* policy pursued by some heirs, that is the practice of appropriating and then disposing of a part of the inheritance to the detriment of other brothers before the value of the legacy was established. In documentary sources we also find references to inheritance division being delayed, although we do not know the reasons behind such decisions. There were cases when one of the brothers died before the division was carried out, which further complicated matters.¹⁴

In exceptional cases the fact that the property remained undivided may have resulted from an heir being unwilling to come into his share. Such a situation is described in Lothar I's Italian capitulary promulgated in 825. Lothar condemned in it those who shied

¹³ *Leges Alamannorum*, chap. 85 (88), p. 149.

¹⁴ See, e.g., TrFr, no. 186, pp. 178–79, a. 802.

away from taking their share in the family inheritance located within the borders of the Kingdom of Italy. This concerned particularly those cases in which one brother chose an ecclesiastical career, while another brother—despite the fact that the inheritance had been divided—refused officially to take possession of the share due to him.¹⁵ Such conduct—unworthy, according to the ruler—was prompted by a reluctance to fulfil military duties associated with land ownership. According to the law, a landowner was obliged to report for military duty in the province in which his estates were situated. However, in the analyzed situation no one responded to a call to arms: the clergyman was for obvious reasons exempted from military duty, while his secular brother was not formally the owner of his share of the patrimony and so did not feel obliged to do military service.

Such a behaviour on the part of the brothers may have been caused by several factors. From the point of view of the magnates (the so-called *Reichsaristokratie*), doing military service where their estates were located was a troublesome duty. Estates granted by rulers (and not only rulers) to their own people in remote parts of the growing Carolingian realms as well as marriage alliances between families from distant provinces meant that many families had their property spread over a vast area. This prompted fathers to divide their property among their sons according to a geographical principle: thus emerged separate estates controlled by various branches of one family. A good example of such a strategy was the inheritance policy of Count Eberhard of Friuli (d. 867).¹⁶

However, the problem did not only concern magnates linked to the court, but also lower-status families (for example, minor royal vassals or local aristocrats) acquiring landed estates thanks to Charlemagne's policy of military expansion. This particular group was clearly the addressee of Lothar I's capitulary. The considerable mobility of the Carolingian elites before the divisions of the empire became consolidated meant that descendants of owners of estates located somewhere on the peripheries of Carolingian Europe were not eager to tie their fate to this or that particular piece of land they had inherited. For this meant that they had to remain—permanently or temporarily—in provinces far away from the political centre and give up the possibility of a career at the side of a ruler or another influential protector. Worse still, they were forced to carry out military duties—not necessarily profitable but always dangerous—on the frontier.

15 MGH LL *Capitularia regum Francorum*, 1, no. 165, chap. 4, p. 330: "Precipimus de his fratribus qui in nostris et Romaniae finibus paternae seo maternae succedunt hereditati, si contigerit quod unus eorum ecclesiasticae militiae sit mancipatus, et iccirco is qui seculariter militare debuerat, ut se ad defensionem regni nostri subtrahat, in nostris finibus partem substantiae in portionem suscipere dissimulaverit, idcirco ut nequeat constringi: ubicumque comis suus cum invenerit, licentiam distringendi ei concedimus. Ita ut primum fideiussores donet usque ad placitum suum, ut bannum nostrum componat; si vero fideiussores non invenerit, tam diu sub custodia per comitem teneatur, quousque aut fideiussores inveniatur, aut bannum nostrum solutum habeat."

16 Analyzed in La Rocca and Provero, "The Dead and Their Gifts."

It was no coincidence that Lothar I's ordinance concerned the Kingdom of Italy: the lands had been conquered by Charlemagne half a century earlier. After 774 there emerged on the Italian Peninsula a new, Frankish elite, associated with King Pippin's court in Pavia. The material basis for its existence in the captured provinces was provided by vast landholdings, granted by the ruler mainly from estates confiscated from those Lombard magnates who did not want to accept the new ruler. The death of King Bernard in 818 brought with it a decline of Pavia as a centre of power and then a restriction of the autonomy of the former Kingdom of the Lombards by Louis the Pious. As a result, Italy became a rather unattractive place for ambitious sons of the Frankish conquerors. On the other hand, representatives of Lombard families who managed to hold on to their position during the reigns of Kings Pippin and Bernard were just as hostile as the Franks—if not more hostile—to Lothar I's rule and his military plans. Thus members of both groups had important reasons to look for possibilities of benefitting from their hereditary estates without taking on the associated responsibilities. Aware of this resistance and wanting to avoid undermining the military potential of the kingdom entrusted to him, Lothar ordered his *comites* to use force with regard to persons shying away from accepting their inheritance and fulfilling the related obligations.

The following chapter of the same capitulary contains just as interesting a piece of information about brothers keeping their property undivided in order to avoid military service.¹⁷ Lothar I changed the existing rule whereby, when brothers managed their property jointly, only one of them had to report for military duty. The young emperor ordered that from then on only one brother was to remain at home to manage the estate. The other brothers, no matter how many there were, were to take up arms whenever they were summoned by the ruler. If the brothers quarrelled over which one of them was to remain at home, the dispute was to be resolved radically: all brothers without exception were to take part in the military expedition. Interestingly, the same rule was expanded to include nephews. This would suggest undivided property of paternal uncles and nephews or undivided property being maintained in successive generations. Given the scarcity of the available evidence, it is impossible to determine whether joint property also meant that married brothers lived together.

Lothar's capitulary is extremely valuable testimony, for it reveals property strategies employed to pursue objectives that went beyond narrowly defined economic interests. It also demonstrates the motivation of members of family groups

¹⁷ MGH LL *Capitularia regum Francorum*, 1, no. 165, chap. 6, p. 330, Lothar I's Italian capitulary of 825: "De fratribus namque qui simul in paterna seo materna hereditate communiter vivunt, nolentes substantiam illorum dividere, hac occasione ut unus tantum eorum in hostem vadat, volumus ut si solus est vadat; si autem duo sunt, similiter; si tres fuerint, unus remaneat: et si ultra tres numerus fratrum creverit, unus semper propter domesticam curam atque rerum communium excolentiam remaneat. Si vero inter eos aliqua inter eos aliqua orta fuerit contentio, quis eorum expeditionem facere debeat, prohibemus ut nemo illorum remaneat." Lothar's decision was confirmed forty years later by his son, Louis II, in a capitulary promulgated before an expedition against the Saracens, MGH LL *Capitularia regum Francorum*, 2, no. 218, chap. 1, pp. 94–95.

making collective decisions concerning their legal situation. However, the exceptional circumstances in which the source originated (threat of a war, internal crisis in the Kingdom of Italy, and reorganization of power structures in this territory) suggest caution in approaching the information included in it. The behaviour patterns condemned by Lothar I emerged in response to an uncertain situation in a restless province of the Carolingian realm, rather than as a universally accepted response to coercion on the part of the ruler. Nor do we know how current these behaviour patterns were—whether they were isolated incidents prompting the monarch to undertake preventive measures or whether we are dealing with a common phenomenon and an attempt to reverse a dominant trend.

Given the multiplicity of individual situations and complex circumstances that may have led to division of property being abandoned (or delayed), it is difficult to formulate unequivocal conclusions concerning the practice of joint management of hereditary property by brothers. Long-term joint management of hereditary estates must have had mainly an economic justification. This may have been the case of owners of small landed estates, for whom fragmentation of property below a certain level meant not only pauperization but even loss of personal status (the boundary between freedom and bondage was very thin in the case of owners of small estates). Indirect evidence suggests that the tendency to maintain property undivided may have been more evident among groups with a lower status. However, documentary sources demonstrate irrefutably that joint property existed also among wealthy landowners.¹⁸

At the same time it must be kept in mind that division of hereditary property may have involved only a part of the property, with the other part remaining—for various reasons—undivided, jointly held by all brothers entitled to the inheritance. Charters feature characteristic *formula* in which the entire hereditary property is described generally as divided and undivided property (for example, “tam divisa inter nos, quam etiam ea, que in commune adhuc habere videmur; omnia partita et non partita; quicquid proprietatis habeam divisum seu indivisum,” etc.¹⁹). Again, we usually do not know what factors led to a given part of the patrimony being excluded from division—perhaps this was determined by practical considerations (the nature of the estates, their number and form of use), perhaps other factors were at play, for example one part of the property being intended to be a pious donation in exchange for prayers of intercession for the souls of dead family members. Sometimes joint donations happened, when brothers were about to take possession of their inheritance—for example right after their father’s death, when a donation for the soul of the deceased was part of the process of redefining

¹⁸ See e.g. TrFr, no. 436, pp. 374–75, a. 820, brothers Isanhart and Otolh.

¹⁹ *Chartularium Sangallense*, no. 187 (= ChLA, vol. 100, no. 17) a. 805 (800–806?), donation of two brothers, Wago and Chadaloh, sons of *comes* Perahtold, for the abbey of St. Gallen; UStG2, no. 386, p. 6, a. 843 (= ChLA, vol. 104, no. 31), donation formula: “quicquid proprietatis ... visus sum habere, sive ex paterna hereditate seu ex adquisito, sive divisum habeam cum meis coheredibus seu indivisum.”

the ownership structure within the group.²⁰ Finding an answer to the question about the motivation behind such decisions is difficult, because only written acts of donations of joint property to monasteries and churches are available, and in such charters for obvious reasons the commemorative aspect comes to the fore.

Documentary sources also record situations in which only some of the brothers acted together, jointly holding their part of the property acquired after the division of the inheritance between them and the other brothers.²¹ Again, the reasons behind such decisions remain unclear. We can only surmise that in such circumstances the fact that some brothers held joint property may have been determined by their age (the elder brothers had received their share of the inheritance earlier, the younger ones had come into their share only after their father's death and had not divided it among them), having different mothers (full brothers may have been more inclined to cooperate than stepbrothers), or the existence of factions, as it were, among brothers. It is also worth noting that joint action may have had rather mundane motives, for example, purely economic ones. This may explain the common phenomenon of pairs of brothers appearing in tenancy agreements concluded with representatives of large ecclesiastical institutions. In the Italian bishopric of Lucca, known for its abundance of sources, two brothers appeared in the ninth century as tenants of the bishop's estates in nearly forty cases.²² Wherever sources shed some light on those social groups that usually remain in the shadow, there are examples of the economic collaboration of brothers as well; this concerns, for example, free and unfree peasant families, in which brothers and their families lived off one farm. Inventories and lists of possessions, including those that were the subject of various transactions, featured the name of one brother (in the "x et germani/fratres eius" formula) as an element identifying one peasant family. In such cases the brother mentioned by name was probably treated as the head of the group, which may have been composed of both underage and adult members.²³

20 TrFr, no. 226, p. 209, a. 806. Donation of *comes* Droant's three sons, made in the presence of their mother and relatives, for St. Corbinian, patron of the Bishopric of Freising, with the proviso that the brothers may modify it, provided the modification is not to the detriment of the bishopric; a similar intention must have been behind the renewal of their father's donation for the Bishopric of Freising by the brothers Eio and Alphart, TrFr, no. 323, pp. 276–77, a. 814.

21 UstG2, no. 487, pp. 103–4, a. 855/861 (= ChLA, vol. 106, no. 28).

22 See e.g. MemLuc 5/2, no. 301, pp. 177–78 (= ChLA, vol. 72, no. 13); no. 411, p. 249 (= ChLA, vol. 74, no. 26); no. 418, p. 252; no. 522, p. 312 (= ChLA, vol. 76, no. 39); no. 524, pp. 313–34 (= ChLA, vol. 76, no. 41); no. 634, pp. 377–78; no. 664, p. 399; no. 668, pp. 401–2; no. 670, p. 402; no. 680, pp. 407–8; no. 681, p. 408; no. 685, p. 410; no. 687, pp. 411–12; no. 696, p. 417; no. 697, pp. 417–18; no. 714, p. 429; no. 715, p. 430; no. 738, p. 444; no. 796, pp. 482–83 (= ChLA, vol. 82, no. 27); no. 830, pp. 503–4 (= ChLA, vol. 83, no. 12); no. 893, pp. 545–46 (= ChLA, vol. 84, no. 29); no. 901, p. 551 (= ChLA, vol. 84, no. 39); no. 904, pp. 552–53 (= ChLA, vol. 84, no. 42); no. 909, pp. 555–56 (= ChLA, vol. 84, no. 47); no. 921, pp. 563–64; no. 1012, p. 625; no. 1015, pp. 626–27.

23 For example, inventories of the estates of the Bishopric of Lucca, second half of the ninth century or beginning of the tenth century, *Inventari altomedievali*, no. XI/1, pp. 207–46. A more extensive formula can be found in Charles III's document for Abbot Fulbert (a. 884), which features the names of five boys: "nec non et eorum parentes tam fratres quam sorores utriusque sexus desuper commanentes et etiam qui de his supra dictis servis nostris ex fiscis copulatas sibi habent uxores," MGH DD regum Germaniae ex stirpe Karolorum 2, no. 94, p. 153–54.

In the case of a jointly owned property, any donation required consent of all brothers. The very act of ownership transfer could be performed by one brother on behalf of all the others, and all brothers could be held individually responsible for fulfilling the terms and conditions of the agreement. If one brother failed to fulfil the agreement (for example, he made claims to part of the property donated together with the brothers), he had to bear the consequences proportionally to his share in the undivided property that had been donated.²⁴ It should be noted that the brothers retained their rights to make decisions about their share of the property, even if the property had not been divided among all brothers and was treated as a whole. The observation is all the more important given that the definition of undivided property adopted by scholars assumes joint property rights of all brothers with no place for the individual exercise of rights to a part of that property. Yet in the practice known from ninth-century sources there are situations in which one brother donated his share in jointly held property without division of that property, that is, he in fact transferred to the recipient his right to his share in the still undivided property, usually with the consent of all the other brothers. Donations of this type were in most cases intended for ecclesiastical institutions, with the donor retaining a lifetime right of use and transfer of that right to his heirs in the second generation (usually to his brothers and brothers' sons). Such donations of estates jointly held by brothers could be revised after the death of one of the brothers. As the situation changed, the surviving brothers could demand that the inheritance be divided between them and the recipient of the donation.²⁵ However, this sometimes gave rise to conflicts.²⁶

Yet in most cases sources provide us with information about individuals severally holding property obtained from a division of their inheritance among brothers, acquired by their own effort or inherited from their mothers and more distant relatives. That brothers held property separately did not exclude collective decisions concerning that property. Documentary sources mention, for example, joint pious donations and other property transactions concerning estates owned by each brother separately, regardless of how they came into possession of these estates.²⁷

The practice of several brothers simultaneously making donations from their separate estates to the same ecclesiastical institution may have been motivated by many factors. Among them the biggest role was probably played by joint strategies for building the position of the family group through ties with a powerful monastery or bishopric. Confirming these ties by means of collective grants of land by brothers

24 UstG2, no. 486, p. 102, a. 861.

25 This happened, for example, in 830 in Freising, when after the death of his brother Kerold a man name Kernod asked the bishop for a division of the property held with his brother and to separate his share from the share which Kerold had donated to the Church; in this particular case the division did not give rise to any conflict, TrFr, no. 599, pp. 512–13, see Brown, *Unjust Seizure*, 158, f. 2.

26 See e.g. TrFr, no. 362, p. 309: in 816 a certain Krimheri on his deathbed gave his share of the property jointly held with his brother to the church of St. Martin in Neritinga (Nörting), but his brother kept this property to himself, until an intervention by the Bishop of Freising.

27 See e.g. TrFr, no. 321, pp. 274–75, a. 814, where two brothers jointly donate what they owned “tam de alode quam de comparato seu de qualibet adtracto,” which suggests that the donation concerned their entire property, not only the part acquired through inheritance.

also served to secure the durability of such donations. The available diplomatic sources include clauses featuring mutual promises of their inviolability, promises made by brothers to each other. Joint granting of property to an ecclesiastical institution, with the proviso that the heirs (children or brothers and nephews of the donors) would retain the right of use, made it possible to limit the risk of claims being subsequently made to that property under the law of propinquity. However, it should be noted once again that our way of seeing these practices is distorted by the one-sided nature of the available sources, a vast majority of which recorded the flow of property between lay individuals and ecclesiastical instructions.

Similarly, the need to guarantee the durability of a donation to an ecclesiastical institution meant that consent had to be obtained from brothers for every disposition of property that was part of the patrimony, even if the property had been divided. Documentary sources speak explicitly of negotiations with brothers before a pious donation, sometimes even of the brothers' participation in the legal act.²⁸ The practice of calling one's brothers to be witnesses to property transactions, and of publicly announcing their consent and renunciation of their claims, is known from dozens of references in charters from across Carolingian Europe. It should be noted that the practice was common, despite the fact that formally royal legislation, both Carolingian and pre-Carolingian, guaranteed inviolability of donations made to ensure salvation of the soul, irrespective of the will of the other interested parties.²⁹ A similar explanation can be provided for the frequent presence of brothers among guarantors (*fideiussores*) confirming the legitimacy of donations and guaranteeing their inviolability.³⁰

A similar meaning could also be found in the practice—studied in great detail, especially for the later period—of the so-called *laudatio parentum*, expanding the supernatural benefits stemming from a pious donation to include a broader circle of heirs.³¹ The formulas of such gifts often list, in addition to the donor, his parents and children as well as siblings, especially brothers, as recipients of supernatural graces

28 TrFr, no. 329, pp. 281–82, a. 814: a cleric named Rihpald made a *pro anima* donation for the Cathedral of Saint Mary in Freising in exchange for receiving the church in Pipurc as his benefice. The decision was made after a discussion with his brothers and relatives, with Rihpald donating his share with his brother Ermperht (Tunc enim ego Rihpald et frater meus Ermperht accessimus ad altare sanctae Mariae, traditionem et confirmavimus traditionis proprie hereditatis mee partem). Ermperht does not appear as an advocatus, and his presence by Rihpald's side is clearly associated with his renunciation of his inheritance rights to the donated property.

29 See e.g. *Liutprandi leges*, in *Le leggi dei Longobardi*, chap. 6, p. 130; *Ahistulfi leges*, in *Le leggi dei Longobardi*, chap. 12, pp. 254–56; MGH LL *Capitularia regum Francorum*, 1, no. 39, chap. 6, pp. 113–14, a. 803; MGH LL *Capitularia regum Francorum*, 2, no. 136, chap. 6, p. 282, a. 818–19. The inviolability clause was also expanded to include all property transactions which featured an ecclesiastical institution as one of the parties and which were carried out with the consent of the potential heirs and in accordance with the applicable procedure, see *Ahistulfi leges*, chap. 16, p. 258.

30 TrFr, no. 528, pp. 452–53; no. 574, p. 493.

31 White, *Custom, Kinship, and Gifts*; see also e.g. Rosenwein, *To Be the Neighbor*.

received in exchange for such generosity.³² On the one hand, such endowments were associated with fulfilling moral obligations by immediate kin, that is taking care of the repose of their relative's soul and remembering the relative in their prayer, and on the other they were a form of securing the inviolability of donations. Including living brothers among people in whose intention the donation was made must have meant that they had expressed their prior consent to conveying ownership to the ecclesiastical institution. This also secured the donation against any claims to the property made by the brothers or their direct heirs. Obviously, this concerned primarily allodial estates: the patrimony, which the owner could not fully dispose of as he wished. The situation was different in the case of property acquired thanks to an individual's own efforts or inherited from his mother: such property remained entirely at the disposal of the owner, who did not have to take into account the opinion of his kin.

Depending on each other, brothers were at the same time at the greatest risk of conflicts caused by rivalry over limited material possessions. Obviously, such possessions diminished with every division of the inheritance or pious donation. The fear of property disputes was expressed in elaborate documentary *formula* confirming, in a variety of ways, the brothers' mutual acceptance of decisions concerning hereditary estates. Such tensions may have been behind some cases, known to us from charters, in which brothers tried together to regain or at least to be granted the use of the property given to ecclesiastical institutions by other members of their group. An example is the case of two brothers who in 816 humbly asked the bishop of Freising to grant them the use of a church donated to the bishopric by their father and brother, not mentioned by name.³³ The bishop agreed, but under certain conditions: he obliged the brother who had negotiated the agreement to do all he could to prevent the other brother from violating its terms. This was to be guaranteed by a high bond. Securing such agreements with a surety was not a common practice, and in this respect the case is absolutely unique. The situation described in the charter may have been just the last stage of a longer dispute in which the two brothers, deprived by their father and a third brother of their right to a part of their hereditary property, questioned the donation and acted to the detriment of the bishopric. The surety was to provide an additional guarantee that the brother who was absent when the agreement was concluded (we do not know why, but his very absence is meaningful) would not put forward his claim again. The inside story of the whole case remains unclear: it is unknown whether, when the father and the third brother were making the donation, the remaining two brothers were still minors or whether they had a different mother.

Speaking of property strategies pursued by brothers, I cannot leave out the question of personal links between brothers and wealthy protectors. Vassalage in Frankish society and other societies of the Carolingian realm has been the subject of intensive research.

32 TrFr, no. 406, p. 350; no. 420, p. 360.

33 TrFr, no. 364, p. 311.

However, even a sketchy discussion of concepts relating to the role of vassalage and various clientelist bonds in the politics, economy, and society of early medieval Europe goes far beyond the framework of the present study. Therefore I will present only just a few topics stemming directly from source evidence, being fully aware, however, that this evidence cannot be treated as a basis for generalizations.

In the Carolingian era, a temporary beneficial holding of land (usually for life) in exchange for providing services to the owner of that land was an important way of building one's material status. The differences in the material status of persons entering into such agreements suggest that the main criterion behind them was not so much social background, but usefulness—above all military usefulness—of the party accepting such a temporary grant. Among vassals (I use the term with the reservation that “vassal” and “vassalage” do not exhaust all the complexity of similar forms of personal relations within the Carolingian realm) there are both representatives of the highest elites of the empire and members of the lower strata differing little or not at all from ordinary tenants with regard to their material status. Although in both cases we encounter the same terminology, the social situations to which the terminology refers are very different. This means that every time must be precisely defined both the kind of relations between the lord and the vassal, and the personal status of the latter. This is made more difficult, if not impossible, by the use of a single model to explain the mutual relations and the consequences for both sides.

The above distinction is hugely important in the analysis of cases in which vassalage encompassed members of one group of brothers. The situation was different in aristocratic families, in which the position of their various members was built on strong foundations (allodial estates, family ties), and the bond of vassalage, especially with the rulers, was above all an element of the families' political strategies; it was also different among minor vassals, for whom holding even small benefices was a *sine qua non* condition of not just maintaining their position in society but sometimes their very existence.

Rarely do we come across a situation in the sources in which several brothers simultaneously can be identified as vassals. Usually, brothers pursued different, though in most cases complementary, career paths (mostly a secular and an ecclesiastical path). It is worth taking a closer look at the case described in Einhard's letter, sent around 833 to an unnamed *comes*.³⁴ Einhard was interceding for two brothers who, as a result of the conflict among the sons of Emperor Louis the Pious, were at risk of losing their jointly held benefice located on both sides of the Rhein. The estate they sought to retain was located on the right bank of the river and, following the divisions among the emperor's sons carried out after the imprisonment and dethronement of the old emperor, found itself within Louis the German's domain. The unlucky brothers had to face a dilemma they could not solve on their own: how to retain the entire

³⁴ MGH Epp. *Epistolae Karolini aevi*, 3, no. 29, p. 124; see an analysis of the letter in a political context in Kasten, *Königssöhne*, 308ff.

benefice, if claims to the land that was part of it could be made by two quarrelling rulers (or even three, including the imprisoned Louis the Pious). As a result of growing tensions between Louis the German and Lothar I, who aspired to exercise power over his brothers, both rulers looked with hostility at vassals who, as holders of estates in both parts of the Carolingian realm, were forced to manoeuvre between the competing suzerains. The brothers on whose behalf Einhard spoke tried to find a way out of this impasse and proposed a truly Solomon-like solution. They asked Lothar to consent to a division of the benefice into two parts—the Rhein would mark a boundary between them—and to allow each brother separately to swear an oath of fidelity and promise to serve the ruler reigning on a given bank of the river. Thus the brothers would be able to retain together the entire property they had held before. As the letter suggests, however, neither Louis the German nor Lothar I were willing to agree to such an arrangement, which prompted the brothers to try to get the support of Einhard, an elderly but still respected and influential figure.

The case of these two unnamed brothers is important to us for two reasons. First of all, it confirms the practice of two brothers jointly holding one, undivided *beneficium*. As we can guess, this was associated with the need to swear allegiance by both brothers and their joint acceptance of the obligation to provide service to the lord (in this case probably Louis the Pious). It also confirms, however, that the brothers saw no obstacles that would prevent them from serving two lords. They clearly must have believed that this did not threaten their joint property strategies, based on mutual trust and collaboration. At the same time, however, the story demonstrates how the bonds of brotherly loyalty overlapped with other forms of personal obligations based on fidelity. Had Lothar and Louis accepted the solution proposed in the letter, then in the case of a conflict between them the vassal brothers would have faced the dramatic choice between loyalty to each other and obligations to their overlords. To whose favour the scales would have turned we can only guess. Yet there is no doubt that both brothers were determined to preserve their entire property: in the end they decided to ask Emperor Lothar himself for mercy and sought support among the highest placed individual at the court. Obviously, their behaviour was rational in 833, when no one could suspect how deep a political rift would be caused by the disagreements between the royal brothers. Ten years later such a move would have been impossible.

Einhard's letter brings us into the world of great politics, the victims of which also included representatives of a group not playing an active part in those politics, that is vassals holding small estates and medium landowners. It sheds a different light on the accusations made by contemporary critics of the policy pursued by Lothar and his brothers, namely that vassals were forced to commit perjury, that is to pledge allegiance to many lords or to unwittingly break the oath of allegiance. However, political divisions also had far-reaching social consequences, including the risk of brothers-german facing each other in a fratricidal conflict. Thus the words of ninth-century authors, writing with dismay about fraternal blood being shed on the fields of Fontenoy, were not just a

metaphor describing a clash between members of one political community; they could be understood very much literally.³⁵

A moment of key significance to the relations among brothers and within the family as a whole came with the death of one of the siblings. Diplomatic sources bring a lot of evidence documenting the process of redefining property relations among brothers in such circumstances. If a brother died childless, the other brothers were the first to inherit from him. The inheritance encompassed the deceased's share in the patrimony as well as the property he had acquired in his lifetime or had come into it following bequests from third parties. Details of the divisions are not completely clear; it seems that every brother of the deceased had an equal share in the inheritance (significantly, the charters I know do not feature cases of divisions of the inheritance between legitimate brothers and natural brothers, although—as has been mentioned earlier—customary laws did provide for such situations).³⁶ In the case of stepbrothers with different mothers, the status of the estates inherited by the deceased from his mother and from his father differed: the property from the mother was inherited only by the deceased's brothers-german, while the patrimony was inherited by all brothers.

When one brother died, mutual property-related obligations among the remaining brothers needed to be regulated, and from the point of view of a researcher this is an exceptionally good moment to take a look at how such relations looked in practice. In principle our picture of property relations among brothers, based as they were on inheritance customs within the family group and formal-legal links with other partners, especially the Church, is incomplete. For the relations among brothers were sometimes regulated also by formal agreements, no different from those concluded with third parties. For example, in sources originating from Italy we can find cases of brothers granting each other loans secured against part of the patrimony obtained after customary divisions of the inheritance. The consequences of such agreements affected legal heirs, even if the heirs were not members of the family.

Sometimes these agreements are of very detailed and complex nature and provide in advance for the contracting parties to be able to prove their rights in court. In Lucca a certain Magno obtained from his brother a loan of 45 solidi secured against his hereditary landed estates from inheritance divisions with his other brothers. According to the terms of the contract, Magno and his heirs were obliged to pay back the loan, within thirty days of being called to do so, to any heir of the borrower or anyone to whom enforcement of this right would be transferred *pro anima* and who would present the relevant charter (“*ille homo cui tu hanc pagina pro anima tua ad exigendum et dispensandum dederis, et ea nobis in iudicio ostiderit*”); this obligation was confirmed

35 In *Song of the Battle of Fontenoy* (Angilbertus, *Versus de bella quae fuit acta Fontaneto*, 138) an eyewitness to the battle, Angilbert, painted a dramatic picture of the clash, in which a brother faced a brother and an uncle faced a nephew: “*Bella clamat, hinc et inde pugna gravis oritur, / frater fratri mortem parat, nepoti avunculus.*”

36 For examples of divisions of property by brothers after the death of one of them with a clear emphasis that the shares in the inheritance are to be equal, see e.g. TrFr, no. 186, pp. 178–79, a. 802.

in another document issued after his brother's death—upon which the pledge passed to the executor of the deceased's will and his heir, Bishop of Lucca.³⁷

In addition to matters concerning the order of inheritance of estates and obligations, charters from across the Carolingian empire contain references to actions—closely linked to the process—taken by brothers to ensure that their deceased brother would be remembered in prayers. They often feature examples of gifts for the soul of a deceased brother. Although in most cases such evidence is laconic and, apart from general stereotypical formulas, does not explain the donor's individual motivation, it can be assumed that such gifts were offered usually in the following situations: when the donor inherited some other property from the deceased; when the deceased had obligated his brother to make such a gift; and, finally, when there was a strong emotional bond between the brothers or the circumstances of the deceased brother's death required special posthumous assistance from the living. All these factors may have been at play simultaneously, although the last one eludes us almost completely. Only rarely can be observed details like those from a charter drawn up in Freising in 840, when a man named Ermbert gave the Church a substantial part of a forest for the soul of his brother who had been killed (that is, his death was sudden and quite dangerous in terms of the salvation of his soul).³⁸ In the first case mentioned above, that is when a brother became his brother's heir, the moral obligation arose with the coming into the inheritance of the deceased's property. This way of thinking about the relation between the deceased and his heir is illustrated by a well-known passage from Dhuoda's *Liber manualis*:

Pray for your father's relatives, who have bequeathed him their possessions by lawful inheritance. You will find who they were, and their names, written down in chapters toward the end of this little book. Although the Scripture says, "A stranger luxuriates in another's goods," it is not strangers who possess this legacy. As I said earlier, it is in the charge of your lord and father, Bernard. To the extent that these former owners have left their property in legacy, pray for them. And pray that you, as one of the living, may enjoy the property during a long and happy lifetime. For I think that if you conduct yourself towards God with worthy submission, the loving One will for this reason raise up these fragile honors for your benefit. If through the clemency of almighty God, your father decides in advance that you shall receive a portion of these estates, pray then with all your strength for the increasing heavenly recompense to the souls of those who once owned all these.³⁹

³⁷ See e.g. MemLuc 5/2, no. 424, pp. 254–55, a. 819 (= ChLA, vol. 74, no. 38) and no. 464, p. 278, a. 824.

³⁸ TrFr, no. 635, p. 540.

³⁹ Transl. Dhuoda, *Handbook for her Warrior Son*, 205. Dhuoda, *Manuel*, lib. 8, chap. 14, pp. 318–20: "Ora pro parentibus genitoris tui, qui illi res suas in legitima dimiserunt hereditate. Qui fuissent, uel quae nomina eorum, in capitulis huius libelli, in fine, inuenies conscripta. Et licet Scriptura dicat: 'In bonis alienis gaudet alter'; tamen eorum, ut praedixi, haereditates non extranei, sed tuos possidet dominus et pater B[ernardus]. In tantum quod illi remanserunt, ora pro possidentes; ora ut eius uiuens multo fruaris feliciter tempore. Credo enim quod si digne et humiliter erga eum certaueris, pium tibi ex hoc augebit incrementum fragilitatis dignitatum suarum. Si, concedente prius clementia omnipotentis Dei, tuus genitor aliquid exinde tibi iusserit largiri, in quantum ualueris per amplius, ora ut illi merces adrescat ex eorum animabus quorum cuncta fuerunt."

The situation was slightly different when brothers made each other the executors of their last wills. They acted as executors either on the basis of a decision of the testator expressed directly (also in writing) or under a customary law as the closest relatives.⁴⁰ Obviously, for scholars the unequivocal situations are those in which references to brothers as executors appear in testamentary dispositions or if there are references to the function transferred to them in a different manner (for example, as a result of a public declaration of will⁴¹). In other cases, when we encounter a gift offered on behalf of a deceased's brother, we have to rely on conjectures. The meaning of testamentary clauses obliging brothers to fulfil the deceased's will was twofold. On the one hand, this was a natural choice, as it were, for the testator, who imposed the duty on his closest relatives, who, after all, were his heirs as well. On the other by making his own brothers the executors of his dispositions, the testator lowered the risk of them making groundless claims to the inheritance: it seems the very disposition of property before death could not have happened without prior acceptance from the brothers. By fulfilling the deceased's last will the brothers confirmed their consent, for example, to a part of the patrimony being given to ecclesiastical institutions and incurring a kind of moral obligation to the deceased.

Last wills also contain concrete arrangements indicating how the deceased testator's brothers can take over the property intended by the deceased for the Church without the risk of the deceased losing the benefits of prayers of intercession said for him by representatives of the ecclesiastical institution receiving the property. This usually required the brothers to pay a specific sum in exchange for the land, a sum that was to be earmarked for remembering the deceased in prayers.⁴² In addition, carrying out testamentary provisions was usually spread over time, sometimes over many years, to enable brothers to collect sufficient sums to buy out the estates intended as pious donations.⁴³ A failure to fulfil such a condition on time was regarded as renunciation of claims to the estates, which from then on became formally the unquestionable property of the monastery or church receiving the donation. Sometimes the amounts required were considerable, and the deceased's brothers were not willing or were unable to raise them. In such cases the inheritance was divided in accordance with the testator's will, without taking into account his brothers' claims. This is evidenced by charters in which executors selling the estates clearly noted that they were doing so because the deceased's brother or brothers had failed to fulfil the conditions of his last will and had not bought out the estates on time.⁴⁴

40 See e.g. TrFr, no. 343, p. 293, a. 815, where a brother acted on behalf of the deceased, who had not managed to make the gift before his death.

41 TrFr, no. 372, pp. 316–17, a. 817. On his deathbed Liutfrid made his brother Anno the executor of his will, in the presence of relatives and after consulting them; similarly: TrFr, no. 303, p. 262, a. 812.

42 See, e.g., UstG2, no. 499, p. 114, a. 864.

43 For more, see Pieniądz, "Relacje między rodzeństwem," 206–7.

44 See, e.g., MemLuc 5/2, no. 239, p. 139, a. 792.

The presence of the testamentary formulae discussed above is important from the point of view of the property strategies of family groups. This is because the documents show the social and legal mechanisms making it possible to reconcile the religious need to obtain prayerful intercession in exchange for property donated to the Church, and the need to secure the family's material interests. Acts of donation must have been a result of prior negotiations; they were a confirmation of arrangements concerning the property dispositions of a family member. That the testators acted in collaboration with their immediate families is in any case also evidenced by the names of brothers listed among the witnesses of these charters.

It is worth noting that this is an attempt to resolve a contradiction between two co-existing normative systems. Reconciling inheritance principles rooted in customary law and the Christian need to take care of one's own and one's relatives' eternal salvation required a compromise. We know far less about how such a compromise worked in practice: that this was not always an effective solution is evidenced by echoes of property disputes resulting from attempts by brothers to recover, under the law of propinquity, estates donated to the Church.

The preserved documentary sources do not make it possible to determine the scale of the conflicts between the deceased's brothers and those who acquired hereditary estates, but such conflicts must have occurred. Customary law norms may have continued to be the basis of siblings' claims to the inheritance (especially the patrimony) under the principle of propinquity. As many studies of charters from various parts of Europe—carried out especially for the tenth and the following centuries—have demonstrated, disputes arising in such situations were a frequent motive prompting church institutions to conclude tenancy agreements with the deceased donor's brothers or to hand over the property in question to them for temporary use. Such documents must have been used primarily to secure future purchasers of the property against claims from a living brother or his heirs, who might have invoked the law of propinquity when making their claims to the inheritance.

It should be stressed, however, that conclusions concerning the complexity of mutual relations can be drawn usually only on the basis of indirect evidence. There are very few cases when, for example, testators openly refer to unlawful appropriation of property, which had been donated by them, by their brother, or to the brother disposing of the property contrary to prior arrangements. In such a situation, transfer of such property—or, rather, the right to such property, if the testator was not actually in possession of it when writing his last will—meant shifting to the recipient of the gift (for example, an ecclesiastical institution) the burden of recovering it. There are generally no situations in which one brother is openly excluded from the inheritance, although we can suspect that some *pro anima* donations were made to deprive brothers of their inheritance. There are also cases in which a share of the inheritance intended for the testator's brother is disproportionately small in comparison with the testator's entire property. This obviously does not have to mean that in each such case the brother was excluded from the inheritance, as some property dispositions may have been made orally or recorded in separate documents.

The act of donation for the soul of the deceased brother and/or on his behalf (under the deceased's last will or on the basis of a decision of his brother, the heir) sometimes accompanied the funeral ceremony, constituting an important element of it. The charters from the archives of the bishopric of Freising contain several extremely valuable *notitiae* with descriptions of funeral ceremonies.⁴⁵ The very act of property donation took place in public, in the presence of relatives, in the church in which the deceased's body was placed and where the exequies for his soul were celebrated. The deceased's brother would ceremonially approach the altar to place on it the donation charter, subsequently taken by legal representatives of the Church—in this case representatives of the bishop of Freising. The incorporation of a public act of donation, carried out in a sacred space, into the funeral rites had at least a twofold meaning: on the one hand it was both religious and prestigious, as an act confirming the establishment of a special bond between the donor and the recipient (and thus—through the religious community—with God himself),⁴⁶ and on the other it was pragmatic: a donation made in such circumstances was hard to question. It is also obvious that ceremonial gestures made during the deceased's last journey were of psychological significance to the whole family group and the milieu in which the group functioned. Were they also an expression of emotional bonds among brothers? This must remain a matter of conjecture. Similarly, it is impossible to determine the role of this factor in the case of all other commemorative practices, from funding masses for the souls of departed brothers to composing elaborate epitaphs in their honour.⁴⁷

Property matters are closely linked to the brothers' choice of a career. Documentary sources display a certain pattern, suggesting the existence of well-thought-out strategies enabling a group of brothers to enjoy the benefits both of their earthly property and of a clerical career. This phenomenon is particularly evident among families functioning in the immediate milieu of powerful church institutions, linked by a dense network of relations to their local communities. An analysis of these practices is interesting primarily because it shows brothers as a collective entity acting together, and together bearing the responsibility for fulfilling the obligations resulting from their strategy. Obviously, the circumstances in which brothers made decisions concerning their career paths are unknown. It is impossible to say to what extent these decisions were spontaneous, and to what extent they resulted from arrangements among family members or from pressure exerted by elder brothers on younger ones. That these were in the end effective strategies from the point of view of the interests of the group is demonstrated by the amount of evidence confirming rather similar patterns followed in various parts of the Carolingian realm.

⁴⁵ TrFr, no. 861, p. 681, a. 860; no. 447, pp. 382–83, a. 821.

⁴⁶ Angenendt, "Cartam offerre super altare"; on the sacral meaning of this gesture in a later period see Beyer, "Urkundenübergabe am Altar," see also Zeller, "Writing Charters."

⁴⁷ See e.g. the epitaph composed by Hrabanus Maurus in honour of his brother Gundram and his wife, *Epitaphium Gundramni*, 238.

The most frequently recurring way of pursuing such fraternal strategies was the joint donation of some of the family estates to a church institution with the right to use such estates to be retained by the brother who opted for a career in the Church. In some donation charters brothers explicitly mentioned the name of the one among them who was to take possession of the property, provided he was ordained. Detailed dispositions also specified the way in which family foundations were to be managed: the founder or founders pointed to a circle of the closest kin—especially brothers and nephews—from among whom successive administrators (e.g. abbots) were to be selected.⁴⁸ Of similar strategic significance were oblations of underage siblings decided by their elder brothers (I will return to this topic later). It would be ahistorical, of course, to try to separate religious and material motives in such cases. What is important for the present analysis is the fact that brothers acted together, co-deciding the fate of one among them, in accordance with the interest of the whole group.

Sometimes brothers who were clergymen and those who were laymen together managed estates that were church endowments. This applied not just to foundations that remained their family's property, but also to churches belonging, for example, to a bishopric and were used by brothers under an agreement. Whenever an agreement mentions that the rights were inherited by the brothers from their father or relatives, we can suspect that it is a family foundation donated in the past *pro anima*, but with a hereditary right of use. What is more interesting for the purpose of the present analysis than the origins of such rights is taking a closer look at the brothers who had such rights. Such observations show that if only one brother was a clergyman, brothers who were laymen could be a party to such an arrangement too. It is obvious that a clergyman was responsible for the proper performance of the divine service, but the condition of Church property and its management were the joint responsibility of all brothers, who as a group also had to bear the consequences of any negligence.

Interesting testimony is provided by the detailed records of a case heard in Lucca in 853 by a court presided over by representatives of Emperor Louis II. The imperial *missi* adjudicated a dispute between Bishop Jeremiah of Lucca and three brothers, Belisarius, Samuel, and Ansuald, who, under a tenancy contract concluded with the bishop in 844, had been the second generation holding the church of St. Mary and St. Gervasius by the walls of Lucca, and who were accused of neglecting their duties stemming from the provisions of the contract and thus diminishing the property of the bishopric. Only one of the brothers was a clergyman (Belisarius). There was another side to the matter, associated with the policy pursued by Jeremiah's predecessor, Bishop Ambrose, who was accused of acting to the detriment of the bishopric and of the ruler. What is important to this analysis is the fact that the records clearly point to the brothers' co-responsibility for the condition of the property entrusted to them. In any case the tenancy contract

⁴⁸ See, e.g., MemLuc 4, no. 96, p. 152, a. 786 (= ChLA, vol. 38, no. 1099); MemLuc 5/2, no. 932, pp. 570–71, a. 884.

was concluded with both brothers mentioned by name, and the third brother, who was referred to in the contract but was not of age yet at its conclusion, after coming of age publicly confirmed his will to enter into the contract. In its ruling of the imperial court imposed a high fine of 400 solidi on all three brothers collectively, a fine provided for in the contract.⁴⁹

Beginning with the second decade of the ninth century, in various sources there are references to cases of a layman serving as the legal representative (*advocatus*) of his ordained brother.⁵⁰ The practice of appointing such a representative spread in the ninth century under Charlemagne's legislation. Around 802 the emperor made it mandatory for the empire's biggest ecclesiastical institutions—bishoprics and monasteries—to have a secular legal representative.⁵¹ With time such representatives, referred to as *advocati*, began to act also on behalf of the lower clergy. Although there is some difficulty in precisely describing their competences, their responsibilities clearly included representing clergymen in matters not concerning their pastoral duties or Divine Service, that is matters including those associated with the management of the property of a given ecclesiastical institution and disputes concerning their endowments. In the case of both *advocati* of large monasteries and legal representatives acting on behalf of ordinary priests from provincial churches, the dignity was not to be despised as a source of profits (a share in the income from ecclesiastical property, informal use of some of that property, etc.) and prestige.

Significantly, what comes to the fore in studies of the origins of the institution of ecclesiastical *advocati* is primarily the problem of using the dignity to build a political position and property-based foundations of the power of magnates, especially in the post-Carolingian period.⁵² Yet the analysis of documentary sources indicates that the function of legal representative of clergymen was treated, also among moderately wealthy people, as a useful tool in the pursuit of their strategies of building their families' material and social positions. Pairs of brothers in which the secular brother was a legal representative of the ordained brother appear in property transactions. They define the terms and conditions of the use of the property constituting the endowments of the churches entrusted to their care, and grant or change estates that are their joint or separate property. As an *advocatus*, the secular brother also retained indirect influence on decisions, and not only relating to property, taken by his ordained brother, as his legal counsel and as a family member.

49 *I placiti del 'Regnum Italiae'*, no. 57, pp. 198–205; see also Eldevik, *Episcopal Power*, 148–50.

50 TrFr, no. 173, p. 168, before 802 (early reference!); no. 366, p. 312, a. 816; no. 399, pp. 340–41, a. 813; *I placiti del 'Regnum Italiae'*, no. 45, pp. 147–51, a. 825–40, Milan.

51 MGH LL *Capitularia regum Francorum*, 1, no. 33, chap. 13, p. 93.

52 So far there has been no modern and exhaustive study of the development of the institution of ecclesiastical legal representatives in the early Middle Ages; among older studies, see Senn, *L'institution des avoueries*, Wood, *The Proprietary Church*, 328–38, and Wood, "The Significance of the Carolingian Advocate."

The natural bond of kinship between brothers and the resulting shared property interests were thus considerably strengthened. The overlapping of obligations stemming from kinship sanctioned by the royal legislation and the formal legal relationship stemming from the lay brother acting as a legal representative of the ordained brother is an interesting example of the interpenetration of two normative orders in social practice. The fraternal bond, which may have been loosened somewhat following one of the brothers' vows of loyalty pledged to a guardian and superior (e.g. a bishop) from outside the family was not weakened, but was redefined on a new basis. The interference of brothers serving as legal representatives in property interests of clergymen (also in cases when the property became a gift and was formally owned by an ecclesiastical institution and used by the family only temporarily) thus became sanctioned by law in the eyes of the Church, at the same time serving to build ties between the family and the ecclesiastical institution. As *advocati ecclesiae*, brothers of clergymen enjoyed additional benefits going beyond earthly dimensions—by becoming, though under special conditions, part of the organizational order of the local Church.

The overlapping and interpenetration of these two ways of thinking about the bonds uniting brothers are perfectly illustrated by the relations between the two brothers Kerold and Kernod, who, in 825, in Freising jointly changed the earlier decisions concerning their property.⁵³ Keeping their property undivided, the brothers, one of whom, Kerold, was ordained deacon, initially made mutual donations, each from his share of the hereditary property, thereby making each other their own heirs. Yet after some time and in circumstances unknown to us they decided to change this disposition and divide the property. Kerold gave his share to the bishop of Freising, at the same time entrusting himself to his care. Kernod took part in all stages of the establishment of the new legal status: first, as Kerold's brother, he revoked the earlier life agreement with his brother, and then, as his legal representative, he assisted in donating Kerold's share in the inheritance to the bishopric. In this case it was possible to cleverly combine the customary property rights of brothers with the need to fulfil the obligations to the ecclesiastical lord.

Brothers' cooperation and loyalty were put to a special test in conflict situations, both when the disputes occurred within the family and when they were with third parties (the sources document mainly conflicts with ecclesiastical institutions). There are many cases in the sources, in which brothers act together to defend their property interests.⁵⁴ Acting together made sense in two ways: it stemmed from the closest kin's

53 TrFr, no. 519, pp. 442–43; Bühner-Thierry, "Des évêques, des clercs," 254.

54 UstG2, no. 438, pp. 57–58, a. 855 (= ChLA, vol. 104, no. 28); TrFr, no. 423, p. 362, a. 819; *I placiti del 'Regnum Italiae'*, no. 33, pp. 103–6, a. 822, Lucca; no. 51, pp. 169–73, a. 847, Lucca; no. 52, pp. 173–75, a. 848, Lucca; no. 68, pp. 246–48, a. 865, Como; no. 93, pp. 337–39, a. 884, Caorso (Piacenza); no. 105, pp. 381–84, a. 897, Pomaro (Piacenza).

duty to support each other, such as in the case of a joint oath before a court, but, above all, it strengthened the negotiating position in out-of-court negotiations accompanying conflict resolution.⁵⁵ Thus there are known cases in which one party comprised, for example, three brothers, supported additionally by more distant relatives, usually sons and nephews.⁵⁶ It should be noted, however, that the principle of loyalty was not always observed; court records contain traces of disputes between brothers—cases of one brother acting to the detriment of another or testifying against him were rare, but it did happen.⁵⁷

Help in the Face of Danger: Revenge, Compensation, and Joint Oaths

In discussions on the internal organization and nature of family relations in early medieval European societies much attention is traditionally devoted to the problem of joint responsibility for actions of each family member and joint duty to retaliate for the harm done to any member of the group. The individual is seen primarily as part of a group, seeking to satisfy all their needs and exercise all their rights within this group, and building their identity also with reference to the group.

Early medieval legal sources are rewarding in such studies, as they contain plenty of detailed information about mutual family relations, networks of obligations and imperatives, methods of resolving conflicts and of establishing hierarchies. The most difficult problem arises, as has been mentioned earlier, when trying to refer the conclusions based on their analysis to the practice of (sometimes) several centuries later. While in the case of property relations we can speak of an excess rather than a shortage of diplomatic sources making such comparisons possible, when we examine topics like vengeance or co-responsibility for payment of compensation, the situation is much more difficult. Eighth- and ninth-century evidence of family revenge, although frequent, is usually equivocal (we do not know, for example, what motivated various individuals—was it really family solidarity?). We learn next to nothing about payment of reparation and *wergild*, and there is little available evidence of relatives jointly swearing an oath.

Medieval European codes of customary laws consistently confirm the right and duty of relatives to take revenge on the person who has made an attempt on the life or health

⁵⁵ See e.g. TrFr, no. 358, pp. 305–6, a. 816.

⁵⁶ TrFr, no. 258, p. 231, a. 807; *I placiti del 'Regnum Italiae'*, no. 57, pp. 198–205.

⁵⁷ TrFr, no. 466, pp. 398–400, in 822 the imperial *missi* settled a case in which claims to a church in Holzhusun (Holzhausen), the property of the Bishopric of Freising, were made by a man named Adaluni. The list of witnesses called by the judges and giving their testimony against him under oath opens with Adaluni's brother, Regindeo. However, it is not known whether Regindeo gave his testimony of his own will, or whether he was forced to do so. The latter is suggested by Regindeo's later presence among guarantors in the case. (I do not agree with Warren Brown, *Unjust Seizure*, 147–48, who sees in Regindeo's actions signs of a conflict within Adaluni's family). Incidentally, there was another side to the story: the church had been granted by the bishop as a benefice to none other than his own brother, the cleric Deotperht. In this case the bishop's family interests were neatly intertwined with the interests of the bishopric entrusted to him.

of a member of their family group.⁵⁸ As in the case of the order of inheritance, in this case, too, the order of honouring such an obligation reflected the hierarchy of kinship: the closer the kinship, the stronger the obligation. Thus it is obvious that those who should be the first to fulfil that obligation were the closest male kin, i.e. ancestral relatives and descendants of the victim, then the victim's relatives in the collateral line: in other words, father, sons, and then brothers. Legal sources rarely make a distinction between various individuals belonging to the closest circle of the avengers; rather, they speak generally about the closest relatives. The accounts that are difficult to interpret, introducing a clear distinction between successive circles of avengers, include title 62 of the Salic law (*Pactus*) and title 68 of the supplement to the *Pactus Legis Salicae*.⁵⁹

Codes of customary laws demonstrate that the codifiers sought to limit the extent of bloody revenge by replacing it with reparation paid by the perpetrators or, in the case of murder, with *wergild*. I leave aside at this point the discussion about the origins of monetary compensation for a crime and about the role of rulers in spreading such a solution. What is important in the present analysis is that the *wergild*, that is, money paid in lieu of revenge, was accepted and divided not by an individual but the entire group which was obliged, through of the bonds of kinship, to avenge any of its wronged members. This principle was obviously observed also in a group of brothers, all adult members of which were treated as a collective entity responsible for the defence of the group's honour. The decision to abstain from bloody revenge on the perpetrator and his family was not taken individually but at least should have been a result of an agreement among all brothers who were of age.

Obviously, these conclusions based on an analysis of normative sources which present a picture intended by the lawmaker. It is not known whether brothers indeed appeared jointly in a feud, because evidence from sources other than legal sources is not only rare but often also enigmatic. What can be said for sure is that, regardless of whether all brothers

58 The problem is discussed extensively by Karol Modzelewski, "Zemsta, okup i podmiot," 109–29. See also above, p. 128, n. 92. Feud as a social phenomenon and a conflict resolution method sanctioned by law has attracted a lot of interest among medievalists in recent years. As a result of their research it is known that revenge as a form of enforcing one's rights functioned in social practice throughout the Middle Ages and later became legitimized, also symbolically, and played an important role in the strategies of winning and holding on to power. These findings require a revision of the pattern firmly established in historiography according to which elimination of revenge testifies, as it were, to a "modernization" of European societies in the Middle Ages. On revenge see Miller, *Bloodtaking and Peacemaking*; Meyer, "Freunde, Feinde, Fehde"; Hyams, *Rancor and Reconciliation*; Fletcher, *Bloodfeud*; Barthélemy, Bougard, and Le Jan, ed., *La vengeance, 400–1200*; Büchert Netterstrøm and Poulsen, eds., *Feud in Medieval and Early Modern Europe*; Throop and Hyams, ed., *Vengeance*; Tuten and Billado, eds., *Feud, Violence and Practice*.

59 The interpretative difficulty stems from the unclear description of the recipients of the *wergild*: in addition to the victim's son/sons there is also the mother (it is not clear whether she is the mother of the victim or the victim's sons) as well as paternal and maternal relatives (again, it is unclear whether the author meant the mother of the victim and thus his maternal uncles, or the mother of his sons, that is his brothers-in-law). Karol Modzelewski is inclined to agree that the *mater* is the victim's wife (*Barbarian Europe*, 111–13).

were physically involved in asserting their honorary rights, the obligation concerned all of them and could pass from generation to generation until satisfaction was obtained by means of violence or peaceful settlement. The disgrace resulting from failing to fulfil the obligation to exact revenge affected all brothers; refusing to observe traditional principles and giving up revenge meant that honour was lost, not only by an individual but by all brothers. The moral obligation to take revenge stemmed also from a belief in the danger from supernatural forces threatening those who would shy away from this obligation. The violation of the sacred order with bloodshed had to be met with a response, and the deceased could regain peace provided the blood of the murderer or someone among his kin was shed as well. What might be a faint echo of these ideas of the relationship between the world of the living and the world of the dead is, apparently, a very archaic practice, described in the Lombard *Edict of Rothari*, of killing a murdering slave on a victim's grave.⁶⁰

The principle of joint responsibility was applicable also when it was one of the brothers who committed a crime for which he could be avenged by his victim's family. In such a case all brothers were obliged jointly to support him in collecting the resources to pay for avoiding revenge, as far as their financial situation enabled them to do so. What this obligation involved and how it was to be fulfilled is illustrated by title 68 of the Salic law, *De chrenecruda*, analyzed in detail by Karol Modzelewski.⁶¹ To put it briefly, a person guilty of murder could apply for help in paying the *wergild* to members of his family, beginning with his father and brothers, and ending with more distant relatives from his father's and mother's families. Those distant relatives could refuse, provided they observed a ritual, and shifted the responsibility to other, wealthier relatives. However, the possibility of refusal applied only to those distant relatives; the regulation in question does not say that the father or brothers could apply it as well. Although drawing conclusions *ex silentio* is always risky, in this case it seems it would not be an exaggeration to say that they could not evade their obligation in this way.

Documentary sources rarely mention instances of bloody revenge exacted by brothers. It is therefore impossible to tell how common the phenomenon was. Efforts by successive rulers, supported by the authority of the Church, to eliminate feud from social life and to replace it with the payment of reparation and *wergild*, must have contributed to a reduction in the extent of armed feuds. Charlemagne and his successors even resorted to criminal sanctions against those who insisted on settling family scores by means of the sword. Refusing to accept reparation provided for by royal laws or assaulting an enemy who had already compensated the family for his deed and had undergone penance could lead to rather unpleasant consequences for the avengers: from imprisonment to high fines.⁶²

⁶⁰ *Edictum Rothari*, in *Le leggi dei Longobardi*, chap. 370, p. 98.

⁶¹ Modzelewski, *Barbarian Europe*, 114–15.

⁶² MGH LL *Capitularia regum Francorum*, 1, no. 20, chap. 22, p. 51 (Capitulare Haristallense, a. 779); no. 26, chap. 31, p. 70 (Capitulatio de partibus Saxoniae); MGH LL *Capitularia regum Francorum*, 2, no. 193, chap. 8, p. 20 (Capitulare Wormatiense, a. 829); MGH LL *Concilia* 4, no. 31, chap. 10, p. 369 = MGH LL *Capitularia regum Francorum*, 2, no. 268, chap. 10, p. 336 (capitulary of Charles the Bald, a. 869). Analogous provisions appeared in the legislations of other rulers at least from the seventh century, see e.g. *Edictum Rothari*, in *Le leggi dei Longobardi*, chap. 143, pp. 38–40.

Yet bloody revenge as a form of resolving conflicts still remained the ultimate measure used by the closest relatives, including brothers, to take revenge on their opponents. Such a case—exceptionally outrageous—was mentioned by Hrabanus Maurus in his correspondence with Bishop Humbert of Würzburg. A church was profaned in the diocese of Würzburg when a man forced his way inside and, in front of the altar, killed the murderer of his brother and all the murderer's relatives who had sought refuge in the church.⁶³ Hrabanus told Humbert to present the case of the blasphemer before the synod and to accuse him of shedding innocent blood. Unfortunately, the letters have not survived in their entirety; only a summary from a later reference is known. It is impossible to draw far-reaching conclusions on the basis of this one, uncertain note, but it does testify to the existence of revenge in society's life and confirms that feud encompassed not just the perpetrator but all his kin. Moreover, in this case the behaviour of the murderer and his family indicates that they expected ruthless revenge if they sought refuge in a church, which was seemingly safe because it was protected by the law of asylum. The details of this particular story are unknown, but the actions of the avenger suggest that the will to fulfil an honorary obligation to his brother overcame the fear of God's wrath and concerns for his own salvation; nor did it prevent him from breaking the sacred law guaranteed by the king's authority.⁶⁴

Such a way of thinking about family obligations was shared by all groups in society, including the political and intellectual elites. This is evidenced by bloody feuds between magnates, feuds caused and driven by revenge. Regino of Prüm mentions the murder of Count Rodulf (Raoul) of Cambrai (d. 896), son of Count Baldwin I Iron Arm of Flanders (d. 879) and probably Judith, daughter of Charles the Bald, which was committed by Count Herbert of Vermandois (d. 907), son of Pippin of Vermandois and grandson of the wretched King of Italy Bernard (and great-great grandson of Charlemagne). Herbert would be killed by a man of Count Baldwin II of Flanders (d. 918), Rodulf's (Raoul's) brother. Like his lord, the man was named Baldwin (we do not know whether the two men were related).⁶⁵ Although in this case the murderer was not killed personally by his victim's brother, the chronicler suggests that this was an act of revenge for this death. The murder of Rodulf (Raoul) and the death of Herbert were part of bitter rivalry between the two families—rivalry that can be considered as a family vendetta.

The brothers' right and duty of revenge also had a reverse side: brothers, like parents and children, were at great risk of revenge on the part of a person or relatives of a person who had been harmed by one of them. A way of preventing the conflict from escalating was to bring about an agreement with the victim or his family and pay a for

63 MGH Epp. *Epistolae Karolini aevi*, 3, p. 525.

64 Charlemagne forbade the prosecution of a man who had taken refuge in the narthex of a church, MGH LL *Capitularia regum Francorum*, 1, no. 39, p. 113; Louis the Pious ordered that anyone committing a murder in a church be punished by death, MGH LL *Capitularia regum Francorum*, 1, no. 136, pp. 281, a. 818–19.

65 *Reginonis abbatis Prumiensis Chronicon*, p. 73.

the harm done. This method of solving conflicts which were a threat to the social order was supported by rulers with their legislation and by the church authorities. However, such a way out was not always possible or desirable. In particular, in cases when the social status of the parties differed, bloody revenge on the part of an avenger higher up on the social ladder could be more profitable for him in a situation in which the main value at stake was honour. At the same time, using law for violent purposes became a manifestation of power.

This also applied to kings. The terms of family vendetta help to interpret the actions of Lothar I, who ordered the blinding of the brother and the killing of the another brother and the sister of Bernard of Septimania (d. 844), accused of defiling the imperial bed—that is, of an outrageous attack on the foundations of the sacred order.⁶⁶ Worthy of note is the fact that scholars' frequent understanding of family revenge as a private duty, contrasted with the public pursuit of one's cause within the justice system, is unknown to the authors of early medieval sources. This distinction, introduced by nineteenth-century legal historians, makes the understanding of the essence of revenge even more difficult. If we look at the conduct of political elites in this period, it would be hard to point to a moment when violence used to maintain order and legitimized by the state (the ruler) ended and "private" revenge began. In any case, revenge was not usually an irrational and spontaneous outburst of aggression: the avenger's actions were governed by strictly defined rules enabling him to punish the perpetrator in public and recover honour lost. In this sense, no matter how paradoxically this may sound, bloody revenge may have played a constructive role as well.

In cases resolved without bloodshed, it is very rarely known how a settlement was reached. In most cases we have to be satisfied with information that the wronged party decided to accept the *wergild*.⁶⁷ This is what increases the value of a letter written in the second quarter of the ninth century by Einhard concerning the case of two brothers, Williramn and Otbert, servants of the Church of Mainz, who had escaped to seek the protection of Saints Marcellinus and Peter from the monastery Seligenstadt (Obermühlheim).⁶⁸ Einhard appealed to a man named Marchard, referred to as *vicedominus*, to grant Williramn and Otbert's request and spare their brother, who had committed murder. Williramn and Otbert pledged to pay the *wergild* (*weregeldum*) for the victim. In this case the status of both brothers is uncertain, but they must have

⁶⁶ *Annales Bertiniani*, pp. 2, 9.

⁶⁷ One of the few examples in which the recipient of reparation for murder was the victim's surviving brother is the case of deacon Anspert from Milan. In 857 Anspert, following the intercession of Archbishop Angilbert of Milan, obtained from Emperor Louis II a confirmation of his ownership of estates he had received from Ansprand as reparation for the death of his brother. The formula used by the scribe, "quasdam res super quendam hominem nomine Ansprandum vicerat pro interfectionis scelere," seems to suggest that the property was granted to him by a court and not through an out-of-court settlement. Interestingly, claims were made to that property by some unspecified individuals (Ansprand's kin?) and the imperial confirmation was to protect Anspert against those claims, MGH DD Karolinorum 4, no. 25, pp. 113–14.

⁶⁸ MGH Epp. *Epistolae Karolini aevi*, 3, pp. 133–14.

been free men, because otherwise they would not have been able to pay the *wergild* themselves. It seems they were men of inferior position, linked to the Mainz Church by a bond of subordination, perhaps as tenants, perhaps as *commendati* (free men of low condition which do labour services and receive protection under an agreement with the landowner). Presumably Marchard appeared in the case as the one who either was to seek justice on behalf of the Church of Mainz or had the power to stop the spiral of revenge between the families—but anyway, one does not exclude the other. What is important for us is the fact that we are dealing with an unequivocal confirmation of the *wergild* being treated as the price for the perpetrator's life and, secondly, of co-responsibility of brothers for the deeds of one of them. Williramn and Otbert declared that they themselves would pay the price demanded *pro fratre suo*; they also decided to undertake a clearly risky journey to Obermühlheim (if Einhard writes that they “escaped” to seek the protection of the holy martyrs). There is insufficient evidence to say whether the two brothers escaped from their village to Obermühlheim, fleeing Marchard's anger or trying to avoid the revenge of the murdered man's relatives.

Worthy of note in the story of the three brothers is the strategy adopted by Williramn and Otbert. They sought the protection of an influential magnate as mediator leading to an amicable resolution of the conflict. They sought not just earthly help, but also that of the saints whose remains had been laid to rest in Obermühlheim. As in the case from Würzburg discussed earlier, the Church became an intermediary, a guarantor of security and refuge for those who were at risk of customary revenge because of crimes committed by their closest kin. Obviously, as in the Würzburg example, this protection was not necessarily always effective, yet in the period ecclesiastical institutions were, not only for the elites, an important point of reference, both in matters concerning religious life and in broadly defined social relations traditionally regulated by customary laws.

We need to bear in mind that men of the Church were children of a society in which the ideas of crime and just revenge for it were the foundation of the moral order. Thus the killing of the murderer of a close relative could not be viewed the same as just any murder. It was prompted by a moral imperative whereby the offender's impunity would have been not just an insult to the victim's relatives, but would have become dangerous to the foundations of the sacred social order and the collective sense of justice. The victim's relatives, especially his closest relatives, such as sons or brothers, thus had no choice: renunciation of revenge not only brought disgrace upon themselves and members of their kin group, but also had negative consequences for the stability of the entire social order.

That as late as the turn of the ninth century renouncing revenge was seen as testimony of exceptional qualities of the Christian spirit is evidenced by Liudger of Münster's *Vita of St. Gregory of Utrecht*.⁶⁹ In it, the hagiographer described the tragic fate of Gregory's two stepbrothers (of the same mother), murdered by robbers on a journey. Gregory was in charge of the bishopric of Utrecht at the time. The murderers

69 Liudgeri *Vita Gregorii*, 63–79; Wood, *The Missionary Life*, 100–12.

were caught and brought to Utrecht, where they were to be executed. And here begins an extremely interesting passage in which Liudger describes Gregory's magnanimity:

It appeared to them [the rulers] right that they [the murderers] be immediately punished by the most cruel death, but they concluded out of respect and love for Gregory, their [the victims'] elder brother, that he might be comforted after the death of his loved ones, were they to order that their killers and murderers be brought to him so that he, to compensate for and ease his pain, could have them die the death he wished. And so they did so, ordering that two of them be handed over to him, for they thought by the flesh, according to the foolish wisdom of this world, which knows not that it is pious to forgive one's enemies.

The holy man, obeying Jesus's teachings, forgave the killers, had them bathed, clothed, and fed and then set them free, telling them to sin no more. But he did not stop at that.

He also had them escorted, warning them with paternal love to be prudently and from all sides wary of his other relatives.⁷⁰

This brief passage contains a wealth of information about systems of values, ways of seeing fraternal relations, and fraternal obligations. Above all, in the opinion of those around him, Gregory had an indisputable right to take revenge—but this revenge was to be not just a punishment for the perpetrators' offence. It is clear that Gregory, as a clergyman, could not shed the murderers' blood himself, but personally condemning the murderers of his stepbrothers to death and perhaps even watching their execution were regarded as a perfectly understandable form of recompense and were even meant to bring comfort to him after his loss. Interestingly, those in whose power the perpetrators were (we do not exactly how many were caught) decided to send only two of them to Gregory: they gave a life for a life.

Liudger condemns this way of thinking about revenge, as for him it testifies to a lack of knowledge of God's truths and to a sinful, earthly perception of the laws governing the world. Nevertheless, for Liudger Gregory's renunciation of revenge is a heroic deed, a refusal to follow an existing and socially accepted pattern of behaviour. It is yet another piece of evidence of his holiness. Significantly, the author had his protagonist warn the

70 *Liudgeri Vita Gregorii*, 74: "Et licet digni haberentur omni poena et crudelissima ac subita morte, tamen ob reverentiam et amorem senioris et communis fratris eorum domni Gregorii cogitabant, ut eum aliquid in hoc consolarentur post mortem carorum, si ipsos homicidas et interfectores eorum ad eius dominium et praesentiam pervenire facerent, ut ad satisfactionem et mitigationem doloris sui, quali vellet morte, ipse eos interfici iuberet. Quod et fecerunt, duos ex illis ei praesentari iubentes, carnaliter duntaxat cogitantes secundum stultam sapientiam seculi huius, quae inimicis pie parcere non novit. Ipse vero, ut erat vir spiritualis, doctus a domino Iesu Christo et sancto euangelio eius, in quo didicerat scriptum: 'Diligite inimicos vestros; benefacite his qui oderunt vos, ut sitis filii Patris vestri, qui in caelis est,' spiritualiter eos et gratanter suscepit, cogitans utrumque, et de sua salute sempiterna et de fratrum interfectorum absolutione exemploque posteris profuturo, et iussit eos absolvi et balneari, vestibus indui mundis atque cibis refici. Tunc ad se ductis praecepit, dicens: 'Ite in pace te cavete, ut non ulterius tale malum perpetretis, ne deterius vobis aliquid contingat'. Et iussit eos in pace deduci, admonens paterna caritate, ut a ceteris propinquis suis caute se custodirent undique et provide."

murderers against his own relatives. This is another example of going beyond the rules set by the customary law: this particular brother not only forgave the murderers of his brothers, not only had them as guests in his home, fed, and clothed them, but also, in a way, acted against his own relatives, telling those who deserved to be punished by death to protect themselves from their just revenge.

We are dealing with an extraordinary example of the direct confrontation between two systems of values. Obviously, the hagiographer's narrative had to be based on a clear juxtaposition of the spiritual and the earthly, yet the dividing line between these two spheres also set the boundary between two incompatible normative systems which clashed in society at the time. The spread and gradual internalization by individuals of Christian teaching on the rejection and renunciation of revenge inevitably led to a profound conflict of values. After all, not all who had lost their brothers were blessed with the grace of sainthood. The need to resolve this psychologically and socially difficult situation may explain the lenience shown by Gregory to those murderers who were prompted to shed blood by family revenge, which was regarded as just by social norms. The phenomenon is very clear also in early medieval penitential books.⁷¹ According to a penitential dated to the eighth century and connected with Theodore, archbishop of Canterbury (d. 690), a man who shed blood avenging his brother's death should do penance for just three years, while any other murderer, even one avenging the death of a more distant relative, had to subject himself to the most severe penance for seven or ten years, just like other murderers. It has to be noted, however, that the author had some doubts about this principle, for he quoted another interpretation according to which both situations should be treated in the same way and murderer should do penance for ten years.⁷² In the so-called *Penitential of (Pseudo)Cummian*, from the eighth century, the avenger is required to do penance for three years, like other killers, but if he offers recompense to the victim's relatives, the penance period is shortened by half.⁷³ In another penitential, sometimes attributed to the Venerable Bede, the period of absolute penance for killing in revenge of shedding one's brother's blood was limited to just one year (in addition, milder penance were imposed on certain days for three years).⁷⁴ Hrabanus Maurus's penitential, too, and then Regino of Prüm's compilation *De ecclesiasticis disciplinis* feature instructions (probably borrowed from earlier penitentials) according to which avengers were obliged to do penance that was much less severe than that for other sinners guilty of murder.⁷⁵

71 Meens, "Penance and Satisfaction."

72 *Discipulus Umbrensius*, in Schmitz, *Die Bussbücher*, chap. 4, 1–2, p. 548: "1. Si quis pro ultione propinqui hominem occiderit, peniteat similiter [sicut] ut homicida VII vel X annos. Si tamen reddere vult propinquis pecuniam aestimationis, levior erit penitentia i. e. demedio [dimidio] spatio. 2. Qui occiderit hominem pro vindicta fratris sui [sui fehlt] III annos peniteat, in [alio loco] X annos dicitur peniteat [penitere dicitur]." About the dispute over the dating of this penitential see Charles-Edwards, "The Penitential of Theodore"; see also Meens, *Penance in Medieval Europe*, 89ff.

73 *Excarpus (Cummaeani)*, in Schmitz, *Die Bussbücher*, chap. 6, 27, p. 625.

74 *Excarpus Bedae*, in *Die Bussbücher*, chap. 2, 3, p. 657.

75 Regino Prumiensis, *De ecclesiasticis disciplinis*, col. 290.

In addition to such an approach to vengeance, however, there was another common tendency, which gradually and completely came to dominate the thinking about murders committed in revenge, in moralists' writings. All cases of bloodshed were treated as an equally heavy burden on the killer's conscience and required the same penance. Many an early medieval clergyman admonished the faithful to leave the revenge for the wrong done to them to God, interpreting this evangelical imperative in a specific manner: God was not only a terrifying apocalyptic Judge, but became an avenger in the literal sense of the word, as the Father who would pay back those who had dared to act against His law and against His children. The paradox of blood feud in early medieval society thus lies in the fact that it should be eliminated from society's life as it was against God's law, but as inevitable retaliation it was seen, at least to some extent, as revenge on the part of supernatural forces for violating the law. The command to leave revenge to God was interpreted literally: the avenger was sinful not just because he had shed another human being's blood, but also because he had dared to usurp the rights of God himself.

Custody Rights over Women (Sisters, Widows) after their Father's Death

The joint responsibilities of brothers included caring for their unmarried sisters and underage brothers. The status of the latter will be discussed later; here I will dwell on brothers' relations with sisters. Under the customary law, custody of sisters included representing them in legal proceedings (as women they did not have full legal capacity) and all care duties associated with securing their future, primarily by managing their property, arranging a suitable marriage befitting their position, or providing for them appropriately, if for some reason marriage was out of the question. Formally, with regard to their sisters, brothers had rights analogous to paternal rights, as is confirmed above all by normative sources. As guardians they had, like their father, a full and unlimited right to decide to whom their sister's hand should be given and to use all means of coercion if she broke the established norms of conduct—including the right to kill her.⁷⁶ Obviously, as a result of the rise of Christianity these principles became less severe; nevertheless, brothers' duties to control their sisters continued to be inextricably linked to the obligation to protect the family's reputation and honour, which determined the position of the whole group. As legislator kings did not try to question these powers, despite the fact that they glaringly contradicted the Church's teachings. In order to solve this problem somehow, in the first half of the eighth century Liutprand, King of the Lombards, even resorted to moral blackmail: in one of his edicts he noted that although a father or brother could marry his daughter or sister off to whomsoever they wished, even if she were still underage according to the Church's teaching, the king allowed this only because he did not believe that close relatives could allow any harm to be done to her.⁷⁷

⁷⁶ See, e.g., *Edictum Rothari*, in *Le leggi dei Longobardi*, chap. 196, p. 56; chap. 197, p. 56.

⁷⁷ *Liutprandi leges*, in *Le leggi dei Longobardi*, chap. 12, p. 134: "quoniam ista licentia ideo dedimus, eo quod credimus, quod pater filiam aut frater sororem suam doloso animo aut contra rationem cuiquam homini dare non debeant."

Other sources contain isolated references demonstrating the practical side of such custody. Last wills quite often contain clauses with detailed regulations concerning who should take care of the testator's sisters and daughters, and how this should be done. An example is the ninth-century testament of one Donato of Milan,⁷⁸ in which he bequeathed to his wife a quarter of a farmstead and a slave, provided she did not remarry. She was also to receive half of the movable property remaining after the sons had been allocated their share to be spent on pious works for his and her souls. The testator's two daughters were to remain in the care of their brothers, who were to provide for them until the day of their marriages, when each should receive 90 *denarii* from the brothers as well as a suitable dowry. The father also set the amount to be paid for his daughter's *mund* (that is, custody right), which his sons could demand from their sisters' fiancés—this was to be no more than four *denarii*. Similar provisions can be found in charters drawn up on the other side of the Alps. Brothers also had custody of their widowed sisters, who could, if they wished, return to their family home after their husband's death, especially when from the marriage there were no children requiring maternal care. Widowed sisters had much more freedom than maidens. They could, for example, choose another husband, although it was their brothers who remained party to the marital arrangements and received the customary gifts presented by the fiancé to the woman's guardians.⁷⁹

However, the legal sources, which outnumber all others, present a static and not very nuanced picture of the relations between brothers and the sisters in their care. It is obvious that, as in the relations between brothers, a key role was played by the siblings' age, their emotional bonds, having the same mother, and other factors unknown to us. For example, although formally all adult brothers equally shared the responsibility for their sisters' fate, when after the death of their father each brother received his share of the patrimony, a decision had to be made about with which brother the sisters were going to live, that is, who was going to profit from the sisters' part of the property. Unfortunately, we know next to nothing about the mechanisms of this decision-making process, so important to the internal organization and stability of the family group.

The custody shared by all adult brothers also applied to widowed mothers. As women, the mothers were not independent in legal terms, and they could remain in the care of their sons, provided the sons were of age at the death of their father. Such a choice was regarded as natural, and a widow in the care of her sons retained a degree of freedom. Documentary sources do mention donations made by women with their sons' consent, but nearly just as often did widows act independently. In any case, the situation of a widow could differ substantially depending on the balance of power

⁷⁸ *Codex Diplomaticus Langobardiae*, no. 181, cols. 306–7.

⁷⁹ *Edictum Rothari*, in *Le leggi dei Longobardi*, chap. 199, p. 58; under the Salic Law (*Lex Salica*, title 79, p. 126; *Pactus legis salicae*, chap. 44, pp. 168–73), when a widow decided to remarry, the *reipus*, i.e. ring money, could be collected only by her relatives. Her late husband's brothers were excluded from this, unless they did not participate in the division of property of the woman's husband. On the origins and significance of this custom, see Modzelewski, *Barbarian Europe*, 123–24.

among the sons from successive marriages, on her own financial status, etc. Brothers' joint custody of their mother is confirmed by donations made for them. Even more frequent are references to mothers being granted the right to use the property donated to ecclesiastical institutions until the end of their life.

The Status of Underage Brothers and Stepbrothers

As has already been said when discussing the subject of fraternal hierarchies, an important role among brothers was played by the birth order. It gave rise to special rights and obligations of elder brothers with regard to younger ones, especially those who were not yet of age. Although normative sources do not confirm directly the differences in the legal status of underage and elder brothers, this is a clear conclusion to be drawn from documentary sources. Elder brothers were obliged to take care of their younger brothers, especially when they were orphaned by their father before they came of age. It can be presumed that elder brothers' custodial rights of their underage brothers corresponded to paternal rights, as was the case with regard to women and other members of the family without full legal capacity.

A description of a model relationship between brothers with a considerable age difference can be found in Dhuoda's *Liber manualis*. In the initial part of the book the author devoted some attention to the bond that should link William, her firstborn teenage son, and his newborn brother. Entrusting the infant to her elder son, the mother asked him to take care of his upbringing: "and when your little brother, whose name I do not even know as yet, has received the grace of baptism in Christ, do not be slow to teach, encourage and love him, to rouse him to go from good to better. When he shall have reached the age of speaking and reading, show him this little volume, this Handbook which I have written and composed in your name. Urge him by reading, for he is your flesh and your brother."⁸⁰ Thus William was to share the responsibility for the fate of his younger brother with his father (it should be noted that Dhuoda mentioned her husband Bernard's public duties, driving him away from fulfilling his obligations to his family; in this sense William was to become his father's replacement, so to speak). Of course it is moral guidelines, which not necessarily translated into brothers' actual altruistic behaviour. Nevertheless, Dhuoda's work shows society's expectations with regard to brothers or, rather, how ideal relations between them were imagined.

Following Janet Nelson,⁸¹ we can also ask whether Dhuoda's concern did not stem partly from a fear that the elder brother might shy away from properly fulfilling his role. Aware that the relations between the brothers were not always easy, the mother

80 Transl. Dhuoda, *Handbook for her Warrior Son*, 71. Dhuoda, *Manuel*, lib. 1, chap. 7, p. 116: "fratremque tuum paruulum, cuius modo inscia sum nominis, cum baptismatis in Christo acceperit gratiam, insinuare, nutrire, amare, ac de bono in melius prouocare ne pigeas, atque hunc codicellum Manualis a me comprehensum, et in tuo nomine conscriptum, cum perfectum loquendi uel legendi acceperit tempus, illi ostende, et admone legendo; caro enim et frater tuus est."

81 Nelson, "The Search for Peace," 93.

may have had grounds to be worried about the future of her younger son. This may be indirectly indicated by the biblical quotation included in the narrative. To justify the duty of care for the younger brother, Dhuoda quoted the words apparently uttered by Judah, one of Joseph's brothers, when he urged the other brothers to sell the boy to itinerant merchants instead of killing him (Gen. 37:27): "caro enim et frater tuus est" ("he is your brother, your own flesh"). Referring to the story of Joseph in such a context does not seem accidental and may constitute a hidden admonition directed at William as the elder son.

The (uncertain) data on life expectancy compared to men's average age at marriage as well as the average duration of a marriage indicate that situations in which elder brothers took over the father's custodial duties with regard to their underage siblings were hardly rare and may have been common.⁸² Parents often did not live to see their children live to adulthood (especially those from successive marriages), and the age difference between children may have been over ten years or more. This had far-reaching consequences, and not just legal consequences. It is impossible to speak about siblings as a generationally uniform group. Age difference between brothers made the relations between the eldest and the youngest more like son-father subordination rather than a relationship of equality and partnership. Obviously this may have led to the emergence of age groups among siblings, groups that were more or less internally integrated in a variety of ways. In families from various cultures developmental psychologists and anthropologists have found a common phenomenon of a stronger emotional bond (in both a positive and negative sense) and a greater inclination to cooperate among siblings of similar age.⁸³ This did not have to concern siblings from successive marriages only: identical divisions may have arisen among full brothers as well.

Documentary sources confirm that when there were several adult brothers in a family, after the death of their father they had the collective custody of their younger brothers. This custody encompassed such matters as satisfying the basic needs of the younger siblings. Unfortunately, there is only very limited information about the subject, nor do the sources tell us anything about how details of care of the younger brothers were decided, when the family property was divided, and with whom they were to stay. For example, did the oldest brother have any special obligations to underage brothers? The matter is clear only in situations when brothers jointly managed their patrimony and shared a home. Yet establishing which brother physically cared for the underage

82 For the early Middle Ages opportunities for such studies are very limited owing to the structure of the available sources; I can refer only analyses carried out for a later period, which means that the data should be treated as only approximate, see e.g. Herlihy, *Medieval Households*; Hinde, *England's Population*; Jonker, "Estimation of Life Expectancy in the Middle Ages"; Jonker, "Estimation of the Life Expectancy of Tenants in the Middle Ages." On the methodological problems in such studies, see Guzowski, "Metody badań demograficznych." I would like to thank Piotr Guzowski for his bibliographical suggestions and valuable remarks concerning demography in the early and high Middle Ages.

83 For a useful overview of research and discussion on this topic see Sanders, *Sibling Relationships*.

brother was of considerable practical significance. The guardian's rights included supervising the part of the property that fell to the minor, and he thus profited from that property until the younger brother (or brothers) came of age. At the same time, while living under the same roof and fulfilling paternal duties with regard to the child may have given rise to emotional bonds, it also strengthened the dependence of the younger on the elder brother, which was of considerable significance in a society in which loyalty and readiness to help among kinsfolk were some of the most important factors determining the success of individuals.

We can guess that the scant sources hide a considerable variety of models followed, depending on specific circumstances and local customs. The situation must have been different for an underage brother whose widowed mother was still alive, for brothers who had not divided their patrimony among themselves, and for brothers separated by a considerable age difference. Similarly, we can only guess how the relations between elder brothers and their younger brothers from his father's successive marriages looked. An example that comes to mind is the well-documented case of stepbrothers born about thirty years apart, Lothar I and Charles the Bald. Although interesting in many respects (we will return to it), it cannot, obviously, be regarded as representative.

Based on the available sources, it can be established that elder brothers had a decisive say in matters concerning the future of their younger brothers and their property. Yet controlling the property and person of an underage brother did not mean that they had a right to make arbitrary decisions. In the case of hereditary parts of the property which fell to minors, written laws obliged their legal guardians (in this case brothers) to obtain their consent to dispose of the property, and to observe the principle of equal share in the division of the inheritance.⁸⁴ As is usually the case with normative sources, it is hard to tell to what extent such regulations were a simple confirmation of a customary principle existing even before the codification, and to what extent they testify to the ruler's interference in the existing relations in order to protect the interests of underage orphans. Legal sources tell us nothing (or next to nothing) about power relations within a fraternal group of formally equal heirs. The situation is similar with narrative sources: even if they do mention the relations between brothers who were of age and those who were not at the moment of the death of their father, the references are usually linked to specific political events, which at a given moment influenced the relations in the ruling family and political elites. Therefore it is difficult to draw any general conclusions on their basis.⁸⁵ A slightly better analysis of these relations can be

84 MGH LL *Capitularia regum Francorum*, 1, no. 105, chap. 16, p. 219.

85 An example is a reunion, mentioned in the *Annals of Saint Bertin* under the year 856, of Lothar I's sons in Orbe, during which they were to divide their patrimony. Louis (II) and Lothar (II) were also to make a decision to allocate a share to their underage brother, Charles, against the will of some magnates who demanded that the boy should be destined for priesthood, and thus be eliminated from the rivalry over power. To what extent these magnates acted on their own and to what extent they put into practice Lothar's plans must remain unresolved. What matters to us is the fact that formally both elder brothers jointly decided their younger brother's fate (*Annales Bertiniani*, 47); Schäpers, *Lothar I*, 666ff.

carried out on the basis of diplomatic sources, although here, too, there are considerable limitations to possible conclusions.

We usually encounter groups of brothers with considerable age differences in charters dealing with property transactions, in which elder brothers act as legal representatives of minors. Such references appear, for example, in testamentary dispositions or in situations when siblings acted together in property disputes with other individuals. Examples of this kind are known from many regions of Carolingian Europe, and generally they do not differ with regard to the way in which the rights of the elder brothers are presented. In most cases, the elder brothers acted as a collective entity, jointly representing the whole group, including its youngest members. Documentary sources do not mention any age-based hierarchical distinctions within such groups. We can only speculate whether, for example, the order in which the names of the brothers are listed reflected their birth order. The only clear distinction is a division into adult and underage members of the group; strictly speaking, it concerned not so much age as age-related legal capacity.

Care of younger brothers included providing for them and supporting them in situations in which a minor would become a party to a dispute. Elder brothers acted as legal representatives, and this is one of the few exceptions to the general principle whereby one free man could represent another free man in court. Interestingly, royal legislation sought to limit this law only to relations between brothers, which means that when a minor did not have a brother (or paternal uncle), the role of legal guardian should be played by a representative of the ruler. This is evident in, for example, eighth-century Lombard legislation, as well as in legal practice in the region in the eighth and ninth centuries.⁸⁶ Probably in this case the lawmakers intended to eliminate possible abuses by more distant relatives acting as legal guardians of orphaned minors.

Although children did not take an active part in legal proceedings, transactions, and contracts concerning their ownership and concluded on their behalf by their elder brothers, these could be questioned when they became of age. The application of this principle is indirectly evidenced by charters confirming donations made on behalf of a minor, that is in documents issued after the minor came of age and attained full legal capacity.⁸⁷ That ecclesiastical institutions sought to have earlier property dispositions confirmed in writing in this manner is an important indication. The phenomenon testifies to the fact that the relations within a group of brothers were dynamic, evolving

86 However, we do not always know how the guardians were designated; e.g. in 864 in Milan there was a case of three underage brothers represented before the count's court by their *tutor*, probably not related to them (or at least the source does not mention any kinship), *I placiti del 'Regnum Italiae'*, no. 66, pp. 237–42.

87 See e.g. TrFr, no. 469, pp. 401–2, a. 822, a presbyter named Salomon renewed and confirmed a donation made with his elder brother when he was still a minor; cf. *I placiti del 'Regnum Italiae'*, no. 57, pp. 198–205, with a reference to a public confirmation of the will to enter into a tenancy agreement concluded by the elder brothers of a younger brother who at the time of concluding the agreement was not yet of age.

as the personal status of its members changed, and it shows a possible divergence of interests between younger and elder brothers. There is also some limited evidence of the methods used to secure the interests of minors during the time they remained in the care of their brothers. They included contracts formulating terms and conditions under which a brother acting as the guardian of a minor could make use of the minor's property. If the child died, the contract became invalid.⁸⁸ Such contracts must have improved the quality of the care of orphans, but at the same time they show us that elder brothers' altruism towards their younger brothers required this kind of formal-legal strengthening (though we do not know how often).

A harmonious coexistence of elder and younger members of a group of brothers, treated as a desirable state and moral imperative, often remained an unattainable ideal. It could be said that tensions and divisions within such a group were its inherent feature, as was a sense of community and need for collaboration. They were not mutually exclusive; which aspect came to the fore at a given point was determined by many factors. Dependence and subordination of the younger brothers to the will and authority of the elder brothers, combined with limited resources for which the brothers inevitably had to compete, led to more or less open attempts to encroach on the rights of the weakest among them. Such a risk appeared both in relations between brothers as between nephews and paternal uncles, that is nephews' closest male relatives who were obliged to provide care. As has been mentioned earlier, kings' decrees ordered that the rights of minors be respected on pain of punishment, and in extreme cases they provided for a takeover of legal custody of a minor and his property by the ruler himself. An examination with documentary sources makes it possible, although rarely, to describe the circumstances in which the rights of younger brothers were infringed upon.

The references in charters usually concern situations in which a younger brother, after coming of age, sought to enforce his property rights or to have decisions annulled that were forced on him in his childhood—decisions with far-reaching consequences for his entire life. In the case of attempts to recover their due share of the inheritance, younger brothers found themselves in a particularly difficult position: they were forced to act against their own family, which, in a situation in which relatives were the most important source of support for individuals in many crucial situations in life, was by no means easy. The limited surviving evidence demonstrates the significance of support from third parties—though such support was not disinterested. This happened in the case of Isanhart, a cleric, son of Saxo, who in 818 gave his hereditary property (or, as can be concluded from the context, his rights to that property) to the bishop of Freising.⁸⁹ After the death of his father, Isanhart did not get his share of the inheritance because he was still a child, and his brothers, taking advantage of the situation, seized the entire property for themselves. Many years later (when the charter was issued, Isanhart was twenty years old), following the advice of the bishop himself, he decided to make claims

⁸⁸ See e.g. MemLuc 5/2, no. 866, pp. 529–30, a. 876 (= ChLA, vol. 84, no. 3).

⁸⁹ TrFr, no. 403, pp. 347–48.

to his patrimony. In exchange for the bishop's support Isanhart devoted himself to his service and gave his property to the Church, reserving to himself the right of use for life. Interestingly, in the charter Isanhart appears with his mother Tunna, who confirms his decisions against his brothers. Her presence in an act directed against her son's brothers suggests that those brothers came from an earlier marriage.

In this case, obtaining the bishop's support was key to even beginning to try to recover part of the inheritance—the price, however, was the loss of full ownership of the recovered property. Apparently, Isanhart had no hopes for victory in the battle against his own family without winning a powerful protector capable effectively to support his claims. Isanhart may have also taken his brothers to court, having been persuaded to do so by the bishop. Worthy of note is the fact that under royal legislation, such a gift to the Church from undivided property was fully legal, and the ecclesiastical institution receiving the gift acquired with it inheritance rights and could pursue its claims to the gift with the support of the king's representatives.⁹⁰

Isanhart's case also highlights the complex questions of the relations between the children of successive marriages and the stepmother. The problem has already been analyzed by Brigitte Kasten;⁹¹ it should only be noted at this point that, given the diversity in age of successive progeny, the role of the stepmother in establishing relations within a group of brothers must have been important. Often she acted as the executor of her late husband's last will and made dispositions concerning his property. Tensions in the relations with the adult sons from previous marriages easily arose when the widow was able to dispose of the part of property owed to his underage children. At the same time, the matter of providing for the widow became an important duty of her (adult) sons or stepsons, formally exercising legal custody over her.⁹² This complex network of mutual obligations and dependence relations among adult and underage sons from the various marriages, the widow, and more distant relatives resulted in many situations in which conflicts of interest arose. In the case of Isanhart we can only surmise that, after becoming a widow, his mother was deprived by her adult stepsons of any influence on property matters, and that she found not enough support to claim her rights to the inheritance due to her child.

The efforts of successive wives to secure an appropriate place for their sons among a formally equal group of brothers probably were not always doomed to failure. The most spectacular examples of actions taken by a mother to enforce the principle of equality of her son to his brothers is the policy pursued in the 820s by Judith, the wife of Louis the Pious. Obviously, this case cannot be treated as representative; nevertheless, it does illustrate the strategies used by women who found themselves in such a situation. Judith

90 MGH LL *Capitularia regum Francorum*, 1, no. 136, chap. 6, p. 282.

91 Kasten, "Noverca venefica"; Kasten, "Stepmothers in Frankish Legal Life."

92 Charters regularly mention brothers (sons) ensuring for their widowed mothers the right to use the property for life; on the property status of widows see Santinelli, *Des femmes éplorées?*, especially 323–56; featuring Italian examples, with remarks on commemorative practices are La Rocca, "I segni di distinzione," and La Rocca, "Donare, distribuire, spezzare."

sought at all cost to win the favour of the eldest of little Charles's stepbrothers, Lothar (I), and to bind the two to each other by means of a network, as dense as possible, of dependence. To this end the emperor and his wife persuaded Lothar to assume the role and duties of the boy's godfather.⁹³ It was not without reason that the motif of a double, spiritual and physical, bond uniting brothers appeared in Nithard's *Histories* as an argument against Lothar's policy towards his younger brother.⁹⁴ Being a brother, Lothar also became Charles's spiritual father, so he served the role of the boy's father in its religious sense, and after the death of Louis the Pious he would also perform the role in its earthly dimension. His aggressive policy towards his godson was seen as a violation not just of an elder brother's inherent obligations to his younger brother, but also of the bond of spiritual fatherhood, that is violation of an obligation to God himself.

In addition to the right to manage the property belonging to minors in their care, adult brothers also had the right to decide on the choice of a career in the Church on behalf of the youngest members of the family. In documentary sources, there are examples of brothers who jointly sent their younger brother as an oblate to a monastery, and jointly donated property to the ecclesiastical institution on that occasion. This was the case of four brothers who offered land to the St. Gallen monastery for their parents.⁹⁵ The donation included a share from their hereditary property; it was to pass to the monastery with the fifth brother, Keraloh, not yet of age at the of drawing up of the charter, retaining the right to use the land. The elder brothers transferred the boy into the care and power of the abbot, wishing him to remain in the monastery until the end of his life. In this case, what comes to the fore in the source is the elder brothers' religious motivation. However, we need to bear in mind that the charter, drafted by the monks, tells us nothing about the circumstances in which Keraloh's brothers took the decision. Whether an underage candidate for monastic life had anything to say in the matter is highly doubtful: in such cases elder brothers assumed paternal rights and exercised them in accordance with the interests of the group.⁹⁶

⁹³ Schäpers, *Lothar I*, 121–24.

⁹⁴ *Nithardi Historiarum libri IV*, lib. 2, chap. 2, p. 14; the relationship between Charles and Lothar is an excellent example of using the bond of spiritual kinship in conflicts within the dynasty: twenty years after Charles's baptism Lothar became the godfather also of his daughter (*Annales Bertiniani*, 42, a. 853). This act was to seal the alliance between the stepbrothers, directed against Louis the German, who in the 850s turn from Charles the Bald's closest ally into his main rival. Thus Charles and Lothar were doubly bound to each other by spiritual kinship.

⁹⁵ *Chartularium Sangallense*, no. 234, a. 816/818 (= ChLA, vol. 101, no. 12).

⁹⁶ This incapacitation, as it were, of underage brothers forced to enter a monastery because their elder brothers wished them to do so is illustrated also by narrative sources. An interesting example is the *Vita* of St. Germanus, the abbot of Grandval, written towards the end of the seventh century but read and copied also in the ninth century. As a monk in Remiremont, St. Germanus ordered that his underage brother Numerian be brought to the monastery to be prepared by him personally for monastic life ("cupiens de saeculi actibus ad instituta sanctorum patrum vel regulam monachorum et sanctae vitae conversationes adducere"), *Vita Germani abbatis*, 35; Réal, *Vies de saints*, 478.

The sources indicate that the practice of sending the youngest brothers to a monastery had at least three justifications. In addition to obvious religious considerations, what may have been behind such decisions was a desire to strengthen the bond between the group and a given Church institution: in the case of private monasteries a need to maintain control over them. However, there are known cases when one of the objectives was to eliminate an underage brother from the inheritance or at least to reduce his share. An example of a dispute that erupted for that reason—and reached as far as the Roman *curia*—is known from a letter written by Pope Nicholas I.⁹⁷ A certain Lambert, son of Atho, appealed to the pope because, under the will of his father and through his local bishop, he was made a monk before the age of eleven, which was against the law. The boy's father intended in this way to guarantee that his son would one day become abbot of the family's monasteries. However, the matters took an unexpected turn, because the adult brothers deprived the underage monk of his rightful share in the inheritance from his parents. After coming of age, Lambert demanded an annulment of the vows taken under duress, prematurely and without all the formalities required by law, and a restitution of the property seized by his brothers.⁹⁸

The complexity of the relations within groups of brothers was increased by the presence of siblings with just one parent in common. As has already been said, it seems that in early medieval families marriages lasted relatively briefly, whether because of the age difference between the spouses or high maternal mortality, and remarriages following a spouse's death were frequent, as a result of which there may have been children from several successive marriages in one family group. The equality of stepbrothers was confirmed by customary laws. For example, the eighth-century laws of the Bavarians clearly explained the rules of inheritance: all sons from successive relationships with free women inherited each from his mother and in equal shares from the father, irrespective of the size of the mother's property.⁹⁹ The way this particular regulation was formulated is interesting. It seems that the intention of the legislator was primarily to avoid any controversy among stepbrothers if their wealth status differed. If so, we are dealing with information shedding light on the mechanism behind the emergence of wealth differences among siblings.

In practice, it is not known to what extent the principles of equality of all brothers were respected. Yet there is some evidence showing that there was an awareness of power imbalance between younger and elder progeny from successive marriages. One way of avoiding discrimination against the youngest children may have been for their father in his last will to entrust them to an influential protector or at least to clearly confirm their rights. Evidence of such actions, although rare, has survived, shedding some faint

97 MGH Epp. *Epistolae Karolini aevi*, 4, no. 132, pp. 652–54, dated to the 850s–860s.

98 Lambert's case is discussed in a broader context of the situation of oblates by De Jong, *In Samuel's Image*, 91ff.

99 *Lex Baiwariorum*, chap. 10, 9, p. 428: "Ut fratres hereditatem patris aequaliter dividant. Quamvis multas mulieres habuisset et totae libere fuissent de genealogia sua quamvis non aequaliter divites, unusquisque hereditatem matris suae possedeat, res autem paternas aequaliter dividant."

light on this sphere of family relations, usually hidden with embarrassment. Such scarce sources that exist include two ninth-century charters, preserved in a formulary from the monastery of St. Gallen, concerning a donation made by a father for his youngest, still underage, son and the precarial confirmation of the son's obligations stemming from the donation. The motives behind the issuing of the charter were clearly explained: the father did this so that his son would not be disinherited in the future by his elder sons by a different wife.¹⁰⁰ Significantly, the same charter contains a decision that if on the death of his father that son was not yet of age, he and his property were to be taken care of by his paternal or maternal uncle, or by more distant relatives and friends. The father clearly wanted to prevent any of his elder sons from performing the role. The concise charter illustrates the dramatic tension that must have been present in the family: a split so deep that the father was ready to openly attribute dishonourable intentions to his sons in their attitude to their stepbrother. Moreover, the father decided to strengthen his will by mutual transferring of a very valuable gold belt studded with precious stones or a valuable horse to be a guarantee of the irrevocability of the dispositions recorded in the document. As the charter has survived in a formulary, devoid of features making it possible to identify the persons appearing in it and establish its provenance, the causes of this family conflict are unknown. We have to be satisfied with a conclusion that not only did such situations occur in practice, but that there were also socially accepted methods of preventing the escalation of conflicts among brothers. The question to what extent they were effective must remain unanswered.

Closing this part of the analysis, it is necessary to discuss the relations within another group of stepbrothers, namely those who had the same mother. This is not an easy task, as the ninth-century sources rarely provide us with information that would unequivocally identify such family connections. Given the domination of the patrilineal family model, successive marriages of widows and the relations between their children from these marriages—less significant to inheritance—were not mentioned as often as the relations between children of one father. It seems that this is also a result of seeing these bonds as less important to the social order: they were not backed by a system of rights and mutual obligations that were attributed to the children of one man. The weakness of the sources prevents us from formulating further-reaching conclusions, yet even on the basis of the limited evidence available it is possible to formulate a hypothesis that the relations among siblings with the same mother depended largely on the status of the mother, that is on whether references to familial ties in the female line were beneficial to her children. The woman was not always only a passive participant in such family politics. In this case, probably like in no other, her personal influence on her children determined the relations among them.

Interesting examples are provided by sources slightly later than those analyzed so far, primarily from the tenth and eleventh centuries.¹⁰¹ I will refer here to just one

100 MGH LL *Formulae Merovingici et Karolini aevi*, nos. 13 and 14, p. 405.

101 Santinelli, *Des femmes éplorées*, 248ff.

example from the turn of the tenth century, concerning the social elite and rivalry for power going on within it. The case is that of the progeny of an illegitimate daughter of Lothar II and Waldrada, Bertha (d. 925). She was the wife of Theobald of Arles, and, after his death in 895, of Adalbert of Tuscany (d. 915). She had at least two sons from her first marriage, Hugh (d. 947) and Boso (d. ca. 938), and two from the second, Guy (d. 929) and Lambert (d. after 938). It seems that during their mother's lifetime the relations among the sons from both marriages were not close but they were at least neutral. After her death, however, a bitter conflict erupted among them over the crown of Italy: the sons from both the first and second marriage laid claims to their mother's property, which in this case included the March of Tuscany briefly ruled by Bertha almost independently as Adalbert's widow. What is important for us are two issues. First, all the sons regarded themselves as rightful heirs of their mother, which confirms the relevance of the rules enshrined in customary laws; and secondly in their fight for power each group of brothers did not fail to emphasize their blood ties to their mother, but their members did not identify themselves with their stepbrothers. Each of the groups pursued its own political strategy, which eventually led to a clash. After becoming king of Italy, Hugh of Provence did not hesitate to remove his stepbrother Lambert, Margrave of Tuscany, and replace him with Boso; his kinship with Guy did not stop him from entering into an incestuous marriage with his widow Marozia. Obviously, this is an exceptional case, both because of the status of the family and because of the political circumstances of the rivalry among the brothers. Nevertheless, it illustrates well the different ways in which siblings treated each other depending on the kind of the bonds of kinship uniting them. Worthy of note is the fact that growing up together did not matter: Hugh's and Boso's own sister, Ermengarde (d. 932), was raised far away from them, at the Spoleto court of her stepfather Adalbert, together with her younger stepbrothers. Yet years later she became a faithful ally of Hugh and Boso.¹⁰²

It is difficult to confront the relations among Bertha's children with the evidence from the hagiographical source mentioned earlier. Nevertheless, it is worth referring to it, if only because of the fact that there are very few accounts concerning the relations among children of one mother born from her successive marriages. The above-mentioned *Vita of St. Gregory of Utrecht* from the turn of the ninth century¹⁰³ describes the relations among his stepbrothers by different fathers. The wealth and position of the sons from his mother's first marriage to Alberic were, according to the hagiographer, much higher than those of the children from her second marriage. Consequently, the younger brothers, clearly insufficiently wealthy, went into the service of their elder stepbrothers and with them settled in those parts of the Frankish kingdom in which Alberic's sons were granted property by the king. In this case, the sons from both marriages maintained close relations with each other, although these were relations between unequal parties. Even if the fraternal bond was recognized by both parties

102 Lazzari, "La rappresentazione di legami."

103 *Liudgeri Vita Gregorii*, 74.

(and gave rise to mutual obligations), the difference in status of the fathers meant that the younger brothers were forced to become personally subordinated to the elder brothers, probably as vassals. This obviously gave them a position and secured their living, but also strengthened the elder brothers' power over them. As the *Vita* shows the younger brothers had to obtain permission from the elder brothers to return to their place of birth. Incidentally, the description illustrates one of the mechanisms behind the emergence of clientelist circles around magnates, circles in which close blood ties were sometimes combined with obligations to serve and support that had a different basis.

Legitimate and Natural Brothers

When speaking of relations among brothers within the early medieval family group, it is impossible to leave aside the problem of illegitimate children. The meaning of the term in the early Middle Ages differs from that given to it in contemporary sociology and law, which is why it requires a short explanation. In the sources the term is used generally to refer to children born in a relationship not regarded as legitimate marriage, that is one in which not all procedures required by customary law or religion had been followed or were regarded as not quite lawful for some reason. That last distinction is particularly important in this period, because this was a time when the doctrine of Christian marriage as a monogamous and indissoluble relationship spread among the wider circles of societies in Carolingian Europe.

The subject of the transformation of marriage as an institution as well as the existence of overt and hidden polygyny in the early Middle Ages goes beyond the scope of the present study. It is, however, a research area that has been very intensely explored in recent years by historians who have revised many views well established in historiography concerning the forms and functioning of marriages and marriage-like relationships in the period (for example, criticism of the *Friedelehe* theory, change in the way of viewing concubinage, appreciation of the importance of the social role of exchange of goods relating to marriage, etc.).¹⁰⁴ References to illegitimate children in sources can be interpreted in different ways. They may be children born from relationships existing in parallel to legitimate marriages. We can speak of the existence of more or less overt forms of polygamy (a man had one wife and at the same time maintained more or less openly sexual relationships with other women). In such cases stepbrothers from each of these relationships may have grown up under one roof, within extended family group. The sources provide us only with indirect information about such relationships. This is not particularly surprising, given the aversion of clergymen—who made up most of authors of the sources—to them. The most frequently cited and the best explored example of such an extended family is Charlemagne's household with sons from successive marriages and from lower-status relationships

104 For more recent studies, representing various research trends and schools, from the vast literature on the subject, see Reynolds, *Marriage in the Western Church*; Saar, *Ehe—Scheidung—Wiederheirat*; Esmayol, *Geliebte oder Ehefrau?*; Bougard, Feller, and Le Jan, eds., *Dots et douaires*; Karras, "The History of Marriage."

(concubinages) growing up together.¹⁰⁵ Obviously, the king's family cannot be taken as a representative example; yet it is nevertheless significant. Throughout the ninth century the growing pressure exerted by the clergy to eliminate all forms of polygamy was not conducive either to the very existence of such relationships or to the survival of their traces in written sources.

Another type of relationships producing offspring that may have been regarded as illegitimate was concubinage, understood either as relationships with free women maintained without completing the procedures required for marriages, or relationships with mistresses who were not free, relationships that could not be transformed into marriages without a change in the woman's status. Making a detailed distinction between the status of such relationships, not to mention establishing the circumstances in which they originated, is very difficult on the basis of usually laconic sources. However, the lack of clarity does not always lie in the scarcity of the sources. It may be partly caused simply by the fact that such a distinction simply did not exist in the conceptual system of the society. As Ruth Mazo Karras rightly points out, historians' desire to unequivocally define each of the socially acceptable forms of relationships between a man and a woman in a distant period, and to classify them under one of two opposing categories of marriage and non-marriage (concubinage), is a consequence of a presentist approach to these institutions. Interpretation problems also stem from the variety of legal systems co-existing in Carolingian Europe, systems in which the legal consequences of such relationships and status of children born of them were defined differently.¹⁰⁶

The third group of relationships producing illegitimate offspring comprised marriages which for various reasons were not socially accepted or were deemed illegitimate after they had taken place. They included primarily marriages between blood relatives and relatives by marriage considered incestuous under church law, as well as bigamous relationships, started when the previous spouse, for some reason abandoned by the husband, was still alive.

Despite strong criticism on the part of the Church, there are non-marital relationships both among the highest elites and the ruling dynasty, and among the lowest strata of society. At least until the eighth century, and perhaps even later, the progeny from such relationships enjoyed some rights, provided they were publicly acknowledged by their father. However, over a period of over a century, normative sources record changes occurring in the status of this group of children under the impact of the Church's teachings. An important example of how the principles of Christian morality permeated customary legal systems is the already cited chapter of the law of Bavarians, under which illegitimate sons (significantly born of a slave woman) did not inherit from their father, but could receive only what their legitimate brothers were willing

105 McKitterick, *Charlemagne*, 88ff.

106 An example is the situation of people born in non-marital relationships for whom vulgar Roman law was the personal law: Tate, "Inheritance Rights"; Van de Wiel, "Les différentes formes de cohabitation."

to give them.¹⁰⁷ In justifying this regulation the lawmaker invoked the Old Testament law: Sarah's words spoken to Abraham, asking him to get rid of the son of the slave woman Hagar, Ishmael (Gen. 21:10), referred to in St. Paul's Epistle to the Galatians (4:30). We should bear in mind that the interpretation of the figure of Ishmael as an opponent of the legitimate son Isaac, personifying negative qualities of soul and body, occupied an important place in the theological thought of the day. However, in this particular case emphasis was not so much on the negative traits of the illegitimate son, excluding him from the inheritance, but on the fact that he could not enjoy rights comparable to those of his legitimate brothers. What he could receive should come not from the law but from his brothers' Christian charity. Thus, although the author of the analyzed regulation did not deny the existence of a biological bond linking legitimate and illegitimate brothers (after all, he calls them brothers, *fratres*), the bond, stemming from a shared origin, did not translate into any property rights. On the other hand, the chapter is an interesting example of a way out of a conflict between two contradictory normative systems. Although the lawmaker denied illegitimate children their right to the inheritance as contradicting the tenets of Faith, at the same time he did impose on legitimate brothers a moral duty of providing for such children. Whether before the introduction of this law illegitimate children of the Bavarians had any customary inheritance rights is hard to conclude *ex silentio*.

Generally speaking, sources originating in the eighth and ninth centuries lack unequivocal evidence confirming illegitimate children's rights to a share in the inheritance. They are mentioned openly by just one normative source, which, however, comes from before the period in question: a 643 edict by the King of the Lombards, Rothari. *Filii naturales* are treated in it as a category of heirs with a share in the inheritance proportionally smaller than that of the sons from a lawful relationship, and taking possession of their share of the inheritance did not formally depend on their siblings' will.¹⁰⁸

What is evident in documentary sources and, above all, in politics, is the survival of the customary principle whereby illegitimate progeny acknowledged by the father was treated as part of the family group. Consequently, the father felt obliged to provide for them. Few ninth-century charters mention the granting of specific estates to this group of children, estates secured either by obtaining consent from legitimate heirs¹⁰⁹ or by entrusting the illegitimate offspring with the land granted to them to the Church.¹¹⁰

107 *Lex Baiwariorum*, chap. 15, 9, pp. 428–29: “Si vero de ancilla habuerit filios, non accipiant portionem inter fratres, nisi tantum quantum ei per misericordiam dare voluerint fratres eius, quia in vetere lege scriptum est: ‘Non enim erit heres ancille cum filio libere’. Tamen debent misericordiam considerare, quia caro eorum est.”

108 *Edictum Rothari*, in *Le leggi dei Longobardi*, chaps. 154–162, pp. 42–44.

109 TrFr, no. 450, p. 385, a. 821.

110 TrFr, no. 634, pp. 538–59, a. 839; no. 1033, pp. 777–78, a. 899; see also TrFr, no. 466, pp. 385–86, a. 821, where a father was supported in his efforts to provide for his illegitimate son by his brother.

However, it is almost certain that in the ninth century, with the growing Christianization of the institution of marriage and the establishment of the principle of its absolutely monogamous nature, the property rights of natural offspring, stemming from the very fact of acknowledging fatherhood, gradually become forgotten. In that period material provisions, and thus the fate of illegitimate sons, depended in solely on the good will or, to use the Christian language of the sources, charity of the father and stepbrothers born in a legitimate marriage. What is also worthy of note is the fact that the gradually changing socio-economic circumstances, especially the growing significance of land ownership as a prerequisite for individuals and family groups maintaining their social position, led to a situation in which the narrowing of the circle of heirs by revoking the rights of all extramarital children acknowledged by the father was in the interest of family groups. In this respect the Church's instructions may have turned out to be answering to society's needs.

The change in the situation of illegitimate progeny is also evidenced by negative opinions about individuals with such a status. From the turn of the eighth century the accusation of being an illegitimate child became a tool constantly used to discredit an opponent in political rivalry. Suffice it to point to attempts by Emperor Louis the Pious's entourage to challenge the rights of his nephew, Bernard, son of Pippin of Italy, to the Lombard throne on account of his illegitimacy, or the slightly earlier discrediting of Pippin the Hunchback, Charlemagne's eldest son, for daring to rebel against his father. A critical moment in which the models of family relations were redefined—which undermined the position of illegitimate children—was, it would seem, the beginning of the ninth century.¹¹¹

However, we should not lose sight of the simple fact that a society's life cannot be easily described by legal definitions alone. The legal situation of illegitimate brothers depended largely on the relations within a given family, on the emotional bonds among the brothers and, finally, on shared interests. These matters are not well reflected in the sources, which is why they basically remain outside scholarly observation. The few examples that can be cited come mostly from the highest circles of power of the Carolingian realm. Perhaps the best known and the best documented example is that of the relations between Louis the Pious and his illegitimate stepbrothers Drogo (d. 855) and Hugh (d. 844). Removed from the court after Louis the Pious's ascent to the throne and forced to take monastic vows, with time they became some of the emperor's

III It should be noted, however, that the accusation of illegitimacy which in the ninth century became a permanent part of the political weaponry used in power games by members of the Carolingian dynasty, was not always a sufficient argument to hinder the career of a potential candidate, also among the rulers. Its efficacy was limited and depended on a combination of other political factors. Illegitimacy did not prevent Arnulf of Carinthia (d. 899), the son of King Carloman and grandson of Louis the German, from ascending the throne; the situation was similar in the case of Arnulf's son, Zwentibold (d. 900), King of Lotharingia. In any case the process of defining the criteria of legitimate and illegitimate birth was not yet completed in the ninth century despite efforts on the part of the clergy and they were used quite freely, especially when the matter concerned property rights etc. See Kasten, "Chancen und Schicksale."

most important and most loyal associates. Hugh, the abbot of the great imperial abbeys, served as Louis's archchancellor, while Drogo was given the honourable dignity of Archbishop of Metz, and it was he who held the emperor as he breathed his last breath and who accompanied Louis to his grave.

We can only surmise that relations among stepbrothers with different status may have looked different, depending on many factors. Relations must have been different among children growing up under one roof; different in the case of progeny conceived in a relationship functioning in opposition to a legitimate marriage, or born of low-status women; and relations may also have changed depending on age. Given the scarcity of the sources, it is also impossible to say what made individuals acknowledge their biological brothers as kin, with all the consequences of this state of affairs. Undoubtedly, being born of the same parent was not enough, as can be seen in the case of Engeltrude (d. ca. 872), Boso's (d. 874–878) wife, and her illegitimate son and daughters born in the marriage. This case is absolutely unique, because it was the woman who was in an extramarital relationship, and because of the status achieved by her illegitimate son, Godefred. We learn about the son, conceived as a result of a love affair between Engeltrude and her husband's vassal, when the daughters born in the marriage pursued their claims to the inheritance from their mother, questioning Godefred's right to it.¹¹² The daughters felt no bond with their stepbrother, although he was clearly accepted by their mother's kinsfolk.

Free and Unfree Brothers

Hidden polygamy, accepted especially among the elites, was conducive to situations in which, in addition to legitimate offspring from lawful marriages there were also children from other relationships with women of varying status, including unfree women. Children of a slave woman inherited her legal status, unless the father decided to acknowledge them and, if he was her owner, liberated them. However, the fate of such children depended entirely on his will. Unfortunately, nothing is known about the relations between such children and their brothers and sisters born in a marriage.

In addition to this group of unfree children of free fathers, the sources mention sons who lost their free status following court judgements. These were judgements in cases in which the unfree (half-free) status of their mothers had been proved.¹¹³ As has been said earlier, according to the law children inherited the status of their mother, even if the

112 MGH Epp. *Epistolae Karolini aevi*, 5, no. 129, pp. 114–15. Pope John VIII's letter to Archbishop Liutbert of Mainz, a. 878. Significantly, Godefred is referred to as *spurius*, a term which in Roman law denoted a child who was born of a relationship regarded as illegitimate (adulterous, incestuous etc.) and who could not be acknowledged by the father (fatherless). This is the meaning of the term cited by Isidore of Seville in his *Etymologies (Isidori Hispalensis Episcopi Etymologiarum, lib. 9, chap. 5, 24)*.

113 See e.g. *I placiti del 'Regnum Italiae'*, no. 34, pp. 106–8, a. 822, Milan, where the judges confirmed the unfree status of Luba the wife of one Dominic, and their six children; on this case see Panero, *Schiavi, servi e villani*, 52; Balzaretti, *The Lands of Saint Ambrose*, 410–14.

father was free and formally acknowledged the children as his own. A question arises, however, as to how it was possible to marry an unfree woman without being aware of her legal status? Although there is no unequivocal explanation of the circumstances in which such marriages were contracted, we can venture an answer on the basis of similar cases concerning legal status.

Court records from the ninth century contain many references to proceedings before royal courts concerning the unfree origins of individuals as well as of entire groups of peasants and smallholders. Most of them come from northern Italy, although this was by no means a regional specificity. Charges of this type were mostly brought by representatives of large monasteries seeking to tie dependent peasants to the land and impose duties on them usually performed by unfree men. Such proceedings sometimes lasted for years. A loss meant that the entire peasant family was automatically given unfree status, and it is not surprising that those concerned tried whatever they could to refute the charges. Sometimes the parties referred to decades-old documents substantiating their testimony. The basic evidence in such cases was witness testimony, and here veritable court duels took place: both sides sought to obtain favourable evidence and, in spite of appearances, the peasants were not necessarily doomed to failure. They often were able to appeal court verdicts, and to challenge the credibility of the witnesses for the suing party or the veracity of the charters submitted by it. However, in most cases the accusers achieved their objective: they were able to prove the unfree status of the party sued.¹¹⁴

The fear of losing their status of free men sometimes prompted individuals to try to kill their closest relatives, because they could become inconvenient witnesses. In 803 Charlemagne ordered that those who would kill their father, mother, uncle, or another relative for such a reason should be punished by death. The descendants and relatives of the parricide, apparently regarded as accomplices by the legislator, were to be turned into slaves. The accusation of such a murder could be refuted only by a positive outcome of an ordeal by fire.¹¹⁵ The law may have been promulgated in response to a specific situation the ruler or his officials had to deal with, and which required a decisive counteraction owing to its shocking nature.

The number of documented status cases confirms that among the rural population, tenants, and even small landowners, establishing the legal status of an individual was not necessarily easy.¹¹⁶ The similarity of the property situation between free peasants and dependants or serfs, the practice of mixed marriages, serfs holding the land traditionally worked by free peasants and the other way round, facilitated the mixing of formally separate groups. The unfree (or free) status of a peasant family may have come to be gradually forgotten, especially when the land the family was working had

114 Panero, *Schiavi, servi e villani*, 52–57; Balzaretti, *The Lands of Saint Ambrose*, 427–39.

115 MGH LL *Capitularia regum Francorum*, 1, no. 39, chap. 5, p. 113.

116 Historians have a problem with delineating the border between freedom and slavery in the early Middle Ages, as there is a variety of forms of personal dependence and the terminology of sources is far from unambiguous; see Rio, *Slavery after Rome*.

changed hands. There were also cases of unfree peasants who escaped and began a new life, passing themselves off as free men and, for example, holding land as tenants (the landowners even included special clauses in the tenancy agreements to protect themselves from claims, in case the tenant turned out to be a fugitive). On the other hand, free peasants and tenants serving wealthy landowners, in exchange for a grant of land and protection, were willing to renounce such burdensome attributes of freedom as obligatory military service, a decision that made their situation similar to that of unfree men. The legal status of peasants working his land did not interest the owner until the moment he decided to increase the peasants' burdens when the peasants shied away from their duties, or when they intended to leave their farmsteads.

In the light of these remarks it is easy to understand that a free man may have—sometimes even unwittingly—married a woman who was formally unfree. This concerned primarily the lower social strata, smallholders, free peasants and tenants. If a woman had her unfree origin proven, her family could find itself in a very difficult situation. As unfree, that is without legal personality, the descendants of such a relationship lost their right to inherit from their free father. Moreover, even the legitimacy of their mother's marriage could be questioned by the woman's owner under the customary law. The Church did order that the legitimacy of marriages of the unfree be respected, yet in practice the decisive say in such situations was that of the servile woman's owner.

In such dramatic situations, in order to provide for their unfree children free fathers sometimes decided to transfer some land to the lord of their wives and children—this concerned mostly ecclesiastical institutions—provided they were guaranteed the use of that land. Such a strategy made it impossible (or at least difficult) for the rightful heirs of the man, including his free sons, if such sons were to appear in the future, to reclaim the property meant to support their unfree kin. The few known source references suggest that the endowment for children born of an unfree mother was based primarily on the property acquired by their father thanks to his own efforts and not on his father's patrimony. According to the law, relatives were not allowed to make claims to this part of the inheritance under the law of propinquity, provided it was lawfully disposed of by the owner.

An example of such a case is the fate of a man named Haicho, who in good faith married a free woman who bore him male heirs. The woman, as it later turned out, was a slave of the monastery of St. Gallen (*"tunc temporis libera fuit, postea vero ab Emilone advocato ad impsum monasterii sancti Galli in servitium adquisita"*). Trying to protect his two sons of this relationship from the misery of servile status, Haicho, guided by parental love (*"propter compassionem genitorum"*), decided to endow them with his property. However, as unfree men, the two brothers could not become owners of that property. So the father gave his property to the monastery, with the proviso, however, that his sons would not be removed from it and that the duties associated with the land

could not be increased.¹¹⁷ A very similar motive guided a certain Hiltini who made a similar donation to the bishopric of Freising, thinking about his three sons born of a slave mother. The charter openly pointed to the cause-and-effect relationship between the legal status of the boys and the donor's intentions—in short, he gave the property to the monastery because he could not bequeath it to his sons. In exchange he was given a landed estate owned by the bishopric, with his sons retaining the right to possess it for life.¹¹⁸

What is important in the context of the present analysis is the fact that Haicho's and Hiltini's free progeny born of successive marriages would have had the full right to inherit from them, without taking into account their elder, unfree brothers. How the relations between such stepbrothers would have looked is hard to say. It is known, however, that unfree descendants were, at least in some cases, treated as members of the family, and any grants to them were made for them with the consent of their father's closest free relatives. This is suggested by limited but telling evidence revealing, for example, that a paternal uncle pledged to provide for his nephews born of a slave woman.¹¹⁹ This is an important observation given the fact that normative sources, especially customary laws, point to the existence of a sharp distinction between free and unfree men. However, concrete life situations sometimes did not reflect the letter of the law, and in practice the situation of unfree children may have differed considerably. It is very likely that a key role was played in such cases by psychological factors such as the emotional bond uniting family members. Unfortunately this area of family life remains inaccessible to us.

117 UstG2, no. 447, p. 65, a. 856 (= ChLA, vol. 105, no. 36).

118 TrFr no. 1033, pp. 777–78, a. 899.

119 *Collectio Sangallensis*, in MGH LL *Formulae Merowingici et Karolini aevi*, no. 8, pp. 401–2; no. 9, pp. 402–3.

Chapter 6

PATERNAL UNCLAS AND NEPHEWS

AGE DIFFERENCES BETWEEN brothers and the resulting takeover of their late father's duties by the elder brothers were associated with another, rarely noticed phenomenon. For obvious reasons elder brothers started their own families much earlier than the younger ones and, consequently, there must have been situations in which those younger brothers with time became legal guardians of their orphaned nephews. Thus they took over the care of the sons of those under whose power they had been not so long before. There were also situations in which the youngest brothers were of an age similar to that of their nephews, entered adulthood and became independent at more or less the same time. Given such complicated family relations, it is difficult to speak of clearly defined generational divisions. Complex relations resulting from age, and power balance among brothers, paternal uncles, and nephews were closely linked to property matters: to the order of inheritance and the rights to use the minors' share of the patrimony.¹ When speaking of fraternal relations, we therefore need to take a closer look at the relations between paternal uncles and nephews.

Paternal uncles—as the closet male relatives—were naturally called to take care of their underage nephews, not only when their father died, but also when he was absent, for example. Documents drawn up before setting out on a pilgrimage or military expedition, and containing dispositions in case of death, confirm that it was the brothers of the issuer that were the first to take care of his wife and children, and that they had the right to make use of the property until the issuer's progeny came of age. Probably the best-known example of a paternal uncle acting on behalf and in the interest of his brother's wife and children is Paul the Deacon, who appealed to Charlemagne himself to get a release of his brother Arichis, who had been deprived of his property and taken out of Italy as a hostage after Rotgaud's rebellion in 776.

We know that in many cases the bonds between paternal uncles and nephews were strong and were based on mutual loyalty. Documentary sources from various parts of the Carolingian realm repeatedly refer to cases when childless brothers bequeathed their property to their nephews. Something similar happened when a testator decided to give his estate to an ecclesiastical institution, though retaining the right of use. Such donations were often accompanied by a clause whereby after the death of the donor the

¹ Divisions of landed estates, sometimes quite complicated, among the deceased's brothers, children and nephews rarely left any trace in writing. This happened mostly when someone intended to dispose of his share, see e.g. MemLuc 5/2, no. 573 and no. 574, pp. 343–44, a. 840. These charters confirm that uncles and nephews may have used the property together, without dividing the family property into individual shares. However, the frequency of this phenomenon remains unknown.

right of use would pass to his brother's sons.² Sometimes, although the reasons behind this are unclear, donors listed their brothers' sons as first among their heirs.³ It was only in the case of premature, heirless death of nephews that the ownership or right of use of the property went to their father, that is the donor's brother.⁴ On the other hand, paternal uncles were sometimes designated by their nephews as executors of their last will or guarantors of an agreement they entered into.⁵ On rare occasions a nephew and a paternal uncle bequeathed their property to each other.⁶

Another form of support was the paternal uncles' patronage facilitating their nephews' careers. In such circumstances the bond between uncle and nephew became a shared fate: the two men shared not just successes, but also failures. There are many such examples; let us refer here to that of Hrabanus Maurus and his brother's son Gundram. Hrabanus was the tutor and guardian of the boy, who was sent to the monastery of Fulda to be educated there. It must have been mainly thanks to the influence of his uncle, the abbot of a powerful abbey, that Gundram was made a chaplain at Louis the German's court, only to lose the position after the defeat of Lothar I with whom Hrabanus sided against Louis the Pious's younger sons. Then, he was forced to settle in the Sölnhofen monastery.⁷ A few years later, Gundram appeared among Fulda monks travelling to Leo IV. In a letter to the pope Hrabanus Maurus asked for a blessing for his nephew.⁸ It should be noted at this point that in pursuing family strategies Hrabanus collaborated closely with his brother, Count Gundram. The latter, shortly after Louis the Pious's death, in 841 when the political situation was rather uncertain and his own career at risk, made a donation of family estates to Fulda, with which the family had been associated for generations and where his son Gundram was sent to be raised. The charter was received by none other than Gundram's brother, Hrabanus Maurus, serving as abbot of Fulda at the time.⁹ The donated estates, together with some additional land that was part of the monastery's

2 In particular, the charters contain dispositions concerning the inheritance by ordained nephews of the rights to churches endowed by their paternal uncles, or the takeover by nephews of divine service in the churches in which their paternal uncles had served earlier, see e.g. TrFr, no. 317, pp. 271–72, a. 814.

3 Such a solemn choice of a brother's son as the most worthy of the inheritance among all relatives was made by a presbyter named Hrodheri, TrFr, no. 436, pp. 374–75, a. 820, Freising.

4 UstG2, no. 414, pp. 34–35 (= ChLA, vol. 104, no. 49).

5 See e.g. TrFr, no. 398, p. 339, a. 818.

6 See e.g. TrFr, no. 408, p. 351, a. 819.

7 On Hrabanus Maurus's family strategies and his family's links to the monastery of Fulda: Staab, "Wann wurde Hrabanus"; Staab, "La circulation des biens"; Innes, *State and Society*, 65ff.; Raaijmakers, *The Making of the Monastic Community*, 175–213; older literature in Aris and Bullido del Barrio, eds., *Hrabanus Maurus*.

8 The source reference is rather uncertain, the letter has been preserved only in a later summary, MGH Epp. *Epistolae Karolini aevi*, 3, p. 529.

9 *Codex diplomaticus Fuldensis*, no. 534, pp. 237–38.

endowment immediately returned to Gundram with a right of use.¹⁰ The chronological coincidence is in this case significant and must be interpreted as a deliberate attempt to maintain Gundram's and his family's position thanks to their links to Fulda and the influence of Hrabanus, its abbot and at the same time brother and uncle.

Scholars carrying out prosopographical analyses of the entries in monastic commemoration books point to a similar mechanism of mutual support within monastic communities. Alfons Zettler even speaks of "monastic dynasties" in monasteries like St. Gallen or Reichenau, in which the "legacy" was passed between brothers and nephews.¹¹ Prosopographical studies reveal a similar mechanism in the case of bishoprics. A well-known example comes from the history of the Bishopric of Konstanz, successively held in the ninth and early tenth centuries by paternal uncles and nephews. The case is all the more interesting given the fact that it illustrates another mechanism, that of building the collective identity of the family group by giving the same name (Solomon) in successive generations to sons intended for a career in the Church.¹² A similar phenomenon could be seen in the case of the family of Grimald of Weissenburg, Louis the German's influential chancellor, whose paternal uncle and brother served as successive archbishops of Trier.¹³ In Freising, too, in the first half of the ninth century the bishopric was held by Hitto and then by his brother's son Erchanbert from the powerful Housi family. In turn, the nephew of Erchanbert, probably not without his paternal uncle's help, was given the high dignity of royal notary at the court of Louis the German. Erchanbert's successor, Anno, passed the bishopric to Arnold, most likely his brother's son, who was succeeded towards the end of the ninth century by the dynasty of bishops of Konstanz mentioned earlier. Geneviève Bühler-Thierry's study devoted to the family ties of the bishops of Freising shows how kinship ties overlapped with community ties within the local Church. Worthy of note are the strategies, analyzed by Bühler-Thierry, of building a family memory as the memory of the bishopric, and of using this connection to strengthen the position of successive bishops. It should be noted, however, that there are no clear signs in the family policy pursued by the bishops of Freising of privileged treatment of agnate bonds: both Hitto and Erchanbert took into consideration collateral relatives in both the male and female lines.¹⁴ Bühler-Thierry stresses the significance of the bond between the paternal uncle and the brother's son (or, more broadly, the uncle-nephew relationship) as one of the most important kinship ties, of key significance to the property and commemoration strategies of the Bavarian elites. However, they were by no means unique in this respect.

10 *Codex diplomaticus Fuldensis*, no. 535, p. 239.

11 Zettler, "Fraternitas und Verwandtschaft," 112–14.

12 Biographies of three Bishops of Konstanz named Solomon: Maurer, *Die Konstanzer Bischöfe*, 66–119.

13 On Grimald's family see Hummer, *Politics and Power*, 178ff.; on Grimald's career, see first of all Geuenich, "Beobachtungen zu Grimald."

14 Bühler-Thierry, "Des évêques, des clercs."

Collaboration between an uncle and his brother's son was not always harmonious. Both normative and documentary sources bring evidence of tensions between relatives, erupting mainly because of rivalry over property.¹⁵ On the one hand sons, as the closest descendants, could take advantage of the law of propinquity and claim the inheritance from their father, but on the other hand, in disputes with their paternal uncles they were sometimes the weaker party, if only because of their age. Paternal uncles who took care of their brothers' underage sons were allowed to use their nephews' estates entrusted to their care formally only until the nephews came of age. However, for adult nephews enforcing their rights to the patrimony was not always easy and could last for years. In addition, under the law of propinquity paternal uncles could also make attempts to recover hereditary property belonging to their brothers' sons which had been donated for example to the Church. There were cases in which the claims were made by nephews demanding, after their paternal uncle's death, that their rights be respected. Such disputes, often brewing for years, were usually resolved amicably. The seemingly innocent sounding *formula* included in charters in which abbots or bishops granted the donor's nephews the right to use the donated estates were probably sometimes the finale of such conflicts.¹⁶ It is no coincidence that standard elements of donation formulas were a sanction directed against those among the closest relatives who would dare to challenge the legitimacy of the gift. In these formulas brothers are listed usually as those who might resort to such steps.¹⁷

15 Chronologically distant but noteworthy evidence of the weight of the phenomenon is a regulation from the *Edict of Rothari* (643) concerning a situation in which a paternal uncle (long. *barbas*) or another close relative accused his brother's sons of being illegitimate, that is questioned the fatherhood and consequently property rights resulting from it. In such cases the lawmaker demanded an oath of purification instead of a trial by combat, which was apparently a customary way of settling such disputes. The accuser's material motive is obvious in the light of the regulation in question: "Si quis de parentibus, id est barbas, quod est patrus, aut quicumque ex proximis dixerit de nipote suo aut consubrino doloso animo, quod de adulterio natus sit, nam non de certo patre: tunc ille, cui crimen mittitur, quaerat sibi liberos sacramentales, et praebeat sacramentum: quod filius legetimus sit et per lege res ipsas ad eum pertineat nec alteri eam per legem dimittere debeat; si hoc fecerit, habeat et fruatur, quia grave et impium videtur esse, ut talis causa sub uno scuto per pugnam dimittatur"; for documents confirming such disputes in the following centuries, see e.g. *I placiti del 'Regnum Italiae'*, no. 13, pp. 36–37, although this case concerned the peripheries of the Carolingian realm I refer to it as an illustration of the phenomenon: in a property dispute settled by the *comes palatinus* acting on behalf of King Pippin (Charlemagne's son and king of Italy) the abbot of the monastery of Farfa demanded a return of estates appropriated by one Liutprand, estates which his brother's son had received from his father and then gave to the Blessed Virgin Mary upon entering the monastery, cf. Costambeys, *Power and Patronage*, 121–22.

16 See e.g. TrFr, no. 363, p. 310, a. 816.

17 See e.g. UstG2, no. 389, p. 10, a. 844: "Si quis vero contra hanc traditionis cartulam venire teptaverit, aut frater meus Adalbertus aut aliquis nepotum meorum aut qualiscumque persona, in aerarium regis multa componat et conatus sui privetur effectum, firmaque et stabilis cartula hujus traditionis permaneat stipulatione subnexa."

The uneasy relationship between paternal uncles and their brothers' sons were reflected in the political divisions of the Carolingian realm. Cases of paternal uncles using their authority and greater power to eliminate the claims of their dead brother's offspring recur constantly in the history of the Carolingian dynasty: beginning with Charlemagne's policy towards his brother Carloman's orphans; through the actions of Louis the Pious against Bernard, the son of Pippin of Italy; the bitter rivalry between Charles the Bald and Pippin II of Aquitaine, and then also his brother Charles; to the conflicts involving Louis the German, Charles the Bald and Lothar I's sons.

The younger generation's uncertain future was to be regulated by Charlemagne's ordinance of 806 and then Louis the Pious's ordinance of 817 concerning the division of the empire's lands among the heirs. The *Divisio imperii* of 806 also contained a clause defining the rules under which Charlemagne's grandsons could inherit power from their fathers.¹⁸ The contents of the document suggest that to inherit the throne a nephew required acceptance of his paternal uncles. The fragment in question has been the subject of animated debates among scholars, who see in it evidence of a limitation of the sons' hereditary rights and interpret this as either an expression of the changes introduced by Charlemagne or, on the contrary, as evidence of the continued existence of relics of the ancient Germanic institution of "brotherhood" (*Brüdergemeinschaft*), which ensured a privileged position for paternal uncles.¹⁹ It appears that the source does not give us grounds for formulating such far-reaching conclusions: it only says that uncles should not oppose the ascent to the throne by their brother's son who had won acceptance of the political elites of a given kingdom. This obviously also indicates that such a risk did exist and that Charlemagne was well aware of it. Charlemagne's realism is in any case also evidenced by another fragment of the 806 capitulary, in which the emperor forbade his sons wrongfully to accuse and punish their nephews, be it by administering corporal punishment or by sending them to a monastery. At the same time, he ordered his grandsons to obey their fathers and paternal uncles in accordance with the law of kinship.²⁰ This is important evidence confirming the existence of a hierarchical model of power within the family, in which a nephew was obliged to obey his paternal uncle, who in turn was for the same reason to refrain from action to the detriment of his

18 MGH LL *Capitularia regum Francorum*, 1, no. 45, chap. 5, p. 128: "Quod si talis filius cuilibet istorum trium fratrum natus fuerit, quem populus eligere velit ut patri suo in regni hereditate succedat, volumus ut hoc consentiant patrum ipsius pueri et regnare permittant filium fratris sui in portione regni quam pater eius, frater eorum, habuit." See the commentary on this fragment of the *Divisio regnorum* in Kaschke, *Die karolingischen Reichsteilungen bis 831*, 312–14.

19 Beumann, "Unitas Ecclesiae—Unitas Imperii—Unitas Regni," 538ff.; Offergeld, *Reges Pueri*, 312ff.; Kaschke, *Die karolingischen Reichsteilungen bis 831*, 313ff.

20 MGH LL *Capitularia regum Francorum*, 1, no. 45, chap. 18, pp. 129–30: "De nepotibus vero nostris, filiis scilicet praedictorum filiorum nostrorum, qui eis vel iam nati sunt vel adhuc nascituri sunt, placuit nobis praecipere, ut nullus eorum per quaslibet occasiones quemlibet ex illis apud se accusatum sine iusta discussione atque examinatione aut occidere aut membris mancare aut excaecare aut invitum tondere faciat: sed volumus ut honorati sint apud patres vel patruos suos et obedientes sint illis cum omni subiectione quam decet in tali consanguinitate esse."

brother's son. The ideal of kinship described in this chapter of the imperial capitulary came down to the honorary principle of mutual loyalty and respect. Just a few years later disregarding this principle with regard to Bernard sorely backfired on Louis the Pious.

It is also worth noting that one of the points in which the principles of the division of the empire defined by Louis the Pious in the 817 *Ordinatio imperii* differed from Charlemagne's dispositions of 806 was the limitation of the paternal uncle's powers with regard to their nephews in favour of the eldest among them as the *senior*. The eldest brother was given the right to decide independently the fate of his brother's orphaned sons, generally irrespective of the will of the other brothers, a change that had not only a political dimension.²¹ The change undermined the customary principle of collective custody of nephews and also struck at the traditional foundations of the family hierarchy.²² The solution proposed by Louis the Pious in 817 and insisted on by Lothar I was not accepted in the end, because it could not be accepted, as is evidenced by the later relations between paternal uncles and nephews within the Carolingian dynasty. In the Meerssen pact of 847 the brothers decided that the one who would survive all the others would have the right to claim obedience (*oboedientia*) from his brothers' sons, but formally he would not have any influence on the succession to their father's throne.²³ In practice, the extent to which a paternal uncle could influence his nephew's ascent to power depended on the power balance and political circumstances at a given moment.

In 857 Charles the Bald and his brother's son Lothar (II) concluded a pact in which they confirmed the agreements sworn a few years earlier by Charles and Lothar I. The rhetoric of the text is first of all to demonstrate peaceful intentions and readiness to provide mutual support by paternal uncle and nephew. However, behind this picture is a clearly defined hierarchical order of kinship, in which the position of the nephew is consistently defined as stemming from the inheritance of the father's rights and obligations, and from his paternal uncles' acceptance. Charles the Bald's and Louis the German's *bonitas* even became a condition without which Lothar II could not come into the inheritance from his father, and on their help and advice depended the stability of his power.²⁴ This echoed the decisions recorded half a century earlier in the *Divisio imperii*, whereby uncles were obliged to support their brothers' sons, but also had a right to assess their moral qualifications to claim the paternal legacy, while nephews were obliged to obey their paternal uncles. Significantly, when the agreement was concluded, Lothar II was 32 years old, while his paternal uncle was 34. Exercising their rights after the death of Lothar II, his paternal uncles arbitrarily divided the inheritance

21 MGH LL *Capitularia regum Francorum*, 1, no. 136, chap. 14, pp. 272–73.

22 More broadly see Kaschke, *Die karolingischen Reichsteilungen bis 831*, 344ff.

23 MGH LL *Capitularia regum Francorum*, 2, no. 204, chap. 9, p. 69; on the meeting at Meerssen see Schäpers, *Lothar I*, 495–502.

24 MGH LL *Capitularia regum Francorum*, 2, no. 268, pp. 293–95.

between themselves, disregarding the claims of Lothar's elder brother, Emperor Louis II.²⁵ In the light of the remarks above it comes as no surprise that in the disputes over this inheritance neither they nor the deceased's brother took into consideration the claims of Lothar II's illegitimate son, Hugh.

The situation was similar after the death of Louis the German (876), when Charles the Bald invaded the lands which under the law of inheritance were to fall to the deceased's firstborn son and namesake. According to Regino of Prüm's account, when the young Louis invoked the agreements guaranteeing the inviolability of his inheritance, agreements sworn by his late father and Charles, his paternal uncle replied that he concluded them with his brother and not with his brother's sons.²⁶ The description of the disrespectful or even offensive treatment of Louis as an unequal partner stems from the logic of the narrative: it precedes the story of the victory of the righteous Louis and the punishment of the haughty Charles. Leaving aside the considerations of the narrative, it is worth noting that Charles apparently based his belief in his superiority on his seniority and authority as a paternal uncle.

The division of the empire did not, of course, come down only to the question of rights stemming from kinship and customary inheritance rules, but here I have focused only on this particular aspect. Some legal historians have viewed the tensions between the royal uncles and their brothers' sons as traces of the ancient Germanic institution of "brotherhood", that is joint ownership of property by brothers and their resulting primacy in the order of inheritance, even before the deceased's sons. As has been said before, the concept does not hold up to criticism.²⁷ Scholars representing this view undoubtedly deserve credit for drawing attention to the relations between paternal uncles and nephews as key to the functioning of family groups. The significance of these relations stems from several factors.

The first and most important among them is the direct genealogical proximity of paternal uncles and nephews, and, as a consequence of this proximity, mutual rights and obligations which were of key importance to the stability and cohesion of the family group. Both good and bad relations between brothers and then nephews and paternal uncles influenced family strategies in successive generations. A conflict between the closest male relatives in the collateral line weakened all parties—they lost mutual support strengthening their position vis-à-vis other family groups with which they competed for prestige and influence. Decisions taken by paternal uncles to the detriment of their brothers' sons, expanding the former's property for example, may

25 *Annales Bertiniani*, a. 870, 108–15; three years earlier Louis the German and Charles the Bald had concluded an agreement concerning a possible future division of the inheritance from their nephews, MGH LL *Capitularia regum Francorum*, 2, no. 245, pp. 167–68; they were to carry it out fairly and justly, "sicut verus frater vero fratri per rectum esse debent."

26 *Reginonis abbatis Prumiensis Chronicon*, 111–22.

27 See above, pp. 54–56.

have turned out to be negative in the long run precisely because they destroyed the network of mutual obligations uniting family members. Property disputes between paternal cousins, recorded in the sources, were often a consequence of conflicts between their fathers.²⁸ They may have involved an extended family group, and may have led to divisions within the family and the break-up of the bonds uniting it.

28 An example can be a case settled by Charlemagne's *missi* in Freising in 802, when representatives of the bishopric filed a suit against a man named Reginpert who unlawfully held estates donated by his paternal cousin Keio to the monastery of St. Tertullian in Schlehdorf (TrFr, no. 186, pp. 178–79). Keio inherited the estates from his father Poapo, who should have come into them following a division of his late brother's property. As Poapo himself died before the division was carried out, his son Keio inherited the rights to his share. Having estimated which part of the property should have come to him, Keio donated it to the monastery. However, his paternal uncle Skatto did not accept the gift and without Keio's knowledge seized the estates and then bequeathed them to his son Reginpert. In the end Reginpert lost and the estates returned to the monastery. Warren Brown who has studied the charter is inclined to believe that Reginpert questioned the legal basis of the donation, because it had been made before the entire property was divided and Keio came into his share (Brown, *Unjust Seizure*, 87–88). I think, however, that this conclusion is too far-fetched. The source does not tell us anything about how Reginpert defended himself against the accusation and what arguments were used to persuade Reginpert to accept a ruling that was unfavourable to him. Yet the records of Reginpert's case do contain important information about the relations between a paternal uncle and his nephew. Not only did Keio clearly fail to obtain his uncle's consent to the donation, but he also made it against his will (if it had been otherwise, the property would have probably been divided as it happened in many other cases of donations made in similar circumstances and known to us from various sources). Moreover, the donation may have been a way of securing the property against attempts to seize it by the uncle which is not changed the fact that both men were members of the family of the monastery's founder. At that time a key role was played primarily by the protection of the powerful Bishop of Freising (Bishop Atto had earlier been abbot of the monastery), who brought the case against Reginpert and recovered the donated property, confirming the legitimacy of Keio's gift (TrFr, no. 187, p. 179).

Chapter 7

BROTHERS AND THEIR WIVES

AN INTERESTING PROBLEM, although not well documented in the available sources, is the question of relations between brothers and women entering the family through marriage. The way the relations between brothers and sisters-in-law are seen by scholars is determined largely by information from legal sources originating under the influence of the Church and focused on a fight against relationships regarded as incestuous. This category included marriages (and all sexual relationships) between a man and his brother's wife (or better widow). Canon law regulations forbidding such relationships, including relationships between a man and his brother's widow as well as marriage to a woman who had earlier had sexual intercourse with the brother of her prospective husband, were incorporated into royal legislation quite early, at the beginning of the eighth century; until the end of the ninth century they regularly appeared in synodal statutes from the entire territory of the Carolingian realm. Scholars studying the problem of incest usually focus on the analysis of normative sources, and mainly on the question about the reasons the marriage ban encompassed such a wide circle of blood relatives and relatives by marriage. Little is known about the practice of such relationships and what is known is in the form of indirect information. Given the vast literature presenting the ideological and religious aspects of early medieval anti-incest legislation,¹ I will offer only some remarks concerning the relations among brothers here.

As we read hagiographical sources from the seventh, eighth, and ninth centuries, we might become confused: they seem to point to the existence and, significantly, customary acceptance of the levirate, that is the practice of men marrying their brothers' widows. Such references appear in the *vitae* of St. Kilian² and St. Corbinian (by Arbeo of Freising, from the second half of the eighth century).³ The hagiographers described the persecution suffered by the saints when they spoke against the incestuous marriages between brothers and their sisters-in-law. The biographer of St. Kilian even mentioned that men marrying their brothers' widows was an ancient custom among the pagan Franks. The marriage of Duke Grimoald of Bavaria (d. 725) to his brother's widow, described by Bishop Arbeo shortly after the saint's death, seems to indicate

¹ See, e.g., Ubl, *Inzestverbot und Gesetzgebung*; De Jong, "To the Limits of Kinship"; De Jong, "An Unresolved Riddle," 124, and the discussion 125–140. On the bans on marrying brothers' widows see Santinelli, *Des femmes éplorées?*, 265ff.

² *Passio Kiliani*, 725; Meeder, "Boniface and the Irish Heresy," refers to this example as an argument making the existence of the levirate among the Franks before the adoption of Christianity more likely.

³ *Vita Corbiniani episcopi*, 580–81; Wood, *The Missionary Life*, 150–58.

that such cases were accepted also after the adoption of Christianity, at least among the ruling elites. A reference to men marrying their brothers' widows also appears in an eighth-century *vita* of St. Wynnebald. The author of the work, Hugeburc of Heidenheim, when describing the corruption spreading among the people of Bavaria, mentioned the levirate alongside such pagan practices as idolatry, necromancy, or fortune-telling.⁴ A *vita* of St. Mainulf of Bodeken (near Paderborn), written down quite late, in the eleventh century, but on the basis of an ninth-century account, mentions the story of ignoble behaviour of the saint's paternal uncle, who after the death of Mainulf's father raped his widowed mother who was refusing to marry him.⁵ The figure of the saint's mother, a Christian widow wishing to devote herself to pious deeds after the death of her husband, was confronted here with the figure of the saint's pagan uncle acting on satanic prompting. References to marrying widows of brothers thus come from various parts of the Carolingian realm and from sources not linked to each other, originating over the course of a long period between the early eighth and late ninth century. It is not known, however, to what extent the examples of such marriages described in the *vitae* cited above confirm an existing practice and to what extent they are a literary construct used by the authors as a topical anti-model, essential to the logic of the hagiographical narrative and contrasted with the ideal of Christian marriage.

The synodal constitution of 745 features a fragment suggesting caution when trying to find, in sources originating under the influence of the Church's teachings, some evidence confirming the customary, pre-Christian acceptance of marriages between men and their brothers' widows.⁶ During this synod, the bishops discussed the case of an Irish monk, Clemens, who was active in Gaul in the 730s and 740s. Apart from many other erroneous teachings, he also dared to preach that a man could marry his brother's widow, if he wanted to. The bishops condemned this assertion, seeing in it a fatal influence of Judaism. The source of the controversy is easy to pinpoint: the contradiction was to be found in the text of Scripture itself. While the Book of Deuteronomy (we need to bear in mind the significance of this biblical text as a source of law for early medieval theologians) even orders a man to marry his brother's widow, if the widow is childless (Deut. 25:5–6), the Book of Leviticus contains a ban on such marriages (Lev. 18:16; 21:20). The polemics over how to interpret these contradictory commandments had been going on almost from the beginning of Christianity; it is enough to mention, for example, Tertullian's opinions and his treatise *On Monogamy* from ca. 207,⁷ and were to last for centuries to come. In the ninth century, the most detailed argument against

⁴ *Vita Wynnebaldi*, in *Vitae Willibaldi et Wynnebaldi*, 111.

⁵ *Ex Sigewardi Vita S. Mainulfi*, 414; Honselmann, "Zur Vita Mainulfi"; Honselmann, "Die älteste Vita Meinolfi."

⁶ MGH LL Concilia 2/1, no. 5, pp. 40, 43. On Clemens's heresy, see Meeder, "Boniface and the Irish Heresy."

⁷ Tertullianus, "De monogamia," chap. 7.

marriages between men and their brothers' wives was provided by Hrabanus Maurus in a letter to the *chorepiscopus* Reginbald from ca. 842.⁸

Clemens's case shows that determined actions against men marrying their brothers' widows on the part of the clergy and rulers trying to implement the Church's teachings on marriage law may just as well have been associated with a fight against unorthodox teachings and the social acceptance of such relationships. Acceptance of marriages between in-laws (if there was such acceptance) did not always have to stem from the existence of a pre-Christian custom, but may have resulted from part of the clergy interpreting the text of Scripture in a manner different from the one shared by a majority of the hierarchy. Given such an uncertainty, we must limit ourselves to a general conclusion that in this period all sexual contacts between a man and women who were in a relationship with his brother were viewed by the Church as incestuous, and that their existence was seen as an absolute impediment to legitimate marriage. The ban was expanded to include cases of pre-marital intercourse with a brother's future wife.⁹

However, sometimes breaking the ban may have been partly justified in the eyes of rigorists. There are traces in normative sources suggesting that the Church's ban of sexual contacts between in-laws clashed with some unknown, older customs, allowing, in exceptional circumstances, sexual relations between a man and his brother's wife—and during the woman's husband's lifetime at that. An example is a situation described in a canon of the synod held in Tribur in 895. The bishops gathered at the synod decided what to do if a man could committed adultery with the wife of his brother, who could not fulfil his marital duties. This canon is known from at least three quite different versions.¹⁰ However, all of them agree that the intercourse between the man and his brother's wife happened when the brother was incapable of performing his procreative role. The emphasis put on this fact is significant—all the more so that two versions contain additional information that the woman conceived a child as a result of maintaining a

8 MGH Epp. *Epistolae Karolini aevi*, 3, no. 30, pp. 450–52.

9 Already a decree promulgated at the synod of Compiègne (a. 757) largely to explain the doubts concerning the impediment of kinship and the rules that should be observed by a Christian couple, includes permission to send the wife away, if it turns out that she had sexual contacts with her husband's brother before marriage, MGH LL *Capitularia regum Francorum*, 1, no. 15, chap. 11, p. 38. There is an interesting justification of this law: the legislator announced that a man could remarry, because his fiancée was not a virgin and not because she was guilty of incest. If the situation were to be repeated in the case of another wife, the marriage was to remain valid, because the man, too, was no longer chaste (*virgo*). This is significant, given the divergence in the teachings of the Church Fathers, emphasizing the spiritual nature of the bond between spouses: here if the text of the source were to be treated literally, the argument is primarily the spouses' physical chastity or lack thereof. In ninth-century synodal legislation canons defining the impediment of kinship in the case of a man deciding to marry a woman who had had sexual intercourses with his brother appear regularly. The source of these regulations lies in the early Christian synodal legislation, primarily decisions of the councils of Neocaesarea of 314–325 (chap. 2) and of Elvira of 306 (chap. 61).

10 MGH LL *Concilia* 5, no. 39, *Versio Vulgata*, chap. 41, pp. 363–64; *Versio Catalaunensis*, chap. 12, p. 374; *Versio Diessensis-Coloniensis*, chap. 19, p. 382.

forbidden relationship with her husband's brother. The sense of the regulation could be explained at least in two ways: either it was believed that a woman whose husband was incapable or unwilling to fulfil his marital duties was simply easily available to his brother, and that her pregnancy was a visible sign of her adultery (but why is it that this appears only in this single regulation concerning incest?),¹¹ or for some other reason such a case (the husband's incapability and the resulting relationship between his wife and his brother) required special treatment from the legislator. Significantly, although bishops interpreted such a forbidden deed as a sign of diabolic action, they did show considerable understanding of the sinners on account of the latter's weakness and lack of awareness, and allowed them to remarry after a suitable period of penance. Perhaps behind this law there was some customary practice whereby a brother could in such a case act as a substitute for his brother in fulfilling the latter's marital duties and ensure biological continuity for the family? Analogies could be found in many cultures, including European cultures; at this point it should be limited to asking a question which must remain unanswered.

Although there is no source evidence providing an insight into the practice of everyday relations between brothers and their brothers' wives, the synodal legislation from the late eighth century does feature regulations that are so detailed and go so much beyond the formulas known from older sources that it may be suspected that they were introduced in response to specific cases seen in family relations and were becoming a cause for concern among the clergy. The group includes a canon from the synodal constitutions promulgated in Friuli in 791. The bishops gathered at the synod presided over by Paulinus of Aquileia and categorically condemned marriages between partners with a considerable age difference, especially cases when one of the partners was too young to consummate the marriage. On such occasions the spouses' families resorted to outrageous deeds putting their souls and the souls of the newlyweds in risk of damnation: the spouses who were too young were replaced in the conjugal act by their closest relatives—the father or brother of the groom, and the sister-in-law or mother of the bride, if the newly married girl was still physically immature. This was considered to be an adulterous and incestuous practice, and was vehemently condemned.¹²

11 This is how we might interpret, e.g., the canon of the 757 Synod of Compiègne, which originated over a century earlier, MGH LL *Capitularia regum Francorum*, 1, no. 15, chap. 12, p. 38.

12 MGH LL *Concilia* 2/1, no. 21, chap. 9, p. 192: "Illud praeterea per omnia praecaventis prohibere decrevimus, ut nullus praesumat ante annos pubertatis, id est infra aetatem, puerum vel puellam in matrimonium sociare nec in dissimili aetate, sed coaetaneos sibique consentientes. Multas sepius ex huiusmodi nuptiali contractu ruinas animarum factas audivimus et tales fornicationes perpetratas, quales nec inter gentes; ita plane ut, cum contingit puerum adultum esse et puellam parvulam et e contrario, si puella maturae aetatis et puer sit tenere, et per virum cognata et oculus deprehendantur adulterae et per puellam frater vel pater pueri tanti peccati flagitio pereant inretiti. Unde qui haec prohibita de cetero usurpare praesumpserit ab omni ecclesiastico consortio sit alienus, sed nec a publicis sit immunis iudiciis"; this synodal decision also found its way into one of the most important law collections of the Carolingian era, which originated around 855 in Italy: Blankenb. manuscript 130, from the Herzog August Bibliothek in Wolfenbüttel. On the manuscript see Mordek, *Bibliotheca capitularium*, 920–43).

As in the earlier examples from normative sources, this one, too, causes many problems with its interpretation, resulting primarily from our lack of knowledge of the context in which the regulation originated. It is difficult to say how common the phenomenon described by the bishops was. Although the author of the source wrote that such cases were frequent, we need to approach this declaration with caution. Yet even when taking into account these limitations, it is worth devoting some time to the canon, because it contains information that is important to the present analysis.

That marriage in the early Middle Ages was above all a pact between two kin groups is a truism requiring no comment. However, behind this general observation we find complex content. This group interest is usually equated with matters relating to the flow of property between the families, and with a strategy of building a network of connections and alliances strengthening the position of the future spouses' families entering into the pact. However, in the synodal decision under discussion the controversy surrounds the biological dimension of marriage: members of the kin group making decisions about the procreative assets of the spouses. The text suggests that the fulfilment of the basic conjugal function was not regarded as a matter for the individuals entering into the marriage, but as an obligation for the entire family group. An underage spouse could (and, from the point of view of both families, should) be replaced by the nearest adult relative. This substitution must have been justified also by the belief in the biological identity of the closest relatives: they were a kind of substitute, an "other self" for each other. Thus the progeny of such a relationship would be regarded by the relatives as legitimate, born of the same blood though not necessarily conceived by the spouses.

Such a substitutive understanding of the relations among relatives is well known to anthropologists. The concept of biological community was analyzed in detail by the advocates of the structural-functional theories, who considered it key to maintaining the stability of the social system in traditional societies. However, they rarely referred in their observations to Western European societies. Yet, if the interpretation proposed here is correct, a similar way of seeing the situation between relatives was present also in Europe undergoing Christianization in the early Middle Ages. The disappearance of such an understanding of kinship would be linked not so much to a collapse of social structures, but to cultural transformations occurring under the influence of the Church and the spread of a model of marriage as a spiritual bond uniting individuals. This sheds light on the nature of the bond among brothers, although on the basis of such fragmentary and unclear sources it is obviously impossible to draw any far-reaching conclusions.¹³

13 Obviously, it is also possible to formulate a different hypothesis: that we are dealing in this case with a hidden form of polygyny in which another woman was introduced into the household on the pretext that she had married an underage man from the family. However, the synodal resolution refers to both men and women fulfilling the sexual duties of a spouse, replacing a child incapable of fulfilling them. Given what we know about the situation of women in the family it is hard to assume that a woman could have had an intercourse with the husband of a close underage female relative without the consent of her own husband or male legal guardians, for whom this was a matter of honour.

Brothers played an important role in matchmaking primarily as intermediaries and advisers of the prospective husband. Their social position was also a weighty argument in negotiations preceding the agreement with the fiancée's family. However, sources of the period tell us little about the details of this aspect of fraternal relations. The few references suggest that brothers took part in resolving the most difficult marital conflicts. An extreme example here is the just mentioned story of the marriage of Boso and Engeltrude, shocking the elites of the Frankish kingdom more or less at the same time as the case of Lothar II and his wife Teutberga (in any case the *dramatis personae* were closely related: Boso was Teutberga's brother).¹⁴ Betrayed by his wife and ridiculed, Boso demanded that his unfaithful wife return into his custody, but she, safe in the protection of her relatives, kept refusing, justifying her decision by, among others, a fear of bloody revenge on the part of Boso's brother Hubert (Hucbert).¹⁵ We can assume that many of the later hostile actions taken by Hubert against Lothar II, a relative of his faithless sister-in-law and his faithless brother-in-law (he was, after all, the husband of Teutberga, sister of Boso and Hubert) can be interpreted as retaliation for defiling the family honour.

On the other hand, a brother's wife could appear as a mediator in conflicts between brothers or when brothers for some reason shied away from fulfilling their mutual obligations. This situation is hard to pinpoint in the sources for an obvious reason: it did not usually produce any sources. A conflict was going on within the family and the parties must have tried to come to some sort of understanding without much publicity. An exceptional case here is the role played by Empress Angilberga, the wife of Louis II, in 869. At that time her brother-in-law, Lothar II, sought his elder brother's support in his efforts to have his marriage to Theutberga annulled and end the excommunication imposed on him by Nicholas I.¹⁶ As Hincmar of Reims wrote in the *Annals of St. Bertin*, Lothar, unable to elicit help from his brother, who explained his avoidance to meet him by citing an invasion of Saracens on the southern border of his realm or by other duties, did win Angilberga's favour.¹⁷ According to Hincmar, she managed to bring about a meeting between Lothar and Pope Hadrian II at Monte Cassino. As I have said, the case is unique, because it concerned high politics and an extremely delicate game involving not just the two brothers but also their paternal uncles, the most powerful aristocratic families and, last but not least, the pope. Angilberga's mediation enabled Louis to get out of trouble. The ruler clearly had no intention of damaging his relations with the pope (in any case, soon after the death of Lothar II it was Hadrian II who, on behalf of the emperor, would plead with Charles the Bald and Louis the German for the return of Louis II's share in his brother's inheritance). At the same time, Louis II could not refuse outright to help

¹⁴ The political background and family ties of Boso and Engeltrude are discussed by Bougard, "En marge du divorce"; see also Stone, "Bound from either side."

¹⁵ This is mentioned in Hincmar of Reims, *De divortio Lotharii regis*, 231–22, 244.

¹⁶ Heidecker, *The Divorce of Lothar II*.

¹⁷ *Annales Bertiniani*, 99–100.

his brother, despite moral doubts surrounding his conduct. Thus the very influential empress (*consors regni*, as the sources called her¹⁸) played two roles: she represented her husband as the emperor and ruler of Italy, and at the same time she sought to resolve her brother-in-law's case amicably, as befitted a loyal sister-in-law.

The sources tell us more about the relations between a man and his brother's widow. There are several reasons for that. Death in a group of brothers had far-reaching consequences, associated not just with the need to regulate property matters but also, perhaps above all, with a redefinition of the power structure within the family. The process was often accompanied by tensions, which are obviously more source-inspiring than the peaceful co-existence of relatives. After the death of a man, his widow and underage sons usually had to be cared for by his brothers. The widow had a right to choose and could decide to return to her family home, to be taken care of by her father or brother, but under the customary law this meant a separation from her children, especially from her sons, who were to be brought up among their father's relatives. It is therefore quite likely that in most cases the widow, unless she decided to marry again, remained formally in the care of her late husband's brother or brothers. The diplomatic sources show that this ideal order was sometimes disrupted, and conflicts between the deceased's brother and his widow, especially conflicts over property, were by no means rare. This must have stemmed mainly from the spread of a testamentary practice whereby the widow was granted the right of use of the property or was made the executor of her husband's last will with the right to dispose of his estate. The sources demonstrate that among the members of the closest family, in the ninth century the testator's brothers and widows often acted as executors of his last will. This led to tensions, although there were also cases when the wife and her brother-in-law worked together harmoniously.

The image that appears on the basis of the diplomatic sources can be summarized in a few points. First of all, a fraternal relationship is above all a relationship of collaboration. The brothers act as partners in property transactions, make joint decisions about the temporal and eternal interests of their family group. Evidence of mutual conflicts is rare and usually not direct. It can therefore be inferred that one had to resolve disputes within the family, without transferring them to royal courts or engaging persons outside the circle of relatives as mediators. From our point of view, what is important is the fact that the diplomatic sources confirm that brothers fulfilled almost all their obligations incumbent on them in accordance with the norms of customary law. This applies both to property rights, that is, to respecting the principle of equal land distribution (which is the common way of inheritance) and to other possible obligations. The obligation of taking revenge for his brother's injury and to support his brother, who was in a life-threatening situation as a result of the crime committed, comes to the fore. The solidarity of the

18 On this term see Delogu, "Consors regni"; and polemically La Rocca, "Consors regni: a Problem of Gender?"

family, as well as the sharing of the threat, is visible in both diplomatic and narrative sources. This can be easily explained: where armed violence was involved, the rulers and clergy had to intervene. From the point of view of the clergy, the spiral of revenge was a dangerous *scandalum* that threatened not only the salvation of individuals but also to the entire community of believers. From the point of view of rulers, the moral aspect was influenced by obvious temporal considerations, i.e. the risk of local armed conflicts. There are many references to the implementation of the right to retaliation; this is proof of the presence of this phenomenon in social life, and the acceptance of this form of restoring an honorable balance between family groups.

The basic divisions in the fraternal group also remained permanent: above all, the division resulting from the age according to which the minors remained in the care of their older brother after the death of their father. There are no clear traces of the influence of the Christian teaching about the firstborn as the chosen one from among the brethren and as the most privileged in the diplomatic sources, although, in particular in the last wills or testaments, there is a tendency to allocate the most valuable part of the heritage (especially in symbolic terms) to the eldest son. What is clearly visible, however, is the fulfillment by the brothers of their obligations regarding the prayer commemoration of their deceased brothers. References to allocating funds for pious works for the salvation of a deceased brother usually accompany sources about the inheritance of property, but not always and not exclusively. There are many testimonies of appointing brothers as executors of the last wills, without a clear indication that they are also to inherit property. In addition to the customary commitments to assist one another in an emergency on earth, the brothers also make a commitment to support each other on the way to eternal life.

Relationships between siblings from consecutive marriages remain relatively poorly documented, but there is a tendency to distinguish between these groups, and there are also indirect traces of tensions between them, often arising with the participation of their mothers. Unfortunately, our sources rarely tell us something about the difficult problem of children from relationships with slaves and children born out of wedlock. Very little can be said about the mutual relations between siblings of different status. Here we can try to capture the echo of the change that took place under the influence of the Church, which delegitimized the actual polygamy acceptable among the elites. However, we are largely reduced to the sphere of hypotheses and *ex silentio* inference. One thing can certainly be said: in the ninth century, children from non-marital relationships appear in diplomatic sources sporadically only and are not mentioned among the rightful heirs. The customary rules, registered in the mid-seventh century, requiring them to be given a part of their paternal inheritance, were apparently no longer respected in the ninth century. The relationship that exists between the children of such unions and the siblings born in marriage is still recognized by their father, but the fate of illegitimate brothers becomes dependent on the mercy of their rightful brothers.

An interesting problem is the relationship between men and their brothers' wives. Traces in the sources of the levirate are very uncertain and it is impossible to formulate unambiguous conclusions on their basis. Nevertheless, the problem shows the links

between the functioning of the “small family,” that is the marital couple and its children, and fraternal relations. Uncle–nephew relations can also be considered in similar categories. In my opinion, this deserves particular attention in future studies, as one of the most important factors for the stability of family groups and the implementation of their collective political strategies.

This account appears to be ambivalent. However, it cannot be considered as an intergenerational conflict. The rhythm of the functioning of the early medieval family, with successive marriages and a considerable age difference between children, means that uncles and nephews often belonged to the same generation. Conflicts, if they arose, probably resulted mainly from competition for property, as in the case of disputes between brothers. However, the problem of the uncle–nephew relationship requires thorough research material that falls outside the period covered in this book. It seems that this is one of those accounts that is underestimated in research on the family.

Summing up, it can be stated that the documentary sources confirm the continuity of norms and patterns of conduct rooted in tradition and written down in laws concerning relations between brothers and sisters from full-fledged marriages. What we observe to be changing is the elimination of the relics of non-monogamous marriage that were inconsistent with the teaching of the Church and the limitation of the circle of heirs to children born from unions recognized by the clergy as legitimate. In this regard, the property interests of fraternal groups connected by the closest kinship relationship, were consistent with the precepts of religion, and this can explain their relatively quick reception. Where custom painfully collided with the rules dictated by religion, as in the case of revenge, the process of elaborating new solutions was much slower.

Chapter 8

CONCLUSION

THE ARGUMENTS PRESENTED in this book confirm the importance of the fraternal bonds for the organization of early medieval kinship as well as for social order broadly understood. Brothers formed the core of the early medieval family as strongly (or even more strongly) than the married couple. The fraternal bond, established at the moment of birth and lasting throughout the entire life of an individual, appears to be the longest and the most stable social relationship in which a brother was involved. Wives died, children were born, but throughout their lives brothers remained partners in the pursuit of family strategies; they supported each other in asserting their rights; and finally, brothers were those with whom one shared one's identity or even one's fate. Collaboration between brothers was the basis for building one's position in the hierarchy of power and influence, acquiring property, and entering into advantageous alliances, for instance those associated with marriage.

Relations between brothers were characterized by durability, which for obvious reasons could be achieved neither in marriage nor in the relationship with one's parents. Yet this stability did not mean immutability: fraternal relations were dynamic, they changed as the siblings grew up, assumed new social roles, and chose different career paths. In addition, by their very nature (for instance for psychological or biological reasons) they were stretched between two extremes: loyalty to the next of kin and rivalry over shared goods, both symbolic and material. The brother figure was also an extremely important element in the medieval conceptual system. Brotherhood, understood metaphorically, constituted the ideological foundation of Christian society: a community of brothers equal before God. Yet behind the faithful and selflessly loving brother loomed the figure of the evil brother with traces of fraternal blood on his hands. The brother remained an ambiguous figure in the medieval imagination, though the brotherhood metaphor was often used to describe a relation that was thoroughly positive. Loyalty and support among brothers could easily turn into rivalry and conflict, sometimes so violent that only supernatural intervention was able to stop it. Christianity imbued the notion of brotherhood with positive references, but also forever attached to it the bloody mark of Cain.

The awareness of the existence of a dark side to fraternal relations strengthened the juxtaposition—Augustinian in its essence and crucial to the Christian vision of society—of biological brotherhood vs. spiritual brotherhood. Various types of sources (e.g. exegetical, hagiographical, and historical ones) clearly show a fatalist image of the relations between brothers of the flesh, who seemed doomed to conflict. Christianity added a theological dimension to the tension between brothers, making fraternal conflict one of the most important moments in the history of humankind and Salvation. The theological distinction between the pure brotherhood of the spirit and

the imperfect brotherhood of the flesh became one of the foundations of a dualistic division of society into the world of earthly families and of ideal, fraternal communities of the spirit. Other communities were modelled on the fraternal group, bound by ties of absolute and selfless loyalty, love, and collaboration. The spiritually loving members of monastic communities were an unattainable ideal for those who had not been able to free themselves from the temporal fetters of sin. In the construction of social relations this model played a role at least equal to that of the ideal embodied by the father-son relationship. Monastic communities, confraternities, personal friendships among the intellectual elites of the ninth century—all these forms drew on the same model: the ideal of spiritual brotherhood.

We can find in this distinction an echo of a clash between two different systems of values. On the one hand, a model of fraternal relations typical of society can be distinguished, based on bonds of kinship, identification with a shared earthly heritage, and a sense of loyalty to “one’s own”; on the other hand an all-embracing Christian brotherhood of the spirit, selfless, existing independently of material objects and even of the physical presence of the individual embraced by that love.

Yet no idea can exist outside the social world in which it emerged and to which it refers. The interest of early medieval thinkers in the motif of brotherly rivalry did not stem only from the theological power of such themes. It remained associated with the experiences of social and political life in the ninth century. Fight for power among royal brothers, insidious attempts to seize land and well as attempts on the life (or at least the freedom and health) of brothers were part of the everyday life of the Carolingian elites. It was a world in which royal brothers were sometimes allies, but the fraternal love described by the moralists remained an unattainable ideal for them. The same could be said about their subjects, who fought bitterly with their brothers or nephews for wealth, offices, or positions. Between these two extremes—loyalty and betrayal—there is a huge variety of situations in which circumstances determined the actions of individuals. It was a world in which interests and emotions played an equally important role.

The question which cannot be answered concerns the social reception of the Christian models of fraternal relations examined on the basis of theological and homiletic sources as well as in texts providing moral advice. As always, whenever we try to find an answer to the question of how individuals and communities from the past defined the world and which categories they applied to it, of what prompted them to choose a particular course, we must remain in the sphere of more or less likely hypotheses. One is not always able to answer the question about the impact of the ideas emerging among learned men of letters. However, the ideas they advocated, including those concerning the organization of social life, may have spread beyond monastic scriptoria and royal courts, by means of sermons or images painted on church walls, as in the church at Ingelheim, where Louis the Pious ordered the stories of biblical brothers to be painted.¹ Yet there still remained—and it was to remain for a long time—the ancient custom whereby a man

¹ *Ermoldi Nigelli In honorem*, 4, p. 64.

had to take bloody revenge for the death of his brother, and to put the good of his closest blood relatives above the truths of Faith.

We have looked at a society marked by a fascinating process, taking place more or less overtly, of seeking a balance between conflicting norms and moral imperatives, a process encompassing all spheres of social life, including those seemingly least susceptible to change, such as family life. In this book I have sought to demonstrate not only the significance but also the ambiguity and multidimensionality of fraternal relations. Many topics have been barely touched upon, yet this research has demonstrated how broad a research field stretches behind the seemingly obvious question: who is my brother?

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INDEX

- Aachen, 126
Aaron, 40n40, 107
Aasgaard, Reidar, 37
Abel, 18, 90–91, 101, 103, 117, 122–24
Abraham, 39–40, 83–85, 90, 93, 182
Absalom, 123
Adalbert II, margrave of Tuscany, 32n10, 179
Adalgar, 76–77
Adalhard, abbot of Corbie and Corvey, 41n44, 45, 80–81, 109–10, 137
Adalwin, archbishop of Salzburg, 86
Adam, 40, 87, 121
adelhopoiesis, 49
Æthelhard, archbishop of Canterbury, 116
Æthelthryth, queen of Northumbria and abbess of Ely, 105
Agobard, archbishop of Lyon, 109
Ahab, 74, 88
Aistulf, archbishop of Mainz, 20
Alberic, 179
Alcuin of York, 27, 41, 45, 68, 82–87, 89, 92, 105, 110, 113n36, 116, 123–24
Alemanni, customary law 58n13, 129, 142
Alps, 132, 169
Ambrose, bishop of Lucca, 157
Ambrose, St., 73–74, 88, 124–26
Ambrosius Autpertus, 118
amicitia, 41–42, 98–99
Amnon, 123
Amulo, archbishop of Lyon, 105
Anderson, Benedict, 114
Andrew the Apostle, St., 39, 106–8
Angelomus of Luxeuil, 89–90, 123, 125
Angilberga, empress, wife of Louis II, 202
Angilbert, archbishop of Milan, 164
Anno, bishop of Freising, 191
Ansuald, 157
Anton, Hans Hubert, 98–100
Aquitaine, 92n137, 193
Arbeo, bishop of Freising, 197
Arichis, brother of Paul the Deacon, ix, 189
Arnold, bishop of Freising, 191
Arnulf of Carinthia, 183n111
Artois, 131
Astronomer, 35n21, 68, 91
Atho, 177
Atto, bishop of Freising, 196n28
Augustine, St., x, 38–40, 42–43, 83–85, 87, 101, 103–4, 107, 115, 118, 120, 124–25
Auxerre, 19–20, 75, 84–85, 92, 102, 105–6, 123, 125
school 19–20
Baldwin, 163
Baldwin I Iron Arm, count of Flanders, 163
Baldwin II, count of Flanders, 163
Barré, Henri, 19
Basil of Cesarea, 44
Barthélémy, Dominique, 4, 6
Bavaria, 67n49, 110, 197–98
Bavarians, customary law, 58n13, 177, 181–82
Becher, Matthias, 55–56
Bede, the Venerable, 38, 41, 73, 92, 105, 108, 123–25, 167
Belisarius, 157
Benedict III, pope, 131
Benedict of Aniane, 45, 60, 113–14
Benedict of Nursia, 60, 66n42, 113
Bernard, king of Italy, 144, 163, 183, 193–94
Bernard of Septimania, 153, 164, 170
Bernard, son of Charles Martel, 80n94
Bernarius, stepbrother of Adalhard of Corbie, 80n94

- Bertha, daughter of Lothar II, 32n10, 179
 Bertha, St., 131–32
 Blangy-sur-Ternoise, 131–32
 Bloch, Marc, 6
 bloody revenge *see* feud
 Boretius, Alfred, 22
 Boso, husband of Engeltrude, 138, 184, 202
 Boso, margrave of Tuscany, 179
 Boswell, John, 49–50
 Bouchard, Constance B., 4, 6, 13, 64
 brother *consanguineus*, 30–31
 elder, 31, 54, 59–60, 67, 76, 81, 83–84,
 87–88, 90–92, 105, 114, 122, 124,
 146, 156–57, 166, 170–74, 176,
 179–80, 187, 189, 195, 202, 204
 germanus, 36, 40–41, 48
 half- *see* stepbrother
 illegitimate, 33–34, 83, 180–84, 204
 -in-law, ix, 137, 161n59, 197,
 199–200, 202–3
 natural *see* illegitimate
 stepbrother, 29–33, 57, 67n48, 109, 120,
 146, 152, 165–66, 172, 176–80,
 183–84, 187
 underage, 59–60, 157, 168,
 170–73, 176–77
 unfree, 184, 186–87
 uterinus, 30, 34–35
 younger, 59–60, 63–65, 67, 73, 78–81,
 83–84, 90–92, 94, 111, 114,
 146, 156, 170–74, 176–77,
 179–180, 189
 wife of *see* sister-in-law
 brotherhood
 as metaphor, xii, 36–37, 48, 207
 blood brotherhood (as metaphor), 49–51
 in arms, 51
 milk, 52
 spiritual *see fraternitas spiritualis*
 Brown, Elisabeth A. R., 50
 Brown, Warren, 56, 160n57, 196n28
 Brunner, Heinrich, 54
Brüdergemeinschaft, 54–56, 99–100, 193
 Bühler-Thierry, Geneviève, 191
 Burchard of Worms, 133
 Cain, 18, 101, 117–19, 121–25, 128, 130,
 132, 134, 207
 Calixtus, St., 130
caritas, 38, 44, 46, 79, 98–99, 101, 108, 110,
 113–18, 120
 fraterna, 36, 97–99, 101, 103–4, 120
 germana, 41n42
 Carloman, king of Bavaria, 34, 69, 117,
 183n111
 Carloman, king of the Franks, brother of
 Charlemagne, 79, 88, 193
 Cathwulf, 79–80, 88, 91–92
 Charlemagne, king of the Franks, emperor,
 ix, 55, 65, 66n42, 68, 77, 79–80,
 82, 88, 90–93, 97, 126–28, 132n107,
 137, 139, 143–44, 158, 162–63, 180,
 183, 185, 189, 192n15, 193–94,
 196n28
 Charles, archbishop of Mainz, brother of
 Pippin II of Aquitaine, 193
 Charles III the Fat, emperor, 117, 146n23
 Charles, king of Provence, 172n85
 Charles the Bald, king of West Francia,
 emperor, 67, 76–78, 92, 98–99, 112,
 115–17, 119–20, 122, 129, 131,
 162n62, 163, 172, 176, 193–95, 202
 Charles the Younger, son of
 Charlemagne, 68, 91
 Charles Martel, 33, 67n48, 80, 123
 Christian of Stavelot, 43, 73
 Chrysostom, St. John, 39, 126
 Cividale del Friuli
 council, 40n38, 67n49
 Clemens, monk, 198–99
 Columbanus, St., 44
 compensation *see wergild*
 Compiègne, 199n9, 200n11
 concubinage, 32, 33n16, 180–81
 Conrad, brother of empress Judith, 137
 Constantinople, 48
 Corbinian, St., 146n20, 197
 Corbie, 41n44, 45, 73, 80–81, 106n16,
 107, 109
 Cyprian of Carthage, St., 38, 109,
 125–26

- David, 79, 91–93
 De Jong, Mayke, 19, 52, 70, 114, 129
 Dhuoda, 44, 69, 153, 170–71
 Donato, 169
 Donno, bishop, 131
 Drogo, archbishop of Metz, stepbrother of
 Louis the Pious, 33n16, 183–84
 Drogo, stepbrother of Charles Martel, 67n48
 Duby, Georges, 1–4
 Dumézil, Georges, 62
- Ebbo, archbishop of Reims, 52, 67n49
 Eberhard, count (margrave) of Friuli, 143
 Eichstätt, 110
 Eickels, Klaus van, 12, 97
 Einhard, 27, 150–51, 164–65
 Engeltrude, wife of Boso, 184, 202
 England, 63, 106n16, 110–11
 Ephraim, 88, 92
 Erchanbert, bishop of Freising, 191
 Ermbert, 153
 Ermengarde of Tuscany, 179
 Esau, 18, 39, 78, 82–89, 91, 119, 122
 Estrées, 131
 Étaix, Raymond, 19
 Eve, 119, 124
- Fastrada, queen, wife of Charlemagne, 82
 Felix, bishop of Urgell, 68
 Felix, brother of duke Rotgaud of Friuli, 137
 feud, 32, 49n68, 122, 127–28, 130–34,
 160–68, 202–5, 209
 firstborn, xii, 37, 54–55, 60–62, 64, 66,
 68–69, 71–80, 82–90, 92, 94–95, 170,
 195, 204
 Flodoard of Reims, 52
 Fontenoy, battle of, 117, 121–22,
 135, 151–52
 Fortes, Meyer, 62
 France, 4
 Frankfurt, 68
 Franks, 70, 144, 197
 kingdom, 88
fraternitas, 12, 31, 37, 41, 44, 99, 110,
 113–14, 116n47
 carnalis, x, 35, 40, 107
 celestis, 109
 Christi, 40
 sanguinis see *carnalis*
 spiritalis, x, 35, 37–48, 60, 103,
 107–109, 113–14, 116, 135,
 176, 207–8
 fratricide, 31, 118–19, 122–23,
 125–26, 128–34
 Freculf of Lisieux, 125
 Fredegar, 33
 Freiburg im Breisgau, 2, 47n62
 Freising, 147n25, 148n28, 153, 159, 190n3,
 196n28, 198
 bishop, 147n26, 149, 156, 159, 174,
 191, 196n28
 bishops, 25, 146n20, 156, 160n57,
 187, 191
 Friuli, 143, 200
 margraves of, 59n17
 Fulbert, abbot, 146n23
 Fulda, monastery of, 25, 47n62, 70,
 83, 190–91
- Gad, 72
 Gall, St., 46
 Gaul, 105, 119–21, 198
Germania, 110–11
germanitas, 40–41, 99, 104n13, 107n18
 Germanus, St., 176n96
 Germany, 12
 Gildard (Godard), St., 112–13
 Godefred, 184
 godfather, 77, 176
 godson, 48, 120, 176
 Goody, Jack, 63
 Gottschalk, monk, 70–72, 105
 Gregory I the Great, pope, 118n60,
 119, 126
 Gregory II, pope, 48n64
 Gregory, bishop of Tours, 33, 50, 123
 Gregory, bishop of Utrecht, 165–67
 Grendel, 123
 Grimald of Weissenburg, 191
 Grimoald, duke of Bavaria, 197

- Grimoald, stepbrother of Charles
 Martel, 67n48
- Guerreau-Jalabert, Anita, 36
- Gundrada, stepsister of Adalhard of
 Corbie, 80n94
- Gundram, nephew of Hrabanus
 Maurus, 190–91
- Gundram, brother of Hrabanus Maurus,
 156n47, 190
- Guy, margave of Tuscany, 179
- Hadrian II, pope, 202
- Hagar, 83–84, 182
- Haicho, 186–87
- Haimo of Auxerre, 19n52, 20, 84–85, 102,
 108, 108n20
- Hartmann, Wilfried, 24
- Heidenheim, 110–11, 198
- Heiric of Auxerre, 19n52, 20, 75, 92
- Helvidius, 39, 73
- Herbert I, count of Vermandois, 163
- Hilary of Poitiers, 39
- Hiltini, 187
- Hincmar, archbishop of Reims, 76, 119, 202
- Hitto, 191
- Holy Land, 110
- Hrabanus Maurus, 18, 20, 27, 34, 53,
 70–73, 75, 83–84, 90–92, 102–3, 117,
 119, 123–25, 132–33, 156n47, 163,
 190, 199
- Hubert (Hucbert), 137, 202
- Hugeburc of Heidenheim, 110–11, 198
- Hugh, abbot of St. Quentin and St. Bertin,
 stepbrother of Louis the Pious,
 33n16, 183–84
- Hugh of Provence, king of Italy, 179
- Hugh, son of Lothair II, 195
- Hugo, 131
- Humbert, bishop of Würzburg, 163
- Hummer, Hans, 6–7
- Iberian Peninsula, 26
- incest, 48, 179, 181, 184n112, 197, 199–200
- invidia*, 102, 105, 118–19
fraterna, 117–18
- Isaac, 18, 83–88, 90–91, 93, 123, 182
- Isanhart, cleric, 174–75
- Ishmael, 18, 82–86, 88, 123, 182
- Isidore of Seville, 32n13, 34, 40, 53, 88, 124,
 184n111
- Italy, ix, 25, 27, 29, 79, 119, 124, 133, 144,
 152, 179, 183, 185, 189, 192–93,
 200n12, 203
 kingdom of, 25–26, 143–45
- ius primogenitorum* see privilege of
 primogeniture
- Jacob, 18, 39–40, 72, 78, 83–91, 93, 123
- James the Apostle, St., 39, 107–8
- Jehoram, 74, 88
- Jeremiah, bishop of Lucca, 157
- Jerome, St., 39–40, 73, 75, 83, 86,
 88–90, 125
- Jesse, 79, 90, 93
- Jesus Christ, 37–40, 42–44, 46, 67, 71–74,
 79–80, 84–85, 87, 91–94, 101, 103–4,
 107–8, 118, 122, 124, 170
 as brother of Christians, 37–38, 40, 68
 brotherhood in Christ, 35, 38, 40,
 43–44, 60, 99, 102, 104, 107–9, 118,
 122, 135
 as firstborn, 60, 68, 72–75, 79–80
 as primogenitus see as firstborn
 as son of David, 93
 as unigenitus, 68, 73
- John VIII, pope, 120, 184n112
- John Cassian, 44, 123, 126
- John the Apostle, St., 39, 107–8
- John the Baptist, St., 92
- John the Evangelist, St., 39, 92,
 107–9, 123
- Jonas of Orléans, 119
- Jordan, river, 72
- Joseph, 18, 83, 123, 171
- Joseph, St., 73, 93
- Judah, 171
- Judith, empress, wife of Louis the Pious,
 137, 175
- Judith, queen of Wessex, daughter of Charles
 the Bald, 163

- Julian Promerius, 102
 Just of Beauvais, St., 105–6
 Justin of Auxerre, St., 105–6
 Justinian, Roman emperor, 30
- Karras, Ruth Mazo, 181
 Kasten, Brigitte, 65–66, 175
 Keraloh, 176
 Keturah, 83
 Kilian, Saint, 197
 Konstanz, 117, 131, 134, 191
 Krause, Viktor, 22
- Lambert, 177
 Lambert, margrave of Tuscany, 179
 Lanfrid, bishop of Sabiona, 86
 Larrington, Carolyne, 9
 Le Jan, Regine, 4
 Leo IV, pope, 190
 Lévi-Strauss, Claude, 11
 levirate, 78, 197–98, 204
 Lifshitz, Felice, 112
 Liudger of Münster, 165–66
 Liutbert, archbishop of Mainz, 184n112
 Liutprand, king of Lombards, 48, 58, 129, 168
 Lombards, 48, 58, 79, 144, 168, 182
 customary laws, 31–32, 129
 Lot, 39–40
 Lothar I, emperor, 20, 34, 65–69, 72, 76–78, 83, 91–93, 98–99, 115–17, 119–20, 122, 142–45, 151, 164, 172, 176, 190, 193–94
 Lothar II, king of Lotharingia, 32n10, 116, 137, 172n85, 179, 194–95, 202
 Lothar, twin brother of Louis the Pious, 35n21, 91
 Lotharingia, 183
 Louis I the Pious, emperor, ix, 1, 27, 33n16, 35n21, 52, 65–66, 68, 70–71, 76, 80, 83, 90–92, 94, 97–99, 101, 109, 114, 117, 121, 128–29, 144, 150–51, 163n64, 175–76, 183–84, 190, 193–94, 208
 Louis II, emperor, 34, 144n17, 157, 164n67, 172n85, 195, 202
 Louis the Younger, king of Saxony, 117
- Louis the Child, king of East Francia, 67n49
 Louis the German, king of East Francia, 34, 67, 69, 76, 98–99, 115–17, 119, 121–22, 150–51, 176n94, 183n111, 190–91, 193–95, 202
 Louis the Stammerer, king of West Francia, 76
 Louis the Younger, king of Saxony, 117
 Lucca, 152–53, 157
 bishopric of, 25, 50, 146
 Luke the Evangelist, Saint, 39, 69, 72–73
 Lul, archbishop of Mainz, 41
 Lupus of Ferrières, 41
 Lyon, Jonathan R., 9
- Mâcon, 2
 Magno, 152
 Mainulf of Bodeken, Saint, 198
 Mainz, 20, 132–34, 164–65
 Malachi, 86
 Manasseh, 72, 78, 88, 92
 Marcellinus, St., 164
 Marchard, 164–65
 marriage, x, 1, 8, 13, 32–34, 48–49, 57–59, 67, 72, 80n94, 93–94, 140, 143, 168–172, 175, 177–81, 183–87, 197–202, 204–5, 207
 incestuous *see* incest
 Marmoutier, 45
 Marozia, 179
 Martha of Bethany, St., 81
 Mary, mother of Christ, 72–73
 Mary of Bethany, St., 81
 Matthew the Evangelist, St., 37, 39, 43, 73, 101, 107
 Mayer, Ernst, 54
 Maximus of Turin, 42
 Medard, St., 112–13
 Meeressen, 115–16, 194
 Metz, 33n16, 68, 184
 Milan, 25, 124, 164n67, 169, 173n86, 184n113
 Milo of Saint-Amand, 118–19
 Milogost (Milegast), prince of Obodrites, 66

- Modzelewski, Karol, 162
 monastic confraternity, 46
 Monte Cassino, 110–11, 202
 Montolieu, 45
 Moses, 69, 72, 74, 107
 mother, 30–32, 34, 39, 52, 72, 75, 87, 102,
 105, 140n5, 140n8, 141, 146n20, 149,
 152, 161n59, 165, 169–70, 172, 175,
 177–79, 184–87, 198, 200
 Mother Church, 74
 stepmother, 175
mund, 169
 Münster, 47n62, 165
- Nelson, Janet L., 119, 170
 Nicholas I, pope, 86, 131, 134,
 177, 202
 Nimrod, 86
 Nithard, 66, 68, 76–77, 91–92, 120
 Nother the Stammerer, 123
 Noyon, 112
- Obermühlheim, 164–65
 Odo, 130
 Olomund, 46
 Origen, 126
 orphan, 13, 170, 172–74, 189, 193–94
 Oschema, Karl, 51
 Otbert, 164–65
 Otgar, archbishop of Mainz, 132
 Otolh, 145n18
- Paderborn, 198
 paternal uncle, 31n9, 76, 106, 173, 185,
 190, 193–96
 conflict with nephew, 152n35, 192
 take care of nephew by, 106n16, 178,
 187, 189–91
 Paul, St., 36–38, 43, 74, 83–86, 101, 104,
 109, 115, 182
 Paul the Deacon, ix, 35n21, 189
 Paulinus, patriarch of Aquileia, 68, 200
 Paschasius Radbertus, 18, 43, 73–75, 80–81,
 87–88, 104, 107–10
 Pavia, 79, 144
philadelphia, 36–37, 101, 116n47
pietas, 36, 39
 fraterna, 30, 41
 Pippin I, king of Aquitaine, 66
 Pippin II, king of Aquitaine, 66, 193
 Pippin III the Short, king of Franks,
 65, 67n49
 Pippin, count of Vermandois, 163
 Pippin, king of Italy, 91, 144, 183, 192–93
 Pippin the Hunchback, 33n16, 82, 183
 Peter, St., 164
 Peter the Apostle, St., 37, 39,
 106–8, 116n47
 Philo of Alexandria, 124
 Plutarch of Chaeronea, 30, 36
 primogeniture, 2, 13, 53–54, 63–66, 69,
 72–73, 75–80, 82–84, 87–89, 93–94
primogenitus *see* firstborn
 privilege of primogeniture, 2–3, 13,
 54–55, 65–66, 71, 75, 78, 82, 84,
 87–89, 93–95
 Prudentius, 119
 Pseudo-Dionysius the Areopagite, 94–95
- Radcliffe-Brown, Alfred, 10
 Ranulf de Glanvill, 63
 Rapp, Claudia, 49
 Ratramnus of Corbie, 73
 Rebecca, 87–88
 Réal, Isabelle, 9
 Reginbald, chorepiscopus, 199
 Regino of Prüm, 66, 68, 132n107, 133, 163,
 167, 195
 Reichenau, 46, 191
 Remigius of Auxerre, 123, 125
 Reuben, 72, 78, 82, 88–90
 Rhein, river, 150–51
 Rhineland, 27, 133
 Rictovarus, prefect of Gaul, 105
 Rodulf (Raoul), count of Cambrai, 163
 Roman Empire, 21
 Rome, 9n27, 48, 79, 110, 122, 131–32
 Rotgaud, ix, 137, 189
 Rothari, king of Lombards, 32, 162, 182
 Rouen, 112

- Rudolph, brother of empress Judith, 137
 Ruricius of Limoges, 41
- Sahlins, Marshall, 11
 Salomon, 132
 Samuel, 157
 Samuel, prophet 93
 Saracens, 144n17, 202
 Sarah, 83–84, 182
 Saxo, 174
 Saxons, 70
 Seligenstadt, 164
 Seth, 123
 Shaw, Brent D., 50
 Schmid, Karl, 1–3, 47n62
 Schneider, Reinhard, 55, 98–101, 114, 116n47
 Schultze, Alfred, 54–55
 sister, 8–10, 13–14, 30, 37–39, 48, 57,
 80–81, 92, 102, 109, 111, 119, 122–23,
 139–40, 164, 168–69, 179, 184, 205
 half- *see* stepsister
 -in-law, ix, 189, 197, 199–200, 202–3
 stepsister, 32, 80
 Smaragdus of Saint-Mihiel, 60, 73, 113
 Sodom, 87
 Soissons, 67n49, 112
 Solomon, bishop of Konstanz, 131, 134
 Solomon, king of Israel, 38, 151
 Sölnhofen, 190
 Spain, 29
 Spoleto, 179
 St. Gallen, 25, 27, 35, 46, 69, 106n16, 140n4,
 140n5, 145n19, 176, 178, 186, 191
 Strasbourg, 131
 Sulloway, Frank J., 61–62
- Tassilo III, duke of Bavaria, 67n49
 Tellenbach, Gerd, 2
 Tertullian, 38, 47, 126, 196, 198
 Teutberga, queen, wife of Lothar II, 202
 Thegan, 68, 90–91
 Theobald, count of Arles, 32n10, 179
 Theoderada, stepsister of Adalhard of
 Corbie, 80n94
- Theodore, archbishop of Canterbury, 167
 Thionville, 115–16
 Thuringians, 110
 Tribur, 199
 Trier, 191
 Tunna, 175
 twins, 35, 85
- unigenitus*, 54, 68
- Veleti, 66
 vengeance *see* feud
 Verdun, treaty of, 77
 Vermand, 112
- Wala, abbot of Corbie and Corvey, 80n93,
 80n94, 81, 109, 137
 Walafrid Strabo, 123
 Walburga, St., 111
 Waldrada, 32n10, 179
wergild, 57, 127–29, 160–62, 164–65
 widow, 72, 78, 169, 175, 179, 197–98, 203
 Wielers, Margaret, 99
 wife, ix, 33n16, 39, 58, 72, 78, 80, 82, 131,
 134, 156n47, 161n59, 169, 175–76,
 178–80, 184, 189, 197, 199–200, 202–3
- William of Septimania, 69, 170–71
 Willibald, 110–11
 Williramn, 164–65
 Winfrith-Boniface, archbishop of Mainz,
 St., 41
 Wormald, Patrick, 21
 Worms, 128n94, 133, 134n116, 134n117
 Würzburg, 163, 165
 Wynnebald, 110–11, 198
- Yütz, 116
- Zebedee, 108
 Zettler, Alfons, 191
 Zeumer, Karl, 27
 Znaniiecki, Florian, 9–10
 Zwentibold, king of Lotharingia,
 183n111

