Chapter 3

EQUALITY AND FRATERNAL HIERARCHIES

> Quadripartitus est autem ordo filiorum ita: unigenitus, primogenitus, medius, novissimus. Primogenitus, ante quem nullus: unigenitus, post quem nullus: medius, inter omnes: novissimus, post omnes.
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> 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 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 Mayer[2]), 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.

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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 Brown[7]) 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 victim[9]) 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 Longobardii*, chap. 167, p. 46; *Liutprandi leges*, in *Le leggi dei Longobardi*, chap. 70, p. 162; *Leges Alamannorum*, chap. 85, p. 149; *Lex Baiwariorum*, 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, unusqisque 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 Ribuaria*, 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 Baiwariorum*, 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 forsitans quiscumque secundam aut tertiam mulierem duxerit, et habuerit filius et de anteriorem 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 fuissit."

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 Merowingici 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]

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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 Africa[28] and indigenous inhabitants of Taiwan[29] 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.

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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 amorphic 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]

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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 mêsouvent 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 totalment 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).

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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*; Bührer-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 apellabatur."[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 langue 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 Israhel 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.

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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, *bĕkōr*, 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.

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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.

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77 Beda Venerabilis, *In Lucae euangelium expositio*.

78 Paschasius Radbertus, *De partu virginis*, lib. 1, vv. 539–93, p. 64; Rabanus Maurus, *Expositio in Matthaeum*, 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. Ambrose[82] 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 divinitatem. 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 Matthaeum*, 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 divi 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 evangelii 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.

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83 Paschasius Radbertus, *De partu virginis*, lib. 1, vv. 481–92: "Alioquin si litteram sequimur quomodo sanctus erat omnis masculus aperiens uuluam, cum multos sceleratissimos fuisse non lateat? Numquid sanctus Achab, aut Ioram, seu caeteri? Numquid sancti pseudoprophetae, quos ad Heliae preces ultor caelestis iniuriae ignis absumsit? Non utique; sed in sacramento futurae praefigurationis uocabantur sancti, cum non essent, donec ueniret Christus essentialiter sanctus, qui et sponsae suae uuluam 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 octaui diei in Ierusalem, ut in eo condonetur et offeratur omnis adoptio filiorum Dei. In eo namque quod lex ait: Omne masculinum adaperiens uuluam sanctum Domino uocabitur, promittebatur uirginis partus uere sanctus quia inmaculatus qui aperiret uuluam 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 uuluam, 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. Spiritaliter 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."

Ius 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 pendentes 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 concrederent."

> 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 Adelgarium … ad Lodharium direxit, mandans ac deprecans, ut memor sit sacramentorum. quae inter se iuraverant, et servet, quae inter illos pater statuerat; insuper etiam fraternae filiolique 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

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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 panegyrical 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.

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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 *vitae* 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 doughters 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]

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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 sesqualterae quantitatis, 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 pyramydem 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 officiis, 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 utrique par jugum monasticae disciplinae trahunt. In omnibus igitur vestiti duplicibus, in omnibus consoni et concordes 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 dispares videbantur, quod ille egregium in se omnibus representabat patrem, iste autem discipulum monastice discipline et carissimum in omni subiectione filium … verum in omni imperio regni sic emicuit et resplenduit, quasi videres duo caeli luminaria ubigue 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, its 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. Jerome[103] and St. Augustine,[104] also explained

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

102 Alcuinus, *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 Maurus[107] 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]

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105 Alcuinus, *Interrogationes et Responsiones in Genesin*, 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]

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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 libi 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]

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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 Responsiones in Genesin*, 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 Responsiones in Genesin*, 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 Genesin*, col. 232: "Est autem sensus hic: tu es primogenitus, major in liberis, et debebas ordine nativitatis tuae haereditatem, quae primogenitis jure debebatur, sacerdotium accipere et regnum: hoc quippe importat honorem, et praevalidum robur quod monstrat. Dicamus per singula manifestius; patet litterae sensus. Quia beatus Jacob primum filium Ruben ex Lia uxore sua susceperit, 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 seniorem 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 Israelem 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-Minkenberg 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.

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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.