

THE OMNIBUS  
HOMO  
SACER

GIORGIO AGAMBEN

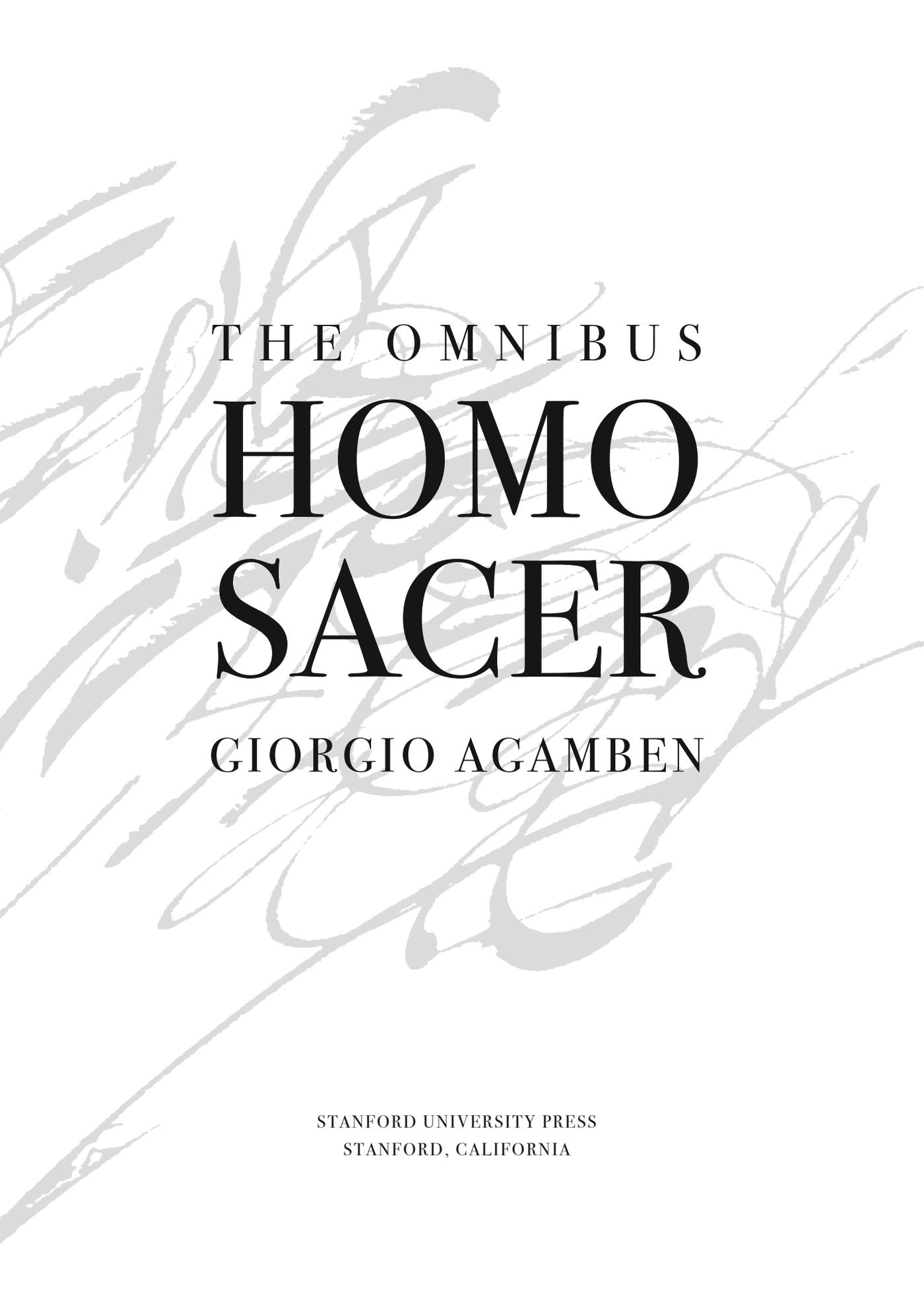
# THE OMNIBUS HOMO SACER



MERIDIAN

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*Crossing Aesthetics*



THE OMNIBUS

HOMO  
SACER

GIORGIO AGAMBEN

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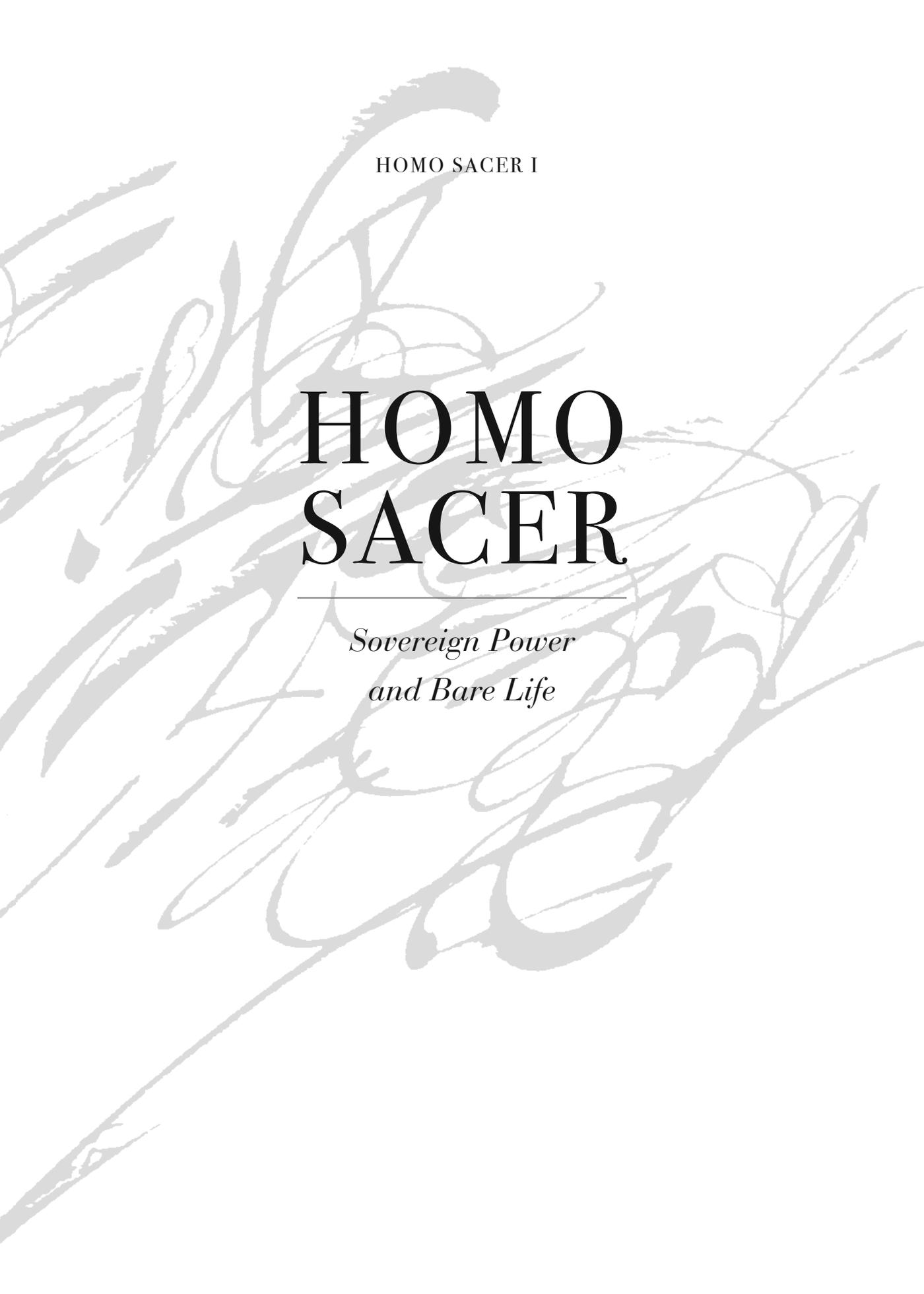
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# THE OMNIBUS HOMO SACER





HOMO SACER I

# HOMO SACER

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*Sovereign Power  
and Bare Life*

TRANSLATED BY DANIEL HELLER-ROAZEN

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Das Recht hat kein Dasein für sich, sein Wesen vielmehr ist das Leben der Menschen selbst, von einer Seite angesehen.

—Savigny

Law has no existence for itself; rather its essence lies, from a certain perspective, in the very life of men.

Ita in iure civitatis, civiumque officiis investigandis opus est, non quidem ut dissolvatur civitas, sed tamen ut tanquam dissoluta consideretur, id est, ut qualis sit natura humana, quibus rebus ad civitatem compaginandam apta vel inepta sit, et quomodo homines inter se componi debeant, qui coalescere volunt, recte intelligatur.

—Hobbes

To make a more curious search into the rights of States, and duties of Subjects, it is necessary, (I say not to take them in sunder, but yet that) they be so considered, as if they were dissolved, (i.e.) that wee rightly understand what the quality of humane nature is, in what matters it is, in what not fit to make up a civill government, and how men must be agreed among themselves, that intend to grow up into a well-grounded State.

Euretē moi hē entolē hē eis zōēn, autē eis thanaton.

—Saint Paul

And the commandment, which was ordained to life, I found to be unto death.

# Introduction

---

THE Greeks had no single term to express what we mean by the word “life.” They used two terms that, although traceable to a common etymological root, are semantically and morphologically distinct: *zoē*, which expressed the simple fact of living common to all living beings (animals, men, or gods), and *bios*, which indicated the form or way of living proper to an individual or a group. When Plato mentions three kinds of life in the *Philebus*, and when Aristotle distinguishes the contemplative life of the philosopher (*bios theōrētikos*) from the life of pleasure (*bios apolaustikos*) and the political life (*bios politikos*) in the *Nichomachean Ethics*, neither philosopher would ever have used the term *zoē* (which in Greek, significantly enough, lacks a plural). This follows from the simple fact that what was at issue for both thinkers was not at all simple natural life but rather a qualified life, a particular way of life. Concerning God, Aristotle can certainly speak of a *zoē aristē kai aidios*, a more noble and eternal life (*Metaphysics*, 1072b, 28), but only insofar as he means to underline the significant truth that even God is a living being (similarly, Aristotle uses the term *zoē* in the same context—and in a way that is just as meaningful—to define the act of thinking). But to speak of a *zoē politikē* of the citizens of Athens would have made no sense. Not that the classical world had no familiarity with the idea that natural life, simple *zoē* as such, could be a good in itself. In a passage of the *Politics*, after noting that the end of the city is life according to the good, Aristotle expresses his awareness of that idea with the most perfect lucidity:

This [life according to the good] is the greatest end both in common for all men and for each man separately. But men also come together and maintain the political community in view of simple living, because there is probably some kind of good in the mere fact of living itself [*kata to zēn auto monon*]. If there is no great difficulty as to the way of life [*kata ton bion*] [clearly most men will tolerate much suffering and hold on to life [*zoē*] as if it were a kind of serenity [*euēmeria*, beautiful day] and a natural sweetness. (1278b, 23–31)

In the classical world, however, simple natural life is excluded from the *polis* in the strict sense, and remains confined—as merely reproductive life—to the sphere of the *oikos*, “home” (*Politics*, 1252a, 26–35). At the beginning of the *Politics*, Aristotle takes the greatest care to distinguish the *oikonomos* (the head of an estate) and the *despotēs* (the head of the family), both of whom are concerned with the reproduction and the subsistence of life, from the politician, and he scorns those who think the difference between the two is one of quantity and not of kind. And when Aristotle defined the end of the perfect community in a passage that was to become canonical for the political tradition of the West (1252b, 30), he did so precisely by opposing the simple fact of living (*to zēn*) to politically qualified life (*to eu zēn*): *ginomenē men oun tou zēn heneken, ousa de tou eu zēn*, “born with regard to life, but existing essentially with regard to the good life” (in the Latin translation of William of Moerbeke, which both Aquinas and Marsilius of Padua had before them: *facta quidem igitur vivendi gratia, existens autem gratia bene vivendi*).

It is true that in a famous passage of the same work, Aristotle defines man as a *politikon zōon* (*Politics*, 1253a, 4). But here (aside from the fact that in Attic Greek the verb *bionai* is practically never used in the present tense), “political” is not an attribute of the living being as such, but rather a specific difference that determines the genus *zōon*. (Only a little later, after all, human politics is distinguished from that of other living beings in that it is founded, through a supplement of politicity [*policitAa*] tied to language, on a community not simply of the pleasant and the painful but of the good and the evil and of the just and the unjust.)

Michel Foucault refers to this very definition when, at the end of the first volume of *The History of Sexuality*, he summarizes the process by which, at the threshold of the modern era, natural life begins to be included in the mechanisms and calculations of State power, and politics turns into *biopolitics*. “For millennia,” he writes, “man remained what he was for Aristotle: a living animal with the additional capacity for political existence; modern man is an animal whose politics calls his existence as a living being into question” (*La volonté*, p. 188).

According to Foucault, a society’s “threshold of biological modernity” is situated at the point at which the species and the individual as a simple living body become what is at stake in a society’s political strategies. After 1977, the courses at the Collège de France start to focus on the passage from the “territorial State” to the “State of population” and on the resulting increase in importance of the nation’s health and biological life as a problem of sovereign power, which is then gradually transformed into a “government of men” (*Dits et écrits*, 3: 719). “What follows is a kind of bestialization of man achieved through the most sophisti-

cated political techniques. For the first time in history, the possibilities of the social sciences are made known, and at once it becomes possible both to protect life and to authorize a holocaust.” In particular, the development and triumph of capitalism would not have been possible, from this perspective, without the disciplinary control achieved by the new bio-power, which, through a series of appropriate technologies, so to speak, created the “docile bodies” that it needed.

Almost twenty years before *The History of Sexuality*, Hannah Arendt had already analyzed the process that brings *homo laborans*—and, with it, biological life as such—gradually to occupy the very center of the political scene of modernity. In *The Human Condition*, Arendt attributes the transformation and decadence of the political realm in modern societies to this very primacy of natural life over political action. That Foucault was able to begin his study of biopolitics with no reference to Arendt’s work (which remains, even today, practically without continuation) bears witness to the difficulties and resistances that thinking had to encounter in this area. And it is most likely these very difficulties that account for the curious fact that Arendt establishes no connection between her research in *The Human Condition* and the penetrating analyses she had previously devoted to totalitarian power (in which a biopolitical perspective is altogether lacking), and that Foucault, in just as striking a fashion, never dwelt on the exemplary places of modern biopolitics: the concentration camp and the structure of the great totalitarian states of the twentieth century.

Foucault’s death kept him from showing how he would have developed the concept and study of biopolitics. In any case, however, the entry of *zoē* into the sphere of the *polis*—the politicization of bare life as such—constitutes the decisive event of modernity and signals a radical transformation of the political-philosophical categories of classical thought. It is even likely that if politics today seems to be passing through a lasting eclipse, this is because politics has failed to reckon with this foundational event of modernity. The “enigmas” (Furet, *L’Allemagne nazi*, p. 7) that our century has proposed to historical reason and that remain with us (Nazism is only the most disquieting among them) will be solved only on the terrain—biopolitics—on which they were formed. Only within a biopolitical horizon will it be possible to decide whether the categories whose opposition founded modern politics (right/left, private/public, absolutism/democracy, etc.)—and which have been steadily dissolving, to the point of entering today into a real zone of indistinction—will have to be abandoned or will, instead, eventually regain the meaning they lost in that very horizon. And only a reflection that, taking up Foucault’s and Benjamin’s suggestion, thematically interrogates the link between bare life and politics, a link

that secretly governs the modern ideologies seemingly most distant from one another, will be able to bring the political out of its concealment and, at the same time, return thought to its practical calling.

One of the most persistent features of Foucault's work is its decisive abandonment of the traditional approach to the problem of power, which is based on juridico-institutional models (the definition of sovereignty, the theory of the State), in favor of an unprejudiced analysis of the concrete ways in which power penetrates subjects' very bodies and forms of life. As shown by a seminar held in 1982 at the University of Vermont, in his final years Foucault seemed to orient this analysis according to two distinct directives for research: on the one hand, the study of the *political techniques* (such as the science of the police) with which the State assumes and integrates the care of the natural life of individuals into its very center; on the other hand, the examination of the *technologies of the self* by which processes of subjectivization bring the individual to bind himself to his own identity and consciousness and, at the same time, to an external power. Clearly these two lines (which carry on two tendencies present in Foucault's work from the very beginning) intersect in many points and refer back to a common center. In one of his last writings, Foucault argues that the modern Western state has integrated techniques of subjective individualization with procedures of objective totalization to an unprecedented degree, and he speaks of a real "political 'double bind,' constituted by individualization and the simultaneous totalization of structures of modern power" (*Dits et écrits*, 4: 229–32).

Yet the point at which these two faces of power converge remains strangely unclear in Foucault's work, so much so that it has even been claimed that Foucault would have consistently refused to elaborate a unitary theory of power. If Foucault contests the traditional approach to the problem of power, which is exclusively based on juridical models ("What legitimates power?") or on institutional models ("What is the State?"), and if he calls for a "liberation from the theoretical privilege of sovereignty" in order to construct an analytic of power that would not take law as its model and code, then where, in the body of power, is the zone of indistinction (or, at least, the point of intersection) at which techniques of individualization and totalizing procedures converge? And, more generally, is there a unitary center in which the political "double bind" finds its *raison d'être*? That there is a subjective aspect in the genesis of power was already implicit in the concept of *servitude volontaire* in Étienne de La Boétie. But what is the point at which the voluntary servitude of individuals comes into contact with objective power? Can one be content, in such a delicate area, with psychological explana-

tions such as the suggestive notion of a parallelism between external and internal neuroses? Confronted with phenomena such as the power of the society of the spectacle that is everywhere transforming the political realm today, is it legitimate or even possible to hold subjective technologies and political techniques apart?

Although the existence of such a line of thinking seems to be logically implicit in Foucault's work, it remains a blind spot to the eye of the researcher, or rather something like a vanishing point that the different perspectival lines of Foucault's inquiry (and, more generally, of the entire Western reflection on power) converge toward without reaching.

The present inquiry concerns precisely this hidden point of intersection between the juridico-institutional and the biopolitical models of power. What this work has had to record among its likely conclusions is precisely that the two analyses cannot be separated, and that the inclusion of bare life in the political realm constitutes the original—if concealed—nucleus of sovereign power. *It can even be said that the production of a biopolitical body is the original activity of sovereign power.* In this sense, biopolitics is at least as old as the sovereign exception. Placing biological life at the center of its calculations, the modern State therefore does nothing other than bring to light the secret tie uniting power and bare life, thereby reaffirming the bond (derived from a tenacious correspondence between the modern and the archaic which one encounters in the most diverse spheres) between modern power and the most immemorial of the *arcana imperii*.

If this is true, it will be necessary to reconsider the sense of the Aristotelian definition of the *polis* as the opposition between life (*zēn*) and good life (*eu zēn*). The opposition is, in fact, at the same time an implication of the first in the second, of bare life in politically qualified life. What remains to be interrogated in the Aristotelian definition is not merely—as has been assumed until now—the sense, the modes, and the possible articulations of the “good life” as the *telos* of the political. We must instead ask why Western politics first constitutes itself through an exclusion (which is simultaneously an inclusion) of bare life. What is the relation between politics and life, if life presents itself as what is included by means of an exclusion?

The structure of the exception delineated in the first part of this book appears from this perspective to be consubstantial with Western politics. In Foucault's statement according to which man was, for Aristotle, a “living animal with the additional capacity for political existence,” it is therefore precisely the meaning of this “additional capacity” that must be understood as problematic. The peculiar phrase “born with regard to life, but existing essentially with regard to the good life” can be read not only as an implication of being born (*ginomenē*) in being (*ousa*), but

also as an inclusive exclusion (an *exceptio*) of *zoē* in the *polis*, almost as if politics were the place in which life had to transform itself into good life and in which what had to be politicized were always already bare life. In Western politics, bare life has the peculiar privilege of being that whose exclusion founds the city of men.

It is not by chance, then, that a passage of the *Politics* situates the proper place of the *polis* in the transition from voice to language. The link between bare life and politics is the same link that the metaphysical definition of man as “the living being who has language” seeks in the relation between *phonē* and *logos*:

Among living beings, only man has language. The voice is the sign of pain and pleasure, and this is why it belongs to other living beings (since their nature has developed to the point of having the sensations of pain and pleasure and of signifying the two). But language is for manifesting the fitting and the unfitting and the just and the unjust. To have the sensation of the good and the bad and of the just and the unjust is what is proper to men as opposed to other living beings, and the community of these things makes dwelling and the city. (1253a, 10–18)

The question “In what way does the living being have language?” corresponds exactly to the question “In what way does bare life dwell in the *polis*?” The living being has *logos* by taking away and conserving its own voice in it, even as it dwells in the *polis* by letting its own bare life be excluded, as an exception, within it. Politics therefore appears as the truly fundamental structure of Western metaphysics insofar as it occupies the threshold on which the relation between the living being and the *logos* is realized. In the “politicization” of bare life—the metaphysical task *par excellence*—the humanity of living man is decided. In assuming this task, modernity does nothing other than declare its own faithfulness to the essential structure of the metaphysical tradition. The fundamental categorial pair of Western politics is not that of friend/enemy but that of bare life/political existence, *zoē/bios*, exclusion/inclusion. There is politics because man is the living being who, in language, separates and opposes himself to his own bare life and, at the same time, maintains himself in relation to that bare life in an inclusive exclusion.

The protagonist of this book is bare life, that is, the life of *homo sacer* (sacred man), who *may be killed and yet not sacrificed*, and whose essential function in modern politics we intend to assert. An obscure figure of archaic Roman law, in which human life is included in the juridical order [*ordinamento*]\* solely in the

\* “Order” renders the Italian *ordinamento*, which carries the sense not only of order but of political and juridical rule, regulation, and system. The word *ordinamento* is also the Italian translation of Carl Schmitt’s *Ordnung*. Where the author refers to *ordinamento* as *Ordnung*, the English word used is the one chosen by Schmitt’s translators, “ordering.”—Trans.

form of its exclusion (that is, of its capacity to be killed), has thus offered the key by which not only the sacred texts of sovereignty but also the very codes of political power will unveil their mysteries. At the same time, however, this ancient meaning of the term *sacer* presents us with the enigma of a figure of the sacred that, before or beyond the religious, constitutes the first paradigm of the political realm of the West. The Foucauldian thesis will then have to be corrected or, at least, completed, in the sense that what characterizes modern politics is not so much the inclusion of *zoē* in the *polis*—which is, in itself, absolutely ancient—nor simply the fact that life as such becomes a principal object of the projections and calculations of State power. Instead the decisive fact is that, together with the process by which the exception everywhere becomes the rule, the realm of bare life—which is originally situated at the margins of the political order—gradually begins to coincide with the political realm, and exclusion and inclusion, outside and inside, *bios* and *zoē*, right and fact, enter into a zone of irreducible indistinction. At once excluding bare life from and capturing it within the political order, the state of exception actually constituted, in its very separateness, the hidden foundation on which the entire political system rested. When its borders begin to be blurred, the bare life that dwelt there frees itself in the city and becomes both subject and object of the conflicts of the political order, the one place for both the organization of State power and emancipation from it. Everything happens as if, along with the disciplinary process by which State power makes man as a living being into its own specific object, another process is set in motion that in large measure corresponds to the birth of modern democracy, in which man as a living being presents himself no longer as an *object* but as the *subject* of political power. These processes—which in many ways oppose and (at least apparently) bitterly conflict with each other—nevertheless converge insofar as both concern the bare life of the citizen, the new biopolitical body of humanity.

If anything characterizes modern democracy as opposed to classical democracy, then, it is that modern democracy presents itself from the beginning as a vindication and liberation of *zoē*, and that it is constantly trying to transform its own bare life into a way of life and to find, so to speak, the *bios* of *zoē*. Hence, too, modern democracy's specific aporia: it wants to put the freedom and happiness of men into play in the very place—"bare life"—that marked their subjection. Behind the long, strife-ridden process that leads to the recognition of rights and formal liberties stands once again the body of the sacred man with his double sovereign, his life that cannot be sacrificed yet may, nevertheless, be killed. To become conscious of this aporia is not to belittle the conquests and accomplish-

ments of democracy. It is, rather, to try to understand once and for all why democracy, at the very moment in which it seemed to have finally triumphed over its adversaries and reached its greatest height, proved itself incapable of saving *zoē*, to whose happiness it had dedicated all its efforts, from unprecedented ruin. Modern democracy's decadence and gradual convergence with totalitarian states in post-democratic spectacular societies (which begins to become evident with Alexis de Tocqueville and finds its final sanction in the analyses of Guy Debord) may well be rooted in this aporia, which marks the beginning of modern democracy and forces it into complicity with its most implacable enemy. Today politics knows no value (and, consequently, no nonvalue) other than life, and until the contradictions that this fact implies are dissolved, Nazism and fascism—which transformed the decision on bare life into the supreme political principle—will remain stubbornly with us. According to the testimony of Robert Antelme, in fact, what the camps taught those who lived there was precisely that “calling into question the quality of man provokes an almost biological assertion of belonging to the human race” (*L'espèce humaine*, p. 11).

The idea of an inner solidarity between democracy and totalitarianism (which here we must, with every caution, advance) is obviously not (like Leo Strauss's thesis concerning the secret convergence of the final goals of liberalism and communism) a historiographical claim, which would authorize the liquidation and leveling of the enormous differences that characterize their history and their rivalry. Yet this idea must nevertheless be strongly maintained on a historico-philosophical level, since it alone will allow us to orient ourselves in relation to the new realities and unforeseen convergences of the end of the millennium. This idea alone will make it possible to clear the way for the new politics, which remains largely to be invented.

In contrasting the “beautiful day” (*euēmeria*) of simple life with the “great difficulty” of political *bios* in the passage cited above, Aristotle may well have given the most beautiful formulation to the aporia that lies at the foundation of Western politics. The twenty-four centuries that have since gone by have brought only provisional and ineffective solutions. In carrying out the metaphysical task that has led it more and more to assume the form of a biopolitics, Western politics has not succeeded in constructing the link between *zoē* and *bios*, between voice and language, that would have healed the fracture. Bare life remains included in politics in the form of the exception, that is, as something that is included solely through an exclusion. How is it possible to “politicize” the “natural sweetness” of *zoē*? And first of all, does *zoē* really need to be politicized, or is politics not already contained in *zoē* as its most precious center? The biopolitics of both modern

totalitarianism and the society of mass hedonism and consumerism certainly constitute answers to these questions. Nevertheless, until a completely new politics—that is, a politics no longer founded on the *exceptio* of bare life—is at hand, every theory and every praxis will remain imprisoned and immobile, and the “beautiful day” of life will be given citizenship only either through blood and death or in the perfect senselessness to which the society of the spectacle condemns it.

Carl Schmitt’s definition of sovereignty (“Sovereign is he who decides on the state of exception”) became a commonplace even before there was any understanding that what was at issue in it was nothing less than the limit concept of the doctrine of law and the State, in which sovereignty borders (since every limit concept is always the limit between two concepts) on the sphere of life and becomes indistinguishable from it. As long as the form of the State constituted the fundamental horizon of all communal life and the political, religious, juridical, and economic doctrines that sustained this form were still strong, this “most extreme sphere” could not truly come to light. The problem of sovereignty was reduced to the question of who within the political order was invested with certain powers, and the very threshold of the political order itself was never called into question. Today, now that the great State structures have entered into a process of dissolution and the emergency has, as Walter Benjamin foresaw, become the rule, the time is ripe to place the problem of the originary structure and limits of the form of the State in a new perspective. The weakness of anarchist and Marxian critiques of the State was precisely to have not caught sight of this structure and thus to have quickly left the *arcanum imperii* aside, as if it had no substance outside of the simulacra and the ideologies invoked to justify it. But one ends up identifying with an enemy whose structure one does not understand, and the theory of the State (and in particular of the state of exception, which is to say, of the dictatorship of the proletariat as the transitional phase leading to the stateless society) is the reef on which the revolutions of our century have been shipwrecked.

This book, which was originally conceived as a response to the bloody mystification of a new planetary order, therefore had to reckon with problems—first of all that of the sacredness of life—which the author had not, in the beginning, foreseen. In the course of the undertaking, however, it became clear that one cannot, in such an area, accept as a guarantee any of the notions that the social sciences (from jurisprudence to anthropology) thought they had defined or presupposed as evident, and that many of these notions demanded—in the urgency of catastrophe—to be revised without reserve.

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PART ONE

# The Logic of Sovereignty

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# The Paradox of Sovereignty

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**1.1.** The paradox of sovereignty consists in the fact the sovereign is, at the same time, outside and inside the juridical order. If the sovereign is truly the one to whom the juridical order grants the power of proclaiming a state of exception and, therefore, of suspending the order's own validity, then "the sovereign stands outside the juridical order and, nevertheless, belongs to it, since it is up to him to decide if the constitution is to be suspended *in toto*" (Schmitt, *Politische Theologie*, p. 13). The specification that the sovereign is "*at the same time* outside and inside the juridical order" (emphasis added) is not insignificant: the sovereign, having the legal power to suspend the validity of the law, legally places himself outside the law. This means that the paradox can also be formulated this way: "the law is outside itself," or: "I, the sovereign, who am outside the law, declare that there is nothing outside the law [*che non c'è un fuori legge*]."

The topology implicit in the paradox is worth reflecting upon, since the degree to which sovereignty marks the limit (in the double sense of end and principle) of the juridical order will become clear only once the structure of the paradox is grasped. Schmitt presents this structure as the structure of the exception (*Ausnahme*):

The exception is that which cannot be subsumed; it defies general codification, but it simultaneously reveals a specifically juridical formal element: the decision in absolute purity. The exception appears in its absolute form when it is a question of creating a situation in which juridical rules can be valid. Every general rule demands a regular, everyday frame of life to which it can be factually applied and which is submitted to its regulations. The rule requires a homogeneous medium. This factual regularity is not merely an "external presupposition" that the jurist can ignore; it belongs, rather, to the rule's immanent validity. There is no rule that is applicable to chaos. Order must be established for juridical order to make sense. A regular situation must be created, and sovereign is he who definitely decides if this situation is actually effective. All law is "situational law." The sovereign creates and guarantees the situation as a whole in its totality. He has the monopoly over the final decision. Therein consists the essence of State sovereignty, which

must therefore be properly juridically defined not as the monopoly to sanction or to rule but as the monopoly to decide, where the word “monopoly” is used in a general sense that is still to be developed. The decision reveals the essence of State authority most clearly. Here the decision must be distinguished from the juridical regulation, and (to formulate it paradoxically) authority proves itself not to need law to create law. . . . The exception is more interesting than the regular case. The latter proves nothing; the exception proves everything. The exception does not only confirm the rule; the rule as such lives off the exception alone. A Protestant theologian who demonstrated the vital intensity of which theological reflection was still capable in the nineteenth century said: “The exception explains the general and itself. And when one really wants to study the general, one need only look around for a real exception. It brings everything to light more clearly than the general itself. After a while, one becomes disgusted with the endless talk about the general—there are exceptions. If they cannot be explained, then neither can the general be explained. Usually the difficulty is not noticed, since the general is thought about not with passion but only with comfortable superficiality. The exception, on the other hand, thinks the general with intense passion.” (*Politische Theologie*, pp. 19–22)

It is not by chance that in defining the exception Schmitt refers to the work of a theologian (who is none other than Søren Kierkegaard). Giambattista Vico had, to be sure, affirmed the superiority of the exception, which he called “the ultimate configuration of facts,” over positive law in a way which was not so dissimilar: “An esteemed jurist is, therefore, not someone who, with the help of a good memory, masters positive law [or the general complex of laws], but rather someone who, with sharp judgment, knows how to look into cases and see the ultimate circumstances of facts that merit equitable consideration and exceptions from general rules” (*De antiquissima*, chap. 2). Yet nowhere in the realm of the juridical sciences can one find a theory that grants such a high position to the exception. For what is at issue in the sovereign exception is, according to Schmitt, the very condition of possibility of juridical rule and, along with it, the very meaning of State authority. Through the state of exception, the sovereign “creates and guarantees the situation” that the law needs for its own validity. But what is this “situation,” what is its structure, such that it consists in nothing other than the suspension of the rule?

✠ The Vichian opposition between positive law (*ius theticum*) and exception well expresses the particular status of the exception. The exception is an element in law that transcends positive law in the form of its suspension. The exception is to positive law what negative theology is to positive theology. While the latter affirms and predicates determinate qualities of God, negative (or mystical) theology, with its “neither . . . nor . . .” negates

and suspends the attribution to God of any predicate whatsoever. Yet negative theology is not outside theology and can actually be shown to function as the principle grounding the possibility in general of anything like a theology. Only because it has been negatively presupposed as what subsists outside any possible predicate can divinity become the subject of a predication. Analogously, only because its validity is suspended in the state of exception can positive law define the normal case as the realm of its own validity.

1.2. The exception is a kind of exclusion. What is excluded from the general rule is an individual case. But the most proper characteristic of the exception is that what is excluded in it is not, on account of being excluded, absolutely without relation to the rule. On the contrary, what is excluded in the exception maintains itself in relation to the rule in the form of the rule's suspension. *The rule applies to the exception in no longer applying, in withdrawing from it.* The state of exception is thus not the chaos that precedes order but rather the situation that results from its suspension. In this sense, the exception is truly, according to its etymological root, *taken outside (ex-capere)*, and not simply excluded.

It has often been observed that the juridico-political order has the structure of an inclusion of what is simultaneously pushed outside. Gilles Deleuze and Félix Guattari were thus able to write, "Sovereignty only rules over what it is capable of interiorizing" (Deleuze and Guattari, *Mille plateaux*, p. 445); and, concerning the "great confinement" described by Foucault in his *Madness and Civilization*, Maurice Blanchot spoke of society's attempt to "confine the outside" (*enfermer le dehors*), that is, to constitute it in an "interiority of expectation or of exception." Confronted with an excess, the system interiorizes what exceeds it through an interdiction and in this way "designates itself as exterior to itself" (*L'entrelien infini*, p. 292). The exception that defines the structure of sovereignty is, however, even more complex. Here what is outside is included not simply by means of an interdiction or an internment, but rather by means of the suspension of the juridical order's validity—by letting the juridical order, that is, withdraw from the exception and abandon it. The exception does not subtract itself from the rule; rather, the rule, suspending itself, gives rise to the exception and, maintaining itself in relation to the exception, first constitutes itself as a rule. The particular "force" of law consists in this capacity of law to maintain itself in relation to an exteriority. We shall give the name *relation of exception* to the extreme form of relation by which something is included solely through its exclusion.

The situation created in the exception has the peculiar characteristic that it cannot be defined either as a situation of fact or as a situation of right, but instead institutes a paradoxical threshold of indistinction between the two. It is

not a fact, since it is only created through the suspension of the rule. But for the same reason, it is not even a juridical case in point, even if it opens the possibility of the force of law. This is the ultimate meaning of the paradox that Schmitt formulates when he writes that the sovereign decision “proves itself not to need law to create law.” What is at issue in the sovereign exception is not so much the control or neutralization of an excess as the creation and definition of the very space in which the juridico-political order can have validity. In this sense, the sovereign exception is the fundamental localization (*Ortung*), which does not limit itself to distinguishing what is inside from what is outside but instead traces a threshold (the state of exception) between the two, on the basis of which outside and inside, the normal situation and chaos, enter into those complex topological relations that make the validity of the juridical order possible.

The “ordering of space” that is, according to Schmitt, constitutive of the sovereign *nomos* is therefore not only a “taking of land” (*Landesnahme*)—the determination of a juridical and a territorial ordering (of an *Ordnung* and an *Ortung*)—but above all a “taking of the outside,” an exception (*Ausnahme*).

✠ Since “there is no rule that is applicable to chaos,” chaos must first be included in the juridical order through the creation of a zone of indistinction between outside and inside, chaos and the normal situation—the state of exception. To refer to something, a rule must both presuppose and yet still establish a relation with what is outside relation (the nonrelational). The relation of exception thus simply expresses the originary formal structure of the juridical relation. In this sense, the sovereign decision on the exception is the originary juridico-political structure on the basis of which what is included in the juridical order and what is excluded from it acquire their meaning. In its archetypal form, the state of exception is therefore the principle of every juridical localization, since only the state of exception opens the space in which the determination of a certain juridical order and a particular territory first becomes possible. As such, the state of exception itself is thus essentially unlocalizable (even if definite spatiotemporal limits can be assigned to it from time to time).

The link between localization (*Ortung*) and ordering (*Ordnung*) constitutive of the “*nomos* of the earth” (Schmitt, *Das Nomos*, p. 48) is therefore even more complex than Schmitt maintains and, at its center, contains a fundamental ambiguity, an unlocalizable zone of indistinction or exception that, in the last analysis, necessarily acts against it as a principle of its infinite dislocation. One of the theses of the present inquiry is that in our age, the state of exception comes more and more to the foreground as the fundamental political structure and ultimately begins to become the rule. When our age tried to grant the unlocalizable a permanent and visible localization, the result was the concentration camp. The camp—and not the prison—is the space that corresponds to this originary structure of the *nomos*. This is shown, among other things, by the fact that while prison law only constitutes a particular sphere of penal law and is not outside the normal order,

the juridical constellation that guides the camp is (as we shall see) martial law and the state of siege. This is why it is not possible to inscribe the analysis of the camp in the trail opened by the works of Foucault, from *Madness and Civilization* to *Discipline and Punish*. As the absolute space of exception, the camp is topologically different from a simple space of confinement. And it is this space of exception, in which the link between localization and ordering is definitively broken, that has determined the crisis of the old “*nomos* of the earth.”

1.3. The validity of a juridical rule does not coincide with its application to the individual case in, for example, a trial or an executive act. On the contrary, the rule must, precisely insofar as it is general, be valid independent of the individual case. Here the sphere of law shows its essential proximity to that of language. Just as in an occurrence of actual speech, a word acquires its ability to denote a segment of reality only insofar as it is also meaningful in its own not-denoting (that is, as *langue* as opposed to *parole*, as a term in its mere lexical consistency, independent of its concrete use in discourse), so the rule can refer to the individual case only because it is in force, in the sovereign exception, as pure potentiality in the suspension of every actual reference. And just as language presupposes the nonlinguistic as that with which it must maintain itself in a virtual relation (in the form of a *langue* or, more precisely, a grammatical game, that is, in the form of a discourse whose actual denotation is maintained in infinite suspension) so that it may later denote it in actual speech, so the law presupposes the nonjuridical (for example, mere violence in the form of the state of nature) as that with which it maintains itself in a potential relation in the state of exception. *The sovereign exception (as zone of indistinction between nature and right) is the presupposition of the juridical reference in the form of its suspension.* Inscribed as a presupposed exception in every rule that orders or forbids something (for example, in the rule that forbids homicide) is the pure and unsanctionable figure of the offense that, in the normal case, brings about the rule’s own transgression (in the same example, the killing of a man not as natural violence but as sovereign violence in the state of exception).

✠ Hegel was the first to truly understand the presuppositional structure thanks to which language is at once outside and inside itself and the immediate (the nonlinguistic) reveals itself to be nothing but a presupposition of language. “Language,” he wrote in the *Phenomenology of Spirit*, “is the perfect element in which interiority is as external as exteriority is internal” (see *Phänomenologie des Geistes*, pp. 527–29). We have seen that only the sovereign decision on the state of exception opens the space in which it is possible to trace borders between inside and outside and in which determinate rules can be assigned to determinate territories. In exactly the same way, only language as the pure potentiality

to signify, withdrawing itself from every concrete instance of speech, divides the linguistic from the nonlinguistic and allows for the opening of areas of meaningful speech in which certain terms correspond to certain denotations. Language is the sovereign who, in a permanent state of exception, declares that there is nothing outside language and that language is always beyond itself. The particular structure of law has its foundation in this presuppositional structure of human language. It expresses the bond of inclusive exclusion to which a thing is subject because of the fact of being in language, of being named. To speak [*dire*] is, in this sense, always to “speak the law,” *ius dicere*.

1.4. From this perspective, the exception is situated in a symmetrical position with respect to the example, with which it forms a system. Exception and example constitute the two modes by which a set tries to found and maintain its own coherence. But while the exception is, as we saw, an *inclusive exclusion* (which thus serves to include what is excluded), the example instead functions as an *exclusive inclusion*. Take the case of the grammatical example (Milner, “L’exemple,” p. 176): the paradox here is that a single utterance in no way distinguished from others of its kind is isolated from them precisely insofar as it belongs to them. If the syntagm “I love you” is uttered as an example of a performative speech act, then this syntagm both cannot be understood as in a normal context and yet still must be treated as a real utterance in order for it to be taken as an example. What the example shows is its belonging to a class, but for this very reason the example steps out of its class in the very moment in which it exhibits and delimits it (in the case of a linguistic syntagm, the example thus *shows* its own signifying and, in this way, suspends its own meaning). If one now asks if the rule applies to the example, the answer is not easy, since the rule applies to the example only as to a normal case and obviously not as to an example. The example is thus excluded from the normal case not because it does not belong to it but, on the contrary, because it exhibits its own belonging to it. The example is truly a *paradigm* in the etymological sense: it is what is “shown beside,” and a class can contain everything except its own paradigm.

The mechanism of the exception is different. While the example is excluded from the set insofar as it belongs to it, the exception is included in the normal case precisely because it does not belong to it. And just as belonging to a class can be shown only by an example—that is, outside of the class itself—so non-belonging can be shown only at the center of the class, by an exception. In every case (as is shown by the dispute between anomalists and analogists among the ancient grammarians), exception and example are correlative concepts that are ultimately indistinguishable and that come into play every time the very sense of the belonging and commonality of individuals is to be defined. In every

logical system, just as in every social system, the relation between outside and inside, strangeness and intimacy, is this complicated.

✠ The *exceptio* of Roman court law well shows this particular structure of the exception. The *exceptio* is an instrument of the defendant's defense that, in the case of a judgment, functions to neutralize the conclusiveness of the grounds proffered by the plaintiff and thus to render the normal application of the *ius civile* impossible. The Romans saw it as a form of exclusion directed at the application of the *ius civile* (*Digesta*, 44. 1. 2; Ulpianus, 74: *Exceptio dicta est quasi quaedam exclusio, quae opponi actioni solet ad excludendum id, quod in intentionem condemnationemve deductum est*, "It is said to be an exception because it is almost a kind of exclusion, a kind of exclusion that is usually opposed to the trial in order to exclude what was argued in the *intentio* and the *condemnatio*"). In this sense, the *exceptio* is not absolutely outside the law, but rather shows a contrast between two juridical demands, a contrast that in Roman law refers back to the opposition between *ius civile* and *ius honorarium*, that is, to the law introduced by the magistrate to temper the excessive generality of the norms of civil law.

In its technical expression in the law of the Roman court, the *exceptio* thus takes the form of a conditional negative clause inserted between the *intentio* and the *condemnatio*, by means of which the condemnation of the defendant is subordinated to the nonexistence of the fact excepted by both *intentio* and *condemnatio* (for example: *si in ea re nihil malo A. Agerii factum sit neque fiat*, "if there has not been malice"). The case of the exception is thus excluded from the application of the *ius civile* without, however, thereby calling into question the belonging of the case in point to the regulative provision. The sovereign exception represents a further dimension: it displaces a contrast between two juridical demands into a limit relation between what is inside and what is outside the law.

It may seem incongruous to define the structure of sovereign power, with its cruel factual implications, by means of two innocuous grammatical categories. Yet there is a case in which the linguistic example's decisive character and ultimate indistinguishability from the exception show an unmistakable involvement with the power of life and death. We refer to the episode in *Judges* 12: 6 in which the Galatians recognize the fleeing Ephraimites, who are trying to save themselves beyond the Jordan, by asking them to pronounce the word "Shibboleth," which the Ephraimites pronounce "Sibboleth" ("The men of Gilead said unto him, 'Art thou an Ephraimite?' If he said, 'Nay'; then they said unto him, 'Say now Shibboleth': and he said Sibboleth: for he could not frame to pronounce it right. Then they took him, and slew him at the passages of Jordan"). In the Shibboleth, example and exception become indistinguishable: "Shibboleth" is an exemplary exception or an example that functions as an exception. (In this sense, it is not surprising that there is a predilection to resort to exemplary punishment in the state of exception.)

1.5. Set theory distinguishes between membership and inclusion. A term is included when it is part of a set in the sense that all of its elements are elements

of that set (one then says that  $b$  is a subset of  $a$ , and one writes it  $b \subset a$ ). But a term may be a member of a set without being included in it (membership is, after all, the primitive notion of set theory, which one writes  $b \in a$ ), or, conversely, a term may be included in a set without being one of its members. In a recent book, Alain Badiou has developed this distinction in order to translate it into political terms. Badiou has membership correspond to presentation, and inclusion correspond to representation (re-presentation). One then says that a term *is a member of* a situation (in political terms, these are single individuals insofar as they belong to a society). And one says that a term is *included* in a situation if it is represented in the metastructure (the State) in which the structure of the situation is counted as one term (individuals insofar as they are recodified by the State into classes, for example, or into “electorates”). Badiou defines a term as *normal* when it is both presented and represented (that is, when it both is a member and is included), as *excrecent* when it is represented but not presented (that is, when it is included in a situation without being a member of that situation), and as *singular* when it is presented but not represented (a term that is a member without being included) (*L'être*, pp. 95–115).

What becomes of the exception in this scheme? At first glance, one might think that it falls into the third case, that the exception, in other words, embodies a kind of membership without inclusion. And this is certainly Badiou's position. But what defines the character of the sovereign claim is precisely that it applies to the exception in no longer applying to it, that it includes what is outside itself. The sovereign exception is thus the figure in which singularity is represented as such, which is to say, insofar as it is unrepresentable. What cannot be included in any way is included in the form of the exception. In Badiou's scheme, the exception introduces a fourth figure, a threshold of indistinction between excrecence (representation without presentation) and singularity (presentation without representation), something like a paradoxical inclusion of membership itself. *The exception is what cannot be included in the whole of which it is a member and cannot be a member of the whole in which it is always already included.* What emerges in this limit figure is the radical crisis of every possibility of clearly distinguishing between membership and inclusion, between what is outside and what is inside, between exception and rule.

✠ Badiou's thought is, from this perspective, a rigorous thought of the exception. His central category of the event corresponds to the structure of the exception. Badiou defines the event as an element of a situation such that its membership in the situation is undecidable from the perspective of the situation. To the State, the event thus necessarily appears as an excrecence. According to Badiou, the relation between membership and

inclusion is also marked by a fundamental lack of correspondence, such that inclusion always exceeds membership (theorem of the point of excess). The exception expresses precisely this impossibility of a system's making inclusion coincide with membership, its reducing all its parts to unity.

From the point of view of language, it is possible to assimilate inclusion to sense and membership to denotation. In this way, the fact that a word always has more sense than it can actually denote corresponds to the theorem of the point of excess. Precisely this disjunction is at issue both in Claude Lévi-Strauss's theory of the constitutive excess of the signifier over the signified ("there is always a lack of equivalence between the two, which is resolvable for a divine intellect alone, and which results in the existence of a superabundance of the signifier over the signifieds on which it rests" [Introduction à Mauss, p. xlix]) and in Émile Benveniste's doctrine of the irreducible opposition between the semiotic and the semantic. The thought of our time finds itself confronted with the structure of the exception in every area. Language's sovereign claim thus consists in the attempt to make sense coincide with denotation, to stabilize a zone of indistinction between the two in which language can maintain itself in relation to its *denotata* by abandoning them and withdrawing from them into a pure *langue* (the linguistic "state of exception"). This is what deconstruction does, positing undecidables that are infinitely in excess of every possibility of signification.

1.6. This is why sovereignty presents itself in Schmitt in the form of a decision on the exception. Here the decision is not the expression of the will of a subject hierarchically superior to all others, but rather represents the inscription within the body of the *nomos* of the exteriority that animates it and gives it meaning. The sovereign decides not the licit and illicit but the originary inclusion of the living in the sphere of law or, in the words of Schmitt, "the normal structuring of life relations," which the law needs. The decision concerns neither a *quaestio iuris* nor a *quaestio foeti*, but rather the very relation between law and fact. Here it is a question not only, as Schmitt seems to suggest, of the irruption of the "effective life" that, in the exception, "breaks the crust of a mechanism grown rigid through repetition" but of something that concerns the most inner nature of the law. The law has a regulative character and is a "rule" not because it commands and proscribes, but because it must first of all create the sphere of its own reference in real life and *make that reference regular*. Since the rule both stabilizes and presupposes the conditions of this reference, the originary structure of the rule is always of this kind: "If (a real case in point, e.g.: *si membrum rupsit*), then (juridical consequence, e.g.: *talio esto*)," in which a fact is included in the juridical order through its exclusion, and transgression seems to precede and determine the lawful case. That the law initially has the form of a *lex talionis* (*talio*, perhaps from *talis*, amounts to "the thing itself") means that the juridical

order does not originally present itself simply as sanctioning a transgressive fact but instead constitutes itself through the repetition of the same act without any sanction, that is, as an exceptional case. This is not a punishment of this first act, but rather represents its inclusion in the juridical order, violence as a primordial juridical fact (*permittit enim lex parem vindictam*, “for the law allows equitable vengeance” [Pompeius Festus, *De verborum significatione*, 496.15]). In this sense, the exception is the originary form of law.

The cipher of this capture of life in law is not sanction (which is not at all an exclusive characteristic of the juridical rule) but guilt (not in the technical sense that this concept has in penal law but in the originary sense that indicates a being-in-debt: *in culpa esse*), which is to say, precisely the condition of being included through an exclusion, of being in relation to something from which one is excluded or which one cannot fully assume. *Guilt refers not to transgression, that is, to the determination of the licit and the illicit, but to the pure force of the law, to the law’s simple reference to something.* This is the ultimate ground of the juridical maxim, which is foreign to all morality, according to which ignorance of the rule does not eliminate guilt. In this impossibility of deciding if it is guilt that grounds the rule or the rule that posits guilt, what comes clearly to light is the indistinction between outside and inside and between life and law that characterizes the sovereign decision on the exception. The “sovereign” structure of the law, its peculiar and original “force,” has the form of a state of exception in which fact and law are indistinguishable (yet must, nevertheless, be decided on). Life, which is thus obliged, can in the last instance be implicated in the sphere of law only through the presupposition of its inclusive exclusion, only in an *exceptio*. There is a limit-figure of life, a threshold in which life is both inside and outside the juridical order, and this threshold is the place of sovereignty.

The statement “The rule lives off the exception alone” must therefore be taken to the letter. Law is made of nothing but what it manages to capture inside itself through the inclusive exclusion of the *exceptio*: it nourishes itself on this exception and is a dead letter without it. In this sense, the law truly “has no existence in itself, but rather has its being in the very life of men.” The sovereign decision traces and from time to time renews this threshold of indistinction between outside and inside, exclusion and inclusion, *nomos* and *physis*, in which life is originary excepted in law. Its decision is the position of an undecidable.

✠ Not by chance is Schmitt’s first work wholly devoted to the definition of the juridical concept of guilt. What is immediately striking in this study is the decision with which the author refutes every technico-formal definition of the concept of guilt in favor of terms that, at first glance, seem more moral than juridical. Here, in fact, guilt is (against

the ancient juridical proverb “There is no guilt without rule”) first of all a “process of inner life,” which is to say, something essentially “intrasubjective,” which can be qualified as a real “ill will” that consists in “knowingly positing ends contrary to those of the juridical order” (*Über Schuld*, pp. 18–24, 92).

It is not possible to say whether Benjamin was familiar with this text while he was writing “Fate and Character” and “Critique of Violence.” But it remains the case that his definition of guilt as an originary juridical concept unduly transferred to the ethico-religious sphere is in perfect agreement with Schmitt’s thesis—even if Benjamin’s definition goes in a decisively opposed direction. For Benjamin, the state of demonic existence of which law is a residue is to be overcome and man is to be liberated from guilt (which is nothing other than the inscription of natural life in the order of law and destiny). At the heart of the Schmittian assertion of the juridical character and centrality of the notion of guilt is, however, not the freedom of the ethical man but only the controlling force of a sovereign power (*katechon*), which can, in the best of cases, merely slow the dominion of the Antichrist.

There is an analogous convergence with respect to the concept of character. Like Benjamin, Schmitt clearly distinguishes between character and guilt (“the concept of guilt,” he writes, “has to do with an *operari*, and not with an *esse*” [*Über Schuld*, p. 46]). Yet in Benjamin, it is precisely this element (character insofar as it escapes all conscious willing) that presents itself as the principle capable of releasing man from guilt and of affirming natural innocence.

1.7. If the exception is the structure of sovereignty, then sovereignty is not an exclusively political concept, an exclusively juridical category, a power external to law (Schmitt), or the supreme rule of the juridical order (Hans Kelsen): it is the originary structure in which law refers to life and includes it in itself by suspending it. Taking up Jean-Luc Nancy’s suggestion, we shall give the name *ban* (from the old Germanic term that designates both exclusion from the community and the command and insignia of the sovereign) to this potentiality (in the proper sense of the Aristotelian *dynamis*, which is always also *dynamis mē energein*, the potentiality not to pass into actuality) of the law to maintain itself in its own privation, to apply in no longer applying. The relation of exception is a relation of ban. He who has been banned is not, in fact, simply set outside the law and made indifferent to it but rather *abandoned* by it, that is, exposed and threatened on the threshold in which life and law, outside and inside, become indistinguishable. It is literally not possible to say whether the one who has been banned is outside or inside the juridical order. (This is why in Romance languages, to be “banned” originally means both to be “at the mercy of” and “at one’s own will, freely,” to be “excluded” and also “open to all, free.”) It is in this sense that the paradox of sovereignty can take the form “There is nothing outside the law.” *The*

*originary relation of law to life is not application but Abandonment.* The matchless potentiality of the *nomos*, its originary “force of law,” is that it holds life in its ban by abandoning it. This is the structure of the ban that we shall try to understand here, so that we can eventually call it into question.

✠ The ban is a form of relation. But precisely what kind of relation is at issue here, when the ban has no positive content and the terms of the relation seem to exclude (and, at the same time, to include) each other? What is the form of law that expresses itself in the ban? The ban is the pure form of reference to something in general, which is to say, the simple positing of relation with the nonrelational. In this sense, the ban is identical with the limit form of relation. A critique of the ban will therefore necessarily have to put the very form of relation into question, and to ask if the political fact is not perhaps thinkable beyond relation and, thus, no longer in the form of a connection.

## ‘Nomos Basileus’

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**2.1.** The principle according to which sovereignty belongs to law, which today seems inseparable from our conception of democracy and the legal State, does not at all eliminate the paradox of sovereignty; indeed it even brings it to the most extreme point of its development. Since the most ancient recorded formulation of this principle, Pindar’s fragment 169, the sovereignty of law has been situated in a dimension so dark and ambiguous that it has prompted scholars to speak quite rightly of an “enigma” (Ehrenberg, *Rechtsidee*, p. 119). Here is the text of the fragment reconstructed by Boeck:

Nomos ho pantōn basileus  
 thnatōn te kai athanatōn  
 agei dikaiōn to Biaiotaton  
 hypertatai cheiri: tekmairomai  
 ergoisin Herakleos.

The *nomos*, sovereign of all,  
 Of mortals and immortals,  
 Leads with the strongest hand,  
 Justifying the most violent.  
 I judge this from the works of Hercules.

The enigma consists in more than the fact that there are many possible interpretations of the fragment. What is decisive is that the poet—as the reference to Hercules’ theft clarifies beyond the shadow of a doubt—defines the sovereignty of the *nomos* by means of a justification of violence. The fragment’s meaning becomes clear only when one understands that at its center lies a scandalous unification of the two essentially antithetical principles that the Greeks called *Bia* and *Dikē*, violence and justice. *Nomos* is the power that, “with the strongest hand,” achieves the paradoxical union of these opposites (in this sense, if one understands an enigma in the Aristotelian sense, as a “conjunction of opposites,” the fragment truly does contain an enigma).

If in Solon's fragment 24 one should read (as most scholars maintain) *kratei nomou*, then already in the sixth century the specific "force" of law was identified precisely in a "connection" of violence and justice (*kratei/nomou bian te kai dikēn synarmosas*, "with the force of the *nomos* I have connected violence and justice"; but even if one reads *homou* instead of *nomou*, the central idea remains the same once Solon speaks of his activity as legislator [see De Romilly, *La loi*, p. 15]). A passage from Hesiod's *Works and Days*, which Pindar may have had in mind, also assigns a decisive position to the relation between violence and law:

O Perseus, keep these things in mind and  
 forget violence [*Biaia*] when you attend to justice [*Dikē*].  
 To men, Zeus gave this *nomos*:  
 what is proper to the fish, the wild beasts, and the winged birds  
 is to devour each other, since there is no *Dikē* between them.  
 But to men Zeus gave *Dikē*, which is much better.

While in Hesiod the *nomos* is still the power that divides violence from law and, with it, the world of beasts from the world of men, and while in Solon the "connection" of *Bia* and *Dikē* contains neither ambiguity nor irony, in Pindar—and this is the knot that he bequeaths to Western political thought and that makes him, in a certain sense, the first great thinker of sovereignty—the sovereign *nomos* is the principle that, joining law and violence, threatens them with indistinction. In this sense, Pindar's fragment on the *nomos basileus* contains the hidden paradigm guiding every successive definition of sovereignty: the sovereign is the point of indistinction between violence and law, the threshold on which violence passes over into law and law passes over into violence.

✠ This is how Friedrich Hölderlin (who most likely had before him a text that had been emended in accordance with the Platonic citation in the *Gorgias*: *Biaion ton dikaiotaton*, "Doing violence to the most just" [484b, 1–10]) translates the fragment in his annotated version of Pindar's fragments (which Friedrich Beißner dates at 1803):

Das Höchste  
 Das Gesetz,  
 Von allen der König, Sterblichen und  
 Unsterblichen; das führt eben  
 Darum gewaltig  
 Das gerechteste Recht mit allerhöchster Hand.

The Highest  
 The law,  
 Sovereign of all, mortals and

Immortals; this is why  
It leads, violently,  
The most just justice with the supreme hand.

In the name of his theory of the constitutive superiority of the *nomos* over law (*Gesetz*, in the sense of conventional positing), Schmitt criticizes the Hölderlinian interpretation of the fragment. “Even Hölderlin,” Schmitt writes, “is mistaken in his translation of the fragment . . . , since he renders the term *nomos* with *Gesetz* and lets himself be misled by this unfortunate word even though he knows that law is rigorous mediacy. The *nomos* in the originary sense is, rather, the pure immediacy of a juridical power [*Rechtskraft*] not mediated by law. It is a constitutive historical event, an act of legitimacy that alone renders the legality of the new law meaningful in general” (*Das Nomos*, p. 42).

Here Schmitt completely misinterprets the intention of the poet, which is directed precisely against every immediate principle. In his commentary, Hölderlin defines the *nomos* (which he distinguishes from law) as rigorous mediation (*strenge Mittelbarkeit*): “The immediate,” he writes, “is, taken in the rigorous sense, impossible for mortals as for immortals; the god must distinguish different worlds, according to his nature, since the heavenly goods must be holy for themselves, unmixed. Insofar as he knows, man too must distinguish different worlds, since knowledge is only possible through opposition” (*Sämtliche Werke*, p. 309). If Hölderlin (like Schmitt) sees a principle higher than simple law in the *nomos basileus*, nonetheless he is careful to specify that the term “sovereign” refers here not to a “supreme power” (*höchste Macht*) but to the “highest ground of knowledge” (*ibid.*). With one of those corrections so characteristic of his last translations, Hölderlin thus displaces a juridicopolitical problem (the sovereignty of law as the indistinction of law and violence) into the sphere of the theory of knowledge (mediation as the power of distinguishing). What is more original and stronger than law is not (as in Schmitt) the *nomos* as sovereign principle but rather the mediation that grounds knowledge.

2.2. It is in this light that we must read the Platonic citation in the *Gorgias* (484b, 1–10), which, while appearing as simple forgetfulness, consciously alters the Pindaric text:

Even Pindar, it seems to me, has held what I think in the verses in which he says:

the *nomos*, sovereign of all  
mortals and immortals

And this is how Plato’s text then continues:

Leads with the strongest hand  
Doing violence to the most just.

Only an acute *coniunctivitis professoria* was able to induce philologists (in particular, the editor of the now aged Oxonian critical edition of Plato) to correct

the more authoritative manuscripts' phrase, *biaiōn to dikaiotaton*, in accordance with the letter of Pindar's text (*dikaiōn to biaiotaton*). As Ulrich von Wilamowitz-Möllendorf has justly observed (*Platon*, pp. 95–97), *biaiōn* is too rare in Greek to be explained by a lapse of memory (let alone a *lapsus calami*), and the meaning of the Platonic wordplay is perfectly clear: here the "justification of violence" is at the same time a "doing violence to the most just," and the "sovereignty" of the *nomos* of which Pindar speaks consists in this and nothing else.

An analogous intention guides the implicit citation that Plato, in the *Protagoras*, puts in the mouth of Hippias: "You people who are present, I maintain that you are all relatives, neighbors, and citizens by nature and not by law. The similar is related to the similar by nature, but the *nomos*, the tyrant [*trannos*, not *basileus*] of men, commits many acts of violence against nature" (337c). This intention also guides the explicit citation in *The Laws*:

[The axiom according to which it is the strongest who rules] is, as the Theban Pindar said, by nature extremely common among all living beings. But the axiom that seems to be more important is the sixth one, which is to say, the one that orders that he who knows and is intelligent should govern, and that the ignorant should therefore follow him. And you will not be able to say that this, wise Pindar, happens against nature, for it happens not by means of violence but in accordance with nature, that is, in accordance with the power of law over those who accept it. (690b–c)

In both cases, what interests Plato is not so much the opposition between *physis* and *nomos*, which had been at the center of the Sophists' debate (Stier, "Nomos basileus," pp. 245–46), as the coincidence of violence and law constitutive of sovereignty. In the passage from *The Laws* cited above, the power of law is defined as being in accordance with nature (*kata physin*) and essentially non-violent because Plato is most of all concerned to neutralize the opposition that, for both the Sophists and Pindar (in a different way), justified the "sovereign" confusion of *Bia* and *Dikē*.

The entire treatment of the problem of the relation between *physis* and *nomos* in the tenth book of *The Laws* is undertaken to dismantle the Sophistic construction of this opposition as well as the thesis of the anteriority of nature with respect to law. Plato neutralizes both by affirming the originarity of the soul and of "all that belongs to what is a soul" (intellect, *techné*, and *nomos*) with respect to bodies and the elements "that we erroneously say are in accordance with nature" (892b). When Plato (and with him, all the representatives of what Leo Strauss calls "classical natural right") says that "law must rule over men, and not men over law," he therefore means to affirm not law's sovereignty over nature but, on the contrary, its

“natural,” which is to say nonviolent, character. While in Plato the “law of nature” is thus born to undermine the Sophistic opposition of *physis* and *nomos* and to exclude the sovereign confusion of violence and law, in the Sophists the opposition serves precisely to found the principle of sovereignty, the union of *Bia* and *Dikē*.

2.3. The very sense of this opposition, which has had such a tenacious lineage in the political culture of the West, will be considered here in a new way. The Sophistic polemic against *nomos* in favor of nature (which developed with ever-increasing urgency during the course of the fourth century) can be considered the necessary premise of the opposition between the state of nature and the “commonwealth,”\* which Hobbes posits as the ground of his conception of sovereignty. If for the Sophists the anteriority of *physis* ultimately justifies the violence of the strongest, for Hobbes it is this very identity of the state of nature and violence (*homo hominis lupus*) that justifies the absolute power of the sovereign. In both cases, even if in an apparently opposed fashion, the *physis/nomos* antinomy constitutes the presupposition that legitimates the principle of sovereignty, the indistinction of law and violence (in the Sophists’ strong man or Hobbes’s sovereign). It is important to note that in Hobbes the state of nature survives in the person of the sovereign, who is the only one to preserve its natural *ius contra omnes*. Sovereignty thus presents itself as an incorporation of the state of nature in society, or, if one prefers, as a state of indistinction between nature and culture, between violence and law, and this very indistinction constitutes specifically sovereign violence. The state of nature is therefore not truly external to *nomos* but rather contains its virtuality. The state of nature (certainly in the modern era, but probably also in that of the Sophists) is the being-in-potentiality [*l’essere-in-potenza*] of the law, the law’s self-presupposition as “natural law.” Hobbes, after all, was perfectly aware, as Strauss has underscored, that the state of nature did not necessarily have to be conceived as a real epoch, but rather could be understood as a principle internal to the State revealed in the moment in which the State is considered “as if it were dissolved” (*ut tanquam dissoluta consideretur* [Hobbes, *De cive*, pp. 79–80]). Exteriority—the law of nature and the principle of the preservation of one’s own life—is truly the innermost center of the political system, and the political system lives off it in the same way that the rule, according to Schmitt, lives off the exception.

2.4. From this perspective, it will not seem surprising that Schmitt grounds his theory of the originary character of the “*nomos* of the earth” precisely on Pindar’s fragment and, nevertheless, makes no allusion to his own definition of sover-

\* In English in the original.—Trans.

eignty as the decision on the state of exception. What Schmitt wishes to establish above all is the superiority of the sovereign *nomos* as the constitutive event of law with respect to every positivistic conception of law as simple position and convention (*Gesetz*). This is why Schmitt must leave the essential proximity between *nomos* and the state of exception in obscurity, even though he speaks of “sovereign *nomos*.” And yet a more attentive reading reveals that this proximity is clearly present. A little later, in the chapter “First Global Lines,” Schmitt shows how the link between localization and ordering constitutive of the *nomos* of the earth always implies a zone that is excluded from law and that takes the shape of a “free and juridically empty space” in which the sovereign power no longer knows the limits fixed by the *nomos* as the territorial order. In the classical epoch of the *ius publicum Europaeum*, this zone corresponded to the New World, which was identified with the state of nature in which everything is possible (Locke: “In the beginning, all the world was America”). Schmitt himself assimilates this zone “beyond the line”<sup>\*</sup> to the state of exception, which “bases itself in an obviously analogous fashion on the idea of delimited, free and empty space” understood as a “temporary and spatial sphere in which every law is suspended”:

It was, however, delimited with respect to the normal legal system: in time, at first through the declaration of the state of war and, in the end, through an act of indemnity; in space, by a precise indication of its sphere of validity. Inside this spatial and temporal sphere, anything could happen as long as it was held to be de facto necessary according to circumstances. There is an ancient and obvious symbol of this situation, to which Montesquieu also makes reference: the statue of freedom or of justice was veiled for a determinate period of time. (Schmitt, *Das Nomos*, p. 67)

Insofar as it is sovereign, the *nomos* is necessarily connected with both the state of nature and the state of exception. The state of exception (with its necessary indistinction of *Bia* and *Dikē*) is not external to the *nomos* but rather, even in its clear delimitation, included in the *nomos* as a moment that is in every sense fundamental. At its very center, the localization-ordering link thus always already contains its own virtual rupture in the form of a “suspension of every law.” But what then appears (at the point in which society is considered as *tanquam dissoluta*) is in fact not the state of nature (as an earlier stage into which men would fall back) but the state of exception. The state of nature and the state of exception are nothing but two sides of a single topological process in which what was presupposed as external (the state of nature) now reappears, as in a Möbius

<sup>\*</sup> In English in the original.—Trans.

strip or a Leyden jar, in the inside (as state of exception), and the sovereign power is this very impossibility of distinguishing between outside and inside, nature and exception, *physis* and *nomos*. The state of exception is thus not so much a spatio-temporal suspension as a complex topological figure in which not only the exception and the rule but also the state of nature and law, outside and inside, pass through one another. It is precisely this topological zone of indistinction, which had to remain hidden from the eyes of justice, that we must try to fix under our gaze. The process (which Schmitt carefully described and which we are still living) that began to become apparent in the First World War, through which the constitutive link between the localization and ordering of the old *nomos* was broken and the entire system of the reciprocal limitations and rules of the *ius publicum Europaeum* brought to ruin, has its hidden ground in the sovereign exception. What happened and is still happening before our eyes is that the “juridically empty” space of the state of exception (in which law is in force in the figure—that is, etymologically, in the *fiction*—of its own dissolution, and in which everything that the sovereign deemed de facto necessary could happen) has transgressed its spatiotemporal boundaries and now, overflowing outside them, is starting to coincide with the normal order, in which everything again becomes possible.

✠ If one wanted to represent schematically the relation between the state of nature and the state of law that takes shape in the state of exception, one could have recourse to two circles that at first appear to be distinct (Fig. 1) but later, in the state of exception, show themselves to be in fact inside each other (Fig. 2). When the exception starts to become the rule, the two circles coincide in absolute indistinction (Fig. 3).

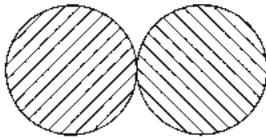


Figure 1

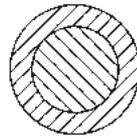


Figure 2

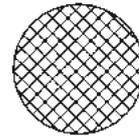


Figure 3

From this perspective, what is happening in ex-Yugoslavia and, more generally, what is happening in the processes of dissolution of traditional State organisms in Eastern Europe should be viewed not as a reemergence of the natural state of struggle of all against all—which functions as a prelude to new social contracts and new national and State localizations—but rather as the coming to light of the state of exception as the permanent structure of juridico-political de-localization and dis-location. Political organization is not regressing toward outdated forms; rather, premonitory events are, like bloody masses, announcing the new *nomos* of the earth, which (if its grounding principle is not called into question) will soon extend itself over the entire planet.

## Potentiality and Law

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**3.1.** Perhaps nowhere else does the paradox of sovereignty show itself so fully as in the problem of constituting power and its relation to constituted power. Both theory and positive legislation have always encountered difficulties in formulating and maintaining this distinction in all its weight. “The reason for this,” a recent treatise of political science reads,

is that if one really means to give the distinction between constituting power and constituted power its true meaning, it is necessary to place constituting and constituted powers on two different levels. Constituted powers exist only *in* the State: inseparable from a preestablished constitutional order, they need the State frame, whose reality they manifest. Constituting power, on the other hand, is situated *outside* the State; it owes nothing to the State, it exists without it, it is the spring whose current no use can ever exhaust. (Burdeau, *Traité*, p. 173)

Hence the impossibility of harmoniously constructing the relation between the two powers—an impossibility that emerges in particular not only when one attempts to understand the juridical nature of dictatorship and of the state of exception, but also when the text of constitutions themselves foresees, as it often does, the power of revision. Today, in the context of the general tendency to regulate everything by means of rules, fewer and fewer are willing to claim that constituting power is originary and irreducible, that it cannot be conditioned and constrained in any way by a determinate legal system and that it necessarily maintains itself outside every constituted power. The power from which the constitution is born is increasingly dismissed as a prejudice or a merely factual matter, and constituting power is more and more frequently reduced to the power of revision foreseen in the constitution.

As early as the end of the First World War, Benjamin criticized this tendency with words that have lost none of their currency. He presented the relation between constituting power and constituted power as the relation between the violence that posits law and the violence that preserves it:

If the awareness of the latent presence of violence in a legal institution disappears, the juridical institution decays. An example of this is provided today by the parliaments. They present such a well-known, sad spectacle because they have not remained aware of the revolutionary forces to which they owe their existence. . . . They lack a sense of the creative violence of law that is represented in them. One need not then be surprised that they do not arrive at decisions worthy of this violence, but instead oversee a course of political affairs that avoids violence through compromise. (Benjamin, "Zur Kritik der Gewalt," p. 144)

But the other position (that of the democratico-revolutionary tradition), which wants to maintain constituting power in its sovereign transcendence with respect to every constituted order, threatens to remain just as imprisoned within the paradox that we have tried to describe until now. For if constituting power is, as the violence that posits law, certainly more noble than the violence that preserves it, constituting power still possesses no title that might legitimate something other than law-preserving violence and even maintains an ambiguous and ineradicable relation with constituted power.

From this perspective, Emmanuel-Joseph Sieyès's famous statement, "The constitution first of all presupposes a constituting power," is not, as has been claimed, a simple truism: it must rather be understood in the sense that *the constitution presupposes itself as constituting power* and, in this form, expresses the paradox of sovereignty in the most telling way. Just as sovereign power presupposes itself as the state of nature, which is thus maintained in a relation of ban with the state of law, so the sovereign power divides itself into constituting power and constituted power and maintains itself in relation to both, positioning itself at their point of indistinction. Sieyès himself was so conscious of this implication as to place constituting power (identified in the "nation") in a state of nature outside the social tie: "One must think of the nations of the earth," he writes, "as individuals, outside the social tie . . . in the state of nature" (Sieyès, *Qu'est ce que le Tiers État?*, p. 83).

3.2. Hannah Arendt, who cites this line in *On Revolution*, describes how sovereignty was demanded in the course of the French Revolution in the form of an absolute principle capable of founding the legislative act of constituting power. And she shows well how this demand (which is also present in Robespierre's idea of a Supreme Being) ultimately winds up in a vicious circle:

What he [Robespierre] needed was by no means just a "Supreme Being"—a term which was not his—he needed rather what he himself called an "Immortal Legislator" and what, in a different context, he also named a "continuous appeal to

Justice.” In terms of the French Revolution, he needed an ever-present transcendent source of authority that could not be identified with the general will of either the nation or the Revolution itself, so that an absolute Sovereignty—Blackstone’s “despotic power”—might bestow sovereignty upon the nation, that an absolute Immortality might guarantee, if not immortality, then at least some permanence and stability to the republic. (Arendt, *On Revolution*, p. 185)

Here the basic problem is not so much how to conceive a constituting power that does not exhaust itself in a constituted power (which is not easy, but still theoretically resolvable), as how clearly to differentiate constituting from constituted power, which is surely a more difficult problem. Attempts to think the preservation of constituting power are certainly not lacking in our age, and they have become familiar to us through the Trotskyite notion of a “permanent revolution” and the Maoist concept of “uninterrupted revolution.” Even the power of councils (which there is no reason not to think of as stable, even if de facto constituted revolutionary powers have done everything in their power to eliminate them) can, from this perspective, be considered as a survival of constituting power within constituted power. But the two great destroyers of spontaneous councils in our time—the Leninist party and the Nazi party—also present themselves, in a certain sense, as the preservers of a constituting moment [*istanza*] alongside constituted power. It is in this light that we ought to consider the characteristic “dual” structure of the great totalitarian states of our century (the Soviet Union and Nazi Germany), which has made things so difficult for historians of public law. The structure by which the State party tends to appear as a duplicate of the State structure can then be considered as a paradoxical and interesting technico-juridical solution to the problem of how to maintain constituting power. Yet it is just as certain that in both of these cases, constituting power either appears as the expression of a sovereign power or does not let itself easily be separated from sovereign power. The analogy between the Soviet Union and the Nazi Reich is even more compelling insofar as in both cases, the question “Where?” is the essential one once neither the constituting power nor the sovereign can be situated wholly inside or altogether outside the constituted order.

✠ Schmitt considers constituting power as a “political will” capable of “making the concrete, fundamental decision on the nature and form of one’s own political existence.” As such, constituting power stands “before and above every constitutional legislative procedure” and is irreducible to the level of juridical rules as well as theoretically distinct from sovereign power (*Verfassungslehre*, pp. 75–76). But if constituting power is identified

with the constituting will of the people or the nation, as already happens (according to Schmitt) with Sieyès, then the criterion that makes it possible to distinguish constituting power from popular or national sovereignty becomes unclear, and the constituting subject and the sovereign subject begin to become indistinguishable. Schmitt criticizes the liberal attempt to “contain and delimit the use of state power by means of written laws,” and he affirms the sovereignty of the constitution or the fundamental *charte*: the instances competent for the revision of the constitution “do not, following this competence, become either sovereign or titular of a constituting power” (ibid., pp. 107–8). From this perspective, both constituting power and sovereign power exceed the level of the juridical rule (even of the fundamental juridical rule), but the symmetry of this excess attests to a proximity that fades away into indistinction.

In a recent book, Antonio Negri has undertaken to show the irreducibility of constituting power (defined as “the praxis of a constituting act, renewed in freedom, organized in the continuity of a free praxis”) to every form of constituted order, and, at the same time, to deny that constituting power is reducible to the principle of sovereignty. “The truth of constituting power,” he writes,

is not the one that can (in any way whatsoever) be attributed to the concept of sovereignty. This is not the truth of constituting power not only because constituting power is not (as is obvious) an emanation of constituted power, but also because constituting power is not the institution of constituted power: it is the act of choice, the punctual determination that opens a horizon, the radical enacting of something that did not exist before and whose conditions of existence stipulate that the creative act cannot lose its characteristics in creating. When constituting power sets the constituting process in motion, every determination is free and remains free. Sovereignty, on the other hand, arises as the establishment—and therefore as the end—of constituting power, as the consumption of the freedom brought by constituting power. (Negri, *Il potere costituente*, p. 31)

The problem of the difference between constituting power and sovereign power is, certainly, essential. Yet the fact that constituting power neither derives from the constituted order nor limits itself to instituting it—being, rather, free praxis—still says nothing as to constituting power’s alterity with respect to sovereign power. If our analysis of the original ban-structure of sovereignty is exact, these attributes do indeed belong to sovereign power, and Negri cannot find any criterion, in his wide analysis of the historical phenomenology of constituting power, by which to isolate constituting power from sovereign power.

The strength of Negri’s book lies instead in the final perspective it opens insofar as it shows how constituting power, when conceived in all its radicality, ceases to be a strictly political concept and necessarily presents itself as a category of ontology. The problem of constituting power then becomes the problem of the “constitution of potentiality” (*Il potere costituente*, p. 383), and the unresolved dialectic between consti-

tuting power and constituted power opens the way for a new articulation of the relation between potentiality and actuality, which requires nothing less than a rethinking of the ontological categories of modality in their totality. The problem is therefore moved from political philosophy to first philosophy (or, if one likes, politics is returned to its ontological position). Only an entirely new conjunction of possibility and reality, contingency and necessity, and the other *pathē tou ontos*, will make it possible to cut the knot that binds sovereignty to constituting power. And only if it is possible to think the relation between potentiality and actuality differently—and even to think beyond this relation—will it be possible to think a constituting power wholly released from the sovereign ban. Until a new and coherent ontology of potentiality (beyond the steps that have been made in this direction by Spinoza, Schelling, Nietzsche, and Heidegger) has replaced the ontology founded on the primacy of actuality and its relation to potentiality, a political theory freed from the aporias of sovereignty remains unthinkable.

3.3. The relation between constituting power and constituted power is just as complicated as the relation Aristotle establishes between potentiality and act, *dynamis* and *energeia*; and, in the last analysis, the relation between constituting and constituted power (perhaps like every authentic understanding of the problem of sovereignty) depends on how one thinks the existence and autonomy of potentiality. According to Aristotle's thought, potentiality precedes actuality and conditions it, but also seems to remain essentially subordinate to it. Against the Megarians, who (like those politicians today who want to reduce all constituting power to constituted power) affirm that potentiality exists only in act (*energē monon dynasthai*), Aristotle always takes great care to affirm the autonomous existence of potentiality—the fact that the kithara player keeps his ability [*potenza*] to play even when he does not play, and that the architect keeps his ability [*potenza*] to build even when he does not build. What Aristotle undertakes to consider in Book Theta of the *Metaphysics* is, in other words, not potentiality as a merely logical possibility but rather the effective modes of potentiality's existence. This is why, if potentiality is to have its own consistency and not always disappear immediately into actuality, it is necessary that potentiality be able *not* to pass over into actuality, that potentiality constitutively be the *potentiality not to* (do or be), or, as Aristotle says, that potentiality be also im-potentiality (*adynamia*). Aristotle decisively states this principle—which, in a certain sense, is the cardinal point on which his entire theory of *dynamis* turns—in a lapidary formula: “Every potentiality is impotentiality of the same and with respect to the same” (*tou autou kai kata to auto pasa dynamis adynamiai*) (*Metaphysics*, 1046a, 32). Or, even more ex-

plicity: “What is potential can both be and not be. For the same is potential as much with respect to being as to not being” (*to dynaton endekhetai kai einai kai mē einai*) (1050b, 10).

The potentiality that exists is precisely the potentiality that can not pass over into actuality (this is why Avicenna, faithful to the Aristotelian intention, calls it “the perfect potentiality” and chooses as its example the figure of the scribe in the moment in which he does not write). This potentiality maintains itself in relation to actuality in the form of its suspension; it *is capable* of the act in not realizing it, it is sovereignly capable of its own im-potentiality [*impotenza*]. But how, from this perspective, to think the passage into actuality? If every potentiality (to be or do) is also originally the potentiality not to (be or do), how will it be possible for an act to be realized?

Aristotle’s answer is contained in a definition that constitutes one of the most acute testimonies to his genius and that has for this very reason often been misunderstood: “A thing is said to be potential if, when the act of which it is said to be potential is realized, there will be nothing im-potential (that is, there will be nothing able not to be)” (*Metaphysics*, 1047a, 24–26). The last three words of the definition (*ouden estai adynaton*) do not mean, as the usual and completely trivializing reading maintains, “there will be nothing impossible” (that is, what is not impossible is possible). They specify, rather, the condition into which potentiality—which can both be and not be—can realize itself. What is potential can pass over into actuality only at the point at which it sets aside its own potential not to be (its *adynamia*). To set im-potentiality aside is not to destroy it but, on the contrary, to fulfill it, to turn potentiality back upon itself in order to give itself to itself. In a passage of *De anima*, Aristotle expresses the nature of perfect potentiality perhaps most fully, and he describes the passage to actuality (in the case of the *technai* and human skills, which also stands at the center of Book Theta of the *Metaphysics*) not as an alteration or destruction of potentiality in actuality but as a preservation and “giving of the self to itself” of potentiality:

To suffer is not a simple term, but is in one sense a certain destruction through the opposite principle and, in another sense, the preservation [*sōtēria*, salvation] of what is in potentiality by what is in actuality and what is similar to it. . . . For he who possesses science [in potentiality] becomes someone who contemplates in actuality, and either this is not an alteration—since here there is the gift of the self to itself and to actuality [*epidosis eis eauto*]—or this is an alteration of a different kind. (*De anima*, 417b, 2–16)

In thus describing the most authentic nature of potentiality, Aristotle actually bequeathed the paradigm of sovereignty to Western philosophy. For the sovereign ban, which applies to the exception in no longer applying, corresponds to the structure of potentiality, which maintains itself in relation to actuality precisely through its ability not to be. Potentiality (in its double appearance as potentiality to and as potentiality not to) is that through which Being finds itself *sovereignly*, which is to say, without anything preceding or determining it (*superiorem non recognoscens*) other than its own ability not to be. And an act is sovereign when it realizes itself by simply taking away its own potentiality not to be, letting itself be, giving itself to itself.

Hence the constitutive ambiguity of the Aristotelian theory of *dynamist energeia*: if it is never clear, to a reader freed from the prejudices of tradition, whether Book Theta of the *Metaphysics* in fact gives primacy to actuality or to potentiality, this is not because of a certain indecisiveness or, worse, contradiction in the philosopher's thought but because potentiality and actuality are simply the two faces of the sovereign self-grounding of Being. Sovereignty is always double because Being, as potentiality, suspends itself, maintaining itself in a relation of ban (or abandonment) with itself in order to realize itself as absolute actuality (which thus presupposes nothing other than its own potentiality). At the limit, pure potentiality and pure actuality are indistinguishable, and the sovereign is precisely this zone of indistinction. (In Aristotle's *Metaphysics*, this corresponds to the figure of the "thinking of thinking," that is, to a thinking that in actuality thinks its own potentiality to think.)

This is why it is so hard to think both a "constitution of potentiality" entirely freed from the principle of sovereignty and a constituting power that has definitively broken the ban binding it to constituted power. That constituting power never exhausts itself in constituted power is not enough: sovereign power can also, as such, maintain itself indefinitely, without ever passing over into actuality. (The troublemaker is precisely the one who tries to force sovereign power to translate itself into actuality.) Instead one must think the existence of potentiality without any relation to Being in the form of actuality—not even in the extreme form of the ban and the potentiality not to be, and of actuality as the fulfillment and manifestation of potentiality—and think the existence of potentiality even without any relation to being in the form of the gift of the self and of letting be. This, however, implies nothing less than thinking ontology and politics beyond every figure of relation, beyond even the limit relation that is the sovereign ban. Yet it is this very task that many, today, refuse to assume at any cost.

✠ It has already been noted that a principle of potentiality is inherent in every definition of sovereignty. In this sense, Gérard Mairet observed that the sovereign state is founded on an “ideology of potentiality” that consists in “leading the two elements of every power back to a unity . . . the principle of potentiality and the form of its exercise” (*Histoire*, p. 289). The central idea here is that “potentiality already exists before it is exercised, and that obedience precedes the institutions that make it possible” (*ibid.*, p. 311). That this ideology truly has a mythological character is suggested by the same author: “It is a question of a real myth whose secrets we still do not know, but which constitutes, perhaps, the secret of every power.” It is the structure of this mystery [*arcano*] that we have undertaken to bring to light in the figure of abandonment and the “potentiality not to.” But here we run up against not a mythologeme in the strict sense but, rather, the ontological root of every political power. (Potentiality and actuality are, for Aristotle, first of all categories of being, two ways “in which Being is said.”)

In modern thought, there are rare but significant attempts to conceive of being beyond the principle of sovereignty. In the *Philosophy of Revelation*, Schelling thus thinks an absolute entity that presupposes no potentiality and never exists *per transitum de potentia ad actum*. In the late Nietzsche, the eternal return of the same gives form to the impossibility of distinguishing between potentiality and actuality, even as the *Amor fati* gives shape to the impossibility of distinguishing between contingency and necessity. In the Heideggerian idea of abandonment and the *Ereignis*, it seems that Being itself is likewise discharged and divested of all sovereignty. But the strongest objection against the principle of sovereignty is contained in Melville’s *Bartleby*, the scrivener who, with his “I would prefer not to,” resists every possibility of deciding between potentiality and the potentiality not to. These figures push the aporia of sovereignty to the limit but still do not completely free themselves from its ban. They show that the dissolution of the ban, like the cutting of the Gordian knot, resembles less the solution of a logical or mathematical problem than the solution of an enigma. Here the metaphysical aporia shows its political nature.

## Form of Law

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**4.1.** In the legend “Before the Law,” Kafka represented the structure of the sovereign ban in an exemplary abbreviation.

Nothing—and certainly not the refusal of the doorkeeper—prevents the man from the country from passing through the door of the Law if not the fact that this door is already open and that the Law prescribes nothing. The two most recent interpreters of the legend, Jacques Derrida and Massimo Cacciari, have both insisted on this point, if in different ways. “The Law,” Derrida writes, “keeps itself [*se garde*] without keeping itself, kept [*gardée*] by a doorkeeper who keeps nothing, the door remaining open and open onto nothing” (“Préjugés,” p. 356). And Cacciari, even more decisively, underlines the fact that the power of the Law lies precisely in the impossibility of entering into what is already open, of reaching the place where one already is: “How can we hope to ‘open’ if the door is already open? How can we hope to enter-the-open [*entrare-l’aperto*]? In the open, there is, things are there, one does not enter there. . . . We can enter only there where we can open. The already-open [*il già-aperto*] immobilizes. The man from the country cannot enter, because entering into what is already open is ontologically impossible” (*Icone*, p. 69).

Seen from this perspective, Kafka’s legend presents the pure form in which law affirms itself with the greatest force precisely at the point in which it no longer prescribes anything—which is to say, as pure ban. The man from the country is delivered over to the potentiality of law because law demands nothing of him and commands nothing other than its own openness. According to the schema of the sovereign exception, law applies to him in no longer applying, and holds him in its ban in abandoning him outside itself. The open door destined only for him includes him in excluding him and excludes him in including him. And this is precisely the summit and the root of every law. When the priest in *The Trial* summarizes the essence of the court in the formula “The court wants nothing from you. It receives you when you come, it lets you go when you go,” it is the originary structure of the *nomos* that he states.

⌘ In an analogous fashion, language also holds man in its ban insofar as man, as a speaking being, has always already entered into language without noticing it. Everything that is presupposed for there to be language (in the forms of something nonlinguistic, something ineffable, etc.) is nothing other than a presupposition of language that is maintained as such in relation to language precisely insofar as it is excluded from language. Stéphane Mallarmé expressed this self-presuppositional nature of language when he wrote, with a Hegelian formula, “The logos is a principle that operates through the negation of every principle.” As the pure form of relation, language (like the sovereign ban) always already presupposes itself in the figure of something nonrelational, and it is not possible either to enter into relation or to move out of relation with what belongs to the form of relation itself. This means not that the nonlinguistic is inaccessible to man but simply that man can never reach it in the form of a nonrelational and ineffable presupposition, since the nonlinguistic is only ever to be found in language itself. (In the words of Benjamin, only the “crystal-pure elimination of the unsayable in language” can lead to “what withholds itself from speech” [*Briefe*, p. 127].)

4.2. But does this interpretation of the structure of law truly exhaust Kafka’s intention? In a letter to Benjamin dated September 20, 1934, Gerschom Scholem defines the relation to law described in Kafka’s *Trial* as “the Nothing of Revelation” (*Nichts der Offenbarung*), intending this expression to name “a stage in which revelation does not signify [*bedeutet*], yet still affirms itself by the fact that it is in force. Where the wealth of significance is gone and what appears, reduced, so to speak, to the zero point of its own content, still does not disappear (and Revelation is something that appears), there the Nothing appears” (Benjamin and Scholem, *Briefwechsel*, p. 163). According to Scholem, a law that finds itself in such a condition is not absent but rather appears in the form of its unrealizability. “The students of whom you speak,” he objects to his friend, “are not students who have lost the Scripture . . . but students who cannot decipher it” (*ibid.*, p. 147).

*Being in force without significance (Geltung ohne Bedeutung)*: nothing better describes the ban that our age cannot master than Scholem’s formula for the status of law in Kafka’s novel. What, after all, is the structure of the sovereign ban if not that of a law that *is in force* but does not *signify*? Everywhere on earth men live today in the ban of a law and a tradition that are maintained solely as the “zero point” of their own content, and that include men within them in the form of a pure relation of abandonment. All societies and all cultures today {it does not matter whether they are democratic or totalitarian, conservative or progressive) have entered into a legitimation crisis in which law (we mean by this term the entire text of tradition in its regulative form, whether the Jewish Torah or the Islamic Shariah, Christian dogma or the profane *nomos*) is in force as the

pure “Nothing of Revelation.” But this is precisely the structure of the sovereign relation, and the nihilism in which we are living is, from this perspective, nothing other than the coming to light of this relation as such.

4.3. In Kant the pure form of law as “being in force without significance” appears for the first time in modernity. What Kant calls “the simple form of law” (*die bloße Form des Gesetzes*) in the *Critique of Practical Reason* is in fact a law reduced to the zero point of its significance, which is, nevertheless, in force as such (*Kritik der praktischen Vernunft*, p. 28). “Now if we abstract every content, that is, every object of the will (as determining motive) from a law,” he writes, “there is nothing left but the simple form of a universal legislation” (*ibid.*, p. 27). A pure will, thus determined only through such a form of law, is “neither free nor unfree,” exactly like Kafka’s man from the country.

The limit and also the strength of the Kantian ethics lie precisely in having left the form of law in force as an empty principle. This being in force without significance in the sphere of ethics corresponds, in the sphere of knowledge, to the transcendental object. The transcendental object is, after all, not a real object but “merely the idea of relation” (*bloß eine Idee des Verhältnisses*) that simply expresses the fact of thinking’s being in relation with an absolutely indeterminate thought (*Kants opus postuum*, p. 671).

But what is such a “form of law”? And how, first of all, is one to conduct oneself before such a “form of law,” once the will is not determined by any particular content? What is the *form of life*, that is, that corresponds to the *form of law*? Does the moral law not become something like an “inscrutable faculty”? Kant gives the name “respect” (*Achtung*, reverential attention) to the condition of one who finds himself living under a law that is in force without signifying, and that thus neither prescribes nor forbids any determinate end: “The motivation that a man can have, before a certain end is proposed to him, clearly can be nothing other than the law itself through the respect that it inspires (without determining what goals it is possible to have or reach by obeying it). For once the content of free will is eliminated, the law is the only thing left in relation to the formal element of the free will” (“Über den Gemeinspruch,” p. 282).

It is truly astounding how Kant, almost two centuries ago and under the heading of a sublime “moral feeling,” was able to describe the very condition that was to become familiar to the mass societies and great totalitarian states of our time. For life under a law that is in force without signifying resembles life in the state of exception, in which the most innocent gesture or the smallest forgetfulness can have most extreme consequences. And it is exactly this kind of life that

Kafka describes, in which law is all the more pervasive for its total lack of content, and in which a distracted knock on the door can mark the start of uncontrollable trials. Just as for Kant the purely formal character of the moral law founds its claim of universal practical applicability in every circumstance, so in Kafka's village the empty potentiality of law is so much in force as to become indistinguishable from life. The existence and the very body of Joseph K. ultimately coincide with the Trial; they *become* the Trial. Benjamin sees this clearly when he writes, objecting to Scholem's notion of a being in force without significance, that a law that has lost its content ceases to exist and becomes indistinguishable from life: "Whether the students have lost the Scripture or cannot decipher it in the end amounts to the same thing, since a Scripture without its keys is not Scripture but life, the life that is lived in the village at the foot of the hill on which the castle stands" (Benjamin and Scholem, *Briefwechsel*, p. 155). And this provokes Scholem (who does not notice that his friend has grasped the difference perfectly well) to insist that he cannot agree that "it is the same thing whether the students have lost their Scripture or cannot decipher it, and it even seems to me that this is the greatest mistake that can be made. I refer to precisely the difference between these two stages when I speak of a 'Nothing of Revelation'" (ibid., p. 163).

If, following our analyses, we see in the impossibility of distinguishing law from life—that is, in the life lived in the village at the foot of the castle—the essential character of the state of exception, then two different interpretations confront each other here: on the one hand, that of Scholem, which sees in this life the maintenance of the pure form of law beyond its own content—a being in force without significance—and, on the other hand, that of Benjamin, for which the state of exception turned into rule signals law's fulfillment and its becoming indistinguishable from the life over which it ought to rule. Confronted with the imperfect nihilism that would let the Nothing subsist indefinitely in the form of a being in force without significance, Benjamin proposes a messianic nihilism that nullifies even the Nothing and lets no form of law remain in force beyond its own content.

Whatever their exact meaning and whatever their pertinence to the interpretation of Kafka's text, it is certain that every inquiry into the relation between life and law today must confront these two positions.

✠ The experience of being in force without significance lies at the basis of a current of contemporary thought that is not irrelevant here. The prestige of deconstruction in our time lies precisely in its having conceived of the entire text of tradition as being in force without significance, a being in force whose strength lies essentially in its undecidability and in having shown that such a being in force is, like the door of the Law in Kafka's parable, absolutely impassable. But it is precisely concerning the sense of this being in force

(and of the state of exception that it inaugurates) that our position distinguishes itself from that of deconstruction. Our age does indeed stand in front of language just as the man from the country in the parable stands in front of the door of the Law. What threatens thinking here is the possibility that thinking might find itself condemned to infinite negotiations with the doorkeeper or, even worse, that it might end by itself assuming the role of the doorkeeper who, without really blocking the entry, shelters the Nothing onto which the door opens. As the evangelical warning cited by Origen concerning the interpretation of Scripture has it: "Woe to you, men of the Law, for you have taken away the key to knowledge: you yourselves have not entered, and you have not let the others who approached enter either" (which ought to be reformulated as follows: "Woe to you, who have not wanted to enter into the door of the Law but have not permitted it to be closed either").

4.4. This is the context in which one must read both the singular "inversion" that Benjamin, in his essay on Kafka, opposes to law's being in force without significance, and the enigmatic allusion, in his eighth "Theses on the Philosophy of History," to a "real" state of exception. A life that resolves itself completely into writing corresponds, for Benjamin, to a Torah whose key has been lost: "I consider the sense of the inversion toward which many of Kafka's allegories tend to lie in an attempt to transform life into Scripture" (Benjamin and Scholem, *Briefwechsel*, p. 155). Analogously, the eighth thesis opposes a "real" (*wirklich*) state of exception, which it is our task to bring about, to the state of exception in which we live, which has become the rule: "The tradition of the oppressed teaches us that the 'state of exception' in which we live is the rule. We must arrive at a concept of history that corresponds to this fact. Then we will have the production of the real state of exception before us as a task" (Benjamin, "Über den Begriff," p. 697).

We have seen the sense in which law begins to coincide with life once it has become the pure form of law, law's mere being in force without significance. But insofar as law is maintained as pure form in a state of virtual exception, it lets bare life (K.'s life, or the life lived in the village at the foot of the castle) subsist before it. Law that becomes indistinguishable from life in a real state of exception is confronted by life that, in a symmetrical but inverse gesture, is entirely transformed into law. The absolute intelligibility of a life wholly resolved into writing corresponds to the impenetrability of a writing that, having become indecipherable, now appears as life. Only at this point do the two terms distinguished and kept united by the relation of ban (bare life and the form of law) abolish each other and enter into a new dimension.

4.5. Significantly, in the last analysis all the interpreters read the legend as the tale of the irremediable failure or defeat of the man from the country before the impossible task imposed upon him by the Law. Yet it is worth asking whether

Kafka's text does not consent to a different reading. The interpreters seem to forget, in fact, precisely the words with which the story ends: "No one else could enter here, since this door was destined for you alone. Now I will go and shut it." If it is true the door's very openness constituted, as we saw, the invisible power and specific "force" of the Law, then we can imagine that all the behavior of the man from the country is nothing other than a complicated and patient strategy to have the door closed in order to interrupt the Law's being in force. And in the end, the man succeeds in his endeavor, since he succeeds in having the door of the Law closed forever (it was, after all, open "only for him"), even if he may have risked his life in the process (the story does not say that he is actually dead but only that he is "close to the end"). In his interpretation of the legend, Kurt Weinberg has suggested that one must see the figure of a "thwarted Christian Messiah" in the shy but obstinate man from the country (*Kafkas Dichtungen*, pp. 130–31). The suggestion can be taken only if it is not forgotten that the Messiah is the figure in which the great monotheistic religions sought to master the problem of law, and that in Judaism, as in Christianity or Shiite Islam, the Messiah's arrival signifies the fulfillment and the complete consummation of the Law. In monotheism, messianism thus constitutes not simply one category of religious experience among others but rather the limit concept of religious experience in general, the point in which religious experience passes beyond itself and calls itself into question insofar as it is law (hence the messianic aporias concerning the Law that are expressed in both Paul's Epistle to the Romans and the Sabbatian doctrine according to which the fulfillment of the Torah is its transgression). But if this is true, then what must a messiah do if he finds himself, like the man from the country, before a law that is in force without signifying? He will certainly not be able to fulfill a law that is already in a state of suspension, nor simply substitute another law for it (the fulfillment of law is not a new law).

A miniature painting in a fifteenth-century Jewish manuscript containing Haggadoth on "He who comes" shows the arrival of the Messiah in Jerusalem. The Messiah appears on horseback (in other illustrations, the mount is a donkey) at the sacred city's wide-open gates, behind which a window shows a figure who could be a doorkeeper. A youth in front of the Messiah is standing one step from the open door and pointing toward it. Whoever this figure is (it might be the prophet Elijah), he can be likened to the man from the country in Kafka's parable. His task seems to be to prepare and facilitate the entry of the Messiah—a paradoxical task, since the door is wide open. If one gives the name "provocation" to the strategy that compels the potentiality of Law to translate itself into actuality, then his is a paradoxical form of provocation, the only form

adequate to a law that is in force without signifying and a door that allows no one to enter on account of being too open. The messianic task of the man from the country (and of the youth who stands before the door in the miniature) might then be precisely that of making the virtual state of exception real, of compelling the doorkeeper to close the door of the Law (the door of Jerusalem). For the Messiah will be able to enter only after the door is closed, which is to say, after the Law's being in force without significance is at an end. This is the meaning of the enigmatic passage in Kafka's notebooks where he writes, "The Messiah will only come when he is no longer necessary, he will only come after his arrival, he will come not on the last day, but on the very last day." The final sense of the legend is thus not, as Derrida writes, that of an "event that succeeds in not happening" (or that happens in not happening: "an event that happens not to happen," *un événement qui arrive à ne pas arriver* ["Préjugés," p. 359]), but rather precisely the opposite: the story tells how something has really happened in seeming not to happen, and the messianic aporias of the man from the country express exactly the difficulties that our age must confront in attempting to master the sovereign ban.

✠ One of the paradoxes of the state of exception lies in the fact that in the state of exception, it is impossible to distinguish transgression of the law from execution of the law, such that what violates a rule and what conforms to it coincide without any remainder (a person who goes for a walk during the curfew is not transgressing the law any more than the soldier who kills him is executing it). This is precisely the situation that, in the Jewish tradition (and, actually, in every genuine messianic tradition), comes to pass when the Messiah arrives. The first consequence of this arrival is that the Law (according to the Kabbalists, this is the law of the Torah of Beriah, that is, the law in force from the creation of man until the messianic days) is fulfilled and consummated. But this fulfillment does not signify that the old law is simply replaced by a new law that is homologous to the old but has different prescriptions and different prohibitions (the Torah of Aziluth, the originary law that the Messiah, according to the Kabbalists, would restore, contains neither prescriptions nor prohibitions and is only a jumble of unordered letters). What is implied instead is that the fulfillment of the Torah now coincides with its transgression. This much is clearly affirmed by the most radical messianic movements, like that of Sabbatai Zevi (whose motto was "the fulfillment of the Torah is its transgression").

From the juridico-political perspective, messianism is therefore a theory of the state of exception—except for the fact that in messianism there is no authority in force to proclaim the state of exception; instead, there is the Messiah to subvert its power.

✠ One of the peculiar characteristics of Kafka's allegories is that at their very end they offer the possibility of an about-face that completely upsets their meaning. The obstinacy of the man from the country thus suggests a certain analogy with the cleverness that allows

Ulysses to survive the song of the Sirens. Just as the Law in “Before the Law” is insuperable because it prescribes nothing, so the most terrible weapon in Kafka’s “The Sirens” is not song but silence (“it has never happened, but it might not be altogether unimaginable that someone could save himself from their song, but certainly never from their silence.” Ulysses’ almost superhuman intelligence consists precisely in his having noticed that the Sirens were silent and in having opposed them with his trick “only as a shield,” exactly as the man from the country does with respect to the doorkeeper of the Law. Like the “doors of India” in “The New Lawyer,” the door of the Law can also be seen as a symbol of those mythic forces that man, like Bucephalus, the horse, must master at all costs.

4.6. Jean-Luc Nancy is the philosopher who has most rigorously reflected upon the experience of law that is implicit in this being in force without significance. In an extremely dense text, he identifies its ontological structure as that of abandonment and, consequently, attempts to conceive not only our time but the entire history of the West as the “time of abandonment.” The structure he describes nevertheless remains inside the form of law, and abandonment is conceived as abandonment to the sovereign ban, without any way out of the ban being envisaged:

To *abandon* is to remit, entrust, or turn over to . . . a sovereign power, and to remit, entrust, or turn over to its *ban*, that is, to its proclaiming, to its convening, and to its sentencing.

One always abandons to a law. The destitution of abandoned Being is measured by the limitless severity of the law to which it finds itself exposed. Abandonment does not constitute a subpoena to present oneself before this or that court of law. It is a compulsion to appear absolutely under the law, under the law as such and in its totality. In the same way—it is the same thing—to be *banished* amounts not to coming under a provision of the law but rather to coming under the entirety of the law. Turned over to the absolute of the law, the abandoned one is thereby abandoned completely outside its jurisdiction. . . . Abandonment respects the law; it cannot do otherwise. (*L'impératif catégorique*, pp. 149–50)

The task that our time imposes on thinking cannot simply consist in recognizing the extreme and insuperable form of law as being in force without significance. Every thought that limits itself to this does nothing other than repeat the ontological structure that we have defined as the paradox of sovereignty (or sovereign ban). Sovereignty is, after all, precisely this “law beyond the law to which we are abandoned,” that is, the self-presuppositional power of *nomos*. Only if it is possible to think the Being of abandonment beyond every idea of law (even that of the empty form of law’s being in force without significance) will we have moved out of the paradox of sovereignty toward a politics freed from every ban. A pure form of law is only the empty form of relation. Yet the empty form of

relation is no longer a law but a zone of indistinguishability between law and life, which is to say, a state of exception.

Here the problem is the same one that Heidegger confronts in his *Beiträge zur Philosophie* under the heading of “Seinsverlassenheit,” the abandonment of the entity by Being, which, in fact, constitutes nothing less than the problem of the unity and difference between Being and being in the age of the culmination of metaphysics. What is at issue in this abandonment is not something (Being) that dismisses and discharges something else (the being). On the contrary: *here Being is nothing other than the being’s being abandoned and remitted to itself*; here Being is nothing other than the ban of the being:

What is abandoned by whom? The being by Being, which does and does not belong to it. The being then appears *thus*, it appears as object and as available Being, as if Being were not. . . . Then this is shown: that Being abandons the being means: Being dissimulates itself in the being-manifest of the being. And Being itself becomes essentially determined as this withdrawing self-dissimulation. . . . Abandoned by Being: that Being abandons the being, that Being is consigned to itself and becomes the object of calculation. This is not simply a “fall” but the first history of Being itself. (*Beiträge zur Philosophie*, p. 115)

If Being in this sense is nothing other than Being *in the ban* of the being [*l’essere a bandono dell’ente*], then the ontological structure of sovereignty here fully reveals its paradox. The relation of abandonment is now to be thought in a new way. To read this relation as a being in force without significance—that is, as Being’s abandonment *to* and *by* a law that prescribes nothing, and not even itself—is to remain inside nihilism and not to push the experience of abandonment to the extreme. Only where the experience of abandonment is freed from every idea of law and destiny (including the Kantian form of law and law’s being in force without significance) is abandonment truly experienced as such. This is why it is necessary to remain open to the idea that the relation of abandonment is not a relation, and that *the being together of the being and Being does not have the form of relation*. This does not mean that Being and the being now part ways; instead, they remain without relation. But this implies nothing less than an attempt to think the politico-social *factum* no longer in the form of a relation.

✠ Alexandre Kojève’s idea of the end of history and the subsequent institution of a new homogenous state presents many analogies with the epochal situation we have described as law’s being in force without significance (this explains the contemporary attempts to bring Kojève to life in a liberal-capitalist key). What, after all, is a State that survives history, a State sovereignty that maintains itself beyond the accomplishment of its *telos*, if not a law that is in force without signifying? To conceive of a fulfillment of history in which the

empty form of sovereignty still persists is just as impossible as to conceive of an extinction of the State without the fulfillment of its historical forms, since the empty form of the State tends to generate epochal contents that, in turn, seek out a State form that has become impossible (this is what is happening in the ex-Soviet Union and in ex-Yugoslavia).

The only thought adequate to the task would be one capable of both thinking the end of the State and the end of history together and mobilizing the one against the other.

This is the direction in which the late Heidegger seems to move, if still insufficiently, with the idea of a final event or appropriation (*Ereignis*) in which what is appropriated is Being itself, that is, the principle that had until then determined beings in different epochs and historical figures. This means that with the *Ereignis* (as with the Hegelian Absolute in Kojève's reading), the "history of Being comes to an end" (Heidegger, *Zur Sache des Denkens*, p. 44), and the relation between Being and being consequently finds its "absolution." This is why Heidegger can write that with the *Ereignis* he is trying to think "Being without regard to the being," which amounts to nothing less than attempting to think the ontological difference no longer as a relation, and Being and being beyond every form of a connection.

This is the perspective from which we must situate the debate between Kojève and Georges Bataille. What is at play here is precisely the figure of sovereignty in the age of the fulfillment of human history. Various scenarios are possible. In the note added to the second edition of his *Introduction to the Reading of Hegel*, Kojève distances himself from the first edition's claim that the end of history simply coincides with man's becoming an animal again and the disappearance of man in the proper sense (that is, as the subject of negating action). During a trip to Japan in 1959, Kojève had maintained the possibility of a posthistorical culture in which men, while abandoning their negating action in the strict sense, continue to separate forms from their contents not in order to actively transform these contents but to practice a kind of "pure snobbism" (tea ceremonies, etc.). On the other hand, in the review of Raymond Queneau's novels he sees in the characters of *Dimanche de vie*, and particularly in the "lazy rascal" (*voyou désœuvré*), the figure of the satisfied wise man at the end of history (Kojève, "Les romans," p. 391). In opposition to the *voyou désœuvré* (who is contemptuously defined as *homo quenellenesis*) and the satisfied and self-conscious Hegelian wise man, Bataille proposes the figure of a sovereignty entirely consumed in the instant (*la seule innocence possible: celle de l'instant*) that coincides with "the forms in which man gives himself to himself: . . . laughter, eroticism, struggle, luxury."

The theme of *désœuvrement*—inoperativeness as the figure of the fullness of man at the end of history—which first appears in Kojève's review of Queneau, has been taken up by Blanchot and by Nancy, who places it at the very center of his work *The Inoperative Community*. Everything depends on what is meant by "inoperativeness." It can be neither the simple absence of work nor (as in Bataille) a sovereign and useless form of negativity. The only coherent way to understand inoperativeness is to think of it as a generic mode of potentiality that is not exhausted (like individual action or collective action understood as the sum of individual actions) in a *transitus de potentia ad actum*.

# Threshold

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IN laying bare the irreducible link uniting violence and law, Benjamin's "Critique of Violence" proves the necessary and, even today, indispensable premise of every inquiry into sovereignty. In Benjamin's analysis, this link shows itself to be a dialectical oscillation between the violence that posits law and the violence that preserves it. Hence the necessity of a third figure to break the circular dialectic of these two forms of violence:

The law of this oscillation [between the violence that posits law and the violence that preserves it] rests on the fact that all law-preserving violence, in its duration, indirectly weakens the lawmaking violence represented by it, through the suppression of hostile counterviolence. . . . This lasts until either new forces or those earlier suppressed triumph over the violence that had posited law until now and thus found a new law destined to a new decay. In the interruption of this cycle, which is maintained by mythical forms of law, in the deposition of law and all the forces on which it depends (as they depend on it) and, therefore, finally in the deposition of State power, a new historical epoch is founded. ("Zur Kritik der Gewalt," p. 202)

The definition of this third figure, which Benjamin calls "divine violence," constitutes the central problem of every interpretation of the essay. Benjamin in fact offers no positive criterion for its identification and even denies the possibility of recognizing it in the concrete case. What is certain is only that it neither posits nor preserves law, but rather "de-poses" (*entsetzt*) it. Hence its capacity to lend itself to the most dangerous equivocations (which is proven by the scrutiny with which Derrida, in his interpretation of the essay, guards against it, approximating it—with a peculiar misunderstanding—to the Nazi "Final Solution" ["Force of Law," pp. 1044–45]).

It is likely that in 1920, at the time Benjamin was working on the "Critique," he had not yet read Schmitt's *Political Theology*, whose definition of sovereignty he would cite five years later in his book on the Baroque mourning play. Sovereign violence and the state of exception, therefore, do not appear in the essay,

and it is not easy to say where they would stand with respect to the violence that posits law and the violence that preserves it. The root of the ambiguity of divine violence is perhaps to be sought in precisely this absence. The violence exercised in the state of exception clearly neither preserves nor simply posits law, but rather conserves it in suspending it and posits it in excepting itself from it. In this sense, sovereign violence, like divine violence, cannot be wholly reduced to either one of the two forms of violence whose dialectic the essay undertook to define. This does not mean that sovereign violence can be confused with divine violence. The definition of divine violence becomes easier, in fact, precisely when it is put in relation with the state of exception. Sovereign violence opens a zone of indistinction between law and nature, outside and inside, violence and law. And yet the sovereign is precisely the one who maintains the possibility of deciding on the two to the very degree that he renders them indistinguishable from each other. As long as the state of exception is distinguished from the normal case, the dialectic between the violence that posits law and the violence that preserves it is not truly broken, and the sovereign decision even appears simply as the medium in which the passage from the one to the other takes place. (In this sense, it can be said both that sovereign violence posits law, since it affirms that an otherwise forbidden act is permitted, and that it conserves law, since the content of the new law is only the conservation of the old one.) In any case, the link between violence and law is maintained, even at the point of their indistinction.

The violence that Benjamin defines as divine is instead situated in a zone in which it is no longer possible to distinguish between exception and rule. It stands in the same relation to sovereign violence as the state of actual exception, in the eighth thesis, does to the state of virtual exception. This is why (that is, insofar as divine violence is not one kind of violence among others but only the dissolution of the link between violence and law) Benjamin can say that divine violence neither posits nor conserves violence, but deposes it. Divine violence shows the connection between the two violences—and, even more, between violence and law—to be the single real content of law. “The function of violence in juridical creation,” Benjamin writes, at the only point in which the essay approaches something like a definition of sovereign violence, “is twofold, in the sense that lawmaking pursues as its end, with violence as the means, what is to be established as law, but at the moment of its instatement does not depose violence; rather, at this very moment of lawmaking and in the name of power, it specifically establishes as law not an end immune and independent from violence, but one necessarily and intimately bound up with it” (“Zur Kritik der Gewalt,” pp. 197–98). This is why it is not by chance that Benjamin, with a seemingly

abrupt development, concentrates on the bearer of the link between violence and law, which he calls “bare life” (*bloßes Leben*), instead of defining divine violence. The analysis of this figure—whose decisive function in the economy of the essay has until now remained unthought—establishes an essential link between bare life and juridical violence. Not only does the rule of law over the living exist and cease to exist alongside bare life, but even the dissolution of juridical violence, which is in a certain sense the object of the essay, “stems . . . from the guilt of bare natural life, which consigns the living, innocent and unhappy, to the punishment that ‘expiates’ the guilt of bare life—and doubtless also purifies [*entsühnt*] the guilty, not of guilt, however, but of law” (ibid., p. 200).

In the pages that follow, we will attempt to develop these suggestions and to analyze the link binding bare life to sovereign power. According to Benjamin, the principle of the sacred character of life, which our age assigns to human life and even to animal life, can be of no use either in clarifying this link or in calling into question the rule of law over the living. To Benjamin, it is suspicious that what is here proclaimed as sacred is precisely what, according to mythical thought, is “the bearer destined to guilt: bare life,” almost as if there were a secret complicity between the sacredness of life and the power of law. “It might,” he writes, “be well worth while to investigate the origin of the dogma of the sacredness of life. Perhaps, indeed probably, it is relatively recent, the last mistaken attempt of the weakened Western tradition to seek the saint it had lost in cosmological impenetrability” (ibid., p. 202).

We shall begin by investigating precisely this origin. The principle of the sacredness of life has become so familiar to us that we seem to forget that classical Greece, to which we owe most of our ethico-political concepts, not only ignored this principle but did not even possess a term to express the complex semantic sphere that we indicate with the single term “life.” Decisive as it is for the origin of Western politics, the opposition between *zoē* and *bios*, between *zēn* and *eu zēn* (that is, between life in general and the qualified way of life proper to men), contains nothing to make one assign a privilege or a sacredness to life as such. Homeric Greek does not even know a term to designate the living body. The term *sōma*, which appears in later epochs as a good equivalent to our term “life,” originally meant only “corpse,” almost as if life in itself, which for the Greeks was broken down into a plurality of forms and elements, appeared only as a unity after death. Moreover, even in those societies that, like classical Greece, celebrated animal sacrifices and occasionally immolated human victims, life in itself was not considered sacred. Life became sacred only through a series of rituals whose aim was precisely to separate life from its profane context. In

the words of Benveniste, to render the victim sacred, it is necessary to “separate it from the world of the living, it is necessary that it cross the threshold that separates the two universes: this is the aim of the killing” (*Le vocabulaire*, p. 188).

If this is true, then when and in what way did a human life first come to be considered sacred in itself? Until now we have been concerned with delineating the logical and topological structure of sovereignty. But what is excepted and captured in sovereignty, and who is the bearer of the sovereign ban? Both Benjamin and Schmitt, if differently, point to life (“bare life” in Benjamin and, in Schmitt, the “real life” that “breaks the crust of a mechanism rigidified through repetition”) as the element that, in the exception, finds itself in the most intimate relation with sovereignty. It is this relation that we must now clarify.

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PART TWO

# Homo Sacer

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# Homo Sacer

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**1.1.** Pompeius Festus, in his treatise *On the Significance of Words*, under the heading *sacer mons* preserved the memory of a figure of archaic Roman law in which the character of sacredness is tied for the first time to a human life as such. After defining the Sacred Mount that the plebeians consecrated to Jove at the time of their secession, Festus adds:

At homo sacer is est, quem populus iudicavit ob maleficium; neque fas est eum immolari, sed qui occidit, parricidi non damnatur; nam lege tribunicia prima cavetur “si quis eum, qui eo plebei scito sacer sit, occiderit, parricidia ne sit.” Ex quo quivis homo malus atque improbus sacer appellari solet. (*De verborum significatione*)

The sacred man is the one whom the people have judged on account of a crime. It is not permitted to sacrifice this man, yet he who kills him will not be condemned for homicide; in the first tribunitian law, in fact, it is noted that “if someone kills the one who is sacred according to the plebiscite, it will not be considered homicide.” This is why it is customary for a bad or impure man to be called sacred.

The meaning of this enigmatic figure has been much discussed, and some have wanted to see in it “the oldest punishment of Roman criminal law” (Bennett, “Sacer esto,” p. 5). Yet every interpretation of *homo sacer* is complicated by virtue of having to concentrate on traits that seem, at first glance, to be contradictory. In an essay of 1930, H. Bennett already observes that Festus’s definition “seems to deny the very thing implicit in the term” (*ibid.*, p. 7), since while it confirms the sacredness of a person, it authorizes (or, more precisely, renders unpunishable) his killing (whatever etymology one accepts for the term *parricidium*, it originally indicated the killing of a free man). The contradiction is even more pronounced when one considers that the person whom anyone could kill with impunity was nevertheless not to be put to death according to ritual practices (*neque fas est eum immolari: immolari* indicates the act of sprinkling the *mola salsa* on the victim before killing him).

In what, then, does the sacredness of the sacred man consist? And what does the expression *sacer esto* (“May he be sacred”), which often figures in the royal laws and which already appears in the archaic inscription on the forum’s rectangular *cippus*, mean, if it implies at once the *impune occidi* (“being killed with impunity”) and an exclusion from sacrifice? That this expression was also obscure to the Romans is proven beyond the shadow of a doubt by a passage in Ambrosius Theodosius Macrobius’s *Saturnalia* (3.7.3–8) in which the author, having defined *sacrum* as what is destined to the gods, adds: “At this point it does not seem out of place to consider the status of those men whom the law declares to be sacred to certain divinities, for I am not unaware that it appears strange [*mirum videri*] to some people that while it is forbidden to violate any sacred thing whatsoever, it is permitted to kill the sacred man.” Whatever the value of the interpretation that Macrobius felt obliged to offer at this point, it is certain that sacredness appeared problematic enough to him to merit an explanation.

1.2. The perplexity of the *antiqui auctores* is matched by the divergent interpretations of modern scholars. Here the field is divided between two positions. On the one hand, there are those, like Theodor Mommsen, Ludwig Lange, Bennett, and James Leigh Strachan-Davidson, who see *sacratio* as a weakened and secularized residue of an archaic phase in which religious law was not yet distinguished from penal law and the death sentence appeared as a sacrifice to the gods. On the other hand, there are those, like Károly Kerényi and W. Ward Fowler, who consider *sacratio* to bear the traces of an archetypal figure of the sacred—consecration to the gods of the underworld—which is analogous to the ethnological notion of taboo: august and damned, worthy of veneration and provoking horror. Those among the first group are able to admit the *impune occidi* (as, for example, Mommsen does in terms of a popular or vicariate execution of a death sentence), but they are still unable to explain the ban on sacrifice. Inversely, the *neque fas est eum immolari* is understandable in the perspective of the second group of scholars (“*homo sacer*,” Kerényi writes, “cannot be the object of sacrifice, of a *sacrificium*, for no other reason than this very simple one: what is *sacer* is already possessed by the gods and is originarily and in a special way possessed by the gods of the underworld, and so there is no need for it to become so through a new action” [*La religione*, p. 76]). But it remains completely incomprehensible from this perspective why anyone can kill *homo sacer* without being stained by sacrilege (hence the incongruous explanation of Macrobius, according to which since the souls of the *homines sacri* were *diis debitae*, they were sent to the heavens as quickly as possible).

Neither position can account economically and simultaneously for the two traits whose juxtaposition, according to Festus, constitutes the specificity of *homo sacer*: *the unpunishability of his killing and the ban on his sacrifice*. In the light of what we know of the Roman juridical and religious order (both of the *ius divinum* and the *ius humanum*), the two traits seem hardly compatible: if *homo sacer* was impure (Fowler: *taboo*) or the property of the gods (Kerényi), then why could anyone kill him without either contaminating himself or committing sacrilege? What is more, if *homo sacer* was truly the victim of a death sentence or an archaic sacrifice, why is it not *fas* to put him to death in the prescribed forms of execution? What, then, is the life of *homo sacer*, if it is situated at the intersection of a capacity to be killed and yet not sacrificed, outside both human and divine law?

It appears that we are confronted with a limit concept of the Roman social order that, as such, cannot be explained in a satisfying manner as long as we remain inside either the *ius divinum* or the *ius humanum*. And yet *homo sacer* may perhaps allow us to shed light on the reciprocal limits of these two juridical realms. Instead of appealing to the ethnological notion of taboo in order to dissolve the specificity of *homo sacer* into an assumed ordinary ambiguity of the sacred—as has all too often been done—we will try to interpret *sacratio* as an autonomous figure, and we will ask if this figure may allow us to uncover an ordinary *political* structure that is located in a zone prior to the distinction between sacred and profane, religious and juridical. To approach this zone, however, it will first be necessary to clear away a certain misunderstanding.

## The Ambivalence of the Sacred

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**2.1.** Interpretations of social phenomena and, in particular, of the origin of sovereignty, are still heavily weighed down by a scientific mythologeme that, constituted between the end of the nineteenth century and the first decades of the twentieth, has consistently led the social sciences astray in a particularly sensitive region. This mythologeme, which we may provisionally call “the theory of the ambivalence of the sacred,” initially took form in late Victorian anthropology and was immediately passed on to French sociology. Yet its influence over time and its transmission to other disciplines have been so tenacious that, in addition to compromising Bataille’s inquiries into sovereignty, it is present even in that masterpiece of twentieth-century linguistics, Émile Benveniste’s *Indo-European Language and Society*. It will not seem surprising that this mythologeme was first formulated in William Robertson Smith’s *Lectures on the Religion of the Semites* (1889)—the same book that was to influence the composition of Freud’s *Totem and Taboo* (“reading it,” Freud wrote, “was like slipping away on a gondola”)—if one keeps in mind that these *Lectures* correspond to the moment in which a society that had already lost every connection to its religious tradition began to express its own unease. In Smith’s book, the ethnographic notion of taboo first leaves the sphere of primitive cultures and firmly penetrates the study of biblical religion, thereby irrevocably marking the Western experience of the sacred with its ambiguity. “Thus,” Smith writes in the fourth lecture,

alongside of taboos that exactly correspond to rules of holiness, protecting the inviolability of idols and sanctuaries, priests and chiefs, and generally of all persons and things pertaining to the gods and their worship, we find another kind of taboo which in the Semitic field has its parallel in rules of uncleanness. Women after child-birth, men who have touched a dead body and so forth are temporarily taboo and separated from human society, just as the same persons are unclean in Semitic religion. In these cases the person under taboo is not regarded as holy, for he is separated from approach to the sanctuary as well as from contact with men. . . . In most savage societies no sharp line seems to be drawn between the

two kinds of taboo just indicated, and even in more advanced nations the notions of holiness and uncleanness often touch. (Smith, *Lectures*, pp. 152–53)

In a note added to the second edition of his *Lectures*, under the title “Holiness, Uncleanness and Taboo,” Smith lists a new series of examples of ambiguity (among which is the ban on pork, which “in the most elevated Semitic religions appears as a kind of no-man’s-land between the impure and the sacred”) and postulates the impossibility of “separating the Semitic doctrine of the holy from the impurity of the taboo-system” (*ibid.*, p. 452).

It is significant that Smith also mentions the ban in his list of examples of this ambiguous power (*patens*) of the sacred:

Another Hebrew usage that may be noted here is the ban (Heb. *herem*), by which impious sinners, or enemies of the community and its god, were devoted to utter destruction. The ban is a form of devotion to the deity, and so the verb “to ban” is sometimes rendered “consecrate” (Micah 4:13) or “devote” (Lev. 27: 28ff). But in the oldest Hebrew times it involved the utter destruction, not only of the persons involved, but of their property . . . and only metals, after they had passed through the fire, were added to the treasure of the sanctuary (Josh. 6: 24). Even cattle were not sacrificed, but simply slain, and the devoted city must not be revealed (Deut. 13: 6; Josh. 6: 26). Such a ban is a taboo, enforced by the fear of supernatural penalties (1 Kings 16: 34), and, as with taboo, the danger arising from it is contagious (Deut. 7: 26); he that brings a devoted thing into his house falls under the same ban itself. (*Lectures*, pp. 453–54)

The analysis of the ban—which is assimilated to the taboo—determines from the very beginning the genesis of the doctrine of the ambiguity of the sacred: the ambiguity of the ban, which excludes in including, implies the ambiguity of the sacred.

2.2. Once it is formulated, the theory of the ambivalence of the sacred has no difficulty extending itself over every field of the social sciences, as if European culture were only now noticing it for the first time. Ten years after the *Lectures*, the classic of French anthropology, Marcel Mauss and H. Hubert’s “Essay on the Nature and Function of Sacrifice” (1889) opens with an evocation of precisely “the ambiguous character of sacred things, which Robertson Smith has so admirably made clear” (“Essai,” p. 195). Six years later, in the second volume of Wilhelm Max Wundt’s *Völkerpsychologie*, the concept of taboo would express precisely the originary indistinction of sacred and impure that is said to characterize the most archaic period of human history, constituting that mixture of veneration and horror described by Wundt—with a formula that was to enjoy

great success—as “sacred horror.” According to Wundt, it was therefore only in a later period, when the most ancient powers were replaced by the gods, that the originary ambivalence gave way to the opposition of the sacred and the impure.

In 1912, Mauss’s uncle, Émile Durkheim, published his *Elementary Forms of Religious Life*, in which an entire chapter is devoted to “the ambiguity of the notion of the sacred.” Here he classifies the “religious forces” as two opposite categories, the auspicious and the inauspicious:

To be sure, the sentiments provoked by the one and the other are not identical: disgust and horror are one thing and respect another. Nonetheless, for actions to be the same in both cases, the feelings expressed must not be different in kind. In fact, there actually is a certain horror in religious respect, especially when it is very intense; and the fear inspired by malignant powers is not without a certain reverential quality. . . . The pure and the impure are therefore not two separate genera, but rather two varieties of the same genus that includes sacred things. There are two kinds of sacred things, the auspicious and the inauspicious. Not only is there no clear border between these two opposite kinds, but the same object can pass from one to the other without changing nature. The impure is made from the pure, and vice versa. The ambiguity of the sacred consists in the possibility of this transmutation. (*Les formes élémentaires*, pp. 446–48)

What is at work here is the psychologization of religious experience (the “disgust” and “horror” by which the cultured European bourgeoisie betrays its own unease before the religious fact), which will find its final form in Rudolph Otto’s work on the sacred. Here, in a concept of the sacred that completely coincides with the concept of the obscure and the impenetrable, a theology that had lost all experience of the revealed word celebrated its union with a philosophy that had abandoned all sobriety in the face of feeling. That the religious belongs entirely to the sphere of psychological emotion, that it essentially has to do with shivers and goose bumps this is the triviality that the neologism “numinous” had to dress up as science.

When Freud set out to write *Totem and Taboo* several years later, the field had therefore already been prepared for him. Yet only with this book does a genuine general theory of the ambivalence of the sacred come to light on the basis not only of anthropology and psychology but also of linguistics. In 1910, Freud had read the essay “On the Antithetical Meaning of Primal Words” by the now discredited linguist Karl Abel, and he reviewed it for *Imago* in an article in which he linked Abel’s essay to his own theory of the absence of the principle of contradiction in dreams. The Latin term *sacer*, “sacred and damned,” figures in the list of words with antithetical meanings that Abel gives in his appendix, as Freud

does not hesitate to point out. Strangely enough, the anthropologists who first formulated the theory of the ambiguity of the sacred did not mention the Latin concept of *sacratio*. But in 1911, Fowler's essay "The Original Meaning of the Word *Sacer*" appeared, presenting an interpretation of *homo sacer* that had an immediate effect on the scholars of religious studies. Here the implicit ambiguity in Festus's definition allows the scholar (taking up a suggestion of Robert Marett's) to link the Latin *sacer* with the category of taboo: "*Sacer esto* is in fact a curse; and *homo sacer* on whom this curse falls is an outcast, a banned man, tabooed, dangerous. . . . Originally the word may have meant simply taboo, i.e. removed out of the region of the *profanum*, without any special reference to a deity, but 'holy' or accursed according to the circumstances" (Fowler, *Roman Essays*, pp. 17–23).

In a well-documented study, Huguette Fugier has shown how the doctrine of the ambiguity of the sacred penetrates into the sphere of linguistics and ends by having its stronghold there (*Recherches*, pp. 238–40). A decisive role in this process is played precisely by *homo sacer*. While in the second edition of A. Walde's *Lateinisches etymologisches Wörterbuch* (1910) there is no trace of the doctrine of the ambivalence of the sacred, the entry under the heading *sacer* in Alfred Ernout-Meillet's *Dictionnaire étymologique de la langue latine* (1932) confirms the "double meaning" of the term by reference to precisely *homo sacer*: "*Sacer* designates the person or the thing that one cannot touch without dirtying oneself or without dirtying; hence the double meaning of 'sacred' or 'accursed' (approximately). A guilty person whom one consecrates to the gods of the underworld is sacred (*sacer esto*: cf. Grk. *agios*)."

✠ It is interesting to follow the exchanges documented in Fugier's work between anthropology, linguistics, and sociology concerning the problem of the sacred. Pauly-Wilson's "Sacer" article, which is signed by R. Ganschietz (1920) and explicitly notes Durkheim's theory of ambivalence (as Fowler had already done for Smith), appeared between the second edition of Walde's *Wörterbuch* and the first edition of Ernout-Meillet's *Dictionnaire*. As for Ernout-Meillet, Fugier notes the strict links that linguistics had with the Parisian school of sociology (in particular with Mauss and Durkheim). When Roger Callois published *Man and the Sacred* in 1939, he was thus able to start off directly with a lexical given, which was by then considered certain: "We know, following Ernout-Meillet's definition, that in Rome the word *sacer* designated the person or the thing that one cannot touch without dirtying oneself or without dirtying" (*L'homme et le sacré*, p. 22).

2.3. An enigmatic archaic Roman legal figure that seems to embody contradictory traits and therefore had to be explained thus begins to resonate with the religious category of the sacred when this category irrevocably loses its signif-

icance and comes to assume contradictory meanings. Once placed in relation with the ethnographic concept of taboo, this ambivalence is then used—with perfect circularity—to explain the figure of *homo sacer*. There is a moment in the life of concepts when they lose their immediate intelligibility and can then, like all empty terms, be overburdened with contradictory meanings. For the religious phenomenon, this moment coincides with the point at which anthropology—for which the ambivalent terms *mana*, *taboo*, and *sacer* are absolutely central—was born at the end of the last century. Lévi-Strauss has shown how the term *mana* functions as an excessive signifier with no meaning other than that of marking an excess of the signifying function over all signifieds. Somewhat analogous remarks could be made with reference to the use and function of the concepts of the sacred and the taboo in the discourse of the social sciences between 1890 and 1940. An assumed ambivalence of the generic religious category of the sacred cannot explain the juridico-political phenomenon to which the most ancient meaning of the term *sacer* refers. On the contrary, only an attentive and unprejudiced delimitation of the respective fields of the political and the religious will make it possible to understand the history of their intersection and complex relations. It is important, in any case, that the originary juridico-political dimension that presents itself in *homo sacer* not be covered over by a scientific mythologeme that not only explains nothing but is itself in need of explanation.

## Sacred Life

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**3.1.** According to both the original sources and the consensus of scholars, the structure of *sacratio* arises out of the conjunction of two traits: the unpunishability of killing and the exclusion from sacrifice. Above all, the *impune occidi* takes the form of an exception from the *ius humanum* insofar as it suspends the application of the law on homicide attributed to Numa Pompilius: *Si quis hominem liberum dolo sciens morti duit, parricidas esto*, “If someone intentionally kills a free man, may he be considered a murderer.” The very formulation given by Festus in some way even constitutes a real *exceptio* in the technical sense, which the killer, invoking the sacredness of the victim, could have opposed to the prosecution in the case of a trial. If one looks closely, however, one sees that even the *neque fas est eum immolari* (“it is not licit to sacrifice him”) takes the form of an exception, this time from the *ius divinum* and from every form of ritual killing. The most ancient recorded forms of capital punishment (the terrible *poena cullei*, in which the condemned man, with his head covered in a wolf-skin, was put in a sack with serpents, a dog and a rooster, and then thrown into water, or defenestration from the Tarpean rock) are actually purification rites and not death penalties in the modern sense: the *neque fas est eum immolari* served precisely to distinguish the killing of *homo sacer* from ritual purifications, and decisively excluded *sacratio* from the religious sphere in the strict sense.

It has been observed that while *consecratio* normally brings an object from the *ius humanum* to the *ius divinum*, from the profane to the sacred (Fowler, *Roman Essays*, p. 18), in the case of *homo sacer* a person is simply set outside human jurisdiction without being brought into the realm of divine law. Not only does the ban on immolation exclude every equivalence between the *homo sacer* and a consecrated victim, but—as Macrobius, citing Trebatius, observes—the fact that the killing was permitted implied that the violence done to *homo sacer* did not constitute sacrilege, as in the case of the *res sacrae* (*Cum cetera sacra violari nefas sit, hominem sacrum ius foerit occidi*, “While it is forbidden to violate the other sacred things, it is licit to kill the sacred man”).

If this is true, then *sacratio* takes the form of a double exception, both from the *ius humanum* and from the *ius divinum*, both from the sphere of the profane and from that of the religious. The topological structure drawn by this double exception is that of a double exclusion and a double capture, which presents more than a mere analogy with the structure of the sovereign exception. (Hence the pertinence of the view of those scholars who, like Giuliano Crifò, interpret *sacratio* in substantial continuity with the exclusion from the community [Crifò, “Exilica causa,” pp. 460–65].) Just as the law, in the sovereign exception, applies to the exceptional case in no longer applying and in withdrawing from it, so *homo sacer* belongs to God in the form of unsacrificeability and is included in the community in the form of being able to be killed. *Life that cannot be sacrificed and yet may be killed is sacred life.*

3.2. What defines the status of *homo sacer* is therefore not the originary ambivalence of the sacredness that is assumed to belong to him, but rather both the particular character of the double exclusion into which he is taken and the violence to which he finds himself exposed. This violence—the unsanctionable killing that, in his case, anyone may commit—is classifiable neither as sacrifice nor as homicide, neither as the execution of a condemnation to death nor as sacrilege. Subtracting itself from the sanctioned forms of both human and divine law, this violence opens a sphere of human action that is neither the sphere of *sacrum focere* nor that of profane action. This sphere is precisely what we are trying to understand here.

We have already encountered a limit sphere of human action that is only ever maintained in a relation of exception. This sphere is that of the sovereign decision, which suspends law in the state of exception and thus implicates bare life within it. We must therefore ask ourselves if the structure of sovereignty and the structure of *sacratio* might be connected, and if they might, from this perspective, be shown to illuminate each other. We may even then advance a hypothesis: once brought back to his proper place beyond both penal law and sacrifice, *homo sacer* presents the originary figure of life taken into the sovereign ban and preserves the memory of the originary exclusion through which the political dimension was first constituted. The political sphere of sovereignty was thus constituted through a double exclusion, as an excrescence of the profane in the religious and of the religious in the profane, which takes the form of a zone of indistinction between sacrifice and homicide. *The sovereign sphere is the sphere in which it is permitted to kill without committing homicide and without celebrating a sacrifice, and sacred life—that is, life that may be killed but not sacrificed—is the life that has been captured in this sphere.*

It is therefore possible to give a first answer to the question we put to ourselves when we delineated the formal structure of the exception. What is captured in the sovereign ban is a human victim who may be killed but not sacrificed: *homo sacer*. If we give the name bare life or sacred life to the life that constitutes the first content of sovereign power, then we may also arrive at an answer to the Benjaminian query concerning “the origin of the dogma of the sacredness of life.” The life caught in the sovereign ban is the life that is originally sacred—that is, that may be killed but not sacrificed—and, in this sense, the production of bare life is the originary activity of sovereignty. The sacredness of life, which is invoked today as an absolutely fundamental right in opposition to sovereign power, in fact originally expresses precisely both life’s subjection to a power over death and life’s irreparable exposure in the relation of abandonment.

✠ The *potestas sacrosancta* that lay within the competence of the plebeian courts in Rome also attests to the link between *sacratio* and the constitution of a political power. The inviolability of the court is founded on the mere fact that when the plebeians first seceded, they swore to avenge the offenses committed against their representative by considering the guilty man a *homo sacer*. The Latin term *lex sacrata*, which improperly designated (the plebeians were originally clearly distinct from the *leges*) what was actually only a *charté jureé* (Magdelain, *La loi*, p. 57) of the insurrectionary plebs, originally had no other meaning than that of determining a life that can be killed. Yet for this very reason, the *lex sacrata* founded a political power that in some way counterbalanced the sovereign power. This is why nothing shows the end of the old republican constitution and the birth of the new absolute power as clearly as the moment in which Augustus assumed the *potestas tribunicia* and thus becomes *sacrosanctus*. (*Sacrosanctus in perpetuum ut essem*, the text of *Res gestae* declares, *et quoad viverem tribunicia potestas mihi tribuetur*, “So that I may be forever sacrosanct, and that the tribunitian power may be attributed to me for my whole life.”)

3.3. Here the structural analogy between the sovereign exception and *sacratio* shows its full sense. At the two extreme limits of the order, the sovereign and *homo sacer* present two symmetrical figures that have the same structure and are correlative: the sovereign is the one with respect to whom all men are potentially *homines sacri*, and *homo sacer* is the one with respect to whom all men act as sovereigns.

The sovereign and *homo sacer* are joined in the figure of an action that, excepting itself from both human and divine law, from both *nomos* and *physis*, nevertheless delimits what is, in a certain sense, the first properly political space of the West distinct from both the religious and the profane sphere, from both the natural order and the regular juridical order.

This symmetry between *sacratio* and sovereignty sheds new light on the category of the sacred, whose ambivalence has so tenaciously oriented not only

modern studies on the phenomenology of religion but also the most recent inquiries into sovereignty. The proximity between the sphere of sovereignty and the sphere of the sacred, which has often been observed and explained in a variety of ways, is not simply the secularized residue of the originary religious character of every political power, nor merely the attempt to grant the latter a theological foundation. And this proximity is just as little the consequence of the “sacred”—that is, august and accursed—character that inexplicably belongs to life as such. If our hypothesis is correct, sacredness is instead the originary form of the inclusion of bare life in the juridical order, and the syntagm *homo sacer* names something like the originary “political” relation, which is to say, bare life insofar as it operates in an inclusive exclusion as the referent of the sovereign decision. Life is sacred only insofar as it is taken into the sovereign exception, and to have exchanged a juridico-political phenomenon (*homo sacer*’s capacity to be killed but not sacrificed) for a genuinely religious phenomenon is the root of the equivocations that have marked studies both of the sacred and of sovereignty in our time. *Sacer esto* is not the formula of a religious curse sanctioning the *unheimlich*, or the simultaneously august and vile character of a thing: it is instead the originary political formulation of the imposition of the sovereign bond.

The crimes that, according to the original sources, merit *sacratio* (such as *terminum exarare*, the cancellation of borders; *verberatio parentis*, the violence of the son against the parent; or the swindling of a client by a counsel) do not, therefore, have the character of a transgression of a rule that is then followed by the appropriate sanction. They constitute instead the originary exception in which human life is included in the political order in being exposed to an unconditional capacity to be killed. Not the act of tracing boundaries, but their cancellation or negation is the constitutive act of the city (and this is what the myth of the foundation of Rome, after all, teaches with perfect clarity). Numa’s homicide law (*parricidas esto*) forms a system with *homo sacer*’s capacity to be killed (*parricidi non damnatur*) and cannot be separated from it. The originary structure by which sovereign power is founded is this complex.

✠ Consider the sphere of meaning of the term *sacer* as it appears in our analysis. It contains neither an antithetical meaning in Abel’s sense nor a generic ambivalence in Durkheim’s sense. It indicates, rather, a life that may be killed by anyone—an object of a violence that exceeds the sphere both of law and of sacrifice. This double excess opens the zone of indistinction between and beyond the profane and the religious that we have attempted to define. From this perspective, many of the apparent contradictions of the term “sacred” dissolve. Thus the Latins called pigs *pure* if they were held to be fit for sacrifice

ten days after their birth. But Varro (*De re rustica*, 2. 4. 16) relates that in ancient times the pigs fit for sacrifice were called *sacres*. Far from contradicting the unsacrificeability of *homo sacer*, here the term gestures toward an originary zone of indistinction in which *sacer* simply meant a life that could be killed. (Before the sacrifice, the piglet was not yet “sacred” in the sense of “consecrated to the gods,” but only capable of being killed.) When the Latin poets define lovers as *sacred* (*sacros qui ledat amantes*, “whoever harms the sacred lovers” [Propertius, 3. 6. 2]; *Quisque amore teneatur, eat tutusque sacerque*, “May whoever is in love be safe and sacred” [Tibullus, 1. 2. 27]), this is not because they are accursed or consecrated to the gods but because they have separated themselves from other men in a sphere beyond both divine and human law. Originally, this sphere was the one produced by the double exception in which sacred life was exposed.

## ‘Vitae Necisque Potestas’

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**4.1.** “For a long time, one of the characteristic privileges of sovereign power was the right to decide life and death.” Foucault’s statement at the end of the first volume of the *History of Sexuality* (*La volonté*, p. 119) sounds perfectly trivial. Yet the first time we encounter the expression “right over life and death” in the history of law is in the formula *vitae necisque potestas*, which designates not sovereign power but rather the unconditional authority [*potestà*] of the *pater* over his sons. In Roman law, *vita* is not a juridical concept but instead indicates either the simple fact of living or a particular way of life, as in ordinary Latin usage (in a single term, Latin brings together the meaning of both *zoē* and *bios*). The only place in which the word *vita* acquires a specifically juridical sense and is transformed into a real *terminus technicus* is in the very expression *vitae necisque potestas*. In an exemplary study, Yan Thomas has shown that *que* in this formula does not have a disjunctive function and that *vita* is nothing but a corollary of *nex*, the power to kill (“Vita,” pp. 508–9). Life thus originally appears in Roman law merely as the counterpart of a power threatening death (more precisely, death without the shedding of blood, since this is the proper meaning of *necare* as opposed to *mactare*). This power is absolute and is understood to be neither the sanction of a crime nor the expression of the more general power that lies within the competence of the *pater* insofar as he is the head of the *domus*: this power follows immediately and solely from the father-son relation (in the instant in which the father recognizes the son in raising him from the ground, he acquires the power of life and death over him). And this is why the father’s power should not be confused with the power to kill, which lies within the competence of the father or the husband who catches his wife or daughter in the act of adultery, or even less with the power of the *dominus* over his servants. While both of these powers concern the domestic jurisdiction of the head of the family and therefore remain, in some way, within the sphere of the *domus*, the *vitae necisque potestas* attaches itself to every free male citizen from birth and thus seems to define the very model of

political power in general. *Not simple natural life, but life exposed to death (bare life or sacred life) is the originary political element.*

The Romans actually felt there to be such an essential affinity between the father's *vitae necisque potestas* and the magistrate's *imperium* that the registries of the *ius patrium* and of the sovereign power end by being tightly intertwined. The theme of the *pater imperiosus* who himself bears both the character of the father and the capacity of the magistrate and who, like Brutus or Manlius Torquatus, does not hesitate to put the treacherous son to death, thus plays an important role in the anecdotes and mythology of power. But the inverse figure of the father who exerts his *vitae necisque potestas* over his magistrate son, as in the case of the consul Spurius Cassius and the tribune Caius Flaminius, is just as decisive. Referring to the story of the latter, who was dragged down from the rostra by his father while he was trying to supersede the authority of the senate, Valerius Maximus defines the father's *potestas*, significantly, as an *imperium privatum*. Thomas, who has analyzed these episodes, could write that in Rome the *patria potestas* was felt to be a kind of public duty and to be, in some way, a "residual and irreducible sovereignty" ("Vita," p. 528). And when we read in a late source that in having his sons put to death, Brutus "had adopted the Roman people in their place," it is the same power of death that is now transferred, through the image of adoption, to the entire people. The hagiographic epithet "father of the people," which is reserved in every age to the leaders invested with sovereign authority, thus once again acquires its originary, sinister meaning. What the source presents us with is therefore a kind of genealogical myth of sovereign power: the magistrate's *imperium* is nothing but the father's *vitae necisque potestas* extended to all citizens. There is no clearer way to say that the first foundation of political life is a life that may be killed, which is politicized through its very capacity to be killed.

4.2. From this perspective, it is possible to see the sense of the ancient Roman custom according to which only the prepubescent son could place himself between the magistrate equipped with the *imperium* and the lictor who went before him. The physical proximity of the magistrate to the lictors who always accompanied him bearing the terrible insignias of power (the *fasces formidulosi* and the *saeve secures*) firmly expresses the inseparability of the *imperium* from a power of death. If the son can place himself between the magistrate and the lictor, it is because he is already originary and immediately subject to a power of life and death with respect to the father. The *puer* son symbolically affirms precisely the consubstantiality of the *vitae necisque potestas* with sovereign power.

At the point in which the two seem to coincide, what emerges is the singular fact (which by now should not appear so singular) that every male citizen (who can as such participate in public life) immediately finds himself in a state of virtually being able to be killed, and is in some way *sacer* with respect to his father. The Romans were perfectly aware of the aporetic character of this power, which, flagrantly contradicting the principle of the Twelve Tables according to which a citizen could not be put to death without trial (*indemnatus*), took the form of a kind of unlimited authorization to kill (*lex indemnatorum interficiendum*). Moreover, the other characteristic that defines the exceptionality of sacred life—the impossibility of being put to death according to sanctioned ritual practices—is also to be found in the *vitae necisque potestas*. Thomas refers (“Vita,” p. 540) to the case recalled as a rhetorical exercise by Calpurnius Flaccus, in which a father, by virtue of his *potestas*, gives his son over to an executioner to be killed. The son resists and rightly demands that his father be the one to put him to death (*vult manu patris interfici*). The *vitae necisque potestas* immediately attaches itself to the bare life of the son, and the *impune occidi* that derives from it can in no way be assimilated to the ritual killing following a death sentence.

4.3. At a certain point, Thomas poses a question concerning the *vitae necisque potestas*: “What is this incomparable bond for which Roman law is unable to find any expression other than death?” (“Vita,” p. 510). The only possible answer is that what is at issue in this “incomparable bond” is the inclusion of bare life in the juridico-political order. It is as if male citizens had to pay for their participation in political life with an unconditional subjection to a power of death, as if life were able to enter the city only in the double exception of being capable of being killed and yet not sacrificed. Hence the situation of the *patria potestas* at the limit of both the *domus* and the city: if classical politics is born through the separation of these two spheres, life that may be killed but not sacrificed is the hinge on which each sphere is articulated and the threshold at which the two spheres are joined in becoming indeterminate. Neither political *bios* nor natural *zoē*, sacred life is the zone of indistinction in which *zoē* and *bios* constitute each other in including and excluding each other.

It has been rightly observed that the state is founded not as the expression of a social tie but as an untying (*déliation*) that prohibits (Badiou, *L'être*, p. 125). We may now give a further sense to this claim. *Déliation* is not to be understood as the untying of a preexisting tie (which would probably have the form of a pact or a contract). The tie itself originally has the form of an untying or exception

in which what is captured is at the same time excluded, and in which human life is politicized only through an abandonment to an unconditional power of death. The sovereign tie is more originary than the tie of the positive rule or the tie of the social pact, but the sovereign tie is in truth only an untying. And what this untying implies and produces—bare life, which dwells in the no-man's-land between the home and the city—is, from the point of view of sovereignty, the originary political element.

## Sovereign Body and Sacred Body

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**5.1.** When Ernst Kantorowicz published *The King's Two Bodies: A Study in Mediaeval Political Theology* in the United States at the end of the 1950s, the book was received with great favor not only by medievalists but also and above all by historians of the modern age and scholars of political science and the theory of the state. The work was without doubt a masterpiece of its kind, and the notion that it advanced of a “mystical” or “political body” of the sovereign certainly constituted (as Kantorowicz’s most brilliant pupil, R. E. Giesey, observed years later) a “milestone in the history of the development of the modern state” (Giesey, *Cérémonial*, p. 9). Such unanimous favor in such a delicate area ought, however, to provoke some reflection.

In his preface, Kantorowicz himself notes that the book, which was born as an inquiry into the medieval precedents of the juridical doctrine of the king’s two bodies, had gone beyond the author’s first intention and had even transformed itself—as the subtitle indicates—into a “study in mediaeval political theology.” Kantorowicz, who had lived through and intensely participated in the political affairs of Germany in the 1920s, fighting alongside the Nationalists in the Spartacist Revolt in Berlin and the Republic of Councils in Munich, could not have failed to intend the reference to the “political theology” under whose insignia Schmitt had placed his own theory of sovereignty in 1922. Thirty-five years later, after Nazism had marked an irreparable rupture in his life as an assimilated Jew, Kantorowicz returned to interrogate, from a completely different perspective, the “Myth of the State” that he had ardently shared in his youth. In a significant disavowal, the preface warns: “It would go much too far . . . to assume that the author felt tempted to investigate the emergence of some of the idols of modern political religions merely on account of the horrifying experience of our own time in which whole nations, the largest and the smallest, fell prey to the weirdest dogmas and in which political theologisms became genuine obsessions” (*King's Two Bodies*, p. viii). And with the same eloquent modesty, the author writes that he “cannot claim to have demonstrated in any

completeness the problem of what has been called “The Myth of the State” (ibid., p. ix).

In this sense it has been possible to read the book, not without reason, as one of our century’s great critical texts on the state and techniques of power. Yet anyone who has followed the patient work of analysis that leads from the macabre irony of *Richard II* and Plowden’s reports to a reconstruction of the formation of the doctrine of the king’s two bodies in medieval jurisprudence and theology cannot fail to wonder if the book really can indeed be read as only a demystification of political theology. The fact of the matter is that while the political theology evoked by Schmitt essentially frames a study of the absolute character of political power, *The King’s Two Bodies* is instead exclusively concerned with the other, more innocuous feature that, according to Jean Bodin, defines sovereignty (*puissance absolue et perpétuelle*)—the perpetual nature of sovereignty, which allows the royal *dignitas* to survive the physical person of its bearer (*Le roi ne meurt jamais*, “The king never dies”). Here “Christian political theology” was, by means of analogy with Christ’s mystic body, directed solely toward the task of establishing the continuity of the state’s *corpus morale et politicum* {moral and political body}, without which no stable political organization could be conceived. And it is in this sense that “notwithstanding . . . some similarities with disconnected pagan concepts, the king’s two bodies is an offshoot of Christian theological thought and, consequently, stands as a landmark of Christian political theology” (*King’s Two Bodies*, p. 434).

5.2. Advancing this final thesis decisively, Kantorowicz evokes—but immediately sets aside—precisely the element that could have steered the genealogy of the doctrine of the king’s two bodies in a less reassuring direction. Kantorowicz connects the doctrine of the king’s two bodies with the other, darker mystery of sovereign power: *la puissance absolue*. In chapter 7, describing the peculiar funeral ceremonies of French kings in which a wax effigy of the sovereign, placed on a *lit d’honneur*, occupied an important position and was fully treated as the king’s living person, Kantorowicz suggests that these ceremonies might well have their origin in the apotheosis of Roman emperors. Here too, after the sovereign dies, his wax *imago*, “treated like a sick man, lies on a bed; senators and matrons are lined up on either side; physicians pretend to feel the pulse of the image and give it their medical aid until, after seven days, the effigy ‘dies’” (*King’s Two Bodies*, p. 427). According to Kantorowicz, however, the pagan precedent, while very similar, had not directly influenced the French ceremony. It was in any case certain to Kantorowicz that the presence of the effigy was to be once again placed in relation to the perpetuity of royal dignity, which “never dies.”

That Kantorowicz's exclusion of the Roman precedent was not a product of negligence or oversight is shown by the attention which Giesey, with his teacher's full approval, gives to the matter in a book that can be considered a fitting completion of *The King's Two Bodies*, namely, *The Royal Funeral Ceremony in Renaissance France* (1960). Giesey could not ignore the fact that a genetic connection between imperial Roman *consecratio* and the French rite had been established by such scholars as Elias Bickermann and the very eminent Julius Schlosser. Curiously enough, Giesey nevertheless suspends judgment on the matter ("as far as I am concerned," he writes, "I prefer not to choose either of the two solutions" [p. 128]) and instead resolutely confirms his teacher's interpretation of the link between the effigy and the perpetual character of sovereignty. There was an obvious reason for this choice: if the hypothesis of the pagan derivation of the image ceremony had been taken into account, the Kantorowiczian thesis concerning "Christian political theology" would have fallen by the wayside or would, at least, have had to be reformulated more cautiously. But there was a different—and more secret—reason, and that is that nothing in Roman *consecratio* allowed one to place the emperor's effigy in relation to what is sovereignty's clearest feature, its perpetual nature. The macabre and grotesque rite in which an image was first treated as a living person and then solemnly burned gestured instead toward a darker and more uncertain zone, which we will now investigate, in which the political body of the king seemed to approximate—and even to become indistinguishable from—the body of *homo sacer*, which can be killed but not sacrificed.

5.3. In 1929, a young scholar of classical antiquity, Elias Bickermann, published an article titled "Roman Imperial Apotheosis" in the *Archiv für Religionswissenschaft*, which, in a short but detailed appendix, explicitly placed the pagan image ceremony (*fonus imaginarium*) in relation to the funeral rites of English and French sovereigns. Both Kantorowicz and Giesey cite this study; Giesey even declares, without hesitation, that his own work originated in a reading of Bickermann's article. Both Kantorowicz and Giesey remain silent, however, about what was precisely the central point of Bickermann's analysis.

Carefully reconstructing the rite of imperial consecration from both written sources and coins, Bickermann had discerned the specific aporia contained in this "funeral by image," even if he had not grasped all of its consequences:

Every normal man is buried only once, just as he dies only once. In the age of Antonius, however, the consecrated emperor is burned on the funeral pyre twice, first *in corpore* and then *in effigie*. . . . The emperor's corpse is solemnly, but not officially, burned, and his remains are deposited in the mausoleum. At this point

public mourning usually ends. . . . But in Antonius Pius's funeral, everything is carried out contrary to usual practice. Here *Iustitium* (public mourning) begins only after the burial of the bones, and the state funeral procession starts up once the remains of the corpse already lie buried in the ground! And this *funus publicum*, as we learn from Dio's and Herodian's reports of later consecrations, concerns the wax effigy made after the image of the deceased sovereign. . . . Dio reports as an eyewitness that a slave uses a fan to keep flies away from the face of the doll. Then Septimus Severus gives him a farewell kiss on the funeral pyre. Herodian adds that the image of Septimus Severus is treated in the palace as a sick person for seven days, with doctors' visits, clinical reports, and diagnoses of death. All of these accounts leave no doubt: the wax effigy, which is "in all things similar" to the dead man, and which lies on the official bed wearing the dead man's clothes, is the emperor himself, whose life has been transferred to the wax doll by means of this and perhaps other magical rites. ("Die römische Kaiserapotheose," pp. 4–6)

Yet what is decisive for understanding the whole ritual is precisely the function and the nature of the image. Here Bickermann suggests a comparison that makes it possible to situate the ceremony in a new perspective:

Parallels for such picture magic are numerous and can be found all over the world. Here it suffices to cite an Italic example from the year 136. A quarter of a century before the funeral of the effigy of Antonius Pius, the *lex collegii colorum Dianae et Antinonoi* declares: *Quisquis ex hoc collegio servus defunctus fuerit et corpus eius a domino iniquo sepulturae datum non . . . fuerit . . . , ei funus imaginarium fiet* [If a servant of this college dies and an impious master does not bury the body, may a *funus imaginarium* be performed]. Here we find the same expression, *funus imaginarium*, that the "Historia Augusta" uses to designate the funeral ceremony of Pertinax's wax effigy at which Dio was present. In the *lex collegii* as in other parallel cases, however, the image functions as a substitute for the missing corpse; in the case of the imperial ceremony, it appears instead beside the corpse, doubling the dead body without substituting for it. (Ibid., pp. 6–7)

In 1972, returning to the problem after more than 40 years, Bickermann places the imaginary imperial funeral in relation to a rite required for the warrior who, after having solemnly dedicated himself to the Manes gods before fighting, does not die in battle (*Consecratio*, p. 22). And it is here that the body of the sovereign and the body of *homo sacer* enter into a zone of indistinction in which they can no longer be told apart.

5.4. For a long time now, scholars have approximated the figure of *homo sacer* to that of the *devotus* who consecrates his own life to the gods of the underworld in order to save the city from a grave danger. Livy has left us a vivid, meticulous

description of a *devotio* that took place in 340 BCE during the battle of Veseris. The Roman army was about to be defeated by its Latin adversaries when the consul Publius Decius Mus, who was commanding the legions alongside his colleague Titus Manlius Torquatus, asked the pontifex to assist him in carrying out the rite:

The pontiff ordered him to put on the purple-bordered toga and, with his head veiled and one hand thrust out from the toga and touching his chin, to stand on a spear that was laid under his feet, and to say as follows: “Janus, Jupiter, Father Mars, Quirinus, Bellona, Lares, divine Novensiles, divine Indigites, you gods in whose power are both we and our enemies, and you, divine Manes—I invoke and worship you, I beseech and crave your favor, that you prosper the might and victory of the Roman People of the Quirites, and visit the foes of the Roman People of the Quirites with fear, shuddering, and death. As I have pronounced these words, even so in behalf of the republic of the Roman People of the Quirites, and of the army, the legions, the auxiliaries of the Roman People of the Quirites, do I consign and consecrate [*devoveo*] the legions and auxiliaries of the enemy, together with myself, to the divine Manes and to Earth. . . .” Then, having girded himself with the Gabinian cincture, he rose up armed on his horse and plunged into the thick of the enemy. To both armies he appeared more august than a man, as though sent from heaven to expiate the anger of the gods. (Livy, *Ab urbe condita libri*, 8. 9. 4ff.)

Here the analogy between *devotus* and *homo sacer* does not seem to go beyond the fact that both are in some way consecrated to death and belong to the gods, even if (despite Livy’s parallel) not in the technical form of sacrifice. Yet Livy contemplates a hypothesis that sheds significant light on this institution and makes it possible to assimilate the life of the *devotus* more strictly to that of *homo sacer*:

It seems proper to add here that the consul, dictator, or praetor who consecrates the legions of the enemy not only can consecrate himself but can also consecrate any citizen whatsoever who belongs to a Roman legion. If the man who has been consecrated dies, it is deemed that all is well; but if he does not die, then an image [*signum*] of him must be buried seven feet or more under the ground and a victim must be immolated in expiation. And no Roman magistrate may walk over the ground in which the image has been buried. But if he has consecrated himself, as Decius did, and if he does not die, he cannot perform any rite, either public or private. (Ibid., 8. 9. 13)

Why does the survival of the devotee constitute such an embarrassing situation for the community that it forces it to perform a complex ritual whose sense is so unclear? What is the status of the living body that seems no longer to be-

long to the world of the living? In an exemplary study, Robert Schilling observes that if the surviving devotee is excluded from both the profane world and the sacred world, “this happens because this man is *sacer*. He cannot be given back in any way to the profane world because it is precisely thanks to his consecration that the entire community was able to be spared the wrath of the gods” (“*Sacrum et profanum*,” p. 956). This is the perspective from which we must see the statue that we have already encountered in the emperor’s *funus imaginarium* and that seems to unite, in one constellation, the body of the sovereign and the body of the devotee.

We know that the seven-foot-tall *signum* of which Livy speaks is none other than the devotee’s “colossus,” which is to say, his double, which takes the place of the missing corpse in a kind of funeral *per imaginem* or, more precisely, in the vicarious execution of an unfulfilled consecration. Jean-Pierre Vernant and Émile Benveniste have shown the general function of the colossus: this figure, attracting and establishing within itself a double in unusual conditions, “makes it possible to reestablish correct relations between the world of the living and the world of the dead” (Vernant, *Mythe*, p. 77). The first consequence of death is the liberation of a vague and threatening being (the *larva* of the Latins, the *psychē*, *eidōlon* or *phasma* of the Greeks) who returns, with the outward appearance of the dead person, to the places where the person lived, belonging properly neither to the world of the living nor to that of the dead. The goal of the funeral rites is to assure that this uncomfortable and uncertain being is transformed into a friendly and powerful ancestor, who clearly belongs to the world of the dead and with whom it is possible to maintain properly ritual relations. The absence of the corpse (or, in certain cases, its mutilation) can, however, impede the orderly fulfillment of the funeral rite. And in these cases a colossus can, under determinate conditions, be substituted for the corpse, thereby rendering possible a vicarious execution of the funeral.

What happens to the surviving devotee? Here it is not possible to speak of a missing corpse in the strict sense, for there has not even been a death. An inscription found in Cyrene nevertheless tells us that a colossus could even be made during the lifetime of the person for whom it was meant to substitute. The inscription bears the text of an oath that settlers leaving for Africa and the citizens of the homeland had to swear at Thera in order to secure their obligations to each other. At the moment they swore the oath, they threw wax *kolossoi* into a fire, saying, “May he who is unfaithful to this oath, as well as all his descendants and all his goods, be liquefied and disappear” (Vernant, *Mythe*, p. 69). The colossus is not, therefore, a simple substitute for the corpse. In the complex system regulating the relation between the living and the dead in the classical

world, the colossus represents instead—analogously to the corpse, but in a more immediate and general way—that part of the person that is consecrated to death and that, insofar as it occupies the threshold between the two worlds, must be separated from the normal context of the living. This separation usually happens at the time of death, through the funeral rites that reestablish the proper relation between the living and the dead that had been disturbed by the deceased. In certain cases, however, it is not death that disturbs this order but rather its absence, and the fabrication of the colossus is then necessary to reestablish order.

Until this rite (which, as H. S. Versnel has shown, is not a vicarious funeral but rather a substitutive performance of a consecration [“Self-Sacrifice,” p. 157]) is performed, the surviving devotee is a paradoxical being, who, while seeming to lead a normal life, in fact exists on a threshold that belongs neither to the world of the living nor to the world of the dead: he is a living dead man, or a living man who is actually a *larva*, and the colossus represents the very consecrated life that was, at the moment of the ritual by which he became a *devotus*, virtually separated from him.

5.5. If we now examine the life of *homo sacer* from this perspective, it is possible to assimilate his status to that of a surviving devotee for whom neither vicarious expiation nor substitution by a colossus is possible. The very body of *homo sacer* is, in its capacity to be killed but not sacrificed, a living pledge to his subjection to a power of death. And yet this pledge is, nevertheless, absolute and unconditional, and not the fulfillment of a consecration. It is therefore not by chance that in a text that has long appeared to interpreters to be confused and corrupt (*Saturnalia*, 3. 7. 6), Macrobius assimilates *homo sacer* to the statues (*Zanes*) in Greece that were consecrated to Jove with the proceeds from the fees imposed on oath-breaking athletes, statues that were in fact nothing other than the *collossi* of those who had broken their word and had therefore been vicariously consigned to divine justice (*animas . . . sacratorum hominum, quos zanas Graeci vocant*, “souls of the sacred men whom the Greeks call *Zanes*”). Insofar as he incarnates in his own person the elements that are usually distinguished from death, *homo sacer* is, so to speak, a living statue, the double or the colossus of himself. In the body of the surviving devotee and, even more unconditionally, in the body of *homo sacer*, the ancient world finds itself confronted for the first time with a life that, excepting itself in a double exclusion from the real context of both the profane and the religious forms of life, is defined solely by virtue of having entered into an intimate symbiosis with death without, nevertheless, belonging to the world of the deceased. In the figure of this “sacred life,”

something like a bare life makes its appearance in the Western world. What is decisive, however, is that from the beginning this sacred life has an eminently political character and exhibits an essential link with the terrain on which sovereign power is founded.

5.6. We must examine in this light the rite of the image in the Roman imperial apotheosis. If the colossus always represents a life consecrated to death in the sense we have seen, this means that the death of the emperor (despite the presence of the corpse, whose remains are ritually buried) frees a supplement of sacred life that, as in the case of the man who has survived consecration, must be neutralized by means of a colossus. Thus it is as if the emperor had in himself not two bodies but rather two lives inside one single body: a natural life and a sacred life. The latter, regardless of the regular funeral rite, survives the former and can only ascend to the heavens and be deified after the *funus imaginarium*. What unites the surviving devotee, *homo sacer*, and the sovereign in one single paradigm is that in each case we find ourselves confronted with a bare life that has been separated from its context and that, so to speak surviving its death, is for this very reason incompatible with the human world. In every case, sacred life cannot dwell in the city of men: for the surviving devotee, the imaginary funeral functions as a vicarious fulfillment of the consecration that gives the individual back to normal life; for the emperor, the double funeral makes it possible to fasten onto the sacred life, which must be gathered and divinized in the apotheosis; for *homo sacer*, finally, we are confronted with a residual and irreducible bare life, which must be excluded and exposed to a death that no rite and no sacrifice can redeem.

In all three cases, sacred life is in some way tied to a political function. It is as if, by means of a striking symmetry, supreme power—which, as we have seen, is always *vitae necisque potestas* and always founded on a life that may be killed but not sacrificed—required that the very person of sovereign authority assume within itself the life held in its power. And if, for the surviving devotee, a missing death liberates this sacred life, for the sovereign, death reveals the excess that seems to be as such inherent in supreme power, as if supreme power were, in the last analysis, nothing other than *the capacity to constitute oneself and others as life that may be killed but not sacrificed*.

With respect to the interpretation of Kantorowicz and Giesey, the doctrine of the king's two bodies therefore appears in a different and less innocuous light. If this doctrine's relation to pagan imperial consecration cannot be bracketed, the very meaning of the theory changes radically. The king's political body (which, as

Plowden says, “cannot be seen or touched” and which, “lacking childhood and old age and all the other defects to which the natural body is subject,” exalts the mortal body to which it is joined) is, in the last analysis, derived from the emperor’s colossus. Yet for this very reason, the king’s political body cannot simply represent (as Kantorowicz and Giesey held) the continuity of sovereign power. The king’s body must also and above all represent the very excess of the emperor’s sacred life, which is isolated in the image and then, in the Roman ritual, carried to the heavens, or, in the French and English rite, passed on to the designated successor. However, once this is acknowledged, the metaphor of the political body appears no longer as the symbol of the perpetuity of *dignitas*, but rather as the cipher of the absolute and inhuman character of sovereignty. The formulas *le mort saisit le vif* and *le roi ne meurt jamais* must be understood in a much more literal way than is usually thought: at the moment of the sovereign’s death, it is the sacred life grounding sovereign authority that invests the person of the sovereign’s successor. The two formulas only signify sovereign power’s continuity to the extent that they express, by means of the hidden tie to life that can be killed but not sacrificed, sovereign power’s absoluteness.

For this reason, when Bodin, the most perceptive modern theorist of sovereignty, considers the maxim cited by Kantorowicz as an expression of the perpetuity of political power, he interprets it with reference to the absoluteness of political power: “This is why,” he writes in the sixth book of *The Commonweale*, “it is said in this kingdom that the king never dies. And this saying, which is an ancient proverb, well shows that the kingdom was never elective, and that it has its scepter not from the Pope, nor from the Archbishop of Rheims, nor from the people, but rather from God alone” (*La République*, p. 985).

5.7. If the symmetry we have tried to illustrate between the body of the sovereign and that of *homo sacer* is correct, then we ought to be able to find analogies and correspondences in the juridico-political status of these two apparently distant bodies. Material for a first and immediate comparison is offered by the sanction that the killing of the sovereign incurs. We know that the killing of *homo sacer* does not constitute homicide (*parricidi non damnatur*). Accordingly, there is no juridico-political order (even among those societies in which homicide is always punished with capital punishment) in which the killing of the sovereign is classified simply as an act of homicide. Instead it constitutes a special crime, which is defined (once the notion of *maiestas*, starting with Augustus, is associated more and more closely with the person of the emperor) as *crimen lesae maiestatis*. It does not matter, from our perspective, that the killing of *homo sacer*

can be considered as less than homicide, and the killing of the sovereign as more than homicide; what is essential is that in neither case does the killing of a man constitute an offense of homicide. When we still read in King Charles Albert of Savoy's statute that "the person of the sovereign is sacred and inviolable," we must hear, in the adjectives invoked, an echo of the sacredness of *homo sacer's* life, which can be killed by anyone without committing homicide.

Yet the other defining characteristic of *homo sacer's* life, that is, his unsacrificeability according to the forms prescribed by the rite of the law, is also to be found in the person of the sovereign. Michael Walzer has observed that in the eyes of the people of the time, the enormity of the rupture marked by Louis XVI's decapitation on January 21, 1793, consisted not in the fact that a monarch was killed but in the fact that he was submitted to a trial and executed after having been condemned to capital punishment ("King's Trial," pp. 184–85). In modern constitutions, a trace of the unsacrificeability of the sovereign's life still survives in the principle according to which the head of state cannot be submitted to an ordinary legal trial. In the American Constitution, for example, impeachment requires a special session of the Senate presided over by the chief justice, which can be convened only for "high crimes and misdemeanors," and whose consequence can never be a legal sentence but only dismissal from office. When the Jacobins suggested, during the discussions of the 1792 convention, that the king be executed without trial, they merely brought the principle of the unsacrificeability of sacred life to the most extreme point of its development, remaining absolutely faithful (though most likely they did not realize it) to the *arcanum* according to which sacred life may be killed by anyone without committing homicide, but never submitted to sanctioned forms of execution.

## The Ban and the Wolf

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**6.1.** “The entire character of *homo sacer* shows that it was not born on the soil of a constituted juridical order, but goes all the way back to the period of pre-social life. It is a fragment of the primitive life of Indo-European peoples. . . . In the bandit and the outlaw (*wargus*, *vargr*, the wolf and, in the religious sense, the sacred wolf, *vargr y veum*), Germanic and Scandinavian antiquity give us a brother of *homo sacer* beyond the shadow of any doubt. . . . That which is considered to be an impossibility for Roman antiquity the killing of the proscribed outside a judge and law—was an incontestable reality in Germanic antiquity” (Jhering, *L'esprit du droit romain*, p. 282).

Rodolphe Jhering was, with these words, the first to approximate the figure of *homo sacer* to that of the *wargus*, the wolf-man, and of the *Friedlos*, the “man without peace” of ancient Germanic law. He thus placed *sacratio* in the context of the doctrine of *Friedlosigkeit* that Wilhelm Eduard Wilda had elaborated toward the middle of the nineteenth century, according to which ancient Germanic law was founded on the concept of peace (*Fried*) and the corresponding exclusion from the community of the wrongdoer, who therefore became *friedlos*, without peace, and whom anyone was permitted to kill without committing homicide. The medieval ban also presents analogous traits: the bandit could be killed (*bannire idem est quod dicere quilibet possit eum offendere*, “‘To ban’ someone is to say that anyone may harm him” [Cavalca, *Il bando*, p. 42]) or was even considered to be already dead (*exbannitus ad mortem de sua civitate debet haberi pro mortuo*, “Whoever is banned from his city on pain of death must be considered as dead” [ibid., p. 50]). Germanic and Anglo-Saxon sources underline the bandit’s liminal status by defining him as a wolf-man (*wargus*, *werwolf*, the Latin *garulphus*, from which the French *loup garou*, “werewolf,” is derived): thus Salic law and Ripuarian law use the formula *wargus sit, hoc est expulsus* in a sense that recalls the *sacer esto* that sanctioned the sacred man’s capacity to be killed, and the laws of Edward the Confessor (1030–35) define the bandit as a *wulfesheud* (a wolf’s head) and assimilate him to the werewolf (*lupinum enim gerit caput a*

*die utlagationis suae, quod ab anglis wulfesheud vacatur*, “He bears a wolf’s head from the day of his expulsion, and the English call this *wulfesheud*”). What had to remain in the collective unconscious as a monstrous hybrid of human and animal, divided between the forest and the city—the werewolf—is, therefore, in its origin the figure of the man who has been banned from the city. That such a man is defined as a wolf-man and not simply as a wolf (the expression *caput lupinum* has the form of a juridical statute) is decisive here. The life of the bandit, like that of the sacred man, is not a piece of animal nature without any relation to law and the city. It is, rather, a threshold of indistinction and of passage between animal and man, *physis* and *nomos*, exclusion and inclusion: the life of the bandit is the life of the *loup garou*, the werewolf, who is precisely *neither man nor beast*, and who dwells paradoxically within both while belonging to neither.

6.2. Only in this light does the Hobbesian mythologeme of the state of nature acquire its true sense. We have seen that the state of nature is not a real epoch chronologically prior to the foundation of the City but a principle internal to the City, which appears at the moment the City is considered *tanquam dissoluta*, “as if it were dissolved” (in this sense, therefore, the state of nature is something like a state of exception). Accordingly, when Hobbes founds sovereignty by means of a reference to the state in which “man is a wolf to men,” *homo hominis lupus*, in the word “wolf” (*lupus*) we ought to hear an echo of the *wargus* and the *caput lupinem* of the laws of Edward the Confessor: at issue is not simply *fera bestia* and natural life but rather a zone of indistinction between the human and the animal, a werewolf, a man who is transformed into a wolf and a wolf who is transformed into a man—in other words, a bandit, a *homo sacer*. Far from being a prejuridical condition that is indifferent to the law of the city, the Hobbesian state of nature is the exception and the threshold that constitutes and dwells within it. It is not so much a war of all against all as, more precisely, a condition in which everyone is bare life and a *homo sacer* for everyone else, and in which everyone is thus *wargus, gerit caput lupinum*. And this lupization of man and humanization of the wolf is at every moment possible in the *dissolutio civitatis* inaugurated by the state of exception. This threshold alone, which is neither simple natural life nor social life but rather bare life or sacred life, is the always present and always operative presupposition of sovereignty.

Contrary to our modern habit of representing the political realm in terms of citizens’ rights, free will, and social contracts, from the point of view of sovereignty *only bare life is authentically political*. This is why in Hobbes, the foundation of sovereign power is to be sought not in the subjects’ free renunciation

of their natural right but in the sovereign's preservation of his natural right to do anything to anyone, which now appears as the right to punish. "This is the foundation," Hobbes states, "of that right of Punishing, which is exercised in every Common-wealth. For the Subjects did not give the Sovereign that right; but onely in laying down theirs, strengthened him to use his own, as he should think fit, for the preservation of them all: so that it was not *given*, but *left* to him, and to him onely; and (excepting the limits set him by naturall Law) as entire, as in the condition of meer Nature, and of warre of every one against his neighbour" (*Leviathan*, p. 214, emphasis added).

Corresponding to this particular status of the "right of Punishing," which takes the form of a survival of the state of nature at the very heart of the state, is the subjects' capacity not to disobey but to resist violence exercised on their own person, "for . . . no man is supposed bound by Covenant, not to resist violence; and consequently it cannot be intended, that he gave any right to another to lay violent hands upon his person" (*ibid.*). Sovereign violence is in truth founded not on a pact but on the exclusive inclusion of bare life in the state. And just as sovereign power's first and immediate referent is, in this sense, the life that may be killed but not sacrificed, and that has its paradigm in *homo sacer*, so in the person of the sovereign, the werewolf, the wolf-man of man, dwells permanently in the city.

✠ In *Bisclavret*, one of Marie de France's most beautiful lays, both the werewolf's particular nature as the threshold of passage between nature and politics, animal world and human world, and the werewolf's close tie to sovereign power are presented with extraordinary vividness. The lay tells of a baron who is particularly close to his king (*de sun seinur esteit privez* [v. 19]), but who, every week, after hiding his clothes under a stone, is transformed into a werewolf (*bisclavret*) for three days, during which time he lives in the woods stealing and preying on other creatures (*al plus espés de la gaudine / s'i vif de preie e de ravine*). His wife, who suspects something, induces him to confess his secret life and convinces him to reveal where he hides his clothes, even though he knows that he would remain a wolf forever if he lost them or were caught putting them on (*kar si jes eusse perduz / e de ceo feusse aparceuz / bisclavret serei a tuz jours*). With the help of an accomplice who will become her lover, the woman takes the clothes from their hiding place, and the baron remains a wolf forever.

What is essential here is the detail, to which Pliny's legend of Antus also bears witness (*Natural History*, bk. 8), of the temporary character of the metamorphosis, which is tied to the possibility of setting aside and secretly putting on human clothes again. The transformation into a werewolf corresponds perfectly to the state of exception, during which (necessarily limited) time the city is dissolved and men enter into a zone in which they are no longer distinct from beasts. The story also shows the necessity of particular formalities marking the entry into—or the exit from—the zone of indistinction between

the animal and the human (which corresponds to the clear proclamation of the state of exception as formally distinct from the rule). Contemporary folklore also bears witness to this necessity, in the three knocks on the door that the werewolf who is becoming human again must make in order to be let into the house:

When they knock on the door the first time, the wife must not answer. If she did, she would see her husband still entirely as a wolf, and he would eat her and then run away into the forest forever. When they knock on the door the second time, the woman must still not answer: she would see him with a man's body and a wolf's head. Only when they knock on the door the third time can the door be opened: for only then are they completely transformed, only then has the wolf completely disappeared and has the man of before reappeared. (Levi, *Cristo si é fermato a Eboli*, pp. 104–5)

The special proximity of werewolf and sovereign too is ultimately shown in the story. One day (so the lay tells), the king goes hunting in the forest in which Bisclavret lives, and the dogs find the wolf-man as soon as they are let loose. But as soon as Bisclavret sees the sovereign, he runs toward him and grabs hold of his stirrup, licking his legs and his feet as if he were imploring the king's mercy. Amazed at the beast's humanity ("this animal has wits and intelligence / . . . I will give my peace to the beast / and for today I will hunt no more"), the king brings him to live with him, and they become inseparable. The inevitable encounter with the ex-wife and the punishment of the woman follow. What is important, however, is that Bisclavret's final transformation back into a human takes place on the very bed of the sovereign.

The proximity of tyrant and wolf-man is also shown in Plato's *Republic*, in which the transformation of the guardian into a tyrant is approximated to the Arcadian myth of Lycean Zeus:

What, then, is the cause of the transformation of a protector into a tyrant? Is it not obviously when the protector's acts begin to reproduce the myth that is told of the shrine of Lycean Zeus in Arcadia? . . . The story goes that whoever tastes of one bit of human entrails minced up with those of other victims is inevitably transformed into a wolf. . . . Thus, when a leader of the mob [*demos*], seeing the multitude devoted to his orders, does not know how to abstain from the blood of his tribe . . . will it not then be necessary that he either be killed by his enemies or become a tyrant and be transformed from a man into a wolf? (*Republic*, 565d–565e)

6.3. The time has come, therefore, to reread from the beginning the myth of the foundation of the modern city from Hobbes to Rousseau. The state of nature is, in truth, a state of exception, in which the city appears for an instant (which is at the same time a chronological interval and a nontemporal moment) *tanquam dissoluta*. The foundation is thus not an event achieved once and for all

but is continually operative in the civil state in the form of the sovereign decision. What is more, the latter refers *immediately* to the life (and not the free will) of the citizens, which thus appears as the originary political element, the *Urphänomen* of politics. Yet this life is not simply natural reproductive life, the *zoē* of the Greeks, nor *bios*, a qualified form of life. It is, rather, the bare life of *homo sacer* and the *wargus*, a zone of indistinction and continuous transition between man and beast, nature and culture.

This is why the thesis stated at the logico-formal level at the end of the first part above, according to which the originary juridico-political relation is the ban, not only is a thesis concerning the formal structure of sovereignty but also has a substantial character, since what the ban holds together is precisely bare life and sovereign power. All representations of the originary political act as a contract or convention marking the passage from nature to the State in a discrete and definite way must be left wholly behind. Here there is, instead, a much more complicated zone of indiscernability between *nomos* and *physis*, in which the State tie, having the form of a ban, is always already also non-State and pseudo-nature, and in which nature always already appears as *nomos* and the state of exception. The understanding of the Hobbesian mythologeme in terms of *contract* instead of *ban* condemned democracy to impotence every time it had to confront the problem of sovereign power and has also rendered modern democracy constitutionally incapable of truly thinking a politics freed from the form of the State.

The relation of abandonment is so ambiguous that nothing could be harder than breaking from it. The ban is essentially the power of delivering something over to itself, which is to say, the power of maintaining itself in relation to something presupposed as nonrelational. What has been banned is delivered over to its own separateness and, at the same time, consigned to the mercy of the one who abandons it—at once excluded and included, removed and at the same time captured. The age-old discussion in juridical historiography between those who conceive exile to be a punishment and those who instead understand it to be a right and a refuge (already at the end of the republic, Cicero thought exile in opposition to punishment: *Exilium enim non supplicium est, sed perfugium portusque supplicii*, “Exile is not a penalty, but a haven and a refuge from penalty” [*Pro Caec.*, 34]) has its root in this ambiguity of the sovereign ban. Both for Greece and for Rome, the oldest sources show that more ancient than the opposition between law and punishment is the status—which “cannot be qualified either as the exercise of a law or as a penal situation” (Crifò, *L’esclusione dall città*, p. 11)—of the person who goes into exile as a consequence of committing homicide, or

who loses his citizenship as a result of becoming a citizen of a *civitas foederata* that benefits from an *ius exilii*.

The originary political relation is marked by this zone of indistinction in which the life of the exile or the *aqua et igni interdictus* borders on the life of *homo sacer*, who may be killed but not sacrificed. This relation is more original than the Schmittian opposition between friend and enemy, fellow citizen and foreigner. The “estrarity” of the person held in the sovereign ban is more intimate and primary than the extraneousness of the foreigner (if it is possible to develop in this way the opposition established by Festus between *extrarius*, which is to say, *qui extra focum sacramentum iusque sit* [“whoever is outside the hearth, the sacrament, and the law”], and *extraneus*, which is to say, *ex altera terra, quasi exterraneus* [“whoever is from another land and almost extraneous”]).

Now it is possible to understand the semantic ambiguity that we have already noted, in which “banned” in Romance languages originally meant both “at the mercy of” and “out of free will, freely,” both “excluded, banned” and “open to all, free.” The ban is the force of simultaneous attraction and repulsion that ties together the two poles of the sovereign exception: bare life and power, *homo sacer* and the sovereign. Because of this alone can the ban signify both the insignia of sovereignty (*Bandum, quod postea appellatus fuit Standardum, Guntfanonum, italice Confalone* [Muratori, *Antiquitates*, p. 442]) and expulsion from the community.

We must learn to recognize this structure of the ban in the political relations and public spaces in which we still live. *In the city, the banishment of sacred life is more internal than every interiority and more external than every extraneousness.* The banishment of sacred life is the sovereign *nomos* that conditions every rule, the originary spatialization that governs and makes possible every localization and every territorialization. And if in modernity life is more and more clearly placed at the center of State politics (which now becomes, in Foucault’s terms, biopolitics), if in our age all citizens can be said, in a specific but extremely real sense, to appear virtually as *homines sacri*, this is possible only because the relation of ban has constituted the essential structure of sovereign power from the beginning.

## Threshold

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IF the originally political element is sacred life, it becomes understandable how Bataille could have sought the fulfilled figure of sovereignty in life experienced in the extreme dimension of death, eroticism, excess, and the sacred, and yet also how Bataille could have failed to consider the link that binds that life to sovereign power. “The sovereignty of which I speak,” he writes in the book bearing that name, which was conceived as the third section of *The Accursed Share*, “has little to do with that of states” (*La souveraineté*, p. 247). What Bataille is attempting to think here is clearly the very bare life (or sacred life) that, in the relation of ban, constitutes the immediate referent of sovereignty. And to have proposed the radical experience of this bare life is precisely what, despite everything, renders Bataille’s effort exemplary. Unwittingly following the movement by which life as such comes to be what is at stake in modern political struggles, Bataille attempted to propose the very same bare life as a sovereign figure. And yet instead of recognizing bare life’s eminently political (or rather biopolitical) nature, he inscribes the experience of this life both in the sphere of the sacred—which he understands, according to the dominant themes of the anthropology of his day taken up by Callois, as originally ambivalent: pure and filthy, repugnant and fascinating—and in the interiority of the subject, to which the experience of this life is always given in privileged or miraculous moments. In the case of both ritual sacrifice and individual excess, sovereign life is defined for Bataille through the instantaneous transgression of the prohibition on killing.

In this way, Bataille immediately exchanges the political body of the sacred man, which can be killed but not sacrificed and which is inscribed in the logic of exception, for the prestige of the sacrificial body, which is defined instead by the logic of transgression. If Bataille’s merit is to have brought to light the hidden link between bare life and sovereignty, albeit unknowingly, in his thought life still remains entirely bewitched in the ambiguous circle of the sacred. Bataille’s work could offer only a real or farcical repetition of the sovereign ban, and it is understandable that Benjamin (according to Pierre Klossowski’s account)

stigmatized the Acéphale group's research with the peremptory phrase "You are working for fascism."

Not that Bataille does not discern that sacrifice is insufficient and that it is, in the last analysis, a "comedy." ("In sacrifice, the one being sacrificed identifies with the animal struck with death. Thus he dies watching himself die, and even by his own will, at peace with the weapon of sacrifice. But this is a comedy!" ["Hegel," p. 336].) Yet what Bataille is unable to master is precisely (as is shown by his interest in the pictures of the young Chinese torture victim, which he discusses in *The Tears of Eros*) the bare life of *homo sacer*, which the conceptual apparatus of sacrifice and eroticism cannot grasp.

It is Jean-Luc Nancy's achievement to have shown the ambiguity of Bataille's theory of sacrifice, and to have strongly affirmed the concept of an "unsacrificeable existence" against every sacrificial temptation. Yet if our analysis of *homo sacer* is correct, and the Bataillan definition of sovereignty with reference to transgression is inadequate with respect to the life in the sovereign ban that may be killed, then the concept of the "unsacrificeable" too must be seen as insufficient to grasp the violence at issue in modern biopolitics. *Homo sacer* is unsacrificeable, yet he may nevertheless be killed by anyone. The dimension of bare life that constitutes the immediate referent of sovereign violence is more original than the opposition of the sacrificeable and the unsacrificeable, and gestures toward an idea of sacredness that is no longer absolutely definable through the conceptual pair (which is perfectly clear in societies familiar with sacrifice) of fitness for sacrifice and immolation according to ritual forms. In modernity, the principle of the sacredness of life is thus completely emancipated from sacrificial ideology, and in our culture the meaning of the term "sacred" continues the semantic history of *homo sacer* and not that of sacrifice (and this is why the demystifications of sacrificial ideology so common today remain insufficient, even though they are correct). What confronts us today is a life that as such is exposed to a violence without precedent precisely in the most profane and banal ways. Our age is the one in which a holiday weekend produces more victims on Europe's highways than a war campaign, but to speak of a "sacredness of the highway railing" is obviously only an antiphrastic definition (La Cecla, *Mente locale*, p. 115).

The wish to lend a sacrificial aura to the extermination of the Jews by means of the term "Holocaust" was, from this perspective, an irresponsible historiographical blindness. The Jew living under Nazism is the privileged negative referent of the new biopolitical sovereignty and is, as such, a flagrant case of a *homo sacer* in the sense of a life that may be killed but not sacrificed. His killing therefore constitutes, as we will see, neither capital punishment nor a sacrifice,

but simply the actualization of a mere “capacity to be killed” inherent in the condition of the Jew as such. The truth—which is difficult for the victims to face, but which we must have the courage not to cover with sacrificial veils—is that the Jews were exterminated not in a mad and giant holocaust but exactly as Hitler had announced, “as lice,” which is to say, as bare life. The dimension in which the extermination took place is neither religion nor law, but biopolitics.

If it is true that the figure proposed by our age is that of an unsacrificeable life that has nevertheless become capable of being killed to an unprecedented degree, then the bare life of *homo sacer* concerns us in a special way. Sacredness is a line of flight still present in contemporary politics, a line that is as such moving into zones increasingly vast and dark, to the point of ultimately coinciding with the biological life itself of citizens. If today there is no longer any one clear figure of the sacred man, it is perhaps because we are all virtually *homines sacri*.

PART THREE

The Camp as Biopolitical Paradigm  
of the Modern

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## The Politicization of Life

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**1.1.** In the last years of his life, while he was working on the history of sexuality and unmasking the deployments of power at work within it, Michel Foucault began to direct his inquiries with increasing insistence toward the study of what he defined as *biopolitics*, that is, the growing inclusion of man's natural life in the mechanisms and calculations of power. At the end of the first volume of *The History of Sexuality*, Foucault, as we have seen, summarizes the process by which life, at the beginning of the modern age, comes to be what is at stake in politics: "For millennia, man remained what he was for Aristotle: a living animal with the additional capacity for political existence; modern man is an animal whose politics calls his existence as a living being into question." Until the very end, however, Foucault continued to investigate the "processes of subjectivization" that, in the passage from the ancient to the modern world, bring the individual to objectify his own self, constituting himself as a subject and, at the same time, binding himself to a power of external control. Despite what one might have legitimately expected, Foucault never brought his insights to bear on what could well have appeared to be the exemplary place of modern biopolitics: the politics of the great totalitarian states of the twentieth century. The inquiry that began with a reconstruction of the *grand enfermement* in hospitals and prisons did not end with an analysis of the concentration camp.

If, on the other hand, the pertinent studies that Hannah Arendt dedicated to the structure of totalitarian states in the postwar period have a limit, it is precisely the absence of any biopolitical perspective. Arendt very clearly discerns the link between totalitarian rule and the particular condition of life that is the camp: "The supreme goal of all totalitarian states," she writes, in a plan for research on the concentration camps, which, unfortunately, was not carried through, "is not only the freely admitted, long-ranging ambition to global rule, but also the never admitted and immediately realized attempt at total domination. The concentration camps are the laboratories in the experiment of total domination, for human nature being what it is, this goal can be achieved only

under the extreme circumstances of human made hell” (*Essays*, p. 240). Yet what escapes Arendt is that the process is in a certain sense the inverse of what she takes it to be, and that precisely the radical transformation of politics into the realm of bare life (that is, into a camp) legitimated and necessitated total domination. Only because politics in our age had been entirely transformed into biopolitics was it possible for politics to be constituted as totalitarian politics to a degree hitherto unknown.

The fact that the two thinkers who may well have reflected most deeply on the political problem of our age were unable to link together their own insights is certainly an index of the difficulty of this problem. The concept of “bare life” or “sacred life” is the focal lens through which we shall try to make their points of view converge. In the notion of bare life the interlacing of politics and life has become so tight that it cannot easily be analyzed. Until we become aware of the political nature of bare life and its modern avatars (biological life, sexuality, etc.), we will not succeed in clarifying the opacity at their center. Conversely, once modern politics enters into an intimate symbiosis with bare life, it loses the intelligibility that still seems to us to characterize the juridico-political foundation of classical politics.

1.2. Karl Löwith was the first to define the fundamental character of totalitarian states as a “politicization of life” and, at the same time, to note the curious contiguity between democracy and totalitarianism:

Since the emancipation of the third estate, the formation of bourgeois democracy and its transformation into mass industrial democracy, the neutralization of politically relevant differences and postponement of a decision about them has developed to the point of turning into its opposite: a total politicization [*totale Politisierung*] of everything, even of seemingly neutral domains of life. Thus in Marxist Russia there emerged a worker-state that was “more intensively state-oriented than any absolute monarchy”; in fascist Italy, a corporate state normatively regulating not only national work, but also “after-work” [*Dopolavoro*] and all spiritual life; and, in National Socialist Germany, a wholly integrated state, which, by means of racial laws and so forth, politicizes even the life that had until then been private. (*Der okkasionelle Dezionismus*, p. 33)

The contiguity between mass democracy and totalitarian states, nevertheless, does not have the form of a sudden transformation (as Löwith, here following in Schmitt’s footsteps, seems to maintain); before impetuously coming to light in our century, the river of biopolitics that gave *homo sacer* his life runs its course in a hidden but continuous fashion. It is almost as if, starting from a certain point,

every decisive political event were double-sided: the spaces, the liberties, and the rights won by individuals in their conflicts with central powers always simultaneously prepared a tacit but increasing inscription of individuals' lives within the state order, thus offering a new and more dreadful foundation for the very sovereign power from which they wanted to liberate themselves. "The 'right' to life," writes Foucault, explaining the importance assumed by sex as a political issue, "to one's body, to health, to happiness, to the satisfaction of needs and, beyond all the oppressions or 'alienation,' the 'right' to rediscover what one is and all that one can be, this 'right'—which the classical juridical system was utterly incapable of comprehending—was the political response to all these new procedures of power" (*La volonté*, p. 191). The fact is that one and the same affirmation of bare life leads, in bourgeois democracy, to a primacy of the private over the public and of individual liberties over collective obligations and yet becomes, in totalitarian states, the decisive political criterion and the exemplary realm of sovereign decisions. And only because biological life and its needs had become the *politically* decisive fact is it possible to understand the otherwise incomprehensible rapidity with which twentieth-century parliamentary democracies were able to turn into totalitarian states and with which this century's totalitarian states were able to be converted, almost without interruption, into parliamentary democracies. In both cases, these transformations were produced in a context in which for quite some time politics had already turned into biopolitics, and in which the only real question to be decided was which form of organization would be best suited to the task of assuring the care, control, and use of bare life. Once their fundamental referent becomes bare life, traditional political distinctions (such as those between Right and Left, liberalism and totalitarianism, private and public) lose their clarity and intelligibility and enter into a zone of indistinction. The ex-communist ruling classes' unexpected fall into the most extreme racism (as in the Serbian program of "ethnic cleansing") and the rebirth of new forms of fascism in Europe also have their roots here.

Along with the emergence of biopolitics, we can observe a displacement and gradual expansion beyond the limits of the decision on bare life, in the state of exception, in which sovereignty consisted. If there is a line in every modern state marking the point at which the decision on life becomes a decision on death, and biopolitics can turn into thanatopolitics, this line no longer appears today as a stable border dividing two clearly distinct zones. This line is now in motion and gradually moving into areas other than that of political life, areas in which the sovereign is entering into an ever more intimate symbiosis not only with the jurist but also with the doctor, the scientist, the expert, and the

priest. In the pages that follow, we shall try to show that certain events that are fundamental for the political history of modernity (such as the declaration of rights), as well as others that seem instead to represent an incomprehensible intrusion of bioligico-scientific principles into the political order (such as National Socialist eugenics and its elimination of “life that is unworthy of being lived,” or the contemporary debate on the normative determination of death criteria), acquire their true sense only if they are brought back to the common biopolitical (or thanatopolitical) context to which they belong. From this perspective, the camp—as the pure, absolute, and impassable biopolitical space (insofar as it is founded solely on the state of exception)—will appear as the hidden paradigm of the political space of modernity, whose metamorphoses and disguises we will have to learn to recognize.

1.3. The first recording of bare life as the new political subject is already implicit in the document that is generally placed at the foundation of modern democracy: the 1679 writ of *habeas corpus*. Whatever the origin of this formula, used as early as the eighteenth century to assure the physical presence of a person before a court of justice, it is significant that at its center is neither the old subject of feudal relations and liberties nor the future *citoyen*, but rather a pure and simple *corpus*. When John the Landless conceded Magna Carta to his subjects in 1215, he turned his attention to the “archbishops, bishops, abbots, counts, barons, viscounts, provosts, officials and bailiffs,” to the “cities, towns, villages,” and, more generally, to the “free men of our kingdom,” so that they might enjoy “their ancient liberties and free customs” as well as the ones he now specifically recognized. Article 29, whose task was to guarantee the physical freedom of the subjects, reads: “No free man [*homo liber*] may be arrested, imprisoned, dispossessed of his goods, or placed outside the law [*utlagetur*] or molested in any way; we will not place our hands on him nor will have others place their hands on him [*nec super eum ibimis, nec super eum mittimus*], except after a legal judgment by his peers according to the law of the realm.” Analogously, an ancient writ that preceded the *habeas corpus* and was understood to assure the presence of the accused in a trial bears the title *de homine replegiando* (or *repiando*).

Consider instead the formula of the writ that the act of 1679 generalizes and makes into law: *Praecipimus tibi quod Corpus X, in custodia vestra detentum, ut dicitur, una cum causa captionis et detentionis, quodcumque nomine idem X censeatur in eadem, habeas coram nobis, apud Westminster, ad subjiciendum*, “We command that you have before us to show, at Westminster, that body X, by whatsoever name he may be called therein, which is held in your custody, as it is

said, as well as the cause of the arrest and the detention.” Nothing allows one to measure the difference between ancient and medieval freedom and the freedom at the basis of modern democracy better than this formula. It is not the free man and his statutes and prerogatives, nor even simply *homo*, but rather *corpus* that is the new subject of politics. And democracy is born precisely as the assertion and presentation of this “body”: *habeas corpus ad subjiciendum*, “you will have to have a body to show.”

The fact that, of all the various jurisdictional regulations concerned with the protection of individual freedom, it was *habeas corpus* that assumed the form of law and thus became inseparable from the history of Western democracy is surely due to mere circumstance. It is just as certain, however, that nascent European democracy thereby placed at the center of its battle against absolutism not *bios*, the qualified life of the citizen, but *zoē*—the bare, anonymous life that is as such taken into the sovereign ban (“the body of being taken . . . ,” as one still reads in one modern formulation of the writ, “by whatsoever name he may be called therein”).

What comes to light in order to be exposed *apud Westminster* is, once again, the body of *homo sacer*, which is to say, bare life. This is modern democracy’s strength and, at the same time, its inner contradiction: modern democracy does not abolish sacred life but rather shatters it and disseminates it into every individual body, making it into what is at stake in political conflict. And the root of modern democracy’s secret biopolitical calling lies here: he who will appear later as the bearer of rights and, according to a curious oxymoron, as the new sovereign subject (*subiectus superaneus*, in other words, what is below and, at the same time, most elevated) can only be constituted as such through the repetition of the sovereign exception and the isolation of *corpus*, bare life, in himself. If it is true that law needs a body in order to be in force, and if one can speak, in this sense, of “law’s desire to have a body,” democracy responds to this desire by compelling law to assume the care of this body. This ambiguous (or polar) character of democracy appears even more clearly in the *habeas corpus* if one considers the fact that the same legal procedure that was originally intended to assure the presence of the accused at the trial and, therefore, to keep the accused from avoiding judgment, turns—in its new and definitive form—into grounds for the sheriff to detain and exhibit the body of the accused. *Corpus is a two-faced being, the bearer both of subjection to sovereign power and of individual liberties.*

This new centrality of the “body” in the sphere of politico-juridical terminology thus coincides with the more general process by which *corpus* is given such a privileged position in the philosophy and science of the Baroque age, from Descartes to Newton, from Leibniz to Spinoza. And yet in political reflection

*corpus* always maintains a close tie to bare life, even when it becomes the central metaphor of the political community, as in *Leviathan* or *The Social Contract*. Hobbes's use of the term is particularly instructive in this regard. If it is true that in *De homine* he distinguishes man's natural body from his political body (*homo enim non modo corpus naturale est, sed etiam civitatis, id est, ut ita loquar, corporis politici pars*, "Man is not only a natural body, but also a body of the city, that is, of the so-called political part" [*De homine*, p. 1]), in the *De cive* it is precisely the body's capacity to be killed that founds both the natural equality of men and the necessity of the "Commonwealth":

If we look at adult men and consider the fragility of the unity of the human body (whose ruin marks the end of every strength, vigor, and force) and the ease with which the weakest man can kill the strongest man, there is no reason for someone to trust in his strength and think himself superior to others by nature. Those who can do the same things to each other are equals. And those who can do the supreme thing—that is, kill—are by nature equal among themselves. (*De cive*, p. 93)

The great metaphor of the Leviathan, whose body is formed out of all the bodies of individuals, must be read in this light. The absolute capacity of the subjects' bodies to be killed forms the new political body of the West.

## Biopolitics and the Rights of Man

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**2.1.** Hannah Arendt entitled the fifth chapter of her book on imperialism, which is dedicated to the problem of refugees, “The Decline of the Nation-State and the End of the Rights of Man.” Linking together the fates of the rights of man and of the nation-state, her striking formulation seems to imply the idea of an intimate and necessary connection between the two, though the author herself leaves the question open. The paradox from which Arendt departs is that the very figure who should have embodied the rights of man par excellence—the refugee—signals instead the concept’s radical crisis. “The conception of human rights,” she states, “based upon the assumed existence of a human being as such, broke down at the very moment when those who professed to believe in it were for the first time confronted with people who had indeed lost all other qualities and specific relationships—except that they were still human” (*Origins*, p. 299). In the system of the nation-state, the so-called sacred and inalienable rights of man show themselves to lack every protection and reality at the moment in which they can no longer take the form of rights belonging to citizens of a state. If one considers the matter, this is in fact implicit in the ambiguity of the very title of the French Declaration of the Rights of Man and Citizen, of 1789. In the phrase *La déclaration des droits de l’homme et du citoyen*, it is not clear whether the two terms *homme* and *citoyen* name two autonomous beings or instead form a unitary system in which the first is always already included in the second. And if the latter is the case, the kind of relation that exists between *homme* and *citoyen* still remains unclear. From this perspective, Burke’s *boutade* according to which he preferred his “Rights of an Englishman” to the inalienable rights of man acquires an unsuspected profundity.

Arendt does no more than offer a few, essential hints concerning the link between the rights of man and the nation-state, and her suggestion has therefore not been followed up. In the period after the Second World War, both the instrumental emphasis on the rights of man and the rapid growth of declarations and agreements on the part of international organizations have ultimately made

any authentic understanding of the historical significance of the phenomenon almost impossible. Yet it is time to stop regarding declarations of rights as proclamations of eternal, metajudicial values binding the legislator (in fact, without much success) to respect eternal ethical principles, and to begin to consider them according to their real historical function in the modern nation-state. Declarations of rights represent the originary figure of the inscription of natural life in the juridico-political order of the nation-state. The same bare life that in the *ancien régime* was politically neutral and belonged to God as creaturely life and in the classical world was (at least apparently) dearly distinguished as *zoē* from political life (*bios*) now fully enters into the structure of the state and even becomes the earthly foundation of the state's legitimacy and sovereignty.

A simple examination of the text of the Declaration of 1789 shows that it is precisely bare natural life—which is to say, the pure fact of birth—that appears here as the source and bearer of rights. “Men,” the first article declares, “are born and remain free and equal in rights” (from this perspective, the strictest formulation of all is to be found in La Fayette's project elaborated in July 1789: “Every man is born with inalienable and indefeasible rights”). At the same time, however, the very natural life that, inaugurating the biopolitics of modernity, is placed at the foundation of the order vanishes into the figure of the citizen, in whom rights are “preserved” (according to the second article: “The goal of every political association is the preservation of the natural and indefeasible rights of man”). And the Declaration can attribute sovereignty to the “nation” (according to the third article: “The principle of all sovereignty resides essentially in the nation”) precisely because it has already inscribed this element of birth in the very heart of the political community. The nation—the term derives etymologically from *nascere* (to be born)—thus closes the open circle of man's birth.

2.2. Declarations of rights must therefore be viewed as the place in which the passage from divinely authorized royal sovereignty to national sovereignty is accomplished. This passage assures the *exceptio* of life in the new state order that will succeed the collapse of the *ancien régime*. The fact that in this process the “subject” is, as has been noted, transformed into a “citizen” means that birth—which is to say, bare natural life as such—here for the first time becomes (thanks to a transformation whose biopolitical consequences we are only beginning to discern today) the immediate bearer of sovereignty. The principle of nativity and the principle of sovereignty, which were separated in the *ancien régime* (where birth marked only the emergence of a *sujet*, a subject), are now irrevocably united in the body of the “sovereign subject” so that the foundation

of the new nation-state may be constituted. It is not possible to understand the “national” and biopolitical development and vocation of the modern state in the nineteenth and twentieth centuries if one forgets that what lies at its basis is not man as a free and conscious political subject but, above all, man’s bare life, the simple birth that as such is, in the passage from subject to citizen, invested with the principle of sovereignty. The fiction implicit here is that *birth* immediately becomes *nation* such that there can be no interval of separation [*scarto*] between the two terms. Rights are attributed to man (or originate in him) solely to the extent that man is the immediately vanishing ground (who must never come to light as such) of the citizen.

Only if we understand this essential historical function of the doctrine of rights can we grasp the development and metamorphosis of declarations of rights in our century. When the hidden difference [*scarto*] between birth and nation entered into a lasting crisis following the devastation of Europe’s geopolitical order after the First World War, what appeared was Nazism and fascism, that is, two properly biopolitical movements that made of natural life the exemplary place of the sovereign decision. We are used to condensing the essence of National Socialist ideology into the syntagm “blood and soil” (*Blut und Boden*). When Alfred Rosenberg wanted to express his party’s vision of the world, it is precisely to this hendiadys that he turned. “The National Socialist vision of the world,” he writes, “springs from the conviction that soil and blood constitute what is essential about Germanness, and that it is therefore in reference to these two givens that a cultural and state politics must be directed” (*Blut und Ehre*, p. 242). Yet it has too often been forgotten that this formula, which is so highly determined politically, has, in truth, an innocuous juridical origin. The formula is nothing other than the concise expression of the two criteria that, already in Roman law, served to identify citizenship (that is, the primary inscription of life in the state order): *ius soli* (birth in a certain territory) and *ius sanguinis* (birth from citizen parents). In the *ancien régime*, these two traditional juridical criteria had no essential meaning, since they expressed only a relation of subjugation. Yet with the French Revolution they acquire a new and decisive importance. Citizenship now does not simply identify a generic subjugation to royal authority or a determinate system of laws, nor does it simply embody (as Chalier maintained when he suggested to the convention on September 23, 1792, that the tide of citizen be substituted for the traditional tide *monsieur* or *sieur* in every public act) the new egalitarian principle; citizenship names the new status of life as origin and ground of sovereignty and, therefore, literally identifies—to cite Jean-Denis Lanjuinais’s words to the

convention—*les membres du souverain*, “the members of the sovereign.” Hence the centrality (and the ambiguity) of the notion of “citizenship” in modern political thought, which compels Rousseau to say, “No author in France . . . has understood the true meaning of the term ‘citizen.’” Hence too, however, the rapid growth in the course of the French Revolution of regulatory provisions specifying which *man* was a *citizen* and which one not, and articulating and gradually restricting the area of the *ius soli* and the *ius sanguinis*. Until this time, the questions “What is French? What is German?” had constituted not a political problem but only one theme among others discussed in philosophical anthropologies. Caught in a constant work of redefinition, these questions now begin to become essentially political, to the point that, with National Socialism, the answer to the question “Who and what is German?” (and also, therefore, “Who and what is not German?”) coincides immediately with the highest political task. Fascism and Nazism are, above all, redefinitions of the relations between man and citizen, and become fully intelligible only when situated—no matter how paradoxical it may seem—in the biopolitical context inaugurated by national sovereignty and declarations of rights.

Only this tie between the rights of man and the new biopolitical determination of sovereignty makes it possible to understand the striking fact, which has often been noted by historians of the French Revolution, that at the very moment in which native rights were declared to be inalienable and indefeasible, the rights of man in general were divided into active rights and passive rights. In his *Préliminaires de la constitution*, Sieyès already clearly stated:

Natural and civil rights are those rights *for* whose preservation society is formed, and political rights are those rights *by* which society is formed. For the sake of clarity, it would be best to call the first ones passive rights, and the second ones active rights. . . . All inhabitants of a country must enjoy the rights of passive citizens . . . all are not active citizens. Women, at least in the present state, children, foreigners, and also those who would not at all contribute to the public establishment must have no active influence on public matters. (*Écrits politiques*, pp. 189–206)

And after defining the *membres du souverain*, the passage of Lanjuinais cited above continues with these words: “Thus children, the insane, minors, women, those condemned to a punishment either restricting personal freedom or bringing disgrace [*punition afflictive ou inflammante*] . . . will not be citizens” (quoted in Sewell, “Le citoyen,” p. 105).

Instead of viewing these distinctions as a simple restriction of the democratic and egalitarian principle, in flagrant contradiction to the spirit and letter of the

declarations, we ought first to grasp their coherent biopolitical meaning. One of the essential characteristics of modern biopolitics (which will continue to increase in our century) is its constant need to redefine the threshold in life that distinguishes and separates what is inside from what is outside. Once it crosses over the walls of the *oikos* and penetrates more and more deeply into the city, the foundation of sovereignty—nonpolitical life—is immediately transformed into a line that must be constantly redrawn. Once *zoē* is politicized by declarations of rights, the distinctions and thresholds that make it possible to isolate a sacred life must be newly defined. And when natural life is wholly included in the *polis*—and this much has, by now, already happened—these thresholds pass, as we will see, beyond the dark boundaries separating life from death in order to identify a new living dead man, a new sacred man.

2.3. If refugees (whose number has continued to grow in our century, to the point of including a significant part of humanity today) represent such a disquieting element in the order of the modern nation-state, this is above all because by breaking the continuity between man and citizen, *nativity* and *nationality*, they put the originary fiction of modern sovereignty in crisis. Bringing to light the difference between birth and nation, the refugee causes the secret presupposition of the political domain—bare life—to appear for an instant within that domain. In this sense, the refugee is truly “the man of rights,” as Arendt suggests, the first and only real appearance of rights outside the fiction of the citizen that always covers them over. Yet this is precisely what makes the figure of the refugee so hard to define politically.

Since the First World War, the birth-nation link has no longer been capable of performing its legitimating function inside the nation-state, and the two terms have begun to show themselves to be irreparably loosened from each other. From this perspective, the immense increase of refugees and stateless persons in Europe (in a short span of time 1,500,000 White Russians, 700,000 Armenians, 500,000 Bulgarians, 1,000,000 Greeks, and hundreds of thousands of Germans, Hungarians, and Rumanians were displaced from their countries) is one of the two most significant phenomena. The other is the contemporaneous institution by many European states of juridical measures allowing for the mass denaturalization and denationalization of large portions of their own populations. The first introduction of such rules into the juridical order took place in France in 1915 with respect to naturalized citizens of “enemy” origin; in 1922, Belgium followed the French example and revoked the naturalization of citizens who had committed “antinational” acts during the war; in 1926, the

fascist regime issued an analogous law with respect to citizens who had shown themselves to be “unworthy of Italian citizenship”; in 1933, it was Austria’s turn; and so it continued until the Nuremberg laws on “citizenship in the Reich” and the “protection of German blood and honor” brought this process to the most extreme point of its development, introducing the principle according to which citizenship was something of which one had to prove oneself worthy and which could therefore always be called into question. And one of the few rules to which the Nazis constantly adhered during the course of the “Final Solution” was that Jews could be sent to the extermination camps only after they had been fully denationalized (stripped even of the residual citizenship left to them after the Nuremberg laws).

These two phenomena—which are, after all, absolutely correlative—show that the birth-nation link, on which the declaration of 1789 had founded national sovereignty, had already lost its mechanical force and power of self-regulation by the time of the First World War. On the one hand, the nation-states become greatly concerned with natural life, discriminating within it between a so-to-speak authentic life and a life lacking every political value. (Nazi racism and eugenics are only comprehensible if they are brought back to this context.) On the other hand, the very rights of man that once made sense as the presupposition of the rights of the citizen are now progressively separated from and used outside the context of citizenship, for the sake of the supposed representation and protection of a bare life that is more and more driven to the margins of the nation-states, ultimately to be recodified into a new national identity. The contradictory character of these processes is certainly one of the reasons for the failure of the attempts of the various committees and organizations by which states, the League of Nations, and, later, the United Nations confronted the problem of refugees and the protection of human rights, from the Bureau Nansen (1922) to the contemporary High Commission for Refugees (1951), whose actions, according to statute, are to have not a political but rather a “solely humanitarian and social” mission. What is essential is that, every time refugees represent not individual cases but—as happens more and more often today—a mass phenomenon, both these organizations and individual states prove themselves, despite their solemn invocations of the “sacred and inalienable” rights of man, absolutely incapable of resolving the problem and even of confronting it adequately.

2.4. The separation between humanitarianism and politics that we are experiencing today is the extreme phase of the separation of the rights of man from the rights of the citizen. In the final analysis, however, humanitarian organizations—

which today are more and more supported by international commissions—can only grasp human life in the figure of bare or sacred life, and therefore, despite themselves, maintain a secret solidarity with the very powers they ought to fight. It takes only a glance at the recent publicity campaigns to gather funds for refugees from Rwanda to realize that here human life is exclusively considered (and there are certainly good reasons for this) as sacred life—which is to say, as life that can be killed but not sacrificed—and that only as such is it made into the object of aid and protection. The “imploring eyes” of the Rwandan child, whose photograph is shown to obtain money but who “is now becoming more and more difficult to find alive,” may well be the most telling contemporary cipher of the bare life that humanitarian organizations, in perfect symmetry with state power, need. A humanitarianism separated from politics cannot fail to reproduce the isolation of sacred life at the basis of sovereignty, and the camp—which is to say, the pure space of exception—is the biopolitical paradigm that it cannot master.

The concept of the refugee (and the figure of life that this concept represents) must be resolutely separated from the concept of the rights of man, and we must seriously consider Arendt’s claim that the fates of human rights and the nation-state are bound together such that the decline and crisis of the one necessarily implies the end of the other. The refugee must be considered for what he is: nothing less than a limit concept that radically calls into question the fundamental categories of the nation-state, from the birth-nation to the man-citizen link, and that thereby makes it possible to clear the way for a long-overdue renewal of categories in the service of a politics in which bare life is no longer separated and excepted, either in the state order or in the figure of human rights.

✠ The pamphlet *Make More of an Effort, Frenchmen, if You Want to Be Republicans*, read by the libertine Dolmancé in the Marquis de Sade’s *Philosophy in the Boudoir*, is the first and perhaps most radical biopolitical manifesto of modernity. At the very moment in which the revolution makes birth—which is to say, bare life—into the foundation of sovereignty and rights, Sade stages (in his entire work, and in particular in *120 Days of Sodom*) the *theatrum politicum* as a theater of bare life, in which the very physiological life of bodies appears, through sexuality, as the pure political element. But the political meaning of Sade’s work is nowhere as explicit as it is in this pamphlet, in which the *maisons* in which every citizen can publicly summon any other citizen in order to compel him to satisfy his own needs emerge as the political realm par excellence. Not only philosophy (Lefort, *Écrire*, pp. 100–101) but also and above all politics is sifted through the boudoir. Indeed, in Dolmancé’s project, the boudoir fully takes the place of the *cité*, in a dimension in which the public and the private, political existence and bare life change places.

The growing importance of sadomasochism in modernity has its root in this exchange. Sadomasochism is precisely the technique of sexuality by which the bare life of a

sexual partner is brought to light. Not only does Sade consciously invoke the analogy with sovereign power (“there is no man,” he writes, “who does not want to be a despot when he has an erection”), but we also find here the symmetry between *homo sacer* and sovereign, in the complicity that ties the masochist to the sadist, the victim to the executioner.

Sade’s modernity does not consist in his having foreseen the unpolitical primacy of sexuality in our unpolitical age. On the contrary, Sade is as contemporary as he is because of his incomparable presentation of the absolutely political (that is, “biopolitical”) meaning of sexuality and physiological life itself. Like the concentration camps of our century, the totalitarian character of the organization of life in Silling’s castle—with its meticulous regulations that do not spare any aspect of physiological life (not even the digestive function, which is obsessively codified and publicized)—has its root in the fact that what is proposed here for the first time is a normal and collective (and hence political) organization of human life founded solely on bare life.

## Life That Does Not Deserve to Live

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**3.1.** In 1920, Felix Meiner, one of the most distinguished German publishers of philosophical works, released a blue-gray *plaquette* bearing the title *Authorization for the Annihilation of Life Unworthy of Being Lived* (*Die Freigabe der Vernichtung lebensunwerten Lebens*). The authors were Karl Binding, a highly respected specialist of penal law (an insert attached to the jacket cover at the last minute informed readers that since the *doct. iur. et phil.* K. B. had passed away during the printing of the work, the publication was to be considered as “his last act for the good of humanity”), and Alfred Hoche, a professor of medicine whose interest lay in questions concerning the ethics of his profession.

The book warrants our attention for two reasons. The first is that in order to explain the unpunishability of suicide, Binding is led to conceive of suicide as the expression of man’s sovereignty over his own existence. Since suicide, he argues, cannot be understood as a crime (for example, as a violation of a duty toward oneself) yet also cannot be considered as a matter of indifference to the law, “the law has no other option than to consider living man as sovereign over his own existence [*als Souverän über sein Dasein*]” (*Die Freigabe*, p. 14). Like the sovereign decision on the state of exception, the sovereignty of the living being over himself takes the form of a threshold of indiscernibility between exteriority and interiority, which the juridical order can therefore neither exclude nor include, neither forbid nor permit: “The juridical order,” Binding writes, “tolerates the act despite the actual consequences that it must itself suffer on account of it. It does not claim to have the power to forbid it” (*ibid.*).

Yet from this particular sovereignty of man over his own existence, Binding derives—and this is the second, and more urgent, reason for our interest in this book—the necessity of authorizing “the annihilation of life unworthy of being lived.” The fact that Binding uses this disquieting expression to designate merely the problem of the lawfulness of euthanasia should not lead one to underestimate the novelty and decisive importance of the concept that here makes its first appearance on the European juridical scene: life that does not deserve to be lived

(or to live, as the German expression *lebensunwerten Leben* also quite literally suggests), along with its implicit and more familiar correlate—life that deserves to be lived (or to live). The fundamental biopolitical structure of modernity—the decision on the value (or nonvalue) of life as such—therefore finds its first juridical articulation in a well-intentioned pamphlet in favor of euthanasia.

✠ It is not surprising that Binding's essay aroused the curiosity of Schmitt, who cites it in his *Theorie des Partisanen* in the context of a critique of the introduction of the concept of value into law. "He who determines a value," Schmitt writes, "*eo ipso* always fixes a nonvalue. The sense of this determination of a nonvalue is the annihilation of the nonvalue" (p. 80, n. 49). Schmitt approximates Binding's theories concerning life that does not deserve to live to Heinrich Rickert's idea that "negation is the criterion by which to establish whether something belongs to the sphere of value" and that "the true act of evaluation is negation." Here Schmitt does not seem to notice that the logic of value he is criticizing resembles his own theory of sovereignty, according to which the true life of the rule is the exception.

3.2. For Binding the concept of "life unworthy of being lived" is essential, since it allows him to find an answer to the juridical question he wishes to pose: "Must the unpunishability of the killing of life remain limited to suicide, as it is in contemporary law (with the exception of the state of emergency), or must it be extended to the killing of third parties?" According to Binding, the solution depends on the answer to the following question: "Are there human lives that have so lost the quality of legal good that their very existence no longer has any value, either for the person leading such a life or for society?" Binding continues:

Whoever poses this question seriously must, with bitterness, notice the irresponsibility with which we usually treat the lives that are most full of value [*wertvollsten Leben*], as well as with what—often completely useless—care, patience, and energy we attempt, on the other hand, to keep in existence lives that are no longer worthy of being lived, to the point at which nature herself, often with cruel belatedness, takes away any possibility of their continuation. Imagine a battle camp covered with thousands of young bodies without life, or a mine where a catastrophe has killed hundreds of industrious workers, and at the same time picture our institutes for the mentally impaired [*Idioteninstitut*] and the treatments they lavish on their patients—for then one cannot help being shaken up by this sinister contrast between the sacrifice of the dearest human good and, on the other hand, the enormous care for existences that not only are devoid of value [*wertlosen*] but even ought to be valued negatively. (*Die Freigabe*, pp. 27–29)

The concept of "life devoid of value" (or "life unworthy of being lived") applies first of all to individuals who must be considered as "incurably lost" following an

illness or an accident and who, fully conscious of their condition, desire “redemption” (Binding uses the term *Erlösung*, which belongs to religious language and signifies, among other things, redemption) and have somehow communicated this desire. More problematic is the condition of the second group, comprising “incurable idiots, either those born as such or those—for example, those who suffer from progressive paralysis—who have become such in the last phase of their life.” “These men,” Binding writes, “have neither the will to live nor the will to die. On the one hand, there is no ascertainable consent to die; on the other hand, their killing does not infringe upon any will to live that must be overcome. Their life is absolutely without purpose, but they do not find it to be intolerable.” Even in this case, Binding sees no reason, “be it juridical, social, or religious, not to authorize the killing of these men, who are nothing but the frightening reverse image [*Gegenbild*] of authentic humanity” (ibid., pp. 31–32). As to the problem of who is competent to authorize annihilation, Binding proposes that the request for the initiative be made by the ill person himself (when he is capable of it) or by a doctor or a close relative, and that the final decision fall to a state committee composed of a doctor, a psychiatrist, and a jurist.

3.3. It is not our intention here to take a position on the difficult ethical problem of euthanasia, which still today, in certain countries, occupies a substantial position in medical debates and provokes disagreement. Nor are we concerned with the radicality with which Binding declares himself in favor of the general admissibility of euthanasia. More interesting for our inquiry is the fact that the sovereignty of the living man over his own life has its immediate counterpart in the determination of a threshold beyond which life ceases to have any juridical value and can, therefore, be killed without the commission of a homicide. The new juridical category of “life devoid of value” (or “life unworthy of being lived”) corresponds exactly—even if in an apparently different direction—to the bare life of *homo sacer* and can easily be extended beyond the limits imagined by Binding.

It is as if every valorization and every “politicization” of life (which, after all, is implicit in the sovereignty of the individual over his own existence) necessarily implies a new decision concerning the threshold beyond which life ceases to be politically relevant, becomes only “sacred life,” and can as such be eliminated without punishment. Every society sets this limit; every society—even the most modern—decides who its “sacred men” will be. It is even possible that this limit, on which the politicization and the *exceptio* of natural life in the juridical order of the state depends, has done nothing but extend itself in the history of

the West and has now—in the new biopolitical horizon of states with national sovereignty—moved inside every human life and every citizen. Bare life is no longer confined to a particular place or a definite category. It now dwells in the biological body of every living being.

3.4. During the physicians' trial at Nuremberg, a witness, Dr. Fritz Mennecke, related that he had heard Drs. Hevelemann, Bahnen, and Brack communicate in a confidential meeting in Berlin in February 1940 that the Reich had just issued measures authorizing "the elimination of life unworthy of being lived" with special reference to the incurable mentally ill. The information was not quite exact, since for various reasons Hitler preferred not to give an explicit legal form to his euthanasia program. Yet it is certain that the reappearance of the formula coined by Binding to give juridical credence to the so-called "mercy killing" or "death by grace" (*Gnadentod*, according to a euphemism common among the regime's health officials) coincides with a decisive development in National Socialism's biopolitics.

There is no reason to doubt that the "humanitarian" considerations that led Hitler and Himmler to elaborate a euthanasia program immediately after their rise to power were in good faith, just as Binding and Hoche, from their own point of view, acted in good faith in proposing the concept of "life unworthy of being lived." For a variety of reasons, including foreseen opposition from Christian organizations, the program barely went into effect, and only at the start of 1940 did Hitler decide that it could no longer be delayed. The Euthanasia Program for the Incurably Ill (*Euthanasie-Programm für unheilbaren Kranke*) was therefore put into practice in conditions—including the war economy and the increasing growth of concentration camps for Jews and other undesirables—that favored misuse and mistakes. Nevertheless, the transformation of the program, over the course of the fifteen months it lasted (Hitler ended it in August 1941 because of growing protest on the part of bishops and relatives), from a theoretically humanitarian program into a work of mass extermination did not in any way depend simply on circumstance. The name of Grafeneck, the town in Württemberg that was the home of one of the main centers, has remained sadly linked to this matter, but analogous institutions existed in Hadamer (Hesse), Hartheim (near Linz), and other towns in the Reich. Testimony given by defendants and witnesses at the Nuremberg trials give us sufficiently precise information concerning the organization of the Grafeneck program. Every day, the medical center received about 70 people (from the ages of 6 to 93 years old) who had been chosen from the incurably mentally ill throughout German

mental hospitals. Drs. Schumann and Baumhardt, who were responsible for the Grafeneck center, gave the patients a summary examination and then decided if they met the requirements specified by the program. In most cases, the patients were killed within 24 hours of their arrival at Grafeneck. First they were given a 2-centimeter dose of Morphium-Scopolamine; then they were sent to a gas chamber. In other institutions (for example in Hadamer), the patients were killed with a strong dose of Luminal, Veronal, and Morphium. It is calculated that 60,000 people were killed this way.

3.5. Some have referred to the eugenic principles that guided National Socialist biopolitics to explain the tenacity with which Hider promoted his euthanasia program in such unfavorable circumstances. From a strictly eugenic point of view, however, euthanasia was not all necessary; not only did the laws on the prevention of hereditary diseases and on the protection of the hereditary health of the German people already provide a sufficient defense against genetic mental illnesses, but the incurably ill subjected to the program—mainly children and the elderly—were, in any case, in no condition to reproduce themselves (from a eugenic point of view, what is important is obviously not the elimination of the phenotype but only the elimination of the genetic set). Moreover, there is absolutely no reason to think that the program was linked to economic considerations. On the contrary, the program constituted a significant organizational burden at a time when the state apparatus was completely occupied with the war effort. Why then did Hitler want the program to be put into effect at all costs, when he was fully conscious of its unpopularity?

The only explanation left is that the program, in the guise of a solution to a humanitarian problem, was an exercise of the sovereign power to decide on bare life in the horizon of the new biopolitical vocation of the National Socialist state. The concept of “life unworthy of being lived” is clearly not an ethical one, which would involve the expectations and legitimate desires of the individual. It is, rather, a political concept in which what is at issue is the extreme metamorphosis of sacred life—which may be killed but not sacrificed—on which sovereign power is founded. If euthanasia lends itself to this exchange, it is because in euthanasia one man finds himself in the position of having to separate *zoē* and *bios* in another man, and to isolate in him something like a bare life that may be killed. From the perspective of modern biopolitics, however, euthanasia is situated at the intersection of the sovereign decision on life that may be killed and the assumption of the care of the nation’s biological body. Euthanasia signals the point at which biopolitics necessarily turns into thanatopolitics.

Here it becomes clear how Binding's attempt to transform euthanasia into a juridico-political concept ("life unworthy of being lived") touched on a crucial matter. If it is the sovereign who, insofar as he decides on the state of exception, has the power to decide which life may be killed without the commission of homicide, in the age of biopolitics this power becomes emancipated from the state of exception and transformed into the power to decide the point at which life ceases to be politically relevant. When life becomes the supreme political value, not only is the problem of life's nonvalue thereby posed, as Schmitt suggests but further, it is as if the ultimate ground of sovereign power were at stake in this decision. In modern biopolitics, sovereign is he who decides on the value or the nonvalue of life as such. Life—which, with the declarations of rights, had as such been invested with the principle of sovereignty—now itself becomes the place of a sovereign decision. The Führer represents precisely life itself insofar as it is he who decides on life's very biopolitical consistency. This is why the Führer's word, according to a theory dear to Nazi jurists to which we will return, is immediately law. This is why the problem of euthanasia is an absolutely modern problem, which Nazism, as the first radically biopolitical state, could not fail to pose. And this is also why certain apparent confusions and contradictions of the euthanasia program can be explained only in the biopolitical context in which they were situated.

The physicians Karl Brand and Viktor Brack, who were sentenced to death at Nuremberg for being responsible for the program, declared after their condemnation that they did not feel guilty, since the problem of euthanasia would appear again. The accuracy of their prediction was undeniable. What is more interesting, however, is how it was possible that there were no protests on the part of medical organizations when the bishops brought the program to the attention of the public. Not only did the euthanasia program contradict the passage in the Hippocratic oath that states, "I will not give any man a fatal poison, even if he asks me for it," but further, since there was no legal measure assuring the impunity of euthanasia, the physicians who participated in the program could have found themselves in a delicate legal situation (this last circumstance did give rise to protests on the part of jurists and lawyers). The fact is that the National Socialist Reich marks the point at which the integration of medicine and politics, which is one of the essential characteristics of modern biopolitics, began to assume its final form. This implies that the sovereign decision on bare life comes to be displaced from strictly political motivations and areas to a more ambiguous terrain in which the physician and the sovereign seem to exchange roles.

## ‘Politics, or Giving Form to the Life of a People’

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**4.1.** In 1942, the Institut allemand in Paris decided to circulate a publication designed to inform French friends and allies of the character and merits of National Socialist politics in matters of health and eugenics. The book, which is a collection of statements by the most authoritative German specialists in these areas (such as Eugen Fischer and Ottmar von Verschuer), as well as other figures responsible for the medical politics of the Reich (such as Libero Conti and Hans Reiter), bears the significant title *State and Health* (*État et santé*). Of all the official or semiofficial publications of the National Socialist regime, this work perhaps most explicitly thematizes the politicization (or political value) of biological life and the consequent transformation of the entire political horizon. “In the centuries that came before us,” Reiter writes,

large conflicts between peoples were more or less caused by the necessity of guaranteeing the possessions of the State (by “possessions,” we mean not only the country’s territory but also its material contents). The threat that neighboring States might expand territorially has thus often been the cause of conflicts in which individuals, considered so to speak as means to achieve the desired goals, were ignored.

Only in Germany at the beginning of our century, starting with distinctly liberal theories, was the value of men finally taken into account and defined, if in a manner that was of course grounded on the liberal forms and principles that dominated the economy. . . . While Helferich estimated German national assets at about three hundred and ten million marks, Zahn thus observed that in addition to this material wealth, there is also a “living wealth” worth one thousand and sixty-one million marks. (in Verschuer, *État et santé*, p. 31)

According to Reiter, the great novelty of National Socialism lies in the fact that this living wealth now enters the foreground of the Reich’s interests and calculations, founding a new politics. This politics begins first of all with the establishment of a “budget to take account of the living value of people” (*ibid.*, p. 34), and it proposes to assume the care of the “biological body of the nation”

(*ibid.*, p. 51): “We are approaching a logical synthesis of biology and economy. . . . Politics will more and more have to be capable of achieving this synthesis, which may only be in its first stages today, but which still allows one to recognize the interdependence of the forces of biology and economy as an inevitable fact” (*ibid.*, p. 48).

Hence the radical transformation of the meaning and duties of medicine, which is increasingly integrated into the functions and the organs of the state: “Just as the economist and the merchant are responsible for the economy of material values, so the physician is responsible for the economy of human values. . . . It is absolutely necessary that the physician contribute to a rationalized human economy, that he recognize that the level of the people’s health is the condition for economic gain. . . . Fluctuations in the biological substance and in the material budget are usually parallel” (*ibid.*, p. 40).

The principles of this new biopolitics are dictated by eugenics, which is understood as the science of a people’s genetic heredity. Foucault has documented the increasing importance that the science of police assumes starting in the eighteenth century, when, with Nicolas De Lemare, Johan Peter Franc, and J. H. G. von Justi, it takes as its explicit objective the total care of the population (*Dits et écrits*, 4: 150–61). From the end of the nineteenth century, Francis Galton’s work functions as the theoretical background for the work of the science of police, which has by now become biopolitics. It is important to observe that Nazism, contrary to a common prejudice, did not limit itself to using and twisting scientific concepts for its own ends. The relationship between National Socialist ideology and the social and biological sciences of the time—in particular, genetics—is more intimate and complex and, at the same time, more disturbing. A glance at the contributions of Verschuer (who, surprising as this may seem, continued to teach genetics and anthropology at the University of Frankfurt even after the fall of the Third Reich) and Fischer (the director of the Kaiser Wilhelm Institute for Anthropology in Berlin) shows beyond a doubt that the genetic research of the time, which had recently discovered the localization of genes in chromosomes (those genes that “are ordered,” as Fischer writes, “like pearls in a necklace”), gave National Socialist biopolitics its fundamental conceptual structure. “Race,” Fischer writes, “is not determined by the assembly of this or that measurable characteristic, as in the case, for example, of a scale of colors. . . . Race is genetic heredity and nothing but heredity” (in Verschuer, *État et santé*, p. 84). It is not surprising, therefore, that the exemplary reference studies for both Verschuer and Fischer are T. H. Morgan and J. B. S. Haldane’s experiments on *Drosophila* and, more generally, the very same works of Anglo-Saxon genetics that led, during the

same years, to the formation of the first map of the X chromosome in man and the first certain identification of hereditary pathological predispositions.

The new fact, however, is that these concepts are not treated as external (if binding) criteria of a sovereign decision: they are, rather, as such immediately political. Thus the concept of race is defined, in accordance with the genetic theories of the age, as “a group of human beings who manifest a certain combination of homozygotic genes that are lacking in other groups” (Verschuer, *État et santé*, p. 88). Yet both Fischer and Verschuer know that a pure race is, according to this definition, almost impossible to identify (in particular, neither the Jews nor the Germans constitute a race in the strict sense—and Hitler is just as aware of this when he writes *Mein Kampf* as when he decides on the Final Solution). “Racism” (if one understands race to be a strictly biological concept) is, therefore, not the most correct term for the biopolitics of the Third Reich. National Socialist biopolitics moves, instead, in a horizon in which the “care of life” inherited from eighteenth-century police science is, in now being founded on properly eugenic concerns, absolutized. Distinguishing between politics (*Politik*) and police (*Polizei*), von Justi assigned the first a merely negative task, the fight against the external and internal enemies of the State, and the second a positive one, the care and growth of the citizens’ life. National Socialist biopolitics—and along with it, a good part of modern politics even outside the Third Reich—cannot be grasped if it is not understood as necessarily implying the disappearance of the difference between the two terms: the *police* now becomes *politics*, and the care of life coincides with the fight against the enemy. “The National Socialist revolution,” one reads in the introduction to *State and Health*, “wishes to appeal to forces that want to exclude factors of biological degeneration and to maintain the people’s hereditary health. It thus aims to fortify the health of the people as a whole and to eliminate influences that harm the biological growth of the nation. The book does not discuss problems that concern only one people; it brings out problems of vital importance for all European civilization.” Only from this perspective is it possible to grasp the full sense of the extermination of the Jews, in which the police and politics, eugenic motives and ideological motives, the care of health and the fight against the enemy become absolutely indistinguishable.

4.2. A few years earlier, Verschuer had published a booklet in which National Socialist ideology finds what may well be its most rigorous biopolitical formulation: “The new State knows no other task than the fulfillment of the conditions necessary for the preservation of the people.’ These words of the Führer mean that every political act of the National Socialist state serves the life of the people.

. . . We know today that the life of the people is only secured if the racial traits and hereditary health of the body of the people [*Volkskörper*] are preserved” (*Rassenhygiene*, p. 5).

The link between politics and life instituted by these words is not (as is maintained by a common and completely inadequate interpretation of racism) a merely instrumental relationship, as if race were a simple natural given that had merely to be safeguarded. *The novelty of modern biopolitics lies in the fact that the biological given is as such immediately political, and the political is as such immediately the biological given.* “Politics,” Verschuer writes, “that is, giving form to the life of the people [*Politik, das heißt die Gestaltung des Lebens des Volkes*]” (*Rassenhygiene*, p. 8). The life that, with the declarations of rights, became the ground of sovereignty now becomes the subject-object of state politics (which therefore appears more and more in the form of “police”). But only a state essentially founded on the very life of the nation could identify its own principal vocation as the formation and care of the “body of the people.”

Hence the seeming contradiction according to which a *natural given* tends to present itself as a *political task*. “Biological heredity,” Verschuer continues, “is certainly a destiny, and accordingly, we prove ourselves masters of this destiny insofar as we take biological heredity to be the task that has been assigned to us and which we must fulfill.” The paradox of Nazi biopolitics and the necessity by which it was bound to submit life itself to an incessant political mobilization could not be expressed better than by this transformation of natural heredity into a political task. *The totalitarianism of our century has its ground in this dynamic identity of life and politics, without which it remains incomprehensible.* If Nazism still appears to us as an enigma, and if its affinity with Stalinism (on which Hannah Arendt so much insisted) is still unexplained, this is because we have failed to situate the totalitarian phenomenon in its entirety in the horizon of biopolitics. When life and politics—originally divided, and linked together by means of the no-mans-land of the state of exception that is inhabited by bare life—begin to become one, all life becomes sacred and all politics becomes the exception.

4.3. Only from this perspective can one understand why precisely the laws concerning eugenics were among the first issued by the National Socialist regime. On July 14, 1933, a few weeks after Hitler’s rise to power, the law for the “prevention of the continuance of hereditary disease” was promulgated, stipulating that “those afflicted with a hereditary disease may be sterilized by a surgical operation if there is medical evidence to suggest that their descendants will most likely be afflicted by serious hereditary disorders of the body or the mind.” On

October 18, 1933, eugenic legislation was extended to marriage by the law for the “protection of the hereditary health of the German people,” which stated:

No marriage may be performed (1) when one of the betrothed suffers from a contagious disease that might seriously threaten the spouse or any descendants; (2) when one of the betrothed is debarred or temporarily a ward; (3) when one of the betrothed, while not a ward, suffers from a mental illness that might make the marriage seem undesirable for the national community; (4) when one of the betrothed suffers from one of the hereditary diseases provided for by the law of July 14, 1933.

The sense of these laws and the rapidity with which they were issued cannot be grasped as long as they are confined to the domain of eugenics. What is decisive is that for the Nazis these laws had an immediately political character. As such, they are inseparable from the Nuremberg laws on “citizenship in the Reich” and on the “protection of German blood and honor,” which transformed Jews into second-class citizens, forbidding, among other things, marriage between Jews and full citizens and also stipulating that even citizens of Aryan blood had to prove themselves worthy of German honor (which allowed the possibility of denationalization to hang implicitly over everyone). The laws authorizing discrimination against the Jews have almost completely monopolized scholarly interest in the racial politics of the Third Reich. And yet the laws concerning the Jews can only be fully understood if they are brought back to the general context of National Socialism’s legislation and biopolitical praxis. This legislation and this praxis are not simply reducible to the Nuremberg laws, to the deportations to the camps, or even to the “Final Solution”: these decisive events of our century have their foundation in the unconditional assumption of a biopolitical task in which life and politics become one (“Politics, that is, giving form to the life of the people”). Only when these events are brought back to their “humanitarian” context can their inhumanity be measured.

When its biopolitical program showed its thanatopolitical face, the Nazi Reich was determined to extend itself over all citizens. Nothing proves this better than one of the projects proposed by Hitler in the last years of the war: “After national X-ray examination, the Fuehrer is to be given a list of sick persons, particularly those with lung and heart diseases. On the basis of the new Reich Health Law . . . these families will no longer be able to remain among the public and can no longer be allowed to produce children. What will happen to these families will be the subject of further orders of the Fuehrer” (quoted in Arendt, *Origins*, p. 416).

✠ Precisely this immediate unity of politics and life makes it possible to shed light on the scandal of twentieth-century philosophy: the relation between Martin Heidegger and Nazism. Only when situated in the perspective of modern biopolitics does this relation acquire its proper significance (and this is the very thing that both Heidegger's accusers and his defenders fail to do). The great novelty of Heidegger's thought (which did not elude the most attentive observers at Davos, such as Franz Rosenzweig and Emmanuel Levinas) was that it resolutely took root in facticity. As the publication of the lecture courses from the early 1920s has by now shown, ontology appears in Heidegger from the very beginning as a hermeneutics of factual life (*faktisches Leben*). The circular structure by which Dasein is an issue for itself in its ways of being is nothing but a formalization of the essential experience of factual life, in which it is impossible to distinguish between life and its actual situation, Being and its ways of Being, and for which all the distinctions of traditional anthropology (such as those between spirit and body, sensation and consciousness, I and world, subject and properties) are abolished. For Heidegger, the central category of facticity is not (as it was for Edmund Husserl) *Zufälligkeit*, contingency—by which one thing is in a certain way and in a certain place, yet could be elsewhere and otherwise—but rather *Verfallenheit*, fallenness, which characterizes a being that is and has to be its own ways of Being. Facticity does not mean simply being contingently in a certain way and a certain situation, but rather means decisively assuming this way and this situation by which what was given [*ciò che era dote*] (*Hingabe*) must be transformed into a task (*Aufgabe*). Dasein, the Being-there who is its There, thus comes to be placed in a zone of indiscernability with respect to—and to mark the definitive collapse of—all traditional determinations of man.

In a text of 1934 that may well even today still constitute the most valuable contribution to an understanding of National Socialism, Levinas proves himself the first to underline the analogies between this new ontological determination of man and certain traits of the philosophy implicit in Hitlerism. Judeo-Christian and liberal thought, according to Levinas, strive for the spirit's ascetic liberation from the bonds of the sensuous and historico-social situation into which it finds itself thrown, thus ultimately differentiating, in man and his world, between a realm of reason and a realm of the body, to which the realm of reason is irreducibly opposed. Hitler's philosophy (in this respect similar to Marxism) is instead, Levinas argues, founded on an absolutely unconditional assumption of the historical, physical, and material situation, which is considered as an indissoluble cohesion of spirit and body and nature and culture.

The body is not only a happy or unhappy accident that relates us to the implacable world of matter. Its adherence to the Self is of value in itself. It is an adherence that one does not escape and that no metaphor can confuse with the presence of an external object; it is a union that does not in any way alter the tragic character of finality. This feeling of identity between self and body . . . will therefore never allow those who wish to begin with it to rediscover, in the depths of this unity, the duality of a free spirit that struggles against the body to which it is chained.

On the contrary, for such people, the whole of the spirit's essence lies in the fact that it is chained to the body. To separate the spirit from the concrete forms with which it is already involved is to betray the originality of the very feeling from which it is appropriate to begin. The importance attributed to this feeling for the body, with which the Western spirit has never wished to content itself, is at the basis of a new conception of man. The biological, with the notion of inevitability it entails, becomes more than an object of spiritual life. It becomes its heart. The mysterious urgings of the blood, the appeals of heredity and the past for which the body serves as an enigmatic vehicle, lose the character of being problems that are subject to a solution put forward by a sovereignly free Self. Not only does the Self bring in the unknown elements of these problems in order to resolve them; the Self is also constituted by these elements. Man's essence lies no longer in freedom but in a kind of bondage. . . . Chained to his body, man sees himself refusing the power to escape from himself. Truth is no longer for him the contemplation of a foreign spectacle; instead it consists in a drama in which man is himself the actor. It is under the weight of his whole existence, which includes facts on which there is no going back, that man will say his yes or his no. ("Quelques réflexions" [1934], pp. 205–7)

Though Levinas's text was written at a time when his teacher's support of Nazism was still searing, the name Heidegger appears nowhere. But the note added at the time of the text's republication in *Critical Inquiry* in 1990 leaves no doubt as to the thesis that an attentive reader would nonetheless have had to read between the lines—namely, that Nazism as an "elemental evil" has its condition of possibility in Western philosophy itself, and in Heideggerian ontology in particular: "a possibility that is inscribed in the ontology of Being's care for Being—for the being *dem es in seinem Sein um dieses Sein selbst geht* ['for whom Being itself is an issue in its being']" ("Reflections on the Philosophy of Hitlerism," p. 62).

There could be no clearer statement that Nazism is rooted in the same experience of facticity from which Heidegger departs, and which the philosopher had summarized in his *Rectoral Address* in the formula "to will or not to will one's own Dasein." Only this essential proximity can explain how Heidegger could have written the following revealing words in his 1935 course, *Introduction to Metaphysics*: "The works that are being peddled about nowadays as the philosophy of National Socialism have nothing whatever to do with the inner truth and greatness of this movement (namely the encounter between global technology and modern man); these works have all been written by men fishing in the troubled waters of 'values' and 'totalities'" (*Einführung*, p. 152).

From Heidegger's perspective, National Socialism's error and betrayal of its "inner truth" consists in its having transformed the experience of factual life into a biological "value" (hence the contempt with which Heidegger repeatedly refers to Rosenberg). While the greatest achievement of Heidegger's philosophical genius was to have elaborated the conceptual categories that kept *facticity* from presenting itself as a *fact*, Nazism

ended with the incarceration of factual life in an objective racial determination and, therefore, with the abandonment of its original inspiration.

Yet what, beyond these differences and from the perspective that interests us, is the political meaning of the experience of facticity? For both Heidegger and National Socialism, life has no need to assume “values” external to it in order to become politics: life is immediately political in its very facticity. Man is not a living being who must abolish or transcend himself in order to become human—man is not a duality of spirit and body, nature and politics, life and *logos*, but is instead resolutely situated at the point of their indistinction. Man is no longer the “anthropophorous” animal who must transcend himself to give way to the human being; man’s factual essence already contains the movement that, if grasped, constitutes him as Dasein and, therefore, as a political being (“*polis* signifies the place, the *Da*, where and how Dasein is insofar as Dasein is historical” [*Einführung*, p. 117]). This means, however, that the experience of facticity is equivalent to a radicalization without precedent of the state of exception (with its indistinction of nature and politics, outside and inside, exclusion and inclusion) in a dimension in which the state of exception tends to become the rule. It is as if the bare life of *homo sacer*, whose exclusion founded sovereign power, now became—in assuming itself as a task—explicitly and immediately political. And yet this is precisely what characterizes the biopolitical turn of modernity, that is, the condition in which we still find ourselves. And this is the point at which Nazism and Heidegger’s thought radically diverge. Nazism determines the bare life of *homo sacer* in a biological and eugenic key, making it into the site of an incessant decision on value and nonvalue in which biopolitics continually turns into thanatopolitics and in which the camp, consequently, becomes the absolute political space. In Heidegger, on the other hand, *homo sacer*—whose very own life is always at issue in its every act—instead becomes Dasein, the inseparable unity of Being and ways of Being, of subject and qualities, life and world, “whose own Being is at issue in its very Being.” If life, in modern biopolitics, is immediately politics, here this unity, which itself has the form of an irrevocable decision, withdraws from every external decision and appears as an indissoluble cohesion in which it is impossible to isolate something like a bare life. In the state of exception become the rule, the life of *homo sacer*, which was the correlate of sovereign power, turns into an existence over which power no longer seems to have any hold.

**5.1.** On May 15, 1941, Dr. Roscher, who for some time had been conducting experiments on rescue operations from high altitudes, wrote to Himmler. He asked whether, considering the importance of his research for the lives of German pilots, the mortal risk his experiments constituted for VPs (*Versuchspersonen*, human guinea pigs) and the fact that nothing of use could be gained from conducting experiments on animals, it might be possible to provide him with “two or three professional criminals” for his work. By this point the air war had already entered the stage of high-altitude flying, and the risk of death would be great if, under these conditions, the pressurized cabin were damaged or the pilot had to parachute from the plane. The final result of the exchange of letters between Roscher and Himmler (which is preserved in its entirety) was the installation at Dachau of a compression chamber to continue the experiments in a place in which VPs were particularly easy to find. We still possess the records (furnished with photographs) of the experiment conducted on a 37-year-old Jewish VP in good health who was subjected to the equivalent pressure of 12,000 meters of altitude. “After four minutes,” we read, “the VP began to sweat and to shake her head. After five minutes cramps were produced; between six and ten minutes breathing accelerated and the VP lost consciousness; between ten and thirty minutes breathing slowed down to three breaths a minute, and then ceased altogether. At the same time skin color became strongly cyanotic and foam appeared around the lips.” Then follows the report of the dissection conducted to ascertain any possible organic lesions on the corpse.

At the Nuremberg trials, the experiments conducted by German physicians and scientists in the concentration camps were universally taken to be one of the most infamous chapters in the history of the National Socialist regime. In addition to experiments pertaining to high-altitude rescue operations, experiments were also conducted at Dachau on the possibility of survival in ice-cold water and on the potability of salt water (these experiments, too, were designed to facilitate the rescue of sailors and pilots who had fallen into the ocean). In

the cold-water experiments, VPs were held under cold water until they lost consciousness, while researchers carefully analyzed the variations in body temperature and possibilities of reanimation. Particularly grotesque was the experiment on so-called animal heat reanimation, in which VPs were placed in a cot between two naked women who had also been taken from among the Jews detained in the camps; the documentation tells of a VP who was able to have sexual relations, which facilitated the recuperation process. The experiments on the potability of salt water were instead conducted on VPs chosen from among the prisoners bearing the black triangle (i.e., Gypsies; this symbol of the genocide of a defenseless population ought to be remembered alongside the yellow star). These VPs were divided into three groups: one that simply had to abstain from drinking altogether; one that drank only salt water; and one that drank salt water mixed with *Berkazusatz*, a chemical substance that, according to the researchers, lessened the harm of the salt water.

Another important area of experimentation involved inoculation with peptichial fever bacteria and the *Hepatitis endemica* virus in the hope of producing vaccines against two infectious diseases that were especially threatening to the health of German soldiers on the battlefronts, where life was hardest. Experimentation on nonsurgical sterilization by means of chemical substances or radiation, which was to serve the Reich's eugenic politics, was, in addition, particularly severe and painful for subjects. Less often, experiments were also conducted on limb transplants, cellular inflammations, and so on.

5.2. Reading the testimony of VPs who survived, in some cases the testimony of the very subjects described in the extant records, is such an atrocious experience that it is very tempting to consider the experiments as merely sadocriminal acts with no relation to scientific research. But unfortunately this cannot be done. To begin with, some (certainly not all) of the physicians who conducted the experiments were quite well respected by the scientific community for their research. Professor Clauberg, for example, who was responsible for the sterilization program, was the inventor of the "Clauberg test" on progesterone action, which was commonly used in gynecology until a few years ago. Professors Schröder, Becker-Freyting, and Bergblöck, who directed the experiments on the potability of salt water, enjoyed such a good scientific reputation that after they were convicted, a group of scientists from various countries submitted a petition to an international congress of medicine in 1948 so that these scientists "might not be confused with other criminal physicians sentenced in Nuremberg." And during their trial, Professor Vollardt, a professor of chemistry at the University

of Frankfurt, who was not considered to have sympathies for the Nazi regime, testified before the court that “from the scientific point of view, the preparation of these experiments was splendid”—a curious adjective, if one considers that the VPs reached such a level of prostration in the course of the experiment that they twice tried to suck fresh water from a rag on the floor.

What is decisively more disquieting is the fact (which is unequivocally shown by the scientific literature put forward by the defense and confirmed by the expert witnesses appointed by the court) that experiments on prisoners and persons sentenced to death had been performed several times and on a large scale in our century, in particular in the United States (the very country from which most of the Nuremberg judges came). Thus in the 1920s, 800 people held in United States prisons were infected with malaria plasmodia in an attempt to find an antidote to paludism. There were also the experiments—widely held to be exemplary in the scientific literature on pellagra—conducted by Goldberg on twelve prisoners sentenced to death, who were promised the remission of their penalty if they survived experimentation. Outside the United States, the first experiments with cultures of the beriberi bacillus were conducted by R. P. Strong in Manila on persons sentenced to death (the records of the experiment do not mention whether participation in the experiment was voluntary). In addition, the defense cited the case of Keanu (Hawaii), who was infected with leprosy in order to be promised pardon, and who died following the experiment.

Confronted with this documentation, the judges were forced to dedicate interminable discussions to the identification of criteria that might render scientific experiments on human guinea pigs admissible. The final criterion, which elicited general agreement, was the necessity of an explicit and voluntary consent on the part of the subject who was to be submitted to the experiment. The consistent practice in the United States was (as shown by a form in use in the state of Illinois which was displayed before the judges) to have the sentenced person sign a declaration in which the following, among other things, is stated:

I assume all the risks of this experiment and declare that I absolve the University of Chicago and all the technicians and researchers who take part in the experiment, as well as the government of Illinois, the directory of the State penitentiary and every other official, even as concerns my heirs and representatives, of any responsibility. I therefore renounce every claim to any damage or disease, even fatal, which may be caused by the experiment.

The obvious hypocrisy of such documents cannot fail to leave one perplexed. To speak of free will and consent in the case of a person sentenced to death or

of a detained person who must pay serious penalties is, at the very least, questionable. And it is certain that even if similar declarations had been signed by the people detained in the camps, the experiments that took place would not have been considered ethically admissible. What the well-meaning emphasis on the free will of the individual refuses to recognize here is that the concept of “voluntary consent” is simply meaningless for someone interned at Dachau, even if he or she is promised an improvement in living conditions. From this point of view, the inhumanity of the experiments in the United States and in the camps is, therefore, substantially equivalent.

Nor was it possible to invoke a difference of ends in order to evaluate the different and specific responsibilities in the cases at issue. An observation by Alexander Mitscherlich, the doctor who, together with F. Mielke, published the first account of the physicians’ trials in Nuremberg in 1947, bears witness to the difficulty of admitting that the experiments in the camps were not without medico-scientific precedent. When Professor Rose was tried for experiments with vaccination against petechial fever (which had brought death to 97 of 392 VPs), he defended himself by citing the analogous experiments conducted by Strong in Manila on persons sentenced to death. Rose compared the German soldiers who died of petechial fever to the people with beriberi for whose benefit Strong’s research was intended. At this point Mitscherlich, who otherwise distinguishes himself by the sobriety of his comments, objects: “While Strong was trying to fight against the misery and death caused by a scourge of the natural order, researchers like the accused Professor Rose worked, in the confusion of a dictatorship’s inhuman methods, to maintain and justify cruelty” (Mitscherlich and Mielke, *Wissenschaft*, pp. 11–12). As a historico-political judgment, the observation is exact. It is clear, however, that the ethico-juridical admissibility of the experiments could not in any way depend on either the nationality of the people for whom the vaccine was destined or the circumstances in which they had contracted the disease.

The only ethically correct position would have been to recognize that the precedents cited by the defense were pertinent, but that they did not diminish the responsibility of the accused in the slightest. But this would have meant throwing a sinister shadow on common practices of the medical profession. (Since the time of the trial, even more sensational cases of mass experiments conducted on citizens have come to light, for example, in the study of the effects of nuclear radiation.) If it was theoretically comprehensible that such experiments would not raise ethical problems for officials and researchers inside a totalitarian regime that moved in an openly biopolitical horizon, how could

experiments that were, in a certain sense, analogous have been conducted in a democratic country?

The only possible answer is that in both contexts the particular status of the VPs was decisive; they were persons sentenced to death or detained in a camp, the entry into which meant the definitive exclusion from the political community. Precisely because they were lacking almost all the rights and expectations that we customarily attribute to human existence, and yet were still biologically alive, they came to be situated in a limit zone between life and death, inside and outside, in which they were no longer anything but bare life. Those who are sentenced to death and those who dwelt in the camps are thus in some way unconsciously assimilated to *homines sacres*, to a life that may be killed without the commission of homicide. Like the fence of the camp, the interval between death sentence and execution delimits an extratemporal and extraterritorial threshold in which the human body is separated from its normal political status and abandoned, in a state of exception, to the most extreme misfortunes. In such a space of exception, subjection to experimentation can, like an expiation rite, either return the human body to life (pardon and the remission of a penalty are, it is worth remembering, manifestations of the sovereign power over life and death) or definitively consign it to the death to which it already belongs. What concerns us most of all here, however, is that in the biopolitical horizon that characterizes modernity, the physician and the scientist move in the no-man's-land into which at one point the sovereign alone could penetrate.

## Politicizing Death

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**6.1.** In 1959, P. Mollaret and M. Goulon, two French neurophysiologists, published a brief study in the *Revue neurologique* in which they added the new and extreme figure of what they called *coma dépassé* (“overcoma,” it could be rendered) to the known phenomenology of the coma. In addition to the classical coma, which is characterized by the loss of relational life functions (consciousness, mobility, sensibility, reflexes), the medical literature of the time also distinguished an alert coma, in which the loss of relational functions was not complete, and a *carus* coma, in which the preservation of vegetative life functions was seriously threatened. “To these three traditional degrees of coma,” Mollaret and Goulon provocatively wrote, “we would like to add a fourth degree, *coma dépassé* . . . , i.e., a coma in which the total abolition of relational life functions corresponds to an equally total abolition of vegetative life functions” (“Le coma dépassé,” p. 4).

The deliberately paradoxical formulation—a stage of life beyond the cessation of all vital functions—suggests that overcoma is the full fruit (the *rançon*, the authors call it, using the term that indicates the ransom or excessive price paid for something) of new life-support technology: artificial respiration, maintenance of cardiac circulation through intravenous perfusion of adrenaline, technologies of body temperature control, and so on. The survival of the overcomatose person automatically ended as soon as the life-support system was interrupted: the complete absence of any reaction to stimuli characteristic of deep coma was followed by immediate cardiovascular collapse and the cessation of all respiratory movement. Yet if life support continued, survival could be prolonged to the point at which the myocardium, by now independent of all afferent nerves, was once again capable of contracting with a rhythm and an energy sufficient to assure the vascularization of the other visceral arteries (normally not for more than a few days). But was this really “survival”? What was the zone of life beyond coma? Who or what is the overcomatose person? “Confronted with the unfortunate people who embody the state we have defined with the term *coma dépassé*,” the authors write, “when the heart continues to beat day after

day without producing even the smallest revival of life functions, desperation finally wins out over pity, and the temptation to push the liberating interruption button grows piercing" ("Le coma dépassé," p. 14).

6.2. Mollaret and Goulon immediately realized that the significance of *coma dépassé* far exceeded the technico-scientific problem of resuscitation: at stake was nothing less than a redefinition of death. Until then, the task of determining death was given over to the physician, who made use of the traditional criteria that had remained substantially the same throughout the centuries: the stopping of the heartbeat and the cessation of breathing. Overcoma rendered obsolete precisely these two ancient categories for the assessment of death and, opening a no-man's-land between coma and death, made it necessary to identify new criteria and establish new definitions. As the two neurophysiologists wrote, the problem expands "to the point of putting the final borders of life in question, and even further, to the determination of a right to establish the hour of legal death" ("Le coma dépassé," p. 4).

The problem became even more urgent and complicated by virtue of a historical coincidence that was perhaps accidental: the progress of life-support technology that made the *coma dépassé* possible occurred at the very same time as the development and refinement of transplant technologies. The state of the overcomatose person was the ideal condition for the removal of organs, but an exact definition of the moment of death was required in order for the surgeon responsible for the transplant not to be liable for homicide. In 1968, the report of a special Harvard University committee ("The *Ad Hoc* Committee of the Harvard Medical School") determined new criteria of death and inaugurated the concept of "brain death," which was to impress itself more and more (if not without lively opposition) upon the international scientific community, until it finally penetrated the legislation of many American and European states. The dark zone beyond coma, which Mollaret and Goulon had left wavering uncertainly between life and death, now furnishes precisely the new criterion of death. ("Our first objective," the Harvard report begins, "is to define irreversible coma as a new criterion of death.")\* Once adequate medical tests had confirmed the death of the entire brain (not only of the neocortex but also of the brain stem), the patient was to be considered dead, even if, thanks to life-support technology, he continued breathing.

6.3. Obviously it is not our intention to enter into the scientific debate on whether brain death constitutes a necessary and sufficient criterion for the dec-

\* Harvard University Medical School, "A Definition of Irreversible Coma," p. 85. Cited hereafter as Harvard report.

laration of death or whether the final word must be left to traditional criteria. It is impossible, however, to avoid the impression that the entire discussion is wrapped up in inextricable logical contradictions, and that the concept “death,” far from having become more exact, now oscillates from one pole to the other with the greatest indeterminacy, describing a vicious circle that is truly exemplary. On the one hand, brain death is taken to be the only rigorous criterion of death and is, accordingly, substituted for systematic or somatic death, which is now considered to be insufficient. But on the other hand, systematic or somatic death is still, with more or less self-consciousness, called in to furnish the decisive criterion. It is, in other words, surprising that the champions of brain death can candidly write that brain death “inevitably leads quite quickly to death” (Walton, *Brain Death*, p. 51), or, as in the report of the Finnish Department of Health, that “these patients [who had been diagnosed as brain dead and who were, therefore, already dead] died within a day” (quoted in Lamb, *Death*, p. 56). David Lamb, an advocate of the concept of brain death who has himself noted these contradictions, writes the following, after citing a series of studies that show that heart failure comes within a few days of the diagnosis of brain death: “In most of these studies there are minor variations in the clinical tests, but all nevertheless demonstrated the inevitability of somatic death following brain death” (ibid., p. 63). According to a clear logical inconsistency, heart failure—which was just rejected as a valid criterion of death—reappears to prove the exactness of the criterion that is to substitute for it.

This wavering of death in a shadowy zone beyond coma is also reflected in an analogous oscillation between medicine and law, medical decision and legal decision. In 1974, Andrew D. Lyons’s defense lawyer, whose client was accused before a California court of having killed a man with a gunshot, objected that the cause of the victim’s death was not the bullet shot by his client but rather the surgeon Norman Shumway’s removal of the brain-dead patient’s heart for the sake of performing a transplant. Dr. Shumway was not charged, but one can only read with unease the declaration with which he convinced the court of his own innocence: “I’m saying anyone whose brain is dead is dead. It is the one determinant that would be universally applicable, because the brain is the one organ that can’t be transplanted” (quoted in Lamb, *Death*, p. 75). According to any good logic, this would imply that just as heart failure no longer furnishes a valid criterion for death once life-support technology and transplantation are discovered, so brain death would, hypothetically speaking, cease to be death on the day on which the first brain transplant were performed. Death, in this way, becomes an epiphenomenon of transplant technology.

A perfect example of this wavering is the case of Karen Quinlan, the American girl who went into deep coma and was kept alive for years by means of artificial respiration and nutrition. On the request of her parents, a court finally allowed her artificial respiration to be interrupted on the grounds that the girl was to be considered as already dead. At that point Karen, while remaining in coma, began to breathe naturally and “survived” in a state of artificial nutrition until 1985, the year of her natural “death.” It is clear that Karen Quinlan’s body had, in fact, entered a zone of indetermination in which the words “life” and “death” had lost their meaning, and which, at least in this sense, is not unlike the space of exception inhabited by bare life.

6.4. This means that today—as is implicit in Peter Medawar’s observation that “in biology, discussions on the meaning of the words ‘life’ and ‘death’ are signs of a low level conversation”—life and death are not properly scientific concepts but rather political concepts, which as such acquire a political meaning precisely only through a decision. The “frightful and incessantly deferred borders” of which Mollaret and Goulon spoke are moving borders because they are *biopolitical* borders, and the fact that today a vast process is under way in which what is at stake is precisely the redefinition of these borders indicates that the exercise of sovereign power now passes through them more than ever and, once again, cuts across the medical and biological sciences.

In a brilliant article, W. Gaylin evokes the specter of bodies, which he calls “neomorts,” which would have the legal status of corpses but would maintain some of the characteristics of life for the sake of possible future transplants: “They would be warm, pulsating and urinating” (“Harvesting,” p. 30). In an opposite camp, the body kept alive by life-support systems has been defined by a supporter of brain death as a *foux vivant* on which it is permitted to intervene without any reservations (Dagognet, *La maîtrise*, p. 189).

The hospital room in which the neomort, the overcomatose person, and the *foux vivant* waver between life and death delimits a space of exception in which a purely bare life, entirely controlled by man and his technology, appears for the first time. And since it is precisely a question not of a natural life but of an extreme embodiment of *homo sacer* (the comatose person has been defined as an intermediary being between man and an animal), what is at stake is, once again, the definition of a life that may be killed without the commission of homicide (and that is, like *homo sacer*, “unsacrificeable,” in the sense that it obviously could not be put to death following a death sentence).

This is why it is not surprising that some of the most ardent partisans of

brain death and modern biopolitics propose that the state should decide on the moment of death, removing all obstacles to intervention on the *faux vivant*.

We must therefore define the moment of the end and not rely on the rigidification of the corpse, as was done at one point, or, even less, on signs of putrefaction, but rather simply keep to brain death. . . . What follows from this is the possibility of intervening on the *faux vivant*. Only the State can do this and must do this. . . . Organisms belong to the public power: the body is nationalized [*les organismes appartiennent à la puissance publique: on nationalise le corps*]. (Dagognet, *La maîtrise*, p. 189)

Neither Reiter nor Verschuer had ever gone so far along the path of the politicization of bare life. But (and this is a clear sign that biopolitics has passed beyond a new threshold) in modern democracies it is possible to state in public what the Nazi biopoliticians did not dare to say.

## The Camp as the ‘Nomos’ of the Modern

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**7.1.** What happened in the camps so exceeds the juridical concept of crime that the specific juridico-political structure in which those events took place is often simply omitted from consideration. The camp is merely the place in which the most absolute *conditio inhumana* that has ever existed on earth was realized: this is what counts in the last analysis, for the victims as for those who come after. Here we will deliberately follow an inverse line of inquiry. Instead of deducing the definition of the camp from the events that took place there, we will ask: What is a camp, what is its juridico-political structure, that such events could take place there? This will lead us to regard the camp not as a historical fact and an anomaly belonging to the past (even if still verifiable) but in some way as the hidden matrix and *nomos* of the political space in which we are still living.

Historians debate whether the first camps to appear were the *campos de concentraciones* created by the Spanish in Cuba in 1896 to suppress the popular insurrection of the colony, or the “concentration camps”<sup>\*</sup> into which the English herded the Boers toward the start of the century. What matters here is that in both cases, a state of emergency linked to a colonial war is extended to an entire civil population. The camps are thus born not out of ordinary law (even less, as one might have supposed, from a transformation and development of criminal law) but out of a state of exception and martial law. This is even clearer in the Nazi *Lager*, concerning whose origin and juridical regime we are well informed. It has been noted that the juridical basis for internment was not common law but *Schutzhaft* (literally, protective custody), a juridical institution of Prussian origin that the Nazi jurors sometimes classified as a preventative police measure insofar as it allowed individuals to be “taken into custody” independently of any criminal behavior, solely to avoid danger to the security of the state. The origin of *Schutzhaft* lies in the Prussian law of June 4, 1851, on the state of emergency, which was extended to all of Germany (with the exception of Bavaria) in 1871.

<sup>\*</sup> In English in the original.—Trans.

An even earlier origin for *Schutzhaft* can be located in the Prussian laws on the “protection of personal liberty” (*Schutz der persönlichen Freiheit*) of February 12, 1850, which were widely applied during the First World War and during the disorder in Germany that followed the signing of the peace treaty. It is important not to forget that the first concentration camps in Germany were the work not of the Nazi regime but of the Social Democratic governments, which interned thousands of communist militants in 1923 on the basis of *Schutzhaft* and also created the *Konzentrationslager für Ausländer* at Cottbus-Sielow, which housed mainly Eastern European refugees and which may, therefore, be considered the first camp for Jews in this century (even if it was, obviously, not an extermination camp).

The juridical foundation for *Schutzhaft* was the proclamation of the state of siege or of exception and the corresponding suspension of the articles of the German constitution that guaranteed personal liberties. Article 48 of the Weimar constitution read as follows: “The president of the Reich may, in the case of a grave disturbance or threat to public security and order, make the decisions necessary to reestablish public security, if necessary with the aid of the armed forces. To this end he may provisionally suspend [*ausser Kraft setzen*] the fundamental rights contained in articles 114, 115, 117, 118, 123, 124, and 153.” From 1919 to 1924, the Weimar governments declared the state of exception many times, sometimes prolonging it for up to five months (for example, from September 1923 to February 1924). In this sense, when the Nazis took power and proclaimed the “decree for the protection of the people and State” (*Verordnung zum Schutz von Volk und Staat*) on February 28, 1933, indefinitely suspending the articles of the constitution concerning personal liberty, the freedom of expression and of assembly, and the inviolability of the home and of postal and telephone privacy, they merely followed a practice consolidated by previous governments.

Yet there was an important novelty. No mention at all was made of the expression *Ausnahmezustand* (“state of exception”) in the text of the decree, which was, from the juridical point of view, implicitly grounded in article 48 of the constitution then in force, and which without a doubt amounted to a declaration of the state of exception (“articles 114, 115, 117, 118, 123, 124, and 153 of the constitution of the German Reich,” the first paragraph read, “are suspended until further notice”). The decree remained de facto in force until the end of the Third Reich, which has in this sense been aptly defined as a “Night of St. Bartholomew that lasted twelve years” (Drobisch and Wieland, *System*, p. 26). *The state of exception thus ceases to be referred to as an external and provisional state of factual danger and comes to be confused with juridical rule itself.* National Socialist jurists were so aware of the particularity of the situation that they defined it by the paradox-

ical expression “state of willed exception” (*einen gewollten Ausnahmezustand*). “Through the suspension of fundamental rights,” writes Werner Spohr, a jurist close to the regime, “the decree brings into being a state of willed exception for the sake of the establishment of the National Socialist State” (quoted *ibid.*, p. 28).

7.2. The importance of this constitutive nexus between the state of exception and the concentration camp cannot be overestimated for a correct understanding of the nature of the camp. The “protection” of freedom that is at issue in *Schutzhaft* is, ironically, protection against the suspension of law that characterizes the emergency. The novelty is that *Schutzhaft* is now separated from the state of exception on which it had been based and is left in force in the normal situation. *The camp is the space that is opened when the state of exception begins to become the rule.* In the camp, the state of exception, which was essentially a temporary suspension of the rule of law on the basis of a factual state of danger, is now given a permanent spatial arrangement, which as such nevertheless remains outside the normal order. When Himmler decided to create a “concentration camp for political prisoners” in Dachau at the time of Hitler’s election as chancellor of the Reich in March 1933, the camp was immediately entrusted to the SS and—thanks to *Schutzhaft*—placed outside the rules of penal and prison law, which then and subsequently had no bearing on it. Despite the multiplication of the often contradictory communiqués, instructions, and telegrams through which the authorities both of the Reich and of the individual *Länder* took care to keep the workings of *Schutzhaft* as vague as possible after the decree of February 28, the camp’s absolute independence from every judicial control and every reference to the normal juridical order was constantly reaffirmed. According to the new notions of the National Socialist jurists (among whom Carl Schmitt was in the front lines), which located the primary and immediate source of law in the Führer’s command, *Schutzhaft* had, moreover, no need whatsoever of a juridical foundation in existing institutions and laws, being “an immediate effect of the National Socialist revolution” (Drobisch and Wieland, *System*, p. 27). Because of this—that is, insofar as the camps were located in such a peculiar space of exception—Diels, the head of the Gestapo, could declare, “Neither an order nor an instruction exists for the origin of the camps: they were not instituted; one day they were there [*sie waren nicht gegründet, sie waren eines Tages da*]” (quoted *ibid.*, p. 30).

Dachau and the other camps that were immediately added to it (Sachsenhausen, Buchenwald, Lichtenberg) remained almost always in operation—what varied was the size of their population (which in certain periods, in particular be-

tween 1935 and 1937, before the Jews began to be deported, diminished to 7,500 people). But in Germany the camp as such had become a permanent reality.

7.3. The paradoxical status of the camp as a space of exception must be considered. The camp is a piece of land placed outside the normal juridical order, but it is nevertheless not simply an external space. What is excluded in the camp is, according to the etymological sense of the term “exception” (*ex-capere*), *taken outside*, included through its own exclusion. But what is first of all taken into the juridical order is the state of exception itself. Insofar as the state of exception is “willed,” it inaugurates a new juridico-political paradigm in which the norm becomes indistinguishable from the exception. The camp is thus the structure in which the state of exception—the possibility of deciding on which founds sovereign power—is realized *normally*. The sovereign no longer limits himself, as he did in the spirit of the Weimar constitution, to deciding on the exception on the basis of recognizing a given factual situation (danger to public safety): laying bare the inner structure of the ban that characterizes his power, he now *de facto* produces the situation as a consequence of his decision on the exception. This is why in the camp the *quaestio iuris* is, if we look carefully, no longer strictly distinguishable from the *quaestio facti*, and in this sense every question concerning the legality or illegality of what happened there simply makes no sense. *The camp is a hybrid of law and fact in which the two terms have become indistinguishable.*

Hannah Arendt once observed that in the camps, the principle that supports totalitarian rule and that common sense obstinately refuses to admit comes fully to light: this is the principle according to which “everything is possible.” Only because the camps constitute a space of exception in the sense we have examined—in which not only is law completely suspended but fact and law are completely confused—is everything in the camps truly possible. If this particular juridico-political structure of the camps—the task of which is precisely to create a stable exception—is not understood, the incredible things that happened there remain completely unintelligible. Whoever entered the camp moved in a zone of indistinction between outside and inside, exception and rule, licit and illicit, in which the very concepts of subjective right and juridical protection no longer made any sense. What is more, if the person entering the camp was a Jew, he had already been deprived of his rights as a citizen by the Nuremberg laws and was subsequently completely denationalized at the time of the Final Solution. Insofar as its inhabitants were stripped of every political status and wholly reduced to bare life, the camp was also the most absolute biopolitical space ever to have been realized, in which power confronts nothing but pure life, without any

mediation. This is why the camp is the very paradigm of political space at the point at which politics becomes biopolitics and *homo sacer* is virtually confused with the citizen. The correct question to pose concerning the horrors committed in the camps is, therefore, not the hypocritical one of how crimes of such atrocity could be committed against human beings. It would be more honest and, above all, more useful to investigate carefully the juridical procedures and deployments of power by which human beings could be so completely deprived of their rights and prerogatives that no act committed against them could appear any longer as a crime. (At this point, in fact, everything had truly become possible.)

7.4. The bare life into which the camp's inhabitants were transformed is not, however, an extrapolitical, natural fact that law must limit itself to confirming or recognizing. It is, rather, a threshold in which law constantly passes over into fact and fact into law, and in which the two planes become indistinguishable. It is impossible to grasp the specificity of the National Socialist concept of race—and, with it, the peculiar vagueness and inconsistency that characterize it—if one forgets that the *biopolitical body* that constitutes the new fundamental political subject is neither a *quaestio facti* (for example, the identification of a certain biological body) nor a *quaestio iuris* (the identification of a certain juridical rule to be applied), but rather the site of a sovereign political decision that operates in the absolute indistinction of fact and law.

No one expressed this peculiar nature of the new fundamental biopolitical categories more clearly than Schmitt, who, in the essay “State, Movement, People,” approximates the concept of race, without which “the National Socialist state could not exist, and without which its juridical life would not be possible,” to the “general and indeterminate clauses” that had penetrated ever more deeply into German and European legislation in the twentieth century. In penetrating invasively into the juridical rule, Schmitt observes, concepts such as “good morals,” “proper initiative,” “important motive,” “public security and order,” “state of danger,” and “case of necessity,” which refer not to a rule but to a situation, rendered obsolete the illusion of a law that would a priori be able to regulate all cases and all situations and that judges would have to limit themselves simply to applying. In moving certainty and calculability outside the juridical rule, these clauses render all juridical concepts indeterminate. “In this sense,” Schmitt writes, with unwittingly Kafkaesque accents,

today there are now only ‘indeterminate’ juridical concepts. . . . The entire application of law thus lies between Scylla and Charybdis. The way forward seems to condemn us to a shoreless sea and to move us ever farther from the firm ground

of juridical certainty and adherence to the law, which at the same time is still the ground of the judges' independence. Yet the way backward, which leads toward the formalistic superstition of law which was recognized as senseless and superseded long ago, is not worthy of consideration. (Ibid., pp. 43–44)

A concept such as the National Socialist notion of race (or, in the words of Schmitt, of “equality of stock”) functions as a general clause (analogous to “state of danger” or to “good morals”) that does not refer to any situation of external fact but instead realizes an immediate coincidence of fact and law. The judge, the civil servant, or whoever else has to reckon with such a notion no longer orients himself according to a rule or a situation of fact. Binding himself solely to his own community of race with the German people and the Führer, such a person moves in a zone in which the distinction between life and politics, between questions of fact and questions of law, has literally no more meaning.

7.5. Only from this perspective does the National Socialist theory that posits the immediate and intrinsically perfect source of law in the word of the Führer acquire its full significance. Just as the word of the Führer is not a factual situation that is then transformed into a rule, but is rather itself rule insofar as it is living voice, so the biopolitical body (in its twofold appearance as Jewish body and German body, as life unworthy of being lived and as full life) is not an inert biological presupposition to which the rule refers, but at once rule and criterion of its own application, *a juridical rule that decides the fact that decides on its application*.

The radical novelty implicit in this conception has not been sufficiently noticed by historians of law. Not only is the law issued by the Führer definable neither as rule nor as exception and neither as law nor as fact. There is more: in this law, the formation of a rule [*normazione*] and the execution of a rule—the production of law and its application—are no longer distinguishable moments. (Benjamin understood this when he projected the Schmittian theory of sovereignty onto the baroque monarch, in whom “the gesture of execution” becomes constitutive and who, having to decide on the exception, is caught in the impossibility of making a decision [*Ursprung*, pp. 249–50].) The Führer is truly, according to the Pythagorean definition of the sovereign, a *nomos empsuchon*, a living law (Svenbro, *Phrasikleia*, p. 149). (This is why the separation of powers that characterizes the liberal-democratic State loses its meaning here, even if it remains formally in effect. Hence the difficulty of judging according to normal juridical criteria when judging those officials who, like Adolf Eichmann, did nothing other than execute the word of the Führer as law.)

This is the ultimate meaning of the Schmittian thesis that the principle of *Führung* is “a concept of the immediate present and of real presence” (“Staat,” p. 42). And this is why Schmitt can affirm, without contradiction: “It is general knowledge among the contemporary German political generation that precisely the decision concerning whether a fact or a kind of thing is apolitical is a specifically political decision” (ibid., p. 17). Politics is now literally the decision concerning the unpolitical (that is, concerning bare life).

The camp is the space of this absolute impossibility of deciding between fact and law, rule and application, exception and rule, which nevertheless incessantly decides between them. What confronts the guard or the camp official is not an extrajudicial fact (an individual biologically belonging to the Jewish race) to which he must apply the discrimination of the National Socialist rule. On the contrary, every gesture, every event in the camp, from the most ordinary to the most exceptional, enacts the decision on bare life by which the German biopolitical body is made actual. The separation of the Jewish body is the immediate production of the specifically German body, just as its production is the application of the rule.

7.6. If this is true, if the essence of the camp consists in the materialization of the state of exception and in the subsequent creation of a space in which bare life and the juridical rule enter into a threshold of indistinction, then we must admit that we find ourselves virtually in the presence of a camp every time such a structure is created, independent of the kinds of crime that are committed there and whatever its denomination and specific topography. The stadium in Bari into which the Italian police in 1991 provisionally herded all illegal Albanian immigrants before sending them back to their country, the winter cycle-racing track in which the Vichy authorities gathered the Jews before consigning them to the Germans, the *Konzentrationslager für Aüsländer* in Cottbus-Sielow in which the Weimar government gathered Jewish refugees from the East, or the *zones d’attentes* in French international airports in which foreigners asking for refugee status are detained will then all equally be camps. In all these cases, an apparently innocuous space (for example, the Hôtel Arcades in Roissy) actually delimits a space in which the normal order is de facto suspended and in which whether or not atrocities are committed depends not on law but on the civility and ethical sense of the police who temporarily act as sovereign (for example, in the four days during which foreigners can be held in the *zone d’attente* before the intervention of the judicial authority).

7.7. In this light, the birth of the camp in our time appears as an event that decisively signals the political space of modernity itself. It is produced at

the point at which the political system of the modern nation-state, which was founded on the functional nexus between a determinate localization (land) and a determinate order (the State) and mediated by automatic rules for the inscription of life (birth or the nation), enters into a lasting crisis, and the State decides to assume directly the care of the nation's biological life as one of its proper tasks. If the structure of the nation-state is, in other words, defined by the three elements *land, order, birth*, the rupture of the old *nomos* is produced not in the two aspects that constituted it according to Schmitt (localization, *Ortung*, and order, *Ordnung*), but rather at the point marking the inscription of bare life (the *birth* that thus becomes *nation*) within the two of them. Something can no longer function within the traditional mechanisms that regulated this inscription, and the camp is the new, hidden regulator of the inscription of life in the order—or, rather, the sign of the system's inability to function without being transformed into a lethal machine. It is significant that the camps appear together with new laws on citizenship and the denationalization of citizens—not only the Nuremberg laws on citizenship in the Reich but also the laws on denationalization promulgated by almost all European states, including France, between 1915 and 1933. The state of exception, which was essentially a temporary suspension of the juridico-political order, now becomes a new and stable spatial arrangement inhabited by the bare life that more and more can no longer be inscribed in that order. The growing dissociation of birth (bare life) and the nation-state is the new fact of politics in our day, and what we call *camp* is this disjunction. To an order without localization (the state of exception, in which law is suspended) there now corresponds a localization without order (the camp as permanent space of exception). The political system no longer orders forms of life and juridical rules in a determinate space, but instead contains at its very center a *dislocating localization* that exceeds it and into which every form of life and every rule can be virtually taken. The camp as dislocating localization is the hidden matrix of the politics in which we are still living, and it is this structure of the camp that we must learn to recognize in all its metamorphoses into the *zones d'attentes* of our airports and certain outskirts of our cities. The camp is the fourth, inseparable element that has now added itself to—and so broken—the old trinity composed of the state, the nation (birth), and land.

From this perspective, the camps have, in a certain sense, reappeared in an even more extreme form in the territories of the former Yugoslavia. What is happening there is by no means, as interested observers have been quick to declare, a redefinition of the old political system according to new ethnic and territorial arrangements, which is to say, a simple repetition of processes that led to the

constitution of the European nation-states. At issue in the former Yugoslavia is, rather, an incurable rupture of the old *nomos* and a dislocation of populations and human lives along entirely new lines of flight. Hence the decisive importance of ethnic rape camps. If the Nazis never thought of effecting the Final Solution by making Jewish women pregnant, it is because the principle of birth that assured the inscription of life in the order of the nation-state was still—if in a profoundly transformed sense—in operation. This principle has now entered into a process of decay and dislocation. It is becoming increasingly impossible for it to function, and we must expect not only new camps but also always new and more lunatic regulative definitions of the inscription of life in the city. The camp, which is now securely lodged within the city's interior, is the new biopolitical *nomos* of the planet.

✂ Every interpretation of the political meaning of the term “people” must begin with the singular fact that in modern European languages, “people” also always indicates the poor, the disinherited, and the excluded. One term thus names both the constitutive political subject and the class that is, *de facto* if not *de jure*, excluded from politics.

In common speech as in political parlance, the Italian *popolo*, the French *peuple*, the Spanish *pueblo* (like the corresponding adjectives *popolare*, *populaire*, *popolar* and late Latin *populus* and *popularis*, from which they derive) designate both the complex of citizens as a unitary political body (as in “the Italian people” or “the people's judge”) and the members of the lower classes (as in *homme du peuple*, *rione popolare*, *front populaire*). Even the English word “people,” which has a less differentiated meaning, still conserves the sense of “ordinary people” in contrast to the rich and the nobility. In the American Constitution one thus reads, without any distinction, “We the people of the United States.” Yet when Lincoln invokes a “Government of the people, by the people, for the people” in the Gettysburg Address, the repetition implicitly opposes the first “people” to another “people.” Just how essential this ambiguity was even during the French Revolution (that is, at precisely the point at which claims were made for the principle of popular sovereignty) is shown by the decisive role played by compassion for the people understood as an excluded class. Arendt noted that “the very definition of the word was born out of compassion, and the term became the equivalent for misfortune and unhappiness—*le peuple, les malheureux m'applaudissent*, as Robespierre was wont to say; *le peuple toujours malheureux*, as even Sieyès, one of the least sentimental and most sober figures of the Revolution, would put it” (*On Revolution*, p. 70). But in the chapter of Bodin's *Republic* in which democracy or the *état populaire* is defined, the concept is already double: as the titular holder of sovereignty, the *peuple en corps* is contrasted with the *menu peuple*, whom wisdom counsels excluding from political power.

Such a diffuse and constant semantic ambiguity cannot be accidental: it must reflect an amphiboly inherent in the nature and function of the concept “people” in Western politics. It is as if what we call “people” were in reality not a unitary subject but a dia-

lectical oscillation between two opposite poles: on the one hand, the set of the People as a whole political body, and on the other, the subset of the people as a fragmentary multiplicity of needy and excluded bodies; or again, on the one hand, an inclusion that claims to be total, and on the other, an exclusion that is clearly hopeless; at one extreme, the total state of integrated and sovereign citizens, and at the other, the preserve—court of miracles or camp—of the wretched, the oppressed, and the defeated. In this sense, a single and compact referent for the term “people” simply does not exist anywhere: like many fundamental political concepts (similar, in this respect, to the *Urworte* of Abel and Freud or to L. Dumont’s hierarchical relations), “people” is a polar concept that indicates a double movement and a complex relation between two extremes. But this also means that the constitution of the human species in a political body passes through a fundamental division and that in the concept “people” we can easily recognize the categorial pairs that we have seen to define the original political structure: bare life (people) and political existence (People), exclusion and inclusion, *zoē* and *bios*. The “people” thus always already carries the fundamental biopolitical fracture within itself. It is what cannot be included in the whole of which it is a part and what cannot belong to the set in which it is always already included. Hence the contradictions and aporias to which it gives rise every time that it is evoked and put into play on the political scene. It is what always already *is* and yet must, nevertheless, be realized; it is the pure source of every identity but must, however, continually be redefined and purified through exclusion, language, blood, and land. Or, at the opposite pole, the “people” is what is by essence lacking to itself and that whose realization therefore coincides with its own abolition; it is what must, together with its opposite, negate itself in order to be (hence the specific aporias of the workers’ movement, turned toward the people and, at the same time, toward its abolition). At times the bloody flag of reaction and the uncertain insignia of revolutions and popular fronts, the people always contains a division more originary than that of friend-enemy, an incessant civil war that divides it more radically than every conflict and, at the same time, keeps it united and constitutes it more securely than any identity. When one looks closely, even what Marx called “class conflict,” which occupies such a central place in his thought—though it remains substantially undefined—is nothing other than the civil war that divides every people and that will come to an end only when, in the classless society or the messianic kingdom, People and people will coincide and there will no longer be, strictly speaking, any people.

If this is true, if the people necessarily contains the fundamental biopolitical fracture within itself, then it will be possible to read certain decisive pages of the history of our century in a new way. For if the struggle between the two “peoples” was certainly always under way, in our time it has experienced a final, paroxysmal acceleration. In Rome, the internal division of the people was juridically sanctioned by the clear division between *populus* and *plebs*, each of which had its own institutions and magistrates, just as in the Middle Ages the distinction between the *popolo minuto* and the *popolo grasso*\* corresponded to a precise

\* In thirteenth-century Florence, *popolo minuto* referred to the class of artisans and tradespeople and *popolo grasso* referred to the commercial classes and bourgeoisie.—Trans.

ordering of various arts and trades. But starting with the French Revolution, when it becomes the sole depositary of sovereignty, the people is transformed into an embarrassing presence, and misery and exclusion appear for the first time as an altogether intolerable scandal. In the modern era, misery and exclusion are not only economic or social concepts but eminently political categories (all the economism and “socialism” that seem to dominate modern politics actually have a political—and even a biopolitical—significance).

In this sense, our age is nothing but the implacable and methodical attempt to overcome the division dividing the people, to eliminate radically the people that is excluded. This attempt brings together, according to different modalities and horizons, Right and Left, capitalist countries and socialist countries, which are united in the project—which is in the last analysis futile but which has been partially realized in all industrialized countries—of producing a single and undivided people. The obsession with development is as effective as it is in our time because it coincides with the biopolitical project to produce an undivided people.

The extermination of the Jews in Nazi Germany acquires a radically new significance in this light. As the people that refuses to be integrated into the national political body (it is assumed that every assimilation is actually only simulated), the Jews are the representatives par excellence and almost the living symbol of the people and of the bare life that modernity necessarily creates within itself, but whose presence it can no longer tolerate in any way. And we must see the extreme phase of the internal struggle that divides People and people in the lucid fury with which the German *Volk*—representative par excellence of the People as a whole political body—sought to eliminate the Jews forever. With the Final Solution (which did, not by chance, involve Gypsies and others who could not be integrated), Nazism darkly and futilely sought to liberate the political scene of the West from this intolerable shadow in order to produce the German *Volk* as the people that finally overcame the original biopolitical fracture. (This is why the Nazi leaders so obstinately repeated that in eliminating Jews and Gypsies, they were actually also working for the other European peoples.)

Paraphrasing the Freudian postulate on the relation between ego and id, one could say that modern biopolitics is supported by the principle according to which “Where there is bare life, there will have to be a People”—on condition that one immediately add that the principle also holds in its inverse formulation: “Where there is a People, there will be bare life.” The fracture that was believed to have been overcome by eliminating the people (the Jews who are its symbol) thus reproduces itself anew, transforming the entire German people into a sacred life consecrated to death, and a biological body that must be infinitely purified (through the elimination of the mentally ill and the bearers of hereditary diseases). And in a different yet analogous way, today’s democratico-capitalist project of eliminating the poor classes through development not only reproduces within itself the people that is excluded but also transforms the entire population of the Third World into bare life. Only a politics that will have learned to take the fundamental biopolitical fracture of the West into account will be able to stop this oscillation and to put an end to the civil war that divides the peoples and the cities of the earth.

# Threshold

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THREE theses have emerged as provisional conclusions in the course of this inquiry:

1. The original political relation is the ban (the state of exception as zone of indistinction between outside and inside, exclusion and inclusion).
2. The fundamental activity of sovereign power is the production of bare life as originary political element and as threshold of articulation between nature and culture, *zoē* and *bios*.
3. Today it is not the city but rather the camp that is the fundamental biopolitical paradigm of the West.

The first of these theses calls into question every theory of the contractual origin of state power and, along with it, every attempt to ground political communities in something like a “belonging,” whether it be founded on popular, national, religious, or any other identity. The second thesis implies that Western politics is a biopolitics from the very beginning, and that every attempt to found political liberties in the rights of the citizen is, therefore, in vain. The third thesis, finally, throws a sinister light on the models by which social sciences, sociology, urban studies, and architecture today are trying to conceive and organize the public space of the world’s cities without any clear awareness that at their very center lies the same bare life (even if it has been transformed and rendered apparently more human) that defined the biopolitics of the great totalitarian states of the twentieth century.

In the syntagm “bare life,” “bare” corresponds to the Greek *haplōs*, the term by which first philosophy defines pure Being. The isolation of the sphere of pure Being, which constitutes the fundamental activity of Western metaphysics, is not without analogies with the isolation of bare life in the realm of Western politics. What constitutes man as a thinking animal has its exact counterpart in what constitutes him as a political animal. In the first case, the problem is to isolate pure Being (*on haplōs*) from the many meanings of the term “Being” (which, according to Aristotle, “is said in many ways”); in the second, what is at stake is the separa-

tion of bare life from the many forms of concrete life. Pure Being, bare life—what is contained in these two concepts, such that both the metaphysics and the politics of the West find their foundation and sense in them and in them alone? What is the link between the two constitutive processes by which metaphysics and politics seem, in isolating their proper element, simultaneously to run up against an unthinkable limit? For bare life is certainly as indeterminate and impenetrable as *haplōs* Being, and one could say that reason cannot think bare life except as it thinks pure Being, in stupor and in astonishment (*almost astonished*, Schelling).

Yet precisely these two empty and indeterminate concepts seem to safeguard the keys to the historico-political destiny of the West. And it may be that only if we are able to decipher the political meaning of pure Being will we be able to master the bare life that expresses our subjection to political power, just as it may be, inversely, that only if we understand the theoretical implications of bare life will we be able to solve the enigma of ontology. Brought to the limit of pure Being, metaphysics (thought) passes over into politics (into reality), just as on the threshold of bare life, politics steps beyond itself into theory.

Georges Dumézil and Károly Kerényi have described the life of the *Flamen Diale*, one of the greatest priests of classical Rome. His life is remarkable in that it is at every moment indistinguishable from the cultic functions that the *Flamen* fulfills. This is why the Romans said that the *Flamen Diale* is *quotidie feriatuus* and *assiduus sacerdos*, that is, in an act of uninterrupted celebration at every instant. Accordingly, there is no gesture or detail of his life, the way he dresses or the way he walks, that does not have a precise meaning and is not caught in a series of functions and meticulously studied effects. As proof of this “assiduity,” the *Flamen* is not allowed to take his emblems off completely even in sleep; the hair and nails that are cut from his body must be immediately buried under an *arbor felix* (that is, a tree that is not sacred to the gods of the underworld); in his clothes there can be neither knots nor closed rings, and he cannot swear oaths; if he meets a prisoner in fetters while on a stroll, the prisoner’s bonds must be undone; he cannot enter into a bower in which vine shoots are hanging; he must abstain from raw meat and every kind of leavened flour and successfully avoid fava beans, dogs, she-goats, and ivy . . .

In the life of the *Flamen Diale* it is not possible to isolate something like a bare life. All of the *Flamen’s* *zoē* has become *bios*; private sphere and public function are now absolutely identical. This is why Plutarch (with a formula that recalls the Greek and medieval definition of the sovereign as *lex animata*) can say that he is *hōsper empsuchon kai hieron agalma*, a sacred living statue.

Let us now observe the life of *homo sacer*, or of the bandit, the *Friedlos*, the *aquae et igni interdictus*, which are in many ways similar. He has been excluded from the religious community and from all political life: he cannot participate in the rites of his *gens*, nor (if he has been declared *infamis et intestabilis*) can he perform any juridically valid act. What is more, his entire existence is reduced to a bare life stripped of every right by virtue of the fact that anyone can kill him without committing homicide; he can save himself only in perpetual flight or a foreign land. And yet he is in a continuous relationship with the power that banished him precisely insofar as he is at every instant exposed to an unconditioned threat of death. He is pure *zoē*, but his *zoē* is as such caught in the sovereign ban and must reckon with it at every moment, finding the best way to elude or deceive it. In this sense, no life, as exiles and bandits know well, is more “political” than his.

Now consider the person of the Führer in the Third Reich. He represents the unity and equality of stock of the German people (Schmitt, “Staat,” p. 42). His is not a despot’s or a dictator’s authority, which is imposed on the will and the persons of the subjects from outside (*ibid.*, pp. 41–42). His power is, rather, all the more unlimited insofar as he is identified with the very biological life of the German people. By virtue of this identity, his every word is immediately law (*Führerworte haben Gesetzkraft*, as Eichmann did not tire of repeating at his trial in Jerusalem), and he recognizes himself immediately in his own command (*zu seinem Befehl sich bekennenden* [Schmitt, “Führertum,” p. 679]). He can certainly have a private life, but what defines him as Führer is that his existence as such has an immediately political character. Thus while the office of the chancellor of the Reich is a public *dignitas* received on the basis of procedures foreseen in the Weimar constitution, the office of the Führer is no longer an office in the sense of traditional public law, but rather something that springs forth without mediation from his person insofar as it coincides with the life of the German people. The Führer is the political form of this life: this is why his word is law and why he demands nothing of the German people except what it in truth already is.

Here the traditional distinction between the sovereign’s political body and his physical body (whose genealogy Kantorowicz has patiently reconstructed) disappears, and the two bodies are drastically contracted into one. The Führer has, so to speak, a whole body that is neither private nor public and whose life is in itself supremely political. The Führer’s body is, in other words, situated at the point of coincidence between *zoē* and *bios*, biological body and political body. In his person, *zoē* and *bios* incessantly pass over into each other.

Now imagine the most extreme figure of the camp inhabitant. Primo Levi has described the person who in camp jargon was called “the Muslim,” *der Muselmann*—a being from whom humiliation, horror, and fear had so taken away all consciousness and all personality as to make him absolutely apathetic (hence the ironical name given to him). He was not only, like his companions, excluded from the political and social context to which he once belonged; he was not only, as Jewish life that does not deserve to live, destined to a future more or less close to death. He no longer belongs to the world of men in any way; he does not even belong to the threatened and precarious world of the camp inhabitants who have forgotten him from the very beginning. Mute and absolutely alone, he has passed into another world without memory and without grief. For him, Hölderlin’s statement that “at the extreme limit of pain, nothing remains but the conditions of time and space” holds to the letter.

What is the life of the *Muselmann*? Can one say that it is pure *zoē*? Nothing “natural” or “common,” however, is left in him; nothing animal or instinctual remains in his life. All his instincts are canceled along with his reason. Antelme tells us that the camp inhabitant was no longer capable of distinguishing between pangs of cold and the ferocity of the SS. If we apply this statement to the *Muselmann* quite literally (“the cold, SS”), then we can say that he moves in an absolute indistinction of fact and law, of life and juridical rule, and of nature and politics. Because of this, the guard suddenly seems powerless before him, as if struck by the thought that the *Muselmann*’s behavior—which does not register any difference between an order and the cold—might perhaps be a silent form of resistance. Here a law that seeks to transform itself entirely into life finds itself confronted with a life that is absolutely indistinguishable from law, and it is precisely this indiscernibility that threatens the *lex animata* of the camp.

Paul Rabinow refers to the case of Wilson, the biochemist who decided to make his own body and life into a research and experimentation laboratory upon discovering that he suffered from leukemia. Since he is accountable only to himself, the barriers between ethics and law disappear; scientific research can freely and fully coincide with biography. His body is no longer private, since it has been transformed into a laboratory; but neither is it public, since only insofar as it is his own body can he transgress the limits that morality and law put to experimentation. “Experimental life” is the term Rabinow uses to define Wilson’s life. It is easy to see that “experimental life” is a *bios* that has, in a very particular sense, so concentrated itself on its own *zoē* as to become indistinguishable from it.

We enter the hospital room where the body of Karen Quinlan or the over-comatose person is lying, or where the neomort is waiting for his organs to be transplanted. Here biological life—which the machines are keeping functional by artificial respiration, pumping blood into the arteries, and regulating the blood temperature—has been entirely separated from the form of life that bore the name Karen Quinlan: here life becomes (or at least seems to become) pure *zoē*. When physiology made its appearance in the history of medical science toward the middle of the seventeenth century, it was defined in relation to anatomy, which had dominated the birth and the development of modern medicine. And if anatomy (which was grounded in the dissection of the dead body) was the description of inert organs, physiology is “an anatomy in motion,” the explanation of the function of organs in the living body. Karen Quinlan’s body is really only anatomy in motion, a set of functions whose purpose is no longer the life of an organism. Her life is maintained only by means of life-support technology and by virtue of a legal decision. It is no longer life, but rather death in motion. And yet since life and death are now merely biopolitical concepts, as we have seen, Karen Quinlan’s body—which wavers between life and death according to the progress of medicine and the changes in legal decisions—is a legal being as much as it is a biological being. A law that seeks to decide on life is embodied in a life that coincides with death.

The choice of this brief series of “lives” may seem extreme, if not arbitrary. Yet the list could well have continued with cases no less extreme and still more familiar: the Bosnian woman at Omarska, a perfect threshold of indistinction between biology and politics, or—in an apparently opposite, yet analogous, sense—military interventions on humanitarian grounds, in which war efforts are carried out for the sake of biological ends such as nutrition or the care of epidemics (which is just as clear an example of an undecidability between politics and biology).

It is on the basis of these uncertain and nameless terrains, these difficult zones of indistinction, that the ways and the forms of a new politics must be thought. At the end of the first volume of the *History of Sexuality*, having distanced himself from the sex and sexuality in which modernity, caught in nothing other than a deployment of power, believed it would find its own secret and liberation, Foucault alludes to a “different economy of bodies and pleasures” as a possible horizon for a different politics. The conclusions of our study force us to be more cautious. Like the concepts of sex and sexuality, the concept of the “body” too is always already caught in a deployment of power. The “body” is always already

a biopolitical body and bare life, and nothing in it or the economy of its pleasure seems to allow us to find solid ground on which to oppose the demands of sovereign power. In its extreme form, the biopolitical body of the West (this last incarnation of *homo sacer*) appears as a threshold of absolute indistinction between law and fact, juridical rule and biological life. In the person of the Führer, bare life passes immediately into law, just as in the person of the camp inhabitant (or the neomort) law becomes indistinguishable from biological life. Today a law that seeks to transform itself wholly into life is more and more confronted with a life that has been deadened and mortified into juridical rule. Every attempt to rethink the political space of the West must begin with the clear awareness that we no longer know anything of the classical distinction between *zoē* and *bios*, between private life and political existence, between man as a simple living being at home in the house and man's political existence in the city. This is why the restoration of classical political categories proposed by Leo Strauss and, in a different sense, by Hannah Arendt can have only a critical sense. There is no return from the camps to classical politics. In the camps, city and house became indistinguishable, and the possibility of differentiating between our biological body and our political body—between what is incommunicable and mute and what is communicable and sayable—was taken from us forever. And we are not only, in Foucault's words, animals whose life as living beings is at issue in their politics, but also—inversely—citizens whose very politics is at issue in their natural body.

Just as the biopolitical body of the West cannot be simply given back to its natural life in the *oikos*, so it cannot be overcome in a passage to a new body—a technical body or a wholly political or glorious body—in which a different economy of pleasures and vital functions would once and for all resolve the interlacement of *zoē* and *bios* that seems to define the political destiny of the West. This biopolitical body that is bare life must itself instead be transformed into the site for the constitution and installation of a form of life that is wholly exhausted in bare life and a *bios* that is only its own *zoē*. Here attention will also have to be given to the analogies between politics and the epochal situation of metaphysics. Today *bios* lies in *zoē* exactly as essence, in the Heideggerian definition of Dasein, lies (*liegt*) in existence. Yet how can a *bios* be only its own *zoē*, how can a form of life seize hold of the very *haplōs* that constitutes both the task and the enigma of Western metaphysics? If we give the name form-of-life to this being that is only its own bare existence and to this life that, being its own form, remains inseparable from it, we will witness the emergence of a field of research beyond the terrain defined by the intersection of politics and philosophy, medico-biological sciences and jurisprudence. First, however, it will

be necessary to examine how it was possible for something like a bare life to be conceived within these disciplines, and how the historical development of these very disciplines has brought them to a limit beyond which they cannot venture without risking an unprecedented biopolitical catastrophe.

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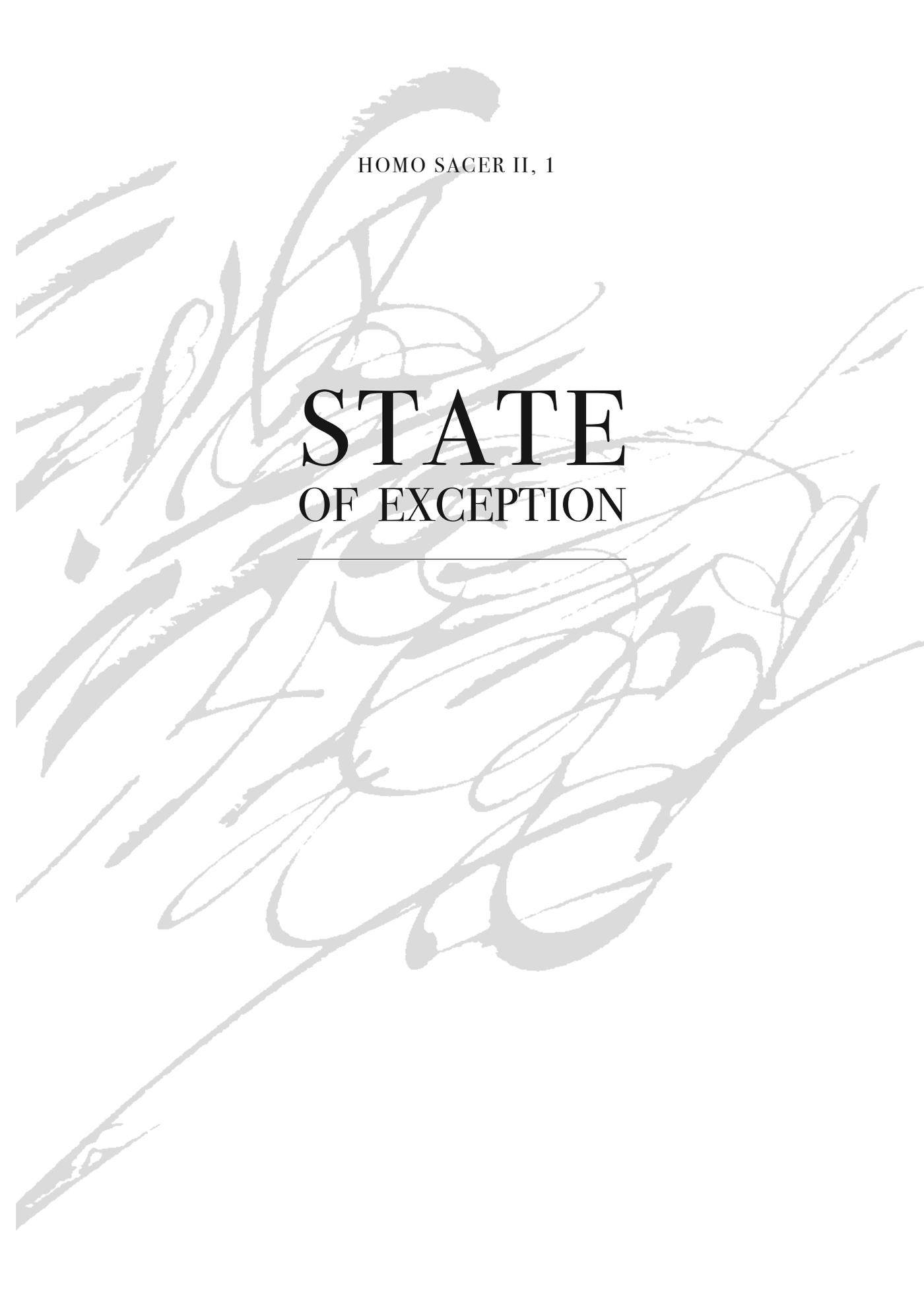
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HOMO SACER II, 1

STATE  
OF EXCEPTION

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TRANSLATED BY KEVIN ATTELL

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## Translator's Note

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Wherever possible, I have included references to published English translations of Agamben's French, German, and Italian sources in the references list. However, in order to maintain consistency in terminology throughout the text, and to better reflect Agamben's own translations of these sources, the published English versions have frequently been modified. Where an English edition is listed in the bibliography, the first page number in the text citation refers to the original, and the second to the English edition (e.g., [Benjamin 1942, 697/257]). Where no English edition is listed, the translation is mine.

I would like to give my deepest thanks to Courtney Booker, David Copenhagen, Samuel Gilbert, Sirietta Simoncini, and to Giorgio Agamben for their generous help in preparing this translation.

*Quare siletis iuristae in munere vestro?*

[Why are you jurists silent about that which concerns you?]

# The State of Exception as a Paradigm of Government

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**1.1.** The essential contiguity between the state of exception and sovereignty was established by Carl Schmitt in his book *Politische Theologie* (1922). Although his famous definition of the sovereign as “he who decides on the state of exception” has been widely commented on and discussed, there is still no theory of the state of exception in public law, and jurists and theorists of public law seem to regard the problem more as a *quaestio facti* than as a genuine juridical problem. Not only is such a theory deemed illegitimate by those authors who (following the ancient maxim according to which *necessitas legem non habet* [necessity has no law]) affirm that the state of necessity, on which the exception is founded, cannot have a juridical form, but it is difficult even to arrive at a definition of the term given its position at the limit between politics and law. Indeed, according to a widely held opinion, the state of exception constitutes a “point of imbalance between public law and political fact” (Saint-Bonnet 2001, 28) that is situated—like civil war, insurrection, and resistance—in an “ambiguous, uncertain, borderline fringe, at the intersection of the legal and the political” (Fontana 1999, 16). The question of borders becomes all the more urgent: if exceptional measures are the result of periods of political crisis and, as such, must be understood on political and not juridico-constitutional grounds (De Martino 1973, 320), then they find themselves in the paradoxical position of being juridical measures that cannot be understood in legal terms, and the state of exception appears as the legal form of what cannot have legal form. On the other hand, if the law employs the exception—that is the suspension of law itself—as its original means of referring to and encompassing life, then a theory of the state of exception is the preliminary condition for any definition of the relation that binds and, at the same time, abandons the living being to law.

It is this no-man’s-land between public law and political fact, and between the juridical order and life, that the present study seeks to investigate. Only if the veil covering this ambiguous zone is lifted will we be able to approach an understanding of the stakes involved in the difference—or the supposed difference—

between the political and the juridical, and between law and the living being. And perhaps only then will it be possible to answer the question that never ceases to reverberate in the history of Western politics: what does it mean to act politically?

1.2. One of the elements that make the state of exception so difficult to define is certainly its close relationship to civil war, insurrection, and resistance. Because civil war is the opposite of normal conditions, it lies in a zone of undecidability with respect to the state of exception, which is state power's immediate response to the most extreme internal conflicts. Thus, over the course of the twentieth century, we have been able to witness a paradoxical phenomenon that has been effectively defined as a "legal civil war" (Schnur 1983). Let us take the case of the Nazi State. No sooner did Hitler take power (or, as we should perhaps more accurately say, no sooner was power given to him) than, on February 28, he proclaimed the Decree for the Protection of the People and the State, which suspended the articles of the Weimar Constitution concerning personal liberties. The decree was never repealed, so that from a juridical standpoint the entire Third Reich can be considered a state of exception that lasted twelve years. In this sense, modern totalitarianism can be defined as the establishment, by means of the state of exception, of a legal civil war that allows for the physical elimination not only of political adversaries but of entire categories of citizens who for some reason cannot be integrated into the political system. Since then, the voluntary creation of a permanent state of emergency (though perhaps not declared in the technical sense) has become one of the essential practices of contemporary states, including so-called democratic ones.

Faced with the unstoppable progression of what has been called a "global civil war," the state of exception tends increasingly to appear as the dominant paradigm of government in contemporary politics. This transformation of a provisional and exceptional measure into a technique of government threatens radically to alter—in fact, has already palpably altered—the structure and meaning of the traditional distinction between constitutional forms. Indeed, from this perspective, the state of exception appears as a threshold of indeterminacy between democracy and absolutism.

✠ The expression "global civil war" appears in the same year (1963) in both Hannah Arendt's *On Revolution* and Carl Schmitt's *Theory of the Partisan*. However, as we will see, the distinction between a "real state of exception" (*état de siège effectif*) and a "fictitious state of exception" (*état de siège fictif*) goes back to French public law theory and was already clearly articulated in Theodor Reinach's book *De l'état de siège. Étude historique et juridique* (1885), which is at the origins of the Schmittian and Benjaminian opposition

between a real and a fictitious state of exception. Anglo-Saxon jurisprudence prefers to speak here of “fancied emergency.” For their part, Nazi jurists spoke openly of a *gewollte Ausnahmestand*, a “willed state of exception,” “for the sake of establishing the National Socialist State” (Werner Spohr, quoted in Drobische and Wieland 1993, 28).

1.3. The immediately biopolitical significance of the state of exception as the original structure in which law encompasses living beings by means of its own suspension emerges clearly in the “military order” issued by the president of the United States on November 13, 2001, which authorized the “indefinite detention” and trial by “military commissions” (not to be confused with the military tribunals provided for by the law of war) of noncitizens suspected of involvement in terrorist activities.

The USA Patriot Act issued by the U.S. Senate on October 26, 2001, already allowed the attorney general to “take into custody” any alien suspected of activities that endangered “the national security of the United States,” but within seven days the alien had to be either released or charged with the violation of immigration laws or some other criminal offense. What is new about President Bush’s order is that it radically erases any legal status of the individual, thus producing a legally unnamable and unclassifiable being. Not only do the Taliban captured in Afghanistan not enjoy the status of POWs as defined by the Geneva Convention, they do not even have the status of persons charged with a crime according to American laws. Neither prisoners nor persons accused, but simply “detainees,” they are the object of a pure *de facto* rule, of a detention that is indefinite not only in the temporal sense but in its very nature as well, since it is entirely removed from the law and from judicial oversight. The only thing to which it could possibly be compared is the legal situation of the Jews in the Nazi *Lager* [camps], who, along with their citizenship, had lost every legal identity, but at least retained their identity as Jews. As Judith Butler has effectively shown, in the detainee at Guantánamo, bare life reaches its maximum indeterminacy.

1.4. The uncertainty of the concept is exactly matched by terminological uncertainty. The present study will use the syntagma *state of exception* as the technical term for the consistent set of legal phenomena that it seeks to define. This term, which is common in German theory (*Ausnahmestand*, but also *Notstand*, “state of necessity”), is foreign to Italian and French theory, which prefer to speak of *emergency decrees* and *state of siege* (political or fictitious, *état de siège fictif*). In Anglo-Saxon theory, the terms *martial law* and *emergency powers* prevail.

If, as has been suggested, terminology is the properly poetic moment of thought, then terminological choices can never be neutral. In this sense, the

choice of the term *state of exception* implies a position taken on both the nature of the phenomenon that we seek to investigate and the logic most suitable for understanding it. Though the notions of *state of siege* and *martial law* express a connection with the state of war that has been historically decisive and is present to this day, they nevertheless prove to be inadequate to define the proper structure of the phenomenon, and they must therefore be qualified as *political* or *fictitious*, terms that are themselves misleading in some ways. The state of exception is not a special kind of law (like the law of war); rather, insofar as it is a suspension of the juridical order itself, it defines law's threshold or limit concept.

✠ The history of the term *fictitious or political state of siege* is instructive in this regard. It goes back to the French doctrine that—in reference to Napoleon's decree of December 24, 1811—provided for the possibility of a state of siege that the emperor could declare whether or not a city was actually under attack or directly threatened by enemy forces, “whenever circumstances require giving more forces and more power to the military police, without it being necessary to put the place in a state of siege” (Reinach 1885, 109). The institution of the state of siege has its origin in the French Constituent Assembly's decree of July 8, 1791, which distinguished among *état de paix*, in which military authority and civil authority each acts in its own sphere; *état de guerre*, in which civil authority must act in concert with military authority; and *état de siège*, in which “all the functions entrusted to the civil authority for maintaining order and internal policing pass to the military commander, who exercises them under his exclusive responsibility” (ibid.). The decree referred only to military strongholds and ports, but with the law of 19 Fructidor Year 5, the Directory assimilated municipalities in the interior with the strongholds and, with the law of 18 Fructidor of the same year, granted itself the right to put a city in a state of siege. The subsequent history of the state of siege is the history of its gradual emancipation from the wartime situation to which it was originally bound in order to be used as an extraordinary police measure to cope with internal sedition and disorder, thus changing from a real, or military, state of siege to a fictitious, or political one. In any case, it is important not to forget that the modern state of exception is a creation of the democratic-revolutionary tradition and not the absolutist one.

The idea of a suspension of the constitution was introduced for the first time in the constitution of 22 Frimaire Year 8, Article 92 of which reads, “In the case of armed revolt or disturbances that would threaten the security of the State, the law can, in the places and for the time that it determines, suspend the rule of the constitution. In such cases, this suspension can be provisionally declared by a decree of the government if the legislative body is in recess, provided that this body be convened as soon as possible by an article of the same decree.” The city or region in question was declared *hors la constitution*. Although the paradigm is, on the one hand (in the state of siege) the extension of the military authority's wartime powers into the civil sphere, and on the other a suspension of the constitution (or of those constitutional norms that protect individual liberties),

in time the two models end up merging into a single juridical phenomenon that we call the *state of exception*.

✠ The expression *full powers* (*pleins pouvoirs*), which is sometimes used to characterize the state of exception, refers to the expansion of the powers of the government, and in particular the conferral on the executive of the power to issue decrees having the force of law. It derives from the notion of *plenitudo potestatis*, which was elaborated in that true and proper laboratory of modern public legal terminology that was canon law. The presupposition here is that the state of exception entails a return to an original, pleromatic state in which the distinction among the different powers (legislative, executive, etc.) has not yet been produced. As we will see, the state of exception constitutes rather a kenomatic state, an emptiness of law, and the idea of an originary indistinction and fullness of power must be considered a legal mythologeme analogous to the idea of a state of nature (and it is not by chance that it was precisely Schmitt who had recourse to this mythologeme). In any case, the term *full powers* describes one of the executive power's possible modes of action during the state of exception, but it does not coincide with it.

1.5. Between 1934 and 1948, in the face of the collapse of Europe's democracies, the theory of the state of exception (which had made a first, isolated appearance in 1921 with Schmitt's book *Dictatorship*) saw a moment of particular fortune, but it is significant that this occurred in the pseudomorphic form of a debate over so-called constitutional dictatorship.

This term (which German jurists had already used to indicate the emergency [*eccezionali*] powers that Article 48 of the Weimar Constitution granted the president of the Reich [Hugo Preuss: *Reichsverfassungsmäßige Diktatur*]) was taken up again and developed by Frederick M. Watkins ("The Problem of Constitutional Dictatorship," 1940), Carl J. Friedrich (*Constitutional Government and Democracy*, [1941] 1950), and finally Clinton L. Rossiter (*Constitutional Dictatorship: Crisis Government in the Modern Democracies*, 1948). Before them, we must also at least mention the book by the Swedish jurist Herbert Tingsten, *Les pleins pouvoirs. L'expansion des pouvoirs gouvernementaux pendant et après la Grande Guerre* (1934). While these books are quite varied and as a whole more dependent on Schmitt's theory than a first reading might suggest, they are nevertheless equally important because they record for the first time how the democratic regimes were transformed by the gradual expansion of the executive's powers during the two world wars and, more generally, by the state of exception that had accompanied and followed those wars. They are in some ways the heralds who announced what we today have clearly before our eyes—namely, that since "the state of exception . . . has become the rule" (Benjamin 1942, 697/257), it not only appears increasingly as a technique of government rather than an

exceptional measure, but it also lets its own nature as the constitutive paradigm of the juridical order come to light.

Tingsten's analysis centers on an essential technical problem that profoundly marks the evolution of the modern parliamentary regimes: the delegation contained in the "full powers" laws mentioned above, and the resulting extension of the executive's powers into the legislative sphere through the issuance of decrees and measures. "By 'full powers laws' we mean those laws by which an exceptionally broad regulatory power is granted to the executive, particularly the power to modify or abrogate by decree the laws in force" (Tingsten 1934, 13). Because laws of this nature, which should be issued to cope with exceptional circumstances of necessity or emergency, conflict with the fundamental hierarchy of law and regulation in democratic constitutions and delegate to the executive [*governo*] a legislative power that should rest exclusively with parliament, Tingsten seeks to examine the situation that arose in a series of countries (France, Switzerland, Belgium, the United States, England, Italy, Austria, and Germany) from the systematic expansion of executive [*governamentali*] powers during World War One, when a state of siege was declared or full powers laws issued in many of the warring states (and even in neutral ones, like Switzerland). The book goes no further than recording a large number of case histories; nevertheless, in the conclusion the author seems to realize that although a temporary and controlled use of full powers is theoretically compatible with democratic constitutions, "a systematic and regular exercise of the institution necessarily leads to the 'liquidation' of democracy" (333). In fact, the gradual erosion of the legislative powers of parliament—which today is often limited to ratifying measures that the executive issues through decrees having the force of law—has since then become a common practice. From this perspective, World War One (and the years following it) appear as a laboratory for testing and honing the functional mechanisms and apparatuses of the state of exception as a paradigm of government. One of the essential characteristics of the state of exception—the provisional abolition of the distinction among legislative, executive, and judicial powers—here shows its tendency to become a lasting practice of government.

Friedrich's book makes much more use than is apparent of Schmitt's theory of dictatorship, which is dismissed in a footnote as "a partisan tract" (Friedrich [1941] 1950, 664). Schmitt's distinction between commissarial dictatorship and sovereign dictatorship reappears here as an opposition between constitutional dictatorship, which seeks to safeguard the constitutional order, and unconstitutional dictatorship, which leads to its overthrow. The impossibility of defining and overcoming the forces that determine the transition from the first to the

second form of dictatorship (which is precisely what happened, for example, in Germany) is the fundamental aporia of Friedrich's book, as it is generally of all theories of constitutional dictatorship. All such theories remain prisoner in the vicious circle in which the emergency measures they seek to justify in the name of defending the democratic constitution are the same ones that lead to its ruin:

[T]here are no ultimate institutional safeguards available for insuring that emergency powers be used for the purpose of preserving the Constitution. Only the people's own determination to see them so used can make sure of that. . . . All in all the quasi-dictatorial provisions of modern constitutional systems, be they martial rule, state of siege, or constitutional emergency powers, fail to conform to any exacting standard of effective limitations upon a temporary concentration of powers. Consequently, all these systems are liable to be transformed into totalitarian schemes if conditions become favorable to it. (584)

In Rossiter's book these aporias explode into open contradictions. Unlike Tingsten and Friedrich, Rossiter explicitly seeks to justify constitutional dictatorship through a broad historical examination. His hypothesis here is that because the democratic regime, with its complex balance of powers, is conceived to function under normal circumstances, "*in time of crisis a democratic, constitutional government must temporarily be altered to whatever degree is necessary to overcome the peril and restore normal conditions*. This alteration invariably involves government of a stronger character; that is, *the government will have more power and the people fewer rights*" (Rossiter 1948, 5). Rossiter is aware that constitutional dictatorship (that is, the state of exception) has, in fact, become a paradigm of government ("a well-established principle of constitutional government" [4]) and that as such it is fraught with dangers; nevertheless, it is precisely the immanent necessity of constitutional dictatorship that he intends to demonstrate. But as he makes this attempt, he entangles himself in irresolvable contradictions. Indeed, Schmitt's model (which he judges to be "trail-blazing, if somewhat occasional," and which he seeks to correct [14]), in which the distinction between commissarial dictatorship and sovereign dictatorship is not one of nature but of degree (with the decisive figure undoubtedly being the latter), is not so easily overcome. Although Rossiter provides no fewer than eleven criteria for distinguishing constitutional dictatorship from unconstitutional dictatorship, none of them is capable either of defining a substantial difference between the two or of ruling out the passage from one to the other. The fact is that the two essential criteria of absolute necessity and temporariness (which all the others come down to in the last analysis) contradict what Rossiter knows perfectly well, that is, that the state of exception has by now become the rule: "In the Atomic Age upon which the world

is now entering, the use of constitutional emergency powers may well become the rule and not the exception” (297); or as he says even more clearly at the end of the book, “In describing the emergency powers of the western democracies, this book may have given the impression that such techniques of government as executive dictatorship, the delegation of legislative power, and lawmaking by administrative decree were purely transitory and temporary in nature. Such an impression would be distinctly misleading. . . . The instruments of government depicted here as temporary ‘crisis’ arrangements have in some countries, and may eventually in all countries, become lasting peacetime institutions” (313). This prediction, which came eight years after Benjamin’s first formulation in the eighth thesis on the concept of history, was undoubtedly accurate; but the words that conclude the book sound even more grotesque: “No sacrifice is too great for our democracy, least of all the temporary sacrifice of democracy itself” (314).

1.6. An examination of how the state of exception is situated in the legal traditions of the Western states reveals a division—clear in principle, but hazier in fact—between orders that regulate the state of exception in the text of the constitution or by a law and those that prefer not to regulate the problem explicitly. To the first group belong France (where the modern state of exception was born in the time of the Revolution) and Germany; to the second belong Italy, Switzerland, England, and the United States. Scholarship is also correspondingly divided between writers who favor a constitutional or legislative provision for the state of exception and others (Carl Schmitt foremost among them) who unreservedly criticize the pretense of regulating by law what by definition cannot be put in norms [*normato*]. Though on the level of the formal constitution the distinction is undoubtedly important (insofar as it presupposes, in the latter case, that acts performed by the government outside of or in conflict with the law can theoretically be considered illegal and must therefore be rectified by a special “bill of indemnity”), on the level of the material constitution something like a state of exception exists in all the above-mentioned orders, and the history of the institution, at least since World War One, shows that its development is independent of its constitutional or legislative formalization. Thus, in the Weimar Republic (where Article 48 of the constitution regulated the powers of the president of the Reich whenever the “public security and order” [*die öffentliche Sicherheit und Ordnung*] were threatened), the state of exception performed a surely more decisive function than in Italy, where the institution was not explicitly provided for, or in France, which regulated it by a law and which also frequently had recourse to the *état de siège* and legislation by decree.

1.7. The problem of the state of exception presents clear analogies to that of the right of resistance. It has been much debated, particularly during constituent assemblies, whether the right of resistance should be included in the text of the constitution. The draft of the current Italian Constitution included an article that read, “When the public powers violate the rights and fundamental liberties guaranteed by the Constitution, resistance to oppression is a right and a duty of the citizen.” This proposal, which followed a suggestion by Giuseppe Dossetti, one of the most prestigious of the leading Catholic figures, met with sharp opposition. Over the course of the debate the opinion that it was impossible to legally regulate something that, by its nature, was removed from the sphere of positive law prevailed, and the article was not approved. However, in the Constitution of the German Federal Republic there is an article (Article 20) that unequivocally legalizes the right of resistance, stating that “against anyone who attempts to abolish that order [the democratic constitution], all Germans have a right of resistance, if no other remedies are possible.”

The opposing arguments here are exactly symmetrical to the ones that divide advocates of legalizing the state of exception in the text of the constitution or a special law and those jurists who believe its normative regulation to be entirely inappropriate. It is certain, in any case, that if resistance were to become a right or even a duty (the omission of which could be punished), not only would the constitution end up positing itself as an absolutely untouchable and all-encompassing value, but the citizens’ political choices would also end up being determined by juridical norms [*giuridicamente normate*]. The fact is that in both the right of resistance and the state of exception, what is ultimately at issue is the question of the juridical significance of a sphere of action that is in itself extra-judicial. Two theses are at odds here: One asserts that law must coincide with the norm, and the other holds that the sphere of law exceeds the norm. But in the last analysis, the two positions agree in ruling out the existence of a sphere of human action that is entirely removed from law.

✠ A BRIEF HISTORY OF THE STATE OF EXCEPTION. We have already seen how the state of siege had its origin in France during the Revolution. After being established with the Constituent Assembly’s decree of July 8, 1791, it acquired its proper physiognomy as *état de siège fictif* or *état de siège politique* with the Directorial law of August 27, 1797, and, finally, with Napoleon’s decree of December 24, 1811. The idea of a suspension of the constitution (of the “rule of the constitution”) had instead been introduced, as we have also seen, by the Constitution of 22 Frimaire Year 8. Article 14 of the *Charte* of 1814 granted the sovereign the power to “make the regulations and ordinances necessary for the execution of the laws and the security of the State”; because

of the vagueness of the formula, Chateaubriand observed “that it is possible that one fine morning the whole *Charte* will be forfeited for the benefit of Article 14.” The state of siege was expressly mentioned in the *Acte additionel* to the Constitution of April 22, 1815, which stated that it could only be declared with a law. Since then, moments of constitutional crisis in France over the course of the nineteenth and twentieth centuries have been marked by legislation on the state of siege. After the fall of the July Monarchy, a decree by the Constituent Assembly on June 24, 1848, put Paris in a state of siege and assigned General Cavaignac the task of restoring order in the city. Consequently, an article was included in the new constitution of November 4, 1848, establishing that the occasions, forms, and effects of the state of siege would be firmly set by a law. From this moment on, the dominant principle in the French tradition (though, as we will see, not without exceptions) has been that the power to suspend the laws can belong only to the same power that produces them, that is, parliament (in contrast to the German tradition, which entrusted this power to the head of state). The law of August 9, 1849 (which was partially restricted later by the law of April 3, 1878), consequently established that a political state of siege could be declared by parliament (or, additionally, by the head of state) in the case of imminent danger to external or internal security. Napoleon III had recourse several times to this law and, once installed in power, he transferred, in the constitution of January 1852, the exclusive power to proclaim a state of siege to the head of state. The Franco-Prussian War and the insurrection of the Commune coincided with an unprecedented generalization of the state of exception, which was proclaimed in forty departments and lasted in some of them until 1876. On the basis of these experiences, and after MacMahon’s failed coup d’état in May 1877, the law of 1849 was modified to establish that a state of siege could be declared only with a law (or, if the Chamber of Deputies was not in session, by the head of state, who was then obligated to convene parliament within two days) in the event of “imminent danger resulting from foreign war or armed insurrection” (law of April 3, 1878, Art. 1).

World War One coincided with a permanent state of exception in the majority of the warring countries. On August 2, 1914, President Poincaré issued a decree that put the entire country in a state of siege, and this decree was converted into law by parliament two days later. The state of siege remained in force until October 12, 1919. Although the activity of parliament, which was suspended during the first six months of the war, recommenced in January 1915, many of the laws passed were, in truth, pure and simple delegations of legislative power to the executive, such as the law of February 10, 1918, which granted the government an all but absolute power to regulate by decree the production and trade of foodstuffs. As Tingsten has observed, in this way the executive power was transformed into a legislative organ in the material sense of the term (Tingsten 1934, 18). In any case, it was during this period that exceptional legislation by executive [*governativo*] decree (which is now perfectly familiar to us) became a regular practice in the European democracies.

Predictably, the expansion of the executive’s powers into the legislative sphere continued after the end of hostilities, and it is significant that military emergency now

ceded its place to economic emergency (with an implicit assimilation between war and economics). In January 1924, at a time of serious crisis that threatened the stability of the franc, the Poincaré government asked for full powers over financial matters. After a bitter debate, in which the opposition pointed out that this was tantamount to parliament renouncing its own constitutional powers, the law was passed on March 22, with a four-month limit on the government's special powers. Analogous measures were brought to a vote in 1935 by the Laval government, which issued more than five hundred decrees "having force of law" in order to avoid the devaluation of the franc. The opposition from the left, led by Léon Blum, strongly opposed this "fascist" practice, but it is significant that once the Left took power with the Popular Front, it asked parliament in June 1937 for full powers in order to devalue the franc, establish exchange control, and impose new taxes. As has been observed (Rossiter 1948, 123), this meant that the new practice of legislation by executive [*governativo*] decree, which had been inaugurated during the war, was by now a practice accepted by all political sides. On June 30, 1937, the powers that had been denied Blum were granted to the Chautemps government, in which several key ministries were entrusted to nonsocialists. And on April 10, 1938, Édouard Daladier requested and obtained from parliament exceptional powers to legislate by decree in order to cope with both the threat of Nazi Germany and the economic crisis. It can therefore be said that until the end of the Third Republic "the normal procedures of parliamentary democracy were in a state of suspension" (124). When we study the birth of the so-called dictatorial regimes in Italy and Germany, it is important not to forget this concurrent process that transformed the democratic constitutions between the two world wars. Under the pressure of the paradigm of the state of exception, the entire politico-constitutional life of Western societies began gradually to assume a new form, which has perhaps only today reached its full development. In December 1939, after the outbreak of the war, the Daladier government obtained the power to take by decree all measures necessary to ensure the defense of the nation. Parliament remained in session (except when it was suspended for a month in order to deprive the communist parliamentarians of their immunity), but all legislative activity lay firmly in the hands of the executive. By the time Marshal Pétain assumed power, the French parliament was a shadow of itself. Nevertheless, the Constitutional Act of July 11, 1940, granted the head of state the power to proclaim a state of siege throughout the entire national territory (which by then was partially occupied by the German army).

In the present constitution, the state of exception is regulated by Article 16, which De Gaulle had proposed. The article establishes that the president of the Republic may take all necessary measures "when the institutions of the Republic, the independence of the Nation, the integrity of its territory, or the execution of its international commitments are seriously and immediately threatened and the regular functioning of the constitutional public powers is interrupted." In April 1961, during the Algerian crisis, De Gaulle had recourse to Article 16 even though the functioning of the public powers had not been interrupted. Since that time, Article 16 has never again been invoked, but, in conformity with a continuing tendency in all of the Western democracies, the declaration of the

state of exception has gradually been replaced by an unprecedented generalization of the paradigm of security as the normal technique of government.

The history of Article 48 of the Weimar Constitution is so tightly woven into the history of Germany between the wars that it is impossible to understand Hitler's rise to power without first analyzing the uses and abuses of this article in the years between 1919 and 1933. Its immediate precedent was Article 68 of the Bismarckian Constitution, which, in cases where "public security was threatened in the territory of the Reich," granted the emperor the power to declare a part of the Reich to be in a state of war (*Kriegszustand*), whose conditions and limitations followed those set forth in the Prussian law of June 4, 1851, concerning the state of siege. Amid the disorder and rioting that followed the end of the war, the deputies of the National Assembly that was to vote on the new constitution (assisted by jurists among whom the name of Hugo Preuss stands out) included an article that granted the president of the Reich extremely broad emergency [*eccezionali*] powers. The text of Article 48 reads, "If security and public order are seriously [*erheblich*] disturbed or threatened in the German Reich, the president of the Reich may take the measures necessary to reestablish security and public order, with the help of the armed forces if required. To this end he may wholly or partially suspend the fundamental rights [*Grundrechte*] established in Articles 114, 115, 117, 118, 123, 124, and 153." The article added that a law would specify in detail the conditions and limitations under which this presidential power was to be exercised. Since that law was never passed, the president's emergency [*eccezionali*] powers remained so indeterminate that not only did theorists regularly use the phrase "presidential dictatorship" in reference to Article 48, but in 1925 Schmitt could write that "no constitution on earth had so easily legalized a coup d'état as did the Weimar Constitution" (Schmitt 1995, 25).

Save for a relative pause between 1925 and 1929, the governments of the Republic, beginning with Brüning's, made continual use of Article 48, proclaiming a state of exception and issuing emergency decrees on more than two hundred and fifty occasions; among other things, they employed it to imprison thousands of communist militants and to set up special tribunals authorized to pronounce capital sentences. On several occasions, particularly in October 1923, the government had recourse to Article 48 to cope with the fall of the mark, thus confirming the modern tendency to conflate politico-military and economic crises.

It is well known that the last years of the Weimar Republic passed entirely under a regime of the state of exception; it is less obvious to note that Hitler could probably not have taken power had the country not been under a regime of presidential dictatorship for nearly three years and had parliament been functioning. In July 1930, the Brüning government was put in the minority, but Brüning did not resign. Instead, President Hindenburg granted him recourse to Article 48 and dissolved the Reichstag. From that moment on, Germany in fact ceased to be a parliamentary republic. Parliament met only seven times for no longer than twelve months in all, while a fluctuating coalition of Social Democrats and centrists stood by and watched a government that by then answered only to the president

of the Reich. In 1932, Hindenburg—reelected president over Hitler and Thälmann—forced Brüning to resign and named the centrist von Papen to his post. On June 4, the Reichstag was dissolved and never reconvened until the advent of Nazism. On July 20, a state of exception was proclaimed in the Prussian territory, and von Papen was named Reich Commissioner for Prussia—ousting Otto Braun’s Social Democratic government.

The state of exception in which Germany found itself during the Hindenburg presidency was justified by Schmitt on a constitutional level by the idea that the president acted as the “guardian of the constitution” (Schmitt 1931); but the end of the Weimar Republic clearly demonstrates that, on the contrary, a “protected democracy” is not a democracy at all, and that the paradigm of constitutional dictatorship functions instead as a transitional phase that leads inevitably to the establishment of a totalitarian regime.

Given these precedents, it is understandable that the constitution of the Federal Republic did not mention the state of exception. Nevertheless, on June 24, 1968, the “grand coalition” of Christian Democrats and Social Democrats passed a law for the amendment of the constitution (*Gesetz zur Ergänzung des Grundgesetzes*) that reintroduced the state of exception (defined as the “state of internal necessity,” *innere Notstand*). However, with an unintended irony, for the first time in the history of the institution, the proclamation of the state of exception was provided for not simply to safeguard public order and security, but to defend the “liberal-democratic constitution.” By this point, protected democracy had become the rule.

On August 3, 1914, the Swiss Federal Assembly granted the Federal Council “the unlimited power to take all measures necessary to guarantee the security, integrity, and neutrality of Switzerland.” This unusual act—by virtue of which a non-warring state granted powers to the executive that were even vaster and vaguer than those received by the governments of countries directly involved in the war—is of interest because of the debates it provoked both in the assembly itself and in the Swiss Federal Court when the citizens objected that the act was unconstitutional. The tenacity with which on this occasion the Swiss jurists (nearly thirty years ahead of the theorists of constitutional dictatorship) sought (like Waldkirch and Burckhardt) to derive the legitimacy of the state of exception from the text of the constitution itself (specifically, Article 2, which read, “the aim of the Confederation is to ensure the independence of the fatherland against the foreigner [and] to maintain internal tranquility and order”), or (like Hoerni and Fleiner) to ground the state of exception in a law of necessity “inherent in the very existence of the State,” or (like His) in a juridical lacuna that the exceptional provisions must fill, shows that the theory of the state of exception is by no means the exclusive legacy of the antidemocratic tradition.

In Italy the history and legal situation of the state of exception are of particular interest with regard to legislation by emergency executive [*governativi*] decrees (the so-called law-decrees). Indeed, from this viewpoint one could say that Italy functioned as a true and proper juridico-political laboratory for organizing the process (which was also occurring to differing degrees in other European states) by which the law-decree “changed from a derogatory and exceptional instrument for normative production to an ordinary source

for the production of law” (Fresa 1981, 156). But this also means that one of the essential paradigms through which democracy is transformed from parliamentary to executive [*governamentale*] was elaborated precisely by a state whose governments were often unstable. In any case, it is in this context that the emergency decree’s pertinence to the problematic sphere of the state of exception comes clearly into view. The Albertine Statute (like the current Republican Constitution) made no mention of the state of exception. Nevertheless, the governments of the kingdom resorted to proclaiming a state of siege many times: in Palermo and the Sicilian provinces in 1862 and 1866, in Naples in 1862, in Sicily and Lunigiana in 1894, and in Naples and Milan in 1898, where the repression of the disturbances was particularly bloody and provoked bitter debates in parliament. The declaration of a state of siege on the occasion of the earthquake of Messina and Reggio Calabria on December 28, 1908, is only apparently a different situation. Not only was the state of siege ultimately proclaimed for reasons of public order—that is, to suppress the robberies and looting provoked by the disaster—but from a theoretical standpoint, it is also significant that these acts furnished the occasion that allowed Santi Romano and other Italian jurists to elaborate the thesis (which we examine in some detail later) that necessity is the primary source of law.

In each of these cases, the state of siege was proclaimed by a royal decree that, while not requiring parliamentary ratification, was nevertheless always approved by parliament, as were other emergency decrees not related to the state of siege (in 1923 and 1924 several thousand outstanding law-decrees issued in the preceding years were thus converted into law). In 1926 the Fascist regime had a law issued that expressly regulated the matter of the law-decrees. Article 3 of this law established that, upon deliberation of the council of ministers, “norms having force of law” could be issued by royal decree “(1) when the government is delegated to do so by a law within the limits of the delegation, and (2) in extraordinary situations, in which it is required for reasons of urgent and absolute necessity. The judgment concerning necessity and urgency is not subject to any oversight other than parliament’s political oversight.” The decrees provided for in the second clause had to be presented to parliament for conversion into law; but parliament’s total loss of autonomy during the Fascist regime rendered this condition superfluous.

Although the Fascist government’s abuse of emergency decrees was so great that in 1939 the regime itself felt it necessary to limit their reach, Article 77 of the Republican Constitution established with singular continuity that “in extraordinary situations of necessity and emergency” the government could adopt “provisional measures having force of law,” which had to be presented the same day to parliament and which went out of effect if not converted into law within sixty days of their issuance.

It is well known that since then the practice of executive [*governamentale*] legislation by law-decrees has become the rule in Italy. Not only have emergency decrees been issued in moments of political crisis, thus circumventing the constitutional principle that the rights of the citizens can be limited only by law (see, for example, the decrees issued for the repression of terrorism: the law-decree of March 28, 1978, n. 59, converted into the law of May 21, 1978, n. 191 [the so-called Moro Law], and the law-decree of December 15, 1979,

n. 625, converted into the law of February 6, 1980, n. 15), but law-decrees now constitute the normal form of legislation to such a degree that they have been described as “bills strengthened by guaranteed emergency” (Fresa 1981, 152). This means that the democratic principle of the separation of powers has today collapsed and that the executive power has in fact, at least partially, absorbed the legislative power. Parliament is no longer the sovereign legislative body that holds the exclusive power to bind the citizens by means of the law: it is limited to ratifying the decrees issued by the executive power. In a technical sense, the Italian Republic is no longer parliamentary, but executive [*governamentale*]. And it is significant that though this transformation of the constitutional order (which is today underway to varying degrees in all the Western democracies) is perfectly well known to jurists and politicians, it has remained entirely unnoticed by the citizens. At the very moment when it would like to give lessons in democracy to different traditions and cultures, the political culture of the West does not realize that it has entirely lost its canon.

The only legal apparatus in England that is comparable to the French *état de siège* goes by the term *martial law*; but this concept is so vague that it has been rightly described as an “unlucky name for the justification by the common law of acts done by necessity for the defence of the Commonwealth when there is war within the realm” (Rossiter 1948, 142). This, however, does not mean that something like a state of exception could not exist. In the Mutiny Acts, the Crown’s power to declare martial law was generally confined to times of war; nevertheless, it necessarily entailed sometimes serious consequences for the civilians who found themselves factually involved in the armed repression. Thus Schmitt sought to distinguish martial law from the military tribunals and summary proceedings that at first applied only to soldiers, in order to conceive of it as a purely factual proceeding and draw it closer to the state of exception: “Despite the name it bears, martial law is neither a right nor a law in this sense, but rather a proceeding guided essentially by the necessity of achieving a certain end” (Schmitt 1921, 172).

World War One played a decisive role in the generalization of exceptional executive [*governamentali*] apparatuses in England as well. Indeed, immediately after war was declared, the government asked parliament to approve a series of emergency measures that had been prepared by the relevant ministers, and they were passed virtually without discussion. The most important of these acts was the Defence of the Realm Act of August 4, 1914, known as DORA, which not only granted the government quite vast powers to regulate the wartime economy, but also provided for serious limitations on the fundamental rights of the citizens (in particular, granting military tribunals jurisdiction over civilians). The activity of parliament saw a significant eclipse for the entire duration of the war, just as in France. And in England too this process went beyond the emergency of the war, as is shown by the approval—on October 29, 1920, in a time of strikes and social tensions—of the Emergency Powers Act. Indeed, Article 1 of the act stated that

[i]f at any time it appears to His Majesty that any action has been taken or is immediately threatened by any persons or body of persons of such a nature and on so extensive a scale as to be calculated, by interfering with the supply and distri-

bution of food, water, fuel, or light, or with the means of locomotion, to deprive the community, or any substantial portion of the community, of the essentials of life, His Majesty may, by proclamation (hereinafter referred to as a proclamation of emergency), declare that a state of emergency exists.

Article 2 of the law gave His Majesty in Council the power to issue regulations and to grant the executive the “powers and duties . . . necessary for the preservation of the peace,” and it introduced special courts (“courts of summary jurisdiction”) for offenders. Even though the penalties imposed by these courts could not exceed three months in jail (“with or without hard labor”), the principle of the state of exception had been firmly introduced into English law.

The place—both logical and pragmatic—of a theory of the state of exception in the American constitution is in the dialectic between the powers of the president and those of Congress. This dialectic has taken shape historically (and in an exemplary way already beginning with the Civil War) as a conflict over supreme authority in an emergency situation; or, in Schmittian terms (and this is surely significant in a country considered to be the cradle of democracy), as a conflict over sovereign decision.

The textual basis of the conflict lies first of all in Article 1 of the constitution, which establishes that “[t]he Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it” but does not specify which authority has the jurisdiction to decide on the suspension (even though prevailing opinion and the context of the passage itself lead one to assume that the clause is directed at Congress and not the president). The second point of conflict lies in the relation between another passage of Article 1 (which declares that the power to declare war and to raise and support the army and navy rests with Congress) and Article 2, which states that “[t]he President shall be Commander in Chief of the Army and Navy of the United States.”

Both of these problems reach their critical threshold with the Civil War (1861–1865). Acting counter to the text of Article 1, on April 15, 1861, Lincoln decreed that an army of seventy-five thousand men was to be raised and convened a special session of Congress for July 4. In the ten weeks that passed between April 15 and July 4, Lincoln in fact acted as an absolute dictator (for this reason, in his book *Dictatorship*, Schmitt can refer to it as a perfect example of commissarial dictatorship: see 1921, 136). On April 27, with a technically even more significant decision, he authorized the General in Chief of the Army to suspend the writ of habeas corpus whenever he deemed it necessary along military lines between Washington and Philadelphia, where there had been disturbances. Furthermore, the president’s autonomy in deciding on extraordinary measures continued even after Congress was convened (thus, on February 14, 1862, Lincoln imposed censorship of the mail and authorized the arrest and detention in military prisons of persons suspected of “disloyal and treasonable practices”).

In the speech he delivered to Congress when it was finally convened on July 4, the president openly justified his actions as the holder of a supreme power to violate

the constitution in a situation of necessity. “Whether strictly legal or not,” he declared, the measures he had adopted had been taken “under what appeared to be a popular demand and a public necessity” in the certainty that Congress would ratify them. They were based on the conviction that even fundamental law could be violated if the very existence of the union and the juridical order were at stake (“Are all the laws *but one* to go unexecuted, and the Government itself go to pieces lest that one be violated?” See Rossiter 1948, 229).

It is obvious that in a wartime situation the conflict between the president and Congress is essentially theoretical. The fact is that although Congress was perfectly aware that the constitutional jurisdictions had been transgressed, it could do nothing but ratify the actions of the president, as it did on August 6, 1861. Strengthened by this approval, on September 22, 1862, the president proclaimed the emancipation of the slaves on his authority alone and, two days later, generalized the state of exception throughout the entire territory of the United States, authorizing the arrest and trial before courts martial of “all Rebels and Insurgents, their aiders and abettors within the United States, and all persons discouraging volunteer enlistments, resisting militia drafts, or guilty of any disloyal practice, affording aid and comfort to Rebels against the authority of the United States.” By this point, the president of the United States was the holder of the sovereign decision on the state of exception.

According to American historians, during World War One President Woodrow Wilson personally assumed even broader powers than those Abraham Lincoln had claimed. It is, however, necessary to specify that instead of ignoring Congress, as Lincoln had done, Wilson preferred each time to have the powers in question delegated to him by Congress. In this regard, his practice of government is closer to the one that would prevail in Europe in the same years, or to the current one, which instead of declaring the state of exception prefers to have exceptional laws issued. In any case, from 1917 to 1918, Congress approved a series of acts (from the Espionage Act of June 1917 to the Overman Act of May 1918) that granted the president complete control over the administration of the country and not only prohibited disloyal activities (such as collaboration with the enemy and the diffusion of false reports), but even made it a crime to “willfully utter, print, write, or publish any disloyal, profane, scurrilous, or abusive language about the form of government of the United States.”

Because the sovereign power of the president is essentially grounded in the emergency linked to a state of war, over the course of the twentieth century the metaphor of war becomes an integral part of the presidential political vocabulary whenever decisions considered to be of vital importance are being imposed. Thus, in 1933, Franklin D. Roosevelt was able to assume extraordinary powers to cope with the Great Depression by presenting his actions as those of a commander during a military campaign:

I assume unhesitatingly the leadership of this great army of our people dedicated to a disciplined attack upon our common problems. . . . I am prepared under my constitutional duty to recommend the measures that a stricken Nation in

the midst of a stricken world may require. . . . But in the event that the Congress shall fail to take [the necessary measures] and in the event that the national emergency is still critical, I shall not evade the clear course of duty that will then confront me. I shall ask the Congress for the one remaining instrument to meet the crisis—broad Executive power to wage war against the emergency, as great as the power that would be given to me if we were in fact invaded by a foreign foe. (Roosevelt 1938, 14–15)

It is well not to forget that, from the constitutional standpoint, the New Deal was realized by delegating to the president (through a series of statutes culminating in the National Recovery Act of June 16, 1933) an unlimited power to regulate and control every aspect of the economic life of the country—a fact that is in perfect conformity with the already mentioned parallelism between military and economic emergencies that characterizes the politics of the twentieth century.

The outbreak of World War Two extended these powers with the proclamation of a “limited” national emergency on September 8, 1939, which became unlimited on May 27, 1941. On September 7, 1942, while requesting that Congress repeal a law concerning economic matters, the president renewed his claim to sovereign powers during the emergency: “In the event that the Congress should fail to act, and act adequately, I shall accept the responsibility, and I will act. . . . The American people can . . . be sure that I shall not hesitate to use every power vested in me to accomplish the defeat of our enemies in any part of the world where our own safety demands such defeat” (Rossiter 1948, 268–69). The most spectacular violation of civil rights (all the more serious because of its solely racial motivation) occurred on February 19, 1942, with the internment of seventy thousand American citizens of Japanese descent who resided on the West Coast (along with forty thousand Japanese citizens who lived and worked there).

President Bush’s decision to refer to himself constantly as the “Commander in Chief of the Army” after September 11, 2001, must be considered in the context of this presidential claim to sovereign powers in emergency situations. If, as we have seen, the assumption of this title entails a direct reference to the state of exception, then Bush is attempting to produce a situation in which the emergency becomes the rule, and the very distinction between peace and war (and between foreign and civil war) becomes impossible.

1.8. The differences in the legal traditions correspond in scholarship to the division between those who seek to include the state of exception within the sphere of the juridical order and those who consider it something external, that is, an essentially political, or in any case extrajudicial, phenomenon. Among the former, some (such as Santi Romano, Hauriou, and Mortati) understand the state of exception to be an integral part of positive law because the necessity that grounds it acts as an autonomous source of law, while others (such as Hoerni, Ranalletti, and Rossiter) conceive of it as the state’s subjective (natural or constitutional) right to its own preservation. Those in the latter group (such

as Biscaretti, Balladore-Pallieri, and Carré de Malberg) instead consider the state of exception and the necessity that grounds it to be essentially extrajudicial, de facto elements, even though they may have consequences in the sphere of law. Julius Hatschek has summarized the various positions in the contrast between an *objektive Notstandstheorie*, according to which every act performed outside of or in conflict with the law in a state of necessity is contrary to law and, as such, is legally chargeable; and a *subjektive Notstandstheorie*, according to which emergency [*eccezionali*] powers are grounded in “a constitutional or preconstitutional (natural) right” of the state (Hatschek 1923, 158ff.), regarding which good faith is enough to guarantee immunity.

The simple topographical opposition (inside/outside) implicit in these theories seems insufficient to account for the phenomenon that it should explain. If the state of exception’s characteristic property is a (total or partial) suspension of the juridical order, how can such a suspension still be contained within it? How can an anomie be inscribed within the juridical order? And if the state of exception is instead only a de facto situation, and is as such unrelated or contrary to law, how is it possible for the order to contain a lacuna precisely where the decisive situation is concerned? And what is the meaning of this lacuna?

In truth, the state of exception is neither external nor internal to the juridical order, and the problem of defining it concerns precisely a threshold, or a zone of indifference, where inside and outside do not exclude each other but rather blur with each other. The suspension of the norm does not mean its abolition, and the zone of anomie that it establishes is not (or at least claims not to be) unrelated to the juridical order. Hence the interest of those theories that, like Schmitt’s, complicate the topographical opposition into a more complex topological relation, in which the very limit of the juridical order is at issue. In any case, to understand the problem of the state of exception, one must first correctly determine its localization (or illocalization). As we will see, the conflict over the state of exception presents itself essentially as a dispute over its proper *locus*.

1.9. A recurrent opinion posits the concept of necessity as the foundation of the state of exception. According to a tenaciously repeated Latin adage (a history of the *adagia*’s strategic function in legal literature has yet to be written), *necessitas legem non habet*, “necessity has no law,” which is interpreted in two opposing ways: “necessity does not recognize any law” and “necessity creates its own law” (*nécessité fait loi*). In both cases, the theory of the state of exception is wholly reduced to the theory of the *status necessitatis*, so that a judgment concerning the existence of the latter resolves the question concerning the legitimacy

of the former. Therefore, any discussion of the structure and meaning of the state of exception first requires an analysis of the legal concept of necessity.

The principle according to which *necessitas legem non habet* was formulated in Gratian's *Decretum*. It appears there two times: first in the gloss and then in the text. The gloss (which refers to a passage in which Gratian limits himself to stating generically that "many things are done against the rule out of necessity or for whatever other cause" [*pars I. dist. 48*]) appears to attribute to necessity the power to render the illicit licit (*Si propter necessitatem aliquid fit, illud licite fit: quia quod non est licitum in lege, necessitas facit licitum. Item necessitas legem non habet* [If something is done out of necessity, it is done licitly, since what is not licit in law necessity makes licit. Likewise necessity has no law]). But the sense in which this should be taken is made clearer by a later passage in Gratian's text concerning the celebration of the mass (*pars III. dist. I. c. II*). After having stated that the sacrifice must be offered on the altar or in a consecrated place, Gratian adds, "It is preferable not to sing or listen to the mass than to celebrate it in places where it should not be celebrated, unless it happens because of a supreme necessity, for necessity has no law" (*nisi pro summa necessitate contingat, quoniam necessitas legem non habet*). More than rendering the illicit licit, necessity acts here to justify a single, specific case of transgression by means of an exception.

This is clear in the way Thomas in the *Summa theologica* develops and comments on this principle precisely in relation to the sovereign's power to grant dispensations from the law (*Prima secundae, q. 96, art. 6: utrum ei qui subditur legi, liceat praeter verba legis agere* [whether one who is subject to law may act against the letter of the law]):

If observing the letter of the law does not entail an immediate danger that must be dealt with at once, it is not in the power of any man to interpret what is of use or of harm to the city; this can be done only by the sovereign who, in a case of this sort, has the authority to grant dispensations from the law. If there is, however, a sudden danger, regarding which there is no time for recourse to a higher authority, the very necessity carries a dispensation with it, for necessity is not subject to the law [*ipsa necessitas dispensationem habet annexam, quia necessitas non subditur legi*].

Here, the theory of necessity is none other than a theory of the exception (*dispensatio*) by virtue of which a particular case is released from the obligation to observe the law. Necessity is not a source of law, nor does it properly suspend the law; it merely releases a particular case from the literal application of the norm: "He who acts beyond the letter of the law in a case of necessity does not

judge by the law itself but judges by the particular case, in which he sees that the letter of the law is not to be observed [*non iudicat de ipsa lege, sed iudicat de casu singulari, in quo videt verba legis observanda non esse*].” The ultimate ground of the exception here is not necessity but the principle according to which “every law is ordained for the common well-being of men, and only for this does it have the force and reason of law [*vim et rationem legis*]; if it fails in this regard, it has no capacity to bind [*virtutem obligandi non habet*].” In the case of necessity, the *vis obligandi* of the law fails, because in this case the goal of *salus hominum* is lacking. What is at issue here is clearly not a *status* or situation of the juridical order as such (the state of exception or necessity); rather, in each instance it is a question of a particular case in which the *vis* and *ratio* of the law find no application.

✠ We find an example of the law’s ceasing to apply *ex dispensatione misericordiae* [out of a dispensation of mercy] in a peculiar passage from Gratian where the canonist states that the Church can elect not to punish a transgression in a situation where the transgressive deed has already occurred (*pro eventu rei* [for the consequence of the thing]: for example in a case where a person who could not accede to the episcopate has in fact already been ordained as bishop). Paradoxically, the law is not applied here precisely because the transgressive act has effectively already been committed and punishing it would anyway entail negative consequences for the Church. In analyzing this text, Anton Schütz has rightly observed that “in conditioning validity by facticity, in seeking contact with an extrajudicial reality, [Gratian] prevents the law from referring only to the law, and thus prevents the closure of the juridical system” (Schütz 1995, 120). In this sense, the medieval exception represents an opening of the juridical system to an external fact, a sort of *fictio legis* by which, in this case, one acts as if the bishop had been legitimately elected. The modern state of exception is instead an attempt to include the exception itself within the juridical order by creating a zone of indistinction in which fact and law coincide.

✠ We find an implicit critique of the state of exception in Dante’s *De monarchia*. Seeking to prove that Rome gained dominion over the world not through violence but *iure*, Dante states that it is impossible to obtain the end of law (that is, the common good) without law, and that therefore “whoever intends to achieve the end of law, must proceed with law [*quicumque finem iuris intendit cum iure graditur*]” (2.5.22). The idea that a suspension of law may be necessary for the common good is foreign to the medieval world.

1.10. It is only with the moderns that the state of necessity tends to be included within the juridical order and to appear as a true and proper “state” of the law. The principle according to which necessity defines a unique situation in which the law loses its *vis obligandi* (this is the sense of the adage *necessitas legem*

*non habet*) is reversed, becoming the principle according to which necessity constitutes, so to speak, the ultimate ground and very source of the law. This is true not only for those writers who sought in this way to justify the national interests of one state against another (as in the formula *Not kennt kein Gebot* [necessity knows no law], used by the Prussian Chancellor Bethmann-Hollweg and taken up again in Josef Kohler's book of that title [1915]), but also for those jurists, from Jellinek to Duguit, who see necessity as the foundation of the validity of decrees having force of law issued by the executive in the state of exception.

It is interesting to analyze from this perspective the extreme position of Santi Romano, a jurist who had a considerable influence on European legal thought between the wars. For Romano, not only is necessity not unrelated to the juridical order, but it is the first and originary source of law. He begins by distinguishing between, on the one hand, those who see necessity as a juridical fact or even a subjective right of the state, which is ultimately grounded as such in the legislation in force and in the general principles of law, and, on the other hand, those who think necessity is a mere fact and that therefore the emergency [*eccezionali*] powers founded upon it have no basis in the legislative system. According to Romano, both positions, which agree in their identification of the juridical order [*il diritto*] with the law [*la legge*],\* are incorrect, insofar as they disavow the existence of a true and proper source of law beyond legislation.

The necessity with which we are concerned here must be conceived of as a state of affairs that, at least as a rule and in a complete and practically effective way, cannot be regulated by previously established norms. But if it has no law, it makes law, as another common expression has it; which means that it itself constitutes a true and proper source of law. . . . It can be said that necessity is the first and originary source of all law, such that by comparison the others are to be considered somehow derivative. . . . And it is to necessity that the origin and legitimation of the legal institution par excellence, namely, the state, and its constitutional order in general, must be traced back, when it is established as a de facto process, for example, on the way to revolution. And what occurs in the initial moment of a particular regime can also repeat itself, though in an exceptional way and with more attenuated characteristics, even after the regime has formed and regulated its fundamental institutions. (Romano 1909, 362)

\* The two terms here are *diritto* and *legge*, both of which are usually translated in English as "law." While these terms have close correspondences in French (*droit, loi*), Spanish (*derecho, ley*), and German (*Recht, Gesetz*), some of their sense is inevitably lost in the passage to English. Among their meanings, *diritto* carries the sense of law in the abstract, or the entire sphere of law, while *legge* refers to the specific body of rules that a community or state considers binding. Here and in a few other cases where this distinction is critical, I have, following the author's suggestion, rendered *diritto* as "the juridical order" and *legge* as "the law."—Trans.

As a figure of necessity, the state of exception therefore appears (alongside revolution and the de facto establishment of a constitutional system) as an “illegal” but perfectly “juridical and constitutional” measure that is realized in the production of new norms (or of a new juridical order):

The formula . . . according to which, in Italian law, the state of siege is a measure that is contrary to the law (let us even say illegal) but is at the same time in conformity with the unwritten positive law, and is for this reason juridical and constitutional, seems to be the most accurate and fitting formula. From both the logical and the historical points of view, necessity’s ability to overrule the law derives from its very nature and its ordinary character. Certainly, the law has by now become the highest and most general manifestation of the juridical norm, but it is an exaggeration to want to extend its dominion beyond its own field. There are norms that cannot or should not be written; there are others that cannot be determined except when the circumstances arise for which they must serve. (Romano 1909, 364)

The gesture of Antigone, which opposed the written law to the *agrapta nomima* [unwritten laws] is here reversed and asserted in defense of the constituted order. But in 1944, by which time a civil war was under way in his country, the elderly jurist (who had already studied the de facto establishment of constitutional orders) returned to consider the question of necessity, this time in relation to revolution. Although revolution is certainly a state of fact that “cannot be regulated in its course by those state powers that it tends to subvert and destroy” and in this sense is by definition “antijuridical, even when it is just” (Romano 1983, 222), it can, however, appear this way only

with respect to the positive law of the state against which it is directed, but that does not mean that, from the very different point of view from which it defines itself, it is not a movement ordered and regulated by its own law. This also means that it is an order that must be classified in the category of ordinary juridical orders, in the now well-known sense given to this expression. In this sense, and within the limits of the sphere we have indicated, we can thus speak of a law of revolution. An examination of how the most important revolutions, including the most recent ones, have unfolded would be of great interest for demonstrating the thesis that we have advanced, which could at first sight seem paradoxical: revolution is violence, but it is juridically organized violence. (Romano 1983, 224)

Thus, in the forms of both the state of exception and revolution, the *status necessitatis* appears as an ambiguous and uncertain zone in which de facto proceedings, which are in themselves extra- or antijuridical, pass over into law, and juridical norms blur with mere fact—that is, a threshold where fact and law

seem to become undecidable. If it has been effectively said that in the state of exception fact is converted into law (“Emergency is a state of fact; however, as the brocard fittingly says, *e facto oritur ius* [law arises from fact]” [Arangio-Ruiz 1913, 528]), the opposite is also true, that is, that an inverse movement also acts in the state of exception, by which law is suspended and obliterated in fact. The essential point, in any case, is that a threshold of undecidability is produced at which *factum* and *ius* fade into each other.

Hence the aporias that every attempt to define necessity is unable to resolve. If a measure taken out of necessity is already a juridical norm and not simply fact, why must it be ratified and approved by a law, as Santi Romano (along with the majority of writers) believes it must? If it is already law, why does it not last if it is not approved by the legislative bodies? And if instead it is not law, but simply fact, why do the legal effects of its ratification begin not from the moment it is converted into law, but *ex tunc* [from then]? (Duguit rightly notes that this retroactivity is a fiction and that ratification can produce its effects only from the moment at which it occurs [Duguit 1930, 754].)

But the extreme aporia against which the entire theory of the state of necessity ultimately runs aground concerns the very nature of necessity, which writers continue more or less unconsciously to think of as an objective situation. This naive conception—which presupposes a pure factuality that the conception itself has called into question—is easily critiqued by those jurists who show that, far from occurring as an objective given, necessity clearly entails a subjective judgment, and that obviously the only circumstances that are necessary and objective are those that are declared to be so.

The concept of necessity is an entirely subjective one, relative to the aim that one wants to achieve. It may be said that necessity dictates the issuance of a given norm, because otherwise the existing juridical order is threatened with ruin; but there must be agreement on the point that the existing order must be preserved. A revolutionary uprising may proclaim the necessity of a new norm that annuls the existing institutions that are contrary to the new exigencies; but there must be agreement in the belief that the existing order must be disrupted in observance of new exigencies. In both cases . . . the recourse to necessity entails a moral or political (or, in any case, extrajudicial) evaluation, by which the juridical order is judged and is held to be worthy of preservation or strengthening even at the price of its possible violation. For this reason, the principle of necessity is, in every case, always a revolutionary principle. (Balladore-Pallieri 1970, 168)

The attempt to resolve the state of exception into the state of necessity thus runs up against as many and even more serious aporias of the phenomenon that

it should have explained. Not only does necessity ultimately come down to a decision, but that on which it decides is, in truth, something undecidable in fact and law.

✠ Schmitt (who refers several times to Santi Romano in his writings) probably knew of Romano's attempt to ground the state of exception in necessity as the originary source of law. His theory of sovereignty as the decision on the exception grants the *Notstand* a properly fundamental rank, one that is certainly comparable to the rank given it by Romano, who made it the originary figure of the juridical order. Furthermore, he shares with Romano the idea that the juridical order [*il diritto*] is not exhausted in the law [*la legge*] (it is not by chance that he cites Romano precisely in the context of his critique of the liberal *Rechtsstaat*); but while the Italian jurist wholly equates the state with law, and therefore denies all juridical relevance of the concept of constituent power, Schmitt sees the state of exception as precisely the moment in which state and law reveal their irreducible difference (in the state of exception "the state continues to exist, while law recedes" [Schmitt 1922, 13/12]), and thus he can ground the extreme figure of the state of exception—sovereign dictatorship—in the *pouvoir constituant*.

I.II. According to some writers, in the state of necessity "the judge elaborates a positive law of crisis, just as, in normal times, he fills in juridical lacunae" (Mathiot 1956, 424). In this way the problem of the state of exception is put into relation with a particularly interesting problem in legal theory, that of lacunae in the juridical order [*il diritto*]. At least as early as Article 4 of the Napoleonic Code ("The judge who refuses to judge, on the pretence of silence, obscurity or insufficiency of the law, can be prosecuted on the charge of denial of justice"), in the majority of modern legal systems the judge is obligated to pronounce judgment even in the presence of a lacuna in the law [*la legge*]. In analogy with the principle according to which the law [*la legge*] may have lacunae, but the juridical order [*il diritto*] admits none, the state of necessity is thus interpreted as a lacuna in public law, which the executive power is obligated to remedy. In this way, a principle that concerns the judiciary power is extended to the executive power.

But in what does the lacuna in question actually consist? Is there truly something like a lacuna in the strict sense? Here, the lacuna does not concern a deficiency in the text of the legislation that must be completed by the judge; it concerns, rather, a *suspension* of the order that is in force in order to guarantee its existence. Far from being a response to a normative lacuna, the state of exception appears as the opening of a fictitious lacuna in the order for the purpose of safeguarding the existence of the norm and its applicability to the normal situation. The lacuna is not within the law [*la legge*], but concerns its relation

to reality, the very possibility of its application. It is as if the juridical order [*il diritto*] contained an essential fracture between the position of the norm and its application, which, in extreme situations, can be filled only by means of the state of exception, that is, by creating a zone in which application is suspended, but the law [*la legge*], as such, remains in force.

## Force-of-Law

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**2.1.** The most rigorous attempt to construct a theory of the state of exception was made by Carl Schmitt, essentially in the books *Dictatorship* and, one year later, *Political Theology*. Because these two books from the beginning of the 1920s describe—with a, so to speak, interested prophesy—a paradigm (a “form of government” [Schmitt 1921, 151]) that has not only remained current but has today reached its full development, it is necessary at this point to present the fundamental theses of Schmitt’s theory of the state of exception.

First a few remarks concerning terminology. In the book from 1921 the state of exception is presented through the figure of dictatorship. Dictatorship, however, which encompasses the state of siege, is essentially a “state of exception,” and insofar as it presents itself as a “suspension of law,” it comes down to the problem of defining a “concrete exception, . . . a problem that up to now has not been held in due consideration by the general theory of law” (Schmitt 1921, xvii). Having thus inscribed the state of exception within the context of dictatorship, Schmitt then distinguishes between “commissarial dictatorship,” which has the aim of defending or restoring the existing constitution, and “sovereign dictatorship,” in which, as a figure of the exception, dictatorship reaches its, so to speak, critical mass or melting point. The terms *dictatorship* and *state of siege* can thus disappear in *Political Theology*, with the state of exception (*Ausnahmezustand*) taking their place, while the emphasis shifts, at least apparently, from a definition of the exception to a definition of sovereignty. The strategy of Schmitt’s theory is therefore a two-stage strategy, whose articulations and aims we will have to understand clearly.

In both books, the *telos* of the theory is the inscription of the state of exception within a juridical context. Schmitt knows perfectly well that because it brings about a “suspension of the entire existing juridical order” (Schmitt 1922, 13/12), the state of exception seems to “subtract itself from any consideration of law” (Schmitt 1921, 137) and that indeed “in its factual substance, that is, in

its core, it cannot take a juridical form” (175). Nevertheless, it is essential for Schmitt that in every case some relation to the juridical order be ensured: “Both commissarial dictatorship and sovereign dictatorship entail a relation to a juridical context” (139); “Because the state of exception is always something different from anarchy and chaos, in a juridical sense, an order still exists in it, even if it is not a juridical order” (Schmitt 1922, 13/12).

The specific contribution of Schmitt’s theory is precisely to have made such an articulation between state of exception and juridical order possible. It is a paradoxical articulation, for what must be inscribed within the law is something that is essentially exterior to it, that is, nothing less than the suspension of the juridical order itself (hence the aporetic formulation: “In a juridical sense, an order still exists, . . . even if it is not a juridical order”).

In *Dictatorship*, the operator of this inscription of an outside of the law within the law is, in the case of commissarial dictatorship, the distinction between norms of law and norms of the realization of law (*Rechtsverwirklichung*) and, in the case of sovereign dictatorship, the distinction between constituent power and constituted power. Indeed, because it “suspends the constitution *in concreto* in order to protect its concrete existence” (Schmitt 1921, 136), commissarial dictatorship ultimately has the function of creating a state of affairs “in which the law can be realized” (137). In commissarial dictatorship, the constitution can be suspended in its application “without thereby ceasing to remain in force, because the suspension signifies solely a concrete exception” (137). On a theoretical level, commissarial dictatorship can thus be wholly subsumed in the distinction between the norm and the techno-practical rules that govern its realization.

The situation is different in sovereign dictatorship, which is not limited to suspending an existing constitution “on the basis of a right that is provided for therein and is therefore itself constitutional” (Schmitt 1921, 137). Rather, it aims at creating a state of affairs in which it becomes possible to impose a new constitution. In this case, the operator that allows the state of exception to be anchored to the juridical order is the distinction between constituent power and constituted power. Constituent power is not, however, “a simple question of force”; it is, rather, “a power that, though it is not constituted in virtue of a constitution, is nevertheless connected to every existing constitution in such a way that it appears as the founding power, . . . and for this reason it cannot be negated even if the existing constitution might negate it” (137). Though it is juridically formless (*formlos*), it represents a “minimum of constitution” (145) inscribed within every politically decisive action and is therefore capable of ensuring the relation be-

tween the state of exception and the juridical order even in the case of sovereign dictatorship.

This clarifies why in the preface Schmitt can present the “essential distinction between commissarial dictatorship and sovereign dictatorship” as the “chief outcome of the book,” which makes the concept of dictatorship “finally accessible to jurisprudential consideration” (Schmitt 1921, xviii). Indeed, what Schmitt had before his eyes was a “confusion” and “combination” between the two dictatorships that he never tired of denouncing (203). Yet neither the Leninist theory and practice of the dictatorship of the proletariat nor the gradual exacerbation of the use of the state of exception in the Weimar Republic was a figure of the old commissarial dictatorship; they were, rather, something new and more extreme, which threatened to put into question the very consistency of the juridico-political order, and whose relation to the law is exactly what Schmitt sought to preserve at all costs.

In *Political Theology*, on the other hand, the operator of the inscription of the state of exception within the juridical order is the distinction (which had already been proposed in the 1912 book *Gesetz und Urteil*) between two fundamental elements of law: norm (*Norm*) and decision (*Entscheidung, Dezision*). In suspending the norm, the state of exception “reveals [*offenbart*], in absolute purity, a specifically juridical formal element: the decision” (Schmitt 1922, 13/13). The two elements, norm and decision, thus show their autonomy. “Just as in the normal situation the autonomous moment of decision is reduced to a minimum, so in the exceptional situation the norm is annulled [*vernichtet*]. And yet even the exceptional situation remains accessible to juridical knowledge, because both elements, the norm as well as the decision, remain within the framework of the juridical [*im Rahmen des Juristischen*]” (13/12–13).

At this point we can understand why the theory of the state of exception can be presented in *Political Theology* as a theory of sovereignty. The sovereign, who can decide on the state of exception, guarantees its anchorage to the juridical order. But precisely because the decision here concerns the very annulment of the norm, that is, because the state of exception represents the inclusion and capture of a space that is neither outside nor inside (the space that corresponds to the annulled and suspended norm), “the sovereign stands outside [*steht außerhalb*] of the normally valid juridical order, and yet belongs [*gehört*] to it, for it is he who is responsible for deciding whether the constitution can be suspended *in toto*” (10/7).

*Being-outside, and yet belonging*: this is the topological structure of the state of exception, and only because the sovereign, who decides on the exception, is,

in truth, logically defined in his being by the exception, can he too be defined by the oxymoron *ecstasy-belonging*.

✠ The relationship between *Dictatorship* and *Political Theology* must be seen in the light of this complex strategy of inscribing the state of exception within the law. Jurists and political philosophers have generally directed their attention chiefly to the theory of sovereignty contained in the book from 1922, without realizing that this theory acquires its sense solely on the basis of the theory of the state of exception already elaborated in *Dictatorship*. The rank and the paradox of Schmitt's concept of sovereignty derive, as we have seen, from the state of exception, and not vice versa. And it is certainly not by chance that Schmitt had, in the 1921 book and in previous articles, first laid out the theory and praxis of the state of exception, and only later laid out his theory of sovereignty in *Political Theology*. There is no doubt that his theory of sovereignty represents an attempt to anchor the state of exception unequivocally to the juridical order, but the attempt would not have been possible if the state of exception had not first been articulated within the terms and concepts of dictatorship and, so to speak, "juridicized" through reference to the Roman magistracy and then through the distinction between norms of law and norms of realization.

2.2. Schmitt's theory of the state of exception proceeds by establishing within the body of the law a series of caesurae and divisions whose ends do not quite meet, but which, by means of their articulation and opposition, allow the machine of law to function.

Take on the one hand the opposition between norms of law and norms of the realization of law, between the norm and its concrete application. Commissarial dictatorship shows that the moment of application is autonomous with respect to the norm as such, and that the norm "can be suspended, without thereby ceasing to remain in force" (Schmitt 1921, 137). That is, commissarial dictatorship represents a state of the law in which the law is not applied, but remains in force. Instead, sovereign dictatorship (in which the old constitution no longer exists and the new one is present in the "minimal" form of constituent power) represents a state of the law in which the law is applied, but is not formally in force.

Take now the opposition between norm and decision. Schmitt shows that they are irreducible, in the sense that the decision can never be derived from the content of a norm without a remainder (*restlos*) (Schmitt 1922, 9/6). In the decision on the state of exception, the norm is suspended or even annulled; but what is at issue in this suspension is, once again, the creation of a situation that makes the application of the norm possible ("a situation in which juridical norms can be valid [*gelten*] must be brought about" (13/13)). That is, the state of exception separates the norm from its application in order to make its application possible.

It introduces a zone of anomie into the law in order to make the effective regulation [*normazione*] of the real possible.

We can, then, define the state of exception in Schmitt's theory as the place where the opposition between the norm and its realization reaches its greatest intensity. It is a field of juridical tensions in which a minimum of formal being-in-force [*vigenza*] coincides with a maximum of real application, and vice versa. But even in this extreme zone—and, indeed, precisely by virtue of it—the two elements of the law show their intimate cohesion.

✠ The structural analogy between language and law is illuminating here. Just as linguistic elements subsist in *langue* without any real denotation, which they acquire only in actual discourse, so in the state of exception the norm is in force without any reference to reality. But just as concrete linguistic activity becomes intelligible precisely through the presupposition of something like a language, so is the norm able to refer to the normal situation through the suspension of its application in the state of exception.

It can generally be said that not only language and law but all social institutions have been formed through a process of desemanticization and suspension of concrete praxis in its immediate reference to the real. Just as grammar, in producing a speech without denotation, has isolated something like a language from discourse, and law, in suspending the concrete custom and usage of individuals, has been able to isolate something like a norm, so the patient work of civilization proceeds in every domain by separating human praxis from its concrete exercise and thereby creating that excess of signification over denotation that Lévi-Strauss was the first to recognize. In this sense, the floating signifier—this guiding concept in the human sciences of the twentieth century—corresponds to the state of exception, in which the norm is in force without being applied.

2.3. In 1989, at the Cardozo School of Law in New York, Jacques Derrida gave a lecture titled “Force de loi: le ‘fondement mystique de l’autorité.’” The lecture, which in truth was a reading of Benjamin’s essay “Critique of Violence,” gave rise to a wide debate among philosophers as well as jurists, but the fact that no one attempted to analyze the seemingly enigmatic formula that gave the text its title is an indication not only of the complete separation between philosophical and legal cultures, but also of the latter’s decline.

Behind the syntagma *force of law* stands a long tradition in Roman and medieval law, where (at least beginning with Justinian’s *Digests*, *De legibus*, 1.7: *legis virtus haec est: imperare, vetare, permittere, punire* [The capacity of law is this: to command, to forbid, to allow, to punish]) it has the generic sense of efficacy, the capacity to bind. But only in the modern epoch, in the context of the French Revolution, does it begin to indicate the supreme value of those state acts declared by the representative assemblies of the people. Thus, in Article 6

of the constitution of 1791, *force de loi* designates the untouchability of the law, which even the sovereign himself can neither abrogate nor modify. In this regard, modern doctrine distinguishes between the *efficacy* of the law—which rests absolutely with every valid legislative act and consists in the production of legal effects—and the *force of law*, which is instead a relative concept that expresses the position of the law or of acts comparable to it with respect to other acts of the juridical order that are endowed with a force superior to the law (as in the case of the constitution) or inferior to it (such as the decrees and regulations issued by the executive) (Quadri 1979, 10).

The decisive point, however, is that in both modern and ancient doctrine the syntagma *force of law* refers in the technical sense not to the law but to those decrees (which, as we indeed say, have the force of law) that the executive power can be authorized to issue in some situations, particularly in the state of exception. That is to say, the concept of “force of law,” as a technical legal term, defines a separation of the norm’s *vis obligandi*, or applicability, from its formal essence, whereby decrees, provisions, and measures that are not formally laws nevertheless acquire their “force.” Thus, when the Roman sovereign begins to acquire the power to issue acts that tend increasingly to have the value of laws, Roman doctrine says that these acts have the “force of law” (Ulpian, in *Digests*, 1.4.1: *quod principi placuit legis habet vigorem* [because it pleased the sovereign, it has the force of law]; using equivalent expressions, though ones that underscore the formal distinction between the laws and the constitution of the sovereign, Gaius writes *legis vicem obtineat* [let it take the place of law], and Pomponius writes *pro lege servetur* [let it serve for law]).

In our discussion of the state of exception, we have encountered numerous examples of this confusion between acts of the executive power and acts of the legislative power; indeed, as we have seen, such a confusion defines one of the essential characteristics of the state of exception. (The limit case is the Nazi regime, in which, as Eichmann never tired of repeating, “the words of the Führer have the force of law [*Gesetzeskraft*]).” But from a technical standpoint the specific contribution of the state of exception is less the confusion of powers, which has been all too strongly insisted upon, than it is the separation of “force of law” from the law. It defines a “state of the law” in which, on the one hand, the norm is in force [*vige*] but is not applied (it has no “force” [*forza*]) and, on the other, acts that do not have the value [*valore*] of law acquire its “force.” That is to say, in extreme situations “force of law” floats as an indeterminate element that can be claimed both by the state authority (which acts as a commissarial dictatorship) and by a revolutionary organization (which acts as a sovereign dic-

tatorship). The state of exception is an anomic space in which what is at stake is a force of law without law (which should therefore be written: force-of-~~law~~). Such a “force-of-~~law~~,” in which potentiality and act are radically separated, is certainly something like a mystical element, or rather a *fictio* by means of which law seeks to annex anomie itself. But how is it possible to conceive of such a “mystical” element and the way it acts in the state of exception? This is precisely the problem that we must try to clarify.

2.4. The concept of application is certainly one of the most problematic categories of legal (and not only legal) theory. The question was put on a false track by being related to Kant’s theory of judgment as a faculty of thinking the particular as contained in the general. The application of a norm would thus be a case of determinant judgment, in which the general (the rule) is given, and the particular case is to be subsumed under it. (In reflective judgment it is instead the particular that is given, and the general rule that must be found.) Even though Kant was perfectly aware of the aporetic nature of the problem and of the difficulty involved in concretely deciding between the two types of judgment (as shown by his theory of the example as an instance of a rule that cannot be enunciated), the mistake here is that the relation between the particular case and the norm appears as a merely logical operation.

Once again, the analogy with language is illuminating: In the relation between the general and the particular (and all the more so in the case of the application of a juridical norm), it is not only a logical subsumption that is at issue, but first and foremost the passage from a generic proposition endowed with a merely virtual reference to a concrete reference to a segment of reality (that is, nothing less than the question of the actual relation between language and world). This passage from *langue* to *parole*, or from the semiotic to the semantic, is not a logical operation at all; rather, it always entails a practical activity, that is, the assumption of *langue* by one or more speaking subjects and the implementation of that complex apparatus that Benveniste defined as the enunciative function, which logicians often tend to undervalue. In the case of the juridical norm, reference to the concrete case entails a “trial” that always involves a plurality of subjects and ultimately culminates in the pronouncement of a sentence, that is, an enunciation whose operative reference to reality is guaranteed by the institutional powers.

In order to pose the problem of application correctly, it must therefore first be moved from the logical sphere to the practical. As Gadamer has shown (1960, 360, 395/378–79, 418), not only is every linguistic interpretation always really an

application requiring an effective operation (which the tradition of theological hermeneutics has summarized in the maxim that Johann A. Bengel placed at the beginning of his edition of the New Testament: *te totum applica ad textum, rem totam applica ad te* [apply all of yourself to the text; apply all of it to yourself]), but it is also perfectly obvious (and Schmitt had no difficulty theorizing this obviousness) that, in the case of law, the application of a norm is in no way contained within the norm and cannot be derived from it; otherwise, there would have been no need to create the grand edifice of trial law. Just as between language and world, so between the norm and its application there is no internal nexus that allows one to be derived immediately from the other.

In this sense, the state of exception is the opening of a space in which application and norm reveal their separation and a pure force-of-law realizes (that is, applies by ceasing to apply [*dis-applicando*]) a norm whose application has been suspended. In this way, the impossible task of welding norm and reality together, and thereby constituting the normal sphere, is carried out in the form of the exception, that is to say, by presupposing their nexus. This means that in order to apply a norm it is ultimately necessary to suspend its application, to produce an exception. In every case, the state of exception marks a threshold at which logic and praxis blur with each other and a pure violence without *logos* claims to realize an enunciation without any real reference.

## *Iustitium*

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**3.1.** There is an institution of Roman law that can in some ways be considered the archetype of the modern *Ausnahmezustand*, and yet—indeed, perhaps precisely for this reason—does not seem to have been given sufficient attention by legal historians and theorists of public law: the *iustitium*. Because it allows us to observe the state of exception in its paradigmatic form, we will use the *iustitium* here as a miniature model as we attempt to untangle the aporias that the modern theory of the state of exception cannot resolve.

Upon learning of a situation that endangered the Republic, the Senate would issue a *senatus consultum ultimum* [final decree of the Senate] by which it called upon the consuls (or those in Rome who acted in their stead: *interrex* or proconsuls) and, in some cases, the praetor and the tribunes of the people, and even, in extreme cases, all citizens, to take whatever measures they considered necessary for the salvation of the state (*rem publicam defendant, operamque dent ne quid respublica detrimenti capiat* [Let them defend the state, and see to it that no harm come to the state]). At the base of this *senatus consultum* was a decree declaring a *tumultus* (that is, an emergency situation in Rome resulting from a foreign war, insurrection, or civil war), which usually led to the proclamation of a *iustitium* (*iustitium edicere* or *indicere* [to proclaim or declare a *iustitium*]).

The term *iustitium*—which is constructed exactly like *solstitium*—literally means “standstill” or “suspension of the law”: *quando ius stat*, as the grammarians explained etymologically, *sicut solstitium dicitur* (*iustitium* means “when the law stands still, just as [the sun does in] the solstice”); or, in the words of Aulus Gellius, *iuris quasi interstitio quaedam et cessatio* (as if it were an interval and a sort of cessation of law). The term implied, then, a suspension not simply of the administration of justice but of the law as such. The meaning of this paradoxical legal institution—which consists solely in the production of a juridical void—is what we must examine here from both a philosophico-political standpoint and from the perspective of the systematics of public law.

✎ The definition of the concept of *tumultus*, particularly in comparison to war (*bellum*), has led to debates that are not always pertinent. The connection between the two concepts is already present in ancient sources, for example in the passage from the *Philippics* (8.1) in which Cicero states that “there can be a war without tumult, but no tumult without a war.” All evidence suggests that this passage does not mean that tumult is a special or stronger form of war (*qualificiertes, gesteigertes bellum* [see Nissen 1877, 78]); instead, at the very moment of affirming a connection between war and tumult, it places an irreducible difference between them. Indeed, an analysis of the passages from Livy concerning *tumultus* shows that though the cause of a tumult can be (but is not always) an external war, the term technically designates the state of disorder and unrest (*tumultus* is related to *tumor*, which means “swelling, fermentation”) that arises in Rome as a result of that event (thus the news of a defeat in the war against the Etruscans gave rise to a tumult and *maiores quam re terrorem* [greater terror than the thing] [Livy 10.4.2] in Rome). This confusion between cause and effect is clear in the definition found in the Latin dictionaries: *bellum aliquod subitum, quod ob periculi magnitudinem hostiumque vicinitatem magnam urbi trepidationem incutiebat* [any sudden war that brings great alarm to the city on account of the magnitude of the danger and nearness of the enemy] (Forcellini’s *Totius Latinitatis Lexicon*). Tumult is not “sudden war,” but the *magna trepidatio* that it produces in Rome. This is why, in other cases, the same term can also designate the disorder resulting from an internal insurrection or civil war. The only possible definition capable of comprising all its known uses is the one that sees *tumultus* as “the caesura by means of which, from the point of view of public law, exceptional measures may be taken” (Nissen 1877, 76). The relation between *bellum* and *tumultus* is the same one that exists between war and military state of siege on the one hand and state of exception and political state of siege on the other.

3.2. It can come as no surprise that the reconstruction of something like a theory of the state of exception in the Roman constitution has always put Roman scholars ill at ease, given that, as we have seen, such a theory is generally missing from public law.

In this regard, Mommsen’s stance is significant. When, in his *Römisches Staatsrecht*, he has to confront the problem of the *senatus consultum ultimum* and the state of necessity that it presupposes, the best he can do is resort to the image of the right of self-defense [*legittima difesa*] (the German term for self-defense, *Notwehr*, recalls the term for the state of emergency, *Notstand*): “Just as every citizen acquires a right of self-defense in those urgent situations in which the protection of the community fails, so there is also a right of self-defense for the state and for every citizen as such when the community is in danger and the magistratical function breaks down. Though in a certain sense it stands outside of the law [*ausserhalb des Rechts*], it is nevertheless necessary to make the essence and application of this right of self-defense [*Notwehrrecht*] intelligible, at least to

the degree to which it lends itself to a theoretical exposition" (Mommsen 1969, 1: 687–88).

Mommsen's affirmation of the state of exception's extrajudicial character and his doubts about the very possibility of presenting it theoretically are matched by certain hesitations and inconsistencies in his discussion that are surprising in a mind such as his, which has been described as rather more systematic than historical. First of all, even though he is perfectly aware of its contiguity with the *senatus consultum ultimum*, he does not examine the *iustitium* in the section dedicated to the state of necessity (Mommsen 1969, 1: 687–97) but in the section that deals with the magistrates' right of veto (263ff.). Furthermore, though he is aware that the *senatus consultum ultimum* refers essentially to civil war (it is the means by which "civil war is proclaimed" [693]), and though he knows that the form of conscription is different in the two cases (695), he does not seem to distinguish between *tumultus* and state of war (*Kriegsrecht*). In the last volume of the *Staatsrecht*, he defines the *senatus consultum ultimum* as a "quasi-dictatorship," introduced into the constitutional system in the time of the Gracchi, and he adds that "in the last century of the Republic, the Senate's prerogative to exercise a law of war over the citizens was never seriously contested" (3: 1243–44). Yet the image of a "quasi-dictatorship" (which will be picked up by Plaumann [1913]) is entirely misleading, for here not only is there no creation of a new magistracy, but indeed every citizen seems to be invested with a floating and anomalous *imperium* that resists definition within the terms of the normal order.

In his description of this state of exception, Mommsen's acumen manifests itself precisely at the point where it shows its limits. He observes that the power in question absolutely exceeds the constitutional rights of the magistrates and cannot be examined from a juridico-formal point of view. He writes,

If already the mention of the tribunes of the people and the provincial governors, who lack *imperium* or hold it only nominally, prohibits us from considering this appeal [the one contained in the *senatus consultum ultimum*] as merely a call to the magistrates to energetically exercise their constitutional rights, this appears even more clearly on the occasion when, after the *senatus consultum* provoked by Hannibal's offensive, all the ex-dictators, ex-consuls, and ex-censors assumed *imperium* again and retained it until the withdrawal of the enemy. As the call to the censors also shows, this is not a case of an exceptional prorogation of a previously held office, which, moreover, the Senate could not have ordered in this form. Rather, these *senatus consulta* cannot be judged from a juridico-formal standpoint: it is necessity that produces law, and by declaring a state of exception [*Notstand*], the Senate, as the highest advisory authority of the community, adds

only the counsel that the now permitted and necessary personal defenses be expediently organized. (1969, 695–96)

Here Mommsen recalls the case of a private citizen, Scipio Nasica, who, when confronted with the consul's refusal to act against Tiberius Gracchus in execution of a *senatus consultum ultimum*, exclaims, “*qui rem publicam salvam esse vult, me sequatur!* [He who wishes that the state be safe, let him follow me!]” and kills Tiberius Gracchus.

The *imperium* of these commanders in the state of exception [*Notstandsfeldherren*] stands beside that of the consuls more or less as the *imperium* of the praetor or proconsul stands beside consular *imperium*. . . . The power conferred here is the customary one of a commander, and it makes no difference whether it is directed against an enemy who lays siege to Rome or against a citizen who rebels. . . . Moreover, this authority of command [*Commando*], however it may manifest itself, is still less formulated than the analogous power in the state of necessity [*Notstandscommando*] in a zone *militiae*, and, like it, disappears on its own with the cessation of the danger. (Mommsen 1969, 1: 694–96)

In his description of this *Notstandscommando*, in which any and every citizen seems to be invested with an *imperium* that is floating and “outside of the law,” Mommsen came as close as he could to formulating a theory of the state of exception, but he remained on this side of it.

3.3. In 1877, Adolph Nissen, professor at the University of Strasbourg, published the monograph *Das Iusitium. Eine Studie aus der römischen Rechtsgeschichte*. The book, which seeks to analyze a “legal institution that has until now passed nearly unobserved,” is interesting for a number of reasons. Nissen is the first to see clearly that the usual understanding of the term as a “court holiday” (*Gerichtsferien*) is entirely insufficient and that, in its technical sense, it must also be distinguished from its later meaning as “public mourning.” Let us take an exemplary case of a *iustitium*, the one Cicero describes in *Philippics* 5.12. Confronted with the threat of Marcus Antonius, who is leading an army toward Rome, Cicero addresses the Senate with these words: *tumultum censeo decerni, iustitium indici, saga sumi dico oportere* (I assert that it is necessary to declare a state of *tumultus*, proclaim a *iustitium*, and don the cloaks [*saga sumere* means roughly that the citizens must take off their togas and prepare for combat]). Nissen readily demonstrates that translating *iustitium* here as “court holiday” would simply make no sense; rather, it is a matter of, under exceptional conditions, putting aside the restrictions that the law imposes on the action of the magistrates (in particular, the prohibition that the *Lex Sempronia*

established against putting a Roman citizen to death *iniussu populi* [without orders from the people]). *Stillstand des Rechtes*, “standstill and suspension of the law,” is the formula that, according to Nissen, both defines the term *iustitium* and translates it to the letter. The *iustitium* “suspends the law and, in this way, all legal prescriptions are put out of operation. No Roman citizen, whether a magistrate or a private citizen, now has legal powers or duties” (Nissen 1877, 105). Nissen has no doubts about the aim of this neutralization of the law: “When the law was no longer able to perform its highest task—to guarantee the public welfare—the law was abandoned in favor of expediency, and just as in situations of necessity the magistrates were released from the restrictions of the law by a *senatus consultum*, so in the most extreme situations the law was set aside. Instead of transgressing it, when it became harmful it was cleared away; it was suspended through a *iustitium*” (98). In other words, according to Nissen, the *iustitium* responds to the same necessity that Machiavelli unequivocally indicated when, in the *Discourses*, he suggested “breaking” the order to save it (“For in a republic where such a provision is lacking, one must either observe the orders and be ruined, or break them and not be ruined” [138]).

Viewing it from the perspective of the state of necessity (*Notfall*), Nissen can thus interpret the *senatus consultum ultimum*, the declaration of *tumultus*, and the *iustitium* as systematically connected. The *consultum* presupposes the *tumultus*, and the *tumultus* is the sole cause of the *iustitium*. These are not categories of criminal law but of constitutional law, and they designate “the caesura by means of which, from the point of view of public law, exceptional measures [*Ausnahmemassregeln*] may be taken” (Nissen 1877, 76).

✠ In the syntagma *senatus consultum ultimum*, the term that distinguishes it from other *consulta* is obviously the adjective *ultimus*, which appears not to have received due attention from scholars. That this term has a technical value is demonstrated by the fact that we find it repeated as a definition of both the situation justifying the *consultum* (*senatus consultum ultimae necessitatis*) and the *vox ultima*, the appeal addressed to all citizens for the salvation of the republic (*qui rem publicam salvare vult, me sequatur*).

*Ultimus* derives from the adverb *uls*, which means “beyond” (as opposed to *cis*, “on this side”). The etymological meaning of *ultimus* is therefore “what is found absolutely beyond, the most extreme.” *Ultima necessitas* (*necedo* etymologically means “I cannot go back”) indicates a zone beyond which shelter and safety are not possible. The *senatus consultum ultimum* lies at such an extreme outer edge, but if we now ask “With respect to what?” the only possible answer is the juridical order, which indeed gets suspended in the *iustitium*. In this sense, *senatus consultum ultimum* and *iustitium* mark the limit of the Roman constitutional order.

⌘ Middell's monograph (1887), published in Latin (though the modern authors are cited in German), falls far short of a profound theoretical inquiry into the problem. Though, like Nissen, he clearly sees the tight connection between *tumultus* and *iustitium*, Middell emphasizes the formal contrast between *tumultus*, which is decreed by the Senate, and *iustitium*, which must be proclaimed by a magistrate. From this he concludes that Nissen's thesis (the *iustitium* as a total suspension of law) was excessive, for the magistrate could not independently release himself from the restrictions of the laws. Thus rehabilitating the old interpretation of the *iustitium* as a court holiday, Middell lets the meaning of the institution slip away from him. For whoever may have been the person technically qualified to proclaim a *iustitium*, it is certain that it was always and only declared *ex auctoritate patrum* [on the authority of the fathers], and the magistrate (or mere citizen) therefore acted on the basis of a state of danger that authorized the suspension of the law.

3.4. Let us try to pin down the characteristics of the *iustitium* as they emerge from Nissen's monograph and, at the same time, develop his analyses toward a general theory of the state of exception.

First of all, because it brings about a standstill and suspension of the entire juridical order, the *iustitium* cannot be interpreted through the paradigm of dictatorship. In the Roman constitution, the dictator was a specific kind of magistrate whom the consuls had chosen and whose *imperium*, which was extremely broad, was conferred by a *lex curiata* that defined its aims. On the contrary, in the *iustitium* (even in the case where it is a dictator in office who declares it), there is no creation of a new magistracy; the unlimited power enjoyed *de facto* by the existent magistrates *iusticio indicto* [the *iustitium* having been declared] results not from their being invested with a dictatorial *imperium*, but from the suspension of the laws that restricted their action. Both Mommsen and Plauermann are perfectly aware of this, and for this reason speak not of dictatorship but of "quasi-dictatorship"; however, not only does the "quasi" do nothing to eliminate the ambiguity, it in fact contributes to the institution's being interpreted according to a manifestly erroneous paradigm.

This is equally true for the modern state of exception. The confusion of state of exception and dictatorship is the limitation that prevented both Schmitt in 1921 and Rossiter and Friedrich after World War Two from resolving the aporias of the state of exception. In both cases, the error was self-serving, since it was certainly easier to justify the state of exception juridically by inscribing it in the prestigious tradition of Roman dictatorship than by restoring it to its authentic, but more obscure, genealogical paradigm in Roman law: the *iustitium*. From this perspective, the state of exception is not defined as a fullness of powers, a

pleromatic state of law, as in the dictatorial model, but as a kenomatic state, an emptiness and standstill of the law.

✠ In modern public law theory, it is customary to define as dictatorships the totalitarian states born out of the crisis the democracies underwent after World War One. Thus Hitler as well as Mussolini, Franco as well as Stalin, get indifferently presented as dictators. But neither Hitler nor Mussolini can technically be defined as dictators. Mussolini was the head of the government, legally invested with this office by the king, just as Hitler was chancellor of the Reich, named by the legitimate president of the Reich. As is well known, what characterizes both the Fascist and Nazi regimes is that they allowed the existing constitutions (the Albertine Statute and the Weimar Constitution, respectively) to subsist, and—according to a paradigm that has been acutely defined as “dual state”—they placed beside the legal constitution a second structure, often not legally formalized, that could exist alongside the other because of the state of exception. From a juridical standpoint, the term *dictatorship* is entirely unsuitable for describing such regimes, just as, moreover, the clean opposition of democracy and dictatorship is misleading for any analysis of the governmental paradigms dominant today.

✠ Though Schmitt was not a Roman scholar, he nevertheless knew of the *iustitium* as a form of the state of exception (“martial law presupposed a sort of *iustitium*” [Schmitt 1921, 173]), most probably from the monograph by Nissen (who is cited in the book on dictatorship, though in relation to another text). Though he shares Nissen’s idea that the state of exception represents “an emptiness of law” (Nissen speaks of a juridical *vacuum*), Schmitt prefers, apropos of the *senatus consultum ultimum*, to speak of a “quasi-dictatorship” (which suggests a knowledge, if not of Plaumann’s study from 1913, at least of Mommsen’s *Staatsrecht*).

3.5. This anomic space that comes to coincide suddenly with the space of the city is so peculiar that it disorients not only modern scholars but also the ancient sources themselves. Thus in describing the situation created by the *iustitium*, Livy states that the consuls (the highest Roman magistrates) were *in privato abditi*, reduced to the state of private citizens (Livy 1.9.7); on the other hand, Cicero writes apropos of Scipio Nasica’s gesture that though a private citizen, in killing Tiberius Gracchus he acted “as if he were a consul” (*privatus ut si consul esset*; *Tusculan Disputations* 4.23.51). The *iustitium* seems to call into question the very consistency of the public space; yet, conversely, the consistency of the private space is also immediately neutralized to the same degree. In truth, this paradoxical coincidence of private and public, of *ius civile* and *imperium*, and, in the extreme case, of juridical and nonjuridical, betrays the difficulty or impossibility of thinking an essential problem: that of the nature of acts committed during the *iustitium*. What is a human praxis that is wholly delivered over to a

juridical void? It is as if when faced with the opening of a wholly anomic space for human action both the ancients and moderns retreated in fright. Though both Mommsen and Nissen unequivocally affirm the *iustitium*'s character as a juridical *tempus mortuum*, for Mommsen there still exists a *Notstandscommando*, which he does not further identify, while for Nissen there remains a *Befehl*, or "unlimited command" (Nissen 1877, 105), which is matched by an equally unlimited obedience. But how can such a command survive in the absence of any legal prescription or determination?

It is from this perspective that one must also view the impossibility (common to both the ancient and modern sources) of clearly defining the legal consequences of those acts committed during the *iustitium* with the aim of saving the *res publica*. The question was of particular importance, for it concerned whether the killing of an uncondemned (*indemnatus*) Roman citizen was punishable or not. Apropos of Opimius's assassination of Caius Gracchus's followers, Cicero already describes as "endless" (*infinita quaestio*) the question of whether or not a person who has killed a Roman citizen while acting in execution of a *senatus consultum ultimum* can be punished (*De oratore* 2.31.134). Nissen, for his part, denies that either the magistrate who had acted in execution of a *senatus consultum* or the citizens who had followed him could be punished once the *iustitium* was over; but he is contradicted by the fact that Opimius was nevertheless brought to trial (though he was acquitted), and Cicero was sentenced to exile as a consequence of his bloody repression of the Catiline conspiracy.

In truth, the entire question is poorly put, for the aporia becomes clear only once we consider that because they are produced in a juridical void, the acts committed during the *iustitium* are radically removed from any juridical determination. From a legal standpoint it is possible to classify human actions as legislative, executive, or transgressive acts. But it is entirely clear that the magistrate or private citizen who acts during the *iustitium* neither executes nor transgresses a law, and even less does he create law. All scholars agree on the fact that the *senatus consultum ultimum* has no positive content; it merely expresses a counsel with an extremely vague formula (*videant consules . . .* [let the consuls see to it . . .]) that leaves the magistrate or whoever acts for him entirely free to act as he sees fit, or even not to act at all. If we wanted at all costs to give a name to a human action performed under conditions of anomie, we might say that he who acts during the *iustitium* neither executes nor transgress the law, but *inexecutes* [*inesegue*] it. His actions, in this sense, are mere facts, the appraisal of which, once the *iustitium* is expired, will depend on the circumstances. But, as long as the *iustitium* lasts, they will be absolutely undecidable, and the definition

of their nature—whether executive or transgressive, and, in the extreme case, whether human, bestial, or divine—will lie beyond the sphere of law.

3.6. Let us now try to summarize the results of our genealogical investigation of the *iustitium* in the form of theses.

(1) The state of exception is not a dictatorship (whether constitutional or unconstitutional, commissarial or sovereign) but a space devoid of law, a zone of anomie in which all legal determinations—and above all the very distinction between public and private—are deactivated. Thus, all those theories that seek to annex the state of exception immediately to the law are false; and so too are both the theory of necessity as the originary source of law and the theory that sees the state of exception as the exercise of a state's right to its own defense or as the restoration of an originary pleromatic state of the law ("full powers"). But fallacious too are those theories, like Schmitt's, that seek to inscribe the state of exception indirectly within a juridical context by grounding it in the division between norms of law and norms of the realization of law, between constituent power and constituted power, between norm and decision. The state of necessity is not a "state of law," but a space without law (even though it is not a state of nature, but presents itself as the anomie that results from the suspension of law).

(2) This space devoid of law seems, for some reason, to be so essential to the juridical order that it must seek in every way to assure itself a relation with it, as if in order to ground itself the juridical order necessarily had to maintain itself in relation with an anomie. On the one hand, the juridical void at issue in the state of exception seems absolutely unthinkable for the law; on the other, this unthinkable thing nevertheless has a decisive strategic relevance for the juridical order and must not be allowed to slip away at any cost.

(3) The crucial problem connected to the suspension of the law is that of the acts committed during the *iustitium*, the nature of which seems to escape all legal definition. Because they are neither transgressive, executive, nor legislative, they seem to be situated in an absolute non-place with respect to the law.

(4) The idea of a force-of-law is a response to this undefinability and this non-place. It is as if the suspension of law freed a force or a mystical element, a sort of legal *mana* (the expression is used by Wagenvoort to describe the Roman *auctoritas* [Wagenvoort 1947, 106]), that both the ruling power and its adversaries, the constituted power as well as the constituent power, seek to appropriate. Force of law that is separate from the law, floating *imperium*, being-in-force [*vigenza*] without application, and, more generally, the idea of a sort of "degree zero" of the law—all these are fictions through which law attempts to encom-

pass its own absence and to appropriate the state of exception, or at least to assure itself a relation with it. Though these categories (just like the concepts of *mana* or *sacer* in the anthropology and religious studies of the nineteenth and twentieth centuries) are really scientific mythologemes, this does not mean that it is impossible or useless to analyze the function they perform in the law's long battle over anomie. Indeed, it is possible that what is at issue in these categories is nothing less than the definition of what Schmitt calls "the political." The essential task of a theory of the state of exception is not simply to clarify whether it has a juridical nature or not, but to define the meaning, place, and modes of its relation to the law.

## Gigantomachy Concerning a Void

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**4.1.** It is from this perspective that we will now read the debate between Walter Benjamin and Carl Schmitt on the state of exception. The exoteric dossier of this debate, which took place in various forms and at differing levels of intensity between 1925 and 1956, is not very large: Benjamin's citation of *Political Theology* in *The Origin of German Tragic Drama*; the *curriculum vitae* of 1928 and Benjamin's letter to Schmitt from December 1930 (both of which attest to an interest in and admiration for the "fascist public law theorist" [Tiedemann, editorial note, in Benjamin, *Gesammelte Schriften*, 1.3: 886] and have always appeared scandalous); and Schmitt's citations of and references to Benjamin in his book *Hamlet or Hecuba*, written when the Jewish philosopher had been dead for sixteen years. This dossier was further enlarged with the publication in 1988 of the letters Schmitt wrote to Hansjörg Viesel in 1973, in which Schmitt states that his 1938 book on Hobbes had been conceived as a "response to Benjamin [that has] remained unnoticed" (Viesel 1988, 14; see Bredekamp's observations, 1998, 913).

The esoteric dossier, however, is larger and has yet to be explored in all its implications. Indeed, we will attempt to demonstrate that the first document that must be included in the dossier is not Benjamin's reading of *Political Theology*, but Schmitt's reading of Benjamin's essay "Critique of Violence" (1921). The essay was published in issue 47 of the *Archiv für Sozialwissenschaften und Sozialpolitik*, a journal coedited by Emil Lederer, who was then a professor at the University of Heidelberg (and later at the New School for Social Research in New York), and who was one of the people Benjamin frequented at that time. Now, not only did Schmitt publish numerous essays and articles (including the first version of *The Concept of the Political*) in the *Archiv* between 1924 and 1927, but a careful examination of the footnotes and bibliographies of his writings shows that from 1915 on Schmitt was a regular reader of the journal (he cites, among others, the issues immediately preceding and following the one containing Benjamin's essay). As an avid reader of and contributor to the *Archiv*,

Schmitt could not easily have missed a text like “Critique of Violence,” which, as we will see, touched upon issues that were essential for him. Benjamin’s interest in Schmitt’s theory of sovereignty has always been judged as scandalous (Taubes once described the 1930 letter to Schmitt as a “mine that can blow to pieces our conception of the intellectual history of the Weimar period” [Taubes 1987, 27]); turning the scandal around, we will try to read Schmitt’s theory as a response to Benjamin’s critique of violence.

4.2. The aim of the essay is to ensure the possibility of a violence (the German term *Gewalt* also means simply “power”) that lies absolutely “outside” (*außerhalb*) and “beyond” (*jenseits*) the law and that, as such, could shatter the dialectic between lawmaking violence and law-preserving violence (*rechtsetzende und rechtserhaltende Gewalt*). Benjamin calls this other figure of violence “pure” (*reine Gewalt*) or “divine,” and, in the human sphere, “revolutionary.” What the law can never tolerate—what it feels as a threat with which it is impossible to come to terms—is the existence of a violence outside the law; and this is not because the ends of such a violence are incompatible with law, but because of “its mere existence outside the law” (Benjamin 1921, 183/239). The task of Benjamin’s critique is to prove the reality (*Bestand*) of such a violence: “If violence is also assured a reality outside the law, as pure immediate violence, this furnishes proof that revolutionary violence—which is the name for the highest manifestation of pure violence by man—is also possible” (202/252). The proper characteristic of this violence is that it neither makes nor preserves law, but deposes it (*Entsetzung des Rechtes* [202/251–52]) and thus inaugurates a new historical epoch.

Benjamin does not name the state of exception in the essay, though he does use the term *Ernstfall*, which appears in Schmitt as a synonym for *Ausnahmezustand*. But another technical term from Schmitt’s vocabulary is present in the text: *Entscheidung*, “decision.” Law, Benjamin writes, “acknowledges in the ‘decision’ determined by place and time a metaphysical category” (Benjamin 1921, 189/243); but this acknowledgment is, in reality, only a counterpart to “the curious and at first discouraging experience of the ultimate undecidability of all legal problems [*die seltsame und zunächst entmutigende Erfahrung von der letzten Unentscheidbarkeit aller Rechtsprobleme*]” (196/247).

4.3. The theory of sovereignty that Schmitt develops in his *Political Theology* can be read as a precise response to Benjamin’s essay. While the strategy of “Critique of Violence” was aimed at ensuring the existence of a pure and anomic violence, Schmitt instead seeks to lead such a violence back to a juridical context. The state of exception is the space in which he tries to capture Benjamin’s idea

of a pure violence and to inscribe anomie within the very body of the *nomos*. According to Schmitt, there cannot be a pure violence—that is, a violence absolutely outside the law—because in the state of exception it is included in the law through its very exclusion. That is to say, the state of exception is the device by means of which Schmitt responds to Benjamin’s affirmation of a wholly anomic human action.

The relation between these two texts, however, is even closer than this. We have seen how in *Political Theology* Schmitt abandons the distinction between constituent and constituted power, which in the 1921 book had grounded sovereign dictatorship, and replaces it with the concept of decision. This substitution acquires its strategic sense only once it is seen as a countermove in response to Benjamin’s critique. For the distinction between lawmaking violence and law-preserving violence—which was Benjamin’s target—corresponds to the letter to Schmitt’s opposition; and it is in order to neutralize this new figure of a pure violence removed from the dialectic between constituent power and constituted power that Schmitt develops his theory of sovereignty. The sovereign violence in *Political Theology* responds to the pure violence of Benjamin’s essay with the figure of a power that neither makes nor preserves law, but suspends it. Similarly, it is in response to Benjamin’s idea of an ultimate undecidability of all legal problems that Schmitt affirms sovereignty as the place of the extreme decision. That this place is neither external nor internal to the law—that sovereignty is, in this sense, a *Grenzbegriff* [limit concept]—is the necessary consequence of Schmitt’s attempt to neutralize pure violence and ensure the relation between anomie and the juridical context. And just as pure violence, according to Benjamin, cannot be recognized as such by means of a decision (*Entscheidung* [Benjamin 1921, 203/252]), so too for Schmitt “it is impossible to ascertain with complete clarity when a situation of necessity exists, nor can one spell out, with regard to content, what may take place in such a case when it is truly a matter of an extreme situation of necessity and of how it is to be eliminated” (Schmitt 1922, 9/6–7); yet, with a strategic inversion, this impossibility is precisely what grounds the necessity of sovereign decision.

4.4. If these premises are accepted, then the entire exoteric debate between Benjamin and Schmitt appears in a new light. Benjamin’s description of the baroque sovereign in the *Trauerspielbuch* can be read as a response to Schmitt’s theory of sovereignty. Sam Weber has acutely observed how Benjamin’s description of the sovereign “diverges ever so slightly, but significantly, from its ostensible theoretical source in Schmitt” (Weber 1992, 130). The baroque concept of

sovereignty, Benjamin writes, “develops from a discussion of the state of exception, and makes it the most important function of the sovereign to exclude this” (*den auszuschließen* [Benjamin 1928, 245/65]). In substituting “to exclude” for “to decide,” Benjamin surreptitiously alters Schmitt’s definition in the very gesture with which he claims to evoke it: in deciding on the state of exception, the sovereign must not in some way include it in the juridical order; he must, on the contrary, exclude it, leave it outside of the juridical order.

The meaning of this substantial modification becomes clear only in the pages that follow, where Benjamin elaborates a true and proper theory of “sovereign indecision”; but this is precisely where the interweaving of reading and counter-reading becomes tighter. While for Schmitt the decision is the nexus that unites sovereignty and the state of exception, Benjamin ironically divides sovereign power from its exercise and shows that the baroque sovereign is constitutively incapable of deciding.

The antithesis between sovereign power [*Herrschermacht*] and the capacity to exercise it [*Herrschvermögen*] led to a feature peculiar to the *Trauerspiel* which is, however, only apparently a generic feature and which can be illuminated only on the basis of the theory of sovereignty. This is the tyrant’s inability to decide [*Entschlußunfähigkeit*]. The sovereign, who is responsible for making the decision on the state of exception, reveals, at the first opportunity, that it is almost impossible for him to make a decision.” (Benjamin 1928, 250/70–71)

The division between sovereign power and the exercise of that power corresponds exactly to that between norms of law and norms of the realization of law, which in *Dictatorship* was the foundation of commissarial dictatorship. In *Political Theology* Schmitt responded to Benjamin’s critique of the dialectic between constituent power and constituted power by introducing the concept of decision, and to this countermove Benjamin replies by bringing in Schmitt’s distinction between the norm and its realization. The sovereign, who should decide every time on the exception, is precisely the place where the fracture that divides the body of the law becomes impossible to mend: between *Macht* and *Vermögen*, between power and its exercise, a gap opens which no decision is capable of filling.

This is why, with a further shift, the paradigm of the state of exception is no longer the miracle, as in *Political Theology*, but the catastrophe. “In antithesis to the historical idea of restoration, [the baroque] is faced with the idea of catastrophe. And it is in response to this antithesis that the theory of the state of exception is devised” (Benjamin 1928, 246/66).

An unfortunate emendation in the text of the *Gesammelte Schriften* has prevented all the implications of this shift from being assessed. Where Benjamin's text read, *Es gibt eine barocke Eschatologie*, "there is a baroque eschatology," the editors, with a singular disregard for all philological care, have corrected it to read: *Es gibt keine . . .*, "there is no baroque eschatology" (Benjamin 1928, 246/66). And yet the passage that follows is logically and syntactically consistent with the original reading: "and for that very reason [there is] a mechanism that gathers and exalts all earthly creatures before consigning them to the end [*dem Ende*]." The baroque knows an *eskhaton*, an end of time; but, as Benjamin immediately makes clear, this *eskhaton* is empty. It knows neither redemption nor a hereafter and remains immanent to this world: "The hereafter is emptied of everything that contains the slightest breath of this world, and from it the baroque extracts a profusion of things that until then eluded all artistic formulation . . . in order to clear an ultimate heaven and enable it, as a vacuum, one day to destroy the earth with catastrophic violence" (246/66).

It is this "white eschatology"—which does not lead the earth to a redeemed hereafter, but consigns it to an absolutely empty sky—that configures the baroque state of exception as catastrophe. And it is again this white eschatology that shatters the correspondence between sovereignty and transcendence, between the monarch and God, that defined the Schmittian theologico-political. While in Schmitt "the sovereign is identified with God and occupies a position in the state exactly analogous to that attributed in the world to the God of the Cartesian system" (Schmitt 1922, 43/46), in Benjamin the sovereign is "confined to the world of creation; he is the lord of creatures, but he remains a creature" (Benjamin 1928, 264/85).

This drastic redefinition of the sovereign function implies a different situation of the state of exception. It no longer appears as the threshold that guarantees the articulation between an inside and an outside, or between anomie and the juridical context, by virtue of a law that is in force in its suspension: it is, rather, a zone of absolute indeterminacy between anomie and law, in which the sphere of creatures and the juridical order are caught up in a single catastrophe.

4.5. The decisive document in the Benjamin-Schmitt dossier is certainly the eighth thesis on the concept of history, composed by Benjamin a few months before his death. Here we read that "[t]he tradition of the oppressed teaches us that the 'state of exception' in which we live is the rule. We must attain to a concept of history that accords with this fact. Then we will clearly see that it is our task

to bring about the real [*wirklich*] state of exception, and this will improve our position in the struggle against fascism” (Benjamin 1942, 697/392).

That the state of exception has become the rule is not a simple intensification of what in the *Trauerspielbuch* appeared as its undecidability. One must not forget here that both Benjamin and Schmitt had before them a state—the Nazi Reich—in which the state of exception proclaimed in 1933 had never been repealed. From the jurist’s perspective, Germany found itself technically in a situation of sovereign dictatorship, which should have led to the definitive abolition of the Weimar Constitution and the establishment of a new constitution, whose fundamental characteristics Schmitt strove to define in a series of articles between 1933 and 1936. But what Schmitt could in no way accept was that the state of exception be wholly confused with the rule. In *Dictatorship* he had already stated that arriving at a correct concept of dictatorship is impossible as long as every legal order is seen “only as a latent and intermittent dictatorship” (Schmitt 1921, xiv). To be sure, *Political Theology* unequivocally acknowledged the primacy of the exception, insofar as it makes the constitution of the normal sphere possible; but if, in this sense, the rule “lives only by the exception” (Schmitt 1922, 15/15), what then happens when exception and rule become undecidable?

From Schmitt’s perspective, the functioning of the juridical order ultimately rests on an apparatus—the state of exception—whose purpose is to make the norm applicable by temporarily suspending its efficacy. When the exception becomes the rule, the machine can no longer function. In this sense, the undecidability of norm and exception formulated in the eighth thesis puts Schmitt’s theory in check. Sovereign decision is no longer capable of performing the task that *Political Theology* assigned it: the rule, which now coincides with what it lives by, devours itself. Yet this confusion between the exception and the rule was precisely what the Third Reich had concretely brought about, and the obstinacy with which Hitler pursued the organization of his “dual state” without promulgating a new constitution is proof of it. (In this regard Schmitt’s attempt to define the new material relation between the *Führer* and the people in the Nazi Reich was destined to fail.)

It is from this perspective that Benjamin’s distinction in the eighth thesis between real state of exception and state of exception *tout court* should be read. The distinction was, as we have seen, already present in Schmitt’s discussion of dictatorship. Schmitt borrowed the term from Theodor Reinach’s book *De l’état de siège*, but while Reinach, referring to Napoleon’s decree of December 24, 1811, opposed an *état de siège effectif* (or military) to an *état de siège fictif* (or political), Schmitt, in his tenacious critique of the legal state [*Stato di diritto*], gives the

name “fictitious” to a state of exception that would be regulated by law, with the aim of guaranteeing some degree of individual rights and liberties. Consequently, he forcefully denounces the Weimar jurists’ inability to distinguish between the merely factual action of the president of the Reich under Article 48 and a procedure regulated by law.

Benjamin once again reformulates the opposition in order to turn it back against Schmitt. Now that any possibility of a fictitious state of exception—in which exception and normal conditions are temporally and locally distinct—has collapsed, the state of exception “in which we live” is real and absolutely cannot be distinguished from the rule. Every fiction of a nexus between violence and law disappears here: there is nothing but a zone of anomie, in which a violence without any juridical form acts. The attempt of state power to annex anomie through the state of exception is unmasked by Benjamin for what it is: a *fictio iuris* par excellence, which claims to maintain the law in its very suspension as force-of-law. What now takes its place are civil war and revolutionary violence, that is, a human action that has shed [*deposto*] every relation to law.

4.6. The stakes in the debate between Benjamin and Schmitt on the state of exception can now be defined more clearly. The dispute takes place in a zone of anomie that, on the one hand, must be maintained in relation to the law at all costs and, on the other, must be just as implacably released and freed from this relation. That is to say, at issue in the anomic zone is the relation between violence and law—in the last analysis, the status of violence as a cipher for human action. While Schmitt attempts every time to reinscribe violence within a juridical context, Benjamin responds to this gesture by seeking every time to assure it—as pure violence—an existence outside of the law.

For reasons that we must try to clarify, this struggle for anomie seems to be as decisive for Western politics as the *gigantomachia peri tēs ousias*, the “battle of giants concerning being,” that defines Western metaphysics. Here, pure violence as the extreme political object, as the “thing” of politics, is the counterpart to pure being, to pure existence as the ultimate metaphysical stakes; the strategy of the exception, which must ensure the relation between anomic violence and law, is the counterpart to the onto-theo-logical strategy aimed at capturing pure being in the meshes of the *logos*.

That is to say, everything happens as if both law and *logos* needed an anomic (or alogical) zone of suspension in order to ground their reference to the world of life. Law seems able to subsist only by capturing anomie, just as language can subsist only by grasping the nonlinguistic. In both cases, the conflict seems to

concern an empty space: on the one hand, anomie, juridical *vacuum*, and, on the other, pure being, devoid of any determination or real predicate. For law, this empty space is the state of exception as its constitutive dimension. The relation between norm and reality involves the suspension of the norm, just as in ontology the relation between language and world involves the suspension of denotation in the form of a *langue*. But just as essential for the juridical order is that this zone—wherein lies a human action without relation to the norm—coincides with an extreme and spectral figure of the law, in which law splits into a pure being-in-force [*vigenza*] without application (the form of law) and a pure application without being in force: the force-of-law.

If this is true, then the structure of the state of exception is even more complex than what we have glimpsed of it up to now, and the positions of the two sides that struggle in and for it are even more tightly woven into each other. And just as the victory of one player in a sporting match is not something like an originary state of the game that must be restored, but only the stake of the game (which does not preexist it, but rather results from it), so pure violence (which is the name Benjamin gives to human action that neither makes nor preserves law) is not an originary figure of human action that at a certain point is captured and inscribed within the juridical order (just as there is not, for speaking man, a prelinguistic reality that at a certain point falls into language). It is, rather, only the stake in the conflict over the state of exception, what results from it and, in this way only, is supposed prior to the law.

4.7. It is therefore all the more important to understand correctly the meaning of the expression *reine Gewalt*, “pure violence,” as the essential technical term of Benjamin’s essay. What does “pure” mean here? In January 1919 (that is, about a year before drafting the essay) Benjamin, in a letter to Ernst Schoen that takes up and develops motifs already elaborated in an article on Stifter, carefully defines what he means by “purity” (*Reinheit*):

It is a mistake to postulate anywhere a purity that exists in itself and needs only to be preserved. . . . The purity of a being is *never* unconditional or absolute; it is always subject to a condition. This condition varies according to the being whose purity is at issue; but this condition *never* inheres in the being itself. In other words: the purity of every (finite) being is not dependent on itself. . . . For nature, human language is the condition of its purity that stands outside of it. (Benjamin 1966, 206/138)

This relational rather than substantial conception of purity is so essential for Benjamin that again in the 1931 essay on Kraus he can write that “at the origin

of the creature stands not purity [*Reinheit*] but purification [*Reinigung*]" (Benjamin 1931, 365/455). This means that the purity at issue in the 1921 essay is not a substantial characteristic belonging to the violent action in itself; that is to say, the difference between pure violence and mythico-juridical violence does not lie in the violence itself, but in its relation to something external. Benjamin firmly states what this external condition is at the beginning of the essay: "The task of a critique of violence can be summarized as that of expounding its relation to law and justice." Even the criterion of the "purity" of violence will therefore lie in its relation to law (and the topic of justice in the essay is, in fact, discussed only in relation to the ends of law).

Benjamin's thesis is that while mythico-juridical violence is always a means to an end, pure violence is never simply a means—whether legitimate or illegitimate—to an end (whether just or unjust). The critique of violence does not evaluate violence in relation to the ends that it pursues as a means, but seeks its criterion "in a distinction within the sphere of means themselves, without regard for the ends they serve" (Benjamin 1921, 179/236).

Here appears the topic—which flashes up in the text only for an instant, but is nevertheless sufficient to illuminate the entire piece—of violence as "pure medium," that is, as the figure of a paradoxical "mediality without ends"—a means that, though remaining such, is considered independently of the ends that it pursues. The problem, then, is not that of identifying just ends but that of "individuating a different kind of violence that certainly could not be either the legitimate or illegitimate means to those ends but is not related to them as means at all but in some different way [*nicht als Mittel zu ihnen, vielmehr irgendwie anders, sich verhalten würde*]" (Benjamin 1921, 196/247).

What can this other type of relation to an end be? It will be useful to apply the considerations that we have just developed concerning the meaning of Benjamin's term "pure" to the concept of "pure" medium as well. The medium does not owe its purity to any specific intrinsic property that differentiates it from juridical means, but to its relation to them. In the essay on language, pure language is that which is not an instrument for the purpose of communication, but communicates itself immediately, that is, a pure and simple communicability; likewise, pure violence is that which does not stand in a relation of means toward an end, but holds itself in relation to its own mediality. And just as pure language is not another language, just as it does not have a place other than that of the natural communicative languages, but reveals itself in these by exposing them as such, so pure violence is attested to only as the exposure and deposition of the relation between violence and law. Benjamin suggests as much

immediately thereafter, evoking the image of violence that, in anger, is never a means but only a manifestation (*Manifestation*). While violence that is a means for making law never deposes its own relation with law and thus instates law as power (*Macht*), which remains “necessarily and intimately bound to it” (Benjamin 1921, 198/248), pure violence exposes and severs the nexus between law and violence and can thus appear in the end not as violence that governs or executes (*die schaltende*) but as violence that purely acts and manifests (*die waltende*). And if the connection between pure violence and juridical violence, between state of exception and revolutionary violence, is thus made so tight that the two players facing each other across the chessboard of history seem always to be moving a single pawn—force-of-law or pure means—what is nevertheless decisive is that in each case the criterion of their distinction lies in the dissolution of the relation between violence and law.

4.8. It is from this perspective that we must read Benjamin’s statement in the letter to Scholem on August 11, 1934, that “the Scripture without its key is not Scripture, but life” (Benjamin 1966, 618/453), as well the one found in the essay on Kafka, according to which “[t]he law which is studied but no longer practiced is the gate to justice” (Benjamin 1934, 437/815). The Scripture (the Torah) without its key is the cipher of the law in the state of exception, which is in force but is not applied or is applied without being in force (and which Scholem, not at all suspecting that he shares this thesis with Schmitt, believes is still law). According to Benjamin, this law—or, rather, this force-of-law—is no longer law but life, “life as it is lived,” in Kafka’s novel, “in the village at the foot of the hill on which the castle is built” (Benjamin 1966, 618/453). Kafka’s most proper gesture consists not (as Scholem believes) in having maintained a law that no longer has any meaning, but in having shown that it ceases to be law and blurs at all points with life.

In the Kafka essay, the enigmatic image of a law that is studied but no longer practiced corresponds, as a sort of remnant, to the unmasking of mythico-judicial violence effected by pure violence. There is, therefore, still a possible figure of law after its nexus with violence and power has been deposed, but it is a law that no longer has force or application, like the one in which the “new attorney,” leafing through “our old books,” buries himself in study, or like the one that Foucault may have had in mind when he spoke of a “new law” that has been freed from all discipline and all relation to sovereignty.

What can be the meaning of a law that survives its deposition in such a way? The difficulty Benjamin faces here corresponds to a problem that can be formu-

lated (and it was effectively formulated for the first time in primitive Christianity and then later in the Marxian tradition) in these terms: What becomes of the law after its messianic fulfillment? (This is the controversy that opposes Paul to the Jews of his time.) And what becomes of the law in a society without classes? (This is precisely the debate between Vyshinsky and Pashukanis.) These are the questions that Benjamin seeks to answer with his reading of the “new attorney.” Obviously, it is not a question here of a transitional phase that never achieves its end, nor of a process of infinite deconstruction that, in maintaining the law in a spectral life, can no longer get to the bottom of it. The decisive point here is that the law—no longer practiced, but studied—is not justice, but only the gate that leads to it. What opens a passage toward justice is not the erasure of law, but its deactivation and inactivity [*inoperosità*]<sup>1</sup>—that is, another use of the law. This is precisely what the force-of-law (which keeps the law working [*in opera*]) beyond its formal suspension) seeks to prevent. Kafka’s characters—and this is why they interest us—have to do with this spectral figure of the law in the state of exception; they seek, each one following his or her own strategy, to “study” and deactivate it, to “play” with it.

One day humanity will play with law just as children play with disused objects, not in order to restore them to their canonical use but to free them from it for good. What is found after the law is not a more proper and original use value that precedes the law, but a new use that is born only after it. And use, which has been contaminated by law, must also be freed from its own value. This liberation is the task of study, or of play. And this studious play is the passage that allows us to arrive at that justice that one of Benjamin’s posthumous fragments defines as a state of the world in which the world appears as a good that absolutely cannot be appropriated or made juridical (Benjamin 1992, 41).

## Feast, Mourning, Anomie

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**5.1.** Roman scholars and legal historians have not yet been able to find a satisfactory explanation for the peculiar semantic evolution that led the term *iustitium*—the technical designation for the state of exception—to acquire the meaning of public mourning for the death of the sovereign or his close relative. Indeed, with the end of the Republic, *iustitium* ceased to mean the suspension of law in order to cope with a tumult and the new meaning replaced the old one so perfectly that even the memory of this austere institution seems to have entirely vanished. At the end of the fourth century CE, the grammarian Charisius could therefore identify the *iustitium* purely and simply with *luctus publicus*. And it is significant that after the debate raised by Nissen's and Middell's monographs, modern scholars have disregarded the question of the *iustitium* as the state of exception and have concentrated solely on the *iustitium* as public mourning. (Ironically evoking the term's old meaning in his study of Germanicus's funeral, William Seston wrote, "the debate was rather lively, but soon nobody thought about it any more" [Seston 1962, 155].) But how did this term that was used in public law to designate the suspension of law in situations of the most extreme political necessity come to assume the more anodyne meaning of a funeral ceremony for a death in the family?

In an extensive study published in 1980, H. S. Versnel attempted to answer this question by proposing an analogy between the phenomenology of mourning—as attested to in the most diverse places by anthropological research—and periods of political crisis, in which social institutions and rules seem suddenly to dissolve. Just as, during periods of anomie and crisis, normal social structures can collapse and social functions and roles break down to the point where culturally conditioned behaviors and customs are completely overturned, so are periods of mourning usually characterized by a suspension and alteration of all social relations. "Whoever characterizes the critical periods as . . . a temporary substitution of order by disorder, of culture by nature, of *kosmos* by *chaos*, of *nomos* by *physis*, of *eunomia* by *anomia*, has implicitly characterized the period

of mourning and its manifestations” (Versnel 1980, 584–85). According to Versnel, who here cites the analyses of the American sociologists Berger and Luckman, “All societies are constructions in the face of chaos. The constant possibility of anomic terror is actualized whenever the legitimations that obscure the precariousness are threatened or collapse” (585).

Here, not only is the *iustitium*’s evolution from the state of exception to public mourning explained by the resemblance between the manifestations of mourning and those of anomie (which simply begs the question), but the ultimate reason for this resemblance is then sought in the idea of an “anomic terror” said to characterize human societies as a whole. Such a concept (which is as inadequate to account for the specificity of the phenomenon as Marburg theology’s *tremendum* and *numinosum* were to orient a correct understanding of the divine) refers, in the last analysis, to the darkest spheres of psychology:

The total effects of mourning (especially for a chief or king) and the complete phenomenology of cyclical transitional-feasts . . . conform completely to the definition of anomy. . . . [E]verywhere there is a (temporary) reversal of the human to the non-human, the cultural to the natural (viewed as its negative contrast), of *kosmos* to *chaos* and of eunomy to anomy. . . . The feelings of grief and disorientation and their individual and collective expressions are not restricted to one culture or to one type of cultural pattern. Apparently they are intrinsic features of humanity and the human condition, which manifest themselves above all in marginal or liminal situations. I would, therefore, gladly agree with V. W. Turner, who, speaking of “unnatural—or rather, anti-cultural or anti-structural—events” in liminal situations, suggests that “perhaps Freud and Jung, in their different ways, have much to contribute to the understanding of these nonlogical, non-rational (but not irrational) aspects of liminal situations.” (Versnel 1980, 604–5)

✠ In this neutralization of the juridical specificity of the *iustitium* by means of an uncritical psychologistic reduction, Versnel had been preceded by Durkheim, who in his monograph entitled *Suicide* (1897) had introduced the concept of anomie into the human sciences. In setting out the category of “anomic suicide” alongside the other forms of suicide, Durkheim had established a correlation between the diminution of society’s regulative influence on individuals and a rise in the suicide rate. This was tantamount to postulating (as he does without providing any explanation) a need of human beings to be regulated in their activities and passions: “What is characteristic of man is to be subject to a restraint that is not physical but moral; that is, social. . . . But when a society is disturbed by some painful crisis or by beneficent but abrupt transitions, it is momentarily incapable of exercising this influence; thence come the sudden rises in the curve of suicides which we have pointed out. . . . Anomie, therefore, is a regular and specific factor in suicide in our modern societies” (Durkheim 1897, 279–88/252–58).

Thus, not only is the correspondence between anomie and anxiety taken for granted (while, as we will see, ethnological and folkloristic research show the contrary), but the possibility that anomie has a more intimate and complex relation to law and the social order is also ruled out in advance.

5.2. Equally inadequate are the conclusions of the study published by Seston a few years later. The author seems to be aware of the possible political significance of the *iustitium* as public mourning, insofar as he stages and dramatizes the funeral of the sovereign as a state of exception: “In imperial funerals there survives the memory of a mobilization. . . . Framing the funerary rites within a sort of general mobilization, with all civil affairs stopped and normal political life suspended, the proclamation of the *iustitium* tended to transform the death of a man into a national catastrophe, a drama in which each person was involved, willingly or not” (Seston 1962, 171–72). This intuition, however, comes to nothing, and the nexus between the two forms of *iustitium* is accounted for by once again presupposing that which was to be explained, that is, an element of mourning implicit in the *iustitium* from the start (172–73). It is Augusto Fraschetti’s achievement to have underscored, in his monograph on Augustus, the political significance of public mourning, showing that the link between the two aspects of the *iustitium* lies not in a presumed character of mourning in extreme situations or anomie but in the tumult that the sovereign’s funeral can cause. Fraschetti recovers its origins in the violent riots that had accompanied the funerals of Caesar, which were significantly described as “seditious funerals” (Fraschetti 1990, 57). Just as the *iustitium* was the natural response to tumult in the Republican era, “it is clear how the *iustitium* comes to be identified with public mourning through a similar strategy, by which the deaths in the *domus Augusta* are likened to civic catastrophes. . . . The upshot of this is that the *bona* and the *mala* of a single family come to be the concern of the *res publica*” (57). Fraschetti readily shows how, in conformity with this strategy, Augustus, beginning with the death of his nephew Marcellus, would proclaim a *iustitium* every time the family mausoleum was opened.

It is certainly possible to see the *iustitium* (in the sense of public mourning) as nothing other than the sovereign’s attempt to appropriate the state of exception by transforming it into a family affair. But the connection is even more intimate and complex.

Take, for example, Suetonius’s famous description of Augustus’s death at Nola on August 19 of the year 14 CE. The old sovereign, surrounded by friends and courtiers, has a mirror brought to him and, after having his hair combed and his sagging cheeks made up, seems solely concerned to know whether he has

acted the *mimus vitae*, the “farce of his life,” well. And yet, alongside this insistent theatrical metaphor, he stubbornly and almost insolently continues to ask (*identidem exquirens*)—with what is not simply a political metaphor—*an iam de se tumultus foris fuisset*, “if there was now a tumult outside that concerned him.” The correspondence between anomie and mourning becomes comprehensible only in the light of the correspondence between the death of the sovereign and the state of exception. The original nexus between *tumultus* and *iustitium* is still present, but the tumult now coincides with the death of the sovereign, while the suspension of the law is integrated into the funeral ceremony. It is as if the sovereign, who had absorbed into his “august” person all exceptional powers (from the *tribunicia potestas perpetua* [perpetual tribunicial power] to the *imperium proconsolare maius et infinitum* [greater and endless proconsular *imperium*]) and who had, so to speak, become a living *iustitium*, showed his intimate anomic character at the moment of his death and saw tumult and anomie set free outside of him in the city. As Nissen had intuited in a limpid formula (which is perhaps the source of Benjamin’s thesis according to which the state of exception has become the rule), “exceptional measures disappeared because they had become the rule” (Nissen 1877, 140). The constitutional novelty of the principate can thus be seen as an incorporation of the state of exception and anomie directly into the person of the sovereign, who begins to free himself from all subordination to the law and asserts himself as *legibus solutus* [unbound by the laws].

5.3. The intimately anomic nature of this new figure of supreme power appears clearly in the theory of the sovereign as “living law” (*nomos empsukhos*), which is elaborated among the neo-Pythagoreans in the same years that see the rise of the principate. The formula *basileus nomos empsukhos* is found in Diotogenes’s treatise on sovereignty, which was partially preserved by Stobaeus and whose relevance to the origin of the modern theory of sovereignty must not be underestimated. The usual philological myopia has prevented the modern editor of the treatise from seeing the obvious logical connection between this formula and the anomic character of the sovereign, even though this connection is unequivocally stated in the text. The passage in question—corrupt in part, yet nevertheless perfectly consistent—is divided into three points: (1) “The king is the most just [*dikaiotatos*] and the most just is the most legal [*nomimōtatos*].” (2) “Without justice no one can be king, but justice is without law [*aneu nomou dikaiosunē*; Delatte’s proposed insertion of the negative before *dikaiosunē* is totally unjustified philologically].” (3) “The just is legitimate, and the king, having become the cause of the just, is a living law” (L. Delatte 1942, 37).

That the sovereign is a living law can only mean that he is not bound by it, that in him the life of the law coincides with a total anomie. Diotogenes explains this a little later with unequivocal clarity: “Because the king has an irresponsible power [*arkhan anupeuthunon*] and is himself a living law, he is like a god among men” (L. Delatte 1942, 39). And yet, precisely because he is identified with the law, he is held in relation to it and is indeed posited as the anomic foundation of the juridical order. The identification between sovereign and law represents, that is, the first attempt to assert the anomie of the sovereign and, at the same time, his essential link to the juridical order. The *nomos empsukhos* is the original form of the nexus that the state of exception establishes between an outside and an inside of the law, and in this sense it constitutes the archetype of the modern theory of sovereignty.

The correspondence between *iustitium* and mourning shows its true meaning here. If the sovereign is a living *nomos*, and if, for this reason, anomie and *nomos* perfectly coincide in his person, then anarchy (which threatens to loose itself in the city upon the sovereign’s death, which is to say, when the nexus that joins it to the law is severed) must be ritualized and controlled, transforming the state of exception into public mourning and mourning into *iustitium*. Corresponding to the undecidability of *nomos* and anomie in the living body of the sovereign is the undecidability between state of exception and public mourning in the city. Before assuming its modern form as a decision on the emergency, the relation between sovereignty and state of exception appears in the form of an identity between the sovereign and anomie. Because he is a living law, the sovereign is intimately *anomos*. Here too the state of exception is the—secret and truer—life of the law.

✠ The thesis that “the sovereign is a living law” found its first formulation in the treatise by Pseudo-Archytas *On Law and Justice*, which was preserved for us by Stobaeus along with Diotogenes’s treatise on sovereignty. Whether or not Gruppe’s hypothesis that these treatises were composed by an Alexandrine Jew in the first century of our era is correct, it is certain that we are dealing with a group of texts that, under the cover of Platonic and Pythagorean categories, seek to lay the foundations for a conception of sovereignty that is entirely unbound by laws and yet is itself the source of legitimacy. In Pseudo-Archytas’s text this is expressed in the distinction between the sovereign (*basileus*), who is the law, and the magistrate (*arkhōn*), who must only observe the law. The identification between the law and the sovereign leads to the division of the law into a hierarchically superior “living” law (*nomos empsukhos*) and a written law (*gramma*) that is subordinate to it:

I say that every community is composed of an *arkhōn* (the magistrate who commands), one who is commanded, and, thirdly, the laws. Of these last, the living

one is the sovereign (*ho men empsukhos ho basileus*) and the inanimate one is the letter (*gramma*). The law being the first element, the king is legal, the magistrate is in conformity (with the law), the one who is commanded is free and the entire city is happy; but if there is any deviation, then the sovereign is a tyrant, the magistrate is not in conformity with the law and the community is unhappy. (A. Delatte 1922, 84)

By means of a complex strategy, which is not without analogies to Paul's critique of the Jewish *nomos* (this proximity is also at times textual: Romans 3:21: *khōris nomou dikaiosunē*; Diotogenes: *aneu nomou dikaiosunē*; and in Pseudo-Archytas the law is defined as a "letter," *gramma*, exactly as in Paul), anomic elements are introduced into the *polis* through the person of the sovereign, with evidently no effect on the primacy of the *nomos* (the sovereign is, indeed, "living law").

5.4. The secret solidarity between anomie and law comes to light in another phenomenon, which represents a symmetrical and in some ways inverse figure to the imperial *iustitium*. Folklorists and anthropologists have long been familiar with those periodic feasts (such as the Anthesteria and Saturnalia of the classical world and the charivari and Carnival of the medieval and modern world) that are characterized by unbridled license and the suspension and overturning of normal legal and social hierarchies. During these feasts (which are found with similar characteristics in various epochs and cultures), men dress up and behave like animals, masters serve their slaves, males and females exchange roles, and criminal behavior is considered licit or, in any case, not punishable. That is, they inaugurate a period of anomie that breaks and temporarily subverts the social order. Scholars have always had difficulty explaining these sudden anomic explosions within well-ordered societies and, above all, why they would be tolerated by both the religious and civil authorities.

Contrary to those interpretations that traced the anomic feasts back to agrarian cycles tied to the solar calendar (Mannhardt, Frazer) or to a periodic function of purification (Westermarck), Karl Meuli, with a brilliant intuition, instead related them to the state of suspended law that characterized some archaic juridical institutions, such as the Germanic *Friedlosigkeit* or the persecution of the *wargus* in ancient English law. In a series of exemplary studies, he showed how the disturbances and violent acts meticulously listed in medieval descriptions of the charivari and other anomic phenomena precisely replicate the different phases of the cruel ritual in which the *Friedlos* and the bandit were expelled from the community, their houses unroofed and destroyed, and their wells poisoned or made brackish. The harlequinades described in the unprecedented *chalivali* of the *Roman de Fauvel* (*Li un montret son cul au vent, / Li autre rompet un auvent, /*

*L'un cassoit fenestres et huis, / L'autre getoit le sel ou puis, / L'un getoit le bren aus visages; / Trop estoient lès et sauvages* [One showed his ass to the wind, / Another smashed a roof, / One broke windows and doors, / Another threw salt in the wells, / And another threw filth in faces; / They were truly horrible and savage]) cease to appear as parts of an innocent pandemonium, and one after the other find their counterpart and their proper context in the *Lex Baiuvariorum* or in the penal statutes of the medieval cities. The same can be said for the acts of harassment committed during masked feasts and children's begging rituals in which children punished whoever denied their obligation to give a gift with acts of violence that Halloween only distantly recalls.

Charivari is one of the many names (which vary from country to country and region to region) for an ancient and widely diffused act of popular justice, which occurred everywhere in similar, if not identical forms. Such forms are also used as ritual punishments in the cyclical masked feasts and their extreme offshoots, the traditional children's begging rituals; one may therefore immediately draw upon these for an interpretation of charivari-like phenomena. A closer analysis shows that what at first sight seemed simply to be rough and wild acts of harassment are in truth well-defined traditional customs and legal forms, by means of which, from time immemorial, the ban and proscription were carried out. (Meuli 1975, 473)

If Meuli's hypothesis is correct, the "legal anarchy" of the anomic feasts does not refer back to ancient agrarian rites, which in themselves explain nothing; rather, it brings to light in a parodic form the anomie within the law, the state of emergency as the anomic drive contained in the very heart of the *nomos*.

That is to say, the anomic feasts point toward a zone in which life's maximum subjection to the law is reversed into freedom and license, and the most unbridled anomie shows its parodic connection with the *nomos*. In other words, they point toward the real state of exception as the threshold of indifference between anomie and law. In showing the mournful character of every feast and the festive character of all mourning, law and anomie show their distance and, at the same time, their secret solidarity. It is as if the universe of law—and more generally, the sphere of human action insofar as it has to do with law—ultimately appeared as a field of forces traversed by two conjoined and opposite tensions: one that goes from norm to anomie, and another that leads from anomie to the law and the rule. Hence a double paradigm, which marks the field of law with an essential ambiguity: on the one hand, a normative tendency in the strict sense, which aims at crystallizing itself in a rigid system of norms whose connection to life is, however, problematic if not impossible (the perfect state of law, in which every-

thing is regulated by norms); and, on the other hand, an anomic tendency that leads to the state of exception or the idea of the sovereign as living law, in which a force-of-law that is without norm acts as the pure inclusion of life.

The anomic feasts dramatize this irreducible ambiguity of juridical systems and, at the same time, show that what is at stake in the dialectic between these two forces is the very relation between law and life. They celebrate and parodically replicate the anomie through which the law applies itself to chaos and to life only on the condition of making itself, in the state of exception, life and living chaos. And perhaps the moment has come to try to better understand the constitutive fiction that—in binding together norm and anomie, law and state of exception—also ensures the relation between law and life.

## *Auctoritas* and *Potestas*

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**6.1.** In our analysis of the state of exception in Rome, we neglected to ask what was the foundation of the Senate’s power to suspend the law by means of the *senatus consultum ultimum* and the consequent proclamation of a *iustitium*. Whoever may have been the subject qualified to declare a *iustitium*, it is certain that it was always declared *ex auctoritate patrum*. Indeed, it is well known that in Rome the term designating the Senate’s most proper prerogative was neither *imperium* nor *potestas*, but *auctoritas*: *auctoritas patrum* is the syntagma that defines the specific function of the Senate in the Roman constitution.

In both the history of law and, more generally, philosophy and political theory, all attempts to define this category of *auctoritas*—particularly in contrast to *potestas*—seem to run into almost insurmountable obstacles and aporias. “It is particularly difficult,” wrote a French legal historian at the beginning of the 1950s, “to bring the various juridical aspects of the notion of *auctoritas* back to a unitary concept” (Magdelain 1990, 685); and, at the end of that decade, Hannah Arendt could open her essay “What Is Authority?” with the observation that authority had “vanished from the modern world” to such an extent that in the absence of any “authentic and indisputable” experience of it, “the very term has become clouded by controversy and confusion” (Arendt 1961, 91). There is perhaps no better confirmation of this confusion—and of the ambiguities that it entails—than the fact that Arendt undertook her reevaluation of authority only a few years after Adorno and Else Frenkel-Brunswick had conducted their frontal attack on “the authoritarian personality.” On the other hand, in forcefully denouncing “the liberal identification of totalitarianism with authoritarianism” (97), Arendt probably did not realize that she shared this denunciation with an author whom she certainly disliked.

Indeed, in 1931, in a book bearing the significant title *Der Hüter der Verfassung* (The guardian of the constitution), Carl Schmitt had tried to define the president of the Reich’s neutral power in the state of exception by dialectically opposing *auctoritas* and *potestas*. After recalling that both Bodin and Hobbes were still able

to appreciate the meaning of the distinction, Schmitt lamented (in words that anticipate Arendt's argument) "the lack of tradition of the modern theory of the state, which opposes authority and freedom, authority and democracy . . . to the point of confusing authority with dictatorship" (Schmitt 1931, 137). Already in his 1928 treatise on constitutional law, though without defining the opposition, Schmitt evoked its "great importance in the general theory of the state," and referred back to Roman law to describe it ("the Senate had *auctoritas*; on the contrary, *potestas* and *imperium* derive from the people" [Schmitt 1928, 109]).

In 1968, in a study of the idea of authority published in a *Festgabe* for Schmitt's eightieth year, a Spanish scholar, Jesus Fueyo, noted that the modern confusion of *auctoritas* and *potestas* ("two concepts that express the originary sense through which the Roman people conceived their communal life" [Fueyo 1968, 213]) and their convergence in the concept of sovereignty "was the cause of the philosophical inconsistency in the modern theory of the state"; and he immediately added that this confusion "is not only academic, but is closely bound up with the real process that has led to the formation of the political order of modernity" (213). What we must now try to understand is the meaning of this "confusion" that is bound up with the reflection and political praxis of the West.

✎ It is a commonly held opinion that the concept of *auctoritas* is specifically Roman, just as it is cliché to refer to Dio Cassius in order to demonstrate its untranslatability into Greek. But despite what is repeatedly claimed, Dio Cassius, who had an excellent knowledge of Roman law, does not say that the term is impossible to translate; he says, rather, that it cannot be translated *kathapax*, "once and for all" (*hellēnisi auto kathapax adunaton esti* [Roman History 55.3.5]). The implication here is that it must be rendered in Greek with a different term each time, depending on the context, which is obvious, given the wide reach of the concept. What Dio has in mind, therefore, is not something like a Roman specificity of the term but the difficulty of leading it back to a single meaning.

6.2. The definition of the problem is complicated by the fact that the concept of *auctoritas* refers to a relatively broad juridical phenomenology, which concerns both private and public law. It will be best to begin our analysis with the former, and then to see if it is possible to lead the two aspects back to unity.

In the sphere of private law, *auctoritas* is the property of the *auctor*, that is, the person *sui iuris* (the *pater familias*) who intervenes—pronouncing the technical formula *auctor fio* [I am made *auctor*]<sup>1</sup>—in order to confer legal validity on the act of a subject who cannot independently bring a legally valid act into being. Thus, the *auctoritas* of the tutor makes valid the act of one who lacks this capacity, and the *auctoritas* of the father "authorizes"—that is, makes valid—the marriage of the son *in potestate*. Analogously, the seller (in a *mancipatio*) is bound to assist

the buyer in confirming his title of ownership in the course of a claim proceeding involving a third opposing party.

The term derives from the verb *augeo*: the *auctor* is *is qui auget*, the person who augments, increases, or perfects the act—or the legal situation—of someone else. In the section of his *Indo-European Language and Society* dedicated to law, Benveniste sought to show that originally the verb *augeo* (which, in the Indo-European area, is significantly related to terms that express force) “denotes not the increase in something which already exists but the act of producing from one’s own breast; a creative act” (Benveniste 1969, 2: 148/422). In truth, the two meanings are not contradictory at all in classical law. Indeed, the Greco-Roman world does not know creation *ex nihilo*; rather, every act of creation always involves something else—formless matter or incomplete being—that must be perfected or made to grow. Every creation is always a cocreation, just as every author is always a coauthor. As Magdelain has effectively written, “[A]uctoritas is not sufficient in itself; whether it authorizes or ratifies, it implies an extraneous activity that it validates” (Magdelain 1990, 685). It is, then, as if for something to exist in law there must be a relationship between two elements (or two subjects): one endowed with *auctoritas* and one that takes the initiative in the act in the strict sense. If the two elements or two subjects coincide, then the act is perfect. However, if there is a gap or incongruity between them, the act must be completed with *auctoritas* in order to be valid. But where does the “force” of the *auctor* come from? And what is this power to *augere*?

It has been rightly noted that *auctoritas* has nothing to do with representation, whereby the acts performed by a mandatary or by a legal representative are imputed to the mandator. The *auctor*’s act is not founded upon some sort of legal power vested in him to act as a representative (of the minor or the incompetent): it springs directly from his condition as *pater*. In the same way, the act of the seller, who intervenes as *auctor* to defend the buyer, has nothing to do with a right of guarantee in the modern sense. Pierre Noailles, who had sought in the last years of his life to outline a unitary theory of *auctoritas* in private law, could therefore write that it is “an attribute attached to the person, and originally to the physical person, . . . the privilege, the right that belongs to a Roman, under the required conditions, to serve as a foundation for the legal situation created by others” (Noailles 1948, 274). “Like all the powers of archaic law,” he adds, “be they familial, private, or public, *auctoritas* too was originally conceived according to the unilateral model of law pure and simple, without obligation or sanction” (274). And yet we need only reflect on the formula *auctor fio* (and not simply *auctor sum* [I am *auctor*]) to realize that it seems to imply not so much

the voluntary exercise of a right as the actualization of an impersonal power [*potenza*] in the very person of the *auctor*.

6.3. As we have seen, in public law *auctoritas* designates the most proper prerogative of the Senate. The active subjects of this prerogative are therefore the *patres*: *auctoritas patrum* and *patres auctores fiunt* [the fathers are made *auctores*] are common formulas for expressing the constitutional function of the Senate. Legal historians have nevertheless always had difficulty defining this function. Mommsen observed that the Senate does not have an action of its own but can act only in concert with the magistrate or to complete the decisions of popular *comitia* by ratifying laws. The Senate cannot express itself without being questioned by the magistrates and can only request or “counsel”—*consultum* is the technical term—without this “counsel” ever being absolutely binding. The formula of the *senatus consultum* is *si eis videatur*, “if it seems right to them [i.e., the magistrates]”; in the extreme case of the *senatus consultum ultimum*, the formula is slightly more emphatic: *videant consules* [let the consuls see to it]. Mommsen expresses this peculiar character of *auctoritas* when he writes that it is “less than an order and more than a counsel” (Mommsen 1969, 3: 1034).

It is certain, in any case, that *auctoritas* has nothing to do with the *potestas* or the *imperium* of the magistrates or the people. The senator is not a magistrate, and we nearly never find the verb *iubere* [to order], which defines the decisions of the magistrates or the people, used for his “counsels.” And yet, with a strong analogy to the figure of the *auctor* in private law, the *auctoritas patrum* intervenes to ratify the decisions of the popular *comitia* and make them fully valid. A single formula (*auctor fio*) designates both the action of the tutor that completes the act of the minor and the senatorial ratification of popular decisions. The analogy here does not necessarily mean that the people must be considered as minors under the tutelage of the *patres*; rather, the essential point is that in this case too there is that duality of elements that in the sphere of private law defines the perfect legal action. *Auctoritas* and *potestas* are clearly distinct, and yet together they form a binary system.

✎ The polemics among scholars who tend to unify the *auctoritas patrum* and the *auctor* of private law under a single paradigm are easily resolved if one considers that the analogy does not concern the individual figures, but the very structure of the relation between the two elements whose integration constitutes the perfect act. In a study from 1925 that had a strong influence on Roman scholars, Richard Heinze described the common element between the minor and the people with these words: “The minor and the people are determined to bind themselves in a certain direction, but their bond cannot come into being without the collaboration of another subject” (Heinze 1925, 350). That is to say, it is not

that scholars tend to “depict public law in the light of private law” (Biscardi 1987, 119), but that there is a structural analogy that, as we will see, concerns the very nature of the law. Juridical validity is not an originary characteristic of human actions but must be conveyed to them through a “power that grants legitimacy” (Magdelain 1990, 686).

6.4. Let us try to better define the nature of this “power that grants legitimacy” in its relation to the *potestas* of the magistrates and the people. What previous attempts to understand this relation have not taken into account is precisely that extreme figure of *auctoritas* that is at issue in the *senatus consultum ultimum* and the *iustitium*. As we have seen, the *iustitium* produces a true and proper suspension of the juridical order. In particular, the consuls are reduced to the condition of private citizens (*in privato abdit*), while every private citizen acts as if he were invested with an *imperium*. With an inverse symmetry, in 211 BCE, at Hannibal’s approach, a *senatus consultum* resuscitates the *imperium* of the former dictators, consuls, and censors (*placuit omnes qui dictatores, consules censoresve fuissent cum imperio esse, donec recessisset a muris hostis* [It was decreed that all who had been dictators, consuls, or censors should have *imperium*, until the enemy had withdrawn from the walls] [Livy 26.10.9]). Under extreme conditions (that is to say, under the conditions that best define it, if it is true that a legal institution’s truest character is always defined by the exception and the extreme situation) *auctoritas* seems to act as a force that suspends *potestas* where it took place and reactivates it where it was no longer in force. It is a power that suspends or reactivates law, but is not formally in force as law.

This relation—at once one of exclusion and supplementation—between *auctoritas* and *potestas* is also found in another institution in which the *auctoritas patrum* once again shows its peculiar function: the *interregnum*. Even after the end of the monarchy, when, because of death or whatever other reason, there remained no consul or other magistrate in the city (except the representatives of the plebs), the *patres auctores* (that is, the group of senators who belonged to a consular family, as opposed to the *patres conscripti* [conscript fathers]) named an *interrex* who ensured the continuity of power. The formula used was *res publica ad patres redit* [The republic returns to the fathers] or *auspicia ad patres redeunt* [The auspices return to the fathers]. As Magdelain has written, “During the *interregnum*, the constitution is suspended. . . . The Republic is without magistrates, without Senate, without popular assemblies. Then the senatorial group of the *patres* meets, and sovereignly names the first *interrex*, who in turn sovereignly names his own successor” (Magdelain 1990, 359–60). Here too, *auctoritas* shows its connection with the suspension of *potestas* and, at the same time, its capacity to ensure the functioning of the Republic under exceptional circumstances.

Once again, this prerogative rests immediately with the *patres auctores* as such. Indeed, the first *interrex* is not invested with the *imperium* of a magistrate, but solely the *auspicia* (356); and in asserting against the plebians the importance of the *auspicia*, Appius Claudius states that they belong personally and exclusively to the *patres privatum*: “*nobis adeo propria sunt auspicia, ut . . . privatim auspicia habeamus* [The auspices belong so properly to us that . . . we have them as private citizens]” (Livy 6.41.6). The power to reactivate vacant *potestas* is not a legal power received from the people or a magistrate but springs immediately from the personal condition of the *patres*.

6.5. A third institution in which *auctoritas* shows its specific function of suspending law is the *hostis iudicatio*. In exceptional situations where a Roman citizen threatened the security of the Republic by conspiracy or treason, he could be declared *hostis*, “public enemy,” by the Senate. The *hostis iudicatus* was not simply likened to a foreign enemy, the *hostis alienigena*, because the latter was always protected by the *ius gentium* [law of peoples] (Nissen 1877, 27); he was, rather, radically deprived of any legal status and could therefore be stripped of his belongings and put to death at any moment. What *auctoritas* suspends here is not simply the juridical order, but the *ius civis*, the very status of the Roman citizen.

The relation—at once antagonistic and supplementary—between *auctoritas* and *potestas* is finally shown in a terminological peculiarity that Mommsen was the first to notice. The syntagma *senatus auctoritas* is used in a technical sense to designate a *senatus consultum* that, because it has been opposed by an *intercessio*, is without legal effects and can therefore not be executed (even if it was entered as such among the official acts, *auctoritas perscripta*). That is, the *auctoritas* of the Senate appears in its purest and most perspicuous form when it has been invalidated by the *potestas* of a magistrate, when it lives as mere writing in absolute opposition to the law’s being in force [*vigenza*]. For a moment here *auctoritas* shows its essence: the power [*potenza*] that can at once “grant legitimacy” and suspend law exhibits its most proper character at the point of its greatest legal inefficacy. It is what remains of law if law is wholly suspended (in this sense, in Benjamin’s reading of Kafka’s allegory, not law but life—law that blurs at every point with life).

6.6. It is perhaps in the *auctoritas principis*—that is, in the moment when Augustus, in a famous passage of the *Res gestae*, claims *auctoritas* as the foundation of his status as *princeps*—that we can better understand the meaning of this unique prerogative. It is significant that the rebirth of modern studies of *auctoritas* coincides precisely with the publication in 1924 of the *Monumentum Antiochenum*, which allowed a more accurate reconstruction of the passage in question. The

issue here concerned a series of fragments of a Latin inscription containing a passage from chapter 34 of the *Res gestae*, which was extant in its entirety only in the Greek version. Mommsen had reconstructed the Latin text in these terms: “*post id tempus praestiti omnibus dignitate (axiōmati), potestatis autem nihil amplius habui quam qui fuerunt mihi quoque in magistratu conlegae* [After that time I surpassed all in *dignitas*, although I had no more *potestas* than those who were my colleagues in each magistracy].” The Antiochean inscription showed that Augustus had written not *dignitate* but *auctoritate*. Commenting in 1925 on the new information, Heinze wrote, “We philologists should all be ashamed for having blindly followed Mommsen’s authority: the only possible antithesis to *potestas*—that is, to the legal power of a magistrate—was, in this passage, not *dignitas*, but *auctoritas*” (Heinze 1925, 348).

As often happens—and, moreover, as scholars did not fail to observe—the rediscovery of the concept (no fewer than fifteen important monographs on *auctoritas* appeared in the following ten years) kept pace with the growing weight that the authoritarian principle was assuming in the political life of European societies. “*Auctoritas*,” wrote a German scholar in 1937, “that is, the fundamental concept of public law in our modern authoritarian states, can only be understood—not only literally but also as regards the content—starting from Roman law of the time of the principate” (Wenger 1939, 152). And yet it is possible that this nexus between Roman law and our own political experience is precisely what still remains for us to investigate.

6.7. If we now return to the passage from the *Res gestae*, the decisive point is that here Augustus defines the specificity of his constitutional power not in the certain terms of a *potestas*, which he says he shares with those who are his colleagues in the magistracy, but in the vaguer terms of an *auctoritas*. The meaning of the name “Augustus,” which the Senate conferred on him on January 16, 27 BCE, accords entirely with this claim: it comes from the same root as *augeo* and *auctor* and, as Dio Cassius notes, “does not mean a *potestas* [*dunamis*] . . . but shows the splendor of *auctoritas* [*tēn tou axiōmatos lamprotēta*]” (*Roman History* 53.18.2).

In the edict of January 13 of the same year, in which he declares his intention to restore the republican constitution, Augustus defines himself as *optimi status auctor* [*auctor* of the highest standing]. As Magdelain has acutely observed, the term *auctor* here does not have the generic meaning of “founder,” but the technical meaning of “guarantor in a *mancipatio*.” Because Augustus conceives of the restoration of the Republic as a transfer of the *res publica* from his hands to those of the people and the Senate (see *Res gestae* 34.1), it is possible that “in the

formula *auctor optimi status* . . . the term *auctor* has a rather precise legal meaning and refers to the idea of the transfer of the *res publica*. . . . Augustus would thus be the *auctor* of the rights rendered to the people and the Senate, just as, in a mancipation, the *mancipio dans* is the *auctor* of the power acquired by the *mancipio accipiens* over the transferred object” (Magdelain 1947, 57).

In any case, the Roman principate—which we are used to describing with a term (emperor) that refers back to the *imperium* of the magistrate—is not a magistracy, but an extreme form of *auctoritas*. Heinze has described this contrast perfectly: “Every magistracy is a preestablished form, which the individual enters into and which constitutes the source of his power; *auctoritas*, on the other hand, springs from the person, as something that is constituted through him, lives only in him, and disappears with him” (Heinze 1925, 356). Though Augustus receives all magistracies from the people and the Senate, *auctoritas* is instead bound to his person and constitutes him as *auctor optimi status*, as he who legitimates and guarantees the whole of Roman political life.

Hence the peculiar status of his person, which manifests itself in a fact whose importance has not yet been fully appreciated by scholars. Dio Cassius informs us that Augustus “made all of his house public [*tēn oikian edēmosiōse pasan*] . . . so as to live at once in public and in private [*hin’ en tois idiois hama kai en tois koinois oikoiē*]” (*Roman History* 55.12.5). It is the *auctoritas* that he embodies, and not the magistracies with which he has been invested, that make it impossible to isolate in him something like a private life and *domus*. This is also the sense in which one must interpret the fact that a *signum* to Vesta is dedicated in the house of Augustus on the Palatine. Fraschetti has rightly observed that, given the close connection between the cult of Vesta and the cult of the public Penates of the Roman people, this meant that the Penates of Augustus’s family were identified with those of the Roman people and that therefore “the private cults of a family . . . and preeminently communal cults in the sphere of the city (those of Vesta and the public Penates of the Roman people) would seem in fact to become homologous in the house of Augustus” (Fraschetti 1990, 359). Unlike the life of the common citizens, the “august” life can no longer be defined through the opposition of public and private.

✠ It is in this light that Kantorowicz’s theory of the king’s two bodies should be reread, so that we can make some refinements to it. Kantorowicz (who generally undervalues the importance of the Roman precedent to the theory that he seeks to reconstruct for the English and French monarchies) does not relate the distinction between *auctoritas* and *potestas* to the problem of the king’s two bodies and the principle *dignitas non moritur* [*dignitas* does not die]. And yet it is precisely because the sovereign was first and foremost the embodiment of

an *auctoritas*, and not solely of a *potestas*, that *auctoritas* was so closely bound to his physical person, thus requiring the complicated ritual of constructing a wax double of the sovereign in the *funus imaginarium*. The end of a magistracy as such does not entail a problem of bodies at all: One magistrate succeeds another without having to presuppose the immortality of the office. Only because, from the Roman *princeps* on, the sovereign expresses an *auctoritas* in his very person, only because in “august” life public and private have entered into a zone of absolute indistinction, does it become necessary to distinguish two bodies in order to ensure the continuity of *dignitas* (which is simply a synonym for *auctoritas*).

To understand modern phenomena such as the Fascist *Duce* and the Nazi *Führer*, it is important not to forget their continuity with the principle of the *auctoritas principis*. As we have already observed, even though Mussolini held the office of head of the government and Hitler that of chancellor of the Reich (just as Augustus held *imperium consolare* or *potestas tribunica*) neither the *Duce* nor the *Führer* represents a constitutionally defined public office or magistracy. The qualities of *Duce* or *Führer* are immediately bound to the physical person and belong to the biopolitical tradition of *auctoritas* and not to the legal tradition of *potestas*.

6.8. It is significant that modern scholars have been so ready to uphold the claim that *auctoritas* inheres immediately in the living person of the *pater* or the *princeps*. What was clearly an ideology or a *fictio* intended to ground the preeminence or, in any case, the specific rank of *auctoritas* in relation to *potestas* thus becomes a figure of law’s immanence to life. It is not by chance that this should happen precisely in the years when the authoritarian principle saw an unexpected rebirth in Europe through fascism and National Socialism. Though it was obvious that there cannot be some sort of eternal human type periodically embodied in Augustus, Napoleon, or Hitler, and that there are only more or less similar legal apparatuses (the state of exception, the *iustitium*, the *auctoritas principis*, *Führertum*) that are put to use under more or less different circumstances, the power that Weber called “charismatic” was nevertheless linked in 1930s Germany (and elsewhere) to the concept of *auctoritas* and elaborated in a theory of *Führertum* as the originary and personal power of a leader. Thus in 1933, in a short article that seeks to outline the fundamental concepts of National Socialism, Schmitt defines the principle of *Führung* through “the ancestral identity between leader and followers” (note the use of Weberian concepts). 1938 saw the publication of the Berlin jurist Heinrich Triepel’s book *Die Hegemonie*, which Schmitt quickly reviewed. In its first section, the book expounds a theory of *Führertum* as an authority founded not on a preexisting order but on a personal charisma. The *Führer* is defined through psychological categories (energetic, conscious, and creative will), and his unity with the social group and the originary and personal character of his power are strongly underscored.

Then in 1947, the elderly Roman scholar Pietro De Francisci published *Arcana imperii*, in which he dedicates a good deal of space to an analysis of the “primary type” of power that he (seeking to distance himself from fascism with a sort of euphemism) defines as *ductus* (and the leader in which it is embodied as *ductor*). De Francisci transforms the Weberian tripartition of power (traditional, legal, charismatic) into a dichotomy drawn on the opposition of authority and power [*potestà*]. The authority of the *ductor* or the *Führer* can never be derivative but is always originary and springs from his person; furthermore, in its essence it is not coercive, but is rather founded, as Triepel had already shown, on consent and the free acknowledgment of a “superiority of value.”

Though both Triepel and De Francisci had fascist and Nazi techniques of government before their eyes, neither appears to have been aware that the power they describe attains its appearance of originality from the suspension or neutralization of the juridical order—that is, ultimately, from the state of exception. “Charisma”—as its reference to Paul’s *kharis* [grace] (which Weber knew perfectly well) could have suggested—coincides with the neutralization of law and not with a more originary figure of power.

In each case, what the three authors seem to take for granted is that authoritarian-charismatic power springs almost magically from the very person of the *Führer*. Law’s claim that it coincides at an eminent point with life could not have been affirmed more forcefully. In this regard, the theory of *auctoritas* converged at least in part with the tradition of juridical thought that saw law as ultimately identical with—or immediately articulated to—life. Savigny’s maxim (“Law is nothing but life considered from a particular point of view”) finds a counterpart in the twentieth century in Rudolph Smend’s thesis that “the norm receives the grounds of its validity [*Geltungsgrund*], the quality of its validity, and the content of its validity from life and the sense attributed to it, just as, inversely, life must be understood only in relation to its assigned and regulated vital sense [*Lebenssinn*]” (Smend 1956, 300). Just as, in Romantic ideology, something like a language became fully comprehensible only in its immediate relation to a people (and vice versa), so law and life must be tightly implicated in a reciprocal grounding. The dialectic of *auctoritas* and *potestas* expressed precisely this implication (and in this sense, one can speak of an originary biopolitical character of the paradigm of *auctoritas*). The norm can be applied to the normal situation and can be suspended without totally annulling the juridical order because in the form of *auctoritas*, or sovereign decision, it refers immediately to life, it springs from life.

6.9. It is perhaps possible at this point to look back upon the path traveled thus far and draw some provisional conclusions from our investigation of the state of exception. The juridical system of the West appears as a double structure, formed by two heterogeneous yet coordinated elements: one that is normative and juridical in the strict sense (which we can for convenience inscribe under the rubric *potestas*) and one that is anomic and metajuridical (which we can call by the name *auctoritas*).

The normative element needs the anomic element in order to be applied, but, on the other hand, *auctoritas* can assert itself only in the validation or suspension of *potestas*. Because it results from the dialectic between these two somewhat antagonistic yet functionally connected elements, the ancient dwelling of law is fragile and, in straining to maintain its own order, is always already in the process of ruin and decay. The state of exception is the device that must ultimately articulate and hold together the two aspects of the juridico-political machine by instituting a threshold of undecidability between anomie and *nomos*, between life and law, between *auctoritas* and *potestas*. It is founded on the essential fiction according to which anomie (in the form of *auctoritas*, living law, or the force of law) is still related to the juridical order and the power to suspend the norm has an immediate hold on life. As long as the two elements remain correlated yet conceptually, temporally, and subjectively distinct (as in republican Rome's contrast between the Senate and the people, or in medieval Europe's contrast between spiritual and temporal powers) their dialectic—though founded on a fiction—can nevertheless function in some way. But when they tend to coincide in a single person, when the state of exception, in which they are bound and blurred together, becomes the rule, then the juridico-political system transforms itself into a killing machine.

6.10. The aim of this investigation—in the urgency of the state of exception “in which we live”—was to bring to light the fiction that governs this *arcanum imperii* [secret of power] par excellence of our time. What the “ark” of power contains at its center is the state of exception—but this is essentially an empty space, in which a human action with no relation to law stands before a norm with no relation to life.

This does not mean that the machine, with its empty center, is not effective; on the contrary, what we have sought to show is precisely that it has continued to function almost without interruption from World War One, through fascism and National Socialism, and up to our own time. Indeed, the state of exception has today reached its maximum worldwide deployment. The normative aspect of law

can thus be obliterated and contradicted with impunity by a governmental violence that— while ignoring international law externally and producing a permanent state of exception internally—nevertheless still claims to be applying the law.

Of course, the task at hand is not to bring the state of exception back within its spatially and temporally defined boundaries in order to then reaffirm the primacy of a norm and of rights that are themselves ultimately grounded in it. From the real state of exception in which we live, it is not possible to return to the state of law [*stato di diritto*], for at issue now are the very concepts of “state” and “law.” But if it is possible to attempt to halt the machine, to show its central fiction, this is because between violence and law, between life and norm, there is no substantial articulation. Alongside the movement that seeks to keep them in relation at all costs, there is a countermovement that, working in an inverse direction in law and in life, always seeks to loosen what has been artificially and violently linked. That is to say, in the field of tension of our culture, two opposite forces act, one that institutes and makes, and one that deactivates and deposes. The state of exception is both the point of their maximum tension and—as it coincides with the rule—that which threatens today to render them indiscernible. To live in the state of exception means to experience both of these possibilities and yet, by always separating the two forces, ceaselessly to try to interrupt the working of the machine that is leading the West toward global civil war.

6.II. If it is true that the articulation between life and law, between anomie and *nomos*, that is produced by the state of exception is effective though fictional, one can still not conclude from this that somewhere either beyond or before juridical apparatuses there is an immediate access to something whose fracture and impossible unification are represented by these apparatuses. There are not *first* life as a natural biological given and anomie as the state of nature, and *then* their implication in law through the state of exception. On the contrary, the very possibility of distinguishing life and law, anomie and *nomos*, coincides with their articulation in the biopolitical machine. Bare life is a product of the machine and not something that preexists it, just as law has no court in nature or in the divine mind. Life and law, anomie and *nomos*, *auctoritas* and *potestas*, result from the fracture of something to which we have no other access than through the fiction of their articulation and the patient work that, by unmasking this fiction, separates what it had claimed to unite. But disenchantment does not restore the enchanted thing to its original state: According to the principle that purity never lies at the origin, disenchantment gives it only the possibility of reaching a new condition.

To show law in its nonrelation to life and life in its nonrelation to law means to open a space between them for human action, which once claimed for itself the name of “politics.” Politics has suffered a lasting eclipse because it has been contaminated by law, seeing itself, at best, as constituent power (that is, violence that makes law), when it is not reduced to merely the power to negotiate with the law. The only truly political action, however, is that which severs the nexus between violence and law. And only beginning from the space thus opened will it be possible to pose the question of a possible use of law after the deactivation of the device that, in the state of exception, tied it to life. We will then have before us a “pure” law, in the sense in which Benjamin speaks of a “pure” language and a “pure” violence. To a word that does not bind, that neither commands nor prohibits anything, but says only itself, would correspond an action as pure means, which shows only itself, without any relation to an end. And, between the two, not a lost original state, but only the use and human praxis that the powers of law and myth had sought to capture in the state of exception.

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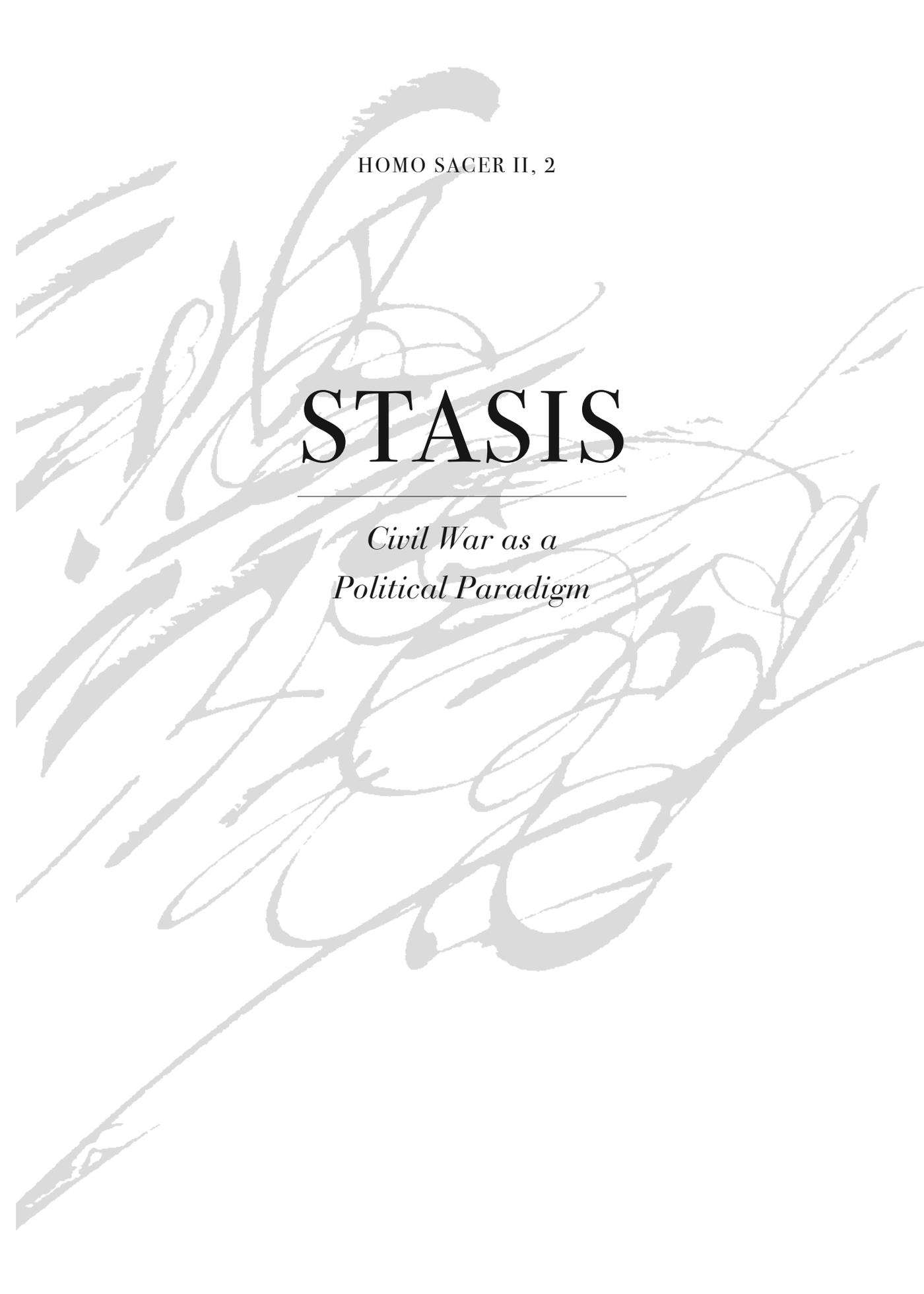
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HOMO SACER II, 2

# STASIS

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*Civil War as a  
Political Paradigm*

TRANSLATED BY NICHOLAS HERON

# Contents

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# Foreword

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The two texts published here reproduce, with slight variations and additions, two seminars on civil war given at Princeton University in October 2001. It is up to readers to determine to what extent the theses advanced here—which identify the fundamental threshold of politicisation in the West in civil war and the constitutive element of the modern State in ‘ademia’ (that is, in the absence of a people)—still apply, or whether, to the contrary, the passage into the dimension of global civil war has altered their meaning in an essential manner.

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# 1

## Stasis

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**1** It is generally acknowledged that a theory of civil war is completely lacking today, yet this absence does not seem to concern jurists and political scientists too much. Roman Schnur, who formulated this diagnosis as early as the 1980s, nonetheless added that the disregard of civil war went hand in hand with the advance of global civil war (Schnur 1983, 121, 156). At thirty years' distance, this observation has lost none of its topicality: while the very possibility of distinguishing a war between States and an internecine war appears today to have disappeared, specialists continue to carefully avoid any hint at a theory of civil war. It is true that in recent years, owing to the upsurge of wars impossible to define as international, publications concerning so-called 'internal wars' have multiplied (above all, in the United States); even in these instances, however, the analysis was geared not toward an interpretation of the phenomenon, but—in accordance with a practice ever more widespread—toward the conditions under which an international intervention becomes possible. The paradigm of consensus, which today dominates both political action and theory, seems incompatible with the serious investigation of a phenomenon that is at least as old as Western democracy.

✎ There exists, today, both a 'polemology', a theory of war, and an 'irenology', a theory of peace, but there is no 'stasiology', no theory of civil war. We have already mentioned how, according to Schnur, this absence could be related to the advance of global civil war. The concept of 'global civil war' was introduced contemporaneously in 1963 in Hannah Arendt's book *On Revolution* (in which the Second World War was defined as 'a kind of civil war raging all over the earth' [Arendt 1963, 8]) and in Carl Schmitt's *Theorie des Partisanen* (Schmitt 2007), a book dedicated to the figure that marks the end of the conception of war of the *Jus publicum Europaeum*, which was grounded on the possibility of clearly distinguishing between war and peace, soldiers and civilians, enemies and criminals. Whatever date one wishes to trace this end back to, it is certain that today the state of war in the traditional sense has virtually disappeared. Even the Gulf War, the last conflict that still had the appearance of a war between States, was fought without the warring States declaring the state of war (which for some States, such as Italy, would have been unconstitutional). The generalisation of a model of war which cannot be defined as

an international conflict, yet which lacks the traditional features of civil war, has led some scholars to speak of ‘uncivil wars’, which, unlike civil wars, appear to be directed not toward the control and transformation of the political system, but toward the maximisation of disorder (Snow 1996). The attention which scholars dedicated to these wars in the 1990s ultimately could not lead to a theory of civil war, but only to a doctrine of management, that is, of the administration, manipulation and internationalisation of internal conflicts.

2. One possible reason for the lack of interest in civil war was the increasing popularity of the concept of revolution (at least, up until the end of the 1960s), which was often substituted for civil war, yet without ever coinciding with it. It was Hannah Arendt who, in her book *On Revolution*, unreservedly formulated the thesis of the heterogeneity between the two phenomena. ‘[R]evolutions’, she writes,

are the only political events which confront us directly and inevitably with the problem of beginning [ . . . ] Modern revolutions have little in common with the *mutatio rerum* of Roman history or the *stasis*, the civil strife which disturbed the Greek polis. We cannot equate them with Plato’s *metabolai*, the quasi-natural transformation of one form of government into another, or with Polybius’s *politeiōn anakyklōsis*, the appointed recurring cycle into which human affairs are bound by reason of their always being driven to extremes. Antiquity was well acquainted with political change and the violence that went with change, but neither of them appeared to it to bring about something new. (Arendt 1963, 13–14)

Although it is likely that the difference between the two concepts is in fact purely nominal, it is certain that the concentration of attention on the concept of revolution (which for some reason seemed more respectable than that of *stasis*, even to a scholar as unprejudiced as Arendt), has contributed to the marginalisation of studies on civil war.

3. A theory of civil war is not among the possible objectives of this text. Instead, I will restrict myself to examining the topic as it appears within Western political thought at two moments in its history: in the testimonies of the philosophers and historians of Ancient Greece and in the thought of Thomas Hobbes. The two examples have not been selected by chance: I would like to suggest that they represent the two faces, so to speak, of a single political paradigm, which manifests itself, on the one hand, through the assertion of the necessity of civil war, and on the other, through the assertion of the necessity of its exclusion. That the paradigm is, in truth, single, means that the two opposed necessities maintain a secret solidarity between them. And it is this secret solidarity that I will seek to grasp.

An analysis of the problem of civil war (or *stasis*) in classical Greece can only begin with the studies of Nicole Loraux, who dedicated a series of articles and es-

says to this theme, which were collected in 1997 in the volume *La Cité divisée*—the volume to which she used to refer as *mon livre par excellence*. As in the life of artists, so too in the life of scholars there are mysteries. Thus I was never able to successfully explain to myself why Loraux never included in the volume an essay written in 1986 for a lecture in Rome entitled ‘La guerre dans la famille’, which is perhaps the most important of all the studies she dedicated to the problem of *stasis*. The circumstance is all the more inexplicable given that she decided to publish the essay in an issue of the journal *Clio* dedicated to *guerres civiles* in the same year as the book, almost as if she were aware—but this would be a truly singular motivation—that the thesis defended in the essay went decidedly further in terms of originality and radicality than the already acute thesis advanced in the book. I will attempt, in any case, to summarise the essay’s findings in order then to attempt to locate what Feuerbach called the *Entwicklungsfähigkeit*, the ‘capacity for development’ that they contain.

4. Other French scholars—allow me to mention at least two classics, Gustave Glotz and Fustel de Coulanges, and in their wake, Jean-Pierre Vernant—had underscored the importance of *stasis* in the Greek *polis* prior to Nicole Loraux. The novelty of Loraux’s approach is that she immediately situates the problem in its specific locus, which is to say, in the relationship between the *oikos*, the family or the household, and the *polis*, the city. ‘The matter’, she writes, ‘will be played out between three terms: the *stasis*, the city, the family’ (Loraux 1997, 38). Such an identification of the place of civil war entails redrawing the traditional topography of the relations between the family and the city from scratch. What is at issue is not, as the prevailing paradigm would have it, an overcoming of the family in the city, of the private in the public and of the particular in the general, but a more ambiguous and complex relation; and it is precisely this relation which we will seek to grasp.

Loraux begins her analysis with a passage from Plato’s *Menexenus*, in which the ambiguity of civil war appears on full display. Describing the *stasis* which divided the citizens of Athens in 404, Plato writes ironically:

Our war at home [*ho oikeios hēmin polemos*] was waged in such a fashion that were fate to condemn humanity to conflict no one would wish to see their city suffer this predicament in any other way. With such joviality and familiarity did those from the Piraeus and those from the city engage with one another [*hōs asmenōs kai oike kai oikeiōs allēlois synemeixan*]! (*Menex.*, 243e–244a)

Not only does the verb that Plato employs (*symmeignymi*) mean both ‘to mingle’ and ‘to enter the fray, to fight’; but the very expression *oikeios polemos* is, to the

Greek ear, an oxymoron: *polemos* designates external conflict and, as Plato will record in the *Republic* (470c), refers to the *allogrion kai othmeion* (alien and foreign), while for the *oikeios kai syggenēs* (familiar and kindred) the appropriate term is *stasis*. According to the reading that Loraux gives to these passages, Plato seems to imply that ‘the Athenians had waged an internecine war only in order to better reconvene in a family celebration’ (Loraux 1997, 22). The family is simultaneously the origin of division and *stasis* and the paradigm of reconciliation (the Greeks, Plato will write, ‘fight amongst themselves as if they were fated to be reconciled’ [*Rep.*, 471a]).

5. The ambivalence of the *stasis*, according to Loraux, is thus attributable to the ambiguity of the *oikos*, with which it consubstantial. Civil war is the *stasis emphylos*; it is the conflict particular to the *phylon*, to blood kinship. It is to such an extent inherent to the family that the phrase *ta emphyilia* (literally, ‘the things internal to the bloodline’) simply means ‘civil wars’. According to Loraux, the term denotes ‘the bloody relationship that the city, as a bloodline (and, as such, thought in its closure), maintains with itself’ (Loraux 1997, 29). At the same time, precisely because it is what lies at the origin of the *stasis*, the family is also what contains its possible remedy. Vernant thus notes that the rift between families is often healed through an exchange of gifts, which is to say, by virtue of a marriage between rival clans: ‘In the eyes of the Greeks it was not possible to isolate the forces of discord from those of union either in the web of human relationships or in the constitution of the world’ (Vernant 1988, 31).

Even tragedy bears witness to the intimate link between civil war and the family, and to the threat that the *Ares emphylios*—the god of warfare who dwells in the *oikos*—brings to bear on the city (*Eumenides*, 862–3). According to Loraux, the *Oresteia* is simultaneously the evocation of the long chain of killings in the house of the Atridi and the commemoration of its overcoming through the foundation of the court at the Areopagus, which puts an end to the family massacre. ‘The civic order has integrated the family in its midst. This means that it is always virtually threatened by the discord that kinship is like a second nature, and that it has simultaneously always already overcome this threat’ (Loraux 1997, 39).

Insofar as civil war is inherent to the family—insofar as it is, that is to say, an *oikeios polemos*, a ‘war within the household’—it is, to the same extent—this is the thesis that Loraux seems to suggest here—inherent to the city, an integral part of the political life of the Greeks.

6. Toward the end of her essay, Loraux analyses the case of a small Greek city in Sicily, Nakōnē, where, in the third century BCE, the citizens decided to organise the reconciliation following a *stasis* in a particularly striking way. They drew the names

of the citizens in lots, in order to then divide them into groups of five, who in this way became *adelphoi hairetoi*, ‘brothers by election’. The natural family was neutralised, but this neutralisation was accomplished simultaneously through a symbol par excellence of kinship: fraternity. The *oikos*, the origin of civil strife, is excluded from the city through the production of a false fraternity. The inscription that has transmitted this information to us specifies that the neo-brothers were to have no family kinship between them: the purely political fraternity overrules blood kinship, and in this way frees the city from the *stasis emphylos*. With the same gesture, however, it reconstitutes kinship at the level of the *polis*: it turns the city into a family of a new kind. It was a ‘family’ paradigm of this kind that Plato had employed when suggesting that, in his ideal republic, once the natural family had been eliminated through the communism of women and goods, each person would see in the other ‘a brother or a sister, a father or a mother, a son or a daughter’ (*Rep.*, 463c).

The ambivalent function of the *oikos*—and of the *stasis* that is inherent to it—is once again confirmed. And at this point, Loraux can conclude her analysis with a twofold invitation:

[S]*tasis*/family/city [. . .] these notions are articulated according to lines of force in which recurrence and superimposition mostly prevail over every continuous process of evolution. Hence the paradox and the ambivalence, which we have encountered many times. The historian of kinship may find here the occasion to re-examine the commonplace of an irresistible overcoming of the *oikos* by the city. As for the historian of politics, he will perhaps strengthen his conviction that ambivalence presides over the Greek reflection on the city once the *stasis* must be incorporated within it; for internal conflict must now be conceived as having actually emerged within the *phylon*, instead of having been imported from without, as a convenient solution would have it [. . .] We must attempt to think, together with the Greeks, the war within the family. Let us suppose that the city is a *phylon*; it follows that the *stasis* is its revealer. Let us make the city an *oikos*; on the horizon of the *oikeios polemos* thus looms a festival of reconciliation. And let us admit, finally, that between these two operations, the tension cannot be resolved. (Loraux 1997, 61–2)

7. Let us attempt to summarise the findings of Loraux’s essay in the form of theses:

(1) In the first place, *stasis* calls into question the commonplace that conceives Greek politics as the definitive overcoming of the *oikos* in the *polis*.

(2) In its essence, *stasis* or civil war is a ‘war within the family’, which comes from the *oikos* and not from outside. Precisely insofar as it is inherent to the family, the *stasis* acts as its revealer; it attests to its irreducible presence in the *polis*.

(3) The *oikos* is essentially ambivalent: on the one hand, it is a factor of division and conflict; on the other, it is the paradigm that enables the reconciliation of what it has divided.

What becomes immediately evident from this summary exposition is the fact that while the presence and function of the *oikos* and the *phylon* in the city are broadly examined and to a certain extent defined, it is precisely the function of the *stasis*, which constitutes the object of the investigation, which remains in the shadows. It is but a 'revealer' of the *oikos*. Reduced, in other words, to the element from which it originates and to whose presence in the city it can only attest, its own definition ultimately remains elusive. We will therefore attempt to examine Loraux's theses in this direction, by seeking to determine the 'capacity for development' that they contain, which will enable us to bring to light this unsaid.

8. Regarding the first point, I believe that my recent investigations have shown beyond doubt that the relations between the *oikos* and the *polis*, and between *zōē* and *bios*, which are at the foundation of Western politics, need to be rethought from scratch. In classical Greece, *zōē*, simple natural life, was excluded from the *polis* and remained confined to the sphere of the *oikos*. At the beginning of the *Politics*, Aristotle thus carefully distinguishes the *oikonomos* (the head of an enterprise) and the *despotēs* (the head of the family), who are concerned with the reproduction and conservation of life, from the statesman; and he sharply criticises those who maintain that the difference that separates them is one of quantity rather than one of kind. And when, in a passage that will become canonical in the Western political tradition, he defines the end of the *polis* as a perfect community, he does so precisely by opposing the simple fact of living (*to zēn*) to politically qualified life (*to eu zēn*).

This opposition between 'life' and the 'good life' is nonetheless at the same time an implication of the first in the second, of the family in the city and of *zōē* in political life. One of the aims of *Homo Sacer: Sovereign Power and Bare Life* (Agamben 1998) was precisely that of analysing the reasons for, and consequences of, this exclusion—which is at the same time an inclusion—of natural life in politics. What relations should we suppose between *zōē* and the *oikos*, on the one hand, and between the *polis* and political *bios*, on the other, if the former must be included in the latter through an exclusion? From this perspective, my investigations were perfectly consistent with Loraux's invitation to call into question the commonplace 'of an irresistible overcoming of the *oikos* on the part of the *polis*'. What is at issue is not an overcoming, but a complicated and

unresolved attempt to capture an exteriority and to expel an intimacy. But how should we understand the place and the function of civil war in this context?

9. In this light, the second and third theses in which we have summarised Loraux's research appear more problematic. According to these theses, the original place of the *stasis* is the *oikos*; civil war is a 'war within the family', an *oikeios polemos*. And an essential ambivalence inheres in the *oikos* (and in the *stasis* that is connatural to it), according to which it is simultaneously what causes the destruction of the city and the paradigm of its reunification. How can we explain this ambivalence? If the *oikos*, insofar as it contains strife and *stasis* within itself, is an element of political disintegration, how can it appear as the model of reconciliation? And why does the family irreducibly entail conflict at its centre? Why would civil war be a secret of the family and of blood, yet not a political mystery? Perhaps the location and generation of the *stasis* within the *oikos*, which Loraux's hypotheses seem to take for granted, needs to be verified and corrected.

According to its etymon, *stasis* (from *histemi*) designates the act of rising, of standing firmly upright (*stasimos* is the point in the tragedy when the chorus stands still and speaks; *stas* is the one who swears the oath while standing). Where does the *stasis* 'stand'? What is its proper place? In order to respond to these questions, it will be necessary to reconsider some of the texts that Loraux analyses in order to test her thesis regarding the family situation of civil war and to check whether they in fact consent to a different reading.

First of all, a citation from Plato's *Laws* (869c–d):

The brother [*adelphos*, the blood brother] who kills his brother in combat during a civil war [...] will be held pure [*katharos*] as if he had killed an enemy [*polemios*]; the same will happen when a citizen has killed a citizen in the same conditions, or a stranger a stranger.

Commenting on this passage, Loraux once again perceives testimony of the intimate relation between *stasis* and the family:

[I]n the outburst of civil hatred, it is the nearest of kin that one kills [...] it is the immediate family that the *stasis* dissolves by dividing it. The real family in the city, the family as metaphor of the city. (Loraux 1997, 44)

Yet what follows from the text of the law that the Athenian of the Platonic dialogue proposes is less the connection between *stasis* and *oikos* than the fact that the civil war assimilates and makes undecidable brother and enemy, inside and outside, household and city. In the *stasis*, the killing of what is most intimate is indistinguishable from the killing of what is most foreign. This means, however,

that the *stasis* does not have its place within the household, but constitutes a threshold of indifference between the *oikos* and the *polis*, between blood kinship and citizenship.

Another passage, this time from Thucydides (which Loraux cites in a footnote), confirms this new situation of the *stasis* at the border between the household and the city. Regarding the bloody civil war that had taken place in Corcira in 425, Thucydides records that the *stasis* attained such ferocity that ‘the family bond [*to syggenēs*] became more foreign than the factional bond [*tou etairikou*]’ (*Hist.*, 3, 82, 6). Loraux explains that the inverse formulation—‘the factional bond became more intimate than the family bond’—would have been more natural for expressing the same idea (Loraux 1997, 35n45). In truth, what is once again decisive is the fact that the *stasis*, through a double displacement, confuses what pertains to the *oikos* with what is particular to the *polis*, what is intimate with what is foreign. The factional bond moves into the household to the same extent to which the family bond is estranged in the faction.

It is perhaps possible to interpret in the same sense the curious device contrived by the citizens of Nakōnē. Here too the effect of the *stasis* is that of rendering the *oikos* and the *polis* indiscernible: kinship is dissolved into citizenship, while the factional bond assumes, for the ‘brothers by election’, the incongruous form of a kinship.

10. We can now attempt to respond to the question: Where does the *stasis* ‘stand’? What is the proper place of civil war? The *stasis*—this is our hypothesis—takes place neither in the *oikos* nor in the *polis*, neither in the family nor in the city; rather, it constitutes a zone of indifference between the unpolitical space of the family and the political space of the city. In transgressing this threshold, the *oikos* is politicised; conversely, the *polis* is ‘economised’, that is, it is reduced to an *oikos*. *This means that in the system of Greek politics civil war functions as a threshold of politicisation and depoliticisation, through which the house is exceeded in the city and the city is depoliticised in the family.*

In the tradition of Greek law, there is a curious document that seems to confirm beyond any doubt the situation of civil war as a threshold of politicisation/ depoliticisation that we have just proposed. Although this document is mentioned not only by Plutarch, Aulus Gellius and Cicero, but also, and with particular precision, by Aristotle (*Ath. Const.*, 8, 5), the valuation of *stasis* that it entails has appeared so disconcerting to modern historians of politics that it has often been ignored (even Loraux, who cites it in her book, does not mention it in the article). The document in question is Solon’s law, which punishes with *atimia*—

which is to say, with the loss of civil rights—the citizen who had not fought for either one of the two sides in a civil war. As Aristotle bluntly expresses it,

whoever did not join sides [*thētai ta opla*, literally ‘provide the shield’] with either party when civil strife [*stasiazousēs tēs poleōs*] prevailed was to be held in dishonour [*atimon einai*] and no longer a member of the state [*tēs poleōs mē metēchein*].

(By translating it with *capite sanxit*, Cicero—*Att.*, 10, 1, 2—correctly evokes the *capitis diminutio*, which corresponds to the Greek *atimia*.)

Not taking part in the civil war amounts to being expelled from the *polis* and confined to the *oikos*, to losing citizenship by being reduced to the unpolitical condition of a private person. Obviously this does not mean that the Greeks considered civil war to be a public good, but rather that the *stasis* functions as a reactant which reveals the political element in the extreme instance as a threshold of politicisation that determines for itself the political or unpolitical character of a certain being.

II. Christian Meier has shown how a transformation in constitutional conceptuality took place in fifth-century BCE Greece, which was accomplished through what he calls a ‘politicisation’ (*Politisierung*) of the citizenry. Where social belonging had previously been defined primarily by conditions and statuses of various kinds (nobles and members of religious communities, farmers and artisans, heads of families and relatives, inhabitants of the city and of the countryside, masters and retainers), and only secondarily by citizenship with the rights and duties that the latter implied, now citizenship as such became the political criterion of social identity. ‘In this way’, he writes,

a specifically Greek identity arose—the political identity of citizenship. The citizens were expected to act ‘as citizens’ [*bürgerlich*], that is, ‘politically’ (in the Greek sense of the word), and this expectation was now given an institutional form. Political identity was not exposed to any significant competition from group loyalties based on religion, common economic interests, the individual’s place in the work space, or the like [ . . . ] In devoting themselves to political life broad sections of the citizenry in the Greek democracies saw themselves primarily as participants in the government of the *polis*. The *polis* rested essentially on their interests in order and justice, which formed the basis of their solidarity [ . . . ] In this sense, *polis* and *politai* could continue to interact [ . . . ] Hence, for a fairly large number of citizens, politics became a consuming interest that made up much of the content of their lives [*Lebensinhalt*] [ . . . ] There was a strict separation between the *polis*, the area in which they acted jointly as citizens, and the house, between politics and the ‘realm of necessity’ (*anankaia*). (Meier 1979/1990, 204/165–6)

According to Meier, this process of politicisation of the citizenry is specifically Greek, and was bequeathed by Greece, with alterations and discontinuities of various kinds, to Western politics. From the perspective that interests us here, it is necessary to specify that the politicisation of which Meier speaks is situated in the field of tensions between *oikos* and *polis*, which are defined by the polar opposed processes of politicisation and depoliticisation. In this field of tensions, *stasis* constitutes a threshold through which domestic belonging is politicised into citizenship and, conversely, citizenship is depoliticised into family solidarity. Because these tensions are, as we have seen, contemporaneous, what becomes decisive is the threshold in which they are transformed and inverted, conjoined and disjoined.

§ Meier broadly accepts the Schmittian definition of the political as ‘the degree of intensity of an association and a disassociation’. As he suggests, however, this definition concerns less the essence of the political than political unity. In this sense, as Schmitt specifies,

political unity [ . . . ] describes the most intensive degree of unity, from which, therefore, the most intensive differentiation, grouping into friend and enemy, is decided. Political unity is the supreme unity [ . . . ] because it decides and can, within itself, prevent all other opposed groupings from disassociating to the point of extreme hostility (i.e. to the point of civil war). (Schmitt 2000, 307)

In truth, if an opposed pair of concepts defines a particular field, neither of the two can be excluded entirely without compromising its reality. As the extreme degree of disassociation, civil war is, even from the Schmittian perspective, an ineliminable part of the political system of the West.

12. Another Greek institution—which Loraux does not mention in the article, but to which she dedicates an important chapter (the sixth) of *La Cité divisée*—confirms this essential connection between *stasis* and politics: amnesty. In 403, following the civil war in Athens which concluded with the defeat of the oligarchy of the Thirty, the victorious democrats, led by Archinus, solemnly pledged ‘not in any instance to remember the past events [*ton de parelēlythotōn mēdeni pros mēdena mnēsikakein*]’ (*Ath. Const.*, 39, 6), that is, not to prosecute crimes committed during the civil war. Commenting on this decision, which coincides with the invention of amnesty, Aristotle (*Ath. Const.*, 40, 2) writes that in this way the democrats ‘behaved towards the past disasters in the most [ . . . ] statesmanlike manner [*politikōtata ( . . . ) chrēsasthai*]’. Amnesty with respect to civil war is thus the comportment most appropriate to politics. From the juridical point of view, *stasis* thus seems to be defined by two prohibitions,

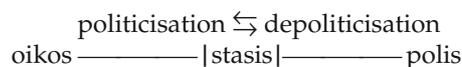
which perfectly cohere with one another: on the one hand, not participating in it is politically culpable; on the other, forgetting it once it has finished is a political duty.

The *mē mnēsikakein* formula of the amnestic oath is usually translated with ‘do not remember’ or even ‘do not be resentful, do not have bad memories’ (Loraux translates it as *je ne rappellerai pas les malheures*, ‘I will not recall the misfortunes’ [Loraux 1997/2001, 147/149]). The adjective *mnēsikakos* thus means ‘rancorous, resentful’ and refers to someone who harbours bad memories. It is doubtful, however, that the same applies for the verb *mnēsikakein*. In the cryptotype that rules the formation of compound verbs of this type in Greek, the active one is generally the second term. *Mnēsikakein* means less ‘to have bad memories’ than ‘to do harm with memory, to make bad use of memories’. In this case, it is a legal term, which refers to the fact of prosecuting someone for crimes committed during the *stasis*. The Athenian *amnēstia* is not simply a forgetting or a repression of the past; it is an exhortation not to make bad use of memory. Insofar as it constitutes a political paradigm inherent to the city, which marks the becoming-political of the unpolitical (the *oikos*) and the becoming-unpolitical of the political (the *polis*), the *stasis* is not something that can ever be forgotten or repressed; it is the unforgettable which must remain always possible in the city, yet which nonetheless must not be remembered through trials and resentments. Just the opposite, that is to say, of what civil war seems to be for the moderns: namely, something that one must seek to render impossible at every cost, yet that must always be remembered through trials and legal persecutions.

13. Let us attempt to draw some provisory conclusions from our analyses:

(1) The *stasis* does not originate in the *oikos*; it is not a ‘war within the family’, but forms part of a device that functions in a manner similar to the state of exception. Just as in the state of exception, *zōē*, natural life, is included in the juridical-political order through its exclusion, so analogously the *oikos* is politicised and included in the *polis* through the *stasis*.

(2) What is at stake in the relation between *oikos* and *polis* is the constitution of a threshold of indifference in which the political and the unpolitical, the outside and the inside coincide. We must therefore conceive politics as a field of forces whose extremes are the *oikos* and the *polis*; between them, civil war marks the threshold through which the unpolitical is politicised and the political is ‘economised’:



This means that in classical Greece, as today, there is no such thing as a political ‘substance’: politics is a field incessantly traversed by the tensional currents of politicisation and depoliticisation, the family and the city. Between these opposed polarities, disjoined and yet intimately bound together, the tension—to paraphrase Loraux’s diagnosis—is irresolvable. When the tension toward the *oikos* prevails and the city seems to want to transform itself into a family (albeit of a particular kind), then civil war functions as a threshold in which family relationships are repoliticised; when it is instead the tension toward the *polis* that prevails and the family bond appears to weaken, then the *stasis* intervenes to recodify the family relationships in political terms.

Classical Greece is perhaps the place in which this tension found for a moment an uncertain, precarious equilibrium. In the course of the subsequent political history of the West, the tendency to depoliticise the city by transforming it into a house or a family, ruled by blood relations or by merely economic operations, will alternate together with other, symmetrically opposed phases in which everything that is unpolitical must be mobilised and politicised. In accordance with the prevailing of one or the other tendency, the function, situation and form of civil war will also change. But so long as the words ‘family’ and ‘city’, ‘private’ and ‘public’, ‘economy’ and ‘politics’ maintain an albeit tenuous meaning, it is unlikely that it can ever be eliminated from the political scene of the West.

✠ The form that civil war has acquired today in world history is terrorism. If the Foucauldian diagnosis of modern politics as biopolitics is correct, and if the genealogy that traces it back to an oikonomical-theological paradigm is equally correct, then global terrorism is the form that civil war acquires when life as such becomes the stakes of politics. Precisely when the *polis* appears in the reassuring figure of an *oikos*—the ‘Common European Home’, or the world as the absolute space of global economic management—then *stasis*, which can no longer be situated in the threshold between the *oikos* and the *polis*, becomes the paradigm of every conflict and re-emerges in the form of terror. Terrorism is the ‘global civil war’ which time and again invests this or that zone of planetary space. It is no coincidence that the ‘terror’ should coincide with the moment in which life as such—the nation (which is to say, birth)—became the principle of sovereignty. The sole form in which life as such can be politicised is its unconditioned exposure to death—that is, bare life.

## Leviathan and Behemoth

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1. You have before you a photocopy of the famous engraving from the frontispiece of the first edition of Thomas Hobbes's *Leviathan*, 'printed for Andrew Crooke at the Green Dragon in St. Paul's Church-yard' in 1651. As has been rightly observed, this is 'the most famous visual image in the history of modern political philosophy' (Malcolm 1998, 124). Given that in those years emblematic literature had reached its apogee, it is reasonable to suppose that the author had intended to summarise in an image the entire content of the work (or at least its esoteric meaning)—the 'idea of the work', as is written in the engraving which Giambattista Vico chose for the frontispiece of his *Scienza Nuova*. And yet, despite experiencing a kind of acceleration in recent decades, the bibliography on this emblem par excellence of modern politics is relatively meagre. As happens every time that research is situated at the intersection of different disciplinary specialisations, the scholars who have confronted this task appear to move on a kind of *terra incognita*, whose navigation would necessitate combining the resources of iconology with those of what is arguably the most tenuous and uncertain discipline among the many taught in our universities: political philosophy. The knowledge that would be required here would be that of a science we could call *iconologia philosophica*; a science which perhaps existed between 1531 (the date of publication of Andrea Alciato's *Emblemata*) and 1627 (when Jacob Cats's *Sinne- en minnebeelden* appeared), but for which today we lack even the most elementary principles.

In my attempt to interpret the emblem, I will endeavour not to forget what it probably was in Hobbes's intentions: a door or a threshold that would lead, even if in a veiled manner, into the problematic nucleus of the book. This does not necessarily mean that I intend to advance an esoteric reading of *Leviathan*. Carl Schmitt, to whom we owe an important monograph on the book, indeed intimates on numerous occasions that *Leviathan* might be an esoteric book. '[I]t is possible', he writes,

that behind the image [of the Leviathan] is hidden a deeper, more mysterious meaning. Like all the great thinkers of his time, Hobbes had a sense for esoteric



Figure 1. Thomas Hobbes, *Leviathan*, Crooke, London 1651. Frontispiece of the First Edition.

veils. He said about himself that now and then he made ‘overtures’, but that he revealed his thoughts only in part and that he acted as people do who open a window only for a moment and close it quickly for fear of a storm. (Schmitt 1982/1996, 43–4/26)

And again in 1945, in a letter to Ernst Jünger signed with the name of Melville’s character Benito Cereno, he writes:

This is a thoroughly esoteric book [*ein durch und durch esoterisches Buch*], and its inherent esotericism increases the deeper one penetrates into it. Take it off my hands! Put it back in its place! [ . . . ] Do not dive into its *arcana*, but wait until you have been initiated into it in an appropriate form and ultimately admitted. Otherwise, you may be seized by a fit of rage, which would be bad for your health, and try to destroy something that is beyond all destruction. (Jünger and Schmitt 1999, 193)

These remarks are obviously just as esoteric as the book to which they refer, yet they still do not succeed in grasping the *arcana* which they purport to know. Every esoteric intention inevitably contains a contradiction, which marks its point of distinction with respect to mysticism and philosophy: if the concealment is something serious and is not a joke, then it must be experienced as such and the subject cannot profess to know what he or she can only be oblivious to; if, conversely, it is a joke, then in this case the esotericism is even less justified.

It is possible, moreover, that in the very frontispiece with which we are concerned Hobbes had alluded to something like an ‘esoteric veil’. Indeed, the emblem contains at its centre a kind of veil or stage curtain upon which the title of the work is inscribed and which it would be theoretically possible to lift in order to see what lies behind it. Schmitt does not fail to observe that the ‘stage curtain that hangs at the centre alludes to the fact that here many things are said, but also many hidden’ (Schmitt 1982, 151). The most proper intention of one of the main currents of the political theory of the Baroque age, beginning with Arnold Clapmar’s *De arcanis rerum publicarum libri sex* (1605) and Christoph Besold’s *Dissertatio de arcanis rerum publicarum* (1614), is precisely that which distinguishes in the structure of power one visible face and another that must remain hidden (the veritable *arcana imperii*). Nothing could be further from the intentions of Hobbes, who, as has been suggested, wanted to put political philosophy for the first time on a scientific basis (Berns 1987, 396). If we will attempt in the ensuing pages to raise this curtain, this does not mean that we intend to attribute an esoteric intention to Hobbes. Unless one wants to call esoteric a writing that relies on alert readers; readers, that is to say—as any reader worthy of the name should



Figure 2. Abraham Bosse, Frontispiece of Thomas Hobbes, *Leviathan*, 1651. Copy on parchment. British Library, Mss. Egerton, 1910.

be—capable of not allowing the particular details and modalities of the exposition to escape them.

✎ A stage curtain already existed in the theatres of the classical world. It did not fall from above, however, but was raised from below (as in the curtain today in the German style) and stored in a cavity between the stage and the orchestra. I do not know when the curtain began instead to be dropped from above, as if what had to hide the theatrical scene and separate it from reality came from heaven and not from the earth, as in the ancient theatres. Today, as you know, the stage curtain for the most part opens horizontally from the centre, like a double blind. It is unclear whether it is legitimate to attribute significance to these changes in the stage curtain's movement on the proscenium. In any case, the veil or stage curtain that in the frontispiece of *Leviathan* hides the symbolic centre of power is supported by two knots overhead and hence would fall from heaven and not from earth.

2. The question of the artist—Abraham Bosse, according to the majority of scholars—who created the image following Hobbes's instructions does not concern us here. More interesting is the existence of a manuscript copy on parchment, which Hobbes had prepared for Charles II and in which the image on the frontispiece presents some important differences—the most significant of which, to be sure, is that here the tiny men that form the Leviathan's body are turned not toward the head of the sovereign as in the book, but toward the reader, that is, toward the sovereign for whom the manuscript was intended (Fig. 2). In this sense, there is not really a contrast between the two frontispieces, because in both cases the subjects direct their gaze toward the sovereign (in one image the other is actually present). In the highest part of the emblem, where the sword and the crosier which the Leviathan holds in his hands meet, we read a citation in Latin from Job 41: 24: *Non est potestas super terram quae comparetur ei*. This comes from the last part of the book, when God, in order to silence any remonstrance on Job's part, describes to him the two terrible primordial beasts: Behemoth (in the Jewish tradition represented as a gigantic bull) and the marine monster Leviathan. The description of Leviathan insists on his terrifying force. In the Vulgate that Hobbes seems to follow:

Canst thou draw out the Leviathan with a hook, or canst thou tie his tongue with a cord? [ . . . ] / In his neck strength shall dwell, and want goeth before his face. [ . . . ] / His heart shall be as hard as a stone and as firm as a smith's anvil. / When he shall rise him up the angels shall fear and being affrighted shall purify themselves. / When a sword shall lay at him it shall not be able to hold, nor a spear, nor a breastplate, / for he shall esteem iron as straw and brass as rotten wood. [ . . . ] / He shall make the deep sea to boil like a pot and shall make it as when ointments boil. / A path shall shine after him; he shall esteem

the deep as growing old. / There is no power upon earth that can be compared with him who was made to fear no-one. / He beholdeth every high thing; he is king over all the children of pride [*Non est super terram potestas quae comparatur ei, qui factus est ut nullum timeret. / Omne sublime videt; ipse est rex super universos filios superbiae*]. (Vulgate Bible 2011, 140–5)

In chapter 28 of the book, Hobbes explicitly refers to this biblical passage, writing of having compared the great power of the sovereign, to whom pride and other passions have forced men to submit themselves,

to *Leviathan*, taking the comparison out of the two last verses of the one and fortieth of *Job*; where God having set forth the great power of *Leviathan*, calleth him King of the Proud. *There is nothing*, saith he, *on earth, to be compared to him. He is made so as not to be afraid. Hee seeth every high thing below him; and is King of all the children of pride.* (Hobbes 1996, 221)

We will return to the particular eschatological significance of these animals, both in the Jewish and in the Christian traditions.

Immediately below the Latin citation, which constitutes in some way the *impresa* of the emblem (in the emblematic tradition, in which the frontispiece is inscribed, the image is always accompanied by a motto or *impresa*), we see a gigantic figure whose torso—the sole visible part of the body—is formed by a multitude of tiny human figures, in accordance with the Hobbesian doctrine of the covenant which unites the multitude ‘in one and the same person’ (Hobbes 1996, 120). The colossus wears a crown on his head, and holds a sword, the symbol of temporal power, in his right hand, and a crosier, the symbol of spiritual (or, as Hobbes prefers to say, ‘ecclesiasticall’) power, in his left. Hans Barion has observed that the image is symmetrically inverse with respect to the medieval representations of the Church, in which the right hand holds the crosier and the left the sword.

In the foreground, in such a way as to cover the rest of the colossus’s body, a rolling landscape, scattered with villages, leads to the image of a city, in which we clearly recognise the cathedral (on the left side, corresponding to the crosier) and the fortress (on the right side, corresponding to the sword).

The lower part of the frontispiece, which a kind of ledge separates from the higher part, contains, in correspondence with each of the colossus’s arms, a sequence of tiny emblems, five per side, which refer to temporal power (a fortress, a crown, a cannon, a panoply of flags and a battle) and to ecclesiastical power (a church, a mitre, the thunderbolt of excommunication, symbols of logical syllogisms and a kind of council). Between them hangs the stage curtain with the book’s title.

3. An interpretation of the emblem must begin with the figure of the Leviathan-colossus. Scholars have so constantly focused on its significance as a symbol of the State that they have failed to pose some obvious questions concerning, for example, its position. Where is the Leviathan situated with respect to the other elements that compose the image?

In an exemplary study, Reinhard Brandt has attempted to sketch the part of the colossus's body that is hidden from view, following the proportions of the Vitruvian canon (supposing, that is to say, that the head corresponds to an eighth of the entire body) (Brandt 1982, 211–12; Fig. 3). The result is a human



Figure 3. Reinhard Brandt, design imposed on the frontispiece of Thomas Hobbes, *Leviathan*, 1651.

figure whose feet appear to float on exactly the point of the frontispiece where the name ‘Thomas Hobbes of Malmesbury’ is written. I say ‘float’ because it is unclear on what they rest, whether on land or on water. If we suppose, as seems likely, that beyond the rolling landscape is the sea, this would accord perfectly with the fact that, in the biblical tradition, whereas Behemoth is a terrestrial animal, Leviathan is a marine one, a kind of enormous fish or whale—even though it is impossible ‘to draw it out with a hook’. (John Bramhall, who suggests, in his spiteful polemic with Hobbes, that the Leviathan of the book—‘neither flesh nor fish [ . . . ] a mixture of a god and a man and a fish’—is Hobbes himself, also asserts that ‘the true literall Leviathan is the whale-fish’ [Bramhall 1977, 459].) Schmitt’s hypothesis, according to which the Behemoth–Leviathan opposition would correspond to the fundamental geopolitical opposition between land and sea, thus finds a confirmation in the frontispiece.

What is decisive, in any case, beyond the opposition between land and sea, is the surprising fact that the ‘mortal God’, ‘the Artificiall Man called Common-wealth or State’ (as Hobbes defines him in the introduction), does not dwell within the city, but outside it. His place is exterior not only with respect to the walls of the city, but also with respect to its territory, in a no-man’s-land or in the sea; in any case, not within the city. The Common-wealth—the body political—does not coincide with the physical body of the city. It is this anomalous situation that we will have to understand.

4. Another anomaly of the emblem, no less enigmatic than the preceding and in all likelihood connected with it, is the fact that the city, with the exception of some armed guards and two very special figures situated close to the cathedral with whom we will soon be concerned, is completely devoid of its inhabitants. The streets are perfectly empty, the city is uninhabited: no one lives there. One possible explanation is that the population of the city has been fully transferred to the body of the Leviathan; this, however, would imply that it is not only the sovereign who has no place in the city, but that this is the case for the people as well.

The political emblem of the frontispiece thus contains enigmas and riddles that we will seek to resolve. Why does the Leviathan not dwell in the city? And why is the city uninhabited? Before attempting to respond to these questions, it will be worthwhile examining the findings of another study that calls into question the very consistency of the Artificiall Man ‘called Common-wealth or State’.

5. In his essay on the frontispiece of *Leviathan*, Noel Malcolm has drawn attention to a passage from the ‘Answer to Davenant’s Preface to *Gondibert*’, which Hobbes wrote during the same period in which he worked on *Leviathan*. Hobbes, whose works include two treatises on optics (the *Tractatus de refractione* of 1640 and the *First Draught of the Optiques* of 1646), describes here an optical device that was apparently fashionable at that moment:

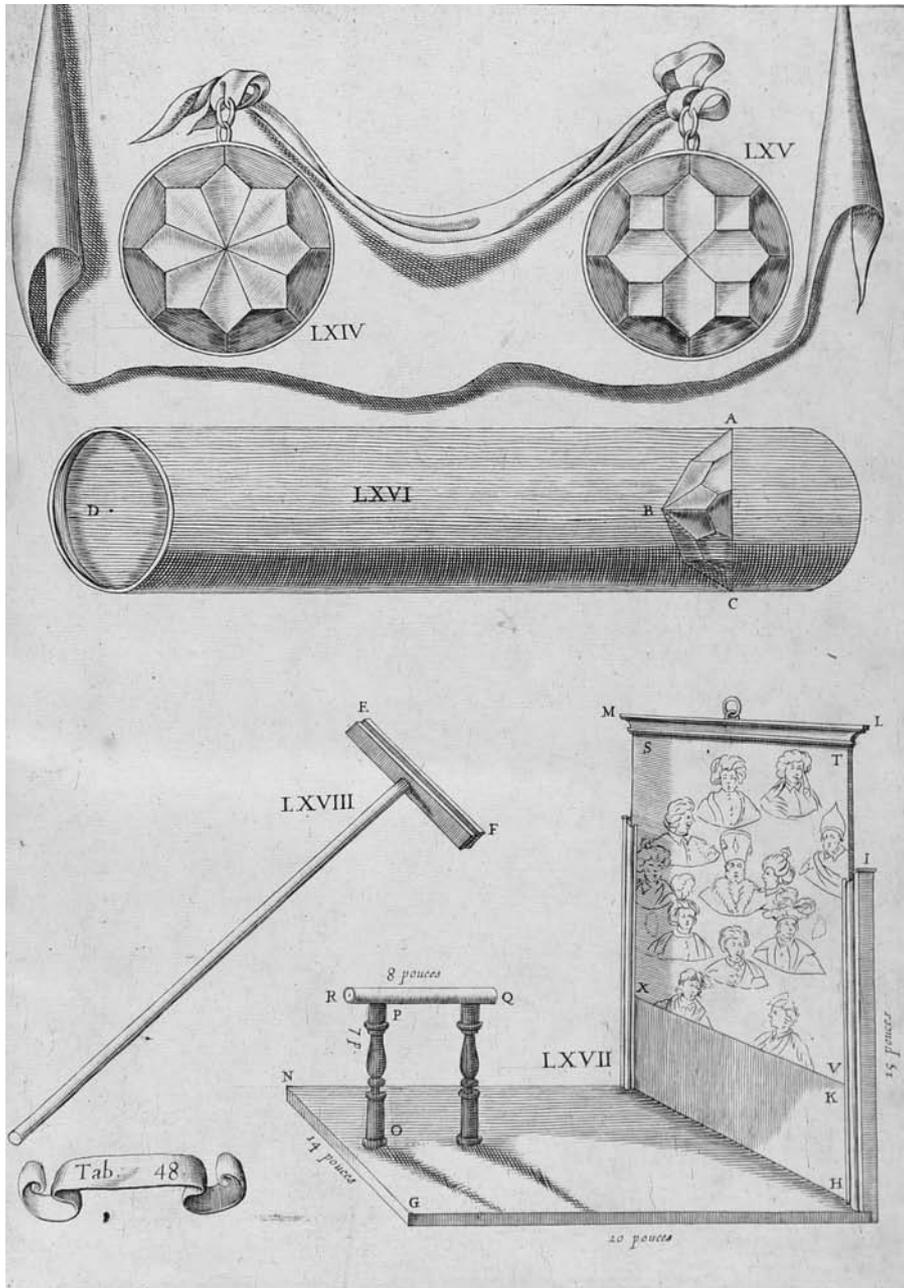
I believe (Sir) you have seene a curious kind of perspective, where, he that looks through a short hollow pipe, upon a picture conteyning diverse figures, sees none of those that are there paynted, but some one person made up of their partes, conveighed to the eye by the artificiall cutting of a glasse. (Qtd in Malcolm 1998, 125; figs 4–5)

The fact that the *Leviathan* was an artefact, comparable, as Hobbes suggests in the introduction, to ‘*Automata* (Engines that move themselves by springs and wheeles as doth a watch)’ (Hobbes 1996, 9), was perfectly well known; what Malcolm’s study suggests, however, is that what is in question here is not a mechanical contraption, but an optical device. The gigantic body of the *Leviathan* formed by innumerable tiny figures is not a reality, however artificial, but an optical illusion—‘a meer phantasme’, as Bramhall polemically defines it (Bramhall 1977, 459). And yet, in accordance with the increasing prestige that optics was acquiring in those years, the artifice is effective because it grants unity to a multiplicity.

A passage from Richard Fanshawe’s Epistle Dedicatory for his translation of Giovanni Battista Guarini’s *Pastor Fido* (1647), which Hobbes probably knew, seems to confirm that precisely a contraption of this kind might be the source of the emblem of his *Leviathan*:

Your highnesse may have seen at Paris a Picture (it is in the Cabinet of the *great Chancellor* there) so admirably design’d, that, presenting to the common beholders a multitude of little faces (the famous Ancestors of that Noble Man); at the same time, to him that looks through a *Perspective* (kept there for that purpose) there appears onely a single portrait in great of the *Chancellor* himself; the painter thereby intimating [ . . . ] by a more subtile Philosophy [ . . . ] how the *Body Politick* is composed of many *naturall ones*; and how each of these, intire in it self, and consisting of head, eyes, hands, and the like, is a head, an eye, or a hand in the other: as also, that mens *Privates* cannot be preserved, if the *Publick* be destroyed. (Qtd in Malcolm 1998, 126)

The unification of the multitude of citizens in a single person is something like a perspectival illusion; political representation is only an optical representation (but no less effective on account of this).

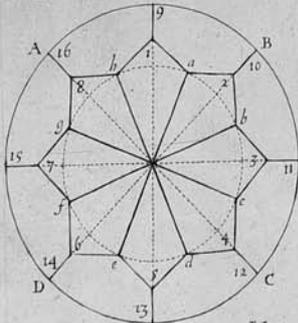


Figures 4 and (opposite) 5. Jean-François Niceron, *La Perspective curieuse, ou Magie artificielle des effets merveilleux de l'optique, par la vision directe, la catoptrique, par la réflexion des miroirs plats, cylindriques et coniques, la dioptrique, par la réfraction des cristaux*, Paris, 1638/1663, tables 48–9, via UCL Library, London.

LXIX



LXX



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LXXI



6. The enigma that the emblem poses to the reader is that of a city devoid of its inhabitants and that of a State situated outside its geographical borders. In Hobbes's political thought, what could correspond to this apparent puzzle?

It is Hobbes himself who suggests a response in his *De Cive* when, in distinguishing between 'people' (*populus*) and 'multitude' (*multitudo*), he defines one of his fundamental theorems as a 'paradox' (*paradoxum*). 'The *people*', he writes,

is something *single* [*unum quid*], which has *one will* and to whom *one* action can be attributed. None of these can be said of the multitude. The *people* reigns in every city [*Populus in omni civitate regnat*]; even in a *monarchy* the *people* commands, for the *people* wills by the will of *one man*. The citizens, that is, the subjects, are the *multitude*. In a *democracy* and an *aristocracy*, the citizens are the *multitude*; but the *council* is the *people* [*curia est populus*]. And in a *monarchy*, the subjects are the *multitude*, and (although this is a paradox [*quamquam paradoxum sit*]), the *king* is the *people* [*rex est populus*]. Common men, and others who do not notice these things, always speak of a *great number* of men, that is, of the *city* [*civitate*], as the *people*; they say that the *city* rebels against the *king* (which is impossible), and that the *people* will and nill what troublesome and murmuring subjects will and nill; under the pretext of the *people*, they rouse the *citizens* against the *city*, that is, the *multitude* against the *people*. (Hobbes 1983, 190)

Let us seek to reflect on this paradox. It simultaneously implies a caesura (*multitudo/populus*: the multitude of citizens is not the people) and an identification (*rex est populus*). The people is sovereign on the condition of dividing itself, of splitting itself into a 'multitude' and a 'people'. But how can the only real thing—the multitude of natural bodies, which so fascinated Hobbes (on 15 April 1651, after having just completed *Leviathan*, he writes: 'I return to my interrupted Speculation of Bodies Naturall' [Hobbes 1996, 491])—become one person alone? And what becomes of the multitude of natural bodies once it has been unified in the king?

✠ Pufendorf stresses the fact that the Hobbesian axiom is a paradox in his commentary:

For a people or city is something single [*unum quid*], which has one will and to which a single action can be attributed, neither of which can be said of a multitude of subjects [ . . . ] even if the statement which follows, namely, that 'the people rules in every city' [*populus in omni civitate regnat*], ends up being an empty affectation. For the people signifies either the whole city, or else the multitude of subjects. In the first sense, the statement that 'the people, that is, the city, rules in every city' is tautological; in the second sense, the statement that 'the people, that is, the citizens as distinguished from the king, rule in every city' is false. In

place of his next statement, that ‘in monarchies the people commands, for the people wills by the will of one man’, it would have been simpler to have said that in a monarchy the city is held to have willed what the monarch willed. Nor is the old paradox, ‘The king is the people’ [*Rex est populus*], to be explained in any other sense. (Pufendorf 1934, I: 673)

From the perspective of a jurist such as Pufendorf, the paradox is thus resolved by interpreting it as a *fictio iuris*. In Hobbes, on the other hand, it preserves all its crudity: the sovereign is truly the people, because he is constituted—even if by virtue of an optical illusion—by the body of the subjects.

7. The response to these questions is to be found in chapter 7 of *De Cive* where Hobbes asserts in no uncertain terms that at the very instant that the people chooses the sovereign it dissolves itself into a confused multitude. This happens not only in a monarchy, where as soon as the king has been chosen ‘the people is no longer one person, but a dissolved multitude [*populus non amplius est persona una, sed dissoluta multitudo*], since it was a person only by virtue of the sovereign power [*summi imperii*], which it has now transferred to him’ (Hobbes 1983, 7, II: 155); but even in a democracy or an aristocracy, where ‘as soon as has the council been constituted, the people simultaneously dissolves [*ea electa, populus simul dissolvitur*]’ (Hobbes 1983, 7, 9: 154).

The sense of the paradox remains incomprehensible if we do not reflect on the status of this *dissoluta multitudo*, which obliges us to rethink the Hobbesian political system from scratch. The people—the body political—exists only instantaneously at the point in which it appoints ‘one Man, or Assembly of men, to beare their Person’ (Hobbes 1996, 120); but this point coincides with its vanishing into a ‘dissolved multitude’. The body political is thus an impossible concept, which lives only in the tension between the multitude and the *populus-rex*: it is always already in the act of dissolving itself in the constitution of the sovereign; the latter, on the other hand, is only an ‘Artificiall person’ (Hobbes 1996, III), whose unity is the effect of an optical contraption or a mask.

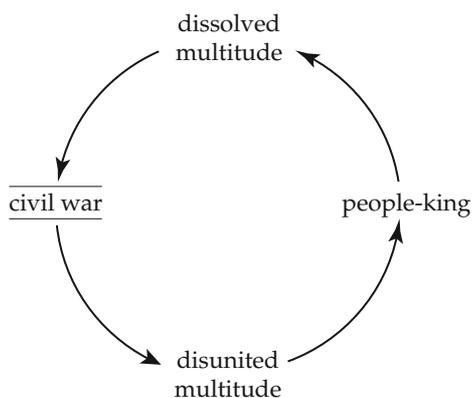
Perhaps the fundamental concept of Hobbes’s thought is that of ‘body’. His entire philosophy is a meditation *de corpore* (and this makes him a Baroque thinker, if the Baroque can be defined as the union of a body and a veil), provided that we specify, as Hobbes does in *The Elements of Law* (2, 27, 9), that the people has no body of its own: ‘that the people is a distinct body from him or them that have the sovereignty over them, is an error’ (Hobbes 1969, 174).

Hobbes does not explicitly evoke the paradox of *De Cive* in *Leviathan*, but an attentive reading of chapter 18, ‘Of the Rights of Soveraignes by Institution’, enables us to specify the paradoxical status of the multitude. Here Hobbes writes

that the members of a multitude who have obligated themselves by covenant to confer sovereign power to one person,

cannot lawfully make a new Covenant, amongst themselves, to be obedient to any other, in any thing whatsoever, without his permission. And therefore, they are subjects to a Monarch, cannot without his leave cast off Monarchy, and return to the confusion of a disunited Multitude; nor transferre their Person from him that beareth it, to another Man, or other Assembly of men. (Hobbes 1996, 122)

The apparent contradiction with the wording of *De Cive* is easily resolved if we distinguish, as Hobbes does, between the ‘disunited multitude’ that precedes the covenant and the ‘dissolved multitude’ (*dissoluta multitudo*) that follows it. The constitution of the *populus-rex* paradox is a process that issues from a multitude and returns to a multitude; but the *dissoluta multitudo* in which the people is dissolved cannot coincide with the ‘disunited multitude’ and expect to be able to name a new sovereign. The *disunited multitude–people-king–dissolved multitude* circle is broken in a point and the attempt to return to the initial state coincides with civil war.



8. We can now understand why, in the emblem, the Leviathan’s body cannot dwell in the city (but floats in a sort of non-place) and why the city is empty of inhabitants. It is a commonplace that in Hobbes the multitude has no political significance; that it is what must disappear in order for the State to be able to exist. Yet if our reading of the paradox is correct—if the people, which has been constituted by a disunited multitude, dissolves itself again into a multitude—then the latter not only pre-exists the people-king, but (as a *dissoluta multitudo*) continues to exist after it. What disappears is instead the people, which is transposed into the figure of the sovereign and which thus ‘rules in every city’, yet without being able to live in it. The multitude has no political significance;

it is the unpolitical element upon whose exclusion the city is founded. And yet, in the city, there is only the multitude, since the people has always already vanished into the sovereign. As a ‘dissolved multitude’, it is nonetheless literally unrepresentable—or rather, it can be represented only indirectly, as happens in the emblem of the frontispiece.

We have evoked the curious presence, in the empty city, of the armed guards and of the two characters whose identity it is now time to reveal. Francesca Falk has drawn attention to the fact that the two figures standing near the cathedral are wearing the characteristic beaked mask of plague doctors. Horst Bredekamp had spotted the detail, but had not drawn any conclusions from it; Falk instead rightly stresses the political (or biopolitical) significance that the doctors acquired during an epidemic. Their presence in the emblem recalls ‘the selection and the exclusion, and the connection between epidemic, health and sovereignty’ (Falk 2011, 73). Like the mass of plague victims, the unrepresentable multitude can be represented only through the guards who monitor its obedience and the doctors who treat it. It dwells in the city, but only as the object of the duties and concerns of those who exercise the sovereignty.

This is what Hobbes clearly affirms in chapter 13 of *De Cive* (and in chapter 30 of *Leviathan*), when, after having recalled that ‘all the duties of those who rule are comprised in this single maxim, “the safety of the people is the supreme law” [*Salus populi suprema lex*]’, he felt the need to specify that ‘by people we do not understand here a civil person, nor the city itself that governs, but the multitude of citizens who are governed [*multitudo civium qui reguntur*]’, and that by ‘safety’ we should understand not only ‘the simple preservation of life, but (to the extent that is possible) that of a happy life’ (Hobbes 1983, 13, 2–5: 195–6). While perfectly illustrating the paradoxical status of the Hobbesian multitude, the emblem of the frontispiece is also a courier that announces the biopolitical turn that sovereign power was preparing to make.

But there is another reason for the inclusion of the plague doctors in the frontispiece. In his translation of Thucydides, Hobbes had come across a passage in which the plague of Athens was defined as the origin of *anomia* (which he translates with ‘licentiousness’) and *metabolē* (which he renders with ‘revolution’):

And the great licentiousness [*anomia*], which also in other kinds was used in the city, began at first from this disease. For that which a man before would dissemble, and not acknowledge to be done for voluptuousness, he durst now do freely: seeing before his eyes with such quick revolution, of the rich dying, and men worth nothing inheriting their estates. (Hobbes 1843, 208)

Hence the notion that the *dissoluta multitudo*, which inhabits the city under the Leviathan's dominion, may be compared to the mass of plague victims, who must be treated and governed. That the condition of the subjects of the Leviathan may be somehow comparable to that of the sick, is implied, moreover, in a passage from chapter 38 of *Leviathan*, in which Hobbes, glossing Isaiah 33: 24, writes that in the Kingdom of God the condition of the inhabitants is not being sick ('The condition of the Saved, *The Inhabitant shal not say: I am sick*' [Hobbes 1996, 317])—almost as if, by contrast, the life of the multitude in the profane kingdom were necessarily exposed to the plague of dissolution.

9. In Hobbes's thought, the intimate contradiction that marks what is arguably the fundamental concept of the Western political tradition—the concept of people—attains awareness. It has been observed that in the political-philosophical vocabulary of the West the same terms that designate the people as a politically qualified body also refer to a diametrically opposed reality, that is, to the people as a politically unqualified multitude (Koselleck 1992, 145). The concept 'people' thus contains an internal split, which, by always already dividing it into people and multitude, *dēmos* and *plēthos*, population and people, *popolo grasso* and *popolo minuto*, prevents it from being entirely present as a whole. Thus, from the perspective of constitutional law, on the one hand, the people must already in itself be defined by a conscious homogeneity, regardless of what kind (whether ethnic, religious, economic and so on), and hence is always already present to itself; on the other hand, as a political unity it can be present only through those who represent it. Even if we concede, as has happened at least since the French Revolution, that the people is the bearer of constituent power, to the extent that it is the bearer of this power it must find itself outside all juridical-constitutional normativity. This is why Sièyes could write that '*on doit concevoir les nations sur la terre comme des individus hors du lien social ou, comme on l'a dit, dans l'état de nature*' (we must conceive the nations of the world as individuals outside the social bond or, as has been said, in the state of nature), and that a nation '*ne doit ni peut s'astreindre à des formes constitutionnelles*' (neither should nor can subject itself to constitutional forms); nonetheless, for the same reason, it needs representatives (Sièyes 1970, 183).

*The people, that is to say, is the absolutely present which, as such, can never be present and thus can only be represented.* If we call 'ademia' (from *dēmos*, the Greek term for people) the absence of a people, then the Hobbesian State—like every State—lives in a condition of perennial ademia.

✠ Hobbes was perfectly aware of the dangerous and constitutive ambiguity of the term *people*, to the extent that it always already contains the multitude within itself. In *The Elements of Law*, he thus writes that

[t]he controversies that arise concerning the right of the people, proceed from the equivocation of the word. For the word *people* hath a double signification. In one sense it signifieth only a number of men, distinguished by the place of their habitation; as the people of England or the people of France; which is no more but the multitude of those particular persons that inhabit those regions, without consideration of any contracts or covenants amongst them, by which any one of them is obliged to the rest. In another sense, it signifieth a person civil, that is to say, either one man, or one council, in the will whereof is included and involved the will of everyone in particular [ . . . ] [W]hereupon they that do not distinguish between these two significations, do usually attribute such rights to a dissolved multitude, as belong only to the people virtually contained in the body of the commonwealth or sovereignty. (Hobbes 1969, 124–5)

Hobbes therefore already clearly knows that distinction between population and people, which Foucault will place at the origin of modern biopolitics.

10. If the dissolved multitude—and not the people—is the sole human presence in the city, and if the multitude is the subject of civil war, this means that civil war remains always possible within the State. Hobbes concedes as much without any reticence in chapter 29 of *Leviathan*, which treats ‘Of those things that Weaken, or tend to the DISSOLUTION of a Common-wealth’. ‘Lastly,’ he writes at the conclusion of the chapter,

when in a warre (forraign, or intestine,) the enemies get a finall Victory; so as (the forces of the Common-wealth keeping the field no longer) there is no farther protection of Subjects in their loyalty; then is the Common-wealth DISSOLVED, and every man at liberty to protect himselfe by such courses as his own discretion shall suggest unto him. (Hobbes 1996, 230)

This implies that so long as the civil war is in course and the fate of the struggle between the multitude and the sovereign has not been decided, there is no dissolution of the State. Civil war and Common-wealth, Behemoth and Leviathan coexist—just as the dissolved multitude coexists with the sovereign. Only when the internecine war concludes with the victory of the multitude will there be a return from the Common-wealth to the state of nature and from the dissolved multitude to the disunited multitude.

This means that civil war, Common-wealth and state of nature do not coincide, but are conjoined in a complicated relation. The state of nature, as Hobbes

explains in the preface to *De Cive*, is what appears when one considers the city as if it were dissolved (*civitas* [ . . . ] *tanquam dissoluta consideretur* [ . . . ] *ut qualis sit natura humana* [ . . . ] *recte intelligatur*) (Hobbes 1983, 79–80), which is to say, from the perspective of civil war. In other words, the state of nature is a mythological projection into the past of civil war; conversely, civil war is a projection of the state of nature into the city: it is what appears when one considers the city from the perspective of the state of nature.

11. The moment has now come to reflect on Hobbes's choice of the term *Leviathan* as the title of his book, a choice whose reasons no one has succeeded in explaining in a satisfying manner. Why did Hobbes call the Commonwealth whose theory he sought to provide by the name of a monster that, at least within the Christian tradition, had acquired demonic connotations? It has been suggested that, by referring solely to the Book of Job, Hobbes was not fully aware of these strongly negative significations and had thus naively employed an image that his adversaries would then have the good fortune to turn against him (Farneti 2002, 178–9). To attribute ignorance to an author—and all the more so when the author in question is Hobbes, whose theological expertise is beyond any doubt—is methodologically even less advisable than attributing an anachronistic competence to them. Testimony that Hobbes was conscious of the negative implications of his title can be found, moreover, in the fact that, after having evoked the term *Leviathan* in chapter 17—‘This is the generation of that great LEVIATHAN’—he immediately adds: ‘or rather (to speak more reverently)’ (Hobbes 1996, 120; in the Latin edition: *ut dignius loquar*). Furthermore, in the autobiographical poem composed in 1679, he writes: ‘The Book [ . . . ] / Known by its dreadful Name, LEVIATHAN’ (Hobbes 1680, 10). This led Schmitt to suggest that the choice of the image of the *Leviathan* had been a product of ‘the English sense of humour’, but that Hobbes had had to pay dearly for his imprudent evocation of a mythic force:

Whoever utilises such images, easily glides into the role of a magician who summons forces that cannot be matched by his arm, his eye, or any other measure of his human ability. He runs the risk that instead of encountering an ally he will meet a heartless demon who will deliver him into the hands of his enemies. [ . . . ] The traditional Jewish interpretation hit back at the *Leviathan* of Hobbes. (Schmitt 1982/1996, 124/82)

12. The tradition that leads to the demonic interpretation of the biblical *Leviathan* and to the iconographic association between the *Leviathan* and the Antichrist has been reconstructed by Jessie Poesch (Poesch 1970) and Marco Bertozzi

(Bertozzi 1983), who stress the importance, in this perspective, of Adso's Letter on the Antichrist and Gregory the Great's *Moralia*, where both Behemoth and Leviathan are associated with the Antichrist and the beasts of Revelation (Rev. 13). But already earlier Jerome, in his homily on Psalm 103 (104), writes that 'the Jews say that God has made a mighty dragon called Leviathan which lives in the sea', and adds immediately thereafter: 'this is the dragon that was cast out of Paradise, beguiled Eve, and is permitted in this world to make sport of us' (Jerome 1965, 228). This simultaneously Satanic and Antichristic interpretation of the Leviathan finds its iconographic crystallisation in the *Liber Floridus*, an encyclopaedic compilation assembled around 1120 by the monk Lambert of St Omer. The analogy between the image of the Antichrist seated on the Leviathan and that of the sovereign in Hobbes's frontispiece is so striking that it is legitimate to suppose that Abraham Bosse and perhaps even Hobbes himself knew the miniature. The Antichrist, with a royal crown on his head, holds a lance in his right hand (just as Hobbes's Leviathan holds a sword), while the left hand performs the gesture of benediction (which corresponds in some way as a symbol of spiritual power to the crosier of the frontispiece). His feet touch the spine of the Leviathan, represented as a long-tailed dragon partially submerged in water. The inscription above stresses the eschatological significance of both the Antichrist and the monster: *Antichristus sedens super Leviathan serpentum diabolum signantem, bestiam crudelem in fine* (Fig. 6).

13. In the passage that we have just cited, Schmitt evokes the 'traditional Jewish interpretation' of the Leviathan. He clarifies this allusion in the course of his study. According to the Jewish-Kabbalistic interpretation, he writes, the Leviathan represents

the 'cattle upon a thousand hills' (Ps. 50: 10), namely, the pagan nations. World history appears as a battle of the pagan nations with one another. In particular, the Leviathan, the maritime powers, fighting against the land powers, the Behemoth [ . . . ] But the Jews stand by and watch as the nations of the world kill one another; this mutual 'slaughter and massacre' is for them legal and 'kosher'. They therefore eat the flesh of the slaughtered nations and live off it. (Schmitt 1982/1996, 17–18/8–9)

This is clearly an anti-Semitic falsification of a traditional Talmudic (and not Kabbalistic!) tradition regarding the Leviathan, which Schmitt distorts intentionally. According to this tradition, which we find in numerous passages of the Talmud and the Midrash, the two primordial monsters, Leviathan and Behemoth, will fight one another in the days of the Messiah and both will perish in



Figure 6. Lambert of St Omer, *Liber Floridus*, 1120, Image of the Antichrist seated on the Leviathan, Ghent University.

the struggle. Then the righteous will prepare a messianic banquet, in the course of which they will eat the flesh of the two beasts. It is likely that Schmitt knew this eschatological tradition, to which he refers in a much later article, evoking the ‘Kabbalistic expectancy of the messianic banquet, in which the righteous will feed on the flesh of the dead Leviathan’ (Schmitt 1982, 142).

14. Whether or not Hobbes knew this Talmudic tradition, it is certain that the eschatological perspective was perfectly familiar to him. Moreover, it was already implicit in the Christian tradition, where the Leviathan was associated with the Antichrist, whom the Church Fathers, beginning with Irenaeus, had identified with the ‘man of *anomia*’ from the celebrated eschatological excursus

of Paul's Second Letter to the Thessalonians (2 Thess. 2: 1–12). The miniature from the *Liber Floridus* is only the figurative representation of this convergence between the Leviathan and the Antichrist, between the primordial monster and the end of time. But an eschatological theme traverses the entire third part of *Leviathan*, which, under the heading 'Of a Christian Common-wealth', contains a veritable treatise on the Kingdom of God, a treatise so embarrassing for Hobbes's modern readers that they have often simply repressed it.

Against the prevailing doctrine, which tended to interpret the New Testament concept of the *Basileia theou* in a metaphorical direction, Hobbes forcefully asserts that in both the Old and the New Testament the Kingdom of God signifies a real political Kingdom, which (having been interrupted in Israel since the election of Saul) Christ will restore at the end of time:

The Kingdome therefore of God, is a reall, not a metaphoricall Kingdome; and so taken, not onely in the Old Testament, but the New; when we say, *For thine is the Kingdome, the Power, and Glory*, it is to be understood of Gods Kingdome, by force of our Covenant, not by the Right of Gods Power; for such a Kingdome God alwaies hath; so that it were superfluous to say in our prayer, *The Kingdome come*, unless it be meant of the Restauration of that Kingdome of God by Christ, which by revolt of the Israelites had been interrupted in the election of Saul. Nor had it been proper to say, *The Kingdome of Heaven is at hand*; or to pray, *Thy Kingdome come*, if it had still continued. (Hobbes 1996, 283–4)

That what is at issue here is a fully political concept and that eschatology in Hobbes has a concrete political significance is reaffirmed in chapter 38:

Lastly, seeing it hath already been proved out of divers evident places of Scripture, in the 35. Chapter of this book, that the Kingdom of God is a Civil Common-wealth, where God himself is Sovereign, by vertue first of the *Old*, and since of the *New* Covenant, wherein he reigneth by his Vicar, or Lieutenant; the same places do therefore also prove, that after the comming again of our Saviour in his Majesty, and glory, to reign actually, and Eternally; the Kingdom of God is to be on Earth. (Hobbes 1996, 311)

Naturally, the Kingdom of God on Earth will be realised, according to Hobbes, as according to Paul and the Scriptures, only at the moment of the second coming of Christ. Until then, the analyses of the preceding books of *Leviathan* remain valid. Nonetheless, it is impossible to read Hobbes's theory of the State as if the third part of the book, which contains the principles of what he calls 'Christian Politiques' (Hobbes 1996, 414), had not been written. Bernard Willms's assertion according to

which ‘political theology is the *shibboleth* of Hobbes-*Forschung*’ (Willms 1970, 31), must be further specified in the sense that political theology appears in Hobbes in a decidedly eschatological perspective.

In *Leviathan*, as has been correctly observed, Hobbes not only reduced Christian theology to prophecy and eschatology, but ‘prophetic authority has been projected into an eschatological future’. In this way, ‘his politics have taken on a messianic dimension, just as the messianism they entail is almost brutally political’ (Pocock 1989, 173–4). Indeed, what defines Hobbes’s theory is the fact that while the Kingdom of God and the profane Kingdom (the Leviathan) are perfectly autonomous, from the eschatological perspective they are somehow coordinated, since both take place on earth and the Leviathan will necessarily disappear when the Kingdom of God is realised politically in the world. The Kingdom of God—to adopt the title of one of Campanella’s treatises, which Hobbes could have known—is a veritable *Monarchia Messiae*: simultaneously the paradigm and the terminus of the profane monarchy.

15. It is in this eschatological perspective that the enigmas of the frontispiece can find their solution. If we look again at the image of the Leviathan, we observe that the tiny bodies that constitute the body of the colossus are curiously absent from his head, which contrasts with the ancient and modern iconographic parallels that Horst Bredekamp has proposed in his investigation of the frontispiece (Bredekamp 2003), where the tiny figures are concentrated precisely in the head.

This seems to imply that the Leviathan is literally the ‘head’ of a body political that is formed by the people of the subjects, which, as we have seen, has no body of its own, but exists only in the body of the sovereign. But this image derives directly from the Pauline conception, present in many passages of the Letters, according to which Christ is the head (*kephalē*) of the *ekklēsia*, that is, of the assembly of the faithful: ‘He [Christ] is the head of the body of the assembly [*hē kephalē tou sōmatos tēs ekklēsias*]’ (Col. 1: 18); ‘Christ is the head from which the whole body, conjoined together and united through every articulation according to the operation of every limb, receives growth and edification’ (Eph. 4: 15–16); ‘The husband is head of the wife just as Christ is the head of the assembly, the body of which he is the saviour’ (Eph. 5: 23); and, finally, Rom. 12: 5, where the image of the head is missing, but where it is said of the multitude of members of the community that ‘we, who are many, are one body in Christ, and individually we are parts of one another’.

If our hypothesis is correct, the image from the frontispiece presents the relation between the Leviathan and the subjects as the profane counterpart of the

relation between Christ and the *ekklēsia*. Yet this ‘cephalic’ image of the relation between Christ and the Church cannot be separated from the thesis of Pauline eschatology, according to which, at the end of time, when ‘the Son himself will also be subjected to the one who put all things in subjection under him’, God ‘will be all in all [*panta en pasin*]’ (1 Cor. 15: 28). This apparently pantheistic thesis acquires its properly political sense if we read it together with the cephalic conception of the relationship between Christ and the *ekklēsia*. In the current state, Christ is the head of the body of the assembly; however, at the end of time, in the Kingdom of Heaven, there will no longer be any distinction between the head and the body, because God will be all in all.

If we take seriously the Hobbesian assertion according to which the Kingdom of God should be understood not metaphorically but literally, this means that at the end of time the cephalic fiction of the Leviathan could be erased and the people discover its own body. The caesura that divides the body political—a body visible only in the optical fiction of the Leviathan, but in fact unreal—and the real, yet politically invisible multitude, will be bridged at the end in the perfect Church. But this also means that until then no real unity, no political body is actually possible: the body political can only dissolve itself into a multitude and the Leviathan can only live together up until the end with Behemoth—with the possibility of civil war.

✠ It is curious that in the Gospel the multitude that surrounds Jesus is never presented as a political entity (a people), but always in the terms of a crowd or a ‘mob’. In the New Testament, we thus find three terms for ‘people’: *plēthos* (in Latin, *multitudo*) 31 times; *ochlos* (in Latin, *turba*) 131 times; and *laos* (in Latin, *plebs*) 142 times (in the subsequent vocabulary of the Church, the latter will become a veritable technical term: the people of God as *plebs Dei*). What is missing is the term with political value—*dēmos* (*populus*)—almost as if the messianic event had always already transformed the people into a *multitudo* or a formless mass. In an analogous manner, the constitution of the *mortalis Deus* in Hobbes’s city results in the simultaneous dissolution of the body political into a multitude. Hobbes’s political-theological thesis according to which until the second coming of Christ there can be no Kingdom of God on earth equivalent to a political Common-wealth, implies that until then the Church exists only potentially (‘the elect, who so long as they are in this world are only potentially a *Church*, which will not be in actuality until they are separated from the reprobate and gathered together on the day of judgement’ [Hobbes 1983, 17, 22: 268]).

16. It is time to examine the New Testament text in which tradition has unanimously viewed the description of the eschatological conflict which immediately precedes the establishment of the Kingdom of God and without which

an understanding of Hobbes's political thought would be incomplete: Paul's Second Letter to the Thessalonians. In this Letter, Paul, speaking to the Thessalonians of the Parousia of the Lord, describes the eschatological drama as a battle that sees on the one side the Messiah, and on the other the two characters whom he calls 'the man of lawlessness' (*ho anthrōpos tēs anomias*) and 'the one who restrains' (*ho katechōn*):

Let no one deceive you in any way; for that day will not come unless the apostasy comes first and the man of lawlessness [*ho anthrōpos tēs anomias*], the son of destruction, will have been revealed, the one who opposes and exalts himself above every so-called god or object of worship, so that he takes his seat in the temple of God, declaring himself to be God. Do you not remember that I told you these things when I was still with you? And you know what is now restraining him, so that he may be revealed when his time comes. For the mystery of lawlessness [*mystērion tēs anomias*, which the Vulgate translates as *Mysterium iniquitatis*] is already at work, but only until the one who now restrains it is removed. And then the lawless one [*anomos*] will be revealed, whom the Lord Jesus will destroy with the breath of his mouth. (2 Thess. 2: 3–8)

When the Church had not yet closed its eschatological bureau, the identification of the two characters in question—'the one who restrains' and 'the man of lawlessness'—had especially stimulated the hermeneutic acumen of the Church Fathers, from Irenaeus to Jerome and from Hippolytus to Tyconius and Augustine. While the second was unanimously identified with the Antichrist of the First Letter of John (1 John 2: 18), the first, following a tradition that Augustine treats extensively in *De Civitate Dei*, was identified with the Roman Empire. It is to this tradition that Schmitt, who sees in the doctrine of the *katechōn* the sole possibility of conceiving history from a Christian perspective, refers: 'The belief that a restrainer holds back the end of the world', he writes, 'provides the only bridge between the notion of an eschatological paralysis of all human action and a great historical power like that of the Christian empire of the Germanic kings' (Schmitt 1973/2006, 29/60). And it is in this 'katechontic' tradition that he locates Hobbes's theory of the State.

17. It is thus beyond doubt that in calling the Common-wealth by a name—Leviathan—which was at that time still a synonym for the Antichrist, Hobbes was conscious of situating his conception of the State in a decidedly eschatological perspective (the allusion, in the passage from *De Cive* cited just above, to a separation of the good from the reprobate in the Church, contains an implicit reference to the Second Letter to the Thessalonians). And precisely here

the Schmittian interpretation of the Leviathan shows its insufficiency. It is no coincidence that in *Leviathan*, where we encounter more than fifty citations from the Pauline corpus, Hobbes never directly mentions the Second Letter to the Thessalonians. In Hobbes's 'Christian Politiques' the State cannot in any way have the function of a power that restrains and holds back the end of time, and indeed is never presented in this perspective; on the contrary, as in the scriptural tradition that Hobbes perhaps ironically reclaims against a Church which seems to have forgotten it, the end of time can take place at any instant and the State not only does not act as a *katechōn*, but in fact coincides with the very eschatological beast which must be annihilated at the end of time.

Schmitt's thesis according to which political concepts are secularised theological concepts is well known. This thesis must be further specified in the sense that what are secularised, today, are essentially eschatological concepts (consider the centrality of the concept of 'crisis', that is, of the fundamental terminus of Christian eschatology, the final judgement [Koselleck 2006]). In this sense, contemporary politics is founded on a secularisation of eschatology. Nothing could be more foreign to Hobbes's thought, which allows eschatology its concreteness and its particular position. It is not the confusion of the eschatological with the political that defines Hobbes's politics, but a singular relation between two autonomous powers. The kingdom of the Leviathan and the kingdom of God are two politically autonomous realities, which must never be confused; yet they are eschatologically connected, in the sense that the first will necessarily have to disappear when the second is realised.

Hobbes's eschatology here exhibits a curious affinity with what Walter Benjamin articulates in the 'Theologisch-politisches Fragment'. For Benjamin, too, the kingdom of God makes sense only as the *eschaton* and not as an historical element ('From the standpoint of history, it is not the goal but the terminus' [Benjamin 2002, 305]). And for Benjamin, too, the sphere of profane politics is wholly autonomous with respect to it. Nonetheless, neither for Benjamin nor for Hobbes, does profane politics have, with respect to the Kingdom, any 'katechontic' function: far from holding back its advent, it is, to the contrary, Benjamin writes, 'a category of its most unobtrusive approach' (Benjamin 2002, 305).

By its nature, the Leviathan-State, which must ensure the 'safety' and 'contentments of life' of its subjects, is also what precipitates the end of time. The alternative that John Barclay articulated in his novel *Argenis* as the justification of absolutism ('Either give the people back their freedom or assure the domestic tranquility' [Koselleck 1988, 18]) necessarily remains unresolved. Hobbes knew the passage from the First Letter to the Thessalonians (1 Thess. 5: 3; the Letter is

cited in chapter 44 of *Leviathan* [see Hobbes 1996, 427]), in which ‘peace and security’ (*eirēnē kai asphaleia*) coincide with the catastrophic advent of the day of the Lord (‘When they say, “There is peace and security,” then destruction will come upon them’). This is why Behemoth is inseparable from Leviathan and why, according to the Talmudic tradition that Schmitt evokes, at the end of time ‘Behemoth will, with its horns, pull Leviathan down and rend it, and Leviathan will, with its fins, pull Behemoth down and pierce it through’. Only at this point may the righteous be seated at their messianic banquet, freed forever from the bonds of the law:

The Sages said: And is this a valid method of slaughter? Have we not learnt this in a Mishnah: ‘All may slaughter, and one may slaughter at all times, and with any instrument except with a scythe, or with a saw, or with teeth, because they cause pain as if by choking, or with a nail’? R. Abin b. Kahana said: The Holy One, blessed be He, said: ‘*A new Torah shall go forth from Me*’. (Leviticus Rabbah 1961, 13, 3: 167; cf. Strack and Billerbeck 1928, 1163; Drewer 1981, 152)

It is perhaps owing to an irony of fate that *Leviathan*—this text so densely and maybe ironically eschatological—has become one of the paradigms of the modern theory of the State. But it is certain that the political philosophy of modernity will not be able to emerge out of its contradictions except by becoming aware of its theological roots.

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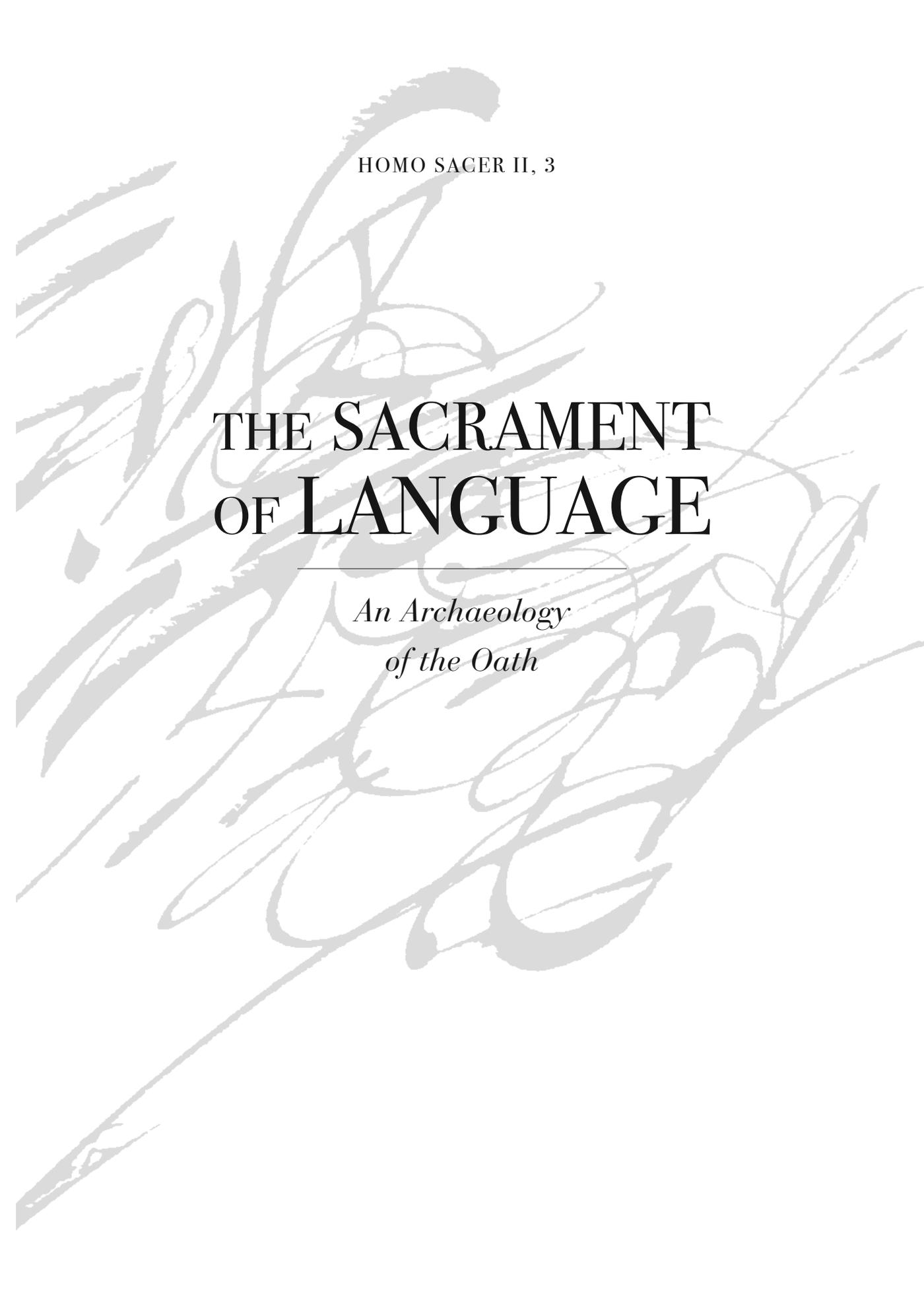
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HOMO SACER II, 3

THE SACRAMENT  
OF LANGUAGE

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*An Archaeology  
of the Oath*

TRANSLATED BY DANIEL ADAM KOTSKO

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Von diesen Vorgängen meldet kein Zeuge; sie zu verstehen bietet unser  
eignes Bewusstsein keinen Anhalt. Nur eine Urkunde ist uns von ihnen  
geblieben, so schweigsam dem unkundigen, wie beredt dem kundigen: die  
Sprache.

(No witness reports these events; our own consciousness offers no grounds to  
understand them. Only one document is left to us by them, as silent to the  
ignorant as it is eloquent to the experienced: language.)

—Hermann Usener

Der Schematismus der Verstandesbegriffe ist . . . ein Augenblick in welchem  
Metaphysik und Physik beide Ufer zugleich berühren *Styx interfusa*.

(The schematism of the concepts of the intellect . . . is an instant in which the  
shores of metaphysics and physics make contact *Styx interfusa*.)

—Immanuel Kant

## Translator's Note

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Existing English translations have been used wherever possible, though sometimes altered to reflect the translation provided by the author; citations of modern texts where a translation is available have the original page numbers followed by the English edition cited, while premodern texts are cited according to standard textual divisions. All biblical quotations are taken from the New Revised Standard Version. All other translations are my own, carried out in consultation with the author's translations.

# Abbreviations

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<i>Aen.</i>	<i>Aeneid</i> (Virgil)
<i>Ann.</i>	<i>Annales</i> (Tacitus)
<i>Apol.</i>	<i>Apologeticus</i> (Tertullian)
<i>Cra.</i>	<i>Cratylus</i> (Plato)
<i>Mens.</i>	<i>De mensibus</i> (Lydus)
<i>Il.</i>	<i>The Iliad</i> (Homer)
<i>Inst.</i>	<i>Institutiones</i> (Gaius)
<i>Metaph.</i>	<i>Metaphysics</i> (Aristotle)
<i>Od.</i>	<i>The Odyssey</i> (Homer)
<i>PL</i>	<i>Patrologia Latina</i> (J.-P. Migne, ed.)
<i>Pyth.</i>	<i>Pythian Odes</i> (Pindar)
<i>Rep.</i>	<i>Republic</i> (Plato)
<i>Theog.</i>	<i>Theogonia</i> (Hesiod)
<i>Tib.</i>	<i>Life of Tiberius</i> (Suetonius)
<i>Verr.</i>	<i>The First Oration Against Verres</i> (Cicero)

# The Sacrament of Language

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**1.** In 1992 Paolo Prodi's book *Il sacramento del potere* (The Sacrament of Power) forcefully called attention to the decisive importance of the oath in the political history of the West. Situated at the intersection of religion and politics, the oath not only testifies to that "dual belonging" (Prodi, 522) that defines, according to the author, the specificity and vitality of Western Christian culture. It is also, in fact—and this is the diagnosis from which his book begins—the "basis of the political pact in the history of the West" (ibid., 11). As such, it is possible to find the oath in an eminent role every time this pact enters into crisis or turns to renew itself in diverse forms, from the beginning of Christianity to the War of Investiture, from the "commune" ("sworn association") of the late Middle Ages to the formation of the modern State. In keeping with its central function, the irreversible decline of the oath in our time can only correspond, according to Prodi, to a "crisis in which the very being of man as a political animal is at stake" (ibid.). If we are today "the first generations who, notwithstanding the presence of some forms and liturgies from the past . . . , live our own collective life without the oath as a solemn and total, sacredly anchored bond to a political body," this means, then, that we find ourselves, without being conscious of it, on the threshold of "a new form of political association" (ibid.), whose reality and meaning we have yet to recognize.

As is implicit in its subtitle, *Il giuramento politico nella storia costituzionale dell'Occidente* (The Political Oath in the Constitutional History of the West), Prodi's book is a historical study, and, as must happen in such studies, the author does not pose for himself the problem of what he defines as the "a-historical and immobile nucleus of the oath-event" (ibid., 22). The definition "from the anthropological point of view," which is summarily indicated in the introduction, thus repeats certain commonplaces drawn from the investigations of historians of law, historians of religion, and linguists. As often happens when a phenomenon or institution is positioned at the crossroads of diverse territories and disciplines, none of them can lay claim to it entirely on their own, and the attempt

at synthesis, which gestures toward its complexity, origin, and overall relevance, falters before the often imposing mass of particular studies. Since, however, an eclectic compendium of the results of individual disciplines does not seem scientifically reliable and the model of a “general science of man” has been out of favor for some time now, the present study proposes to undertake not an investigation into the oath’s origin but rather a philosophical archaeology of the oath.

Bringing together the stakes of a historical investigation like Prodi’s—which, like every true historical study, cannot fail to call the present into question—and the results of research into linguistics, the history of law, and religion, the issue here, above all, is the question, What is an oath? What is at stake in it, if it defines and calls into question man himself as a political animal? If the oath is the sacrament of political power, what is it in its structure and its history that has made it possible for it to be invested with such a function? What anthropological level—a decisive one in every sense—is implicated in it, so that all of man, in life and death, can be called to account in it and by it?

2. The essential function of the oath in the political constitution is clearly expressed in the passage from Lycurgus’s *Against Leocrates* that Prodi uses as an epigraph: “The power that holds together [*to synechon*] our democracy is the oath” (Lycurgus, 79). Prodi could have cited another passage, from the Neoplatonic philosopher Hierocles, who, at the twilight of Hellenism, seems to confirm this centrality of the oath by making it the principle that completes the Law: “We have previously shown that the law [*nomos*] is the always uniform operation by means of which God eternally and immutably leads everything to existence. Now we call oath [*horkos*] that which, following this law, conserves [*diatērousan*] all things in the same state and renders them stable in such a way that, as they are held in the guarantee of the oath and maintain the order of the law, the immutable stability of the order of creation is the completion of the creating law” (Hirzel, 74; see also Aujoulat, 109–10).

It is necessary to pay attention to the words that express the function of the oath in the two passages. In both Lycurgus and Hierocles the oath does not create anything, does not bring anything into being, but keeps united [*synechō*] and conserves [*diatēreō*] what something else (in Hierocles, the law; in Lycurgus, the citizens or the legislator) has brought into being.

An analogous function seems to be assigned to the oath by what Prodi considers the fundamental text concerning this institution that has come down to us from Roman juridical culture, namely, the passage from *De officiis* (3.29.10) in which Cicero defines the oath thus:

Sed in iure iurando non qui metus sed quae vis sit, debet intellegi; est enim iusiurandum affirmatio religiosa; quod autem affirmate quasi deo teste promiseris id tenendum est. Iam enim non ad iram deorum quae nulla est, sed ad iustitiam et ad fidem pertinet.

[But in taking an oath it is our duty to consider not what one may have to fear in case of violation but wherein its obligation lies: an oath is an assurance backed by religious sanctity; and a solemn promise given, as before God as one's witness, is to be sacredly kept. For the question no longer concerns the wrath of the gods (for there is no such thing) but the obligations of justice and good faith.]

*Affirmatio* does not signify simply a linguistic utterance but what confirms and guarantees. (The phrase that follows, “affirmate . . . promiseris,” does nothing but reaffirm the same idea: “That which you have promised in the solemn and confirmed form of the oath.”) And it is this function of stability and guarantee that Cicero draws attention to, writing at the beginning, “In the sacrament it is important to consider not so much the danger that it generates, but its own efficacy [*vis*]”; and the answer to the question of what this *vis* consists in appears unequivocally in the etymological definition of the *fides* that, according to Cicero, is at stake in the oath: *quia fiat quod dictum est appellatam fidem* (“good faith [*fidem*]” is so called because what is promised is “made good [*fiat*]” [ibid., 1.23]).

It is with this specific *vis* in mind that one must reread the words with which Émile Benveniste, at the beginning of his 1948 article “L’expression du serment dans la Grèce ancienne” (The Expression of the Oath in Ancient Greece), defined its function:

[The oath] is a particular modality of assertion, which supports, guarantees, and demonstrates, but does not found anything. Individual or collective, the oath exists only by virtue of that which it reinforces and renders solemn: a pact, an agreement, a declaration. It prepares for or concludes a speech act which alone possesses meaningful content, but it expresses nothing by itself. It is in truth an *oral rite*, often completed by a manual rite whose form is variable. Its function consists not in the affirmation that it produces, but in the *relation* that it institutes between the word pronounced and the potency invoked. (Benveniste [1], 81–82)

The oath does not concern the statement as such but the guarantee of its efficacy: what is in question is not the semiotic or cognitive function of language as such but the assurance of its truthfulness and its actualization.

3. All the sources and scholars seem to agree that the oath's primary function, in its various forms, is that of guaranteeing the truth and efficacy of language. As Philo writes, “Now men have recourse to oaths to win belief, when others deem

them untrustworthy [*apistoumenoi*, lacking in *pistis*, that is, in credibility]” (Philo of Alexandria [2], 93). And this function seems to be so necessary for human society that, despite the clear prohibition of every form of oath in the Gospels (Matthew 5:33–37; James 5:12), it was approved of and codified by the Church, which made the oath an essential part of its own juridical order, legitimizing in this way its maintenance and gradual expansion in the law and practice of the Christian world. And when in *De jure naturae et gentium* [*Of the Law of Nature and Nations*] Samuel Pufendorf assembled the tradition of European law, it is precisely in its capacity of guaranteeing and confirming not only pacts and agreements among men, but also more generally language itself, that he establishes the necessity and the legitimacy of the oath:

We proceed to examine and state the nature of an oath, which is judged to add great strength and confirmation [*firmamentum*] to our discourse and to all our acts which have any dependence upon speech [*sermoni concipitur*]; which though we might have treated of very properly and conveniently hereafter, when we come to explain the enforcements of pacts and covenants, yet we chose to assign it this particular place rather than any other, because the custom of swearing is used for the establishment and security not only of covenants, but of language itself [*quod iureiurando non pacta solum, sed et simplex sermo soleat confirmari*]. (Pufendorf, 326/333; trans. altered)

A few pages later, Pufendorf confirms the subsidiary character of the oath’s bond, which, insofar as it confirms an assertion or promise, presupposes not only language but, in the case of the promissory oath, the pronouncement of an obligation: “oaths do not of themselves produce a new and peculiar obligation, but are only applied as an additional bond [*velut accessorium quoddam vinculum*] to an obligation in its nature valid before” (ibid., 333/339).

The oath, then, seems to be a linguistic act intended to confirm a meaningful proposition (a *dictum*), whose truth or effectiveness it guarantees. It is this definition, which distinguishes between the oath and its semantic content, whose correctness and implications we must verify.

✠ On the essentially verbal nature of the oath (even if it can be accompanied by gestures, like raising one’s right hand) there is agreement among the majority of scholars, from Lévy-Bruhl to Benveniste, from Loraux to Torricelli. With regard to the nature of the *dictum*, one is accustomed to distinguish between an assertative oath, which refers to a past fact (and hence confirms an assertion), and a promissory oath, which refers to a future act (here a promise is confirmed). The distinction is already clearly enunciated in Servius (*Aen.* 12.816: *Iuro tunc dici debere cum confirmamus aliquid aut promittimus* [“I swear” has thus been called necessary when we confirm something or make a promise]).

Not wrongly, however, does Hobbes bring these two forms of the oath back to a single type, essentially promissory: *Neque obstat, quod iusiurandum non solum promissorium, sed aliquando affirmatorium dici possit: nam qui affirmationem iuramento confirmat, promittit se vera respondere* [It is no objection that sometimes an Oath may be said to be not promissory but declarative. For in strengthening an affirmation by means of an oath, he declares that he is giving a true reply] (*De cive* 2.20/*On the Citizen*, 41). The difference concerns, in fact, not the act of the oath, which is identical in the two cases, but the semantic content of the *dictum*.

4. At the end of his reconstruction of the ideology of the three social functions by means of an investigation of the epic poetry of the Indo-European peoples, Georges Dumézil examines a group of texts (Celtic, Iranian, Vedic) in which three evils or “scourges” (*fléaux*) correspond to each of them. It is a matter, so to speak, of “functional scourges” of Indo-European society, each of which menaces one of three fundamental categories or functions: priests, soldiers, and farmers (in modern terms: religion, war, and economy). In one of the two Celtic texts he examines, the scourge corresponding to the priestly function is defined as “the dissolution of oral contracts,” that is, the repudiation or disavowal of obligations one has assumed (Dumézil [1], 616). The Iranian and Vedic texts also evoke the scourge in analogous terms: infidelity to the word one has given, falsehood or error in ritual formulas.

One could think that the oath would be the remedy against this “Indo-European scourge” that takes the form of the violation of the word one has given and, more generally, the possibility of falsehood inherent in language. The oath, however, proves singularly inadequate precisely for averting this scourge. Nicole Loraux, in her chapter “Oath, Son of Discord” in *The Divided City*, has lingered on a passage from Hesiod (*Theog.* 231–32) in which the oath is negatively defined solely by means of the possibility of perjury, “as if the first had no other purpose than to punish the second and had only been created, in the form of a terrible curse, for those oath breakers who were produced as such by the oath itself” (Loraux, 121–22/123). Already in the archaic epoch, therefore, when the religious bond is supposed to have been stronger, the oath seems to constitutively imply the possibility of perjury and to be paradoxically intended—as Loraux suggests—not to impede falsehood but to combat perjury. However one understands the etymology of the Greek term for perjury (*epiorkos*), about which scholars never stop debating, it is certain that in archaic and classical Greece it is taken for granted. Not only does Thucydides, describing the cities that have fallen prey to civil war, write that there is no longer any “assurance binding enough, any oath terrible enough, to reconcile men” (3.83),

but the inclination of the Greeks (in particular of the Spartans) to perjury was proverbial even in times of peace. Thus Plato advises against requiring oaths of the parties to a trial because otherwise it would be revealed that half of the citizens are perjurers (*Laws* 12.948e). And it is significant that around the third century BCE, the founders of the Stoa were discussing whether it was sufficient, for there to be perjury, that the one who swears have, in the moment of uttering the oath, the intention of not keeping it (this was the opinion of Cleanthes), or if it was necessary, as Chrysippus maintained, that he not in fact fulfill what he had promised (Hirzel, 75; see also Plescia, 84). As a guarantee of an oral contract or a promise, the oath appeared, according to all the evidence, from the very beginning to be completely inadequate to the task, and a simple penalty for lying would certainly have been more effective. The oath does not in any way constitute a remedy against the “Indo-European scourge”; instead, the scourge itself is contained within it in the form of perjury.

It is possible, then, not only that what was originally at issue in the oath was the guarantee of a promise or of the truthfulness of an affirmation but that the institution that we know today by that name contains the memory of a more archaic stage, in which it was concerned with the very consistency of human language and the very nature of humans as “speaking animals.” The “scourge” that it had to stem was not only the unreliability of men, incapable of staying true to their word, but a weakness pertaining to language itself, the capacity of words themselves to refer to things and the ability of men to make profession of their condition as speaking beings.

✠ The passage from Hesiod that Loraux refers to is in *Theog.* 231–32: “Oath [*Horkos*], who indeed brings most woe upon human beings on the earth, whenever someone willfully swears a false oath.” Consistently in the *Theogony* (775–806), the waters of the Styx are described as “the great oath of the gods” (*theōn megan horkon*) and even in this case, they function as “a great scourge for the gods (*mega pēma theoisin*), for whoever of the immortals . . . swears a false oath after having poured a libation from her, lies breathless for one full year. . . . And when he has completed this sickness for a year, another, even worse trial follows upon this one: for nine years he is cut off from participation with the gods that always are, nor does he mingle with them in their assembly or their feasts for all of nine years.”

The connection between oath and perjury seems, however, to be from the very beginning so essential that the sources speak of a veritable “art of the oath”—in which, according to Homer (*Od.* 19.394), Autolycus excelled—which consisted in uttering oaths that, thanks to verbal tricks, could, if taken literally, signify something different from what the person to whom they were given could understand. It is in this sense that one should understand the observation of Plato according to which Homer “praises

Autolycus, Odysseus' grandfather on his mother's side, and says that 'in swearing oaths and thieving (*kleptosynēi th' horkoi te*) he surpassed all men'" (*Rep.* 334b).

5. How should one understand the *arché* that is in question in an archaeological study like the one proposed here? Up to the first half of the twentieth century, in the human sciences the paradigm of such a study had been elaborated by linguistics and comparative grammar. The idea that it was possible to go back, through a purely linguistic analysis, to more archaic stages of human history was put forward toward the end of the nineteenth century by Hermann Usener in his *Götternamen* (Names of the Gods). Asking, at the beginning of his study, how the creation of divine names could have happened, he suggests that in order to respond to such a question, we have no documents other than those that arise for us out of an analysis of language (Usener, 5). But already before him comparative grammar had inspired the investigations of those scholars, from Max Müller to Adalbert Kuhn and Émile Burnouf, who sought in the final thirty years of the nineteenth century to found comparative mythology and the science of religion. Just as the comparison of related linguistic forms allowed one to go all the way back to stages of the language that were not historically attested (those Indo-European forms, for example *\*deiwos* or *\*med*, that linguists are in the habit of indicating with a preceding asterisk in order to distinguish them from words documented in historical languages), so also was it possible to go back, through etymology and the analysis of meanings, to otherwise inaccessible stages of the history of social institutions.

It is in this sense that Dumézil was able to define his study as a work "not of a philosopher, but of a historian of the oldest history and of the furthest fringe of ultra-history [*de la plus vieille histoire et de la frange d'ultra-histoire*] that one can reasonably seek to reach" (Dumézil [2], 14), declaring at the same time his debt to the comparative grammar of the Indo-European languages.

The basis of the "fringe of ultra-history" that the historian here seeks to reach, then, stands or falls with the existence of Indo-European and of the people who spoke it. It exists in the same sense and to the same degree in which an Indo-European form exists. Yet each of these forms, if we want to be rigorous, is only an algorithm that expresses a system of correspondences among the existing forms in historical languages. In the words of Antoine Meillet, what we call Indo-European is only "the ensemble of these systems of correspondences . . . which presupposes a language *x* spoken by men *x* in a place *x* in a time *x*," where *x* simply stands for "unknown" (Meillet, 324). Unless one wants to legitimate the *monstrum* of a historical study that produces its own original documents,

one could never extrapolate from Indo-European any events that are supposed to have happened historically. For this reason the method of Dumézil registered a significant development with respect to the comparative mythology of the end of the nineteenth century, when, around 1950, he acknowledged that the ideology of the three functions (priests, soldiers, and shepherds or, in modern terms, religion, war, and economy) “was not necessarily accompanied, in the life of a society, by a *real* tripartite division of this society, on the Indian model” but that it rather represented precisely an “ideology,” something like “an ideal and, at the same time, a way of analyzing and interpreting the forces that regulate the course of the world and the life of men” (Dumézil [1], 15).

Similarly, when Benveniste published his *Indo-European Language and Society* (1969), declaring in the preface that in his analyses “no extralinguistic presuppositions have intruded” (Benveniste [2], 1:10/12), it was not completely clear how the epistemological *locus* and the historical foundation of what he calls an “Indo-European institution” should be understood.

It is the nature and foundation of the “oldest history” and the “fringe of ultra-history” that an archaeology can hope to reach that we must define here to the fullest possible extent. It is clear that the *arché* toward which an archaeology seeks to regress cannot be understood in any way as a given that can be situated either in a chronology (even in a broad category like “prehistoric”) or even beyond it, in an atemporal metahistorical structure (for example, as Dumézil ironically suggests, in the neuronal system of a hominid). It is, rather, a force working in history, exactly as the Indo-European language expresses first of all a system of connections among historically accessible languages; just as the child in psychoanalysis expresses a force that continues to act in the psychic life of the adult; and just as the “big bang,” which is supposed to have given rise to the universe, is something that never stops transmitting its background radiation to us. Yet unlike the “big bang,” which astrophysicists claim to be able to date, even if only in terms of millions of years, the *arché* is not a given, a substance, or an event but a field of historical currents stretched between anthropogenesis and the present, ultrahistory and history. And as such—that is, insofar as, like anthropogenesis, it is something that is necessarily presupposed as having happened but that cannot be hypostatized into an event in a chronology—it can eventually render historical phenomena intelligible.

Investigating the oath archaeologically will mean therefore steering the analysis of historical data, which we will essentially restrict to the Greco-Roman sphere, in the direction of an *arché* stretched between anthropogenesis and the present. My hypothesis is that the enigmatic institution, both juridical and re-

ligious, that we designate with the term *oath* can only be made intelligible if it is situated within a perspective in which it calls into question the very nature of man as a speaking being and a political animal. Hence the contemporary interest of an archaeology of the oath. Ultrahistory, like anthropogenesis, is not in fact an event that can be considered completed once and for all; it is always under way, because *Homo sapiens* never stops becoming man, has perhaps not yet finished entering language and swearing to his nature as a speaking being.

6. Before continuing our study, it will be necessary to clear the field of a preliminary misunderstanding, which obstructs access to that “oldest history” or that “fringe of ultra-history” that an archaeology can reasonably seek to reach. Take the exemplary analyses that Benveniste dedicated to the oath first in the article from 1948 cited above and then in *Indo-European Language and Society*. In both, the essential thing is the abandonment of the traditional etymology of the term *horkos*, which traced it back to *herkos*, meaning “enclosure, barrier, bond,” and the interpretation of the technical expression for the oath (*horkon omnymai*) as “to seize with force the sacralizing object.” *Horkos* designates, then, “not a word or an act, but a *thing*, a material invested with evil potency, which confers to the commitment its obliging power” (Benveniste [1], 85–86). *Horkos* is the “sacred Substance” (90), which is variously embodied in the waters of the Styx, the scepter of the hero, or the entrails of the sacrificial victim. Following Benveniste’s path, a great historian of Greek law, Louis Gernet, evokes in almost the same terms the “sacred substance” with which the one who utters the oath is put in contact (Gernet [1], 270/223: “To swear, therefore, is to enter the realm of religious forces of the most fearsome sort.”).

In the human sciences, beginning at the end of the nineteenth century, the idea that explaining a historical institution necessarily means tracing it back to an origin or context that is sacred or magico-religious is so strong that when Jean Bollack writes his article “Styx et serments” (1958) to demonstrate, contra Benveniste, that the term *horkos* acquires its true sense only if one traces it back to its etymological origin from *herkos*, he does not notice that he basically maintains the essential traits of the argument he intends to oppose:

The oath places the one who swears, through the magical force of words, in a special relationship with the objects invoked and with the world. . . . Many of the invoked objects, like the hearth, belong to a sacred domain. But in a broadly sacralized universe, every object called as witness can be transformed from a guarantor and preserver into a terrifying potency. This special relationship that ties man to the objects invoked seems to be defined by the term *horkos*, which

designates not, as Benveniste thinks, the object on which the oath is pronounced, but the enclosure with which it surrounds the one who swears. (Bollack, 30–31)

The sacrality is here displaced from the object to the relation, but the explanation remains unchanged. According to an endlessly repeated paradigm, the force and efficacy of the oath are once again sought in the sphere of the magico-religious “forces” to which it originally belongs and which is presupposed as most archaic: they derive from this and decline along with the decline of religious faith. Here one presupposes the existence of a *homo religiosus* prior to man as we know him historically. Yet this *homo religiosus* exists only in the imagination of scholars, because all the sources we have at our disposal always present to us, as we have seen, a man who is religious and also irreligious, faithful to the oath and also more than capable of perjury. It is this presupposition of every analysis of this institution that I intend to call into question.

✠ Benveniste’s thesis concerning the *horkos* as a “sacred substance” derives, as the author himself suggests, from an article by Elias Bickermann, a scholar of classical antiquity who was also an excellent historian of Judaism and Christianity. The article in question, published in the *Revue des études juives* in 1935, refers to the oath only under the heading of a methodological example, in the context of a critique of Gerardus van der Leeuw’s *Phenomenology of Religion*, which had appeared two years earlier. The methodological principles that Bickermann lays out seem to have had a notable influence on Benveniste, even if they actually reflect a common cultural formation. (Bickermann, who from 1933 had taught in Paris at the *École pratique des hautes études* and until 1942, when he was constrained by his Hebraic origin to seek refuge in the United States—where his name would become Bickerman—had been *chargé des recherches* at the Centre national de la recherche scientifique, refers explicitly to the method of Antoine Meillet, who had been Benveniste’s teacher.) The fact remains that the four methodological principles recommended by Bickermann (abandoning the recourse to psychology to explain religious phenomena; breaking down facts into their constitutive elements or “roots”; analyzing the function of single elements in isolation; studying their function in the phenomenon in question) are found precisely in Benveniste. Once again, however, such an adroit scholar, examining the oath in a note in order to exemplify his method, repeats uncritically the paradigm of the primordially of the sacred, which Benveniste will take up again in almost the same words: “always and everywhere, the idea is to establish a relationship between an affirmation and something sacred. . . . The goal remains the same everywhere, viz. to establish a relationship between the affirmation and the sacred Substance” (Bickermann, 220–21/888–89).

7. I have demonstrated elsewhere (Agamben, 79–89/49–51), while discussing the supposed ambivalence of the term *sacer*, the inadequacies and contradictions connected with the doctrine of the “sacred” elaborated in the science and history of religions between the end of the nineteenth century and the first decades of the

twentieth century. It suffices here to recall that the defining moment in the establishment of this “scientific mythologeme,” which has negatively conditioned the investigations of the human sciences in a particularly delicate area, is the encounter of the Latin notion of *sacer* with that of *mana*, which an Anglican missionary, Robert Henry Codrington, described in his work on the peoples of Melanesia. Already fourteen years earlier Codrington had communicated his discovery in a letter to Max Müller, who made use of it in the Hibbert Lectures, where the concept of *mana* became the way in which “the idea of the infinite, of the unseen, or as we call it afterwards, the Divine, may exist among the lowest tribes in a vague and hazy form” (Müller, 51). In the following years the notion reappeared under various names in ethnographic studies on the American Indians (*orenda* among the Iroquois, *manitou* among the Algonquians, *wakan* among the Dakotas) until Robert Marett, in his *Threshold of Religion* (1909), made this invisible “force” the central category of religious experience. Despite the flimsiness of the theories of religion of authors like Müller (who exercised a veritable dictatorship over this nascent “science”—or, rather, as he preferred to call it—“history” of religions) and Marett, to whom we owe the notion of animism (another scientific mythologeme that refuses to die), the idea of a “sacred power or substance,” as terrible as it is ambivalent, vague, and indeterminate, that would be the fundamental category of the religious phenomenon, has exercised its influence not only on Durkheim, Freud, Rudolf, Otto, and Mauss but also on the masterpiece of twentieth-century linguistics that is the *Vocabulaire* of Benveniste.

It was necessary to wait for Lévi-Strauss’s essay of 1950 for the problem of the meaning of terms like *mana* to be put on entirely new footings. In a memorable passage Lévi-Strauss brought together these terms with common French expressions like *truc* (thingamajig) or *machin* (thingamabob), which we use to designate an unknown object or one whose use we cannot explain. *Mana*, *orenda*, and *manitou* do not designate something like a sacred substance or social sentiments related to religion but a void of sense or an indeterminate value of signification, which holds first of all for the very scholars who make use of it: “But always and everywhere, those types of notions, somewhat like algebraic symbols, occur to represent an indeterminate value of signification, in itself devoid of meaning and thus susceptible of receiving any meaning at all; their sole function is to fill a gap between the signifier and the signified, or, more exactly, to signal the fact that in such a circumstance, on such an occasion, or in such a one of their manifestations, a relationship of non-equivalence becomes established between signifier and signified” (Lévi-Strauss, xlv/55–56). If there is a place, adds Lévi-Strauss, in which the notion of *mana* truly presents the characteristics of a mysterious or

secret power, it is above all in the thought of the scholars: “*Mana* really is *mana* there” (ibid., xlv/57). At the end of the nineteenth century, religion in Europe had for all appearances become, at least for those who wanted to gather the history and build the science of religion, something so strange and indecipherable that they had to seek the key to it among primitive peoples rather than in their own tradition: but the primitive peoples could only return as in a mirror the same extravagant and contradictory image that these scholars had projected onto them.

✠ In the course of discussing the inevitable disconnection between signifier and signified, Lévi-Strauss again takes up and develops in a new way the theory of Max Müller, who saw in mythology a sort of “disease” of consciousness caused by language. According to Müller, the origin of mythological and religious concepts is to be found in the influence that language, in which paronyms, polysemy, and ambiguity of every kind are necessarily present, exercises on thought. Mythology, he writes, “is in fact the dark shadow which language throws upon thought, and which can never disappear till language becomes entirely commensurate with thought, which it never will” (Cassirer, 4/5).

8. Another aspect of the scientific mythologeme that I have described (which is in truth inseparable from it) is the idea that the sphere of sacredness and religion—often united to that of magic, so that one can then redouble the confusion and speak of a “magico-religious” sphere—coincides with the most archaic moment that historical research in the human sciences can prudently attempt to recover. A simple textual analysis shows that this is an arbitrary presupposition, set to work by the scholar at the point where he reaches, in his own sphere of research, a documentary limit or threshold. It is as if the passage to what Franz Overbeck called *Urgeschichte* and Dumézil called “fringe of ultra-history” necessarily implied a blind leap into the magico-religious element, which is very often nothing but the name that the scholar gives, more or less consciously, to the terra incognita that lies beyond the area that the patient labor of historians is able to define. Taking the sphere of law as an example, it may be the distinction between the religious sphere and the profane sphere, whose distinctive characteristics appear to us, at least in the historical epoch, to be in some measure defined. If he reaches in this area a more archaic stage, the scholar has the impression that the boundaries become blurred, so he is led to hypothesize a preceding stage, in which the religious sphere and the profane (and often also the magical) are not yet distinct. In this sense Louis Gernet, working on the most ancient Greek law, has designated as “prelaw” (*pré-droit*) an originary phase in which law and religion appear to be indiscernible. In the same sense Paolo Prodi, in his political history of the oath, evokes a “primordial indistinction” in which the process of separation between religion and politics has not yet

begun. It is essential, in cases like these, to have the wisdom not to simply and uncritically project onto the supposed “primordial indistinction” the characteristics that define the religious and profane spheres that are known to us and are, precisely, the result of the patient labor of historians. Just as a chemical compound has specific properties that cannot be reduced to the sum of the elements that compose it, so also what stands before the historical division—granted that something of the kind exists—is not necessarily the opaque and indistinct sum of the characteristics that define its fragments. Prelaw cannot be merely a more “archaic” law, just as what stands before religion as we know it historically is not only a more primitive religion (*mana*); it would, in fact, be advisable to bypass the very terms *religion* and *law* and to try to imagine an *x*. To find the definition of this *x*, we must put forward every possible precaution, practicing a sort of archaeological *epoché* that suspends, at least provisionally, the attribution of predicates with which we are used to defining religion and law.

What must be interrogated at this point is the threshold of indistinction that the analysis of the researcher comes up against. It is not something that should be incautiously projected onto chronology, like a prehistoric past for which documents happen to be lacking, but an internal limit, the comprehension of which, by calling into question the accepted distinction, can lead to a new definition of the phenomenon.

✠ The case of Mauss is a good example of how the presupposition of the sacral system has a strong effect and yet can be neutralized, at least in part, by the exceptional attention to phenomena that defines his method. The 1902 *Esquisse* of a general theory of magic opens with an attempt to distinguish magical phenomena from religion, law, and technology, with which they have often been confused. Yet Mauss’s analysis continually runs up against phenomena (for example the juridico-religious rites that include an imprecation, like the *devotio*) that cannot be assigned to only one sphere. Mauss is then led to transform the dichotomous opposition religion-magic into a polar opposition, sketching out a field defined by the two extremes of sacrifice and evil spells, which necessarily presents thresholds of undecidability (Mauss, 14/27). It is on these thresholds that he focuses his labor. The result, as Dumézil has observed, is that for Mauss there are no longer magical facts on the one hand and religious facts on the other; rather, “one of his principal concerns was to emphasize the complexity of each phenomenon and the tendency of most of them to exceed all definition, to be situated simultaneously at various levels” (Dumézil [3], 49).

9. Let us now take the oath as it presents itself during the only epoch in which we can analyze it, namely that for which we have documents. There it appears as a juridical institution that includes elements that we are used to associating with

the religious sphere. To distinguish in it a more archaic phase in which it would be only a religious rite, from a more modern one in which it belongs entirely to law, is perfectly arbitrary. In reality, already in the most ancient documents in our possession, such as the inscription on the vase of Dvenos (dated to the end of the sixth century BCE) from the Roman tradition, it appears as a promissory formula of an undoubtedly juridical character—in this specific case, the guarantee given by the woman's guardian to her (future) husband at the moment of the marriage or engagement. Nevertheless, the formula, written in an archaic Latin, mentions the gods, in fact swears by the gods: *iovest deiuos quoi me mitat* (“the one who sends me”—it is the vase that speaks—“swears [by] the gods”) (Dumézil [3], 14–15). Here we have no need to presuppose as more ancient a purely religious phase in the history of the oath, which no document in our possession attests as such: in the most ancient sources that the Latin tradition permits us to reach, the oath is a verbal act intended to guarantee the truth of a promise or an assertion, which presents the same characteristics attested by the later sources and that we have no reason to define as more or less religious, more or less juridical.

The same holds for the Greek tradition. The oath that the most ancient sources present to us in a broad survey entails the testimony of the gods, the presence of objects (the scepter, as the “great oath”—*megas horkos*—of Achilles at the beginning of the *Iliad*, but also horses, the chariot, and the innards of the sacrificed animal), all of which elements we find again in the historical epoch for oaths that certainly have a juridical nature (as in pacts between federated cities, in which the oath is defined as “legal,” *horkos nomimos*; see Glotz, 749). And, as we have seen, even the gods swear, invoking the waters of the Styx; and to judge from what Hesiod tells us about the punishment for perjury committed by a god, even the gods are subject to the authority of the oath. We possess, moreover, Aristotle's authoritative testimony informing us that the most ancient philosophers, “who first speculated about the divine [*theologēsantas*],” placed among the first principles of the cosmos, alongside Ocean and Tethys, “the water that serves as the gods' oath, which they called Styx” (*Metaph.* 983b32) and adds: “For the assumption was that the most ancient thing [*presbytaton*] was the most worthy [*timiōtaton*], and that the oath was the most worthy thing [*horkos de timiōtaton estin*]” (ibid., 938b34–35). According to this testimony, the oath is the most ancient thing, no less ancient than the gods, who are in fact subject to it in some way. Yet this does not mean that it must be thought of as a “sacred substance”; on the contrary, the context of the passage, which is that of the reconstruction of the thought of Thales within the brief history of philosophy that opens the *Metaphysics*, leads one to situate the oath among the “first principles”

(*prōtai aitiai*) of the pre-Socratic philosophers, as if the origin of the cosmos and of the thought that understands it implied the oath in some way.

The entire problem of the distinction between the juridical and the religious, in particular as regards the oath, is thus poorly put. Not only do we have no reason for postulating a prejudicial phase in which the oath belonged solely to the religious sphere, but perhaps our entire habitual way of representing to ourselves the chronological and conceptual relationship between law and religion must be revised. Perhaps the oath presents to us a phenomenon that is not, in itself, either (solely) juridical or (solely) religious but that, precisely for this reason, can permit us to rethink from the beginning what law is and what religion is.

✠ When law and religion are placed in opposition to each other, it is necessary to remember that the Romans considered the sphere of the sacred as an integral part of law. The *Digest* opens with the distinction between *ius publicum* [public law], which concerns the *status rei publicae* [status of public things], and *ius privatum* [private law], which concerns the *singulorum utilitatem* [utility of individuals]; but, immediately after, the *ius publicum* is defined as that law “which consists in sacred things and rites, in priests and in magistrates” (*ius publicum quod in sacris, in sacerdotibus, in magistratibus consistit* [Ulpian, 1.1]). In the same sense Gaius (*Inst.* 2.2) distinguishes things according to whether they belong to the *ius divinum* [divine law] or to the *ius humanum* [human law], specifying that *divini iuris sunt veluti res sacrae et religiosae* [of the class *divini iuris* are things sacred or religious]; but this *summa divisio* [chief division] of things is obviously internal to law.

10. Two texts will allow us to take up the analysis of the oath on new foundations. The first is a passage from Philo’s *Legum allegoriae* (204–8), which, discussing the oath that God makes to Abraham in Genesis 22:16–17, puts the oath in a constitutive relationship with the language of God:

You mark that God swears not by some other thing, for nothing is higher than He, but by Himself, who is best of all things. Some have said, that it was inappropriate for Him to swear; for an oath is added to assist faith [*pisteōs eneka*] and only God . . . is faithful [*pistos*]. . . . Moreover, the very words of God are oaths [*hoi logoi tou theou eisin horkoi*] and laws of God and most sacred ordinances; and a proof of His sure strength is that whatever He says comes to pass [*an eipēi ginetai*], and this is specially characteristic of an oath. It would seem to be a corollary from this that God’s words are oaths receiving confirmation by accomplishment in act [*ergōn apotelesmasi*]. They say indeed that an oath is a calling God to witness [*martyria*] to a point which is disputed; so if it is God that swears, He bears witness to Himself, which is absurd, for he that bears the witness must be a different person from him on whose behalf it is borne. . . . If once we take “by Myself have I sworn” in the right way, we shall quit this excessive quibbling. Probably then the truth of the matter is something like this. Nothing that can

give assurance [*pistoun dynatai*] can give positive assurance touching God, for to none has He shown His nature, but He has rendered it invisible to our whole race. . . . Nay he alone shall affirm anything regarding Himself since He alone has unerringly exact knowledge of His own nature. God alone therefore is the strongest security first for Himself, and in the next place for his deeds also, so that He naturally swore by Himself when giving assurance as to himself [*ōmnye cath'heautou pistoumenos heauton*], a thing impossible for anyone but God. It follows that men who say that they swear by God should be considered actually impious; for naturally no one swears by Him, since he is unable to possess knowledge regarding His nature. No, we may be content if we are able to swear by his name, which means (as we have seen) the interpreting word [*tou ermeneōs logou*]. For this must be God for us the imperfect folk, but, as for the wise and the perfect, the primal being is their God. Moses, too, let us observe, filled with wonder at the transcendency of the Uncreated, says, "And thou shalt swear by His Name" (Deut. 6:13), not "by Him," for it is enough for the created being that he should be accredited and have witness borne to him by the Divine word: but let God be His own surest guarantee [*pistis*] and evidence. (Trans. altered)

Let us try to summarize in five theses the implications of this brief treatise on the oath:

- (1) The oath is defined by the verification of words in facts (*an eipēi ginetai*, precise correspondence between words and reality).
- (2) The words of God are oaths.
- (3) The oath is the *logos* of God, and only God swears truly.
- (4) Men do not swear by God but by his name.
- (5) Since we know nothing of God, the only certain definition that we can give of him is that he is the being whose *logoi* are *horkoi*, whose word testifies with absolute certainty for itself.

The oath, defined by the correspondence between words and actions, here performs an absolutely central function. This happens not only on the theological level, in that it defines God and his *logos*, but also on the anthropological level, since it relates human language to the paradigm of divine language. If the oath is, in fact, that language that is always realized in facts and this is the *logos* of God (in *De sacrificiis* [65] Philo writes that "God spoke and it was done, with no interval between the two [*ho theos legōn ama epoiei*]"), the oath of men is thus the attempt to conform human language to this divine model, making it, as much as possible, *pistos*, credible.

In *De sacrificiis* (93) Philo confirms this function of the oath. "Now men," he writes, "have recourse to oaths to win belief, when others deem them untrust-

worthy; but God is trustworthy [*pistos*] in his speech as elsewhere, so that his words in certitude and assurance are no different from oaths. And so it is that while with us the oath gives warrant for our sincerity, it is itself guaranteed by God. For God is not trustworthy because of [*dia*] the oath; but it is God that assures the oath" (trans. altered).

One should reflect on the reciprocal implication between God and the oath contained in the last phrase, which closely follows a rhetorical model frequent not only in Judaism, which works by inverting a sanctioned truth (of which Mark 2:27—"The sabbath was made for [*dia*] humankind, and not humankind for the sabbath"—is a good example). Just as in the classical tradition the *horkos* is *pistos* par excellence, so also in the Judaic tradition *pistos* (*eman*) is the attribute of God par excellence. Developing this analogy (perhaps following in the path of the verse from Aeschylus—fragment 369—in which one reads that "it is not the oath that makes us believe the man, but the man the oath"), Philo establishes an essential connection between God and oath, making of the latter the very word of God. In this way, however, not only human language but even God himself is irresistibly drawn into the sphere of the oath. On the one hand, in the oath human language communicates with that of God; on the other hand, if God is the being whose words are oaths, it is completely impossible to decide if he is reliable because of the oath or if the oath is reliable because of God.

II. The second text is the celebrated passage from the *De officiis* (3.102–7), from which I have already cited some lines, which we must now restore to their context. What is in question is the behavior of Attilio Regolo, who, sent to Rome by the enemies of whom he had been a prisoner with the oath that he would return, decides to return knowing that he will be put to death. The question that Cicero asks concerns the origin of the binding power of the oath. "What significance, then, someone will say, 'do we attach to an oath? It is not that we fear the wrath of Jove, is it?'" (3.102). And yet, he responds, all the philosophers affirm that the gods do not become angry at or harm men. It is at this point that he formulates the celebrated definition of the oath that I have cited: "But in taking an oath it is our duty to consider not what one may have to fear in case of violation but wherein its obligation lies [*non qui metus sed quae vis sit debet intellegi*]; an oath is an assurance backed by religious sanctity [*affirmatio religiosa*]; and a solemn promise given, as before God as one's witness, is to be sacredly kept" (3.104).

What is decisive here is the reasoning with which Cicero goes on to establish the *vis* of the oath. It is not a matter of the anger of the gods, which does not

exist (*quae nulla est*), but of trust (*fides*). Contrary to the opinion very often repeated by modern scholars, the obligatory nature of the oath does not derive from the gods, who are called only as witnesses, but from the fact that it is situated in the sphere of a more far-reaching institution, the *fides*, which regulates relations among men as much as those between peoples and cities. “Whoever, therefore, violates his oath violates trust [*Quis ius igitur iurandum violat, is fidem violat*]” (3.104). In the passage previously cited from the first book of the work, the *fides*, “foundation of law,” was defined etymologically, exactly as in Philo, by the verification of what is said: *quia fiat quod dictum est appellatam fidem* [“good faith” is so called because what is promised is “made good”] (1.23). Faithfulness is thus essentially the correspondence between language and actions. Regolo, Cicero can therefore conclude, has done well in observing his oath: if it is lawful not to observe an oath with pirates, with whom, as *hostes omnium* [enemies of all], it is not possible to have a common trust, it would be unjust “to confound by perjury the terms and covenants of war made with an enemy [*condiciones pactionesque bellicas et hostiles perturbare periurio*]” (3.108).

✠ It is advisable to specify the meaning of the term *religiosus* in Cicero’s definition of the oath. A *res religiosa* is, in Rome, something that has been devoted to the infernal gods (*religiosae quae diis manibus relictæ sunt* [things religious are those which are given up to the Gods below], Gaius *Inst.* 2.4); in this sense the *religiosus* par excellence is the grave, the place in which a corpse (*corpus*, which the Romans distinguished from the *cadaver*, which designates a dead body deprived of a grave) has been buried. The *res religiosa* is removed from profane use and commerce and can be neither transferred nor burdened with servitude nor given in usufruct or pledge nor made the object of any stipulation whatsoever (Thomas, 74). More generally, the religious thing, like the sacred thing, is subject to a series of ritual prescriptions, which render it inviolable and which must be scrupulously observed. One can understand, then, in what sense Cicero can speak of the oath as an *affirmatio religiosa*. The “religious affirmation” is a word guaranteed and sustained by a *religio*, which removes it from common use and, consecrating it to the gods, makes it the object of a series of ritual prescriptions (the formula and gesture of the oath, the calling of the gods as witness, the curse in case of perjury, etc.). The double sense of the term *religio*, which according to the lexicons means both “sacrilege, curse” and “scrupulous observation of formulas and ritual norms,” can be explained in this context without difficulty. In a passage of the *De natura deorum* (2.11) the two senses are at the same time distinct and juxtaposed: the consul Tiberius Gracchus, who had forgotten to take the auspices at the moment of the designation of his successors, prefers to admit his error and annul the election that has taken place contrary to *religio* rather than allow a “sacrilege” (*religio*) to contaminate the State: *peccatum suum, quod celari posset, confiteri maluit, quam haerere in re publica religionem, consules summum imperium statim deponere, quam id tenere punctum temporis contra religionem* [he preferred to make public confession

of an offence that he might have concealed rather than that the stain of impiety should cling to the commonwealth; the consuls preferred to retire on the spot from the highest office of the state rather than hold it for one moment of time in violation of religion].

It is in this sense that, when putting together the two meanings of the term, Cicero, just like Caesar and Livy, can speak of a “religion of the oath” (*religio iusiurandi*). In a similar way Pliny, referring to the rules against looking at certain parts of the body, can speak of a *religio* inherent to the knees, the left hand, and even urine (*Hominum genibus quaedam et religio inest observatione gentium . . . inest et aliis partibus quaedam religio, sicut in dextera: oculis adversa adpetitur, in fide porrigitur* [The knees of a human being also possess a sort of religious sanctity in the usage of the nations. . . . There is a religious sanctity belonging to other parts also, for instance in the right hand: kisses are imprinted in the back of it, and it is stretched out in giving a pledge]; *Natural History* 11.250–51). And when, in a text of a magical character, we read the formula against sore throat—*hanc religionem evoco, educo, excanto de istis membris, medullis* [I evoke, lead out, and bring forth by incantation that *religio* from this limb, down to the marrow] (Mauss, 54/76)—*religio* represents both a “curse” and the collection of ritual formulas to be observed in order to produce (and remove) the incantation.

When, anachronistically projecting a modern concept onto the past, one often speaks of a “Roman religion,” it must not be forgotten that, according to the clear definition that Cicero puts in the mouth of the pontifex maximus Cotta, this was nothing but the sum of the ritual formulas and practices to be observed in the *ius divinum: cum omnis populi Romani religio in sacra* (consecrations) *et in auspicia* (the auspices to be consulted before every important public act) *divisa sit* (“The religion of the Roman people comprises ritual [and] auspices” [*De natura deorum* 3.5]). For this reason he could point to its etymology (which, moreover, is shared by modern scholars) in the verb *relegere*, to observe scrupulously: *qui autem omnia quae ad cultum deorum pertinent diligenter retractarent et tamquam relegerent, sunt dicti religiosi ex relegendo* (Those on the other hand who carefully reviewed and so to speak retraced all the lore of ritual were called ‘religious,’ from *relegere* [2.72]).

12. The proximity between faith and oath has not escaped scholars and is attested by the fact that, in Greek, *pistis* is synonymous with *horkos* in expressions of the type *pistin kai horka poieisthai* (to take an oath) or *pista dounai kai lambanein* (to exchange an oath). In Homer oaths are what are *pista* (trustworthy) par excellence. And in the Latin sphere, Ennius, in a verse cited by Cicero, defines *fides* as “an oath of Jove” (*ius iurandum Iovis*). And it is significant that there are attested not only formulas of an oath “by the *pistis* of the gods” but also “by one’s own *pistis*”—*kata tēs heautōn pisteōs diomosamenoī* (Dionysius of Halicarnassus, 11.54)—and that, in fact, the “*pistis* of each person” (*idia ekastōi pistis*) counts as the *megistos horkos* (greatest oath; *ibid.*, 2.75; see also Hirzel, 136).

Dumézil and Benveniste have reconstructed, beginning from linguistic data above all, the originary features of that most ancient of Indo-European

institutions that the Greeks called *pistis* and the Romans *fides* (in Sanskrit, it is *sraddha*): “personal loyalty.” “Trust” [*fede*] is the high esteem in which someone is held as a consequence of our having confidently given ourselves over to him, binding ourselves in a relationship of loyalty. For this reason trust is both the confidence that we accord to someone—the trust that we give—and the high esteem in which we are held by someone—the trust or credit we have. The old problem of the two symmetrical meanings of the term *faith*, active and passive, objective and subjective, “guarantee pledged” and “trust inspired,” to which Eduard Fränkel drew attention in a famous article, is understood in this perspective without difficulty: “the one who holds the *fides* placed in him by a man has this man at his mercy. This is why *fides* becomes almost synonymous with *dicio* and *potestas*. In their primitive form, these relations involved a certain reciprocity, placing one’s *fides* in somebody secured in return his guarantee and his support. But this very fact underlines the inequality of the conditions. It is authority which is exercised at the same time as protection for somebody who submits to it, in exchange for, and to the extent of, his submission” (Benveniste [2], 1:118–19/97–98).

Thus the strong link between the two Latin terms *fides* and *credere*, which was to assume such importance in the Christian sphere, becomes comprehensible. Meillet showed that *fides* became a substitute in everyday usage for the ancient verbal substantive *\*kred*, which expressed a very similar notion. *Credere* in fact meant, originally, “to give *\*kred*,” to put one’s faith in someone from whom one expects protection and, in this way, to link oneself with him in faith (each person often shaking the other’s right hand: *dextrae dextras iungentes fidem obstrinximus* [Livy 23, 9, 3]).

Beyond regulating personal relationships, *fides* performed an important function in international public law, in the special relationships that were established by means of *fides* between cities and peoples. In a war the enemy city could be defeated and destroyed by force (*kata kratos*) and its inhabitants killed or reduced to slavery. But it could also happen, on the contrary, that the weaker city could have recourse to the institution of the *deditio in fidem*. That is to say, it could capitulate, submitting itself unconditionally to the *fides* of the enemy, thus obligating the victor in some sense to a more benevolent form of control. This institution was also called *pistis* by the Greeks (*dounai eis pistin, peithesthai*) and *fides* by the Romans (*in fidem populi Romani venire* or *se tradere*). And we also encounter here the same connection between faith and oath: the cities and people who mutually bound themselves in the *deditio in fidem* exchanged solemn oaths to sanction this relationship.

The *fides* is, then, a verbal act, as a rule accompanied by an oath, with which one abandons oneself completely to the “trust” of someone else and obtains, in exchange, that one’s protection. The object of the *fides* is, in every case, as in the oath, conformity between the parties’ words and actions.

Dumézil has shown that, when in Rome the history of the monarchical period was, little by little, constructed retrospectively and assumed a definite form, the *fides*, which assumed an important role in public and private life, became divinized and was associated with the figure of Numa, to whom the foundation of the *sacra* and the *leges* is attributed (Dumézil [4], 202/198). *Fides* thus becomes a goddess, for whom a temple on Capitoline Hill is constructed around 250; but, just as in the case of Deus Fidius, of whom it is disputed whether he is in origin distinct from Jove and who, like Mitra, was a sort of “personified contract” (ibid.), here religion does not precede the law but rather follows it.

With the *fides*, exactly as with the oath, we thus find ourselves in a sphere in which the problem of the genetic relationship between religion and law has to be taken up again on new foundations. It does no good, in light of the complexity of these institutions, which seem to be at once moral, religious, social, and juridical, to appeal, as some do, to the category of prelaw (Imbert, 411). The fact that the institutions in question are not juridically sanctioned (impunity of perjury in the most ancient epoch, absence of legal recourse for the creditor who has trusted the *fides* of the debtor) does not mean that they must be considered religious rather than juridical; it means rather that in them the investigation has hit upon a limit, which obliges us to reconsider our definitions of what is juridical and what is religious.

✠ One of the commonplaces of the theory of the oath is that the fact that legal sanction is lacking in the ancient epoch is a sign that it belongs to the religious sphere, insofar as the punishment of perjury was left to the gods. Scholars continue to cite the *dictum* of Tacitus, *deorum iniurias dis curae* (“wrongs done to the gods are the gods’ concern” [Ann. 1.73]), without taking notice of the juridico-political context from which it is drawn. Rubrius has been accused before Tiberius of “having violated by perjury the *numen* of Augustus” (it is a matter, then, of a particular type of oath “by the genius of the emperor,” which became common in the imperial age). The question is not whether perjury in general is more or less punishable but whether Rubrius must be accused, because of his perjury, of *lèse majesté*. Tiberius prefers in this moment not to resort to a charge of which, as Tacitus informs us, he will later make ferocious use and affirms sarcastically that “as to the oath, the thing ought to be considered as if the man had deceived Jupiter. Wrongs done to the gods are the gods’ concern [*deorum iniurias dis curae*].” In no way is it a matter, according to the words of a rash commentator, of an “ancient principle of Roman law” but of the sarcasm of an emperor whose scant religious

piety is well known (*circa deos et religiones negligentior* [in regard to the gods, and matters of religion, he exhibited great indifference]—Suetonius *Tib.* 69). This is confirmed by the fact that the other case in which we find the same principle enunciated is clearly later and refers to the same problem of the applicability of the offence of *lèse majesté* to an oath on the *numen principis* (even here the response of the emperor is negative and, probably referring to the *dictum* of Tiberius, it is suggested that *iusiurandi contempta religio satis deorum ultorem habet* [the god's vengeance is enough for the one who has contempt for the oath]—*Codex iuris* 4, 1, 2; quoted in Schied, 333).

It is incorrect to claim that we should only consider something juridical if a sanction is attached. On the contrary, Ulpian explicitly affirms that only those laws for which no sanction is provided must be considered *perfecta*, while the presence of a sanction constitutes the law as *imperfecta* or *minus quam perfecta* (Ulpian, prol. 1–2). In the same sense, the impunity of lying in many ancient ordinances does not mean that its punishment is a province of the gods. If anything, it is possible that here we have to do with a sphere of language that stands before law and religion and that the oath represents precisely the threshold by means of which language enters into law and *religio*.

In Plescia's monograph on the oath in Greece, we read, "As a general rule, one may say that, until the end of the sixth century, divine punishment of perjury was still an effective deterrent against the misuse of the oath. From the fifth century, however, the individualism and relativism of the sophistic movement began to undermine the old notion of the oath, at least among a certain segment of the population, and fear of the gods, in case of perjury, began to wane" (Plescia, 86–87). These affirmations, however, reflect only the opinion of the author. This claim is based on the misunderstanding of a passage from Plato (*Laws* 12.948b–d), obviously ironic, in which Radamanthys, who is credited with introducing oaths into trials, is praised for having understood "that the men of his time had a clear belief in the existence of gods—and naturally so, seeing that most men at that time were the offspring of gods, he himself among others, as the story declares." The irony is again accentuated by the fact that Plato, firmly opposed to the use of the oath of parties in trials, adds that Radamanthys "administered an oath to the disputants regarding each matter in dispute, and thus secured a speedy and safe settlement." Equally ironic, and devoid of all nostalgia for a supposed ancient devotion, is the reason adduced immediately after for the exclusion of the oath of the parties: "But nowadays, when, as we say, a certain section of mankind totally disbelieve in gods, and others hold that they pay no regard to us men, while a third party, consisting of the most and worst of men, suppose that in return for small offerings and flatteries the gods lend them aid in committing large robberies, and often set them free from great penalties—under such conditions, for men as they now are, the device of Radamanthys would no longer be appropriate in actions at law." The essential objection to the oath of the parties is actually, as is said immediately after, that making the parties in the trial swear is equivalent to compelling them to perjury: "For truly it is a horrible thing to know full well that, inasmuch as lawsuits are frequent in a State, well-nigh half the citizens are perjurers" (see, again,

in the *Laws* 10.887a, Plato's irony concerning the attempt at "assuming in our legislation the existence of gods [*nomothetountes ōs ontōn theōn*]").

13. Another institution with which the oath is closely connected is the *sacratio*. The ancient sources and the majority of scholars, in fact, agree in seeing in the oath a form of *sacratio* (or *devotio*, another institution with which consecration tends to be confused). In both cases a man was rendered *sacer*, that is, consecrated to the gods and excluded from the world of men (spontaneously, as in the *devotio*, or because he had committed a *maleficium* that rendered it licit for anyone to kill him). "One calls *sacramentum* (one of the two Latin terms for oath)," one reads in Festus (466.2), "an act that is done with the sanction of the oath [*iusiurandi sacratione interposta*]." As Benveniste writes: "the term *sacramentum* . . . implies the notion of making 'sacer.' One associates with the oath the quality of the *sacred*, the most formidable thing which can affect a man: here the 'oath' appears as an operation designed to make oneself *sacer* on certain conditions" (Benveniste [2], 2:168/437). And Pierre Noailles can write of the oath in the trial in the same way: "The litigant himself has consecrated himself, has rendered himself *sacer* through the oath" (Noailles [1], 282–83). As Hirzel writes of the perjurer: "his situation was no different from that of the Roman *sacer*, who has devoted himself to the Manes, and just like him can . . . be excluded from every religious and civil community" (Hirzel, 158). In the same sense the oath can be seen as a *devotio*: "once the oath is formulated, the man taking it is by anticipation a 'devoted' person. . . . For the oath is a kind of *devotio*: as we have seen, the Greek *horkos* signifies an act of self-consecration by anticipation to the power of an avenging deity if the given word is transgressed" (Benveniste [2], 2:243/498).

Hence the importance, in the oath, of the curse (*ara, imprecatio*), which constitutively accompanies its utterance. Already Plutarch, in those precious sources for the knowledge of Latin antiquity represented by the *Questiones romanae*, informs us that "all oaths are concluded with a curse against perjury" (*eis kataran teleutai tēs epiorhias*, 44). Scholars in fact tend to consider the curse as the very essence of the oath and therefore to define the oath as a conditional curse: "The curse appears as the essential part of the oath. Since this essential aspect of the oath was displayed in the purest and strongest way in them, oaths of imprecation were held to be the most powerful. The curse is what is essential and originary" (Hirzel, 138–39); "To swear is first of all to curse, to curse oneself in the event that one says what is false or does not do what has been promised" (quoted in Hirzel, 141).

Bickermann has observed that the curse can, however, be lacking (although the examples cited do not refer to Greek or Latin sources) and that there can be imprecations without an oath (Bickermann, 220/889). The opinion of Glotz, according to whom the curse necessarily accompanies the oath but is not identical to it, therefore seems more correct, and it is in this sense that one must understand the recommendation, contained in official documents, to “add the curse to the oath” (*tōi horkoi tan aran inēmen* [Glotz, 752]). It is necessary, moreover, to specify that the oath often involves both an expression of a bad omen and a good one and that, in the most solemn formulas, the curse follows a blessing: “To those who swear loyally and remain faithful to their own, may children give them joy, may the earth grant its products in abundance, may their herds be fruitful, and may they be filled with other blessings, them and their children; but to perjurers may the earth not be productive nor their herds fruitful; may they perish terribly, them and their stock!” (Glotz, 752). The blessing can, however, be lacking, while the curse must normally be present (Hirzel, 138). This is the rule in Homer, in whom the curse is accompanied by eloquent gestures and rites, as when, in the scene in which the Trojans and the Achaeans exchange oaths before the duel of Paris and Menelaus, Atreus pours wine on the ground from a bowl and utters the formula: “whichever host of the twain shall be first to work harm in defiance of the oaths, may their brains be thus poured forth upon the ground even as this wine” (*Il.* 3.299–300).

The oath seems, then, to result from the conjunction of three elements: an affirmation, the invocation of the gods as witnesses, and a curse directed at perjury. In the same sense, one can say that the oath is an institution that joins an element of the *pistis* type (the reciprocal trust in the words offered) and an element of the *sacratio-devotio* type (the curse). But, in reality, the three institutions are so closely intertwined terminologically and factually (as in the term *sacramentum*, meaning both oath and *sacratio*) that the scholars, although without drawing all the consequences of this proximity, tend to treat them as a single institution. We would do well not to forget that the series *pistis-horkos-ara* or *fides-sacramentum* refer to a single institution, certainly an archaic one, that is both juridical and religious (or prejuridical and prereligious) and whose meaning and function we must seek to understand. But this means that the oath seems to lose, in this perspective, its specific identity and become confused with the *fides* and the curse, two institutions whose nature—above all as regards the curse—is not entirely clear and, in any case, has received relatively little attention from scholars. An analysis of the oath will thus first of all have to confront the problem of its relationship with the curse.

8 The description of the scene of the oath in the *Critias* (119d–120d) shows very well the mutual belonging of *pistis*, *horkos*, and *ara*. The taking of the oath is here defined as a way of “pledging trust,” and on the other hand it is the oath itself that invokes (*epeuchomenos*) “great curses”: “And when the kings were about to give judgment they first gave pledges one to another of the following description [*pisteis allēlois toiasde edidosan*]. . . . And inscribed upon the pillar, besides the laws, was an oath which invoked mighty curses upon them that disobeyed [*horkos ēn megalas aras epeuchomenos tois apeithousin*]. . . . And after this they drew out from the bowl with golden ladles, and making libation over the fire swore to give judgment according to the laws upon the pillar and to punish whosoever had committed any previous transgression.”

14. Once we examine more carefully the constitutive elements of the oath, however, we are faced with an uncertainty and confusion in terminology that is somewhat surprising. One of the characteristics of the oath on which all the authorities, both ancient and modern, from Cicero to Glotz, from Augustine to Benveniste, seem to be in agreement is the calling of the gods as witnesses. In his commentary on Aristotle’s *De interpretatione* (4a), Ammonius thus distinguishes the oath from the assertion (*apophansis*) by means of “the testimony of the god” (*martyria tou theou*). The oath, according to this endlessly repeated doctrine, is an affirmation to which divine testimony is added. The imperative formulas *martys esto* (Pindar *Pyth.* 4.166: *karteros horkos martys estō Zeus*, “as a mighty oath, may Zeus be our witness”; trans. altered) or *istō Zeus* (*Il.* 7.411: *horkia de Zeus istō*, “Let Zeus be witness to this covenant”), attested in the ancient sources, do not seem to leave room for doubt on this matter.

But is this really so? It has been observed that the testimony at issue here differs essentially from testimony in the proper sense, like that of a witness in a trial, because it cannot be contested or verified in any way (Hirzel, 25). And not only does the number of the divinities invoked tend to increase well beyond the number of “legal Gods” (*nominoi theoi* or *theoi horkioi*) to the point of including eight, sixteen, and finally “all gods” (as in the Hippocratic oath), but at times they include rivers, trees, and even inanimate objects (the “bridal bed,” *lechos kouridion* in *Il.* 15.39). What is decisive in every case is that in the oath it is not in any way really a matter of a testimony in a technical sense, because unlike every other conceivable testimony, it coincides with the call and is accomplished and exhausted together with it. Things do not change if, as some sources allow us to suppose, one understands what the gods do not as a testimony but as the giving of a guarantee. As with testimony, here no standing surety can technically take place, either at the moment of the oath or after: it is presupposed as already accomplished with the utterance of the oath (Hirzel, 27).

The oath is, then, a verbal act that accomplishes a testimony—or a guarantee—independently by the very fact that it has taken place. The formula of Pindar cited above acquires here its full meaning: *karteros horkos martyrs estō Zeus*, “as a mighty oath, may Zeus be our witness”: Zeus is not a witness of the oath, but rather oath, witness, and god coincide in the utterance of the formula. As in Philo, the oath is a *logos* that is necessarily accomplished, and this is precisely the *logos* of God. The testimony is given by language itself and the god names a potentiality implicit in the very act of speech.

The testimony that is in question in the oath must therefore be understood in a sense that has little to do with much of what we normally understand by this term. It concerns not the verification of a fact or an event but the very signifying power of language. When in the discussion of the oath given by Hector to Achilles (*Il.* 22.254–55), we read that the gods “are the fittest witnesses [*martyroi*] and guardians of all covenants [*episcopoi harmoniaōn*],” the “joining together” (such is the original meaning of the term *harmonia*, which comes from the vocabulary of carpentry) of which the gods are witnesses and guardians can only be that which unites words and things, that is, the *logos* as such.

✠ A gloss of Hesychius (*horkoi: desmoi sphragidos*) defines oaths as “bonds of the seal” (or sealing, if one prefers the reading *sphragideis*). In the same sense in fragment 115 of Empedocles one speaks of an “eternal decree of the gods, sealed with great oaths” (*plateessi katesphrēgismenon horkois*). The bond that is in question here can only be the one that links the speaker to his speech and, at the same time, words to reality. Hirzel rightly calls attention to the fact that the divine testimony is invoked not only by the promissory oath but also by the assertorial, in which it does not seem to have any meaning, unless what is in question here is meaning itself, the very signifying force of language.

15. If we leave the problem of the intervention of the gods as witnesses in order to turn our attention to that of their role in the curse, the situation is no less confused. That the curse performed an important function in the *polis* is proved by the fact that, in a perfect analogy with Lycurgus’s thesis on the oath, Demosthenes mentions (20.107)—however scandalous it might seem to us—curses (*arai*) alongside the people and the laws (*nomoi*) among the guardians of the constitution (*politeia*). Similarly, Cicero, evoking the bonds among men that it is impossible not to fulfill, names both curses and *fides* (*Verr.* 5.104: *ubi fides, ubi execrationes, ubi dexterae complexusque?* [What signify his promises? What do the curses that he will heap on him? What do the pledges of friendship and mutual embraces?]). But what is a curse, and what can its function be here? Already from the terminological point of view the situation is far from clear. The terms that designate it, both in Greek and in Latin, seem to have opposed meanings:

*ara* (and the corresponding verb *epeuchomai*) mean, according to the lexicons, both “prayer” (and “to pray”) and “imprecation, curse” (and “to imprecate, to curse”). The same can be said for the Latin terms *imprecor* and *imprecatio*, which are the equivalent of both “to augur” and “to curse” (even *devoveo*, which means “to consecrate,” is equivalent to “to curse” in the technical sense in the case of a *devotio* to the infernal gods). The entire vocabulary of the *sacratio* is, as is well known, marked by this ambiguity, the reasons for which I have sought to reconstruct elsewhere.

Once again, interpretations of the curse uncritically repeat the paradigm of the primordality of the magico-religious and limit themselves to going back to a no more specified “numinous power” (see the entry *Fluch* in the *Reallexicon für Antike und Christentum*, 1161) or evoking religion as “a practical auxiliary for the efficacy of law” (Ziebarth, 57). Thus Louis Gernet, in his article “Le droit pénal de la Grèce antique” (Penal Law in Ancient Greece), can write:

The curse has played an important role in the origins of law: it sometimes sanctions the law or substitutes for it, as we can see in a catalogue of public imprecations published in the fifth century in the city of Teos, where it is formulated against an entire series of offences having to do with the security of the State and the very subsistence of the city. Naturally, it is in religious life and in the practice of the sanctuaries that its use was perpetuated above all; but there it could only be a matter of an extremely ancient tradition. The curse presupposes the collaboration of religious forces: these (which, in principle, are not represented in a personal form) are in some way condensed by the incantatory power of the oral rite, and they act on the guilty and those around him by drying up in him the source of all life: the imprecation exercises its fatal effect even on the soil, on what is born from it and nourished by it. At the same time as and by the very fact that it is a *devotio*, it is an exclusion from the religious community constituted by society: it manifests itself through an *interdiction* in the proper sense and, in its concrete application, it is a putting outside the law. (Gernet [2], 11–12)

Only the prestige of the paradigm of the originarity of the magico-religious fact can explain how a sensible scholar like Gernet, repeating the old arguments of Ziebarth, can be satisfied with such a palpably insufficient interpretation in which not only—in clear contrast with the fact that the curse is fully attested in the oath in the historical epoch—are mythical presuppositions like the “incantatory force of the oral rite,” the “religious force,” and their “lethal effects” taken for granted, but it does not even become clear whether it is an institution in itself or is instead identical with the *devotio* and, in the last instance, with the oath itself, which would then constitute a derivation of it.

It will be helpful, therefore, to put in parentheses, at least provisionally, the traditional definitions—which see the curse as an invocation directed at the gods so that, in order to punish perjury, they are transformed from witnesses into avengers—and instead ask ourselves what is effectively at stake in the curse, in other words, what is the immanent function that the curse has in the oath. According to the common opinion, the gods (or, to be more precise, their names) are mentioned in the oath twice: once as witnesses of the oath and a second time, in the curse, as punishers of perjury. In both cases, if we leave aside mythical definitions, which seek an explanation outside of language, we can see that what is at stake is the relationship between words and facts (or actions) that defines the oath. In one case the name of the god expresses the positive force of language, namely the just relation between words and things (“as a mighty oath, may Zeus be our witness”). In the second case it expresses a weakness of language, namely the breaking of this relation. To this double possibility there corresponds the twofold form of the curse, which, as we have seen, generally presents itself also as a blessing: “If I fulfill this oath without violating it [*euorkounti*], may good things be granted to me. But if I violate it and perjure myself [*epiorkounti*], may the opposite befall me” (Glotz, 752; Faraone, 139). The name of the god, which signifies and guarantees the juncture between words and things, is transformed into a curse if this relation is broken. What is essential, in every case, is the co-originary of blessing and curse, which are constitutively copresent in the oath.

✠ It suffices to read the very ample entry for *Fluch* in the *Reallexicon für Antike und Christentum* (which seeks to make up for the very small space dedicated to the problem in the Pauli-Wissowa and the Daremberg-Saglio, in which the curse is treated only fleetingly in the article on the *devotio* by Bouché-Leclercq) to realize that the critical literature has not made much progress with respect to the above-cited article of Erich Ziebarth or that of George Hendrickson (1926). Christopher Faraone’s recent study is focused on the difference between oaths that contain both blessings and curses (in general directed toward the private sphere) and oaths accompanied only by curses (most often reserved for the public sphere). In every case, beyond the traditional explanation, which sees the oath as a recourse to religious power to guarantee the efficacy of the law, the oath-curse connection remains uninterrogated.

16. Ziebarth has demonstrated, with ample documentation, the consubstantiality of the curse to Greek legislation. Its function was so essential that the sources speak of a veritable “political curse,” which always confirms the efficacy of the law. In the preamble of the laws of Caronda one thus reads: “It is necessary to observe [*emmenein*] what has been proclaimed, but the one who transgresses

is subjected to the political curse [*ara politikē*]” (Stobaeus *Florilegium* 44, 40; quoted in Ziebarth, 60). Similarly, Dio Chrysostom of Prusa (80.8) informs us that the Athenians had put down (*ethento*, in the strong sense of the term, as in *nomon tithenai*, to put down a law) in the laws of Solon a curse that extended even to children and descendants (*paides kai genos*). Ziebarth has traced the presence of the “political” curse in the legal apparatuses of all the Greek cities, from Athens to Sparta, from Lesbos to Teos and Chios and finally to the Sicilian colonies (Tauromene). It concerns even questions that have no “religious” element at all, as in Athens’s prohibition of exporting agricultural products other than oil (Ziebarth, 64). Moreover, before every assembly the *kēryx*, the town crier, solemnly pronounced the curse against anyone who had betrayed the people or violated their decisions. “This means,” comments Ziebarth, “that the entire constituted legal order, according to which the *demos* is sovereign, is sanctioned by means of a curse” (ibid., 61). Not only the oath, but also the curse—in this sense it is rightly called “political”—functions as a genuine “sacrament of power.”

It is possible, in this perspective, as William Fowler has already discerned (Fowler, 17), to consider the formula *sacer esto*, which appears in the system of the Twelve Tables, as a curse. It is not, however, as Fowler holds, to be treated as the production of a *taboo* but as the sanction that defines the very structure of law, its way of referring to reality (*talio esto / sacer esto*) (Agamben, 31/22). The enigmatic figure of the *homo sacer*, which is still a topic for debate (and not only among historians of law), seems less contradictory in this light. The *sacratio* that has struck him—and that renders him both killable and unsacrificeable—is only a development (perhaps carried out for the first time by the plebs led by the tribune) of the curse by means of which the law defines its scope. In other words the “political” curse marks out the *locus* in which, at a later stage, penal law will be established. It is precisely this peculiar genealogy that can somehow make sense of the incredible irrationality that characterizes the history of punishment.

✠ It is in the perspective of this technical consubstantiality of law and curse (present even in Judaism—cf. Deuteronomy 21:23—but very familiar to a Jew who lived in a Hellenistic context) that one must understand the Pauline passages in which a “curse of the law” (*katara tou nomou*—Galatians 3:10–13) is spoken of. Those who want to be saved through works (the execution of precepts)—this is Paul’s argument—“are under a curse [*hupo katara eisin*]; for it is written, ‘Cursed is everyone who does not observe and obey [*emmenei*, the same word that one finds in the law of Caronda] all the things written in the book of the law.’” Subjecting himself to the judgment and curse of the law, Christ “redeemed us from the curse of the law by becoming a curse for us—for it is written, ‘Cursed is everyone who hangs on a tree.’” The Pauline argument—and, therefore, the

very meaning of redemption—can be understood only if it is situated in the context of the mutual belonging, in a juridical and not only religious sense, of law and curse.

17. How should we understand this double valence (benediction and malediction) of the divine names in oath and perjury? There is an institution that has always lived in such close intimacy with perjury and the curse that it is often confused with them. It can perhaps furnish us with the key for a correct interpretation of them. I am speaking of blasphemy. In his study “La blasphémie et l’euphémie” (“Blasphemy and Euphemism,” originally a lecture held at a colloquium that was, significantly, devoted to the name of God and the analysis of theological language), Benveniste often refers to the proximity among blasphemy, perjury, and oath (evident in French in the paronym *juron*: *juror*):

Outside of worship, society demands that the name of God be invoked in a solemn circumstance, which the oath is. For the oath is a *sacramentum*, an appeal to God, the supreme witness of truth, and a devotion to divine chastisement in case of lying or perjury. It is the most serious commitment that man can enter into, and the most serious breach he can commit, because perjury relates not to the justice of men, but to the divine sanction. For this reason the name of the god must figure in the formula of the oath. In blasphemy as well, the name of God must appear, because blasphemy, like the oath, calls God as witness. The swearword [*juron*] is an oath, but an oath of outrage. (Benveniste [4], 255–56)

Benveniste underscores, moreover, the interjectory nature proper to blasphemy, which, as such, communicates no message: “The formula pronounced in blasphemy does not refer to any objective situation in particular; the same swearword is pronounced in entirely different circumstances. It expresses only the intensity of a reaction to these circumstances. It does not refer to a second or third person. It transmits no message, it opens no dialogue, it gives rise to no response, and the presence of an interlocutor is not even necessary” (*ibid.*). It is therefore quite surprising that to explain blasphemy, the linguist puts aside the analysis of language and, in one of his rare appeals to the Hebraic tradition, refers to “the biblical interdiction against pronouncing the name of God” (*ibid.*, 254). Blasphemy is, certainly, an act of speech, but it is precisely a matter of “substituting the name of God with its outrage” (*ibid.*, 255). The interdiction does not in fact have a semantic content as its object, but the simple pronunciation of the name, that is, a “pure vocal articulation” (*ibid.*). Immediately after, a citation from Freud introduces an interpretation of blasphemy in psychological terms: “the interdiction of the name of God holds in check one of the most intense desires of man: that of profaning the sacred. As is well known, the sacred

inspires ambivalent behaviors. Religious tradition has wanted to retain only the divine sacred and exclude the cursed sacred. Blasphemy, in its own way, seeks to reestablish this totality by profaning the very name of God. One blasphemes the *name* of God, because all that God possesses is his *name*" (ibid.).

Coming from a linguist accustomed to working exclusively on the patrimony of the Indo-European languages, the appeal to biblical data is at least odd (as is the psychological explanation of a linguistic fact). If it is true, in fact, that in the Judeo-Christian tradition blasphemy consists in taking the name of God in vain (as in modern forms of the type: *nom de Dieu! sacré nom de dieu!* "by God!"), the blasphemous utterance of the name of God is just as common in the classical languages, which are quite familiar to linguists in exclamatory forms of the type: *edepol, ecastor*, by Pollux, by Castor (Greek: *Nai ton Castora*), *edi medi* (by Dius Fidius), *mehercules, mehercle*. It is significant that in all these cases the formula of imprecation is identical to that of the oath: *nai* and *ma* introduce the oath in Greek; in Latin *edepol* and *ecastor* are also formulas for an oath, exactly like the English "by God" (Festus is, moreover, perfectly aware of the derivation of these exclamations from the oath: *Mecastor et mehercules ius iurandum erat, quasi diceretur: ita me Castor, ita me Hercules, ut subaudiatur iuvet* [Mecastor and mehercules are oath formulas, as if one were to say: "So may Castor, So may Hercules . . .," implying "come to my aid"] [112.10]).

Blasphemy presents us, then, with a phenomenon that is perfectly symmetrical to the oath, to understand which there is no need to drag in the biblical interdiction or the ambiguity of the sacred. *Blasphemy is an oath, in which the name of a god is extracted from the assertorial or promissory context and is uttered in itself, in vain, independently of a semantic content.* The name, which in the oath expresses and guarantees the connection between words and things and which defines the truthfulness and force of the *logos*, in blasphemy expresses the breakdown of this connection and the vanity of human language. The name of God, isolated and pronounced "in vain," corresponds symmetrically to perjury, which separates words from things; oath and blasphemy, as benediction and malediction, are co-originarily implied in the very event of language.

✠ In Judaism and Christianity, blasphemy is linked to the commandment "not to use the name of God in vain" (which, in Exodus 20, significantly follows the one that forbids the making of idols). The translation of the Septuagint (*ou lēmpsēi to onoma kyriou tou theou sou epi mataiōi*, "do not take the name of the Lord your God in vain") underlines the idea of vacuity and vanity (cf. the beginning of Ecclesiastes: *mataiotēs mataiotētōn*, "vanity of vanities"). The originary form of blasphemy is not, then, injury done to God but pronouncing his name in vain (cf. *mataioomai*, "to rave, to speak haphazardly"). This

is evident in the euphemisms that intervened to rectify the blasphemous utterance of the name by changing one of its letters or substituting a similar nonsense term for it (as in French *par Dieu* became *pardi* or *parbleu*; cf. the English *gosh* and similar). Contrary to the common opinion, in paganism as well there existed, even if for different reasons, the interdiction of uttering the name of the gods, which took its extreme form in the custom of carefully keeping the true name of a city's patron god unknown in order to avoid its *evocatio* (see below, §18). Plato thus informs us that the Greeks preferred to call Hades by the name of Pluto "because they feared the name [*phoboumenoi to onoma*]" (*Cra.* 403a).

As the awareness of the efficacy of the pronunciation of the divine name was lost, the originary form of blasphemy represented by uttering it in vain took second place to the pronouncing of injury or falsity on God. From *male dicere de deo* [speaking badly of God], blasphemy thus became *mala dicere de deo* [saying bad things about God]. In Augustine, who, significantly, treats blasphemy in his treatise on lying, the evolution is already complete. If the originary proximity to the oath and to perjury is still present, blasphemy is now defined as saying false things of God: *peius est blasphemare quam perierare, quoniam perierando falsae res adhibetur testis Deus, blasphemando autem de ipso Deo falsa dicuntur* [blasphemy is worse than perjury, because in the latter God is called to witness a falsehood, whereas in the former falsehood is spoken about God Himself] (Augustine [1], 19.39); and even more clearly: *Itaque iam vulgo blasphemia non accipitur, nisi mala verba de Deo dicere* [So usually the word blasphemy is applied only to speaking evil of God] (Augustine [2], 11.20).

Hence the embarrassment of modern theological dictionaries when they find themselves confronted with the originary form of blasphemy, which now appears as an entirely venial sin: "The most suspect of these swearwords, the French expression 's . . . n . . . de D . . . ,' is considered by many moralists to be a true blasphemy, and consequently to be gravely culpable, either because of the injurious meaning that it seems to have or because of the horror that it inspires in all consciences with any delicacy at all. . . . Others, observing that the meaning of the words in question is equivocal, say that only intention can transform this manner of speaking into blasphemy" (*Dictionnaire de théologie catholique*, s.v. *Blasphème*).

The evangelical prohibition of the oath in Matthew 5:33–37 (see also James 5:12) must be situated in this context. Essentially, what Jesus opposes to the oath is a *logos* that has the form *nai nai, ou ou*, which is usually translated *yes yes, no no* (*estō de ho logos ymōn nai nai, ou ou*). The expression gains its full meaning if we remember that the Greek formula for the oath was *nai dia* (or negatively *ou ma dia*). By extracting the particle *nai* from the formula and removing the sacred name that followed, Jesus opposed one part of the oath to the whole. What is at stake, then, is a gesture symmetrically opposed to that of blasphemy, which instead extracts the name of God from the context of the oath.

18. It becomes easier to understand, on this basis, both the function of the curse in the oath and the close relation that links it to blasphemy. What the curse sanctions is the loosening of the correspondence between words and

things that is in question in the oath. If the connection that unites language and the world is broken, the name of God, which expressed and guaranteed this connection based in blessing [*bene-dicente*], becomes the name of the curse [*male-dizione*], that is, of a word that has broken its truthful relation to things. In the mythical sphere this means that the curse [*male-dizione*] directs against perjury the same evil-doing force that its abuse of language has liberated. The name of God, released from the signifying connection, becomes blasphemy, vain and meaningless speech, which precisely through this divorce from meaning becomes available for improper and evil uses. This explains why the magical papyri are often nothing other than lists of divine names that have become incomprehensible: in magic the names of the gods taken in vain, especially if they are barbarian and unintelligible, become the agents of the magical work. Magic is the name of God—that is, the signifying power of the *logos*—emptied of its sense and reduced, as in the magical formulas known as *Ephesia Grammata*, to an *abracadabra*. For this reason, “Magicians used Sanskrit in the India of the Prakrits, Egyptian and Hebrew in the Greek world, Greek in Latin-speaking countries and Latin with us. All over the world people value archaisms and strange and incomprehensible terms” (Mauss, 51/71).

It is from the oath—or, better, from perjury—that magic and spells are born: the formula of truth, when broken, is transformed into an efficacious curse, and the name of God, separated from the oath and from its connection to things, passes into a satanic murmur. The common opinion that would have the oath derive from the magico-religious sphere must here be precisely reversed. The oath presents us, rather, in a still undivided unity, what we are accustomed to call magic, religion, and law, which result from the oath as its fragments.

If one who had risked himself in the act of speech knew that he was thereby co-originarily exposed to both truth and lying, to both bene-diction and male-diction, *gravis religio* (Lucretius, 1.63) and law are born as the attempt to secure trust, by separating and technicizing in specific institutions blessing and *sacratio*, oath and perjury. The curse becomes at this point something that is added to the oath to guarantee what at the beginning was entrusted entirely to *fides* in speech, and the oath can thus be presented, in the verses of Hesiod that I have cited above, as that which was invented to punish perjury. The oath is not a conditional curse: on the contrary, the curse and its symmetrical *pendant*, the blessing, are born as specific institutions from the division of the experience of speech that was in question in the oath. Servius’s gloss on *Aen.* 2.154 (*exsecratio autem est adversorum deprecatio, ius iurandum vero optare prospera*, a curse is an attempt to stave off adversities, an oath to choose good fortune) clearly shows

both the distinction between curse and oath and their constitution as two symmetrical epiphenomena of one sole experience of language. And only if we manage to understand what we could call the anthropogenic nature and valence of this experience (which Thales, according to the testimony of Aristotle, considered the “oldest” and “most venerable thing”), can we perhaps also shed a new light on the relationship among its historical remnants, which magic, religion, and law present to us as divided.

✠ It is possible to take up again in this perspective the question of the etymological meaning of the term *epiorkos*, which has created so much work for scholars. Luther (and Benveniste at first) interpret the term as the fact of being subjected to a *horkos* (in which case the oath becomes synonymous with a curse [see also Loraux, 126/127]). Leumann (and Benveniste in a second moment) instead interprets the term as the fact of adding (*epi*) an oath (*horkos*) to a word or a promise that is known to be false. Developing this last hypothesis, one could see in the *epiorkos* an oath added to the oath, that is the curse that strikes the one who transgresses *fides*. In this sense every word that is added to the initial declaration is a male-diction, implying that the speaker is a perjurer. This is the meaning of the evangelical prescription of keeping to *nai* and *ou*: the *yes* and *no* are the only things that can be added to one’s own commitment to the given word.

19. It is in this perspective that we must interrogate the originary meaning and function of the name of the god in the oath and, more generally, the very centrality of divine names in the apparatuses that we are accustomed to call religious. The great philologist—and, in his way, theologian—Hermann Usener dedicated his monograph *Götternamen* to the problem of the genesis of divine names, and it is significant that since the date of this publication (1896), there have been no comparably relevant contributions to the question. One should reflect on the by now famous reconstruction of the formation of the names of those germinal centers of divinity that Usener calls “special gods” (*Sondergötter*). These are divinities of which neither the literary nor the artistic sources tell us anything and that are known to us only by citations of the *indigitamenta*, the liturgical books of the pontifexes that contained the list of divine names to be pronounced in appropriate cultic circumstances. That is to say, the *Sondergötter* are known to us only through their names, and, to judge from the silence of the sources, they live only in their name, whenever the priest ritually invokes them (*indigitabat*). Even an elementary etymological competence permits one to reconstruct the meaning of these names and the function of the “special gods” that they named: Vervactor refers to the first tilling of May (*vervactum*); Reparator to the second plowing; Inporcitor to the last plowing that traces the *porcae*, that is the elevations of earth between furrows; Occator to the working of the earth

with the harrow (*occa*); Subruncinator to the pulling out of weeds with the hoe (*runco*); Messor to the carrying out of the harvest (*messis*); Sterculinius to fertilization with dung. “For every act and situation that could be important to the men of that time,” writes Usener, “special gods were created and named with distinct verbal coinages [*Wortprägung*]: in this way, not only are the acts and situations as a whole divinized, but even their parts, singular actions, and moments” (75).

Usener shows that even divinities who have entered into mythology, like Persephone and Pomona, were originally “special gods” who named, respectively, the breaking through of buds (*prosero*) and the maturation of fruits (*poma*). All the names of the gods—this is, indeed, the thesis of his book—are initially names of actions or brief events, *Sondergötter* who, through a long historico-linguistic process, lost their relationship with the living vocabulary and, becoming more and more unintelligible, were transformed into proper names. At this point, when it had already been stably linked to a proper name, “the divine concept [*Gottesbegriff*] gains the ability and impetus to receive a personal form in myth and cult, poetry and art” (*ibid.*, 316).

But this means that, as is evident in the *Sondergötter*, in its originary core the god who presides over the singular activity and the singular situation is nothing other than the very name of the activity and the situation. What is divinized in the *Sondergötter* is the very event of the name; nomination itself, which isolates and renders recognizable a gesture, an act, a thing, creates a “special god,” is a “momentary divinity” (*Augenblicksgott*). The *nomen* is immediately *numen* and the *numen* immediately *nomen*. Here we have something like the foundation or the originary core of that testimonial and guaranteeing function of language that, according to the traditional interpretation, the god came to assume in the oath. Like the *Sondergott*, the god invoked in the oath is not properly the witness of the assertion or the imprecation: he represents, he *is* the very event of language in which words and things are indissolubly linked. Every naming, every act of speech is, in this sense, an oath, in which the *logos* (the speaker in the *logos*) pledges to fulfill his word, swears on its truthfulness, on the correspondence between words and things that is realized in it. And the name of the god is only the seal of this force of *logos*—or, in the case in which it falls into perjury, of the male-diction that has been brought into being.

✠ Usener’s thesis implies in some way that “the origin of language is always a mystical-religious event” (Kraus, 407). This does not mean, however, a primacy of the theological element: event of God and event of the name, myth and language coincide because, as Usener specifies from the beginning, the name is not something already available, which is subsequently applied to the thing it is to name. “One does not form some complex of

sounds in order to use it as a sign of a determinate thing as one uses a coin. The spiritual excitation, which a being that is encountered in the outside world calls forth, is at the same time the occasion and the medium of naming [*der Anstoss und das Mittel des Benennens*]” (Usener, 3). This means that, in the event of language, proper name and appellative name are indistinguishable; and, as we have seen by means of the *Sondergötter*, the proper name of the god and the predicate that describes a certain action (harrowing, fertilizing, etc.) are not yet divided. Naming and denotation (or, as we have seen, the assertorial and veridictional aspect of language) are originally inseparable.

20. In his study “La blasphémie et l’euphémie” (Blasphemy and Euphemism), Benveniste, as we have seen, underlines the interjectory character that defines blasphemy. As he writes, “blasphemy manifests itself as an exclamation and has the syntax of interjections, of which it constitutes the most typical variety” (Benveniste [4], 256). Like every exclamation, blasphemy also is “a word that one ‘lets slip out’ under the pressure of a sudden and violent emotion” (*ibid.*), and like every interjection, even if it always makes use (unlike what often happens in onomatopoeic interjections like “aha!” and “oh!”) of terms that are meaningful in themselves, it does not have a communicative character; it is essentially nonsemantic.

It is remarkable that, in discussing expressions that primitive peoples make use of to signify the divine (like *mulungu* for the Bantu, *vakanda* or *manitu* for the American Indians), Cassirer observes that, to understand them, we must “go back to the most primitive level of *interjections*. The *manitu* of the Algonquins, the *mulungu* of the Bantus is used in this way—as an exclamation that indicates not so much a thing as a certain *impression*, and which is used to greet anything unusual, wonderful, marvelous, or terrifying” (Cassirer, 58/71). The same can be said for the names of the gods in polytheism, which constitute, according to Cassirer, the first form in which the mythico-religious consciousness expresses its feeling of terror or veneration (*ibid.*).

Like blasphemy, which is its other face, the divine name seems constitutively to have the form of an interjection. In the same way, Adam’s naming of the animals in Genesis 2:19 could not have been a discourse but only a series of interjections. According to the duality between names and discourse that, according to linguists, characterizes human language, names, in their originary status, constitute not a semantic element but rather a purely semiotic one. These are the remains of the originary interjection, which the river of language drags behind it in its historical becoming.

Since it is not semantic but exclamatory in nature, blasphemy shows its proximity to a linguistic phenomenon that is not easy to analyze, that is, the

insult. Linguists define insults as performative terms of a particular type that, despite the apparent similarity, are opposed in every respect to normal classifying terms, which inscribe what is predicated into a determinate category. The phrase “you are an idiot” is only apparently symmetrical to “you are an architect” because, unlike the latter, it is not meant to inscribe a subject into a cognitive classification but to produce, simply by uttering it, particular pragmatic effects (Milner, 295). Insults function, then, more like exclamations or proper names than like predicative terms and, in this, they show their similarity with blasphemy (the Greek *blasphēmia* means both insult and blasphemy). It is not surprising, then, that blasphemy, by means of a process that was already completed in Augustine, goes from uttering the name of God in vain to taking the form of an insult (*mala dicere de Deo*), that is, of an injurious term added into an exclamation of the name of God. As a term that is only apparently semantic, the insult reinforces the “vain” character of blasphemy, and the name of God is, in this way, doubly taken in vain.

✠ The special power of the divine name is evident in the institution of Roman war law (it should be clear why I prefer to avoid the term “sacral law,” which, beginning with Danz and Wissoza, has been used in such cases) known as *evocatio*. During the siege of a city, immediately before the decisive attack, the commander “evoked,” that is, called by name the enemies’ tutelary divinities, so that they would abandon the city and transfer themselves to Rome, where they would receive more adequate worship. The formula of the *carmen evocationis* used for Carthage has been conserved for us by Macrobius, without mentioning the proper name of the god: “To any god, to any goddess [*si deus est, si dea est*], under whose protection are the people and state of Carthage, and chiefly to thee who art charged with the protection of this city and people, I make prayer and do reverence [*precor venerorque*] and ask grace of you all, that you abandon the people and state of Carthage, forsake their places, temples, shrines, and city . . . that . . . you come to Rome, to me and mine; and that our places, temples, shrines, and city may be more acceptable and pleasing to you; and that you may take me and the Roman people and my soldiers under your charge, that we may know the same. If ye shall so have done, I vow to you temples and solemn games” (*Saturnalia* 3.9.7–8).

That this is not an invitation but a genuine binding power tied to the pronunciation of the name, follows from the fact that we know (Pliny, 28.18) that, in order to avoid the danger of an evocation on the part of the enemy, Rome had a secret name (the palindrome *Amor* or, according to Lydus [*Mens.* 4.25], *Flora*). And like Rome, the gods also had a secret name, known only to the priest (or magician), which guaranteed the efficacy of the invocation: as Dionysius in the mysteries was called Pyrigenēs, Lucina with the foreign name of Ilithyia, Persephone with that of Furva, while the true name of the *Bona dea*, to whom Roman matrons dedicated a mystery cult, had to remain unknown to the males (Güntert, 8). The magical power of the name that we encounter in the formulas and

amulets of many cultures, in which not only does the name evoke the potency named, but it can even, through its progressive cancellation, drive it out or destroy it (as in the formula *akrakanarba kanarba anarba narba arba rba ba a* [Wessley, 28]) has its basis here. As in the oath (the proximity between the magical formula and the oath is attested by the verb *horkizō*, to evoke, to exorcize: *horkizō se to hagion onoma* [I evoke or exorcize the holy name], with the accusative of the divine name exactly as in the oath [Güntert, 10]), the utterance of the name immediately actualizes the correspondence between words and things. Oath and exorcism are the two faces of the “evocation” of being.

21. One can thus understand the essential primacy of the name of God in monotheistic religions, its identification with and almost substitution for the God it names. If, in polytheism, the name *assigned to* [*il nome del dio*] the god named this or that event of language, this or that specific naming, this or that *Sondergott*, in monotheism *God's* name [*il nome di Dio*] names language itself. The potentially infinite dissemination of singular, divine events of naming gives way to the divinization of the *logos* as such, to the name of God as archi-event of language that takes place in names. Language is the word of God, and the word of God is, in the words of Philo, an oath; it is God insofar as he reveals himself in the *logos* as the “faithful one” (*pistos*) par excellence. God is the oath-taker in the language of which man is only the speaker, but in the oath on the name of God the language of men communicates with divine language.

Hence, in Maimonides and in rabbinic Judaism the persistency with regard to the status of the proper name of God, the Tetragrammaton. There it is kept—as *šem ha-meforaš*, “distinctly pronounced name” but also “separate, secret”—distinct from simple appellative names (*kinnui*), which express this or that action of God, this or that divine attribute: “the other names,” writes Maimonides, “like *dayan* (judge), *shaddai* (almighty), *tsaddik* (righteous), *channun* (gracious), *rachum* (merciful), and *elohim* (chief) . . . are unquestionably appellatives and derivatives. The derivation of the name, consisting of *yod*, *hé*, *vau*, and *hé*, is not positively known, the word having no additional signification” (Maimonides, 1:61). Commenting on a passage from the *Pirkè R. Eliezer*, in which one reads, “Before the universe was created, there was only the Almighty and His name,” Maimonides adds, “Observe, how clearly the author states that all these appellatives employed as names of God came into existence after the Creation. This is true; for they refer to actions connected with the Universe. If, however, you consider His essence as separate and as abstracted from all actions, you will not describe it by an appellative, but by a proper noun, which exclusively indicates that essence” (ibid.). What is proper to this name (the *šem ha-meforaš*), according to Maimonides, is that, unlike other names that “do

not signify a simple substance, but a substance with attributes,” it “conveys the meaning of ‘absolute existence,’” that is an essence that coincides with its existence (ibid.). The “name” (the term *šem* in the Bible is often used as a synonym of God) is the being of God, and God is the being that coincides with its name.

✠ In his study “The Name of God and the Linguistic Theory of the Kabbala,” Scholem has shown the special function that the name of God has in the Cabbala, in which it constitutes “the metaphysical origin of all language” (Scholem, 10/5). The name of God, on which men swear, is, according to the Cabbalists, what produces and sustains human language, which is nothing but a breaking apart, recombination, and deployment of the letters that compose this name. In particular the Torah “is completely founded and built on the tetragram; it is woven from the tetragram and its qualifying names, that is, from the divine epithets which are derivable from it, and emerge in it at any given moment. . . . The Torah is therefore a living garment and tissue, a *textus* in the most accurate understanding of the term, in which, as a kind of basic motif and as a leitmotif, the tetragram refers back to it in every possible kind of metamorphosis and variation” (ibid., 50/38).

Christian theologians speak of a *communicatio idiomatum* to define the communication between the properties of the divine nature and those of the human nature that are hypostatically united in Christ. It would be possible to speak, in an analogous sense, of a *communicatio* between the speech of God and the speech of men, which takes place, according to the Cabbalists, in the name of God. In Philo (see above, §10) the communication between the languages has its place in the oath, in which God swears by himself and men on the name of God. In Benjamin’s essay “On Language in General and Human Language,” of which Scholem’s study cited above represents a resumption and development, the place of the *communicatio idiomatum* is in the proper name, by means of which the language of men communicates with the creative word of God (Benjamin, 150/74).

✠ In Exodus 3:13, when Moses asks him how he should respond to the Hebrews when they ask him about the name of God, Yahweh responds: *ehyé acher ahyé*, “I am who I am.” The Septuagint, produced in a Hellenistic environment, and thus in contact with Greek philosophy, translates this name with *egō eimi ho on*, that is, with the technical term for being (*ho on*). Maimonides, commenting on this passage, shows himself to be perfectly conscious of the philosophical implications of this name of God: “Then God taught Moses how to teach them, and how to establish amongst them the belief in the existence of himself, namely, by saying *ehyé ašer ehyé*, a name derived from the verb *haya* in the sense of ‘existing,’ for *haya* means ‘to be,’ and in Hebrew no difference is made between the verbs ‘to be’ and ‘to exist.’ The principal point in this phrase is that the same word which denotes ‘existence,’ is repeated as an attribute. The word *ašer* . . . is an incomplete noun. . . . It must be considered as the subject of the predicate that follows. The first noun which is to be described is *ehyé*; the second, by which the first is described, is likewise *ehyé*, the identical word, as if to show that the object which is to be described

and the attribute by which it is described are in this case necessarily identical. This is, therefore, the expression of the idea that God exists, but not in the ordinary sense of the term; or, in other words, He is ‘the existing being which is the existing Being,’ that is to say, whose existence is absolute” (Maimonides, 1:63).

22. The connection of the theological theme of the name of God with the philosophical one of absolute being, in which essence and existence coincide, is definitively carried out in Catholic theology, in particular in the form of argument that, since Kant, one is accustomed to defining as ontological. As interpreters have clarified, the force of Anselm’s famous argument in the *Proslogion* does not consist in a logical deduction of existence from the notion of a most perfect being or “that than which no greater can be thought”; it is a matter, rather, of the understanding of *id quo maius cogitare non potest* as the most proper name of God. To pronounce the name of God means to understand it as that experience of language in which it is impossible to separate name and being, words and things. As Anselm writes at the end of the *Liber apologeticus contra Gaunilonem* (the only text in which he speaks of a proof, or rather of a *vis probationis*), “what is spoken of [*hoc ipsum quod dicitur*] is proved (as a necessary consequence of the fact that it is understood and thought of [*eo ipso quod intelligitur vel cogitur*]) . . . to exist” (§10). It is a matter, that is to say, above all, of an experience of language (of a “saying”: *hoc ipsum quod dicitur*) and this experience is that of faith. For this reason Anselm thinks it important to inform us that the original title of the treatise was *fides quaerens intellectum* (faith seeking understanding) and that it had been written *sub persona . . . quaerentis intelligere quod credit* (in the name of someone who wants to understand what he believes). To understand the object of faith means to understand an experience of language in which, as in the oath, what is said is necessarily true and exists. That is to say, the name of God expresses the status of the *logos* in the dimension of the *fides* oath, in which nomination immediately actualizes the existence of what it names.

Fifty years later, Alain of Lille, in his *Regulae theologicae* (PL 210:621–84), pushes this special status of the divine name still further, writing that every name, even that which expresses an attribute, like *iustus* or *bonus*, when referring to the being of God is transformed into a pronoun (*pronominatur*); that is, it ceases to indicate, like every name, a substance plus an attribute and, being emptied of its content, now designates, like pronouns or proper names, a pure existence (*substantia sine qualitate* [substance without quality], in the tradition of classical grammatical thought). Not only that, but even the pronoun, if predicated of God, loses the sensible or intellectual ostentation that defines it [*cadit*

*a demonstratione*] and carries out a paradoxical *demonstratio ad fidem*, that is, to the pure act of speech as such (*apud Deum, demonstratio fit ad fidem*).

For this reason Thomas Aquinas, taking up again the thesis of Maimonides on the name *qui est*, can write that it “names a being that is absolute and undetermined by anything added. . . . It does not signify what God is [*quid est Deus*], but signifies a sea of existence that is infinite and as if indeterminate . . . and thus there remains in our intellect only the fact that he is [*quia est*] and nothing more: and so it is as though it were in some state of confusion [*in quadam confusione*]” (Aquinas, d.8, q.1, a.1). The meaning of the name of God, then, has no semantic content, or better, suspends and puts in parentheses every meaning in order to affirm through a pure experience of speech a pure and bare existence.

We can therefore specify further the meaning and function of the name of God in the oath. Every oath swears on the name par excellence, that is on the name of God, because the oath is the experience of language that treats all of language as a proper name. Pure existence—the existence of the name—is not the result of a recognition, nor of a logical deduction: it is something that cannot be signified but only sworn, that is, affirmed as a name. The certainty of faith is the certainty of the name (of God).

✠ At the end of the notes published in 1969 under the title *On Certainty*, Wittgenstein, in order to clarify what we call certainty and often mistake for “knowledge,” appeals to the example of the proper name and wonders: “Do I know or do I only believe that I am called L. W.?” (Wittgenstein, §491). He interrogates, that is to say, the particular “security” that is linked to the plane of names. It is a matter of a certainty, or better of a “trust” (*Worauf kann ich mich verlassen?* “What can I rely on?” [ibid., §508]), which we cannot doubt without renouncing every possibility of judgment and reasoning (ibid., §494). “If my name is not L. W., how can I rely on what is meant by ‘true’ and ‘false?’” (ibid., §515). The security of the propriety of names conditions every other certainty. If someone calls into question, in language, the very moment of naming on which every language game is founded (if it is not secure that I am named L. W. and that “dog” means dog), then speaking and judging become impossible. Yet Wittgenstein shows that here it is not a matter of a certainty of a logical or empirical type (like the certainty of never having been on the moon [ibid., §662]) but of something like a “rule” of the game that language is.

It is a certainty, or better a “faith,” of this kind that is in question in the oath and in the name of God. The name of God names the name that is always and only true, that is, that experience of language that it is not possible to doubt. For man this experience is the oath. In this sense every name is an oath, and in every name a “faith” is in question, because the certainty of the name is not of an empirico-constative or logico-epistemic type but rather always puts in play the commitment and praxis of men. To speak is, above all, to swear, to believe in the name.

23. It is in this perspective that one must reread the theory of performatives or “speech acts,” which, in the thought of the twentieth century, represent a sort of enigma, as if philosophers and linguists were coming up against a magical stage of language. The performative is a linguistic enunciation that does not describe a state of affairs but immediately produces a fact, actualizes its meaning. “I swear” is, in this sense, the perfect paradigm of a “speech act,” and it is curious that Benveniste, who mentions it as such in his study on performatives (Benveniste [3], 270/234), takes no account of its special nature in the chapter on the oath in the *Vocabulaire*. It is precisely the status of the oath that we have sought so far to reconstruct that allows us, in fact, to understand in a new light the theory of performatives. They represent in language a remnant of a stage (or, rather, the co-originary of a structure) in which the connection between words and things is not of a semantico-denotative type but performative, in the sense that, as in the oath, the verbal act brings being into truth. This is not, as we have seen, a magico-religious stage but a structure antecedent to (or contemporaneous with) the distinction between sense and denotation, which is perhaps not, as we have been accustomed to believe, an original and eternal characteristic of human language but a historical product (which, as such, has not always existed and could one day cease to exist).

How, in fact, does the performative function? What permits a certain syntagma to acquire, solely by its utterance, the efficacy of fact, casting off the ancient maxim that would have it that words and things are separated by an abyss? What is essential here, certainly, is the self-referential character of the performative expression. This self-referentiality is not exhausted in the fact that the performative, as Benveniste notes (*ibid.*, 274), takes itself as referent, insofar as it refers to a reality that it itself constitutes. Rather it is necessary to specify that the self-referentiality of the performative is constituted always by means of a suspension of the normal denotative character of language. The performative verb is in fact necessarily constructed with a *dictum* that, considered in itself, has a purely denotative nature and without which it remains void and ineffective (*I swear* does not have any force if it is not followed—or preceded—by a *dictum* that fills it in). It is this denotative character of the *dictum* that is suspended and called into question in the very moment it becomes the object of a performative syntagma. Thus the denotative expressions “yesterday I was in Athens” or “I will not fight against the Trojans” cease to be such if they are preceded by the performative *I swear*. That is to say, the performative substitutes for the denotative relationship between speech and fact a self-referential relation that, putting the former out of play, puts itself forward as the decisive fact. The model of truth

here is not that of the adequation between words and things but the performative one in which speech unfailingly actualizes its meaning. Just as, in the state of exception, the law suspends its own application only to found, in this way, its being in force, so in the performative, language suspends its denotation precisely and solely to found its existential connection with things.

Considered in this perspective, the ontological (or onto-theological) argument simply says that if speech exists, then God exists, and God is the expression of this metaphysical “performance.” In it, sense and denotation, essence and existence coincide, the existence of God and his essence are one sole and identical thing. That which results performatively from the pure existence [*darsi*] of language exists purely and simply (*on haplōs*). (Paraphrasing a thesis of Wittgenstein, one could say that the existence of language is the performative expression of the existence of the world.) Ontotheology is, therefore, a performance of language and is in solidarity with a certain experience of language (that which is at issue in the oath), in the sense that its validity and its decline coincide with the strength and decline of this experience. In this sense metaphysics, the science of pure being, is itself historical and coincides with the experience of the event of language to which man devotes himself in the oath. If the oath is declining, if the name of God is withdrawing from language—and this is what has happened beginning from the event that has been called the “death of God” or, as one should put it more exactly, “of the name of God”—then metaphysics also reaches completion.

There remains, in any case, the possibility of perjury and blasphemy, in which what is said is not really intended and the name of God is taken in vain. The co-originary of the performative structure and denotative structure of speech ensures that the “Indo-European scourge” is inscribed in the very act of speaking, which is to say, is consubstantial with the very condition of the speaking being. With the *logos* are given both—co-originally, but in such a way that they cannot perfectly coincide—names and discourse, truth and lie, oath and perjury, bene-diction and male-diction, existence and nonexistence of the world, being and nothingness.

✠ This performative power of the name of God explains the fact, which is at first glance surprising, that the polemic of the Christian apologists against the pagan gods did not concern their existence or nonexistence but only their being, in the words that Dante puts in the mouth of Virgil, “false and lying” (*Inferno* 1.72). The pagan gods exist but are not true gods; they are demons (according to Tatian) or human beings (for Tertullian). In correspondence with a potentially infinite multiplication of their names, the pagan gods are equivalent to false oaths, are constitutively perjurers. On the contrary, the in-

vocation of the true God's name is the very guarantee of every worldly truth (Augustine: *Te invoco, deus veritas, in quo et a quo et per quem vera sunt quae vera sunt omnia* [Thee do I invoke, God, Truth, in whom and by whom and through whom are all things true which are true] [Augustine [3], 1.3]). Once the performative power of language was concentrated in the name of the one God (which had become, for this reason, more or less unpronounceable), the individual divine names lose all efficacy and fall to the level of linguistic ruins, in which only the denotative meaning remains perceptible (in this sense, Tertullian can mention sarcastically *Sterculus cum indigitamentis suis* [Some Sterculus, I suppose]—*Apol.* 25.10).

24. In this perspective the sharp distinction between assertorial oaths and promissory oaths corresponds to the loss of the experience of speech that is in question in the oath. This is neither an assertion nor a promise but something that, taking up a Foucauldian term, we can call a “veridiction,” which has as the sole criterion of its performative efficacy its relationship to the subject who pronounces it. Assertion and veridiction define, that is to say, the two co-originary aspects of the *logos*. While assertion has an essentially denotative value, meaning that its truth, in the moment of its formulation, is independent of the subject and is measured with logical and objective parameters (conditions of truth, non-contradiction, adequation between words and things), in veridiction the subject constitutes itself and puts itself in play as such by linking itself performatively to the truth of its own affirmation. For this reason the truth and consistency of the oath coincide with its performance, and for this reason the calling of the god as witness does not imply a factual testimony but is actualized performatively by the very utterance of the name. What we today call a performative in the strict sense (the speech acts “I swear,” “I promise,” “I declare,” etc., which must, significantly, always be pronounced in the first person) are the relics in language of this constitutive experience of speech—veridiction—that exhausts itself with its utterance, since the speaking subject neither preexists it nor is subsequently linked to it but coincides integrally with the act of speech.

Here the oath shows its performative proximity with the profession of faith (*homologia*, which in Greek also designates the oath). When Paul, in Romans 10:6–10, defines the “word of faith” (*to rema tēs pisteōs*) not by means of the correspondence between word and reality but by means of the closeness of “lips” and “heart,” it is the performative experience of veridiction that he has in mind: “‘The word is near you, on your lips and in your heart’ (that is, the word of faith that we proclaim); because if you confess [*homologēsēis*] with your lips that Jesus is Lord and believe [*pisteusēis*] in your heart that God raised him from the dead, you will be saved.”

If one pretends to formulate a veridiction as an assertion, an oath as a denotative expression, and (as the Church began to do from the fourth century on by means of conciliar creeds) a profession of faith as a dogma, then the experience of speech splits, and perjury and lie irreducibly spring up. And it is in the attempt to check this split in the experience of language that law and religion are born, both of which seek to tie speech to things and to bind, by means of curses and anathemas, speaking subjects to the veritative power of their speech, to their “oath” and to their declaration of faith. The ancient formula of the Twelve Tables, which expresses the performative potentiality of speech in law, *uti lingua nuncupassit, ita ius esto* (as the tongue has said—has taken the name, *nomen capere*—so the law is), does not mean that what is said is constatively true but only that the *dictum* is itself the *factum* and that, as such, it obliges the person who has pronounced it. It is necessary once again to reverse, in this sense, the common opinion that explains the efficacy of the oath by reference to the powers [*potenze*] of religion or of archaic sacred law. Religion and law do not preexist the performative experience of language that is in question in the oath, but rather they were invented to guarantee the truth and trustworthiness of the *logos* through a series of apparatuses, among which the technicalization of the oath into a specific “sacrament”—the “sacrament of power”—occupies a central place.

✠ A loss of the understanding of the performative character of the experience of language in question in the oath is evident in the philosophical analyses of perjury of which we already have testimony in Aristotle. Discussing the oath of the Trojans in the *Iliad* (3.276ff.), Aristotle observes that it is necessary to distinguish between breaking the oath (*blapsai ton horkon*), which can only apply to a promissory oath, and *epiorkesai*, to perjure, which can refer only to an assertorial oath (Aristotle [1], frag. 143). In the same way Chrysippus distinguishes between *alethorkein/pseudorkein*, to swear the true/ to swear the false, which are in question in the assertorial oath, according to whether the affirmation on which one swears is objectively true or false, and *euorkein/epiorkkein*, which are applied to the fulfillment or nonfulfillment of a promissory oath (Diogenes Laertius, 7.65–66; cf. Hirzel, 77–78; Plescia, 84–85). Here one sees how the model of logical truth founded on the objective adequation between words and things cannot give an account of the experience of language implicit in the oath. Insofar as the oath performatively actualizes what is said, the *epiorkos* is not simply a false oath but implies the evacuation of the performative experience that is proper to the *horkos*.

Logic, which watches over the correct use of language as assertion, is born when the truth of the oath has already waned. And if logic and science are born from the management of the assertorial aspect of the *logos*, from veridiction there proceed, even if through crossings and superimpositions of every kind (which have their highest place

precisely in the oath), law, religion, poetry, and literature. In the middle is philosophy, which, abiding in both truth and error, seeks to safeguard the performative experience of speech without renouncing the possibility of lying and, in every assertorial discourse, experiences the veridiction that takes place in it.

25. The performative efficacy of the oath is evident in the ancient trial, which, in both Greece and Rome, had the form of a conflict between two oaths. The civil trial opened with the oath of the two parties to the suit: the oath with which the plaintiff affirmed the truth of his claims was called a *proomosia* (etymologically: the oath pronounced first), that of the defendant an *antomosia* (that is, an oath pronounced in opposition to the first), and the exchange of oaths was called *amphiorkia*. Analogously, in penal law “the accuser swears that his adversary has committed the crime and the accused that he has not committed it” (Lysias, 46; see also Glotz, 762). The law of Gortyna shows that the Greeks sought to limit the oath to cases in which testimonial evidence was impossible and consequently to establish which of the two parties (usually the accused) had a preferential right to the oath. In every case the judge decided who had “sworn rightly” (*poteros euorkei*) (Plescia, 49). Glotz has rightly observed, against the opinion of Rohde, that the declaratory oath that is in question in the Greek trial, “far from constraining to perjury and from proving, as one says, that the Athenians were not a *Rechtsvolk*, and far from being a purely religious institution that was destined eventually to substitute the justice of the gods for the fallible justice of men” (Glotz, 761), was a properly juridical procedure in which the declarative oath of the suit was clearly distinct from that requested as evidence. In the Roman trial the procedure called *legis actio sacramenti* [the bringing forward of the legal oath], which Gaius describes to us in book 4 of his *Institutiones*, was similar. Each of the two parties affirmed his right—in the case Gaius uses as an example, the *vindictio* of the ownership of a slave—with the formula: *Hunc ego hominem ex iure Quiritium meum esse aio, secundum suam causam sicut dixi ecce tibi vindictam imposui* [I assert that this slave is mine by Quiritary title, in accordance with his status, as I have declared it. Look you, I lay my wand upon him], accompanied by the laying of a wand (*vindicta*) on the head of the contested slave (*Inst.* 4.16). Subsequently, the one who had pronounced the first declaration provokes the other to the *sacramentum* of a certain sum of money (*quando tu iniura vindicavisti, D aeris sacramento te provoco* [Inasmuch as you have made a claim without right to support it, I challenge you in a deposit of five hundred *asses*]). Festus, commenting on the word *sacramentum* in the passage cited above, explains that it is a matter of a genuine oath that entails a *sacratio*: *sacramento dicitur quod iusiurandi sacratione interposita factum est* (one calls a

*sacrament* what is done with the sanction of the oath). Only at this point did the judge pronounce his decision: “This *sacramentum* is the central point, the crux of the trial, which gives its name to the whole. The role of the judge is in fact limited, after the examination of the case, to declaring which is the *sacramentum justum* and which is the *sacramentum injustum*” (Noailles [1], 276).

Once more, the historians of law, though realizing that what is here in question is a genuinely performative efficacy, tend to explain the function of the oath in the trial by recourse to the sacral paradigm: “It seems that the most ancient forms of obligation make the oath effective. They provoke a change of estate among the parties, and they create something between them in the world beyond. In order to create, they bring forces into play. . . . These are so-called religious forces” (Gernet [1], 61/172–73). What is thus presupposed in the form of religiosity is just the experience of language that takes place in veridiction. In this sense the opposition between faith and religion, so important in modern culture, in reality corresponds point by point to the opposition between two co-originary characteristics of the *logos*, which are veridiction (from which law and positive religion proceed) and assertion (from which logic and science derive).

26. Let us attempt to understand, in the perspective of our investigation, the “forces” that are really in question here. One of the terms about whose meaning historians never stop debating is *vindicta* (and related terms like *vindex*, *vindicere*), which in the trial seems to designate the wand with which the parties touched the disputed property. It is the merit of Pierre Noailles to have clarified the original meaning of this term. It comes, according to the traditional etymology, from *vim dicere*, literally: “to say or show force.” But what force? Among scholars, Noailles observes, there reigns the greatest confusion on this point: “they oscillate perpetually between the two possible meanings of the word: either force or violence, which is to say force materially put to use. In reality they do not choose. According to the occasion, it is one or the other meaning that is put forward. The *vindicaciones* of the *sacramentum* are presented now as manifestations of force, now as symbolic or simulated acts of violence. The confusion is still greater with regard to the *vindex*. For it is not clearly determined whether the force or violence that the name indicates is his own, which he puts at the service of the law, or if it is the violence of his adversary, whom he denounces as contrary to justice” (Noailles [2], 57). Against this confusion Noailles shows that the *vis* in question cannot be a material force or violence but only the force of the rite, that is a “force that compels, but does not seek to be or need to be applied materially in an act of violence, even a simulated one” (ibid., 59). Noailles

cites in this connection a passage from Aulus Gellius in which the *vis civilis . . . quae verbo diceretur* (the civil force, which is said with the word) is opposed to the *vis quae manu fieret, cum vi bellica et cruenta* (the force which is carried out with hands, with warlike and cruel force). Developing the thesis of Noailles, one can hypothesize that the “force said with the word,” which is in question in the action of the *vindex* as also in the oath, is the force of effective speech, as the originary force of law. The sphere of law is that of effective speech, of a “saying” that is always *indicere* (to proclaim, to declare solemnly), *ius dicere* (to say what conforms to the law), and *vim dicere* (to say the effective word). The force of speech that is in question is, according to Noailles, the same one that is expressed in the formula of the Twelve Tables: *uti lingua nuncupasset, ita ius esto* (as language has said, so the law is). *Nuncupare* is explained etymologically as *nomen capere*, to take the name:

The general characteristic of all the *nuncupationes*, whether in sacred law or civil law, is that of delimiting and circumscribing. . . . The essential goal of the formulary is that of determining the object, of seizing it. Thus one can perceive the profound relationship that exists between gesture and speech, and the strict correlation that unites them. *Rem manu capere, nomen verbis capere*, such are the two cornerstones of this act of total capture. It is well known what mystical importance the Romans attached to the *nomen* as the means to acquire mastery over the *res* that they designated. The first condition for acting with effectiveness on one of the mysterious forces of nature, on a divine potency, was being able to pronounce its name. (Noailles [1], 306)

It is sufficient to set aside the recourse to “divine potency,” by now all too familiar to us, for the nature and function of the oath in the trial to become evident. The “just oath” is that of which the *iudex*, who in the trial is substituted for the archaic *vindex*, “declares and recognizes the force” (*vim dicit*); it is, therefore, that which has completed in the most correct and effective way the “performance” implicit in the oath. The act of the counterparty is not, for this reason, necessarily an *epi-orkos*, perjury: it is simply an act whose performative *vis* is less perfect than that of the victor. The “force” that is in question here is that *quae verbo diceretur*, the force of speech. One must therefore suppose that in the *sacramentum*, as in every oath, there was implied a performative experience of language, in which the utterance of the formula, the *nomen capere* of the *nuncupatio*, had the force of actualizing what it said. There is no need to drag in religion, myth, or magic to explain this force: it is a matter of something that is verified again every time the formula of a verbal juridical act is pronounced. It is not by means of a sacred power that the spouses, uttering their “I do” before a civil official, find themselves effectively

united in marriage; it is not by means of magic that the verbal agreement of a sale immediately transfers the ownership of movable goods. The *uti lingua nuncupasset, ita ius esto* is not a magico-sacral formula; it is, rather, the performative expression of the *nomen capere* that the law has preserved at its center, drawing it from the original experience of the act of speech that takes place in the oath.

✠ Magdelain has shown that the verbal mode proper to law, both sacred and civil, is the imperative. Both in the *leges regiae* and the Twelve Tables the imperative formula (*sacer esto, paricidas esto, aeterna auctoritas esto* [be sacer, be a parricide, be an eternal authority], etc.) is the normal one. The same holds for juridical transactions: *emptor esto* [be the buyer] in the *mancipatio* [ritual transfer of goods], *heres esto* [be the heir] in testaments, *tutor esto* [be the guardian], etc., as also in the formulas of the pontifical books: *piaculum data, extra porriciunto* [let the entrails be placed as an offering] (Magdelain, 33–35; Johnson, 334–35). The same verbal mode is found, as we have seen (§14 above), in formulas of the oath.

Let us look at the imperative formula of the Twelve Tables cited above: *uti lingua nuncupasset, ita ius esto*. Festus, who has transmitted its text to us, explains the term *nuncupata* as *nominata, certa, nominibus propriis pronuntiata* (the sum of money named, determined, pronounced in precise terms [Riccobono, 43; Festus, 176.3–4]). The formula expresses, that is, the correspondence between correctly pronounced nomination and juridical effect. The same can be gathered from the formula of the *inauguratio* of the temple on the *arx capitolina*: *templa tescaque me ita sunt, quoad ego ea rite lingua nuncupavero* (temples and sacred lands be mine in this manner, up to where I have named them with my tongue according to the rites [Varro, 7.8]); here, as well, the imperative expresses the conformity between words and things that follows on correct naming. The *nuncupatio*, the taking of the name, is in this sense the originary juridical act, and the imperative, which Meillet defines as the primitive form of the verb, is the verbal mode of nomination in its performative juridical effect. To name, to take a name, is the originary form of the command.

✠ We know from the sources that, in the Roman trial, the term *sacramentum* did not immediately designate the oath but the sum of money (of fifty or five hundred *asses*) that was, so to speak, put at stake by means of the oath. The one who did not succeed in proving his right lost the sum, which was paid into the public treasury. “If it is that money which comes into court in lawsuits, it is called *sacramentum*, ‘sacred deposit,’ from *sacrum*, ‘sacred, consecrated’: the plaintiff and the defendant each deposited with the praetor [or, according to some editors, the pontifex] five hundred copper asses for some kinds of cases, and for other kinds the trial was conducted likewise under a deposit of some other fixed amount specified by law; he who won the decision got back his *sacramentum* from the consecration, but the loser’s deposit passed into the state treasury” (Varro, 5.180). The same etymology is found in Festus (468.16–17): *Sacramentum aes significat quod poenae nomine pendetur* (*sacramentum* designates the money paid as a penalty).

The object of the *sacratio* that takes place in the trial is therefore the money. The *sacer*, that which was consecrated to the gods, was not in this case, as in the sanctions of the

Twelve Tables, a living being but a sum of money. Cicero informs us that originally the object of the procedural *sacratio* was not money but livestock (Noailles [1], 280). Hence the hypothesis of some historians of law, according to which it was the party who pronounced the oath who was rendered in this way *sacer*, that is killable and unsacrificeable. In any case what is essential is that the sacredness here inhered, beyond all doubt, in the money, that the money was literally and not metaphorically “sacred.” The sacral aura that surrounds money in our culture in all likelihood has its origin in this vicarious consecration of a sum of money in place of a living being; as *sacramentum*, money is truly equal to life.

27. Let us now attempt to fix in a series of theses the new position of the oath that results from the analysis developed so far.

(1) Scholars have constantly explained, in a more or less explicit way, the institution of the oath by means of a reference to the magico-religious sphere, to a divine power, or to “religious forces” that intervene to guarantee its efficacy by punishing perjury. With a curious circularity the oath was thus in fact interpreted, as in Hesiod, as that which serves to prevent perjury. My hypothesis is exactly the reverse: the magico-religious sphere does not logically preexist the oath, but it is the oath, as originary performative experience of the word, that can explain religion (and law, which is closely connected with it). For this reason *Horkos* is, in the classical world, the most ancient being, the sole potency to which the gods are submitted for punishment; for this reason, in monotheism, God is identified with the oath (he is the being whose word is an oath or who coincides with the position of the true and efficacious word *in principio*).

(2) The proper context of the oath is therefore among those institutions, like the *fides*, whose function is to performatively affirm the truth and trustworthiness of speech. *Horkia* are par excellence *pista*, reliable, and the gods, in paganism, are performatively summoned in the oath essentially to testify to this reliability. The monotheistic religions, above all Christianity, inherit from the oath the centrality of faith in the word as the essential content of religious experience. Christianity is, in the proper sense of the term, a religion and a divinization of the *Logos*. The attempt to reconcile faith as the performative experience of a veridiction with belief in a series of dogmas of an assertive type is the task and, at the same time, the central contradiction of the Church, which obliges it, against the clear evangelical command, to technicalize oath and curses in specific juridical institutions. For this reason philosophy, which does not seek to fix veridiction into a codified system of truth but, in every event of language, puts into words and exposes the veridiction that founds it, must necessarily put itself forward as *vera religio* [true religion].

(3) It is in the same sense that the essential proximity between oath and *sacra-*

*tio* (or *devotio*) must be understood. The interpretation of *sacertus* as an originary performance of power through the production of a killable and unsacrificeable bare life must be completed in the sense that, even before being a sacrament of power, the oath is a consecration of the living human being through the word to the word. The oath can function as a sacrament of power insofar as it is first of all the *sacrament of language*. This original *sacratio* that takes place in the oath takes the technical form of the curse, of the *politikē ara* that accompanies the proclamation of the law. Law is, in this sense, constitutively linked to the curse, and only a politics that has broken this original connection with the curse will be able one day to make possible another use of speech and of the law.

28. This is the moment to situate the oath archaeologically in its relationship to anthropogenesis. In the course of our investigation we have often looked to the oath as the historical testimony of the experience of language in which man was constituted as a speaking being. It is in reference to such an event that Lévi-Strauss, in his study on Mauss that I have previously cited, spoke of a fundamental inadequation between signifier and signified that was produced in the moment in which, for the speaking man, the universe suddenly became meaningful:

At the moment when the entire universe all at once became significant, it was none the better known for being so, even if it is true that the emergence of language must have hastened the rhythm of the development of knowledge. So there is a fundamental opposition, in the history of the human mind, between symbolism, which is characteristically discontinuous, and knowledge, characterized by continuity. Let us consider what follows from that. It follows that the two categories of the signifier and the signified came to be constituted simultaneously and interdependently, as complementary units; whereas knowledge, that is, the intellectual process which enables us to identify certain aspects of the signifier and certain aspects of the signified . . . only got started very slowly. . . . The universe signified long before people began to know what it signified. (Lévi-Strauss, xlvi/60–61)

The consequence of this lost equalization is that man

has from the start had at his disposition a signifier-totality which he is at a loss to know how to allocate to a signified, given as such, but no less unknown for being given. There is always a non-equivalence or “inadequation” between the two, a non-fit and overspill which divine understanding alone can soak up; this generates a signifier-surfeit relative to the signifieds to which it can be fitted. So in man’s effort to understand the world, he always disposes of a surplus of signification (which he shares out among things in accordance with the laws of the symbolic thinking which it is the task of ethnologists and linguists to study). (Ibid., lxix/62–63)

We have seen how, according to Lévi-Strauss, it is precisely this inadequation that explains magico-religious notions such as *mana*, which represent that “floating” or excessive and, in short, empty signifier that constitutes “the disability of every finite thought” (ibid., lxix/63). As mythology does in Max Müller, so also for Lévi-Strauss, even if certainly in a different sense, magico-religious notions represent in some way a malady of language, the “opaque shadow” that language casts on thought and that permanently impedes the welding together of signification and consciousness, of language and thought.

The predominance of the cognitive paradigm ensures that, in Lévi-Strauss, the event of anthropogenesis is seen solely in its gnoseological aspect, as if, in the becoming human of man, there were not necessarily and above all ethical (and, perhaps, also political) implications at issue. What I would like to suggest here is that when, following on a transformation whose study is not a task of the human sciences, language appeared in man, the problem it created cannot have been solely, as according to the hypothesis of Lévi-Strauss, the cognitive aspect of the inadequation of signifier and signified that constitutes the limit of human knowledge. For the living human being who found himself speaking, what must have been just as—perhaps more—decisive is the problem of the efficacy and truthfulness of his word, that is, of what can guarantee the original connection between names and things, and between the subject who has become a speaker—and, thus capable of asserting and promising—and his actions. With a tenacious prejudice perhaps connected to their profession, scientists have always considered anthropogenesis to be a problem of an exclusively cognitive order, as if the becoming human of man were solely a question of intelligence and brain size and not also one of *ethos*, as if intelligence and language did not also and above all pose problems of an ethical and political order, as if *Homo sapiens* was not also, and of course precisely for that reason, a *Homo iustus*.

Linguists have often sought to define the difference between human and animal language. Benveniste has thus opposed the language of bees, a fixed code of signals whose content is defined once and for all, to human language, which can be analyzed into morphemes and phonemes whose combinations allow for a virtually infinite potentiality of communication (Benveniste [3], 62/54). Once more, however, the specificity of human language with respect to animal language cannot reside solely in the peculiarity of the instrument, which later analyses could find—and, in fact, continually do find—in this or that animal language. It consists, rather, no less decisively in the fact that, uniquely among living things, man is not limited to acquiring language as one

capacity among others that he is given but has made of it his specific potentiality; *he has, that is to say, put his very nature at stake in language.* Just as, in the words of Foucault, man “is an animal whose politics places his existence as a living being in question” (Foucault, 143), so also is he *the living being whose language places his life in question.* These two definitions are, in fact, inseparable and constitutively dependent on each other. The oath is situated at their intersection, understood as the anthropogenic operator by means of which the living being, who has discovered itself speaking, has decided to be responsible for his words and, devoting himself to the *logos*, to constitute himself as the “living being who has language.” In order for something like an oath to be able to take place, it is necessary, in fact, to be able above all to distinguish, and to articulate together in some way, life and language, actions and words—and this is precisely what the animal, for which language is still an integral part of its vital practice, cannot do. The first promise, the first—and, so to speak, transcendental—*sacratio* is produced by means of this division, in which man, opposing his language to his actions, can put himself at stake in language, can promise himself to the *logos*.

Something like a human language was in fact only able to be produced in the moment in which the living being, who found itself co-originarily exposed to the possibility of both truth and lie, committed itself to respond with its life for its words, to testify in the first person for them. And just as *mana* expresses, according to Lévi-Strauss, the fundamental inadequation between signifier and signified, which constitutes “the disability of every finite thought,” so also does the oath express the demand, decisive in every sense for the speaking animal, to put its nature at stake in language and to bind together in an ethical and political connection words, things, and actions. Only by this means was it possible for something like a history, distinct from nature and, nevertheless, inseparably intertwined with it, to be produced.

29. It is in the wake of this decision, in faithfulness to this oath, that the human species, to its misfortune as much as to its good fortune, in a certain way still lives. Every naming is, in fact, double: it is a blessing or a curse. A blessing, if the word is full, if there is a correspondence between the signifier and the signified, between words and things; a curse if the word is empty, if there remains, between the semiotic and the semantic, a void and a gap. Oath and perjury, bene-diction and male-diction correspond to this double possibility inscribed in the *logos*, in the experience by means of which the living being has been constituted as speaking being. Religion and law technicalize this anthropogenic

experience of the word in the oath and the curse as historical institutions, separating and opposing point by point truth and lie, true name and false name, efficacious formula and incorrect formula. That which was “badly said” became in this way a curse in the technical sense, and fidelity to the word became an obsessive and scrupulous concern with appropriate formulas and ceremonies, that is, *religio* and *ius*. The performative experience of the word is constituted and isolated in a “sacrament of language” and this latter in a “sacrament of power.” The “force of law” that supports human societies, the idea of linguistic enunciations that stably obligate living beings, that can be observed and transgressed, derive from this attempt to nail down the originary performative force of the anthropogenic experience, and are, in this sense, an epiphenomenon of the oath and of the malediction that accompanied it.

Prodi opened his history of the “sacrament of power” with the observation that we are today the first generations to live our collective life without the bond of the oath and that this change cannot but entail a transformation in the forms of political association. If this diagnosis hits at all upon the truth, that means that humanity finds itself today before a disjunction or, at least, a loosening of the bond that, by means of the oath, united the living being to its language. On the one hand, there is the living being, more and more reduced to a purely biological reality and to bare life. On the other hand, there is the speaking being, artificially divided from the former, through a multiplicity of technico-mediatic apparatuses, in an experience of the word that grows ever more vain, for which it is impossible to be responsible and in which anything like a political experience becomes more and more precarious. When the ethical—and not simply cognitive—connection that unites words, things, and human actions is broken, this in fact promotes a spectacular and unprecedented proliferation of vain words on the one hand and, on the other, of legislative apparatuses that seek obstinately to legislate on every aspect of that life on which they seem no longer to have any hold. The age of the eclipse of the oath is also the age of blasphemy, in which the name of God breaks away from its living connection with language and can only be uttered “in vain.”

It is perhaps time to call into question the prestige that language has enjoyed and continues to enjoy in our culture, as a tool of incomparable potency, efficacy, and beauty. And yet, considered in itself, it is no more beautiful than birdsong, no more efficacious than the signals insects exchange, no more powerful than the roar with which the lion asserts his dominion. The decisive element that confers on human language its peculiar virtue is not in the tool itself but in the place it leaves to the speaker, in the fact that it prepares within itself a

hollowed-out form that the speaker must always assume in order to speak—that is to say, in the ethical relation that is established between the speaker and his language. *The human being is that living being that, in order to speak, must say “I,” must “take the word,” assume it and make it his own.*

Western reflection on language has taken nearly two millennia to isolate, in the formal machinery of language, the enunciative function, the ensemble of those indicators or *shifters* (*I, you, here, now*, etc.) by means of which the one who speaks assumes language in a concrete act of discourse. What linguistics is undoubtedly not in a position to give an account of, however, is the *ethos* that is produced in this gesture and that determines the extraordinary implication of the subject in his word. It is in this ethical relation, the anthropogenic significance of which we have sought to determine, that the “sacrament of language” takes place. Precisely because, unlike other living things, in order to speak, the human being must put himself at stake in his speech, he can, for this reason, bless and curse, swear and perjure.

At the beginning of Western culture, in a small territory at the eastern borders of Europe, there arose an experience of speech that, abiding in the risk of truth as much as of error, forcefully pronounced, without either swearing or cursing, its yes to language, to the human being as speaking and political animal. Philosophy begins in the moment in which the speaker, against the *religio* of the formula, resolutely puts in question the primacy of names, when Heraclitus opposes *logos* to *epea*, discourse to the uncertain and contradictory words that constitute it, or when Plato, in the *Cratylus*, renounces the idea of an exact correspondence between the name and the thing named and, at the same time, draws together onomastics and legislation, an experience of *logos* and politics. Philosophy is, in this sense, constitutively a critique of the oath: that is, it puts in question the sacramental bond that links the human being to language, without for that reason simply speaking haphazardly, falling into the vanity of speech. In a moment when all the European languages seem condemned to swear in vain and when politics can only assume the form of an *oikonomia*, that is, of a governance of empty speech over bare life, it is once more from philosophy that there can come, in the sober awareness of the extreme situation at which the living human being that has language has arrived in its history, the indication of a line of resistance and of change.

✠ In the *Opus postumum*, Kant has recourse to the mythical image of the oath of the gods in the process of explaining one of the most difficult points of his teachings, the transcendental schematism, which modern interpreters, developing one of Schelling’s intuitions, tend to connect to language. Kant writes: “The schematism of the concepts

of the intellect . . . is an instant in which the shores of metaphysics and physics make contact *Styx interfusa*" (22.487). The Latin citation comes from a passage in the *Georgics* (4.480) in which Virgil evokes the water of the Stygian swamp in grim terms, which refer to its function as "a great and terrible oath of the gods": *tarda que palus inamabilis unda / alligat et novies Styx interfusa coerces* [there lies the unlovely swamp of dull dead water, and, to pen them fast, Styx with her ninefold barrier poured between]. Schematism (language) joins for an instant in a kind of oath two kingdoms that seem as though they must always remain divided.

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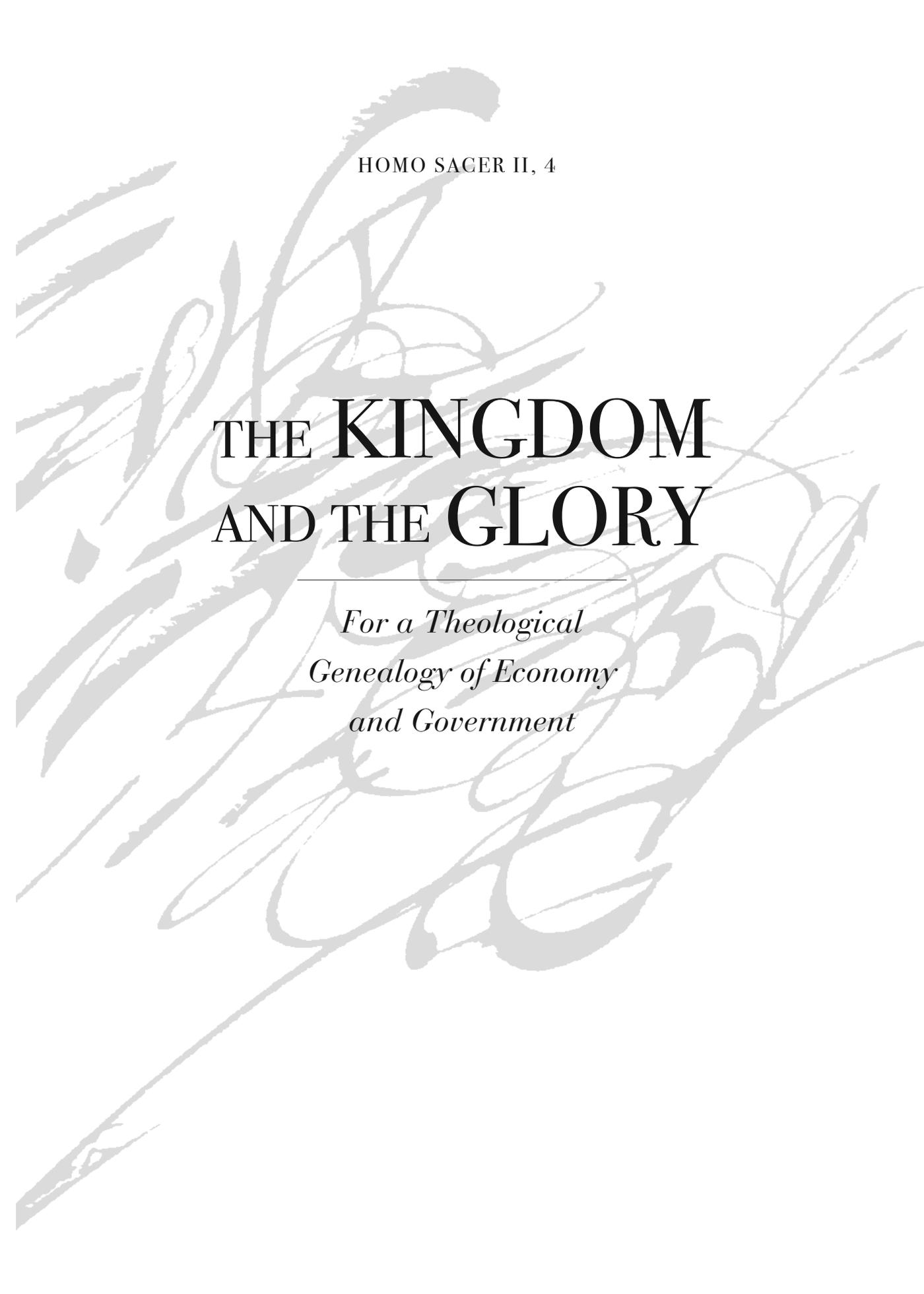
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HOMO SACER II, 4

# THE KINGDOM AND THE GLORY

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*For a Theological  
Genealogy of Economy  
and Government*

TRANSLATED BY LORENZO CHIESA  
(WITH MATTEO MANDARINI)

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## Translator's Note

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Chapters 1 to 5 were translated by Lorenzo Chiesa. Chapters 6 to 8 and the Appendix were drafted by Matteo Mandarini and revised by Lorenzo Chiesa.

In accordance with the author's request, after prior consultation of the original works, all quotations were translated into English in line with his own translation into Italian, with the notable exception of works originally published in English. This also applies to works currently available in English translation, in which case translations were consulted, incorporated, and, where appropriate, modified. Significant phrases and sentences that do not appear in the existing English translations are indicated in braces. I have used the same method to signal the few instances in which the author's personal translation and the English version differ substantially. Page references refer to the English translation or, failing this, to the original.

I wish to thank Giorgio Agamben, Tom Baldwin, Emily-Jane Cohen, Mike Lewis, Frank Ruda, Danka Štefan, and Alberto Toscano for their valuable suggestions and for their help in securing access to sources that proved difficult to obtain.

Oeconomia Dei vocamus illam rerum omnium administratione vel gubernationem, qua Deus utitur, inde a conditio mundo usque ad consummationem saeculorum, in nominis sui Gloriam et hominum salutem.

—J. H. Maius, *Oeconomia temporum veteris Testamenti*

Chez les cabalistes hébreux, *malcuth* ou le règne, la dernière des *séphiroth*, signifiait que Dieu gouverne tout irrésistiblement, mais doucement et sans violence, en sorte que l'homme croit suivre sa volonté pendant qu'il exécute celle de Dieu. Ils disaient que le péché d'Adam avait été *truncatio malcuth a ceteris plantis*; c'est-à-dire qu'Adam avait retranché la dernière des *séphires* en se faisant un empire dans l'empire.

—G. W. Leibniz, *Essais de théodicée*

We must then distinguish between the *Right*, and the *exercise* of supreme authority, for they can be divided; as for example, when he who hath the *Right*, either cannot, or will not be present in judging trespasses, or deliberating of affaires: For Kings sometimes by reason of their age cannot order their affaires, sometimes also though they can doe it themselves, yet they judge it fitter, being satisfied in the choyce of their Officers and Counsellors, to exercise their power by them. Now where the *Right* and *exercise* are severed, there the government of the Commonweale is like the ordinary government of the world, in which God, the mover of all things, produceth natural effects by the means of secondary causes; but where he, to whom the Right of ruling doth belong, is himselfe present in all judicatures, consultations, and publique actions, there the administration is such, as if God beyond the ordinary course of nature, should immediately apply himself unto all matters.

—Th. Hobbes, *De Cive*

While the world lasts, Angels will preside over Angels, demons over demons, and men over men; but in the world to come every command will be empty.

—Gloss on 1 Corinthians 15:24

Acher saw the angel Metatron, who was given permission to sit down and write the merits of Israel. He then said: "It is taught that on high there will be no sitting, no competition, no back, and no tiredness. Perhaps, God forbid, there are two powers in heaven."

—Talmud, Hagiga, 15 a

Sur quoi la fondera-t-il l'économie du Monde qu'il veut gouverner?

—B. Pascal, *Pensées*

# Preface

---

This study will inquire into the paths by which and the reasons why power in the West has assumed the form of an *oikonomia*, that is, a government of men. It locates itself in the wake of Michel Foucault's investigations into the genealogy of governmentality, but, at the same time, it also aims to understand the internal reasons why they failed to be completed. Indeed, in this study, the shadow that the theoretical interrogation of the present casts onto the past reaches well beyond the chronological limits that Foucault assigned to his genealogy, to the early centuries of Christian theology, which witness the first, tentative elaboration of the Trinitarian doctrine in the form of an *oikonomia*. Locating government in its theological locus in the Trinitarian *oikonomia* does not mean to explain it by means of a hierarchy of causes, as if a more primordial genetic rank would necessarily pertain to theology. We show instead how the apparatus of the Trinitarian *oikonomia* may constitute a privileged laboratory for the observation of the working and articulation—both internal and external—of the governmental machine. For within this apparatus the elements—or the polarities—that articulate the machine appear, as it were, in their paradigmatic form.

In this way, the inquiry into the genealogy—or, as one used to say, the *nature*—of power in the West, which I began more than ten years ago with *Homo Sacer*, reaches a point that is in every sense decisive. The double structure of the governmental machine, which in *State of Exception* (2003) appeared in the correlation between *auctoritas* and *potestas*, here takes the form of the articulation between Kingdom and Government and, ultimately, interrogates the very relation—which initially was not considered—between *oikonomia* and Glory, between power as government and effective management, and power as ceremonial and liturgical regality, two aspects that have been curiously neglected by both political philosophers and political scientists. Even historical studies of the insignia and liturgies of power, from Peterson to Kantorowicz, Alföldi to Schramm, have failed to question this relation, precisely leaving aside a number of rather obvious questions: Why does power need glory? If it is essentially force

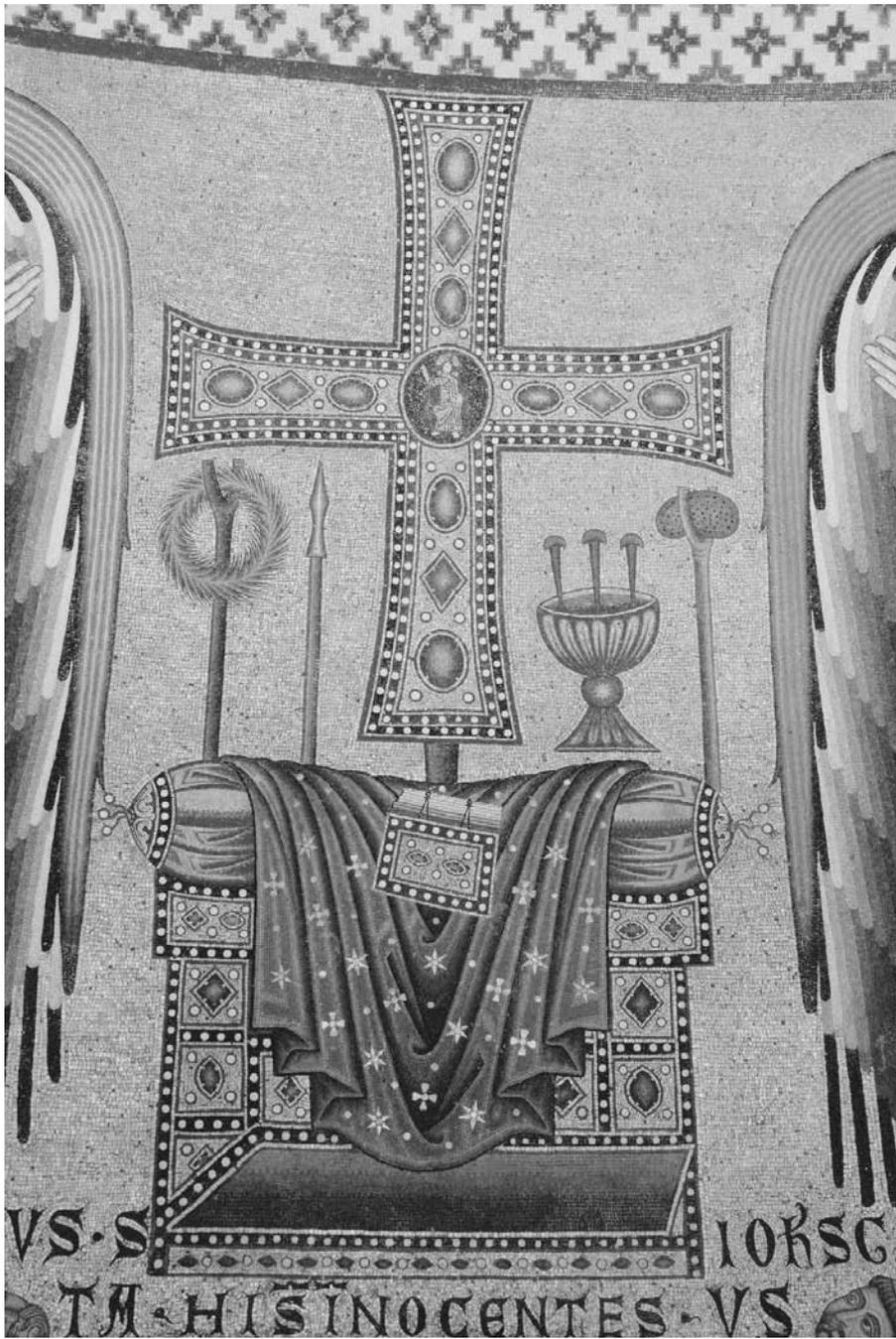
and capacity for action and government, why does it assume the rigid, cumbersome, and “glorious” form of ceremonies, acclamations, and protocols? What is the relation between economy and Glory?

Bringing these questions back to their theological dimension—questions that seem to find only trivial answers on the level of political and sociological investigations—has allowed us to catch a glimpse of something like the ultimate structure of the governmental machine of the West in the relation between *oikonomia* and Glory. The analysis of doxologies and liturgical acclamations, of ministries and angelical hymns turned out to be more useful for the understanding of the structures and functioning of power than many pseudo-philosophical analyses of popular sovereignty, the rule of law, or the communicative procedures that regulate the formation of public opinion and political will. Identifying in Glory the central mystery of power and interrogating the indissoluble nexus that links it to government and *oikonomia* will seem an obsolete operation to some. And yet, one of the results of our investigation has been precisely to note that the function of acclamations and Glory, in the modern form of public opinion and consensus, is still at the center of the political apparatuses of contemporary democracies. If the media are so important in modern democracies, this is the case not only because they enable the control and government of public opinion, but also and above all because they manage and dispense Glory, the acclamative and doxological aspect of power that seemed to have disappeared in modernity. The society of the spectacle—if we can call contemporary democracies by this name—is, from this point of view, a society in which power in its “glorious” aspect becomes indiscernible from *oikonomia* and government. To have completely integrated Glory with *oikonomia* in the acclamative form of consensus is, more specifically, the specific task carried out by contemporary democracies and their *government by consent*,\* whose original paradigm is not written in Thucydides’ Greek, but in the dry Latin of medieval and baroque treaties on the divine government of the world.

However, this means that the center of the governmental machine is empty. The empty throne, the *hetoimasia tou thronou* that appears on the arches and apses of the Paleochristian and Byzantine basilicas is perhaps, in this sense, the most significant symbol of power. Here the theme of the investigation touches its limit and, at the same time, its temporary conclusion. If, as has been suggested, there is in every book something like a hidden center, and the book was written to reach—or elude—it, then this center is to be found in the final paragraphs of Chapter 8. In opposition to the ingenuous emphasis on productivity

\* In English in the original.—Trans.

and labor that has long prevented modernity from accessing politics as man's most proper dimension, politics is here returned to its central inoperativity, that is, to that operation that amounts to rendering inoperative all human and divine works. The empty throne, the symbol of Glory, is what we need to profane in order to make room, beyond it, for something that, for now, we can only evoke with the name *zoē aiōnios*, eternal life. It is only when the fourth part of the investigation, dedicated to the form-of-life and use, is completed, that the decisive meaning of inoperativity as a properly human and political praxis will be able to appear in its own light.



Detail of apse mosaic, Basilica Papale di San Paolo fuori le Mura, Rome. Photograph by Luca Marchi.

## The Two Paradigms

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**1.1.** Let us begin this investigation with an attempt to reconstruct the genealogy of a paradigm that has exercised a decisive influence on the development and the global arrangement of Western society, although it has rarely been thematized as such outside a strictly theological field. One of the theses that we shall try to demonstrate is that two broadly speaking political paradigms, antinomical but functionally related to one another, derive from Christian theology: political theology, which founds the transcendence of sovereign power on the single God, and economic theology, which replaces this transcendence with the idea of an *oikonomia*, conceived as an immanent ordering—domestic and not political in a strict sense—of both divine and human life. Political philosophy and the modern theory of sovereignty derive from the first paradigm; modern biopolitics up to the current triumph of economy and government over every other aspect of social life derive from the second paradigm.

For reasons that will become clear in the course of the research, the history of economic theology, which developed enormously between the second and fifth centuries AD, has been left in the shadows not only by historians of ideas but also by theologians, to the extent that even the precise meaning of the term has fallen into oblivion. In this way, both its evident genetic proximity to Aristotelian economy and its likely connection with the birth of the *économie animale* and of political economy in the eighteenth century have remained unquestioned. An archaeological study that investigates the reasons for this repression and attempts to go back to the events that produced it is all the more necessary.

✠ Although the problem of *oikonomia* is present in countless monographs on individual Church Fathers (Joseph Moingt's book on the *Théologie trinitaire de Tertullien* is in this sense exemplary: it contains a relatively comprehensive treatment of this question between the second and third centuries), until Gerhard Richter's recent work *Oikonomia*, published when the historical part of the present study had already been completed, we lacked a general study of this fundamental theological theme. Marie-José Mondzain's *Image, icône, économie* limits itself to analyzing the implications of this concept for the iconoclastic

disputes that took place between the eighth and ninth centuries. Even after Richter's comprehensive study, whose orientation is—in spite of the title—theological and not linguistic-philological, we still lack an adequate lexical analysis that supplements Wilhelm Gass's useful but dated work "Das patristische Wort *oikonomia*" (1874) and Otto Lillge's dissertation *Das patristische Wort "oikonomia." Seine Geschichte und seine Bedeutung* (1955).

It is probable that, at least in the case of theologians, this peculiar silence is due to their embarrassment in the face of something that could only appear as a kind of *pudenda origo* of the Trinitarian dogma (indeed, it is surprising, to say the least, that the first formulation of the fundamental, in all senses, *theologoumenon* of the Christian faith—the Trinity—presents itself initially as an "economic" apparatus). The eclipse of this concept that, as we shall see, is one with its penetration and diffusion in different fields, is testified to by the scanty attention that the Tridentine canons pay to it: just a few lines under the rubric *De dispensatione* (*dispensatio* is, with *dispositio*, the Latin translation of *oikonomia*) *et mysterio adventus Christi*. In modern Protestant theology, the problem of *oikonomia* reappeared, but only as an obscure and indeterminate precursor of the theme of *Heilsgeschichte*, while the opposite is true: the theology of the "history of salvation" is a partial and, all in all, reductive resumption of a much broader paradigm. The result of this is that in 1967 it was possible to publish a *Festschrift* commemorating the sixty-fifth anniversary of the publication of Oscar Cullmann's *Oikonomia. Heilsgeschichte als Thema der Theologie* in which the term *oikonomia* appeared in only one of the thirty-six contributions.

1.2. In 1922, Carl Schmitt encapsulated the theological-political paradigm in a lapidary thesis: "All significant concepts of the modern theory of the state are secularized theological concepts" (Schmitt 2005, p. 36). If our hypothesis about the existence of a double paradigm is correct, this statement should be supplemented in a way that would extend its validity well beyond the boundaries of public law, extending up to the fundamental concepts of the economy and the very idea of the reproductive life of human societies. However, the thesis according to which the economy could be a secularized theological paradigm acts retroactively on theology itself, since it implies that from the beginning theology conceives divine life and the history of humanity as an *oikonomia*, that is, that theology is itself "economic" and did not simply become so at a later time through secularization. From this perspective, the fact that the living being who was created in the image of God in the end reveals himself to be capable only of economy, not politics, or, in other words, that history is ultimately not a political but an "administrative" and "governmental" problem, is nothing but a logical consequence of economic theology. Similarly, it is certainly more than a simple lexical fact that, with a peculiar reversal of the classical hierarchy, a *zoē aiōnios* and not a *bios* lies at the center of the evangelical message. The eternal life to which Christians lay claim ultimately lies in the paradigm of the *oikos*, not in that of the *polis*. According to

Taubes's ironic *boutade*, the *theologia vitae* is always in the course of converting itself into a "theozoology" (Taubes, p. 41).

✠ A preliminary clarification of the meaning and implications of the term "secularization" becomes all the more urgent. It is perfectly well known that this concept has performed a strategic function in modern culture—that it is, in this sense, a concept of the "politics of ideas," something that "in the realm of ideas has always already found an enemy with whom to fight for dominance" (Lübbe, p. 20). This is equally valid for secularization in a strictly juridical sense—which, recovering the term (*saecularisatio*) that designated the return of the religious man into the world, became in nineteenth-century Europe the rallying cry of the conflict between the State and the Church over the expropriation of ecclesiastic goods—and its metaphoric use in the history of ideas. When Max Weber formulates his famous thesis about the secularization of Puritan asceticism in the capitalist ethics of work, the apparent neutrality of his diagnosis cannot hide its function in the battle he was fighting against fanatics and false prophets for the disenchantment of the world. Similar considerations could be made for Troeltsch. What is the meaning of the Schmittian thesis in this context?

Schmitt's strategy is, in a certain sense, the opposite of Weber's. While, for Weber, secularization was an aspect of the growing process of disenchantment and detheologization of the modern world, for Schmitt it shows on the contrary that, in modernity, theology continues to be present and active in an eminent way. This does not necessarily imply an identity of substance between theology and modernity, or a perfect identity of meaning between theological and political concepts; rather, it concerns a particular strategic relation that marks political concepts and refers them back to their theological origin.

In other words, secularization is not a concept but a signature [*segnatura*] in the sense of Foucault and Melandri (Melandri, p. XXXII), that is, something that in a sign or concept marks and exceeds such a sign or concept referring it back to a determinate interpretation or field, without for this reason leaving the semiotic to constitute a new meaning or a new concept. Signatures move and displace concepts and signs from one field to another (in this case, from sacred to profane, and vice versa) without redefining them semantically. Many pseudoconcepts belonging to the philosophical tradition are, in this sense, signatures that, like the "secret indexes" of which Benjamin speaks, carry out a vital and determinate strategic function, giving a lasting orientation to the interpretation of signs. Insofar as they connect different times and fields, signatures operate, as it were, as pure historical elements. Foucault's archaeology and Nietzsche's genealogy (and, in a different sense, even Derrida's deconstruction and Benjamin's theory of dialectical images) are sciences of signatures, which run parallel to the history of ideas and concepts, and should not be confused with them. If we are not able to perceive signatures and follow the displacements and movements they operate in the tradition of ideas, the mere history of concepts can, at times, end up being entirely insufficient.

In this sense, secularization operates in the conceptual system of modernity as a signature that refers it back to theology. Just as, according to canon law, the secularized

priest had to wear a sign of the religious order he had once belonged to, so does the secularized concept exhibit like a signature its past belonging to the theological sphere. The way in which the reference operated by the theological signature is understood is decisive at every turn. Thus, secularization can also be understood (as is the case with Gogarten) as a specific performance of Christian faith that, for the first time, opens the world to man in its worldliness and historicity. The theological signature operates here as a sort of *trompe l'oeil* in which the very secularization of the world becomes the mark that identifies it as belonging to a divine *oikonomia*.

1.3. In the second half of the 1960s, a debate on the problem of secularization involving, to different degrees, Hans Blumenberg, Karl Löwith, Odo Marquard, and Carl Schmitt, took place in Germany. The debate originated from the thesis enunciated by Löwith in his 1953 book *Weltgeschichte und Heilsgeschehen* according to which both German idealism's philosophy of history and the Enlightenment's idea of progress are nothing but the secularization of the theology of history and Christian eschatology. Although Blumenberg, who defended the "legitimacy of modernity," decisively affirmed the illegitimate character of the very category of secularization—as a consequence of which Löwith and Schmitt found themselves against their will on the same side—in point of fact, as has perceptively been noted by commentators (Carchia, p. 20), the dispute was more or less consciously instigated in order to hide what was really at stake, which was not secularization but the philosophy of history and the Christian theology that constituted its premise. All the apparent enemies joined forces against them. The eschatology of salvation, of which Löwith spoke and of which the philosophy of German idealism was a conscious resumption, was nothing but an aspect of a vaster theological paradigm, which is precisely the divine *oikonomia* that we intend to investigate, and the repression of which constituted the foundation of the debate. Hegel was still perfectly aware of this when he stated the equivalence of his thesis on the rational government of the world with the theological doctrine of the providential plan of God, and presented his philosophy of history as a theodicy ("that the history of the world [ . . . ] is the effective becoming of the spirit [ . . . ] this is the real theodicy, the justification of God in history"). In even more explicit terms, in the conclusion to his *Philosophy of Revelation*, Schelling summarized his philosophy with the theological figure of an *oikonomia*: "The ancient theologians distinguished between *akratos theologia* and *oikonomia*. The two belong together. It is toward this process of domestic economy (*oikonomia*) that we have wished to point" (Schelling, p. 325). The fact that such an engagement with economic theology has today become so improbable as to make the meaning of Schelling's state-

ments entirely incomprehensible to us is a sign of the decline of philosophical culture. One of the aims of the present study is to make Schelling's statement, which has so far remained a dead letter, comprehensible again.

✠ The distinction between *theologia* and *oikonomia*, between the being of God and his activity, to which Schelling alludes is, as we shall see, of fundamental importance in Eastern theology, from Eusebius to the Chalcedonians. Schelling's immediate sources are to be found in the use of the concept of *oikonomia* made in pietistic circles, particularly in authors such as Bengel and Oetinger, whose influence on Schelling is now well documented. However, it is crucial that Schelling thinks his philosophy of revelation as a theory of divine economy, which introduces personality and action into the being of God, and thus renders him "Lord of being" (Schelling, p. 172). From this perspective, he quotes the passage from Paul (Ephesians 3:9) on the "mystery of economy," which lies at the origin of the doctrine of theological *oikonomia*:

Paul speaks of a Plan of God that has not been spoken of for eons but that has now become manifest in Christ: the mystery of God and Christ that has become manifest to the world through Christ's appearance. It is at this point that the ways of a philosophy of revelation become possible. It must not be understood, like mythology, as a necessary process, but in a way that is fully free, as the decision and action of a will that is most free. Through revelation a new, second creation is introduced; it is an entirely free act. (Schelling, p. 253)

In other words, Schelling understands his introduction of an absolute and an-archic freedom in ontology as a resumption and accomplishment of the theological doctrine of *oikonomia*.

1.4. Between 1935 and 1970, Erich Peterson and Carl Schmitt—two authors who, in different ways, could be defined as "Apocalyptic of the counterrevolution" (Taubes, p. 19)—had a singular dispute. Its singularity was not only due to the fact that the two adversaries, both Catholics, shared common theological presuppositions, but also to the fact that, as shown by the long silence that separates the two dates mentioned above, the jurist's answer was formulated ten years after the death of the theologian who had opened the debate. Moreover, this answer took its cue from the more recent debate on secularization, as shown by the *Nachwort* that concludes it. However, the "Parthian arrow" (Schmitt 2008a, p. 32) cast by Peterson must still have been stuck in Schmitt's flesh if, according to the latter's own words, *Politische Theologie II*, which contained the belated answer, aimed to "rip [it] from the wound" (ibid.). What was at stake in this controversy was political theology, which Peterson put resolutely in question. But it is possible that, as had happened with the secularization debate, this time the explicit stake hid another, exoteric, and more frightful one, which we need to bring to light.

In every theoretical work—and maybe in every human work—there is something like an un-said. There are authors who attempt to approach this un-said and allusively evoke it, while others knowingly leave it unspoken. Both Schmitt and Peterson belong in this second category. In order to understand what is the hidden stake of their debate, we will need to try to expose this un-said. The two adversaries shared a common theological conception that can be defined “Catechontic.” As Catholics, they could not fail to profess their eschatological faith in the Second Coming of Jesus. Yet, referring to 2 Thessalonians 2, they both claimed (Schmitt explicitly, Peterson tacitly) that there is something that defers and holds back the *eschaton*, that is, the advent of the Kingdom and the end of the world. For Schmitt, this delaying element is the Empire; for Peterson, it is the Jews’ refusal to believe in Christ. According to both the jurist and the theologian, the present history of humanity is therefore an interim founded on the delay of the Kingdom. However, in one case this delay coincides with the sovereign power of the Christian empire (“The belief that a restrainer holds back the end of the world provides the only bridge between the notion of an eschatological paralysis of all human events and a tremendous historical monolith like that of the Christian empire of the Germanic kings” [Schmitt 2003, p. 60]). In the other case, the suspension of the Kingdom due to the Jews’ failed conversion founds the historical existence of the Church. Peterson’s 1929 work on the *Church* leaves us in no doubt about this: the Church can exist only because “the Jews, as the people elected by God, have not believed in the Lord” (Peterson 1994, p. 247), and, consequently, the end of the world is not imminent. “There can be a Church,” Peterson writes, “only on the presupposition that the coming of Christ will not be immediate, in other words, that concrete eschatology is eliminated and we have in its place the doctrine of last things” (ibid., p. 248).

Thus, what is really at stake in the debate is not the admissibility of political theology, but the nature and identity of the *katechon*, the power that defers and eliminates “concrete eschatology.” But this implies that what is crucial for both Schmitt and Peterson is ultimately the very neutralization of a philosophy of history oriented toward salvation. At the point where the divine plan of *oikonomia* had reached completion with the coming of Christ, an event (the failed conversion of the Jews, the Christian empire) that had the power to suspend the *eschaton* took place. The exclusion of concrete eschatology transforms historical time into a suspended time, in which every dialectic is abolished and the Great Inquisitor watches over so that the parousia is not produced in history. Understanding the sense of the debate between Peterson and Schmitt will

then also mean understanding the theology of history to which they more or less tacitly refer.

✠ The two presuppositions that Peterson relates to the existence of the Church (the failed conversion of the Jews, and the delay of parousia) are intimately connected: this very connection defines the specificity of the particular Catholic anti-Semitism of which Peterson is a representative. The existence of the Church finds itself on the endurance of the Synagogue. However, given that in the end “all Israel will be saved” (Romans 11:26) and the Church must give way to the Kingdom (the essay *Die Kirche* opens with a quotation of Loisy’s ironic dictum: “Jésus annonçait le royaume, et c’est l’Église qui est venue”), Israel will also have to disappear. If we do not understand this underlying connection between the two presuppositions, we do not even understand the real meaning of the closure of the “eschatological bureau,” about which Troeltsch spoke already in 1925 (“the eschatological bureau is today mainly closed, because the thoughts that constitute its foundations have lost their roots”: Troeltsch, p. 36). Inasmuch as it involves the radical putting in question of the connection between the Church and Israel, the reopening of the eschatological bureau is a thorny problem. It is unsurprising that a thinker like Benjamin, who positioned himself at the singular intersection of Christianity and Judaism, did not need to wait for Moltmann and Dodd to carry it out without reservations, yet he preferred to speak of messianism rather than eschatology.

1.5. Peterson begins his argument by quoting the Homeric verse (*Iliad*, 2, 204) that concludes Book L of *Metaphysics*, “that is, the treatise we are used to calling Aristotle’s theology” (Peterson 1994, p. 25): “The world must not be governed badly. The rule of many is not good; let there be one {sovereign}.” According to Peterson, the point at issue in this passage is the critique of Platonic dualism and, in particular, of Speusippus’s theory of the plurality of principles, against which Aristotle intends to show that nature is not generated by way of a series of episodes, like a bad tragedy, but has a single principle.

Although the term “monarchy” does not yet appear in Aristotle in this context, we need to emphasize that its meaning is, however, already present precisely in the semantic duplicity according to which, in divine monarchy, the single power (*mia archē*) of the single ultimate *principle* coincides with the power of the single ultimate holder of this power (*archōn*). (Ibid.)

In this way, Peterson is suggesting that the theological paradigm of the Aristotelian unmoved mover is somehow the archetype of the following theological-political justifications of monarchic power in Judaic and Christian circles. The pseudo-Aristotelian treatise *De mundo*, which Peterson analyzes shortly after, in this sense constitutes the bridge between classical politics and the Judaic notion of divine monarchy. While in Aristotle God is the transcendent principle of any

movement, who leads the world as a strategist leads his army, in this treatise, the monarch, hidden in the rooms of his palace, moves the world as the puppeteer leads his puppets on strings.

Here the image of divine monarchy is not determined by whether there is one or more principles, but rather by the problem of whether God participates in the powers that act in the cosmos. The author wants to say: God is the presupposition of power [ . . . ] to act in the cosmos, but precisely for this reason he is not power (*dynamis*). (Ibid., p. 27)

Quoting a motto dear to Schmitt, Peterson summarizes this image of divine monarchy in the formula “Le roi règne, mais il ne gouverne pas” (ibid.).

It is only with Philo that something like a political theology appears clearly for the first time in the form of a theocracy. Analyzing Philo’s language, Peterson shows that political theology is clearly a Judaic creation. The theological-political problem is posed for Philo “in the concreteness of his condition of being a Jew” (ibid., p. 30).

Israel is a theocracy, that single people is governed by the *single* divine monarch. *One only* people, *one only* God [ . . . ] But given that the *single* God is not only the monarch of Israel, but also of the cosmos, for this reason that *single* people—“the people most loved by God”—governed by this cosmic monarch, becomes minister and prophet for all mankind. (Ibid., pp. 28–29)

After Philo, the concept of divine monarchy is taken up by the Christian Apologists, who use it for their defense of Christianity. In a brief survey, Peterson reads from this perspective Justin, Tatian, Theophilus, Irenaeus, Hippolytus, Tertullian, and Origen. But it is only with Eusebius, a court theologian—or, in Overback’s venomous witticism, the *friseur* of the theological wig of the Emperor Constantine—that a Christian political theology is comprehensively formulated. Eusebius sees a correspondence between the coming of Christ on earth as savior of all nations and Augustus’s establishment of a global imperial power. Before Augustus, man used to live in polyarchy, among a plurality of tyrannies and democracies, but “when the Lord and Savior appeared and, at the same time as his advent, Augustus, first of Romans, became king of the nations, pluralistic polyarchy was dispersed and peace covered all the earth” (Eusebius, *Commentary on the Psalms*, 71, in *PG*, 23). Peterson shows how, according to Eusebius, the process that was begun with Augustus is brought to completion with Constantine. “After Constantine defeated Licinius, political monarchy was restored and, at the same time, divine monarchy was secured [ . . . ] the *single* king on earth corresponds to the *single* king in Heaven and the *single* sovereign *nomos* and *Logos*” (Peterson 1994, p. 50).

Peterson follows Eusebius's descendants through John Chrysostom, Prudentius, Ambrose, and Jerome up to Orosius, for whom the parallelism between the unity of the global empire and the accomplished revelation of a single God becomes the key to interpret history:

“In the same year, Caesar—predestined by God for many mysteries—ordered a census of all men in every province of the empire. God made himself seen as a man then, he wanted to be a man then. Christ was born at that time: he was registered shortly after his birth during the Roman census” [ . . . ] A single God who, in the times when he decided to reveal himself, established this unity of the kingdom is loved and feared by all: the same laws rule everywhere, the laws of those who are subject to the single God. (Ibid., p. 55)

At this point, in an abrupt reversal, Peterson tries to show that, at the time of the disputes on Arianism, the theological-political paradigm of divine monarchy enters into conflict with the development of Trinitarian theology. The proclamation of the dogma of the Trinity marks, from this perspective, the waning of “monotheism as a political problem.” In only two pages, political theology—to whose reconstruction the book had been dedicated—is entirely demolished.

The doctrine of divine monarchy had to fail in the face of the Trinitarian dogma just as the interpretation of the *pax augusta* had to fail in the face of Christian eschatology. In this way, not only is monotheism as a political problem abolished theologically and the Christian faith freed from its link with the Roman empire, but a break with any “political theology” is also produced. Something like a “political theology” can exist only in the field of Judaism or Paganism. (Ibid., pp. 58–59)

The note to this passage that concludes the book reads as follows (it is as though the entire treatise were written in view of this note):

To the best of my knowledge, the concept of “political theology” was introduced in the literature by Carl Schmitt's *Politische theologie* (München, 1922). His brief considerations at that time were not laid out systematically. Here we have attempted to demonstrate by means of a concrete example that “political theology” is theologically impossible. (Ibid., p. 81)

✠ Eusebius's thesis on the solidarity of the advent of a single global empire, the end of polyarchy, and the triumph of the only true God shows some analogies with Negri and Hardt's thesis according to which the overcoming of nation-states in a single global capitalist empire paves the way for the triumph of communism. However, while the doctrine of Constantine's theological hairdresser had a clear tactical meaning and was the effect not of an antagonism, but of an alliance between Constantine's global

power and the Church, the meaning of Negri and Hardt's thesis can certainly not be understood in the same way and thus remains enigmatic to say the least.

1.6. A passage from a Cappadocian theologian of the fourth century, Gregory of Nazianzus, plays a key strategic role in Peterson's argument. According to the drastic summary provided by Peterson, Gregory conferred upon the Trinitarian dogma its "ultimate theological depth" opposing the "monarchy of the triune God" to the "monarchy of a single person":

Christians [ . . . ] recognize themselves in God's monarchy; certainly not in the monarchy of a single person in the deity, because this brings with it the germ of internal division [*Zwiespalt*], but in a monarchy of the triune God. This concept of unity cannot be found in human nature. With this development, monotheism as a political problem is eliminated theologically. (Ibid., pp. 57–58)

However, it is strange that, in his belated answer, Schmitt uses the same passage analyzed by Peterson to draw conclusions that are in certain ways the opposite of Peterson's. According to the jurist, Gregory of Nazianzus introduced a sort of theory of civil war ("a genuine politico-theological *stasiology*") into the core of the Trinitarian doctrine (Schmitt 2008a, p. 123) and, in this way, could be said to be still using a theological-political paradigm, one that would refer back to the opposition friend/enemy.

The idea that the elaboration of the Trinitarian theology is in itself sufficient to eliminate any theological-political conception of a divine monarchy is, after all, far from evident. Speaking about Tertullian, Peterson himself evokes the attempts of the Christian Apologists to reconcile the Trinitarian theology with the image of an emperor who exercises the power that is his alone by means of governors and ministers. But even the passage from Gregory of Nazianzus's oration, which Peterson quotes in an offhanded manner, appears to be far from probative when it is brought back to its proper context.

This text is part of a group of five orations that we normally refer to as "theological" because they constitute a veritable treatise on the Trinity. The theology of the Cappadocians, of whom Gregory of Nazianzus was the greatest representative together with Basil of Caesarea and Gregory of Nyssa, was engaged in the elimination of the last Arian and Homoousian resistances and in the elaboration of the doctrine of the single substance in three different hypostases that was finally established at the Council of Constantinople in 381. It was a matter of adapting the Monarchian understanding of the deity, which is implicit in the concept of the *homoousia*, to the assertion of the three hypostases (Father, Son, and Holy Spirit). The difficulty and paradoxical nature of this reconciliation is evident in

the text by Gregory that is here in question and whose title is *Peri Yiou*, “About the Son.” The passage quoted by Peterson should be understood within this context:

The three most ancient opinions concerning God are Anarchia, Polyarchia, and Monarchia. The first two are the sport of the children of Hellas, and may they continue to be so. For Anarchy is a thing without order; and Polyarchy is like civil war [*stasiōdes*], and thus anarchical, and thus disorderly. For both of these tend toward the same thing, namely disorder; and this to dissolution, for disorder is the first step to dissolution. But Monarchy is that which we hold in honor. It is, however, a Monarchy that is not limited to one Person, for it is possible for Unity if [it is] at war with itself [*stasiazon pros heauto*] to come into a condition of plurality; but one which is made of an equality of Nature and a Union of mind, and an identity of motion, and a convergence of its elements to unity—a thing which is impossible to the created nature—so that although numerically distinct there is no severance of Essence. Therefore Unity having from all eternity arrived at Duality by motion, found its rest in Trinity. This is what we mean by Father and Son and Holy Spirit. The Father is the Begetter [*gennētōr*] and the Emitter [*proboleus*]; without passion of course, and without reference to time, and not in a corporeal manner [. . .] (Gregory of Nazianzus, *Select Orations*, XXIX, 2, p. 301)

It is evident that Gregory is here concerned with reconciling the metaphysical terminology of the unity of the divine substance with that—more concrete and almost corporeal—of the Trinity (in particular in relation to the generation of the son in contrast to the nongenerated character of the deity, which had prompted particularly heated debates with the Arians and the Monarchians). For this purpose, Gregory resorts to a metaphorical register that, pace Peterson, can easily be defined as political (or theological-political): indeed, it is a matter of thinking the Trinitarian articulation of the hypostases without introducing a stasis in God, an internecine war. For this reason, using Stoic terminology freely, Gregory does not conceive the three hypostases as substances, but as modes of being or relations (*pros ti, pōs echon*) in a single substance (ibid., 16, p. 307). And yet, he is so well aware of the inadequacy of his attempt and the insufficiency of any linguistic explanation of the mystery, that he concludes his oration with an extraordinary tour de force introducing the Son through a long list of antinomic figures. However, just before this, Gregory provides us with the key to interpreting the whole oration when, following a terminological tradition that was well established by his time, he claims that it can only be understood correctly by those who have learned to distinguish in God between “the discourse of nature and the discourse of economy [*tis men physeōs logos, tis de logos oikonomias*]” (ibid., 18, p. 308). This means that even the passage quoted by Peterson can only

be read in the light of this distinction. It is all the more surprising that Peterson remains silent on this.

✠ In other words, in Gregory, the *logos* of “economy” is specifically designed to prevent the Trinity from introducing a stasiological, or political, fracture in God. Insofar as even a monarchy can give rise to a civil war, an internal *stasis*, it is only a displacement from a political to an “economic” rationality (in a sense that we shall explain) that can protect us against this danger.

1.7. An overview of the authors quoted above by Peterson in his genealogy of the theological-political paradigm of the divine monarchy shows that, from both a textual and a conceptual point of view, the “discourse of economy” is so strictly intertwined with that of monarchy that the fact that it is absent in Peterson lets us infer something like a conscious repression. Tertullian is a paradigmatic case in this sense (but, as we shall see, we could say the same about Justin, Tatian, Hippolytus, Irenaeus, etc.). Let us focus on the quotation from the text *Adversus Praxeas* with which Peterson opens his analysis of the Apologists’ attempt to reconcile the traditional doctrine of divine monarchy with the Trinity:

“We hold,” they say, “to the monarchy”: and even Latins so expressively frame the sound, and in so masterly a fashion, that they would think they understood monarchy as well as they pronounce it. (*Tertullian’s Treatise Against Praxeas*, 3, 2, pp. 132–133)

The quotation ends here; but Tertullian’s text continues as follows:

But while Latins are intent to shout out “monarchy,” even Greeks refuse to understand the economy [*sed monarchiam sonare student Latini, oikonomian intellegere nolunt etiam Graeci*]. (Ibid., p. 133)

Immediately before this, Tertullian contends that

The simple people, that I say not the thoughtless and ignorant [ . . . ] not understanding that while they must believe in one only [God] yet they must believe in him along with his *oikonomia* [*unicum quidem (deum) sed cum sua oeconomia*], shy at the economy. They claim that the plurality and ordinance of trinity is a division of unity. (Ibid., 3, 1, p. 132)

The understanding of the Trinitarian dogma on which Peterson’s argument is based thus presupposes a preliminary understanding of the “language of economy.” We shall be able to identify what is really at stake in the debate between the two friends/enemies about political theology only after we have explored this *logos* in all its articulations.

# Threshold

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THE links between Schmitt and Peterson are more complex and intricate than the two authors are inclined to reveal. In his works, Schmitt refers to Peterson for the first time in the 1927 essay *Volksentscheid und Volksbegehren*; the reference concerns Peterson's doctoral thesis on acclamations in the early centuries of Christian liturgy, which Schmitt considers "fundamental." But, even here, what the two authors share also contains, as we shall see, the seed of their division.

The short and inconspicuous preface to the 1935 book on monotheism fairly summarizes the reasons for the proximity between the two authors as well as the reasons for their disagreement. The reduction of Christian faith to monotheism is presented as the result of the Enlightenment, against which Peterson recalls that "for Christians there is political action only on the presupposition of faith in a triune God," who should be located beyond both Judaism and Paganism, monotheism and polytheism. At this point, the preface announces in a more subdued tone the final thesis of the book on the "theological impossibility" of a Christian political theology: "We shall show here with an historical example the internal problematicity of a political theology that orientates itself on monotheism" (Peterson 1994, p. 24).

More than the critique of the Schmittian paradigm, what is decisive here is the enunciation of the thesis according to which the Trinitarian doctrine is the only possible foundation of a Christian politics. Both authors want to found a politics on Christian faith; but while, for Schmitt, political theology founds politics in a secular sense, the "political action" that is at stake for Peterson is, as we shall see, liturgy (returned to its etymological meaning of "public practice").

The thesis according to which the real Christian politics is liturgy and the Trinitarian doctrine founds politics as participation in the glorious worship of the angels and saints may appear surprising. The fact remains that this is precisely where the watershed that separates Schmitt's "political theology" from Peterson's Christian "political action" lies. For Schmitt, political theology founds a politics

in the proper sense as well as the secular power [*potenza*] of the Christian empire that acts as *katechon*. On the other hand, for Peterson, politics as liturgical action rules out any identification with the earthly city (the invocation of the name of Augustine, “who makes himself visible at every spiritual and political turn of the West,” confirms this fact): politics as liturgical action is nothing else than the cultural anticipation of eschatological glory. In this sense, the action of secular powers is, for the theologian, eschatologically irrelevant: what acts as *katechon* is not a political power [*potere*], but only the Jews’ refusal to convert. This means that, for Peterson (but his position coincides here with that of a prominent part of the Church), the historical events he witnessed—from the World Wars to totalitarianism, from the technological revolution to the atomic bomb—are theologically insignificant. All but one: the extermination of the Jews.

If the eschatological advent of the Kingdom will become concrete and real only after the Jews have converted, then the destruction of the Jews cannot be unrelated to the destiny of the Church. Peterson was probably in Rome when, on October 16, 1943, the deportation of a thousand Roman Jews to the extermination camps took place with the conniving silence of Pius XII. It is legitimate to ask ourselves whether, at that moment, Peterson became aware of the terrible ambiguity of a theological thesis that tied both the existence and the fulfillment of the Church to the survival or the disappearance of the Jews. This ambiguity will possibly be overcome only if the *katechon*—the power [*potere*] that, postponing the end of history, opens the space of secular politics—is returned to its original relation with the divine *oikonomia* and its Glory.

## The Mystery of the Economy

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**2.1.** *Oikonomia* means “administration of the house.” In the Aristotelian (or pseudo-Aristotelian) treatise on economy, we can thus read that the *technē oikonomikē* differs from politics just as the house (*oikia*) differs from the city (*polis*). This distinction is restated in the *Politics*, in which the politician and the king—who belong to the sphere of the *polis*—are qualitatively opposed to the *oikonomos* and the *despotēs*—who are referred to the sphere of the house and the family. Even in Xenophon (in whose works the opposition between house and city is certainly less pronounced than in Aristotle’s), the *ergon* of the economy is said to be the “good administration of the household [*eu oikein ton* (. . .) *oikon*]” (Xenophon, *Oeconomicus*, 1, 2). However, it is important not to forget that the *oikos* is not the modern single-family house or simply the extended family, but a complex organism composed of heterogeneous relations, entwined with each other, which Aristotle (*Politics*, 1253b) divides into three groups: “despotic” relations between masters and slaves (which usually include the management of a farming business of substantial dimensions); “paternal” relations between parent and children; “gamic” relations between husband and wife. These “economic” relations (Aristotle emphasizes their diversity: *ibid.*, 1259a–b) are linked by a paradigm that we could define as “administrative” [*“gestionale”*], and not epistemic: in other words, it is a matter of an activity that is not bound to a system of rules, and does not constitute a science in the proper sense (Aristotle writes that “the term ‘head of the family’ [*despotēs*] does not refer to a science [*epistēmēn*] but to a certain way of being”: *ibid.*, 1255b). This activity rather implies decisions and orders that cope with problems that are each time specific and concern the functional order (*taxis*) of the different parts of the *oikos*. A passage from Xenophon clearly defines this “administrative” nature of *oikonomia*: the latter not only has to do with the need and use of objects, but, first and foremost, with their ordered arrangement (*peri* [ . . . ] *taxeōs skeuōn*: Xenophon, *Oeconomicus*, 8, 23; the term *skeuos* means “tackle, tool relative to a

certain activity”). In this perspective, the house is first compared with an army and then with a ship:

Once I had an opportunity of looking over a great Phoenician ship [ . . . ] and I thought I had never seen tackle so excellently and accurately managed. For I never saw so many bits of stuff packed away separately in so small a receptacle [ . . . ] And I noticed that each kind of thing was so neatly stowed away that there was no confusion, no work for a searcher, nothing out of place, no troublesome untying to cause a delay when anything was wanted for immediate use. I found that the steersman’s servant [*diakonon*] [ . . . ] knows each particular section so exactly, that he can tell even when away where everything is kept and how much there is of it [ . . . ] I saw this man in his spare time inspecting all the stores that are wanted, as a matter of course, in the ship. (Ibid., 8, 11–15)

Xenophon defines this activity or ordered administration as “control” (*episkepsis*, from which derives *episkopos*, “superintendent,” and, later, “bishop”):

I was surprised to see him looking over them, and asked what he was doing. “Sir,” he answered, “I am checking [*episcopō*] to see how the ship’s tackle is stored.” (Ibid., 8, 15)

Thus Xenophon compares a well-“economized” house to a dance:

All the utensils seem to give rise to a choir, and the space between them is beautiful to see, for each thing stands aside, just as a choir that dances in a circle is a beautiful spectacle in itself, and even the free space looks beautiful and unencumbered. (Ibid., 8, 21)

*Oikonomia* is presented here as a functional organization, an administrative activity that is bound only to the rules of the ordered functioning of the house (or of the company in question).

This “administrative” paradigm defines the semantic sphere of the term *oikonomia* (as well as that of the verb *oikonomein* and the noun *oikonomos*) and determines its gradual analogical extension outside its original limits. It is thus already in the *Corpus Hippocraticum* (*Of the Epidemics*, 6, 2, 24) that *hē peri ton noseonta oikonomiē* designates the set of practices and apparatuses that the doctor needs to implement with the patient. In the philosophical field, the Stoics use an “economic” metaphor when they intend to express the idea of a force that regulates and governs the whole from the inside (*tēs tōn holōn oikonomias*: Chrysippus, fragment 937, *Stoicorum veterum fragmenta*, II, 269; *hē physis epi tōn phytōn kai epi tōn zōōn* ( . . . ) *oikonomei*: Chrysippus, fragment 178, *Stoicorum veterum fragmenta*, III, 43). In this broad sense of “governing, looking after something,” the verb *oikono-*

*mein* acquires the meaning of “providing for the needs of life, nourishing” (thus, the *Acts of Thomas* paraphrase the expression from the parable in Matthew 6:26 “your heavenly Father feeds them” about the birds of the sky as *ho theos oikonomēi auta*, in which the verb has the same meaning as the Italian “governare le bestie”<sup>\*</sup>).

It is in a passage from Marcus Aurelius, whose *Meditations* are contemporary with the first Christian Apologists, that the administrative meaning of the term appears with more clarity. Reflecting on the inappropriateness of hastily judging someone else’s behavior, he writes:

It is sometimes a hard matter to be certain whether men do wrong, for their actions are often done with a reference to {an economy} [*kat’ oikonomian ginetai*]; and one must be thoroughly informed of a great many things before he can be rightly qualified to give judgment in the case. (*The Meditations of Marcus Aurelius*, II, 18, 5, pp. 188–189)

Here, following a semantic inflection that will remain inseparable from the term, *oikonomia* designates a practice and a non-epistemic knowledge that should be assessed only in the context of the aims that they pursue, even if, in themselves, they may appear to be inconsistent with the good.

The technical use of the term *oikonomia* in a rhetorical context is particularly interesting: it designates the ordered arrangement of the material of an oration or a treatise (“Hermagoras iudicium partitionem ordinem quaeque sunt elocutionis subicit oeconomiae, quae Graece appellata ex cura rerum domesticarum et hic per abusioem posita nomine Latino caret”: Quintilian, *Institutio oratoria*, 3, 3, 9. Cicero translates the term with *dispositio*, that is, “rerum inventarum in ordinem distributio”: *De inventione*, 1, 9). Economy is, however, more than a mere arrangement [*disposizione*], since it implies, above and beyond the ordering of the themes (*taxis*), a choice (*diairesis*) and an analysis (*exergasia*) of the topics. In this sense, the term appears in the pseudo-Longinus precisely in opposition to the concept of the “sublime”:

We see skill in invention, and due order and the *oikonomia* of matter, emerging as the hard-won result not of one thing or two, but of the whole texture of the composition, whereas the sublime flashing forth at the right moment scatters everything before it like a thunderbolt. (*Longinus on the Sublime*, 1, 4)

But, as clearly becomes apparent in Quintilian’s remark (“oeconomiae, quae Graece appellata ex cura rerum domesticarum et hic per abusioem posita”), in this gradual analogical extension of the semantic sphere of the term, the awareness

<sup>\*</sup> *Governare le bestie* could be rendered in English as “to attend to the animals,” or, more literally, “to govern animals.”—Trans.

of the original domestic meaning was never lost. In this sense, there is an instructive passage from Diodorus Siculus in which the same semantic nucleus exhibits, at the same time, both the domestic and the rhetorical acceptance of the term:

It should be the special care of historians, when they compose their works, to give attention to everything which may be of utility, and especially to the arrangement according to the parts [*tēs kata meros oikonomias*]. This eye to arrangement, for instance, is not only of great help to persons in the disposition of their private affairs [*en tois idiōtikois biois*] if they would preserve and increase their property, but also, when men come to writing history. (Diodorus Siculus, *The Library of History*, V, 1, 1)

It is on this basis that, in the Christian age, the term *oikonomia* is transposed into a theological field, in which, according to a widespread belief, it would acquire the meaning of a “divine plan of salvation” (with particular reference to Christ’s incarnation). Given that—as we have seen—a serious lexical investigation is yet to be carried out, the hypothesis of such a theological meaning of the term *oikonomia*, which is usually taken for granted, should first of all be verified.

✠ In order to understand the semantic history of the term *oikonomia*, we need to remember that, from the linguistic point of view, what we are dealing with is not really a transformation of the sense (*Sinn*) of the word, but rather a gradual analogical extension of its denotation (*Bedeutung*). Although dictionaries do usually, in such instances, distinguish and list one after the other the various senses of a term, linguists know perfectly well that, in point of fact, the semantic nucleus (the *Sinn*) remains within certain limits and up to a certain point unchanged, and that it is precisely this permanence that allows the extension to new and different denotations. What happened to the term *oikonomia* is somehow similar to what has more recently happened to the term “enterprise” [*impresa*], which, with the more or less conscious assent of the people concerned, has been extending itself so far as to cover fields, such as the university, which traditionally did not have anything to do with it.

When, referring to the theological use of the term, scholars (such as Moingt with regard to Hippolytus: Moingt, p. 903; or Markus: Markus 1958, p. 99) speak of an alleged “traditional sense” of *oikonomia* in the language of Christianity (which is, precisely that of “divine design”), they end up projecting onto the level of sense what is simply an extension of denotation to the theological field. Even Richter, who in any case denies the existence of a single theological meaning of the term that could be recovered in different contexts (Richter, p. 2), does not seem to distinguish correctly between sense and denotation. In truth, there is no theological “sense” of the term, but first of all a displacement of its denotation onto the theological field, which is progressively misunderstood and perceived as a new meaning.

In the following pages, we shall abide by the principle according to which the hypothesis of a theological meaning of the term *oikonomia* cannot be presupposed, but must be promptly verified each time.

✠ It is well known that, in Plato, the difference between *oikos* and *polis* is not presented, as it is in Aristotle, in terms of an opposition. In this sense, Aristotle is able to criticize the Platonic notion of the *polis* and reproach his master for pushing the unitary nature of the city too far, thus running the risk of transforming it into a household:

Is it not obvious that a city may at length attain such a degree of unity as to be no longer a city?—since the nature of a city is to be a plurality, and in tending to greater unity, from being a city, it becomes a household [*oikia*]. (Aristotle, *Politics*, 1261a)

2.2. It is a widespread belief (Gass, p. 469; Moingt, p. 903) that Paul was the first to give a theological meaning to the term *oikonomia*. Yet, a careful analysis of the passages in question does not confirm this hypothesis. Let us take 1 Corinthians 9:16–17:

If I preach the Gospel [*euangelizōmai*], I have nothing to glory of; for necessity is laid upon me; for woe is unto me, if I preach not the Gospel. For if I do this of mine own will, I have a reward: but if not of mine own will, I have an *oikonomia* entrusted to me [*oikonomian pepisteumai*, literally: “I have been invested fiducially of an *oikonomia*”].

The sense of *oikonomia* is here perspicuous, and the construction with *pisteuō* does not leave any doubt: *oikonomia* is the task (as in Septuagint, Isaiah 22:21) that God has assigned to Paul, who therefore does not act freely, as he would in a *negotiorum gestio*, but according to a bond of trust (*pistis*) as *apostolos* (“envoy”) and *oikonomos* (“nominated administrator”). *Oikonomia* is here something that is assigned; it is, therefore, an activity and a task, not a “plan of salvation” that concerns the divine mind or will. One should understand the passage from 1 Timothy 1:3–4 in the same way:

I urged you to stay on at Ephesus. You were to command certain persons to give up teaching erroneous doctrines and studying those interminable myths and genealogies, which issue in mere speculation and cannot make known the *oikonomia* of God, which works through faith [*oikonomian theou tēn en pistei*, the good activity of administration that God entrusted to me].

But the meaning remains the same even in those passages in which the combination of *oikonomia* with the term *mystērion* has induced interpreters to assume a theological sense that is not necessitated by the text. See, for instance, Colossians 1:24–25:

Now I rejoice in my suffering for your sake, and in my flesh I complete what is lacking in Christ’s afflictions [ . . . ] according to the *oikonomia* of God, the

one which was given to me [*dotheisan*] to make the word of God fully known, the mystery hidden for ages and generations but now made manifest to his saints [ . . . ]

It has been observed that, although the sense of *oikonomia* is here, as it is in 1 Corinthians 9:17, that of a “fiduciary duty” (“anvertrauete Amt”), the apostle seems to imply the further meaning of “divine decision of salvation” (Gass, p. 470). But nothing in the text authorizes us to relate *oikonomia* to a meaning that could perhaps belong only to *mystērion*. Once again, the construction with *didōmi* is perspicuous: Paul has received the task to announce the good news of the coming of the Messiah, and this announcement fulfills God’s word, whose promise of salvation had remained hidden and has now been revealed. There is no reason to link *oikonomia* to *mystērion*: the latter term is grammatically an apposition of *logon tou theou*, and not of *oikonomian*.

The interpretation of Ephesians 1:9–10 is more complex:

[God] has made known to us in all wisdom and insight the mystery of his will, according to his benevolence, which he set forth [*proetheto*] in Christ for the *oikonomia* of the fullness of time, to unite all things in him.

Paul is here speaking about the election and redemption decided by God according to his benevolence (*eudokia*): consistently with this context, he can write that God has assigned to the Messiah the *oikonomia* of the fullness of time, bringing to completion the promise of redemption. Even here *oikonomia* simply refers to an activity (“Sie bezeichnet nur noch ein Tätigsein”: Richter, p. 53), and not to a “divine design of salvation” as is wrongly suggested by O. Michel (*ibid.*, p. 67). The fact that Paul is able to present the attainment of the promised redemption in terms of an *oikonomia*—that is, the fulfillment of a task of domestic administration—is far from irrelevant (it is most likely with reference to this passage that the Gnostics will be able to present Jesus as “the man of the *oikonomia*”).

We can make similar suggestions regarding Ephesians 3:9:

To me, though I am the very least of all the saints, this grace was given, to preach to the Gentiles the unsearchable riches of Christ, and to make all men see what is the *oikonomia* of the mystery hidden for ages in God [ . . . ]

“The *oikonomia* of the mystery” is patently a contraction of the phrase used in Colossians 1:25 (“the *oikonomia* of God, the one that was given to me to make the word of God fully known, the mystery hidden for ages and generations [ . . . ]”); even here, nothing authorizes us to replace its sense of “realization, administration” with the unattested sense of “plan of salvation.”

The use of the term *oikonomos* in 1 Corinthians 4:1 is entirely consistent with these two passages:

Let a man so account of us, as of servants [*hypēretas*] of Christ, and treasurers [*oikonomos*] of the mysteries of God. Here, moreover, it is required in *oikonomoi*, that a man be found faithful [*pistos*].

The relation between *oikonomia* and mystery is here clear: it is a matter of carrying out faithfully the task of announcing the mystery of redemption hidden in the will of God that has now come to completion.

2.3. If the textual analysis does not allow us to attribute an immediately theological meaning to *oikonomia*, a different point can nevertheless be inferred from the examination of the Pauline lexicon. Paul does not just speak of an *oikonomia* of God, in the sense we have seen, but also refers to himself and the members of the messianic community using exclusively terms that belong to the language of domestic administration: *doulos* (“slave”), *hypēretēs*, *diakonos* (“servant”), *oikonomos* (“administrator”). Christ himself (even though the name is synonymous with “eschatological king”) is always defined with the term that designates the master of the *oikos* (that is, *kyrios*, or *dominus* in Latin) and never with terms that are more openly political, such as *anax* or *archōn*. (The appellation *kyrios* was certainly not neutral: we know from Irenaeus, *Against Heresies*, I, 1, 1, that Gnostics refused to call the Savior *kyrios*; on the other hand, they used the political term “archons” to designate the divine figures of the plerome.) In spite of some very rare and only apparent exceptions (see Philippians 1:27 and 3:20; see also Ephesians 2:19, in which *politeuomai* and *sympolitēs* are, however, used in a decidedly impolitical sense), the lexicon of the Pauline *ekklēsia* is “economic,” not political, and Christians are, in this sense, the first fully “economic” men. The lexical choice is all the more significant insofar as, in the *Apocalypse*, Christ—who appears in the guise of an eschatological king—is defined with an unequivocally political term: *archōn* (1:5; *princeps* in the Vulgate).

The strongly domestic tone of the vocabulary of the Christian community is obviously not a Pauline invention; it rather reflects a process of semantic mutation that involves the entire political vocabulary of Paul’s times. Starting already with the Hellenistic age and then more explicitly in the Imperial age, the political and economic vocabularies enter a relation of mutual contamination, which tends to render the Aristotelian opposition between *oikos* and *polis* obsolete. The anonymous author of the second book of the pseudo-Aristotelian treatise on *Economy* is thus able to put economy in the strict sense (defined as *idiōtikē*, private) alongside an *oikonomia basilikē* and even an *oikonomia politikē* (a real nonsense from

Aristotle's perspective). The contamination of the paradigms is evident in the Alexandrian *koinē* and in the Stoa. In a passage from Philo, whose content Arnim ascribed—possibly in an uncritical way—to Chrysippus, the *oikia* is defined as “a *polis* on a small and contracted scale [*estalmenē kai bracheia*],” and economy as “a contracted [*synēgmenē*] *politeia*.” Conversely, the *polis* is presented as “a large house [*oikos megas*],” and politics as “a {common} economy [*koinē tis oikonomia*]” (Philo, *On Joseph*, p. 438; see also *SVF*, III, 80 = Chrysippus, fragment 323). (The modern metaphor of the political community as a “house”—“the house of Europe” [*la “casa Europa”*]—here finds its archetype.)

Portraying the *ekklēsia* in domestic rather than political terms, Paul was merely following a process that was already taking place; however, he further accelerates this process in a way that involves the entire metaphorological register of the Christian lexicon. Two examples are worthy of note: the use of *oikos* in 1 Timothy 3:15—in which the community is defined as “the house [not ‘city’] of God” (*oikos theou*)—and that of *oikodomē* and *oikodomeo*—terms that refer to the construction of a house—in the “edifying” sense of constructing a community (see Ephesians 4:16; Romans 14:19; 1 Corinthians 14:3; 2 Corinthians 12:19). The implications for the history of Western politics of the fact that the messianic community is represented from the beginning in terms of an *oikonomia*—not in terms of a politics—have yet to be appreciated.

✠ Our textual analysis of the occurrences of the term *oikonomia* will essentially be limited to texts of the second and third century AD, a period during which the concept receives its original form. Later developments in the theology of the Cappadocians and in the late Byzantine theologians will occasionally be treated in Chapter 3.

2.4. The term *oikonomia* is used three times in Ignatius of Antioch's *Letter to the Ephesians*, in a context where the influence of the Pauline vocabulary is evident.

In 6, 1, the term does not have any theological connotation, even if it refers to a bishop:

The more anyone observes that a bishop is discreetly silent, the more he should stand in fear of him. Obviously, anyone whom the Master of the household [*oikodespotēs*] puts in charge of His domestic affairs [*eis idian oikonomian*], ought to be received by us in the same spirit as he who has charged him with his duty.

In 18, 2:

The fact is, our God Jesus Christ was conceived by Mary according to God's *oikonomia* from the seed of David, it is true, but also from the Holy Spirit.

Here, as already noted by Gass, *oikonomia* does not yet mean “incarnation”; but it is also unnecessary to presuppose, as is suggested by Gass, the intricate sense of “a revelatory principle that, in conformity with the highest decision, had to fulfill itself by means of Christ’s birth and death” (Gass, pp. 473–474). The syntagma *oikonomia theou* is simply equivalent to “task assigned by God,” “activity performed according to God’s will” (as in Paul, from whom the syntagma is derived: this passage from Ignatius’s letter is full of Pauline quotations). It is important to observe that, in the following passage (19, 1), Ignatius draws a distinction between *oikonomia* and *mysterion*: Mary’s virginity, her parturition, and the death of the Lord are “sensational mysteries” (*kraugēs*, as in Paul, Ephesians 4:31), which have happened and been revealed according to an economy. In other words, as in Paul, there is an “economy of the mystery” and not, as will be the case with Hippolytus and Tertullian, a “mystery of the economy.”

Even with reference to 20, 1 (“I shall, in the subsequent letter that I intend to write to you, still further explain the *oikonomiai* that I have here only touched upon, regarding the New Man Jesus Christ—the *oikonomiai* founded on faith in Him and Love for Him, on His passion and Resurrection”), the translation “divine plan” is imprecise. If the term *oikonomiai* is not to be understood here in the rhetorical sense of “arrangement of the matter” (which is nevertheless a possibility, given the reference to the composition of a text), the generic meaning “activity ordered for a purpose” is perfectly satisfactory.

2.5. Justin, who is active in Rome around the middle of the second century, uses the term *oikonomia* in the *Dialogue with Trypho*, in which he tries to demonstrate to the Jews that “Jesus is the Lord’s Christ” (that is, the Messiah).

In two passages from Chapters 30–31, Justin writes the following:

Even to this day, they [the demons] are overcome by us when we exorcise them in the name of Jesus Christ, who was crucified under Pontius Pilate, the Governor of Judea. Thus, it is clear to all that his Father bestowed upon him such a great power [*dynamis*] that even the demons are submissive both to his name and to the economy of his passion [*tēi tou genomenou pathous oikonomiai*]. (Justin, *Dialogue with Trypho*, p. 46)

If such power [*dynamis*] is shown to have accomplished, and even now accompanies, the economy of his Passion [*tēi tou pathos autou oikonomiai*], just think how great shall be his power at his glorious coming. (Ibid., p. 47)

Here, the syntagma “economy of the passion” designates the passion conceived as the fulfillment of a divine assignment and will, from which a power follows (*dynamis*). This is equally valid for the two passages in which (as in Ignatius,

*Letter to the Ephesians*, 18, 2) the *oikonomia* refers to the generation of the savior through the Virgin Mary:

[Christ] deigned to become Incarnate, and be born of this virgin of the family of David, in order that by this activity [*dia tēs oikonomias tautēs*] he might conquer the serpent [ . . . ] and the angels who followed his example. (Justin, *Dialogue with Trypho*, p. 69)

[ . . . ] the ones from whom Christ was to be born in accordance with the activity that was fulfilled through the Virgin Mary [*kata tēn oikonomian tēn dia tēs parthenou Marias*]. (Ibid., p. 180)

The sense of “assignment” is perspicuous in 67, 6: “I do not admit that he [Christ] submitted to this, as though justification could be acquired by it, but simply to complete the *oikonomia* in accordance with the will of his Father” (ibid., p. 103); and in 103, 3: “[ . . . ] before Christ fulfilled by his crucifixion the Father’s *oikonomia*” (ibid., p. 156). The passage at 134, 2 is closer to Paul’s use of the term in the letter to the Ephesians:

For, as I have said already, in each such action certain *oikonomiai* of the great mysteries were fulfilled [*oikonomiai tines megalōn mystērion en hekastēi tini toiautēi praxei apotelounto*]. I will explain what divine *oikonomia* and prophecy were accomplished in the marriages of Jacob. (Ibid., pp. 201–202)

As we can infer from the passage that immediately follows (“The marriages of Jacob were prototypes [*typoi*] of what Christ would do”: 134, 3), the “economy of the mystery” refers to Paul’s typological doctrine: it is the activity that realizes the mystery that had been announced typologically in the Old Testament. In the last occurrence of the term *oikonomia*, there is no direct theological implication (107, 3):

Then, when Jonah was vexed because the city had not been destroyed on the third day, as he had announced, a gourd plant sprang up out of the earth thanks to one of God’s economies [*dia tēs oikonomias*]. (Ibid., pp. 161–162)

✠ The text of the *Apology* of Aristides of Athens, probably written between AD 124 and 140, reached us in a Syriac, an Armenian, and a Greek version—the last is contained in the *Barlaam and Iosaphat* (eleventh century). The discordances between these three versions do not allow us to establish whether the Greek text that we quote from here corresponds to the original:

And having accomplished His wonderful economy [*telesas tēn thaumastēn autou oikonomian*], by a voluntary choice He tasted death on the cross, fulfilling an august economy [*kat’ oikonomian megalēn*]. (*The Apology of Aristides the Philosopher*, p. 276)

2.6. Theophilus of Antioch, who was bishop around AD 170, uses the term *oikonomia* four times, without it ever acquiring a directly theological meaning. The first time concerns the task that God assigned to the emperor:

[The emperor] is not God but a man appointed by God [*hypo theou tetagmenos*], not to be worshipped but to judge justly. For in a certain way he has been entrusted with a duty from God [*para theou oikonomian pepisteuetai*]. (Theophilus, *Ad Autolyicum*, I, II, p. 15)

In two other cases, the sense is in all likelihood the rhetorical acceptance, “arrangement of the matter,” with reference to the narration of the Genesis:

No man can adequately set forth the whole exegesis and all the ordered matter [*tēn exēgēsīn kai tēn oikonomian pasan exeipein*], even were he to have ten thousand mouths and ten thousand tongues. (Ibid., 2, 12, p. 45)

The narrative that concerns them [Cain and Abel] is wider than the arrangement of my exposition [*tēn oikonomian tēs exēgēsēōs*]. (Ibid., 2, 29, p. 73)

The generic sense of “ordered arrangement” is also present at 2, 15 (p. 53):

The disposition of the stars corresponds to the arrangement [*oikonomian*] and order [*taxin*] of the righteous and godly men who keep the law and the commandments of God. For the stars that are clearly visible and radiant exist in imitation of the prophets [ . . . ]

2.7. Tatian, who was probably a disciple of Justin in Rome, and, according to Irenaeus, the founder of the intransigent sect of the Encratites, seems to develop a theological meaning of the term *oikonomia* in a passage of the *Address to the Greeks* in connection with the relation between the *logos* and the Father. However, a careful examination of the passage shows that he actually transfers into a theological field technical terms from the rhetorical vocabulary.

The Logos, not having separated [*chōrēsas*] in vain, becomes the first-begotten work of the Father. Him (the Logos) we know to be the principle [*archēn*] of the world. But He came into being by ordered partition, not by a cut [*gegonen de kata merismon, ou kata apokopēn*]; for what is cut off [*apotmēthen*] is separated from the original substance, but that which comes by participation [*meristhen*], having received the distinction of the *oikonomia* [*oikonomias tēn diairesin*], does not render deficient that from which it is taken. (Tatian, *Address of Tatian to the Greeks*, 5, pp. 9–10)

The terminology being used here is that of Stoic rhetoric: *merismos* “is an ordered disposition [*katataxis*] of a kind according to places” (Diogenes, 7, 62, in *SVF*, III, 215); *diairesis* is, along with *taxis* and *exergasia*, one of the divisions

of the *oikonomia* (itself a technical term of Hermagoras's rhetoric, as we have seen in Quintilian). The articulation of divine life is here conceived according to the model of the arrangement of the matter in a discourse. This is confirmed by the subsequent passage.

I myself, for instance, talk, and you hear; yet, certainly, I who converse do not become destitute of *logos* by the transmission of it, but by the utterance of my voice [*proballomenos de tēn phōnēn*, probably a reference to Justin, *Dialogue with Trypho*, 61], I endeavor to reduce to order the unarranged matter in your minds. (Tatian, *Address of Tatian to the Greeks*, 5, p. 10)

An analogous acceptance can be found in Chapter 21:

Hector also, and Achilles, and Agamemnon, and all the Greeks in general, and the Barbarians with Helen and Paris, being of the same nature, you will of course say are introduced merely for the sake of the disposition of discourse [*charin oikonomias*], not one of these personages having really existed. (Ibid., p. 28)

In the remaining part of the *Address*, the term *oikonomia* refers to the ordered organization of the human body:

The constitution [*systasis*] of the body is under one management [*mias estin oikonomias*] [ . . . ] and the eye is one thing, and another the ear, and another the arrangement of the hair and the distribution of the intestines [*entosthiōn oikonomia*], and the compacting together of the marrow and the bones and the tendons; and though one part differs from another, there is yet all the harmony of a concert of music in their arrangement [*kat' oikonomian symphōnias estin harmonia*]. (Ibid., 12, p. 17)

or of matter:

If anyone is healed by matter, through trusting to it, much more will he be healed by having recourse to the power of God [ . . . ] Why is he who trusts in the ordered arrangement of matter [*hylēs oikonomiai*] not willing to trust in God? (Ibid., 18, p. 24)

Even if there is not yet here a properly theological use of the term, it is interesting to observe that, in order to describe the relation between the Father and his Logos, Tatian resorts to the metaphorical extension of the term *oikonomia* that already existed in a rhetorical context. Just as the ordered arrangement of the matter of a discourse into different parts does not compromise its unity or diminish its power [*potenza*], so the divine Logos receives "the distinction of the *oikonomia*." The first articulation of the Trinitarian procession takes place by means of an economic-rhetorical paradigm.

✠ Modern historians of theology have overlooked the importance of the rhetorical meaning of the term *oikonomia* for the constitution of the Trinitarian paradigm. And yet, the fact that the subject of the passage from Tatian is, indeed, the Logos, the word of God, should have hinted at the presence of a rhetorical image. The use of the rhetorical term *diairesis* in Athenagoras (see below, 2.8) proves the correctness of Schwartz's replacement of *hairesis* (present in the manuscript) with *diairesis* in the above quoted passage from Tatian.

✠ In the *Martyrdom of Polycarp*, we find once again the meaning of economy as internal organization of the body. The torn flesh of the martyr allows us to see "the economy of [his] flesh [ . . . ] even to the lower veins and arteries" (*The Martyrdom of Polycarp II*, 2, p. 315). Even here, the extension of the denotation of the term to physiology does not substantially alter its semantic nucleus.

2.8. The use of a rhetorical metaphor to express the Trinitarian articulation of the deity can be recovered in Athenagoras, who is a contemporary of Marcus Aurelius and Commodus, and introduces himself as "Christian philosopher" in the seal of his *Embassy for the Christians*. He uses the term *oikonomia* in the common sense of "praxis ordered for a purpose" with reference to the incarnation ("why, even if a god according to a divine *oikonomia* does take flesh upon himself, is he then at once passion's slave?": *Embassy for the Christians*, 21, 4, p. 55). However, in an important passage, he uses another technical term of the rhetorical vocabulary—*diairesis*, strictly linked to *oikonomia*—precisely in order to reconcile the unity with the trinity:

Who then would not be amazed hearing that those who recognize a God Father and a God Son and one Holy Spirit, and proclaim their power in unity and in order their disposition [*tēn en tēi taxei diairesin*], are called atheists? (Ibid., 10, 5, p. 40)

In the passage that immediately follows, Athenagoras extends economy to the angelic ranks, a singular intuition that Tertullian will remember:

Nor does our theology stop there, but we assert a multitude [*plēthos*] of angels and assistants [*leitourgōn*] whom God, maker and artificer [*poietēs kai dēmiurgos*] of the universe, set in their places by means of His Word and appointed severally to be in charge of the elements and the heavens and the universe and all it contains and its good order. (Ibid.)

2.9. Irenaeus's treatise *Against Heresies* presents itself as a refutation of Gnostic systems and expounds Catholic faith through an accurate polemical confrontation with them. The strong presence of the term *oikonomia* in his work, which makes of it, if not a proper technical term, at least a *Lieblingswort* (Richter, p. 116) of his thought, should first of all be read in this polemical context. This means,

however, that the term *oikonomia* becomes technical in the language and thought of the Fathers of the Church in relation to the use the Gnostics make of it; it is therefore strange that one might try to define its sense, while completely neglecting (as, for example, Richter does) an examination of these authors.

D'Alès, who catalogued the occurrences of *oikonomia* and its Latin equivalents, *dispositio* and *dispensatio*, in the *Adversus haereses*, lists thirty-three instances in which Irenaeus uses it to refer to a properly Gnostic doctrine—for which the term designates the process internal to the plerome and, in particular, “the fusion of the divine aeons from which the person of the Savior results” (D'Alès, p. 6). According to D'Alès, it is against this Gnostic acceptance that Irenaeus, in his use of the term in the profession of the Catholic faith, “forbids himself any allusion to the internal economy of the Trinity, considering the path taken by Tatian dangerous” (ibid., p. 8). Markus had already observed that such an opposition is not consistent with fact, since in the quoted Gnostic texts, *oikonomia* does not really refer to a process internal to the plerome, but rather, indeed, to the fusion of the aeons that leads to the constitution of the historical Jesus (Markus 1958, p. 92). We could also add that, even in the texts that refer to the Catholic faith (in particular, the passage from Book 4 (33, 7), which D'Alès quotes as a proof), Irenaeus not only speaks of the “economies” of the Son (significantly enough, in the plural), but also of the economies of the Father. More generally, the pedantry with which modern theologians try, at any cost, to keep the economy of incarnation and the economy of the Trinity separate is meaningless at a time when the term *oikonomia* generically designates divine activity and government.

What is at stake in the confrontation between Irenaeus and the people he calls “the disciples of Ptolemaeus of the school of Valentinus” is not so much the shift of the notion of economy from a process internal to the plerome to the incarnation of the Son—or from a supratemporal plan to a plan in the history of salvation (Bengsch, p. 175)—but rather, more generally, an attempt to remove the term *oikonomia* from its Gnostic context in order to make it the central strategic apparatus of the rising Trinitarian paradigm. It is only by closely following Irenaeus's polemical confrontation with the Gnosis that it is possible to define his use of the term.

The word appears for the first time with reference to Christ in the guise of the adjective *oikonomos* at the end of the long exposition of the Gnostic doctrines of the plerome and the Savior that opens the treatise (Irenaeus, *Against Heresies*, I, 7, 2). Following a pattern that is also present in Clement's *Excerpta*, the Savior is composed of a spiritual element, deriving from Achamoth, a psychic element, and an “economic element of incredible craftsmanship”: the Christ who under-

goes the passion is not spiritual, but psychic and “economic.” This exposition is followed by a refutation, in the course of which Irenaeus uses the term “economy” again, this time in the context of a profession of the faith that the Church received from the Apostles:

[ . . . ] one God, the Father Almighty, Maker of heaven, and earth, and the sea, and all things that are in them; [ . . . ] one Christ Jesus, the Son of God, who became incarnate for our salvation; and [ . . . ] the Holy Spirit, who proclaimed through the prophets the “economies” of God, and the advents, and the birth from a virgin, and the passion, and the resurrection from the dead [ . . . ] (Irenaeus, *Against Heresies*, I, 10, 1, p. 42)

A few lines later, the polemical confrontation is further specified: the different ways in which this single faith is exposed do not imply that one

should conceive of some other God besides Him who is the Framer, Maker, and Preserver of this universe (as if He were not sufficient for them), or of another Christ, or another Only-begotten. But the fact referred to simply implies this, that one may [more accurately than another] [ . . . ] explain the operation and the economy of God [*tēn te pragmateian kai oikonomian tou Theou ( . . . ) ekdiēgeisthai*]. (Ibid., I, 10, 3, pp. 43–44)

What is at stake is clearly maintaining the idea of a divine “economy” that causes the incarnation of the Son—which the Gnosis had derived from Paul—while nonetheless avoiding the Gnostic multiplication of divine figures.

A similar preoccupation is evident in Irenaeus’s defense of the flesh and its resurrection against those who “despise the entire economy of God, and disallow the salvation of the flesh” (ibid., V, 2, 2, p. 59). Using a remarkable phrase, Irenaeus writes here that, in denying the flesh, the Gnostics “overturn [ . . . ] the entire economy of God [*tēn pasan oikonomian ( . . . ) anatrepontes*]” (ibid., V, 13, 2, p. 88). The Gnostic radicalization of the dualism (itself of Pauline origin) between the spirit and the flesh subverts the sense of divine activity, which does not admit such an antithesis. And against the Gnostic multiplication of the divine Aeons founded on the number thirty, “image of the superior economy” (ibid., I, 16, 1, p. 69), Irenaeus writes that, in this way, the Gnostics “pull to pieces [*diasyrontes*] [ . . . ] the economies of God [ . . . ] by means of Alpha and Beta, and with the aid of numbers” (ibid., I, 16, 3, p. 71). In the same way, the Gnostic proliferation of the gospels “upsets the economy of God” (ibid., III, 11, 9, p. 295). In other words, for Irenaeus, it is, once again, a matter of subtracting economy from its constitutive nexus with the Gnostic multiplication of the hypostases of the divine figures.

The reversal of the Pauline phrase “economy of the plerome” (*oikonomia tou plerōmatos*, Ephesians 1:10) into “accomplishing, fulfilling the economy” (*ten oiokonomian anaplēroun*) should be read in the same way. According to Markus (Markus 1954, p. 213), who was the first to notice such reversal (for instance, in *Against Heresies*, III, 17, 4, and in IV, 33, 10), Irenaeus transforms in this way what was, for the Gnostics, a cosmic-natural process into a historical dispensation (this is a singular conclusion to be drawn by a scholar who has just objected against D’Alès that, for the Gnostics, the endopleromatic process could not be separated from the historical Jesus). Markus seems to forget that, although the Gnostics had somehow appropriated the syntagma “economy of the plerome,” the latter is as such, as we have seen, genuinely Pauline. A reading of the first passage shows beyond doubt that Irenaeus is actually trying to withdraw this unclear Pauline phrase from Gnostic interpretations—which make of the “economy of the plerome” the principle of an infinite procession of hypostases—in order strongly to affirm that the economy of which Paul speaks has been accomplished once and for all by Jesus:

The *Logos* of the Father came in the fullness of time, having become incarnate in man for the sake of man, and fulfilling all the economy of human nature through our Lord Jesus Christ, who is one and the same, as He himself the Lord doth testify, as the apostles confess, and as the prophets announce. (Ibid., III, 17, 4, p. 336)

It has been observed that Irenaeus’s strategy removes the concept of “conversion” (*epistrophē*) from the psychomythological context of the passions of Sophia and Achamoth in order to make it the fulcrum of Catholic orthodoxy (Aubin, pp. 104–110) by means of the formula “to convert to the Church of God” (*epistrephein eis tēn ekklēsiā tou Theou*). Similarly, the conflict with the Gnosis does not concern the historical character of the figure of the savior (the Gnostics are the first to establish a parallelism between a cosmic-ontological drama and a historical process) or the opposition between an economy limited to the incarnation and an “economy of the Trinity,” which could not have been separated in the theological context of the time. Irenaeus’s gesture rather amounts to an operation on themes that are common to heretics and “Catholics” in order to return them to what he believes to be the orthodoxy of the apostolic tradition, and redefine them within a clear profession of faith. This means, however, that—inasmuch as a redefinition is never entirely separable from a reception—at least in the case of the concept of *oikonomia* (a notion that the Gnostics were possibly the first to elaborate strategically), the common theme has become the breach through which Gnostic elements have penetrated the orthodox doctrine.

✠ The *Excerpta ex Theodoto*, attributed to Clement of Alexandria, have preserved Gnostic doctrines on “economy,” which substantially agree with the information given by Irenaeus. In 33, 3, Wisdom, which is also called “Mother,” after having delivered the Christ, gives birth to a “ruler of the economy,” a figure (*typos*) of the Father who was abandoned by him and is inferior to him (*The Excerpta ex Theodoto*, p. 65). In 58, 1, the Christ, defined as “the great Champion” (*ho megas Agōnistēs*), descends to earth and assumes both the “pneumatic,” or spiritual, element that originates from the mother and the “psychic” element that originates from the economy (*to de ek tēs oikonomias to psychikon*: *ibid.*, p. 78). Here, economy seems to designate a salvific activity, which has a typological precursor in an “archon” and finds its realization in Christ.

The fact that the term *oikonomia* belongs to both the Gnostic and the Catholic vocabularies is proved by the divisive discussions among scholars about which passages from the *Excerpta* quote Clement’s opinions and which Theodotus’s. Such doubt applies especially to the three passages that contain the term *oikonomia* (5, 4; 11, 4; 27, 6), which the editor attributes to Clement but which could easily be attributed to Theodotus.

✠ From a lexical point of view, it is interesting to note that Irenaeus uses *pragmateia* a number of times as a synonym of *oikonomia*. This confirms that *oikonomia* preserves its generic meaning of “praxis, administrative and executive activity.”

2.10. It is a common belief that, with Hippolytus and Tertullian, the term *oikonomia* ceases to be a mere analogical extension of the domestic vocabulary into a religious field, and becomes a technical notion that designates the Trinitarian articulation of divine life. However, even in this case, there is no strategy aimed at clearly defining a new meaning. Rather, the will to transform the *oikonomia* into a *terminus technicus* reveals itself in an indirect way through two unequivocal devices: the metalinguistic reference to the term, which amounts to putting it in quotation marks (thus, in Tertullian, we can read “this dispensation, or *oikonomia*, as it is called”: the term is left untranslated in Greek and is transliterated into Latin characters), and the reversal of the Pauline phrase “the economy of the mystery” into “the mystery of the economy,” which gives the term a new poignancy without defining it.

Unlike in Irenaeus, the context of this technicization is that of the earliest disputes surrounding the problematic nucleus that will later become the Trinitarian dogma. Both Hippolytus and Tertullian are engaged in a confrontation with adversaries (Noetus and Praxeas) who adhere to a rigorous form of monotheism—and are defined, for this reason, Monarchians—and see the personal distinction between the Father and the Word as in danger of relapsing into polytheism. The concept of *oikonomia* is the strategic operator that, before the elaboration of an appropriate philosophical vocabulary—which will take place only in the course

of the fourth and fifth centuries—allows a temporary reconciliation of the trinity with the divine unity. In other words, the first articulation of the Trinitarian problem takes place in “economical,” not metaphysico-theological, terms; for this reason, when the Nicene-Constantinopolitan dogmatics achieves its final form, the *oikonomia* will gradually disappear from the Trinitarian vocabulary, and will be preserved only in that of the history of salvation.

Hippolytus’s *Contra Noetum* has been defined as “possibly the most important second-century document on Trinitarian theology” (Scarpat, p. xxii). In opposition to Prestige (Prestige, *passim*), according to whom, in Hippolytus as ultimately in Tertullian, *oikonomia* designates the internal organization of the deity, and not the Incarnation, Nautin—the scholar responsible for the critical edition of the *Contra Noetum*—seems to exclude a theologico-Trinitarian acceptance in a technical sense and restricts the meaning of the term to “divine plan in virtue of which God has a son who is his incarnated Word” (Nautin, p. 140). In the same sense, although this meaning is not attested to until at least a century later, Markus can write that, for Hippolytus, “economy must be the same as incarnation” (Markus 1958, p. 98). Even more surprisingly, Markus adds soon after that Hippolytus—speaking of Christ as the “mystery of the economy”—would be “closely following the Christian tradition,” without realizing that Hippolytus is rather literally reversing the canonical Pauline phrase “economy of the mystery” (*ibid.*, p. 99). In spite of being the first to notice that “Hippolytus has simply reversed Paul’s phrase from Ephesians 3:9” (Moingt, p. 905), Moingt is so absorbed in demonstrating his thesis according to which the use of *oikonomia* with reference to the procession of the persons in the deity would be Tertullian’s invention, that, clearly contradicting himself, he can write that Hippolytus uses the term “according to the meaning established by Paul and the tradition before him” (*ibid.*, p. 907; in other words, the very meaning whose formulation Hippolytus radically reverses).

Here, the debate is compromised by the presupposition that there are two different and incompatible meanings of the term *oikonomia*, the first referring to the incarnation and the revelation of God in time, and the second concerning the procession of the persons within the deity. We have already shown (and Richter’s study confirms this conclusion) that this presupposition is generated by a projection of a later theoretical elaboration onto the semantics of a term that, in the second century, simply meant “divine activity of administration and government.” The two alleged meanings are nothing but the two aspects of a single activity of “economic” administration of divine life, which extends from the heavenly house to its earthly manifestation.

Let us now turn to Hippolytus's text. From the beginning, the "economic" paradigm has here a precise strategic function. In order to save the divine unity, Noetus affirms that the son is none other than the Father, and consequently denies the reality of the Christ that has been proclaimed in the Scriptures.

And just because Noetus has no notion, this does not mean that it is the Scriptures that should be thrown out. After all, would not everyone say that there is a single God?—but we shall not deny the economy [*all' ou tēn oikonomian anairēsei*]. (Hippolytus, *Contra Noetum*, p. 48)

*Oikonomia* does not have here a special meaning, and can simply be translated as "praxis, divine activity aimed at a purpose." Yet, the absolutization of the term (which usually appeared in syntagmatic nexuses such as "economy of God," "economy of the mystery," "economy of the salvation," etc.) in relation to the apparent opposition between unity and trinity certainly confers on it a particular poignancy. The distinction, in God, between a monadic power (*dynamis*) and a threefold *oikonomia* is accountable to the same strategy:

So even an unwilling person is obliged to confess the Father as God Almighty, and Christ Jesus, the Son of God, as the God who became man [ . . . ] and the Holy Spirit; and that these really are three. But if he wants to learn how God is shown to be one, he must know that this [God] has a single Power [*dynamis*]; and that as far as the Power is concerned, God is one; but in terms of the *oikonomia*, the display [of it] is triple. (Ibid., p. 64)

This distinction is important since it possibly lies at the origin of both the distinction between *status* and *gradus* in Tertullian (*Treatise Against Praxeas*, 19, 8), and that between theology and economy, which will become common beginning with Eusebius. The fact that this is not a neat opposition, but a distinction that allows one to reconcile the unity with the trinity, becomes evident once we understand that the terminology is here entirely Stoic. In a famous passage, Chrysippus had distinguished in the soul the unity of the *dynamis* from the multiplicity of the modes of being (or, rather, the modes of "having," the "habits," *pōs echon*):

The power of the soul is one, in a way that, according to its manner of being or behaving [*pōs echousan*], it either thinks, or gets irate, or desires. (Chrysippus, fragment, 823, *SVF*, II, 823; see Pohlenz, vol. I, p. 91)

The *oikonomia* corresponds to the Stoic doctrine of the modes of being and is, in this sense, a pragmatics.

The key strategic device by means of which Hippolytus confers a new meaning upon *oikonomia* is, however, the reversal of the Pauline syntagma "economy

of the mystery” to form “mystery of the economy.” This reversal is carried out in two passages, both of which concern the relation between the Father and his *logos*:

But in whom is God, except in Christ Jesus, the Father’s own *logos* and the mystery of the economy [*tōi mystērīōi tēs oikonomias*]? (Hippolytus, *Contra Noetum*, p. 52)

So the statement “In thee is God” revealed the mystery of the economy—that once the Word had taken flesh and was among men, the Father was in the Son and the Son in the Father, while the Son was living among men. So this, brethren, is what was being pointed out—that the mystery of the economy really was this very *logos* proceeding from the Holy Spirit and the Virgin, which the Son had brought to completion [*apergasamenos*] for the Father. (Ibid., p. 52)

While, in Paul, the economy was an activity carried out to reveal or accomplish the mystery of God’s will or word (Colossians 1:24–25; Ephesians 3:9), *now it is this very activity, personified in the figure of the sonword, that becomes a mystery*. Even here, the key meaning of *oikonomia* remains the same, as is evident in the last sentence of the second passage (the Son brings to completion, realizes an economy for the Father). Yet, the sense of “plan hidden in God,” which was a possible, though imprecise paraphrase of the term *mystērion*, tends now to be transferred onto the very term *oikonomia*, giving it a new significance. *There is no economy of the mystery, that is, an activity aimed at fulfilling and revealing the divine mystery; it is the very “pragmateia,” the very divine praxis, that is mysterious.*

Thus, in the last passage in which it is used—repeating one of Tatian’s stylistic features to the letter—*oikonomia* tends persistently to be identified with the harmonic composition of the threefold divine activity in a single “symphony”:

This economy the blessed John, too, passes onto us through the witness of his Gospel, and he maintains that this Word is God, with the words: “In the beginning was the Word, and the Word was with God, and the Word was God” (John 1:1). But then if the Word, who is God, is with God, someone might well say: “What about this statement that there are two gods?” While I will not say that there are two gods—but rather one—I will say there are two persons; and thirdly the economy, the grace of the Holy Spirit. For though the Father is one, there are two persons—because there is the Son as well: and the third, too,—the Holy Spirit. The Father gives orders, the *logos* performs the work, and is revealed as Son, through whom belief is accorded to the Father. By a harmonious economy [*oikonomiai symphōnias*] the result is a single God. (Hippolytus, *Contra Noetum*, p. 74)

With a further development of its—even rhetoric—meaning of “ordered arrangement,” economy is now the activity—as such truly mysterious—that

articulates the divine being into a trinity and, at the same time, preserves and “harmonizes” it into a unity.

✠ The importance that the reversal of the Pauline syntagma “economy of the mystery” into “mystery of the economy” has in the construction of the economic-Trinitarian paradigm is attested by the persistence with which the latter phrase imposes itself as an interpretative canon of Paul’s text. Thus, in Theodoretus of Cyrus (first half of the fifth century), we can still find the claim that Paul, in the *Letter to the Romans*, has revealed “{the mystery of the economy and showed the cause of Incarnation}” (Theodoret of Cyrus, *Commentary on the Letters of Saint Paul*, vol. I, p. 72).

2.II. It is common to identify Tertullian as the first author for whom *oikonomia* is unequivocally referred to the procession of the persons in the deity; yet, we should not expect to find rigor of argument or terminological precision in his works—Gilson defines his way of reasoning as “antiphilosophical,” and even “simplistic.”

The *oikonomia*—and its Latin equivalents *dispensatio* and *dispositio*—is rather the apparatus with which, in his polemics against the “restless” and “very perverse” Praxeas, Tertullian tries to come to terms with the impossibility of a philosophical formulation of the Trinitarian articulation. He thus begins to make the term more technical—and, at the same time, render it more mysterious—by leaving it in its Greek form:

We however as always [ . . . ] believe [ . . . ] in one only *God*, yet subject to this dispensation (which is our word for “*oikonomia*”) [*sub hac tamen dispensatione quam “oikonomian” dicimus*], that the one only God has also a Son, his Word who has proceeded from himself [ . . . ] (*Tertullian’s Treatise Against Praxeas*, 2, 1, p. 131)

Shortly afterward, this technicization is reinforced in order to neutralize the “Monarchian” objection of his rival:

While Latins are intent on shouting out “monarchy,” even Greeks refuse to understand the *oikonomia* [*“oikonomian” intellegere nolunt etiam Graeci*]. (Ibid., 3, 2, p. 133)

But, as in Hippolytus, the crucial gesture is the transformation of the Pauline syntagma “economy of the mystery” into *oikonomias sacramentum*, which confers on economy all the semantic richness and ambiguity of a term that means, at the same time, oath, consecration, and mystery:

As though the one [God] were not all [these things] in this way also, that they are all of the one, namely, by unity of substance, while nonetheless is guarded the mystery of that economy that disposes the unity into trinity [*oikonomias*

*sacramentum quae unitatem in trinitatem disponit*], setting forth Father and Son and Spirit as three, three however not in condition [*statu*] but in degree [*gradu*], not in substance [*substantia*] but in form [*forma*], not in power [*potestate*] but in species [*specie*] [. . .] (Ibid., 2, 4, p. 132)

Kolping has shown that Tertullian does not invent the new Christian meaning of “sacrament,” and that he must have found the term in the Latin translations of the New Testament that circulated at his time (in particular, the translation of the *Letter to the Ephesians*: Kolping, p. 97). The reversal of the perspicuous Pauline syntagma that results in the obscure formula *oikonomiae sacramentum* and the simultaneous attempt to clarify it through a series of oppositions—condition/degree, substance/form, power/species (just as Hippolytus resorted to the opposition *dynamis/oikonomia*)—is all the more significant. Here, the antiphilosophical Tertullian shrewdly draws on the philosophical vocabulary of his time: the doctrine of a single nature that articulates and distinguishes itself into various degrees is Stoic (see Pohlenz, vol. I, p. 438), just as the idea of a distinction that cannot be divided into “parts” but that articulates forces and powers (Tertullian explicitly refers to this distinction in the *De anima*; see Pohlenz, vol. I, p. 439).

The distinction between substantial separation and economic articulation reappears in the *Treatise Against Praxeas*, 19, 8:

The Father and the Son are two, and this not as a result of separation of substance, but as a result of an economic disposition [*non ex separatione substantiae sed ex dispositione*], while we declare the Son indivisible and inseparable from the Father, another not in condition but in degree [*nec statu sed gradu alium*]. (*Tertullian's Treatise Against Praxeas*, p. 158)

Here, “substance” should be understood in Marcus Aurelius’s sense (12, 30, 1): there is a single common *ousia*, which articulates itself in a singular manner into countless individualities, each with its own specific qualitative determinations. In any case, it is essential that, in Tertullian, the economy is not understood as a substantial heterogeneity, but as the articulation—at every turn administrative-managerial or pragmatic-rhetorical—of a single reality. In other words, the heterogeneity does not concern being and ontology, but rather action and praxis. According to a paradigm that will deeply mark Christian theology, the Trinity is not an articulation of the divine being, but of its praxis.

2.12. The strategic meaning of the paradigm of the *oikonomia* is clarified in the long passage from Chapter 3 in which the economy is referred back to its original meaning as “administration of the house.” The definition of the

juridical-political concept of “administration” has always been problematic for historians of law and politics; they traced its origin back to the canon law of the twelfth–fourteenth century, when the term *administratio* begins to appear together with *iurisdictio* in the terminology of the canonists (Napoli, pp. 145–146). From this perspective, the passage from Tertullian is interesting since it contains a sort of theological paradigm of administration, which finds its perfect exemplum in the angelical hierarchies:

The simple people, that I say not the thoughtless and ignorant (who are always the majority of the faithful), since the Rule of Faith itself [*ipsa regula fidei*] brings [us] over from the many gods of the world to the one only true God, not understanding that while they must believe in one only [God] yet they must believe in him along with his *oikonomia*, shy at the economy. They claim that the plurality and ordinance [*dispositio*] of trinity is a division of unity—although a unity which derives from itself a trinity is not destroyed but administered by it [*non destruat ab illa sed administratur*]. (*Tertullian’s Treatise Against Praxeas*, 3, 1, p. 132)

At this stage, what is essentially at stake in Tertullian’s argument appears to be the articulation of economy and monarchy in the figure of the administration:

But while Latins are intent on shouting out “monarchy,” even Greeks refuse to understand the economy. But if I have gathered any small knowledge of both languages, I know that monarchy indicates neither more nor less than a single and sole rule [*singulare et unicum imperium*], yet that monarchy because it belongs to one man does not for that reason make a standing rule that he whose it is may not have a son or must have made himself his own son or may not administer his monarchy by the agency of whom he will. Nay more, I say that no kingdom is in such a sense one man’s own, in such a sense single, in such a sense a monarchy, as not to be administered also through those other closely related persons whom it has provided for itself as officers [*officiales*]: and if moreover he whose the monarchy is has a son, it is not *ipso facto* divided, does not cease to be a monarchy, if the son also is assumed as partner in it, but it continues to belong in the first instance to him by whom it is passed on to the son: and so long as it is his, that continues to be a monarchy which is jointly held by two who are so closely united. Therefore if also the divine monarchy is administered by the agency of so many legions and hosts of angels (as it is written, *Ten thousand times ten thousand stood before him and thousand thousands ministered unto him*), yet has not therefore ceased to belong to one, so as to cease to be a monarchy because it is administered by so many thousand virtues, how should God be thought, in the Son and in the Holy Spirit occupying second and third place, while they are to such a degree conjoint of the Father’s substance, to experience a division and a dispersion such as he does not experience in the plurality of all those angels, alien

as they are from the Father's substance? Do you account members, and sons, and instruments and the very forces and the whole riches of a monarchy to be the overthrow of it [*membra et pignora et instrumenta et ipsam vim ac totum censum monarchiae eversionem deputas eius*]? (Ibid., 3, 2–5, p. 133)

Let us dwell on this extraordinary passage. First of all, angelology is here mobilized as a theological paradigm of the administration, thus instituting—with a quasi-Kafkaian move—a correspondence between angels and officers. Tertullian recovers this image from Athenagoras (without quoting him, as is usual in the former's case); but while in the Athenian apologist and philosopher, the emphasis was on the order and the economy of the cosmos, Tertullian uses the image to demonstrate the necessary compatibility of monarchy and economy. It is equally essential that, affirming the consubstantiality of monarchy and economy, he evokes an Aristotelian motif, without naming Aristotle. As a matter of fact, the treatise on economy attributed to Aristotle opens with the affirmation of the identity of economy and monarchy: "Politics is a poliarchy, economics is a monarchy [*hē oikonomikē de monarchia*]" (Aristotle, *Oeconomica*, I, 1343a). With one of his characteristic gestures, the antiphilosopher Tertullian borrows from the philosophical tradition the nexus that links economy and monarchy, which he develops and reverses: the divine monarchy now constitutively entails an economy, a governmental apparatus, which articulates and, at the same time, reveals its mystery.

The Aristotelian identification of monarchy and economy, which also penetrated Stoicism, is certainly one of the more or less conscious reasons that pushed the Fathers to elaborate the Trinitarian paradigm in economic, and not political, terms. If Tertullian can write that the economy does not imply in any case an *eversio*, this is also possible because, according to the Aristotelian paradigm, the *oikos* remains in any case an essentially "monarchic" structure. However, it is critical that the Trinitarian articulation is here conceived as serving an activity of domestic government, in which it fully resolves itself without implying a division on the level of being. In this perspective, the Holy Spirit can be defined as "the preacher of one monarchy," and, at the same time, "the interpreter of the economy," that is, "the proclaimer of all truth [ . . . ] according to the mystery of the doctrine of Christ [*oeconomiae interpretatorem ( . . . ) et deductorem omnis veritatis ( . . . ) secundum Christianum sacramentum*]" (*Tertullian's Treatise Against Praxeas*, 30, 5, p. 179). Once again, the "mystery of the economy," interpreted by those very persons who impersonate it and are its actors, is not an ontological, but a practical mystery.

✠ If up to this point we have emphasized above all the Christological aspect of the economy, it is because the problem of the divine nature of the third person of the Trinity and its relations with the other two persons is fully thematized only during the fourth century. From this point of view, it is telling that, having consecrated Orations 29 and 30 to the problem of the Son, Gregory of Nazianzus feels the need to add a further oration in order to deal with this divine figure, which had remained almost unmentioned (*agraphon*) in the Holy Scriptures, and whose treatment is, therefore, particularly “difficult to handle” (*dyscheres*) (Gregory of Nazianzus, *Select Orations*, XXXI, 1–2, p. 318). From the point of view of the Trinitarian *oikonomia*, the problem of the “procession” (*ekporeusis*) of the third person from the other two is essential, but we cannot treat it here.

2.13. It has often been noted that time and history assume a particular and decisive meaning in Christianity. It has been said that Christianity is a “historical religion,” not only because it finds itself on a historical person (Jesus) and on events that are claimed to have occurred historically (his passion and resurrection), but also because it gives time a soteriological value and meaning. For this—given that it interprets itself from a historical perspective—Christianity brings with it from the very beginning “a philosophy or, better, a theology of history” (Puech, p. 35).

However, it is equally important to add that the Christian notion of history is born and developed under the sign of the economic paradigm, and remains inseparable from it. An understanding of the Christian theology of history cannot therefore be limited, as it usually is, to a generic evocation of the idea of *oikonomia* as a synonym for the providential unfolding of history according to an eschatological design; such an understanding should rather analyze the concrete modalities in which the “mystery of the economy” has literally shaped and determined from top to bottom the experience of history on which we are still largely dependent.

It is in Origen—an author in whose works the term *oikonomia* finds an extensive development—that this essential nexus between *oikonomia* and history can be grasped in a particularly evident way. When something like a notion of history in the modern sense—that is, a process endowed with a sense, albeit hidden—appears for the first time, it is precisely in the guise of a “mysterious economy,” which insists on being interpreted and understood as such. In *De principiis*, referring to the enigmatic episodes in the history of the Jews, such as the incest between Lot and his daughters or Jacob’s double marriage, Origen writes:

That there are certain mysterious economies [*oikonomiai tines ( . . . ) mystikai*] made known through the divine scriptures is believed by all, even by the simplest of those who are adherents of the word; but what these economies are,

fair-minded and humble men confess that they do not know. If, for instance, an inquirer were to be in difficulty, about the intercourse of Lot with his daughters, or the two wives of Abraham, or the two sisters married to Jacob, or the two hand-maids who bore children by him, they can say nothing except that these things are mysteries not understood by us. (Origen, *On First Principles*, IV, II, 2, p. 272)

The Christian concept of history results from the strategic conjunction of this doctrine of the “mysterious economies” (elsewhere Origen speaks of “a hidden and apocryphal character of the economy [*tēs de oikonomias autou to lelēthos kai apokryphon*]”) with the practice of the interpretation of the Scriptures.

In *De principiis*, Origen also writes that “by means of stories [*dia historias*] of wars and the conquerors and the conquered, certain secret mysteries are revealed to those who are capable of examining these narratives” (ibid., IV, II, 8, pp. 284–285). Thus, the duty of the Christian scholar is that of “interpreting history” [*historian allēgorēsai*]” (Origen, *Philocalie*, I, 29, p. 212), so that the contemplation of the events narrated in the Scriptures is not “a cause of error [*planasthai*] for uneducated souls” (ibid., p. 214).

If, unlike what happens in classical historiography, history has for us a meaning and a direction that the historian needs to be able to grasp; if it is not simply a *series temporum* but something in which a purpose and a destiny are at stake, this is first of all due to the fact that our concept of history has been formed according to the theological paradigm of the revelation of a “mystery” that is, at the same time, an “economy,” an organization, and a “dispensation” of divine and human life. Reading history amounts to deciphering a mystery that involves us in an essential way; yet, this mystery does not concern anything like pagan fate or stoic necessity, but rather an “economy” that freely arranges creatures and events, leaving to them their contingent character and even their freedom and their inclinations:

We think that God, parent of all things, in providing [*dispensasse*, which translates in all likelihood a form of the verb *oikonomein*] for the salvation of his entire creation through the unspeakable plan of his *logos* and wisdom, has so ordered everything that each spirit or soul, or whatever else rational existences ought to be called, should not be compelled by force against its free choice to any action except that to which the motions of its own mind lead it [ . . . ] and at the same time that the motions of their wills should work suitably and usefully together to produce the harmony of a single world. (Origen, *On First Principles*, II, I, 2, p. 77)

Christian history affirms itself against pagan fate as a free praxis; and yet, insofar as it corresponds to and realizes a divine design, this freedom is itself a mystery:

the “mystery of freedom,” which is nothing but the other face of the “mystery of the economy.”

✠ The link established by Christian theology between *oikonomia* and history is crucial to an understanding of Western philosophy of history. In particular, it is possible to say that the concept of history in German idealism, from Hegel to Schelling and even up to Feuerbach, is nothing besides an attempt to think the “economic” link between the process of divine revelation and history (adopting Schelling’s terms, which we have quoted earlier, the “co-belonging” of theology and *oikonomia*). It is curious that when the Hegelian Left breaks with this theological concept, it can do so only on condition that the economy in a modern sense, which is to say, the historical self-production of man, is placed at the center of the historical process. In this sense, the Hegelian Left replaces divine economy with a purely human economy.

2.14. The treatment of the concept of *oikonomia* that relates it to the theme of providence will have decisive consequences in medieval and modern culture. Such a treatment is to be attributed to Clement of Alexandria, and possibly amounts to his most original contribution to the elaboration of the theological-economic paradigm. As we have seen, in the *Excerpta ex Theodoto*, Clement repeatedly mentions the term *oikonomia* with regard to the Valentinians; but the term appears very often with the whole range of its possible meanings (approximately sixty times in Stählin’s index) even in his masterwork, the *Stromata*. Clement is careful to specify that the *oikonomia* does not merely concern the management of the house, but the soul itself (Clement, *The Stromata*, Book I, Chapter VI, p. 307), and that, in addition to the soul, the entire universe also relies on an “economy” (Book III, Chapter IX, p. 392); there is even an “economy of milk” (*oikonomia tou galaktos*), which makes it flow into the breast of the woman who has given birth (Book II, Chapter XVIII, p. 368). But, above all, there is an “economy of the savior” (this combination is typical of Clement: *hē peri ton sōtēra oikonomia*: Book I, Chapter XI; *oikonomia sōteriou*: Book VI, Chapter VI), which was prophesied and has been accomplished with the passion of the Son. And it is precisely from the standpoint of this “economy of the savior” (of the savior, not of salvation: the original meaning of “activity, task” is still present) that Clement binds economy and providence (*pronoia*) tightly together. In the *Protrepticus*, or *Exhortation to the Heathen*, he had defined the histories of the pagans as “vain fables” (*mythoi kenoi*) (Clement, *Exhortation*, I, 2, I, p. 171); now, in a decisive move, he writes that “the philosophy that is in accordance with divine tradition establishes and confirms providence, which, being done away with [(*tēs pronoias*) *anairtheisēs*], the economy of the Savior appears to be a myth [*mythos* (. . .) *phainetai*]” (*The Stromata*, Book I, Chapter XI, p. 312).

Clement is constantly concerned to prevent the “economy of the savior” appearing as a myth or an allegory. He writes that, if somebody says that the Son of God, the Son of the creator of the world, was incarnated in the flesh and was conceived in the womb of a virgin, if he tells how “his material body was formed,” how he suffered the passion and was resurrected, all this “appears indeed a parable to those who know not the truth” (ibid., Book VI, Chapter XV, p. 509). Only the idea of providence can make real and consistent what seems to be a myth or a parable: “There being then a Providence, it were impious to think that the whole of prophecy and the economy in reference to a Savior did not take place in accordance with Providence” (ibid., Book V, Chapter I, p. 445).

If we do not understand the very close connection that links *oikonomia* with providence, it is not possible to measure the novelty of Christian theology with regard to pagan mythology and “theology.” Christian theology is not a “story about the gods”; it is *immediately* economy and providence, that is, an activity of self-revelation, government, and care of the world. The deity articulates itself into a trinity, but this is not a “theogony” or a “mythology”; rather, it is an *oikonomia*, that is, at the same time, the articulation and administration of divine life, and the government of creatures.

From this the peculiarity of the Christian concept of providence follows. The notion of *pronoia* had been diffused widely in the pagan world thanks to Stoic philosophy; in writing “the economy of creation is good [*ktistheisa* (. . .) *oikonomia*], and all things are well administered: nothing happens without a cause” (ibid., Book IV, Chapter XXIV, p. 437), Clement was repeating ideas that were current in the Alexandrian culture of his time. Yet, insofar as the Stoic and Judaic theme of *pronoia* is linked to the economy of divine life, providence acquires a personal and voluntary character. In opposition to the Stoics and Alexander of Aphrodisias who had claimed that “the essence of the gods lies in providence, just as that of fire lies in heat,” Clement eliminates any naturalistic and involuntary character from providence:

God [is not] involuntarily good, as the fire is warming; but in Him the imparting of good things is voluntary [ . . . ] God does not do good by necessity, but from His free choice. (Ibid., Book VII, Chapter VII, p. 534)

The debates surrounding the free or fatal, mediate or immediate, general or particular character of providence that, as we shall see, will divide medieval theologians and philosophers from the thirteenth to the seventeenth century find here their archetype.

Connecting economy with providence, not only does Clement embed the temporal economy of salvation in eternity (in “eternal facts and reasons”: *The Stromata*, Book VI, Chapter XV, p. 508)—as has been observed (Torrance, p. 227)—but also he initiates the process that will lead to the progressive constitution of the duality of theology and economy, the nature of God and his historical action. Providence means that this fracture, which in Christian theology corresponds to the Gnostic dualism between an idle God and an active demiurge, is—or is claimed to be—actually only apparent. The economic-administrative and the providential paradigms here manifest their fundamental co-belonging.

✠ It is precisely this strategic conjunction of economy and providence that clearly shows how, in Clement, the term *oikonomia* still cannot mean, following the common translation that would make the conjunction tautological, “divine plan.” It is only from the moment at which Hippolytus and Tertullian reverse the Pauline expression “economy of the mystery” and Clement joins *oikonomia* and *pronoia* together that the meanings of the two terms will start to become indistinguishable.

A century later, in John Chrysostom, the link between economy and providence is solidly established, but this does not diminish its “mysterious” character. The economy is now defined as “ineffable,” and its link with the “abyss” of providence is an object of “amazement”:

Having seen the opening up of an immense sea and, in this part and in this point, having wished to probe the abyss of its providence, feeling dizzy before the inexpressible nature of this economy and being amazed before what is ineffable [ . . . ] (John Chrysostom, *Sur la providence de dieu*, p. 62)

2.15. The meaning of “exception” acquired by the term *oikonomia* in the sixth or seventh century, especially in the field of the canon law of the Byzantine Church, is of particular interest for its semantic history. Here, the theological meaning of mysterious divine praxis undertaken for the salvation of humankind coalesces with the concepts of *aequitas* and *epieikeia* originating from Roman law, and comes to signify the dispensation [*dispensa*] that relieves one from a too rigid application of the canons. In Photius, the difference and, at the same time, the contiguity of the two meanings is evident:

*Oikonomia* means precisely the extraordinary and incomprehensible incarnation of the *Logos*; in the second place, it means the occasional restriction or the suspension of the efficacy of the rigor of the laws and the introduction of extenuating circumstances, which “economizes” [*dioikonomountos*] the command of law in view of the weakness of those who must receive it. (Photius, pp. 13–14)

In this direction, just as an opposition between theology and economy had emerged in theology, so an opposition between “canon” and “economy” is produced in law, and the exception is defined as a decision that does not apply the law strictly, but “makes use of the economy” (*ou kanonikos ( . . . ) all’ oikonomiai chresamenoι*: Richter, p. 582). In this sense, in 692, the term enters the legislation of the Church and, with Leon VI (886–912), the imperial legislation.

The fact that a word designating the salvific activity of the government of the world acquires the meaning of “exception” shows how complex the relationships between *oikonomia* and law are. However, even in this case, the two senses of the term are, in spite of their apparent distance, perfectly consistent—exactly the same occurs in the Latin Church with the two meanings of the term *dispensatio*, which initially translates *oikonomia* and later progressively acquires the sense of “dispensation” [*dispensa*]. The paradigm of government and of the state of exception coincide in the idea of an *oikonomia*, an administrative praxis that governs the course of things, adapting at each turn, in its salvific intent, to the nature of the concrete situation against which it has to measure itself.

✠ The origin of the evolution that leads the term *oikonomia* to assume the meaning of “exception” can be grasped in a letter that the Cappadocian theologian Basil wrote to Amphilochius. Asked about the question of the value of the baptism administered by schismatics, Basil answers that, contrary to the rule that would have wanted it to be invalid, it was initially accepted as valid “for the sake of the economy of the majority” (*oikonomias heneka tōn pollōn*: Basil, *Letter CLXXXVIII*, I, in *Letters and Select Works*, p. 224).

# Threshold

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IT is now possible to grasp more precisely the decisive meaning of the reversal of the Pauline expression “economy of the mystery” into “mystery of the economy.” What is mysterious is not, as with Paul, the divine plan of redemption, a plan that requires an activity of realization and revelation—indeed, an *oikonomia*—that is as such perspicuous. Now, it is the economy itself that is mysterious, the very praxis by means of which God arranges the divine life, articulating it into a Trinity, and the world of creatures, conferring a hidden meaning upon every event. But this hidden sense, following the model of the typological interpretation, is not only an allegoresis and prophecy of other salvific events, which thus arrange themselves to create a history; it rather coincides with the “mysterious economy,” with the very dispensation of divine life and its providential government of the world. The mystery of the deity and the mystery of government, the Trinitarian articulation of the divine life and the history and salvation of humanity are, at the same time, divided and inseparable.

In other words, a game that is in all senses decisive is being played out on the field of the *oikonomia*, one in which the very concept of the divine and its relations with all creation that is gradually emerging toward the end of the ancient world is in question. Between the inarticulate unitarism of the Monarchians and Judaism and the Gnostic proliferation of divine hypostases, between the noninvolvement in the world of the Gnostic and Epicurean God and the Stoic idea of a *deus actuosus* that provides for the world, the *oikonomia* makes possible a reconciliation in which a transcendent God, who is both one and triune at the same time, can—while remaining transcendent—take charge of the world and found an immanent praxis of government whose supermundane mystery coincides with the history of humanity.

It is only if all the poignancy of the economic paradigm is restored that it is possible to overcome the exegetic contradictions and the divisions that have prevented modern scholars and theologians from placing it in its real problematic context. As we have seen, at the basis of the polemics that has constantly

divided interpreters into two factions lies the alleged caesura between two senses of the term *oikonomia* that are clearly different, the first referring to the articulation of the single divine substance into three persons, the second concerning the historical dispensation of salvation (see Prestige, p. 111; see also Markus in Richter, p. 79). Thus, according to Verhoeven, Evans, and Markus, the economy in Tertullian does not entail anything temporal and refers only to the “internal unfolding of the divine substance in a trinity of persons” (Verhoeven, p. 110). On the other hand, according to Moingt, the economy does not “designate a relation in being” (Moingt, p. 922), but only the historical expression of the deity through the plan of salvation. In other words, the polemics between interpreters relies on the false presupposition that the term *oikonomia* has, like Abel’s *Urworte*, two contradictory meanings, and the Fathers who use it would oscillate between these meanings in a more or less conscious way. A more careful analysis shows that we are not dealing with two meanings of the same term, but with the attempt to articulate in a single semantic sphere—that of the term *oikonomia*—a series of levels whose reconciliation appeared problematic: noninvolvement in the world and government of the world; unity in being and plurality of actions; ontology and history.

Not only do the two alleged meanings of the term—that which refers to the internal organization of the divine life, and that which concerns the history of salvation—not contradict themselves, but they are correlated and become fully intelligible only in their functional relation. That is to say, they constitute the two sides of a single divine *oikonomia*, in which ontology and pragmatics, Trinitarian articulation and government of the world refer back to each other for the solution of their aporias. It is in any case essential that the first articulation of what will become the Trinitarian dogma does not initially present itself in ontologico-metaphysical terms, but as an “economic” apparatus and an activity of government, both domestic and mundane, of the divine monarchy (“unitas ex semetipsa derivans trinitatem non destruat ab illa sed administratur”: *Tertullian’s Treatise Against Praxeas*, 3, 1). It is only at a later stage, when problems will appear, rightly or wrongly, to have been solved by the post-Nicene dogmatics, that theology and economy will divide and the term will no longer be referred to the organization of the divine life in order to be more specifically attributed to the meaning of history of salvation; but, even at this point, they will not divide completely and will continue to interact as a functional unity.

## Being and Acting

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**3.1.** The preoccupation that had led the Fathers who first elaborated the doctrine of the *oikonomia* was, by all accounts, to avoid a fracture of monotheism that would have reintroduced a plurality of divine figures, and polytheism with them. It is in order to elude this extreme consequence of the Trinitarian thesis that Hippolytus is careful to repeat that God is one according to the *dynamis* (that is, in the Stoic terminology he uses, according to the *ousia*) and triple only according to the economy. For the same reason, Tertullian firmly objects to Praxeas that the mere “disposition” of the economy does not at all mean the separation of the substance. The divine being is not split, since the triplicity of which the Fathers speak is located on the level of the *oikonomia*, not ontology.

The caesura that had to be averted at all costs on the level of being re-emerges, however, as a fracture between God and his action, between ontology and praxis. Indeed, distinguishing the substance or the divine nature from its economy amounts to instituting within God a separation between being and acting, substance and praxis. This is the secret dualism that the doctrine of the *oikonomia* has introduced into Christianity, something like an original Gnostic germ, which does not concern the caesura between two divine figures, but rather that between God and his government of the world.

Let us consider the theology that Aristotle develops at the end of Book L of *Metaphysics*. It would simply be unthinkable to distinguish between being and praxis in the God described here. If the Aristotelian God, as an unmoved mover, moves the celestial spheres, this follows from his nature, and there is no need to presuppose the existence of a special will or a specific activity aimed at the care of the self and of the world. The classical cosmos—its “fate”—is based on the perfect unity of being and praxis.

The doctrine of the *oikonomia* radically revokes this unity. The economy through which God governs the world is, as a matter of fact, entirely different from his being, and cannot be inferred from it. It is possible to analyze the notion of God on the ontological level, listing his attributes or negating, one

by one—as in apophatic theology—all his predicates to reach the idea of a pure being whose essence coincides with existence. But this will not rigorously say anything about his relation to the world or the way in which he has decided to govern the course of human history. As Pascal will lucidly realize with regard to profane government many centuries later, the economy has no foundation in ontology and the only way to found it is to hide its origin (Pascal 1962, p. 51). For this, God's free decision to govern the world is now as mysterious as his nature, if not more; the real mystery, which "has been hidden for centuries in God" and which has been revealed to men in Christ, is not that of his being, but that of his salvific praxis: precisely the "mystery of the *oikonomia*," following the decisive strategic reversal of the Pauline syntagma. The mystery that, from this moment on, will not cease to startle theologians and philosophers, and to arouse their attention, is not of an ontological, but of a practical nature.

The economic and ontological paradigms are completely different in their theological genesis: the doctrine of providence and moral reflection will only slowly try to construct a bridge between them, without ever fully succeeding. The fact that Trinitarianism and Christology, before assuming a dogmatic-speculative form, were conceived in "economic" terms is something that will stubbornly continue to mark their subsequent development. Ethics in a modern sense, with its court of insoluble aporias, is born, in this sense, from the fracture between being and praxis that is produced at the end of the ancient world and has its eminent place in Christian theology.

If the notion of free will, which is, all things considered, marginal in classical thought, becomes the central category first of Christian theology and then of the ethics and ontology of modernity, this happens because these find in the above-mentioned fracture their original site and will have to confront it right to the end. If the order of the ancient cosmos "does not amount to the will of gods, but rather to their own nature, which is emotionless and inexorable, which is the bearer of every good and every evil, inaccessible to prayer [ . . . ] and dispenses very little mercy" (Santillana, p. 11), the idea of the will of God, which, on the other hand, freely and shrewdly decides his actions and is even stronger than his omnipotence, is the irrefutable proof of the collapse of the ancient fate and, at the same time, the desperate attempt to provide a foundation for the anarchic sphere of divine praxis. Desperate, since this will can only entail the groundlessness of the praxis, that is, the fact that there is no foundation of acting in being.

✠ In Gnosis, the opposition between a god who is foreign to the world and a demiurge who governs it is more essential than that between a good and an evil god. Both Irenaeus and Tertullian clearly grasp this "idle" and "Epicurean" character of Marcion's

and Cerdo's good God, to whom they oppose a God who is, at the same time, good and active in all creation. Irenaeus writes that "they found out the god of Epicurus, who does nothing either for himself or others" (Irenaeus, *Against Heresies*, 3, 24, 2, p. 371). And according to Tertullian, Marcion would have attributed "the name of Christ [to] a god out of the school of Epicurus" (Tertullian, *Adversus Marcionem*, I, 25, 3, p. 71).

The attempt to reconcile the idle god who is foreign to the world with the *actuosus* god who creates and governs it is certainly one of the crucial stakes of the Trinitarian economy: both the very concept of *oikonomia* and the aporias that make its definition so arduous depend on it.

3.2. The problem that makes the image of the world in the classical tradition explode when it collides with the Christian concept of the world is that of creation. What is incompatible with the classical concept is here not so much the idea of a divine operation, but rather the fact that this praxis does not necessarily depend on being, and nor is it founded on it, but is the result of a free and gratuitous act of the will. If it is true that the idea of a divine apraxia finds a solid basis in the Aristotelian tradition, classical thought, especially starting with the Stoics, does not shrink from conceiving a divine action, and, in this regard, the Apologists do not fail to evoke the Platonic demiurge. On the other hand, what is new is the division between being and the will, nature and action, introduced by Christian theology. The same authors who elaborate the economic paradigm strongly emphasize the heterogeneity of nature and will in God. The passage from Origen in which the will marks a real caesura in God and the creation is, in this sense, exemplary:

{All that exists in heaven and on earth, visible or invisible, insofar as it refers to the nature of God, it is not [*quantum ad naturam Dei pertinet, non sunt*]; insofar as it refers to the will of the creator, it is that which the will of the one who created wanted it to be [*quantum ad voluntatem creatoris, sunt hoc, quod ea esse voluit ille qui fecit*]} (Origen, *Homily on 1 Kings* 28, I, 11. See also Benz, pp. 330–331)

The pseudo-Justin insists that essence (*ousia*) and will (*boulē*) must be considered to be separate in God. If being and the will were the same thing in God, given that he wants many things, he would be one thing at one time, and another thing at another time, which is impossible. And if he produced by means of his being, given that his being is necessary, he would be obliged to do what he does, and his creation would not be free (Justin, *Opera Iustini subditicia*, pp. 286–291).

As has been suggested (Coccia, p. 46), the very motif of creation *ex nihilo* emphasizes the autonomy and freedom of divine praxis. God has not created the world due to a necessity of his nature or his being, but because he wanted it. To the question "why did God make heaven and earth?" Augustine answers: "quia

voluit,” “because he wished to” (Augustine, *A Refutation of the Manichees*, I, 2, 4). Centuries later, in the heyday of Scholasticism, Thomas Aquinas clearly restates *contra Gentiles* the impossibility of founding creation in being: “God acts, not *per necessitatem naturae*, but *per arbitrium voluntatis*” (*Contra Gentiles*, Book 2, Chapter 23, n. 1). In other words, the will is the apparatus needed to join together being and action, which were separated in God. The primacy of the will, which, according to Heidegger, rules over the history of Western metaphysics and reaches its completion with Schelling and Nietzsche, has its roots in the fracture between being and acting in God and is, therefore, from the beginning in agreement with the theological *oikonomia*.

✠ The reconstruction of the theological apparatus founded on the notion of the will is at the center of Benz’s book *Marius Victorinus und die Entwicklung der abendländischen Willenmetaphysik*, which should be regarded as the starting point for any genealogical investigation into the primacy of the will in modern philosophy. Benz shows how both Neoplatonic motifs (the concept of the will in Plotinus as identical with power [*potenza*] and as a good that “wills itself”) and Gnostic themes (the will in Valentinus and in Marcus as *autobouletos boulē*, a will that wills itself) come together in the construction of a “metaphysics of the will” in Western philosophy. Through Victorinus, these Neoplatonic and late ancient motifs enter Augustine’s thought and determine his concept of the Trinity.

When Thomas Aquinas identifies in God essence and will (“Est igitur voluntas Dei ipsa eius essentia”: *Contra Gentiles*, Book 1, Chapter 73, n. 2), he is actually only radicalizing this primacy of the will. Given that what God’s will wants is his very essence (“principale divinae voluntatis volitum est eius essentia”: *ibid.*, Book 1, Chapter 74, n. 1), this implies that God’s will always wants itself; it is always will to will.

In the wake of his teacher Ignace Meyerson, Jean Pierre Vernant restated in an important study (Vernant, *passim*) that the modern notion of the will is a concept that is essentially alien to the tradition of Greek thought, and was formed through a slow process that coincides with the one that led to the creation of the Ego.

3.3. It is only from the standpoint of this fracture between being and praxis that the sense of the controversy over Arianism, which deeply divided the Church between the fourth and the sixth centuries, becomes fully intelligible. The dispute often seems to revolve around differences that are so subtle and minimal that it is not easy for modern readers to appreciate what was really at stake in a conflict whose fierceness involved, together with the emperor, almost the entirety of Eastern Christianity. It is well known that the problem concerned the *archē* of the Son; but *archē* here does not have a merely chronological meaning; it does not simply stand for a “beginning.” As a matter of fact, both Arius and his adversaries agree in saying that the Son was generated by the Father, and that this generation took place “before eternal times” (*pro chronōn aiōniōn* in Arius, *Letter to*

*Alexander*, in Athanasius, p. 458; *pro pantōn tōn aiōnōn* in Eusebius of Caesarea, *Letter of Eusebius*, in Athanasius, p. 75). Arius is even careful to specify that the Son was generated *achronos*, outside of temporality. In other words, what is in question here is not really a chronological precedence (time does not exist yet), or just a problem of rank (many anti-Arians share the opinion that the Father is “greater” than the Son); it is rather a matter of deciding whether the Son—which is to say, the word and praxis of God—is founded in the Father or whether he is, like him, without principle, *anarchos*, that is, ungrounded.

A textual analysis of Arius’s letters and the writings of his adversaries shows, indeed, that the decisive term in the controversy is precisely *anarchos* (without *archē*, in the double sense that the term has in Greek: foundation and principle). In his *Letter to Alexander* (p. 458), Arius writes that “We acknowledge One God, alone Ingenerate, alone Everlasting, alone *anarchos*.” The Son, who was generated by the father before and outside of time, nevertheless has his *archē*, his principle-foundation, in the father, and receives his being from him:

Thus there are Three Hypostases. And God, being the cause of all things, is anarchic and altogether Sole [*anarchos monōtatos*], but the Son being begotten apart from time by the Father, and being created [but Arius had specified shortly before, “not like all other creatures”] and founded [*themeliōtheis*, from *themelios*, which refers to the foundations also in an architectural sense] before ages [. . .] who derived only being from the Father. (Ibid.)

It is in the same sense that Eunomius affirms that only God the Father is “beginningless, everlasting, unending [*anarchōs, aidiōs, ateleutētōs*]” (*Expositio Fidei*, 2, p. 151); the Son is, rather, “existing ‘in the beginning,’ so not without beginning [*en archēi onta, ouk’ anarchon*]” (ibid., 3, p. 153).

Against this thesis, which gives the Logos a solid foundation in the Father, the bishops assembled at Serdica by Emperor Constantius in 343 clearly affirm that the disagreement does not revolve around the generated or ungenerated character of the Son (“none of us denies that the Son is generated, but generated before all things”), but only around his *archē*: “He could not have existed absolutely [*pantote*], if he had had an *archē*, since the *logos* that exists absolutely does not have an *archē*” (ibid., p. 134). The Son “reigns together with the Father absolutely, anarchically, and infinitely [*pantote, anarchōs kai ateleutētōs*]” (ibid., p. 136).

The Nicene thesis, which was ultimately victorious, here shows its coherence with the doctrine of the *oikonomia*. Just as the latter is not founded on the nature and being of God, but in itself constitutes a “mystery,” so the Son—that

is, the one who has assumed the economy of salvation—is unfounded in the Father, and is, like him, *anarchos*, without foundation or principle. *Oikonomia* and Christology are in agreement and inseparable, not only historically, but also genetically: as was the case with praxis in the economy, so in Christology the *Logos*, the word of God, is eradicated from being and made anarchic (from this derive the constant reservations of many supporters of the anti-Arian orthodoxy against the term *homousios*, imposed by Constantine). If we do not understand this original “anarchic” vocation of Christology, it is not even possible to understand the subsequent historical development of Christian theology, with its latent atheological tendency, or the history of Western philosophy, with its ethical caesura between ontology and praxis. The fact that Christ is “anarchic” means that, in the last instance, language and praxis do not have a foundation in being. The “gigantomachy” around being is also, first and foremost, a conflict between being and acting, ontology and economy, between a being that is in itself unable to act and an action without being: what is at stake between these two is the idea of freedom.

✠ The attempt to think in God the problem of a foundation that is absolutely unfounded is evident in a passage from Gregory of Nazianzus.

The *anarchon* [the unfounded], the *archē* and that which is with the *archē* are one God. For the nature of that which is anarchical does not consist in being anarchical, but being unbegotten. For the nature of anything lies, not in what it is not but in what it is. It is the positing [*thesis*] of what is, not the withdrawal [*anairesis*] of what is not. And the *archē* is not, because it is an *archē*, separated from that which is anarchical: the *archē* is its nature, just as the anarchical is not the nature of this. For these things regard nature, but are not nature itself. That again which is with what is anarchical, and with the *archē*, is not anything else than what they are. Now, the name of that which is anarchical is Father, and the name of the *archē* is Son, and of that which is with the *archē*, the Holy Spirit. (Gregory of Nazianzus, *Select Orations*, XLII, XV, p. 390)

The Hegelian dialectic finds in this passage its theological paradigm: in order to obtain the Hegelian position of foundation it is sufficient to place at the center of this triadic movement the force of the negative (“that which is not”).

The paradox of the Trinitarian economy, which needs to hold together what it divided, clearly appears in another Cappadocian theologian, Gregory of Nyssa. In a passage from his *Great Catechism* (or *Catechetical Oration*), he affirms that both Greeks and Jews can accept that there is one *logos* and one *pneuma* in God; and yet, what “both parties would perhaps equally reject, as being incredible and unfitting to be told of God” is precisely “the economy according to man of the Word of God [*tēn de kata anthrōpon oikonomian tou theou logou*].” Soon after Gregory adds that the latter indeed implies that

what is in question is not simply a faculty (*exis*), like the word or the knowledge of God, but “a power essentially and substantially existing [*kat’ousian* (. . .) *yphestōsa dynamis*]” (Gregory of Nyssa, *Great Catechism*, p. 478). In other words, the function of the Trinitarian economy is to hypostasize, to give real existence to the *logos* and to the praxis of God, and, at the same time, to affirm that this hypostatization does not divide the unity, but “economizes” it (the Cappadocians are the first to use strategically the Neoplatonic term *hypostasis* in this sense, in this case in its verbal form *hyphistamai*).

In Marcellus of Ancyra, an author of the fourth century whose “economic theology” in particular has caught the attention of modern scholars, we can clearly see how the relation between economy and substance is conceived as an opposition between operation (*energeia*) and nature (*physis*). If the divine nature remains monadic and undivided, this is because the *logos* separates only in the operation (*energeia monē*). For this, the economy according to the flesh (or second economy, as Marcellus has it) is, so to speak, temporary: it will finish with the parousia, when Christ (following 1 Corinthians 15:25) will have subjected his enemies and stepped on them. In the same sense, Marcellus can thus write that the *logos* has become, through the incarnation, the son of Adam *kat’oikonomian*, while we are his sons *kata physin* (Seibt, p. 316).

✠ The theological division between being and praxis is still at the center of the disputes that, in the Byzantine theology of the fourteenth century, opposed Gregory Palamas to Barlaam and Prochorus. The profession of faith of the Athonites thus begins with a neat opposition between God’s being (*ousia*) and his operation (*energeia*): “We anathematize those who say that the divine essence and the operation are indistinct and one and the same. Furthermore, I believe that this operation and the essence of God are uncreated [*aktiston*]” (Rigo, p. 144).

3.4. The fracture between being and praxis is marked in the language of the Fathers by the terminological opposition between theology and *oikonomia*. This opposition, which is not yet present as such in Hippolytus, Tertullian, and Clement of Alexandria, is, however, as we have seen, foreshadowed in them by the distinction between *dynamis* and *oikonomia* (thus, in Clement’s *Excerpta* each angel “has his own *dynamis* and his own *oikonomia*”: I, II, 4, p. 51). In Eusebius of Caesarea, the antithesis is already fully articulated, even though it is not a real opposition, so much so that he can open his *Ecclesiastical History* precisely with the enunciation of the two *topoi* from which a single discourse follows:

And my *logos* will begin, as I said, with the economy and theology of Christ, which are higher and greater than those based on man. For he who would commit to writing the history that contains the Church’s narrative, must begin from the first with the beginning of the *oikonomia* of Christ Himself (since we have been deemed worthy to derive even our name from Him), an *oikonomia* more divine than most men imagine. (Eusebius, *Ecclesiastical History*, I, 1, 7–8, p. 4)

The terminological distinction corresponds, in Eusebius, to the distinction between the divinity and the humanity of Christ, which he compares with the difference between head (*kephalē*) and feet:

Now since in Him there are two modes of being, and the one may be likened to the head of the body, in that He is conceived of as God, and the other may be compared to the feet, in that for our salvation He assumed human nature of like passions with us. (Ibid., I, 2, 1, p. 4)

Starting with the Cappadocians, in particular with Gregory of Nazianzus, the opposition theology/*oikonomia* becomes technical: not only does it indicate two different fields (the nature and essence of God, on the one hand, his salvific action, on the other; being and praxis), but also two different discourses and rationalities, each having its own conceptuality and its specific characters. In other words, there are, with regard to Christ, two *logoi*, one that concerns his divinity, and one that relates to the economy of the incarnation and salvation. Each discourse, each rationality, has its own terminology, which should not be confused with the other if we want to interpret it correctly:

To give you the explanation in one sentence, you are to apply lofty names to the divinity, and to that nature in Him which is superior to passions and incorporeal; but all humble names to the composite condition of Him who for your sakes emptied Himself and was Incarnate—and, avoiding to say worse things, was made Man—and afterward was also exalted, so that, abandoning what is carnal and earthly in your doctrines, you may learn to ascend with the divinity, and you will not remain permanently among visible things, but will rise up with Him into the world of thought, and come to know which *logos* is of nature, and which of the economy. (Gregory of Nazianzus, *Select Orations*, XXIX, XVII, pp. 307–308)

The distinction between these two rationalities is restated in the oration consecrated to the feast of nativity, in which, having evoked the infinity and unknowability of God, Gregory writes:

This, however, is all I must now say about God; for the present is not a suitable time, as my present subject is not theology, but economy. (Ibid., XXXVIII, VIII, p. 347)

Approximately fifty years later, Theodoret of Cyrus shows himself to be perfectly aware of the distinction between these two rationalities and, at the same time, of their reciprocal articulation. He writes that “it is therefore necessary for us to realize that some names are appropriate to theology, some to the economy” (*Commentary on the Letters of Saint Paul*, vol. 2, *The Letters to the Hebrews*, 4, 14; see

also Gass, p. 490). If we confuse the two *logoi*, even the integrity of the economy of the incarnation is threatened, and we run the risk of falling into the Monophysite heresy. If, on the one hand, any undue transfer of the categories of one rationality to the other must be avoided (John of Damascus will write that “it is not right to transfer to the economy what has reference to matters of theology”: *Exposition of the Orthodox Faith*, III, XV, p. 62), the two rationalities remain nevertheless linked, and the clear distinction between the discourses should not be turned into a substantial caesura. The care with which the Fathers avoid both confusing and separating the two *logoi* shows that they are aware of the risks implicit in their heterogeneity. Arguing against a hypothetical representative of Monophysitism in the *Eranistēs*, Theodoret thus affirms that the Fathers’ “object was to give us at one and the same time instruction on the theology and the economy, lest there should be supposed to be any distinction between the Person of the Godhead and the Person of the Manhood” (Theodoret, *Dialogues*, p. 233).

The Patristic distinction between theology and economy is so tenacious that it can be recovered in modern theologians in the guise of the opposition between immanent and economic Trinity. The first refers to God as he is in himself and is for this reason also called the “Trinity of substance”; the second refers to God in his salvific action, by means of which he reveals himself to mankind (for this reason, it is also called the “Trinity of revelation”). The articulation between these two Trinities, different and inseparable at the same time, is the aporetic task that the Trinitarian *oikonomia* bequeaths to Christian theology—in particular to the doctrine of the providential government of the world—which therefore presents itself as a bipolar machine, whose unity always runs the risk of collapsing and must be acquired again at each turn.

3.5. The radical gap, and at the same time the necessary solidarity between theology and economy, possibly shows itself most clearly in the controversies about monotheletism that divide the Fathers in the seventh century. We do have a text, Maximus the Confessor’s *Dispute with Pyrrhus*, in which the strategic sense of this difficult articulation becomes fully comprehensible. According to the Monotheletists, whose manifesto is Heraclius’s *Ekthesis* (638) and who are represented in the dialogue by Pyrrhus, there are two natures in Christ, but only one will (*thelēsis*) and one activity (*energeia*), “which performs both divine and human works” (Simonetti, p. 516). Dyophysitism, brought to the extreme, may end up introducing a division even in the economy—that is, in the divine praxis—identifying in Christ “two wills that oppose one another, almost as if God’s *logos* intends to realize the salvific passion while what is human in him

obstructs and contrasts with his will” (ibid., p. 518). Monotheletists wish to avoid this division. Responding to Maximus, who affirms that two wills and two different operations must necessarily correspond to the two natures of Christ, Pyrrhus thus claims that “that has been said by the Fathers with regard to theology, and not economy. It is not worthy of a thought that loves truth to transfer to economy that which has been affirmed with regard to theology, putting together such an absurdity” (PG, 91, 348).

Maximus’s answer is categorical and shows that the articulation of the two discourses coincides with a problem that is decisive in all senses. He writes that if what the Fathers say about theology were not also valid for the economy, “then, after the incarnation, the Son is not theologized together [*syntheologeitai*] with the Father. And if he is not, then he cannot be enumerated together with him in the invocation of baptism, and faith and predication will be vain” (ibid.). In another work, emphasizing the inseparability of theology and economy, Maximus can thus write: “The incarnated *logos* of God [that is, the representative of economy] teaches theology” (PG, 90, 876).

It is not surprising that a radical “economism”—which, distinguishing two wills in the Son, threatens the very identity of the Christological subject—needs to affirm the unity of theology and economy, while a “theologism”—which attempts to protect at all costs that unity—does not hesitate to strongly oppose the two discourses. The difference between the two rationalities continuously intersects with the level of theological disputes and, just as Trinitarian and Christological dogmatics were formed together and cannot be divided in any way, so theology and economy cannot be separated. Just as the two natures coexist in Christ, following a stereotypical formulation, “without division or confusion” (*adiairetos kai asynchyτος*), so the two discourses must coincide without confusing themselves, and differentiate themselves without dividing. What is at stake in their relation is not only the caesura between the humanity and the divinity of the Son, but, more generally, that between being and praxis. Economic and theological rationality must operate, as it were, “in divergent agreement,” so that the economy of the son is not negated and a substantial division is not introduced in God.

However, the economic rationality, by means of which Christology came to know its first, uncertain formulation, will not cease to cast its shadow on theology. When the vocabulary of the *homoousia* and of the *homoiousia*, of the hypostasis and of nature, have almost completely covered over the first formulation of the Trinity, the economic rationality—with its pragmatic-managerial, and not ontologic-epistemic, paradigm—will continue to operate underground

as a force that tends to undermine and break the unity of ontology and praxis, divinity and humanity.

✠ The fracture between being and praxis, and the anarchic character of the divine *oikonomia* constitute the logical place in which the fundamental nexus that, in our culture, unites government and anarchy becomes comprehensible. Not only is something like a providential government of the world possible just because praxis does not have any foundation in being, but also this government—which, as we shall see, has its paradigm in the Son and his *oikonomia*—is itself intimately anarchic. Anarchy is what government must presuppose and assume as the origin from which it derives and, at the same time, as the destination toward which it is traveling. (Benjamin was in this sense right when he wrote that there is nothing as anarchic as the bourgeois order. Similarly, the remark of one of the Fascist dignitaries in Pasolini's film *Salò* according to which “the only real anarchy is that of power” is perfectly serious.)

From this follows the insufficiency of Reiner Schürmann's attempt—in his nonetheless wonderful book on the *Principe d'anarchie*—to think an “anarchic economy”—that is, an unfounded economy—from the perspective of the overcoming of metaphysics and the history of being. Among post-Heideggerian philosophers, Schürmann is the only one to have understood the nexus that links the theological notion of *oikonomia* (which he, however, leaves unquestioned) to the problem of ontology and, in particular, to Heidegger's reading of the ontological difference and of the “epochal” structure of the history of being. It is in this perspective that Schürmann tries to think praxis and history without any foundation in being (that is, in a completely an-archic way). But ontotheology always already thinks the divine praxis as lacking a foundation in being, and, as a matter of fact, intends to find an articulation between that which it has always already divided. In other words, the *oikonomia* is always already anarchic, without foundation, and a rethinking of the problem of anarchy in our political tradition becomes possible only if we begin with an awareness of the secret theological nexus that links it to government and providence. The governmental paradigm, of which we are here reconstructing the genealogy, is actually always already “anarchic-governmental.”

This does not mean that, beyond government and anarchy, it is not possible to think an Ungovernable [*un Ingovernabile*], that is, something that could never assume the form of an *oikonomia*.

## Threshold

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AT the end of classical civilization, when the unity of the ancient cosmos is broken, and being and acting, ontology and praxis, seem to part ways irreversibly, we see a complex doctrine developing in Christian theology, one in which Judaic and pagan elements merge. Such a doctrine attempts to interpret—and, at the same, recompose—this fracture through a managerial and non-epistemic paradigm: the *oikonomia*. According to this paradigm, the divine praxis, from creation to redemption, does not have a foundation in God's being, and differs from it to the extent that it realizes itself in a separate person, the *Logos*, or Son. However, this anarchic and unfounded praxis must be reconciled with the unity of the substance. Through the idea of a free and voluntary action—which associates creation with redemption—this paradigm had to overcome both the Gnostic antithesis between a God foreign to the world and a demiurge who is creator and Lord of the world, and the pagan identity of being and acting, which made the very idea of creation unconvincing. The challenge that Christian theology thus presents to Gnosis is to succeed in reconciling God's transcendence with the creation of the world, as well as his noninvolvement in it with the Stoic and Judaic idea of a God who takes care of the world and governs it providentially. In the face of this aporetic task, the *oikonomia*—given its managerial and administrative root—offered a ductile tool, which presented itself, at the same time, as a *logos*, a rationality removed from any external constraint, and a praxis unanchored to any ontological necessity or preestablished norm. Being both a discourse and a reality, a non-epistemic knowledge and an anarchic praxis, the *oikonomia* allowed theologians to define the novelty of Christian faith for centuries and, at the same time, make the outcome of late classical, Stoic, and neo-Pythagorean thought that had already oriented itself in an “economic” sense merge with it. It is in the context of this paradigm that the original kernels of the Trinitarian dogmatics and of Christology were formed: they have never fully dissociated themselves from this genesis, remaining tributary to both its aporias and successes.

We can then understand in what sense it is possible to say that Christian theology is, from its beginning, economic-managerial, and not politico-statal [*politico-statuale*]<sup>1</sup>—this was our original thesis contra Schmitt. The fact that Christian theology entails an economy and not just a politics does not mean, however, that it is irrelevant for the history of Western political ideas and practices. On the contrary, the theological-economic paradigm obliges us to think this history once more and from a new perspective, keeping track of the decisive junctures between political tradition in the strict sense and the “economic-governmental” tradition—which, what is more, will acquire a precise form, as we shall see, in the medieval treatises *de gubernatione mundi*. The two paradigms live together and intersect with one another to the point of constituting a bipolar system, whose understanding preliminarily conditions any interpretation of the political history of the West.

In his great monograph on Tertullian, Moingt rightly suggests at a certain point that the most correct translation of the phrase *unicus deus cum sua oikonomia*—the only one able to hold together the various meanings of the term “economy”—would probably be “a single God with his government, in the sense in which ‘government’ designates the king’s ministers, whose power is an emanation of the royal power and is not counted along with it, but is necessary to its exercise”; understood in this way, “the economy means the mode of administration by means of a plurality of the divine power” (Moingt, p. 923). In this genuinely “governmental” meaning, the impolitical paradigm of the economy also shows its political implications. The fracture between theology and *oikonomia*, being and action, insofar as it makes the praxis free and “anarchic,” opens in fact, at the same time, the possibility and necessity of its government.

In a historical moment that witnesses a radical crisis of classical conceptuality, both ontological and political, the harmony between the transcendent and eternal principle and the immanent order of the cosmos is broken, and the problem of the “government” of the world and of its legitimization becomes the political problem that is in every sense decisive.

## The Kingdom and the Government

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**4.1.** One of the most memorable figures of the prose cycle of the Grail legend is that of the *roi mebaignié*, the wounded or mutilated king (the word *mebaignié* corresponds to the Italian *magagnato* [in poor shape; shabby]) who reigns over a *terre gaste*, a devastated land, “where crops do not grow and trees do not bear fruits.” According to Chrétien de Troyes, the king was wounded in battle between his thighs and mutilated in such a way that he cannot stand or ride. For this reason, when he wants to enjoy himself, he asks to be put in a boat and goes fishing (the nickname “Fisher King” originated here), while his falconers, archers, and hunters scour his forests. This must be, however, a rather strange kind of fishing, given that Chrétien specifies shortly after that it has been fifteen years since the king last left his room, where he is kept alive with communion bread that is served to him in the holy Grail. According to another and less authoritative source—which recalls Kafka’s story about the hunter Gracchus—the king lost his hounds and his hunters while hunting in the forest. Once he reached the seashore, he found a glimmering sword on a boat, and when he attempted to pull the sword from its sheath, he was magically wounded between the thighs by a spear.

In any case, the mutilated king will be healed only when, at the end of his *quête*, Galahad will smear his wound with the blood left on the tip of the spear that inflicted the wound on Christ’s side.

This figure of a mutilated and impotent king has been given the most various interpretations. In a book that has exercised a considerable influence not only on Arthurian studies but also on twentieth-century poetry, Jesse Weston has juxtaposed the figure of the Fisher King with the “divine principle of life and fertility,” that “Spirit of Vegetation” that, following the studies of Frazer and the Anglo-Saxon folklorists, the author recovers—with a good dose of eclecticism—in rituals and mythological figures that belong to the most divergent cultures, from the Babylonian Tammuz to the Greek-Phoenician Adonis.

These interpretations overlook the fact that the legend undoubtedly also

contains a genuinely political mythologem, which can be read, without forcing things, as the paradigm of a divided and impotent sovereignty. Even if he does not lose any of his legitimacy and sacredness, the king has in fact for some reason been separated from his powers and activities, and reduced to impotence. Not only can he not hunt and ride (here these activities seem to symbolize secular power), but he must also stay in his room while his ministers (the falconers, archers, and hunters) govern in his name and place. In this sense, the splitting of sovereignty dramatized in the figure of the Fisher King seems to evoke the duality that Benveniste identifies in Indo-European regality between a mostly magic-religious and a more properly political function. But, in the Grail legends, the emphasis is rather put on the inoperative and separated character of the mutilated king, who will be excluded from any concrete activity of government at least until he is healed by the touch of the magic spear. The *roi mehaignié* thus contains a kind of anticipation of the modern sovereign who “reigns but does not govern”; in this sense, the legend could have a meaning that concerns us more closely.

4.2. At the beginning of his book on *Monotheism as a Political Problem*, just before tackling the problem of divine monarchy, Peterson briefly analyzes the pseudo-Aristotelian treatise *On the World*, which represents for him something like a bridge between Aristotelian politics and the Judaic idea of divine monarchy. While, in Aristotle, God is the transcendent principle of every movement, who leads the world like a strategist leads his army, in *On the World*—Peterson observes—God is compared with a puppeteer who, remaining invisible, moves the threads of his puppet, or with the Great King of the Persians who lives hidden in his palace and governs the world by means of the innumerable crowd of ministers and officials.

Here, the crucial question for the image of divine monarchy is not whether there is one or more powers [*Gewalten*], but whether God participates in the powers [*Mächten*] that act in the cosmos. The author wants to say: God is the precondition for powers to act in the cosmos (he uses the term *dynamis*, adopting a Stoic terminology, but he means rather the Aristotelian *kynesis*), yet, precisely for this reason, he himself is not power: *le roi règne, mais il ne gouverne pas*. (Peterson 1994, p. 27)

According to Peterson, in the pseudo-Aristotelian treatise, metaphysico-theological and political paradigms are strictly entwined. The ultimate formulation of a metaphysical image of the world—Peterson writes, repeating almost literally a Schmittian thesis—is always determined by a political decision. In this sense,

“the difference between *Macht* (*potestas, dynamis*) and *Gewalt* (*archē*), which the author of the treatise posits with regard to God, is a metaphysico-political problem,” which can assume different forms and meanings and can be developed in the direction of the distinction between *auctoritas* and *potestas* as much as in that of the Gnostic opposition between god and the demiurge.

Before analyzing the strategic reasons for this peculiar *excursus* on the theological meaning of the opposition between kingdom and government, it is a good idea to examine more closely the text from which it takes its marks in order to check if it is well founded. The unknown author—who according to the majority of scholars could belong to the same circle of Hellenistic Stoic Judaism from which Philo and Aristobulus came—does not really distinguish between *archē* and *dynamis* in God, but rather, with a gesture that brings him close to the Fathers who elaborate the Christian paradigm of the *oikonomia*, between essence (*ousia*) and power (*dynamis*). The ancient philosophers—he writes—who have claimed that the entirety of the perceptible world is full of gods formulated an argument that does not apply to the being of God, but to his power (Aristotle, *De mundo*, 397b). While God actually dwells in the highest region of heaven, his power, “extend[s] through the whole universe, [ . . . ] and [is] the cause of permanence [*sōtērias*, ‘salvation’] to all that is on this earth” (ibid., 398b). He is, at the same time, savior (*sōtēr*) and generator (*genetōr*) of all that occurs in the cosmos. Yet, he “endures not all the weariness of a being that administers and labors on one’s own [*autourgou*], but exerts a power that never wearies; whereby he prevails even over things that seem far distant from him” (ibid., 397b). The power of God, which almost seems to become autonomous from his essence, can thus—in a clear reference to Chapter X of Book L of Aristotle’s *Metaphysics*—be compared with the head of an army in a battle (“all is hurry and movement in obedience to one word of command, to carry out the orders of the leader who is supreme over all”: *De mundo*, 399b) or—in an image that is almost identical to that used by Tertullian for the *oikonomia* of the Father—with the imposing administrative apparatus of the king of the Persians:

The king himself, so the story goes, established himself at Susa or Ecbatana, invisible to all, dwelling in a wondrous palace [*basileion oikon*] within a fence gleaming with gold and amber and ivory. And it had many gateways one after another, and porches many furlongs apart from one another, secured by bronze doors and mighty walls. Outside these the chief and most distinguished men had their appointed place, some being the king’s personal servants, his bodyguard and attendants, others the guardians of each of the enclosing walls, the so-called janitors and “listeners,” that the king himself, who was called their master and

deity, might thus see and hear all things. Besides these, others were appointed as stewards of his revenues and leaders in war and hunting, and receivers of gifts, and others charged with all the other necessary functions [ . . . ] and there were couriers and watchmen and messengers [*aggeliaforoi*] and superintendents of signal-fires. So effective was the organization, in particular the system of signal-fires, which formed a chain of beacons from the furthest bounds of the empire to Susa and Ecbatana, that the king received the same day the news of all that was happening in Asia. Now we must suppose that the majesty of the Great King falls as far short of that of the God who possesses the universe, as that of the feeblest and weakest creature is inferior to the king of Persia. Wherefore, if it was beneath the dignity of Xerxes to appear himself to administer all things and to carry out his own wishes and superintend the government of his kingdom, such function would be still less becoming for a god. (Ibid., 398a–398b)

In a characteristic move, the administrative apparatus through which the sovereigns of the earth preserve their kingdom becomes the paradigm of the divine government of the world. At this stage, the author of the treatise is, however, concerned to specify that the analogy between the power of God and the bureaucratic apparatus should not be pushed to the point of completely dividing God from his power (just as, according to the Fathers, the *oikonomia* should not entail a division of the divine substance). Unlike worldly sovereigns, God in fact does not need “many hands” (*polycheirias*), but “by simple movement of that which is nearest to [him], imparts [his] power to that which next succeeds, and thence further and further until it extends to all things” (ibid., 398b). If it is true that the king reigns but does not govern, his government—his power—cannot be separated completely from him. The fact that there is in this sense an almost perfect correspondence between this Judaic-Stoic idea of the divine government of the world and the Christian idea of a providential economy is proved by a long passage from Chapter Six that describes such a government precisely in terms of a providential organization of the cosmos:

The single harmony produced by all the heavenly bodies singing and dancing together springs from one source and ends by achieving one purpose, and has rightly bestowed the name not of “disordered” but of “ordered universe” upon the whole. And just as in a chorus, when the leader gives the signal to begin, the whole chorus of men, or it may be of women, joins in the song, mingling a single studied harmony among different voices, some high and some low; so too is it with the God that rules the whole world. For at the signal given from on high by him who may well be called their chorus-leader, the stars and the whole heaven always move, and the sun that illuminates all things travels forth on his double course, whereby he both divides day and night by his rising and his setting, and

also brings the four seasons of the earth, as he moves forward toward the north and backward toward the south. And in their own due season the rain, the winds, and the dews, and all the other phenomena that occur in the region that surrounds the earth, are produced by the first, primeval cause [ . . . ] (Ibid., 399a)

The analogy between the images of the *De mundo* and those used by the theorists of the *oikonomia* is such that we should not be surprised to find the term *oikonomeō* with regard to the divine government of the world, when it is compared to the action of the law in a city (“the law of a city, fixed and immutable [ . . . ] governs all the life of the state [*panta oikonomei*],” *ibid.*, 400b). It is all the more peculiar that, even in this occasion, Peterson refrains from making the slightest remark about economic theology—which would clearly allow us to relate this text to Judaic-Christian political theology.

4.3. In his late and resentful reply to Peterson, Carl Schmitt analyzes with particular care the use of the “notorious formula” *le roi règne, mais il ne gouverne pas* made by the theologian in his 1935 treatise. “I think,” Schmitt writes not without irony, “it is exactly this interpolation, in this context, which is the most intriguing contribution that Peterson—maybe unconsciously—attributed to political theology” (Schmitt 2008a, p. 67). Schmitt traces the formula back to Adolphe Thiers, who uses it as a keyword for parliamentary monarchy, and even earlier, in its Latin version (*rex regnat, sed non gubernat*), to the seventeenth-century polemic against Sigismund III, king of Poland. For Schmitt, the resolute gesture with which Peterson moves the formula back in time and transfers it to the dawn of Christian theology is all the more astounding. “[This] shows how much reflection and thought can be invested in a useful politico-theological or politico-metaphysical formulation” (*ibid.*, p. 68). The real contribution of Peterson to political theology would thus not amount to having been able to demonstrate the impossibility of a Christian political theology, but to having grasped the analogy between the liberal political paradigm that separates kingdom from government and the theological paradigm that distinguishes between *archē* and *dynamis* in God.

However, even here, the apparent disagreement between Peterson and Schmitt hides a more essential solidarity. Both authors are, as a matter of fact, earnest enemies of the formula: for Peterson, it defines the Hellenistic-Judaic theological model that lies at the basis of the political theology he intends to criticize; for Schmitt, it provides a symbol and a keyword to the liberal democracy against which he wages his battle. Even in this context, it is crucial to examine not only what it says but also what it omits to say in order to grasp the

strategic implications of Peterson's argument. It should be evident by now that the difference between kingdom and government does not, in fact, have a theological paradigm only in Hellenistic Judaism—as Peterson seems to be taking for granted—but also and especially in the Christian theologians who, between the third and the fifth centuries, elaborated the distinction between being and *oikonomia*, theological rationality and economic rationality. In other words, the reasons why Peterson is interested in keeping the Kingdom/Government paradigm within the limits of Judaic and pagan political theology are exactly the same as those that caused him to remain silent about the original “economic” formulation of the Trinitarian doctrine. After eliminating, against Schmitt, the theological-political paradigm, it was a matter of avoiding at all costs—this time in agreement with Schmitt—its replacement by the theological-economic paradigm. A new and more detailed genealogical investigation of the theological presuppositions and implications of the difference Kingdom/Government then becomes all the more urgent.

✠ According to Peterson, an “economic” paradigm in the strict sense is an inherent part of the Judaic legacy of modernity, in which banks tend to take the place of the temple. Only the sacrifice of Christ at the Golgotha marks the end of the sacrifices in the Jewish temple. In fact, according to Peterson, the driving away of the merchants from the temple shows that behind the sacrifice at the Golgotha lies “the dialectic of money and sacrifice.” After the destruction of the temple, the Jews have attempted to replace sacrifice with alms.

But the money that is offered to God and accumulated in the temple transforms the temple into a bank [ . . . ] The Jews, who had renounced the political order, when they declared that they had no king [ . . . ] condemning Christ because of his words against the temple, intended to save the economic order. (Peterson 1995, p. 145)

It is precisely this substitution of economy for politics that is rendered impossible by the sacrifice of Christ.

Our banks have been transformed into temples, but they themselves make evident in the so-called economic order the superiority of the bloody sacrifice at the Golgotha and demonstrate the impossibility of saving what is historical [ . . . ] Just as the secular kingdoms of the people of earth can no longer be “saved” in the political order after the eschatological sacrifice, so even the “economical order” of the Jews cannot be preserved in the guise of a connection between the temple and money. (Ibid.)

In this way, both political and economic theology are excluded from Christianity as a purely Judaic legacy.

4.4. Schmitt's aversion toward any attempt to divide Kingdom from Government and, in particular, his reservations concerning the liberal-democratic doctrine of the separation of powers—which is strictly linked to such a division—emerges many times in his work. Already in the 1927 *Verfassungslehre*, he quotes the formula *le roi règne, mais il ne gouverne pas* in relation to the “Belgian-style parliamentary monarchy,” in which the direction of affairs is in the hands of the ministers, while the king represents a kind of “neutral power.” The only positive meaning that Schmitt seems to acknowledge in the separation of Kingdom from Government is that it is possible to refer it back to the distinction between *auctoritas* and *potestas*:

The question posed by a great teacher of German public law, Max von Seydel, what then remains of “régner” if one removes “gouverner?,” is answerable in reference to the fact that one distinguishes between *potestas* and *auctoritas* and that the distinctive meaning of authority is made evident in regard to political power. (Schmitt 2008b, p. 315)

Schmitt clearly states what this meaning is in his 1933 essay *State, Movement, People*, in which, in an attempt to outline the new constitution of the national-socialist *Reich*, he re-elaborates from a new perspective the distinction between Kingdom and Government. Although during the radical political-social conflicts of the Weimar Republic, he energetically defended the extension of powers to the president of the *Reich* as the “warden of the constitution,” Schmitt now affirms that the president “has gone back to a kind of ‘constitutional’ position of authoritarian head of State *qui règne et ne gouverne pas*” (Schmitt 1933, p. 10). Facing this sovereign who does not govern, there now is, in the person of the chancellor Adolf Hitler, not only a function of government (*Regierung*), but a new figure of political power that Schmitt names *Führung*, and that indeed is to be distinguished from traditional government. It is in this context that Schmitt delineates a genealogy of the “government of men” that seems to anticipate, with a vertiginous glimpse, the genealogy that, in the second half of the 1970s, will occupy Michel Foucault in his courses at the Collège de France. Like Foucault, Schmitt sees in the pastorate of the Catholic Church the paradigm of the modern concept of government:

*Leading* [*führen*] is not commanding [ . . . ] For its power of dominion over believers, the Roman Catholic Church has transformed and completed the image of the shepherd and the flock in a theological-dogmatic idea. (Ibid., p. 41)

Similarly, in a well-known passage of *The Statesman*, Plato

considers the various comparisons that one can make about a statesman in relation to a doctor, a shepherd, and a pilot, and privileges the image of the pilot.

The latter has reached all the languages influenced by Latin through the word *gubernator* and has become the term for government [*Regierung*], like in *gouvernement*, *governo*, *government*, or like in the *gubernium* of the ancient Habsburg monarchy. The history of this *gubernator* contains a nice example of how an imaginary comparison can become a juridico-technical concept. (Ibid., pp. 41–42)

✠ Against this governmental background Schmitt tries to outline the “fundamentally German meaning” (ibid., p. 42) of the national-socialist concept of *Führung*, which “does not derive from baroque allegories or representations [an allusion to the theory of sovereignty that Benjamin develops in his *Ursprung*] or from a Cartesian *idée générale*,” but is “a concept of the immediate present and of an effective presence” (ibid.). This distinction is however not so simple, since there is not a “fundamentally German” meaning of the term, and the word *Führung*, just like the verb *führen* and the noun *Führer*—unlike the Italian *duce*, which had already known a specialization in a political-military sense, for instance, in the Venetian *doge*—refers back to an extremely broad semantic field, which includes all the cases in which somebody guides and orients the movement of a living being, a vehicle, or an object (obviously including the case of the *gubernator*, that is, the sea pilot). After all, earlier in his essay, analyzing the triple articulation of the new material national-socialist constitution into “State,” “movement,” and “people,” Schmitt had defined the people as the “impolitical side [*unpolitische Seite*] that develops under the protection and in the shadow of political decisions” (ibid., p. 12), thus attributing to the party and the *Führer* an unmistakable pastoral and governmental function. Yet, according to Schmitt, what distinguishes the *Führung* from the pastoral-governmental paradigm is that while in the latter “the shepherd remains absolutely *transcendent* with regard to the flock” (ibid., p. 41), the former is rather defined “by an absolute equality of species [*Artgleichheit*] between the *Führer* and his followers” (ibid., p. 42). The concept of *Führung* appears here as a secularization of the pastoral paradigm, one that eliminates its transcendent character. However, in order to subtract the *Führung* from the governmental model, Schmitt is obliged to give a constitutional status to the concept of race, by means of which the impolitical element—the people—is politicized. For Schmitt there is only one possible way to achieve this politicization, that is, by turning the equality of lineage into the criterion that, in separating what is foreign from what is equal, decides at each turn who is a friend and who an enemy. Not without analogies with the analysis that Foucault will develop in *Il faut défendre la société*, racism thus becomes the apparatus through which sovereign power (which, for Foucault, coincides with the power over life and death while, for Schmitt, it corresponds with the decision over the exception) is reinserted into biopower. In this way, the governmental-economic paradigm is brought back to a genuinely political sphere, in which the separation of powers loses its meaning and the act of government (*Regierungsgakt*) gives way to the single activity “by means of which the *Führer* affirms his supreme *Führertum*.”

4.5. A theological paradigm of the division between Kingdom and Government can be found in Numenius. This Platonic philosopher, who was active

around the second half of the second century AD and exercised a considerable influence over Eusebius of Caesarea and, through him, on Christian theology, distinguishes in fact between two gods. The first, defined as a king, is foreign to the world, transcendent, and completely inoperative; while the second is active and deals with the government of the world.

The entirety of fragment 12, preserved by Eusebius (*Preparation for the Gospel*, II, 18, 8), revolves around the problem of the operativeness or inoperativeness of the first god:

For it is not at all becoming that the First God should be the Creator [*dēmiourgein*]; also the First God must be regarded as the father of the God who is Creator of the world. If then we were inquiring about the creative principle, and asserting that He who was pre-existent would thereby be preeminently fit for the work, this would have been a suitable commencement of our argument. But if we are not discussing the creative principle, but inquiring about the First Cause, I renounce what I said, and wish that to be withdrawn [ . . . ] the First God is inoperative [*argon*] with regard to all kinds of work and reigns as king [*basilea*], but the Creative God [*dēmiourgikon*] governs [*hēgemonein*], and travels through the heaven. (Ibid., p. 536)

Peterson had already observed that what is crucial here is not so much whether there is one or more gods, but rather whether the supreme divinity is or is not participating in the forces that govern the world: “From the principle according to which God reigns but does not govern, one draws the Gnostic consequence that God’s kingdom is good, but the government of the demiurge—the demiurgic forces, which can also be considered under the category of functionaries—is evil, or, in other words, that the government is always wrong” (Peterson 1994, pp. 27–28). In this sense, a Gnostic political conception is not simply one that opposes a good god to an evil demiurge, but one that distinguishes also and especially between a god who is idle and without relation to the world from a god who actively intervenes in it in order to govern it. That is, the opposition between Kingdom and Government is part of the Gnostic legacy in modern politics.

What is the meaning of this distinction? And why is the first God defined as a “king”? In an instructive study, Heinrich Dörrie has reconstructed the Platonic origin of this regal metaphor of divinity (more precisely, it originated in the circle of the Ancient Academy). It goes back to the exoteric excursus of the second Platonic (or pseudo-Platonic) Letter, which distinguishes a “King of All” [*pantōn basilea*], who is the cause and the end of all things, from a second and a third god, around whom revolve second and third things (Plato, *Letters*, II, 312e). Dörrie follows the history of this image through Apuleius, Numenius, Origen,

Clement of Alexandria, up to Plotinus, in whose *Enneads* the image appears four times. In the strategy of the *Enneads*, the metaphor of the god-king, with its equation between heavenly and earthly powers, would allow us “to clarify Plotinus’s theology against the Gnostics” (Dörrie, p. 233):

Plotinus appropriates it because he sees in it a fundamental point of his theology. On the other hand, we must refer here to the representation of God that had been predominant for some time, which does not distinguish between earthly and heavenly powers: God must be surrounded by a court that is ordered hierarchically just like the earthly sovereign. (Ibid., p. 232)

Numenius’s theology thus develops a paradigm that is not only Gnostic, but that circulated in early and middle Platonism and that, by presupposing two (or three) divine figures that are at the same time different and coordinated, certainly aroused the interest of the theorists of the Christian *oikonomia*. However, the specific function of Numenius’s theology is that it links the figures of the god-king and the demiurge to the opposition between operativeness and inoperativeness, transcendence and immanence. That is, it represents the borderline case of a tendency that radically divides Kingdom and Government, separating a monarch who is basically foreign to the cosmos from the immanent government of earthly things. In this perspective, it is interesting to note that, in fragment 12, *basileus* (referred to the first god) is terminologically opposed to *hēgemonein* (referred to the demiurge), which indicates a specific and active function of guidance and command: *hēgemōn* (like the Latin *dux*) can be, in turn, the animal that leads a flock, the driver of a cart, the military commander, and, technically, the governor of a province. However, if the distinction between Kingdom and Government is certainly clear, even in Numenius the two terms cannot be unrelated, and the second god somehow represents a necessary complement of the first. In this sense, the demiurge is compared with the pilot of a boat: just as the latter scans the sky to orientate himself, so the former “gazes at the highest god, not at the sky” in order to orientate himself in his governmental function (fragment 18). Another fragment compares the relationship between the first god and the demiurge with that of the seeder and the farmer: the earthly god transplants, takes care, and distributes the seeds that the first god spread in the souls (fragment 13). In point of fact, the god that governs needs the inoperative god and presupposes him, just as this requires the activity of the demiurge. In other words, everything seems to suggest that the kingdom of the first god forms a functional system with the government of the demiurge, just as, in the Christian *oikonomia*, the god who carries out the work of salvation acts according to the will of the father, even if he is an anarchic hypostasis.

✠ In the history of the early Church, Marcion is the most radical supporter of the Gnostic antinomy between a god who is foreign to the world and an earthly demiurge (“Gott ist der Fremde” is the motto with which Harnack summarizes Marcion’s gospel: Harnack, p. 4). From this perspective, the Christian *oikonomia* can be seen as an attempt to overcome Marcionism, in that it inserts the Gnostic antinomy within the divinity and, in this way, reconciles the divinity’s noninvolvement with the world with its government. The god who has created the world now faces a nature that has been corrupted by sin and has become foreign to him; the savior god, to whom was entrusted the government of the world, needs to redeem it for a kingdom that is not, however, of this world.

✠ In Apuleius’s *Apologia*, we find a peculiar figure of *deus otiosus* who is, however, also a creator. Here, the *summus genitor* and the *assiduus mundi sui opifex* are defined as “sine opera opifex,” builder without work, and “sine propagatione genitor,” father without begetting (*Apologia*, 64).

4.6. The philosophical paradigm of the distinction between Kingdom and Government is contained in the final chapter of Book L of Aristotle’s *Metaphysics*, the same text from which Peterson extracts the quotation that opens his treatise against political theology. Aristotle has just expounded what goes by the name of his “theology,” in which God appears as the first immovable mover who moves the celestial spheres and whose form of life (*diagōgē*) is, in essence, thought of thought. The chapter that follows, the Tenth, is dedicated—apparently without any logical consistency—to the problem of the relation between the good and the world (or the way “in which the nature of the universe contains the good”), and is traditionally interpreted as a theory of the superiority of the paradigm of transcendence over that of immanence. In his commentary to Book XII of the *Metaphysics*, Thomas Aquinas thus writes that “the separate good of the universe, which is the first mover, is a greater good than the good of order which is found in the universe” (Thomas Aquinas, *Commentary on the Metaphysics of Aristotle*, Book XII, Lesson XII, n. 2631). The author of the most recent critical edition of the *Metaphysics*, William D. Ross, similarly affirms that “the doctrine here stated is that goodness exists not only immanently in the world but transcendentally in God, and even more fundamentally in Him, since He is the source of the good in the world” (Ross, p. 401).

The passage in question is actually one of the most complex and fraught with implications for the entire treatise: it cannot in any way be simplified in these terms. In it, transcendence and immanence are not simply distinguished as superior and inferior, but rather articulated together so as almost to form a single system, in which the separated good and the immanent order constitute a machine that is, at the same time, cosmological and political (or economic-

political). And this is all the more relevant insofar as, as we shall see, Chapter X of the *Metaphysics* was always interpreted by medieval commentators as a theory of the divine government (*gubernatio*) of the world.

But let us turn to the passage that interests us. Aristotle begins by expounding the problem in the guise of a dichotomic alternative:

We must now consider also in which of two ways the nature of the universe contains the good or the highest good, whether as something separate [*kechōris-menon*] and by itself [*kath'hauto*], or as the order [*taxin*] of the parts. (Aristotle, *Metaphysics*, 10, 1075a)

If transcendence is here defined by means of the traditional terms of separation and autonomy, it is instructive to note that the figure of immanence is, on the other hand, that of order, that is, the relation of every thing with other things. The immanence of the good means *taxis*, order. This model is, however, soon complicated and, through a comparison taken from military science (which is almost certainly at the origin of the analogous image we encountered in *De mundo*), the alternative is turned into a compromise:

Probably in both ways, as an army [*strateuma*] does. For the good is found both in the order and in the leader [*stratēgos*], and more in the latter; for he does not depend on the order but it depends on him. (Ibid.)

The passage that follows clarifies in what sense we have to understand the notion of an immanent order if it is to be reconciled with the transcendence of the good. To this end, Aristotle abandons the military metaphor and resorts to paradigms taken from the natural world and, above all, the administration of the house:

All things are ordered together [*syntetaktai*] somehow, but not all alike—both fishes and fowls and plants; and the world is not such that one thing has nothing to do with another, but there is something [that connects them in an orderly manner]. For all are ordered together to one end. (But it is as in a house [*en oikiāi*], where the freemen are least at liberty to act at random, but all things or most things are already ordained for them, while the slaves and the beasts do little for the common good, and for the most part live at random; for this is the sort of principle [*arkē*] that constitutes the nature of each.) I mean, for instance, that all must at least come to be dissolved into their elements, and there are other functions similarly in which all share for the good of the whole. (Ibid.)

It is odd that the reconciliation between transcendence and immanence through the idea of a reciprocal order of things is entrusted to an image of an “economic”

nature. The unity of the world is compared with the order of the house (and not that of a city), and yet, this very economic paradigm—which, for Aristotle, is as such necessarily monarchical—allows in the end the reintroduction of an image of a political nature: “But entities do not want to have a bad political constitution [*politeuesthai kakōs*]. “The rule of many is not good; let there be one {sovereign}” (ibid., 1076a). As a matter of fact, in the administration of a house, the unitary principle that governs it manifests itself in different modes and degrees, in accordance with the different nature of the individual beings that make up its parts (with a formulation that will have a long theological and political legacy, Aristotle links together the sovereign principle and nature, *archē* and *physis*). Free men, as rational creatures, are in an immediate and conscious relation with the unitary principle, and do not act at random, while slaves and domestic animals cannot but follow their nature, which however contains, albeit to different extents, a reflection of the unitary order, which makes it possible for them to act in agreement toward a common goal. Eventually, this means that the immovable mover as transcendent *archē* and the immanent order (as *physis*) form a single bipolar system, and that, in spite of the variety and difference of natures, the house-world is governed by a single principle. Power—every power, both human and divine—must hold these two poles together, that is, it must be, at the same time, kingdom and government, transcendent norm and immanent order.

4.7. Any interpretation of *Metaphysics*, L, X should begin with an analysis of the concept of *taxis*, “order,” which is not defined thematically in the text, but only exemplified by means of the two paradigms of the army and the house. After all, the term appears several times in Aristotle’s work, but is never the object of a real definition. In *Metaphysics*, 985b, for instance, it is mentioned together with *schēma* and *thesis* with regard to the differences that, according to the Atomists, determine the multiplicity of entities: *taxis* refers to the *diathigē*, the reciprocal relation, which is exemplified by the difference between AN and NA. Analogously, in *Metaphysics*, 1022b, the disposition [*disposizione*] (*diathesis*) is defined as “the arrangement of that which has parts, in respect either of place or of potency or of kind.” And, in the *Politics* (1298a), the constitution (*politeia*) is defined as *taxis* (reciprocal order) of the powers (*archai*), and “there are as many forms of constitution as there are possible *taxeis* between the parts.” It is therefore precisely in the passage that interests us here that this generic meaning of the term “order” is replaced by its strategic displacement at the junction between ontology and politics, which makes of it a fundamental *terminus technicus* of Western politics and metaphysics, even if it has rarely been investigated as such.

As we have seen, Aristotle begins by opposing the concept of order to what is separated (*kechōrismenos*) and for itself (*kath'hauto*). That is to say, order structurally implies the idea of an immanent and reciprocal relation: "All things are ordered together [ . . . ] and the world is not such that one thing has nothing to do with another" (*Metaphysics*, 1075a). The phrase used by Aristotle (*thaterōi pros thateron mēden*) decidedly inscribes the concept of order in the sphere of the category of relation (*pros ti*): order is thus a relation and not a substance. But we can understand the meaning of this concept only if we become aware of its location at the end of Book L of the *Metaphysics*.

Book L is, in fact, entirely dedicated to the problem of ontology. Those who have some familiarity with Aristotle's philosophy know that one of the fundamental exegetical problems that still divides interpreters is that of the double determination of the object of metaphysics: separate being and being as being. Heidegger wrote that "this dual characterization of *prōtē philosophia* does not contain two radically different trains of thought, nor should one be weakened or rejected outright in favor of the other. Furthermore, we should not be over-hasty in reconciling this apparent duality" (Heidegger 1962, p. 12). As a matter of fact, Book L contains Aristotle's so-called theology, that is, the doctrine of the separate substance and of the immovable motor, which, despite being separated from them, moves the celestial spheres. At this point, Aristotle introduces the concept of order as a way to tackle the splitting of the object of metaphysics. Order is the theoretical apparatus that allows us to think the relation between the two objects, which immediately presents itself, in the passage we quoted above, as the problem of the way in which the nature of the universe contains the good: "We must now consider also in which of two ways the nature of the universe contains the good or the highest good, whether as something separate and by itself, or as the order of the parts" (*Metaphysics*, 1075a). Transcendence, immanence, and their reciprocal coordination correspond here to the splitting of the object of metaphysics, and to the attempt to keep together the two figures of being. Yet the aporia lies in the fact that order (that is, a figure of relation) becomes the way in which the separate substance is present and acts in the world. The eminent place of ontology is in this way displaced from the category of substance to that of relation, of an eminently practical relation. The problem of the relation between the transcendence and immanence of the good thus becomes that of the relation between ontology and praxis, between the being of God and his action. That this shift encounters some fundamental difficulties is evident from the fact that Aristotle does not tackle the problem directly, but simply relies on two paradigms, a military one

and a genuinely economic one. Just as, in an army, the ordered deployment of soldiers must be in relation with the command of the strategist and, in a house, the different beings who inhabit it—each following its own nature—actually conform to a single principle, so the separate being maintains a relation to the immanent order of the cosmos (and vice versa). In any case, *taxis*, order, is the apparatus that makes possible the articulation of the separate substance with being, of God with the world. *Taxis* names their aporetic relation.

Although there is absolutely no notion of providence in Aristotle, and he could not in any case have conceived the relation between the immovable mover and the cosmos in terms of *pronoia*, it is easy to understand how later philosophers, beginning already with Alexander of Aphrodisias, found in this passage from the *Metaphysics* the foundation for a theory of divine providence. In other words, without this being one of his aims, Aristotle transmitted to Western politics the paradigm of the divine regime of the world as a double system, formed, on the one hand, by a transcendent *archē*, and, on the other, by an immanent concurrence of secondary actions and causes.

✠ Will Durant was one of the first scholars to put the Aristotelian god in relation to the paradigm Kingdom/Government: “Aristotle’s God [...] is a *roi fainéant*, a do-nothing king; ‘the king reigns, but he does not rule’” (Durant, p. 80).

✠ In his commentary on Book L of the *Metaphysics*, Averroes poignantly observes that one can infer the radical outcome of Gnostic ditheism from the Aristotelian doctrine of the two modes in which the good exists in the universe, “in virtue of order and in virtue of that thanks to which order exists”:

There are people who say that there is nothing for which God does not care, because they claim that the Sage must not leave anything without providence and must not do evil [...] Other people refuted this theory through the fact that many things happen that are evil, and the Sage should not produce them [...] Some people carried on their reflection on this to the point that they said that there are two gods, a god who created evil and a god who created good. (Ibn Rushd, *Metaphysics*, p. 201)

According to Averroes, Gnostic ditheism would find its paradigm in the fracture between transcendence and immanence that Aristotelian theology bequeathed to the modern age.

4.8. The turning of the concept of order into a fundamental paradigm, both metaphysical and political, is one of the achievements of medieval thought. Insofar as Christian theology had adopted the canon of transcendent being from Aristotelianism, the problem of the relation between God and the world could only become, in any sense, the most decisive question. However, the relation

between God and the world necessarily entails an ontological problem, since it is not a relation between two entities, but one that concerns the preeminent form of being itself. In this perspective, the passage from Book L provided a valuable and, at the same time, aporetic model. It thus became the constant point of reference that oriented the incredibly numerous treatises *De bono* and *De gubernatione mundi*.

If, in order to analyze this paradigm, we choose here the work of Thomas Aquinas (rather than that of Boethius, Augustine, or Albert the Great—who are, along with Aristotle, Thomas's principal sources with regard to this problem), it is not only because the concept of order becomes with him “a central principle” (Silva Tarouca, p. 342) and almost “the current that pervades the entirety of his thought” (Krings 1941, p. 13), but also because the dissymmetries and conflicts that it implies are here particularly evident. Following an intention that deeply marked the medieval vision of the world, Thomas tried to make of order the fundamental ontological concept, which determines and conditions the very idea of being; and yet, precisely for this reason, the Aristotelian aporia reaches with him its most radical formulation.

The scholars who studied the idea of order in Thomas's thought noted the twofold character that defines it (order, like being, can be said in many ways). *Ordo* expresses, on the one hand, the relation of creatures with God (*ordo ad unum principium*) and, on the other, the relation of creatures with themselves (*ordo ad invicem*). Thomas often explicitly asserts this structural duplicity of order: “Est autem duplex ordo considerandus in rebus. Unus, quo aliquid creatum ordinatur ad alium creatum [ . . . ] Alius ordo, quo omnia creata ordinantur in Deum” (*Summa Theologiae*, I, q. 21, a. 1, ad 3; see also Krings 1941, p. 10). “Quaecumque autem sunt a Deo, ordinem habent ad invicem et ad ipsum Deum” (*Summa Theologiae*, I, q. 47, a. 3). That this duplicity is strictly linked to the Aristotelian aporia is proved by the fact that Thomas resorts to the paradigm of the army (“sicut in exercitu apparet”: *Contra Gentiles*, Book III, Chapter 64, n. 1) and quotes repeatedly and in an explicit way the passage from Book L of the *Metaphysics* we discussed earlier (“Finis quidem universi est aliquod bonum in ipso existens, scilicet ordo ipsius universi, hoc autem bonum non est ultimus finis, sed ordinatur ad bonum extrinsecum ut ad ultimum fine; sicut etiam ordo exercitus ordinatur ad ducem, ut dicitur in XII Metaphys.”: *Summa Theologiae*, I, q. 103, a. 2, ad 3). But it is in Thomas's commentary on the *Metaphysics* that the splitting of the two aspects of order is referred back, without reservations, to the twofold paradigm of the good (and of being) in Aristotle. Here, not only does the *duplex ordo* correspond to the *duplex bonum* of Aristotle's text, but

the problem is soon specified as that of the relation between the two orders (or between the two figures of the good). Thomas notes that Aristotle

says, first, that the universe has both the separate good and the good of order [*bonum ordinis*]. For there is a separate good, which is the first mover, on which the heavens and the whole of nature depend as their end or desirable good [. . .] And since all things having one end must agree in their ordination to that end, some order must be found in the parts of the universe; and so the universe has both a separate good and a good of order. We see this, for example, in the case of an army [. . .] (Thomas Aquinas, *Commentary on the Metaphysics of Aristotle*, Book XII, Lesson XII, 2629–2630)

Although the two goods and the two orders are strictly linked, they are not yet symmetrical: “The separate good of the universe, which is the first mover, is a greater good [*melius bonum*] than the good of order which is found in the universe” (ibid., 2631). This imbalance between the two orders manifests itself in the difference between the relation of every creature to God and its relations with other creatures, which Aristotle expresses through the economic paradigm of the government of the house. Every creature—Thomas remarks—is in relation to God through its own particular nature, exactly as in the case of a house:

In an ordered household or family different ranks of members are found. For example, under the head of the family there is a first rank, namely, that of the sons, and a second rank, which is that of the slaves, and a third rank, which is that of the domestic animals, as dogs and the like. For ranks of this kind have a different relation to the order of the household, which is imposed by the head of the family, who governs the household [. . .] And just as the order of the family is imposed by the law and precept of the head of the family, who is the principle of each of the things which are ordered in the household, with a view to carrying out the activities which pertain to the order of the household, in a similar fashion the nature of physical things is the principle by which each of them carries out the activity proper to it in the order of the universe. For just as any member of the household is disposed to act through the precept of the head of the family, in a similar fashion any natural being is disposed by its own nature. (Ibid., 2633–2634)

The aporia that marks like a thin crack the wonderful order of the medieval cosmos now begins to become more visible. Things are ordered insofar as they have a specific relation among themselves, but this relation is nothing other than the expression of their relation to the divine end. And, vice versa, things are ordered insofar as they have a certain relation to God, but this relation expresses itself only by means of the reciprocal relation of things. The only content of the tran-

scendent order is the immanent order, but the meaning of the immanent order is nothing other than the relation to the transcendent end. “*Ordo ad finem*” and “*ordo ad invicem*” refer back to one another and found themselves on one another. The perfect theocentric edifice of medieval ontology is based on this circle, and does not have any consistency outside of it. The Christian God is this circle, in which the two orders continuously penetrate one another. Since that which the order must keep united is in point of fact irremediably divided, not only is *ordo*—like Aristotle’s being—*dicitur multipliciter* (this is the title of Kurt Flasch’s dissertation on Thomas), but *ordo* also reproduces in its own structure the ambiguity that it must face. From this follows the contradiction, noticed by scholars, according to which Thomas at times founds the order of the world in the unity of God, and at times the unity of God in the immanent order of creatures (see Silva Tarouca, p. 350). This apparent contradiction is nothing other than the expression of the ontological fracture between transcendence and immanence, which Christian theology inherits and develops from Aristotelianism. If we push to the limit the paradigm of the separate substance, we have the Gnosis, with its God foreign to the world and creation; if we follow to the end the paradigm of immanence, we have pantheism. Between these two extremes, the idea of order tries to think a difficult balance, which Christian theology is always in the process of losing and which it must at each turn regain.

✠ Order is an empty concept, or, more precisely, it is not a concept, but a *signature* [*segnatura*], that is, as we have seen, something that, in a sign or a concept, exceeds it to refer it back to a specific interpretation or move it to another context, yet without exiting the field of the semiotic to construct a new meaning.

The concepts that order has the function of signing are genuinely ontological. That is, the signature “order” produces a displacement of the privileged place of ontology from the category of substance to the categories of relation and praxis; this displacement is perhaps medieval thought’s most important contribution to ontology. For this reason, when in his study on ontology in the Middle Ages, Krings reminds us that, “being is *ordo* and the *ordo* is being; the *ordo* does not presuppose any being, but being has the *ordo* as its condition of possibility” (Krings 1940, p.233), this does not mean that being receives a new definition through the predicate of order, but that, thanks to the signature “order,” substance and relation, ontology and praxis enter into a constellation that represents the specific legacy that medieval theology leaves to modern philosophy.

4.9. Before Thomas, the text in which the aporetic character of order appears most strongly is Augustine’s *De genesi ad litteram*. Here, while discussing the six days of creation and the meaning of the number 6, Augustine suddenly quotes *Wisdom*, II: 21: “*Omnia mensura et numero et pondere disposuisti*,” that is, one

of the texts upon which the theological tradition agrees to found the idea of an order of creation (Albert, Thomas's teacher, uses these terms as synonymous with *ordo*: "creata [ . . . ] per pondus sive ordinem": *Summa Theologiae*, q. 3, 3, a. 4, 1). The quotation gives rise to a philosophical digression on the relation between God and order, and on the very place of order, which is certainly one of the pinnacles of Augustine's theology. Augustine begins by asking the question of whether "these three, measure, number, weight, in which, as it is written, God has arranged all things, were somewhere or other before the whole natural cosmos was created, or whether they too were created; and if they existed beforehand, where were they?" (Augustine, *The Literal Meaning of Genesis*, 4, 3, 7, p. 246). The question regarding the place of order is immediately turned into a question on the relation between God and order:

After all, before creation there was nothing except the creator. Therefore they were in him. But how? I mean, we read that these other things that have been created are also in him; so are these three identical with him, or rather are in him by whom they are governed and directed [*a quo reguntur et gubernantur*]? And how are these identical with him? God, after all, is neither measure nor number nor weight, nor all of them together. Or, rather, as we ordinarily understand measure in the things we measure, and number in the things we number or count, and weight in the things we weigh, no, God is not these things; but insofar as measure sets a limit [*modum praefigit*] to everything, and number gives everything its specific form [*speciem praebet*], and weight draws [*trahit*] everything to rest and stability, he is the original, true and unique measure which defines for all things their bounds, the number which forms all things, the weight which guides all things; so are we to understand that by the words *You have arranged all things in measure and number and weight* nothing else was being said but "You have arranged all things in yourself"? It is a great thing, a concession granted to few, to soar beyond everything that can be measured and see measure without measure, to soar beyond everything that can be numbered and see number without number, to soar beyond everything that can be weighed and see weight without weight. (Ibid., 4, 3, 7–8, p. 246)

It is important to dwell on this extraordinary passage, in which the paradoxical relation between God and order finds its most radical formulation and, at the same time, displays its connection with the problem of *oikonomia*. Measure, number, and weight, that is, the order by means of which God has arranged creatures, cannot themselves be created things. Therefore, although they are certainly also present in things, insofar as God "so arranged all things that they would have measure and number and weight" (ibid., 4, 5, 11, p. 248), they are outside of things; they are in God or coincide with him. God is, in his own

being, *ordo*, order. And yet he cannot be measure, number, and order in the sense in which these terms define the order of created things. God is, in himself, *extra ordinem*, or rather, he is order only in the sense of an *ordering* and *arranging*, that is, not in the sense of a substance, but in that of an activity. “He is not measure, number, and weight in an absolute way, but *ille ista est* in a completely new way [ . . . ] in the sense that *ordo* is no longer given as *mensura, numerus, pondus*, but as *praefigere, praeberere, trahere*; as *finishing, forming, ordering*” (Kriings 1940, p. 245). The being of God, as order, is structurally *ordinatio*, that is, praxis of government and activity that arranges [*dispone*] according to measure, number, and weight. It is in this sense that the *dispositio* (which we should not forget is the Latin translation of *oikonomia*) of things in the order means nothing else but the *dispositio* of things in God himself. Immanent and transcendent order once again refer back to each other in a paradoxical coincidence, which can nevertheless be understood only as a perpetual *oikonomia*, as a continuous activity of government of the world, one that implies a fracture between being and praxis and, at the same time, tries to heal it.

Augustine clearly claims this in the paragraphs that immediately follow, in which he interprets the verse of Genesis, “He rested on the seventh day from all His work which He had done” (2, 2). According to Augustine, this verse should not be understood in the sense that, at a certain point, God ceased to operate.

It is not, you see, like a mason building houses; when he has finished he goes away, and his work goes on standing when he has stopped working on it and gone away. No, the world will not be able to go on standing for a single moment, if God withdraws from it his government [*si ei Deus regimen sui subtraxerit*]. (Augustine, *The Literal Meaning of Genesis*, 4, 12, 22, p. 253)

On the contrary, all creatures are not in God as part of his being, but only as the result of his incessant operation:

We are not in him, I mean to say, like his substance [*tamquam substantia eius*] [ . . . ] but evidently, since we are something different from him, we are only in him because he is working at this, and this is his work by which his Wisdom reaches end to end mightily and governs [*disponit*] all things sweetly, and it is by this arrangement that “in him we live and move and are.” From this the conclusion follows that if he withdraws this work from things, we will neither live nor move nor be. It is clear therefore that not for one single day did God cease from the work of government [*ab opera regendi*]. (Ibid., 4, 12, 23, p. 254)

The transformation of classical ontology that is implicit in Christian theology is perhaps nowhere clearer than in these passages from Augustine. Not only is

the substance of creatures nothing other than the activity of the divine *dispositio*, such that the being of creatures utterly depends on a praxis of government—it is, in its essence, praxis and government—but the very being of God—insofar as it is, in a special sense, measure, number, and weight, that is, order—is no longer only substance or thought, but also and in the same measure *dispositio*, praxis. *Ordo* names the incessant activity of government that presupposes and, at the same time, continually heals the fracture between transcendence and immanence, God and the world.

The promiscuity, if not the short-circuit, between being and *dispositio*, substance and *oikonomia* that Augustine introduces in God is explicitly theorized by Scholasticism, in particular by Albert and Thomas, especially with regard to the problem of order in God (*ordo in divinis*). These authors distinguish to this end between local and temporal orders, which cannot take place in God, and *ordo originis* or *ordo naturae*, which correspond to the Trinitarian procession of the divine persons (see Krings 1941, pp. 65–67). The continuity between the problem of the *ordo* and that of the *oikonomia* is here apparent. God is not order just insofar as he arranges [*dispone*] and orders the created world, but also and especially insofar as this *dispositio* has its archetype in the procession of the Son from the Father, and of the Spirit from both. Divine *oikonomia* and government of the world perfectly correspond to one another. “The order of nature in the reciprocal flux of the divine persons,” Albert writes, “is the cause of the flux of creatures from the first and universal acting intellect” (*Summa Theologiae*, I, 46). For his part, Thomas writes,

The order of nature is that through which someone is from other [*quo aliquis est ex alio*]; and in this way a difference of origins is posed, and not one of temporal priority, and the difference of kind is excluded. For this reason we cannot admit that there is in God a simple order, but only an order of nature. (Thomas Aquinas, *Commentary on Sentences*, Book 1, d. 20, q. 1, a. 3, qc. 1)

Trinitarian *oikonomia*, *ordo*, and *gubernatio* constitute an inseparable triad, whose terms interpenetrate, insofar as they name the new figure of ontology that Christian theology bequeaths to modernity.

✠ When Marx, starting with the 1844 *Economic and Philosophical Manuscripts*, thinks the being of man as praxis, and praxis as the self-production of man, he is after all secularizing the theological idea of the being of creatures as divine operation. After having conceived of being as praxis, if we take God away and put man in his place, we will consequently obtain the result that the essence of man is nothing other than the praxis through which he incessantly produces himself.

¶ In *De ordine*, I, 5, 14, Augustine expounds this all-pervasive character of the concept of order, including in it even the most negligible and contingent events. The fact that the noise of a mouse woke up Licentius, one of the protagonists of the dialogue, during the night, and that in this way Augustine came to talk to him, belongs to the same order as the letters that will constitute the book that will follow one day from their conversation (the book Augustine is actually writing). Both orders are in turn contained in the very order of the divine government of the world:

Who will deny, great God, that you administer all things with order? [ . . . ] The little mouse has come out in order for me to wake up [ . . . ] And if one day what we told each other were transcribed into letters and became known to people [ . . . ] certainly the fluttering of leaves in the fields and the movement of the unworthy little animals in the houses would be as necessary as those letters in the order of things.

4.10. The theological paradigm of the distinction between Kingdom and Government is present in the double articulation of divine action as creation (*creatio*) and conservation (*conservatio*). In his commentary on the *Liber de causis*, Thomas writes that “we should keep in mind that the action of the first cause is twofold: one inasmuch as it establishes things, which is called creation; another inasmuch as it governs things already established [*res iam institutas regit*]” (Thomas Aquinas, *Commentary on the Book of Causes*, p. 137). The two operations of the first cause are correlated, in the sense that, through creation, God is the cause of the being of creatures and not only of their becoming, and, for this reason, they need the divine government in order to preserve themselves in being. Resuming the Augustinian theme of the incessant government of the world, Thomas writes that “the *esse* of all creaturely beings so depends upon God that they could not continue to exist even for a moment, but would fall away into nothingness unless they were sustained in existence by the operation of the divine virtue” (Thomas Aquinas, *Summa Theologiae*, I, q. 104, a. 1). This twofold structure of the divine works constitutes the model for the activity of secular regality:

Looking at the world as a whole, there are two works of God to be considered: the first is creation; the second, God’s government of the things created. These two works are, in like manner, performed by the soul in the body since, first, by the virtue of the soul the body is formed, and then the latter is governed and moved by the soul. Of these works, the second more properly pertains to the office of kingship. Therefore government [*gubernatio*] belongs to all kings (the very name king is derived from the fact that they direct the government) [*a gubernationis regimine regis nomen accipitur*], while the first work does not fall to all kings, for not all kings establish the kingdom or city in which they rule but bestow

their regal care upon a kingdom or city already established. We must remember, however, that if there were no one to establish the city or kingdom, there would be no question of governing the kingdom [*gubernatio regni*]. The very notion of kingly office, then, comprises the establishment of a city and kingdom, and some kings have indeed established cities in which to rule; for example, Ninus founded Nineveh, and Romulus, Rome. It pertains also to the governing office to preserve the things governed, and to use them for the purpose for which they were established. If, therefore, one does not know how a kingdom is established, one cannot fully understand the task of its government. Now, from the example of the creation of the world one may learn how a kingdom is established. In creation we may consider, first, the production of things; secondly, the orderly distinction of the parts of the world. (Thomas Aquinas, *On Kingship*, Book Two, Chapter II, pp. 55–56)

Kingdom and government, creation and conservation, *ordo ad deum* and *ordo ad invicem* are functionally correlated, in the sense that the first operation implies and determines the second, which, on the other hand, distinguishes itself from the former and, at least in the case of secular government, can be separated from it.

✠ In *Nomos of the Earth* (p. 82), Schmitt refers the distinction between constituent and constituted power, which in the 1928 *Verfassungslehre* he juxtaposed with the Spinozan distinction between *natura naturans* and *natura naturata*, to the distinction between *ordo ordinans* and *ordo ordinatus*. As a matter of fact, Thomas, who rather speaks of *ordinatio* and *ordinis executio*, understands creation as a process of “ordering” (“sic patet quod Deus res in esse produxit eas ordinando”: *Contra Gentiles*, Book 2, Chapter 24, n. 4), in which the two figures of order are articulated together (“ordo enim aliquorum ad invicem est propter ordinem eorum ad finem”: *ibid.*). It would be interesting to investigate from this perspective the possible theological sources of the distinction between *pouvoir constituant* and *pouvoir constitué* in Sieyès, for whom the people take the place of God as a constituent subject.

4.11 The Latin treatise known as *Liber de causis* or *Liber Aristotelis de expositione bonitatis purae* had a strategic function in the construction of the Kingdom-Government paradigm. We cannot understand the rank and decisive importance that this obscure Arabic summary of Proclus, translated into Latin in the twelfth century, had for theology between the twelfth and fourteenth centuries, if we do not understand at the same time that it contains something like the ontological model for the providential machine of the divine government of the world. The first epistemological obstacle that this machine met with concerned the way in which a transcendent principle could exercise its influence on the created world and make its “regime” effective—which was precisely the

problem that Chapter X of Book L of the *Metaphysics* had bequeathed to medieval culture. It is precisely this question that the pseudo-epigraphic treatise tackles in the guise of a Neoplatonic hierarchy of the causes. That is, the Aristotelian problem of the relation between the transcendent good and the immanent order—which was decisive for medieval theology—was solved by means of a doctrine of the causes: the *Liber Aristotelis de expositione bonitatis purae* is actually a *Liber de causis*.

Let us follow, through Thomas's commentary, the strategy that is implicit in the theological reception of this book. From the beginning, it is a matter of constructing a hierarchy, as the anonymous compiler had done on a Neoplatonic basis, and, at the same time, an articulation of the first and second causes. The treatise opens with the following words: "Every primary cause infuses its effect more powerfully [*plus est influens super suum causatum*] than does a universal second cause" (I, 1). But while in the division of the causes operated by the text the emphasis is placed at each turn on the sublimity and separateness of the first cause, which not only precedes and dominates the second causes, but also carries out all that they operate "*per modum alium et altiozem et sublimiorem*," the constant preoccupation of Thomas's commentary is to stress the coordination and articulation between the two levels. He interprets the claim according to which "the first cause aids the second cause in its activity, because the first cause also effects every activity that the second cause effects" (Thomas Aquinas, *Commentary on the Book of Causes*, p. 6) in a purely functional sense, which shows that the two causes integrate with each other in order to make their action effective:

The activity by which the second cause causes an effect is caused by the first cause, for the first cause aids the second cause, making it act. Therefore, the first cause is more a cause than the second cause of that activity in virtue of which an effect is produced by the second cause [ . . . ] The second cause is the cause of the effect through its potency, or power. Therefore, that the second cause is the cause of its effect is due to the first cause. To be the cause of the effect, therefore, lies primarily in the first cause and only secondarily in the second cause. (Ibid., pp. 8–9)

What is also new in Thomas's commentary is the specification of second causes as particular causes, which contains an implicit strategic reference to the distinction between general providence and special providence (which, as we shall see, defines the structure of the divine government of the world):

For it is clear that the extent to which some efficient cause is prior, to that extent does its power extend itself to more things [ . . . ] But the proper effect of the

second cause is found in fewer things. So it is more particular [*unde et particularior est*]. (Ibid., p. 10)

Thomas's interest in the functional articulation between the two orders of causes is evident in the attention with which he describes the linking together of the causes in the production of a (substantial or accidental) effect:

The order is *per se* when the intention of the first cause respects the ultimate effect through all the mediating causes, as when a craftsman's art moves the hand, and the hand the hammer that pounds out the iron, to which the intention of the art reaches. The order is *per accidens*, however, when the intention of the cause proceeds only to the proximate effect. But that something else is in turn brought about by that effect lies outside the intention [*praeter intentionem*] of the first agent, as, when someone lights a candle, it is outside its intention that the lighted candle in turn light another, and that one another. (Ibid., p. 11)

But it is in the commentary on the Propositions 20–24 that the strategic nexus between the hierarchy of causes in the treatise and the paradigm of the providential government of the world becomes more evident. What is in question here is the way in which the first cause governs (*regit*) created things while remaining transcendent with regard to them (“*praeter quod commisceatur cum eis*”). Proposition 20 thus specifies that the fact that the first cause governs the world does not jeopardize its unity or transcendence (“*regimen non debilitat unitatem eius exaltatam super omnem rem*”), and does not even hinder the efficacy of its government (“*neque prohibet eam essentia unitatis seiuncta a rebus quin regat eas*”). That is, we are presented with a kind of Neoplatonic solution to the Aristotelian aporia concerning the transcendent good. On the other hand, the fact that Thomas's commentary orients the reading of the text toward a theory of providence is proved by the immediate connection that he establishes between the formulations of the text and the economic-providential paradigm of the divine government of the world. Not only does a quotation from Proclus explicitly introduce this theme (“every divine thing [ . . . ] provides for secondary things”: *ibid.*, p. 122), but the passage from the anonymous author is used against the traditional arguments of those who deny providence:

We should note that in human government we see it happen that the one who has a charge of ruling a number of things must be drawn from his own government to many things. But he who is free from the charge of governing others is more able to preserve uniformity in himself. Hence the Epicurean philosophers asserted that in order to conserve divine quiet and uniformity the gods could have charge of no government. Instead, they are entirely at leisure, caring about

nothing, so that in this way they are seen to be happy. And so, against this [the author] begins in this proposition by saying that these two things are not contrary in the first cause and that the universal government of things and the supreme unity [ . . . ] do not impede one another. (Ibid., pp. 121–122)

In the same sense, Proposition 23, which distinguishes and coordinates science and government, is interpreted as a thesis “de regimine secundae causae,” that is, on the twofold way in which the second cause carries out its action in the government of the world, at one time according to its nature (this is the model of the *ordo ad invicem*), and at another time according to its participation in the first cause (*ordo ad deum*). The action of the second cause is thus compared with a heated knife that, according to its nature, cuts, but according to its participation in fire, burns (“sicut cultellus ignitus, secundum propria formam incidit, in quantum vero est ignitus urit”). Once again, the Aristotelian aporia concerning the transcendent good is solved by means of the articulation between transcendence and immanence:

Thus, each of the highest intelligences that is called “divine” has a double action: one insofar as it abundantly participates in the divine goodness, and another according to its proper nature. (Ibid., p. 132)

But this also means, following the division between what is general and what is particular according to which providential action is articulated, that the government of the world redoubles itself into a *regimen Dei* or *causae primae*, which is extended to all created things, and a *regimen intelligentiae* or *causae secundae*, which concerns only some of them:

And so it is that the government of the first cause, which is according to the essence of goodness, extends to all things [ . . . ] But the rule of an intelligence, which is proper to it, does not extend to all things. (Ibid., p. 133)

If we now turn to the treatise *De gubernatione mundi* (*Summa Theologiae*, I, qq. 103–113), we see that it is precisely the hierarchical connection of first and second causes that provides us with a model of the articulation between general and special providence through which the divine government of the world is carried out.

God governs the world as a first cause (“ad modum primi agentis”: *ibid.*, I, q. 105, a. 5, ad 1), bestowing on created things their form and proper nature, and preserving them in being. But this does not prevent his operation from entailing also the operation of the second causes (“nihil prohibet quin una et eadem actio procedat a primo et secundo agente”: *ibid.*, I, q. 105, a. 5, ad 2). The govern-

ment of the world thus results from the articulation of a hierarchy of causes and orders, of the Kingdom and particular governments:

From every cause there results some sort of order in its effects, since a cause has the meaning of being a principle. In consequence there are as many orders as there are causes, with one order contained under another, even as one cause is subordinated to another in such a way that the higher cause is not subject to the lower, but the other way round. There is a clear example in human affairs: the domestic order [*ordo domus*] depends on the father of the family; that order in turn is subordinated to the municipal order [*sub ordine civitatis*] deriving from the city's ruler; the municipal order comes under the regimen of the king, who is the source of order in the whole realm. (Ibid., I, q. 105, a. 6)

Insofar as it is considered in its connection with the first cause, the order of the world is unchangeable and coincides with divine prescience and goodness. On the other hand, insofar as it entails an articulation of second causes, it makes room for a divine intervention “*praeter ordinem rerum.*”

The *Liber de causis* is so important for medieval theology because by distinguishing first causes from second causes it discovered the articulation between transcendence and immanence, general and particular, upon which the machine of the divine government of the world could be founded.

4.12. The discussions that led to the canonists' elaboration of the “political type” of the *rex inutilis* between the twelfth and thirteenth centuries is the place in which the distinction between the Kingdom and the Government finds for the first time its technical formulation in the juridical field. What lies at the basis of these discussions was the doctrine of the pontiff's power to depose the temporal sovereign, which had been formulated in a letter from Gregory VII to Hermann of Metz. Gregory refers here to Pope Zachary's deposition for inadequacy of the last Merovingian king, Childeric III, and his replacement with Pippin, Charles the Great's father. This text is important, since it was included by Gratian in his *Decretum* and thus served as a reference for the elaborations of later canonists. Asserting the primacy of the *sacerdotium* over the *imperium*, Gregory writes, “another Roman pontiff deposed a king of the Franks, not so much because of his evil deeds as because he was not equal to so great an office [*tantae potestati non erat utilis*], and set in his place Pippin, father of Charles the Great, releasing all the Franks from the oath of fealty which they had sworn to (the king)” (*Decretum*, c. 15, q. 6, c. 3; see Peters, p. 281). The chroniclers of the twelfth century had already turned Childeric into the prototype of the *rex ignavus et inutilis*, who embodies the gap between nominal regality and its

real exercise (“Stabat enim in rege sola nominis umbra; in Pippino vero potestas et dignitas efficaciter apparebat. Erat tunc Hildericus rex ignavus et inutilis [. . .]”: Geoffrey of Viterbo, *Pantheon*, in *PL*, 198, 924d–925a). But it was thanks to the canonists, especially Hugh of Pisa, that the *rex inutilis* was turned into the paradigm of the distinction between *dignitas* and *administratio*, the office and the activity in which it expresses itself. According to this doctrine, the illness, old age, madness, or sloth of a prince or prelate should not necessarily lead to his deposition, but rather to the separation between the *dignitas*, which remains attached to his person, and the practice, which is entrusted to a *coadiutor* or *curator*. The fact that what was at stake was not only something practical but also involved an actual doctrine of the separability of sovereign power is proved by the precision with which the *Glossa ordinaria* to the passage of the *Decretum* that reported the case of two Roman emperors who reigned simultaneously assigns the *dignitas* to one, and the *administratio* to the other, thus ratifying at one and the same time the unity and divisibility of power (“Dic quod erant duae personae, sed tamen erant loco unius [. . .] Sed forte unus habuit dignitatem, alter administrationem”: quoted in Peters, p. 295).

It is on the basis of these canonistic elaborations that, in 1245, at the demand of the Portuguese clergy and nobility, Innocent IV issued the decretal *Grandi*, with which he assigned to Afonso of Boulogne, brother of King Sancho II—who had been shown to be unable to govern—the *cura et administratio generalis et libera* of the kingdom, yet leaving the regal *dignitas* to the sovereign.

In other words, the radical case of the *rex inutilis* lays bare the twofold structure that defines the governmental machine of the West. Sovereign power is structurally articulated according to two different levels, aspects, or polarities: it is, at the same time, *dignitas* and *administratio*, Kingdom and Government. The sovereign is structurally *mehaignié*, in the sense that his dignity is measured against the possibility of its uselessness and inefficacy, in a correlation in which the *rex inutilis* legitimates the actual administration that he has always already cut off from himself and that, however, formally continues to belong to him.

Thus, the answer to Von Seydel’s question “what is left of reigning if we take governing away from it?” is that the Kingdom is the remainder that poses itself as the whole that infinitely subtracts itself from itself. Just as, in the divine *gubernatio* of the world, transcendence and immanence, *ordo ad deum* and *ordo ad invicem*, must be unceasingly distinguished for providential action to unceasingly rejoin them, so the Kingdom and the Government constitute a double machine, which is the place of a continuous separation and articulation. The *potestas* is *plena* only to the extent that it can be divided.

✠ Not without noticeable hesitations, medieval jurists developed the distinction between *merum imperium* and *mistum imperium*. Following one of Irnerius's glosses, they called *imperium* that without which there cannot be a jurisdiction (*sine quo nulla esset iurisdictio*), but then distinguished as "pure" the *imperium* considered as such and, on the other hand, called "mixed" the *imperium* that involves an actual *iurisdictio* (Costa, pp. 112–113). In Stephen of Tournai's *Summa* this distinction is developed into the idea of a clear separation between *iurisdictio* and *administratio*, between a *potestas* and its practice:

If the emperor grants somebody the jurisdiction and the power to judge [*potestas iudicandi*], but does not allot him a province or a people to be judged, he will then have the title, that is the name, but not the practice [*habet quidem titulum, idest nomen, sed non administrationem*]. (Stefan von Doornick, p. 222)

4.13. An analysis of the canonistic notion of *plenitudo potestatis* can give rise to some instructive considerations. According to the theory of the primacy of the pontiff's spiritual power over the temporal power of the sovereign, which found in Boniface VIII's bull *Unam sanctam* its polemical expression and in Giles of Rome's *De ecclesiastica potestate* its doctrinal layout, the plenitude of power lies with the Supreme Pontiff, to whom belong both of the swords discussed in Luke 22:38 ("Domine, ecce duo gladii hic. At ille dixit eis: Satis est"), interpreted as the symbols of spiritual and material power. The debate about the primacy of one power over the other was so fierce, and the struggles between the partisans of the empire and those of ecclesiastic power so violent and persistent, that historians and scholars ended up overlooking what should have been a preliminary question: Why is power originally divided? Why does it present itself as always already articulated into two swords? As a matter of fact, even the supporters of the pontifical *plenitudo potestatis* admit that power is structurally divided and that the government of men (*gubernacio hominum* is the technical term that Giles uses recurrently) is necessarily articulated into two (and only two) authorities [*potestà*] or swords:

In the government of men and in the rule of the human race or in the rule of the faithful, there are only two powers and two swords [*due potestates et duo gladii*]: the priestly and the royal or imperial power—that is, a spiritual and a material sword. (Giles of Rome, *On Ecclesiastical Power*, p. 108)

In his treatise, Giles cannot help asking the question as to "why there are two swords in the Church and neither more nor fewer" (*ibid.*, p. 107). If the spiritual power is higher than any other and naturally extends its government to material things just as the soul governs the body, "what need was there,

then, to institute another power and another sword [*aliam potestatem et alium gladium*]?" (ibid., p. 108). The co-substantiality and co-originary of the split between the two powers in the Church is proved by Giles's interpretation of Luke 22:38.

And if due consideration be given to the words of the Gospel, the way in which the Church possesses both swords is perfectly illustrated by the two swords [there mentioned]. For, as Bede says, one of those swords was drawn and the other remained in its sheath. And so, although there were two swords, we read that only one sword was drawn, with which Peter struck the servant of the High Priest and cut off his right ear. What, therefore, does this mean— that while there were two swords, the one was drawn and the other remained in its sheath—if not that the Church possesses two swords: the spiritual as user [*quantum ad usum*], which is represented by the drawn sword, and the material, not as user, but as commander [*quantum ad nutum*]. (Ibid., pp. 51–52)

In addition, the two swords,

exist now, under the Law of Grace; they existed under the Written Law; and they existed under the law of nature [ . . . ] These two swords, then, always were and are different things. (Ibid., pp. 20–21)

If the division of power is structural to such an extent, what is the reason for this? The large number of answers given by Giles is a function of their often evident insufficiency, and it is possible that the decisive answer is to be read, as it were, between the lines of those adduced. An initial reason for the duality lies in the "great excellence and the very great perfection [*nimia excellencia et nimia perfectio*] of spiritual things" (ibid., p. 108). Spiritual things are, in fact, so noble that, in order to avoid the possibility of deficiencies and negligences with regard to them, it was necessary to establish a second power, which specifically takes care of corporeal things, so that the spiritual power may be entirely devoted to spiritual things. But the reason for their distinction is, at the same time, the foundation of their strict articulation:

But, as has been noted, when the two powers are such that the one is general and extended [*generalis et extensa*] and the other particular and limited [*particularis et contracta*], it must be that the one is under the other, is instituted through the other, and may act only by commission of the other. (Ibid., p. 109)

Giles compares the relation between the two with the connection that, according to the medieval doctrine of generation, exists between celestial virtue (as a first cause) and the seed that is in the animal when it mates (as a second cause).

“There would be no power in the seed of a horse to produce a horse unless it had this from the power of heaven” (ibid.). But it is precisely here that the aporetic character of the relation between the two powers comes to light. The two swords are clearly divided, and yet, the second, the material one, is included in the first. The *plenitudo potestatis* that rests with the pontiff is, in fact, defined by Giles as “that fullness of power [that] resides in some agent when that agent can do without a secondary cause whatever it can do with a secondary cause” (ibid., p. 187). For this reason, that is, insofar as the pontiff has a power in which every power is contained (“*posse in quo reservatur omne posse*”: ibid.), his *potestas* is said to be full.

And, so that we may pass to the government of men by way of those natural phenomena which we see in the government of the world, we shall say that fullness of power does not reside in the heaven or in any secondary agent whatsoever; for the heaven cannot do without a secondary cause what it can do with a secondary cause. For example, although the heaven and a lion bring about the generation of a lion, the heaven could not produce a lion without a lion, nor could it produce a horse without a horse. (Ibid., pp. 187–188)

On the other hand, the spiritual power can produce its effect without the aid of second causes, and yet, it needs to separate itself from the material sword. There is something lacking in spiritual power, in spite of its perfection, and that something is the effectiveness of the execution. Turning to the doctrine of the distinction between the titularity of an office and its execution, Giles argues that

by reason of her power and lordship, the Church as such has a superior and primary lordship in temporal things, but she does not have an immediate jurisdiction and [right of] execution [ . . . ] Caesar and the temporal lord, however, do have such a jurisdiction and [right of] execution; and so we see that there are distinct powers, we see that there are distinct rights, we see that there are distinct swords. But this distinction does not mean that the one power is not under the other, the one right under the other, and the one sword under the other. (Ibid., pp. 199–200)

The actual reason for the distinction between primary and secondary power, titularity and execution, is that it is a necessary condition for the proper functioning of the governmental machine:

But if there were only one sword in the Church, namely the spiritual, then those tasks which must be performed in the government of men would not be as well done; for the spiritual sword would then neglect many tasks which should be

performed in the spiritual sphere, because it would itself be obliged to attend to material affairs [ . . . ] Therefore, the fact that a second sword was instituted is not due to a lack of power on the part of the spiritual: rather, it is for the sake of good order and decency [*ex bona ordinacione et ex decencia*] [ . . . ] It is not due to a lack of power on the part of the spiritual sword that a second sword, which is called material, has been instituted. Rather, this is in order to secure the correct implementation of the execution [*propter beneficium executionis*]. For the spiritual sword could not execute spiritual tasks or devote itself to spiritual matters so well or so beneficially if it did not have the aid of the material sword [ . . . ] (Ibid., pp. 110–111)

Beyond the dispute about the primacy of one sword over the other, to which scholars have exclusively devoted their attention, it turns out that what is primarily at stake in the division between the two powers is guaranteeing the possibility of the government of men. This possibility requires the supposition of a *plenitudo potestatis* that, however, must immediately distinguish itself from its actual exercise (its *executio*), which then constitutes the secular sword. From a theoretical point of view, the debate is not so much between the supporters of the primacy of priesthood or the empire, but between the “governmentalists” [*“governamentalisti”*] (who conceive power as always already articulated according to a double structure: authority [*potestà*] and execution; Kingdom and Government) and the promoters of a sovereignty in which it is not possible to separate power from act, *ordinatio* from *executio*. Gelasius I’s well-known dictum according to which “duo quippe sunt [ . . . ] quibus principaliter mundus hic regitur: auctoritas sacra pontificum, et regalis potestas” (*Epistolae et decreta*, 8, in *PL*, 59, 42a)—which he addressed to the emperor Anastasius in 494, that is, well before the beginning of the conflict between the two swords—must be translated—after all, in an absolutely literal way—as: the world is governed through the coordination of two principles, the *auctoritas* (that is, a power without actual execution) and the *potestas* (that is, a power that can be exercised); the Kingdom and the Government.

✠ In this perspective, it is possible to clarify the position of those who, like John Quidort, refuse to accept the theory of the pontiff’s *plenitudo potestatis*, since it implies an unnatural separation of power [*potenza*] from act, and power [*potere*] from execution. Referring most likely to Giles of Rome, John writes in his *De potestate regia et papali* that

some claim that the secular power belongs to the pope immediately and according to his primary authority, but that the pope does not have the immediate execution of it, which he delegates to the prince [ . . . ] It can certainly happen

that somebody has the power to do something, but not the act, because of some hindrance, like, for example, if one has the power to build, but not the act, since he lacks the matter, or because of a corporal defect, as in the case of a dumb person who cannot speak. These are hindrances that befall the conferring of power. But only a foolish person would bestow the priesthood upon somebody if he knew that he was hindered in this way. Therefore, it is meaningless to say that the pope receives immediately from God the power of the secular sword, whose exercise, however, is not usually his responsibility. If this were the case, God would act against nature, as the latter never gives to anybody a virtue separated from the act, since those who have the power also have the act [*cuius potentia, eius est actus*]. (Quidort, p. 120)

Here, the conflict does not concern only and especially the primacy of one power [*potere*] over the other, but the separation of titularity from exercise, of the Kingdom from the Government.

✠ Peters followed the progeny of the figure of the medieval *rex inutilis* in the notion of *roi fainéant* between the sixteenth and seventeenth centuries. The term appears in the fourteenth century in the *Grandes chroniques de France* to translate the *rex nihil faciens* of medieval chronicles, and is later applied, according to its double meaning of sluggish (“qui fit nule chose”) and dissolute (“adonné à la paillardise, oisiveté et vices”), to the last of the Carolingian monarchs. In his 1643 *Histoire de France*, Mezeray contemptuously applies it to the last of the Merovingian kings, “tous fainéants, hébétéz, et plongés dans les ordures du vice” (Peters, p. 543). We can then find it applied to Louis VI, Charles VI, and Henry III of France, as well as, among other English kings, to Henry III, Henry VI, and even the figure of King Arthur in some courtly novels (Peters, p. 547).

4.14. The theological model of the separation of power from its exercise is found in the distinction between absolute and ordered power [*potenza*] in God—that is, in the doctrine of divine impotence, of what God, in spite of his omnipotence, cannot do (or cannot not do). According to this doctrinal complex (which was founded on a passage from *De natura et gratia*—I, 7, 8—in which Augustine answers the question as to whether Christ could have prevented Judas’s betrayal by saying that he certainly could have done it, but he had not wanted it: “Potuit ergo, sed noluit”), God, with regard to his power considered as such (*de potentia absoluta*), could do anything that did not entail a contradiction (for instance, embodying himself as a woman, instead of as Jesus, to save men; or damning Peter and saving Judas; or even just destroying all of his creation). But *de potentia ordinata*, that is, with regard to his will and wisdom, he can only do what he has decided to do. In other words, the will constitutes the apparatus that, dividing power into absolute and ordered power, allows to con-

tain the unacceptable consequences of divine omnipotence (and, more generally, of any doctrine of power), but without negating it as such. Thomas writes that

nothing can be within divine power which is not held in the wisdom and justice of his mind and will. All the same, since his will is not bound of necessity to this or that particular objective [ . . . ] there is no reason why something should not be within divine power which God does not will, and which is no part of the present order he has established. We conceive of understanding and wisdom as directing, will as commanding, and power as executing; as for what lies within power as such, God is said to be able to do it by his absolute power [ . . . ] As for what lies within his power as carrying out the command of his just will, he is said to be able to do it by his ordinate power. Accordingly, we should state that by absolute power God can do things other than those he foresaw that he would do and pre-ordained to do. Nevertheless nothing can come to pass that he has not foreseen and pre-ordained. (Thomas Aquinas, *Summa Theologiae*, I, q. 25, a. 5, ad 1)

What is interesting about this theological apparatus is that, contrary to those who rejected any distinction between absolute and ordered power, it made it possible to reconcile God's omnipotence with the idea of an ordered, nonarbitrary, and nonchaotic government of the world. But this *de facto* amounted to making the distinction in God between his absolute power and its effective exercise, between a formal sovereignty and its execution. Limiting absolute power, ordered power constitutes it as the foundation of the divine government of the world. The nexus between this theological problem and the juridical-political problem of the separation between sovereignty and its exercise is evident, and was soon noticed by canonists. With regard to a decretal by Innocent IV that denied an abbot the power to suspend a monk's vow of poverty, the distinction between absolute and ordered power was thus applied by Hostiensis and other canonists to the problem of the papal *plenitudo potestatis*, to show that, *de potentia ordinata*, the pontiff must abide by the law, although *de potentia absoluta* he is not bound by it (Courtenay, pp. 107–108).

Once again, the *plenitudo potestatis* is shown to have an inner articulation that structurally divides it, and the doctrine of what God cannot do becomes the paradigm of the distinction between power [*potere*] and its exercise, the Kingdom and the Government.

In Matthew of Acquasparta's questions on providence, God's impotence clearly displays its governmental meaning. Giving a negative answer to the question of whether God could have created a rational creature who could not sin, Matthew explains that this is impossible not because of an impotence on the

part of God, but because it would have made the providential government of the world pointless. As a matter of fact, creating a rational creature completely unable to sin would mean, on the one hand, denying him free will and, on the other, making the grace by means of which God preserves and governs creatures useless.

Every rational creature, insofar as it is a creature, must be preserved by God and needs the creator's continuous maintenance [*manutenentia*], for if he ceased to govern the things that he had created, these things would go to ruin [ . . . ] The general influence of divine maintenance is not sufficient for the preservation of the moral good of creatures: the latter also needs that of grace. For this, just as God cannot make it so that a creature preserves itself, so he cannot make it so that by nature and by itself it cannot sin. (Matthew of Acquasparta, p. 292)

God's impotence functions to make possible a righteous government of the world.

# Threshold

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WE can now better understand the Arthurian mythologeme of the *roi mehaignié*. It is the reflection in the literary field of a transformation and splitting of the concept of sovereignty that must have deeply troubled contemporary minds. Although, as we have seen, it had some precedents in the Gnostic doctrine of the idle god and some parallelisms in the tradition of Roman law, this transformation is essentially carried out, from a technical point of view, in a canonistic field. The theological model of this separation is the doctrine of divine impotence, that is, the distinction between *potentia absoluta* and *potentia ordinata*. Hugh of Pisa and the *Grandi* decretal—with which Innocent IV, in the case of the *rex inutilis* Sancho II, separated regality from its exercise—gave to this distinction a juridical form of whose general meaning and political implications they were perhaps not fully aware. However, it is certain that, as has been observed, “*Grandi*, indeed, contained the results of the most articulate legal tradition which Europe had seen since the age of Justinian, but few territorial monarchies were capable, in 1245, of profiting fully from that tradition” (Peters, p. 304). The conflict that was here in question is not, however, so much between “legal authority” (which, due to the decretal, rested with the Earl of Boulogne) and “personal loyalty” (which was still owed to the sovereign Sancho II), as between a sovereignty inseparable from its exercise and a regality that is structurally divided and separable from government (or, in Foucault’s terms, between territorial sovereignty and governmental power).

It is in this perspective that we can interpret the debate that, in the first few decades of the fourteenth century, opposes John XXII to Ockham. According to John, the laws that God has established are identical with his essence and, consequently, are eternal and unchangeable. Therefore, he cannot act otherwise than how he has chosen to act. Absolute and ordered powers are the same thing, and their distinction is purely nominal.

It is impossible for God to save according to absolute power a man devoid of the sacrament of baptism, because this was decided from eternity according to

ordered power, which is to be identified with God and cannot be changed [. . .] Some claim that God can do many things according to the absolute power which he cannot do according to the ordered power, but this is false and wrong, for the absolute power and the ordered power in God are the same thing and can be distinguished only by name, like Simon and Peter, which name the same person. Just as it is impossible that somebody hits Simon without hitting Peter, or that Peter does something that Simon does not, insofar as they are the same man, so it is impossible for God to do according to the absolute power things that are different from those he does according to ordered power, for they are the same thing and differ and can be distinguished only by name. (Quoted in Courtenay, p. 162)

What Ockham proposes against this thesis is the irreducibility of absolute power to ordered power: these are not two powers, but two different ways in which we say that God can or cannot do something, or two internal articulations of a single divine power in respect to the act.

If one looks closely at this issue, saying that God can do things according to the absolute power which he cannot do according to the ordered power means nothing else than God can do things that he had not decided to do [*quae tamen minime ordinaret se facturum*]. But if he were to do these things, he would do them according to the ordered power, for if he did them, he would have decided to do them. (Quoted in Courtenay, p. 164)

For Ockham, as a more modern thinker, it is essential to preserve the contingency of decision against an understanding of acting, professed by Muslims and “old women” (*vetulae*), that reduces it to pure necessity (“from this would follow that no creature could do anything that he does not actually do, so that all would happen according to necessity and nothing in a contingent way, like the infidels claim, and the ancient heretics, and also the occult heretics, the lays and the old women”: quoted in *ibid.*).

What is at stake in this conflict is, in the final analysis, the functioning of the governmental apparatus. While, for the pontiff, the difference between the two levels or moments of the apparatus is purely nominal, so that the act of real government always already determines the power, and the Kingdom is fully identified with the Government, for Ockham, the Kingdom (absolute power) exceeds and always in some way precedes the Government (the ordered power), which reaches and determines it only at the moment of the *executio*, yet without ever exhausting it completely. In other words, two different conceptions of the government of men confront each other: the first is still dominated by the old model of territorial sovereignty, which reduces the double articulation of the gov-

ernmental machine to a purely formal moment; the second is closer to the new economico-providential paradigm, in which the two elements maintain their identity, in spite of their correlation, and the contingency of the acts of government corresponds to the freedom of the sovereign decision. And yet, because of a peculiar inversion, this very paradigm that is, so to speak, more “democratic” is also close to the position of those canonists and theologians (like Duns Scotus) who, in the same years, elaborate the doctrine of the *potentia absoluta* as a model for exceptional powers [*poteri eccezionali*]. Insofar as it structurally exceeds ordered power [*potenza ordinata*], absolute power [*potenza assoluta*] is—not only in God, but in every agent (and, in particular, in the pontiff)—that which allows one to act legitimately “beyond the law and against it”:

Potest agere conformiter illi legi rectae, et tunc secundum potentiam ordinatam (ordinata enim est in quantum est principium exsequendi aliqua conformiter legi rectae) et potest agere praeter illam legem vel contra eam, et in hoc est potentia absoluta, excedens potentiam ordinatam. (Duns Scotus, quoted in Courtenay, p. 112)

## The Providential Machine

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**5.1.** Michel Foucault's 1977–1978 course at the Collège de France, entitled *Sécurité, territoire, population*, is devoted to a genealogy of modern “governmentality.” Foucault begins by distinguishing three different modalities in the history of power relations: the legal system that corresponds to the institutional model of the territorial State of sovereignty and that defines itself through a normative code that opposes what is allowed to what is prohibited, and consequently establishes a system of punishments; the disciplinary devices that correspond to the modern societies of discipline and put into practice, alongside the law, a series of police, medical, and penitentiary techniques to order, correct, and modulate the bodies of subjects; finally, the apparatuses of security that correspond to the contemporary state of population and the new practice that defines it, which Foucault names “the government of men.” Foucault is careful to specify that these three modalities do not succeed one another chronologically or mutually exclude each other, but co-exist and are articulated with one another in such a way that, nevertheless, one of them constitutes at each turn the dominant political technology. The birth of the state of population and the primacy of the apparatuses of security thus coincide with the relative decline of the sovereign function and with the coming to light of a governmentality that defines the essential political problem of our time, and for the characterization of which Foucault uses the formula that we have already encountered in Schmitt and Peterson:

While I have been speaking about population a word has constantly recurred [ . . . ] and this is the word “government.” The more I have spoken about population, the more I have stopped saying “sovereign.” I was led to designate or aim at something that again I think is relatively new, not in the word, and not at a certain level of reality, but as a technique. Or rather, the modern political problem, the privilege that government begins to exercise in relation to rules, to the extent that, to limit the king's power, it will be possible one day to say, “the king reigns, but he does not govern,” this inversion of government and the reign

or rule and the fact that government is basically much more than sovereignty, much more than reigning or ruling, much more than the *imperium*, is, I think, absolutely linked to the population. (Foucault, p. 76)

Foucault identifies the origins of governmental techniques in the Christian pastorate, that “government of souls” (*regimen animarum*) that, as a “technique of techniques,” defines the activity of the Church until the eighteenth century, when it becomes the “model” and “matrix” (ibid., p. 147) of political government. One of the essential characters of the pastorate is that it refers to both individuals and the entirety of mankind; it looks after men *omnes et singulatim*; it is this double articulation that is transmitted to the activity of government in the modern State, which is, for this reason, both an individualizing and a totalizing activity. Another essential trait shared by the pastorate and the government of men is, according to Foucault, the idea of an “economy,” that is, an administration of individuals, things, and wealth ordered according to the model of the family. If the pastorate presents itself as an *oikonomia psychōn*, an “economy of the souls,” “the essential issue of government will be the introduction of economy into political practice” (ibid., p. 95). Government is actually nothing other than “the art of exercising power in the form [ . . . ] of economy” (ibid., p. 95), and the ecclesiastic pastorate and political government are both located within an essentially economical paradigm.

Although, in his “economic” definition of the pastorate, Foucault quotes Gregory of Nazianzus (ibid., p. 192)—an author who, as we have seen, plays an important role in the elaboration of the Trinitarian economy—he seems to ignore completely the theological implications of the term *oikonomia*, to which our research is devoted. But the fact that, in this perspective, the Foucauldian genealogy of governmentality can be extended and moved back in time, right up to the point at which we are able to identify in God himself, through the elaboration of the Trinitarian paradigm, the origin of the notion of an economical government of men and the world, does not discredit his hypotheses, but rather confirms their theoretical core to the very extent to which it details and corrects their historico-chronological exposition. Thus, the lesson of March 8, 1978, is devoted, among other things, to an analysis of Thomas Aquinas’s *De regno* and aims to show that, in medieval thought, and especially in Scholasticism, there is still a substantial continuity between sovereignty and government: “If the sovereign can and must govern in the extension and uninterrupted continuity of exercise of his sovereignty, it is insofar as he is part of this great continuum extending from God to the father of the family by way of nature and pastors [ . . . ] This great continuum from sovereignty to government is nothing else but the

translation of the continuum from God to men in the—in inverted commas—‘political’ order” (ibid., p. 234). According to Foucault, this continuity is broken for the first time in the sixteenth century, when a series of new paradigms, from Copernicus’s and Kepler’s astronomy to Galileo’s physics, from John Ray’s natural history to the Grammar of Port-Royal, show that God “only rules the world through general, immutable, universal, simple, and intelligible laws,” which is to say that God “does not govern it in the pastoral sense [but] reigns over the world in a sovereign manner through principles” (ibid., p. 235).

On the contrary, we have shown that the first seed of the division between the Kingdom and the Government is to be found in the Trinitarian *oikonomia*, which introduces a fracture between being and praxis in the deity himself. The notion of *ordo* in medieval thought—and especially in Thomas Aquinas—is only able to suture this division by reproducing it inside itself as a fracture between a transcendent and an immanent order (and between *ordinatio* and *executio*). But it is even more surprising that, in his genealogy of governmentality, Foucault mentions Thomas’s booklet *De regno* while leaving aside the treatise *De gubernatione mundi*, in which he could have found the basic elements of a theory of the government as distinct from the kingdom. Besides, the term *gubernatio*—beginning from a certain moment in time and certainly already in Salvian’s book *De gubernatione Dei*—is synonymous with providence, and the treatises on the divine government of the world are nothing else but treatises on the way in which God articulates and carries out his providential action. *Providence is the name of the “oikonomia,” insofar as the latter presents itself as the government of the world.* If the doctrine of *oikonomia*—and that of providence that depends on it—can be seen, in this sense, as machines that found and explain the government of the world, and become fully intelligible only in this way, it is equally the case that, conversely, the birth of the governmental paradigm becomes comprehensible only if it is set against the “economic-theological” background of providence with which it is in agreement.

It is all the more surprising that, in the 1977–1978 course, the notion of providence is never referred to. And yet the theories of Kepler, Galileo, Ray, and the Port-Royal circle that Foucault refers to do nothing other than to radicalize, as we shall see, the distinction between general and special providence into which the theologians had transposed, in their own way, the opposition between the Kingdom and the Government. The passage from ecclesiastical pastorate to political government, which Foucault tries to explain—in all truth, in not terribly convincing a way—by means of the emergence of a whole series of counter-practices that resist the pastorate, is far more comprehensible if it is seen as a

secularization of the detailed phenomenology of first and second, proximate and distant, occasional and efficient causes, general and particular wills, mediated and immediate concourses, *ordinatio* and *executio*, by means of which the theoreticians of providence had tried to make the divine government of the world intelligible.

✠ When we undertake an archaeological research it is necessary to take into account that the genealogy of a political concept or institution may be found in a field that is different from the one in which we initially assumed we would find it (for instance, it may be found in theology and not in political science). If we limit our analysis to strictly speaking “political” medieval treatises, such as Thomas’s *De regno* or John of Viterbo’s *De regimine civitatum*, we are faced with what, to the modern eye, appears to be an inconsistency, and with a terminological confusion that, at times, makes it impossible to establish a convincing connection between modern political categories and medieval concepts. However, if we take into consideration the hypothesis, which we have followed, that the genealogy of modern political concepts is to be sought in the treatises *De gubernatione Dei* and in the writings on providence, then the above-mentioned connection becomes clear. Once again, archaeology is a science of signatures [*segnature*], and we need to be able to follow the signatures that displace the concepts and orient their interpretation toward different fields.

It is the failure to attend to this methodological warning that not only prevented Foucault from articulating his genealogy of governmentality all the way to the end and in a convincing way, but also compromised Michel Senellart’s valuable researches on the *Arts de gouverner. Du “regimen” médiéval au concept de gouvernement*. The modern concept of government does not continue the history of the medieval *regimen*, which represents a kind of dead end, so to speak, of Western medieval thought, but that, far wider and more articulated, of the treatises on providence, which, in turn, originates from the Trinitarian *oikonomia*.

5.2. An exhaustive reconstruction of the immense debate on providence that, in pagan, Christian, and Judaic cultures, began with the Stoics and reached almost without interruption the threshold of modernity is out of the question. Rather, this debate interests us only to the extent to which it constitutes the place in which the theologico-economical paradigm and the fracture between being and praxis that it entails take the form of a government of the world and, vice versa, the government presents itself as an activity that can be thought only if ontology and praxis are divided and coordinated “economically.” In this sense, we can say that the doctrine of providence is the privileged theoretical field in which the classical vision of the world, with its primacy of being over praxis, begins to crack, and the *deus otiosus* gives way to a *deus actuosus*. Here, we need to analyze the meaning and the implications of this divine activity of government.

It has often been noted that one of the crucial points of the dispute on providence concerned, from the very beginning, the distinction between general and particular (or special) providence. At its base lies the stoic distinction between that which can be found in a primary way (*proēgoumenōs*) in the plans of providence and that which is rather produced as a concomitant or secondary effect (*kat' epakolouthēsīn* or *parakolouthēsīn*) of it.

The history of the concept of providence coincides with the long and fierce debate between those who claimed that God provides for the world only by means of general or universal principles (*providentia generalis*) and those who argued that the divine providence extends to particular things—according to the image in Matthew 10:29, down to the lowliest sparrow (*providentia specialis* and *specialissima*). If we accept general providence and reject, entirely or in part, particular providence, we have the position of Aristotelian and late classical philosophy, and, in the end, deism (which, in Wolff's words, "concedes that God exists, but denies that he takes care of human things": Wolff, II, 2, p. 191). If, on the other hand, we accept at the same time the two forms of providence, we have the position of the Stoics, theism, and the dominant trend of Christian theology, for which the problem of how to reconcile special providence with man's free will arises.

However, what is really at stake in the debate is not man's freedom (which the proponents of the second thesis attempt to preserve through the distinction between remote and proximate causes), but the possibility of a divine government of the world. If the Kingdom and the Government are separated in God by a clear opposition, then no government of the world is actually possible: we would have, on the one hand, an impotent sovereignty and, on the other, the infinite and chaotic series of particular (and violent) acts of providence. The government is possible only if the Kingdom and the Government are correlated in a bipolar machine: the government is precisely what results from the coordination and articulation of special and general providence—or, in Foucault's words, of the *omnes* and the *singulatim*.

5.3. The providential machine appears for the first time in a passage from Chrysippus's *Peri pronoias* (*On Providence*) (*SVF*, II, 336), where it already displays the essential character that will define its functioning up to the thresholds of modernity, that is, the strategic conjunction of two apparently different problems: that of the origin and justification of evil, and that of the government of the world. The link Chrysippus establishes between these two problems is so strong that it can still be recovered at the heart of the hair-splitting postmortem

debate with Bayle that Leibniz stages in his *Theodicy*. In order to prove his theory that the existing world is *la meilleure des républiques*, Leibniz claims that the evil that can be found in it does not follow from an immediate will of God, but is the unavoidable consequence that is concomitant with the choice that God made of the best possible world:

It follows that the evil that is in rational creatures happens only by concomitance, not by antecedent will but by a consequent will, as being involved in the best possible plan; and the metaphysical good which includes everything makes it necessary sometimes to admit physical evil and moral evil, as I have already explained more than once. It so happens that the ancient Stoics were not far removed from this system. (Leibniz, p. 258)

At this stage, in order to both substantiate his theory and reduce his opponent to contradiction, Leibniz retrieves the—as a matter of fact, quite faithful—paraphrase that Bayle had made of the passage from Chrysippus:

“Chrysippus,” he says, “in his work on Providence examined among other questions this one: *ei ai tōn anthrōpōn nosoi kata physin gignontai* [whether diseases happen according to nature]. Did the nature of things, or the providence that made the world and the human kind, make also the diseases to which men are subject? He answers that the chief design of Nature was not to make them sickly, that would not be in keeping with the cause of all good; but Nature, in preparing and producing many great things excellently ordered and of great usefulness, found that some drawbacks came as a result, and thus these were not in conformity with the original design and purpose; they came about as a sequel to the work, they existed only as consequences which were somehow necessary, and which Chrysippus defined as *kata parakolouthēsēn* [according to concomitance]. For the formation of the human body, Chrysippus said, the finest idea as well as the very utility of the work demanded that the head should be composed of a tissue of thin, fine bones; but because of that it was bound to have the disadvantage of not being able to resist blows. Nature made health, and at the same time it was necessary by a kind of concomitance that the source of diseases should open up.” (Ibid.)

It is this connection, which is not to be taken for granted, between the problems of evil and of providence that Chrysippus bequeaths to Christian philosophy and theology.

5.4. The treatise and questions on providence attributed to Alexander of Aphrodisias—a commentator of Aristotle active around the second century AD—constitute a perfect example of how, precisely in this problematic context, the different philosophical schools tend to converge with and differentiate them-

selves from each other according to certain constant orientations. Alexander was facing opponents—the Stoics—who argued that “nothing of what happens in the world happens without the intervention of providence” and that the gods—in this similar to scrupulous masters who control all that happens in their house—look after both the world in general and particular things (Alexander of Aphrodisias, *La provvidenza*, pp. 102–103). Against this idea of providence, Alexander does not cease to repeat that a god who was constantly engaged in paying attention to every single individual and every particular thing would show itself thereby to be of a lower rank than the things he provides for. He thus opposes the paradigm of the kingdom to that of the pastorate (that is, once again, the Kingdom to the Government): while the pastor is inferior to the beings he takes care of, since his perfection is bound to their well-being,

the providence exercised by a king over the things he governs does not proceed in this way: he does not take care of everything, universal and particular things, continuously or in a way that none of the things that are subjected to him—and to which he would dedicate all his life—would slip his mind. The mind of the king prefers to exercise his providence in a universal and general way: his duties are indeed too noble and dignified for him to take care of these trivialities. (Ibid., p. 117)

Certainly God is the first source of all providence, but this does not mean that he observes and knows every inferior being:

Not even a man can provide for all that is in his house, to the point of taking care of mice, ants, and all the other things that are in it. Therefore, we need to say that the fact that a noble man puts in order in their place all the things that are in his house and administers them according to what is convenient is not the most beautiful of his acts nor is it worthy of him. He rather needs to take into consideration the most important things, while these kinds of actions and preoccupations should remain irrelevant for him. If thus this behavior is not worthy of a sensible man, it is all the more unworthy of God: indeed, he is too high for us to say of him that he looks after men, mice, and ants [ . . . ] and that his providence includes all the earthly things. (Ibid., p. 119)

We see here that the double articulation of providence is already constituted, an articulation that, later in Christian theology, will take the name of *providentia generalis* and *providentia specialis*; here, it is presented as providence for itself (*kata' hautō*) and accidental (*kata symbebēkos*) providence. But what is decisive in Alexander is the way in which he tries to think a third intermediate model, which neutralizes these oppositions and seems to constitute for him the true paradigm of providential action.

Alexander writes that the providence of the gods for the things that are in the sublunar world cannot be a primary activity, intentionally carried out in view of these things, because in that case, since all that is in view of something is inferior to it, God would be inferior to the entities of the sublunar world (*ibid.*, p. 143). But it would equally be absurd to state that providence is produced in a purely accidental way, because this would amount to the claim that God is in no way aware of it, while he cannot but be the wisest of beings. Here, Alexander outlines the paradigm of a divine action that avoids both the model of voluntary activity and that of the unwitting accident, a paradigm that presents itself, so to speak, in the paradoxical guise of a conscious accident or of a consciousness without aim. Alexander calls “nature” that which corresponds to this providential canon and consistently defines this nature as a “divine technique” (*ibid.*, p. 149):

The divine power which we also call “nature” makes subsist the things in which it is found and gives them a form according to a certain ordered connection, but this does not happen in virtue of some decision. Nature does not exercise decision and rational reflection with regard to all the things that it does, since nature is an irrational power. (*Ibid.*, p. 151)

Precisely for this reason, Alexander is able to assimilate natural movements to those produced by mechanical automata, which “seem to dance, fight and move with movements endowed with order and rhythm, because their creator has arranged them in this way” (*ibid.*). But while in the case of art products artisans set themselves a given purpose, nature as a divine technique comes to completion in an involuntary way—which is however not accidental—“only thanks to a continuous succession of generated beings” (*ibid.*, p. 153).

5.5. How should we understand this particular intermediate nature of providential action—involuntary, yet not accidental? Alexander specifies and refines his model in Question 2, 21. He writes that if it were possible to find an intermediate term between the “for itself” and the “by accident,” then the alternative that makes providential action unintelligible would disappear. The latter neither takes as the aim of its activity the fact that it is useful to the being it provides for (providence for itself), nor is it simply accidental.

We say that somebody provides for something when he sets as his aim to benefit the object in question, and in view of this benefit he acts and carries out actions by means of which he considers himself to be able to achieve the aim that he has set, taking as the objective of his activity the benefit of the being he provides for.

We say that a being provides for another by accident [*kata symbebēkos*], when the one that is said to be providing for does not do anything to benefit the one which he provides for, but it happens that the latter takes some benefit from the things the other does. Yet the one that provides for is in this way completely unaware of this accidental consequence. Indeed it seems that somebody finds a treasure accidentally if he initially was digging for some other purpose and did not anticipate finding it. And somebody was killed accidentally by lightning, since the lightning did not fall for that purpose, nor was there any awareness on the part of the demiurge that created the lightning. (Alexander of Aphrodisias, *La provvidenza*, p. 236)

According to Alexander, the nature of the providential action—and here lies its particular importance—is neither the “for itself,” nor the “by accident,” neither what is primary, nor what is collateral, but what could be defined as a “collateral effect that is calculated.”

The knowledge of some of the consequences of what happens for some other purpose eliminates their accidental character, since something is accidental when it seems to happen against expectations, while a forecast seems to be the indication of a rational connections of facts [ . . . ] The being that does not act in view of something, but knows that it benefits it and wants it, can be said to provide for it, but neither for itself nor by accident. (Ibid., pp. 236–240)

In Alexander, the theory of providence—in accordance with the Aristotelian theology from which he begins—is not intended to found a Government of the world, but the latter—that is, the correlation between what is general and what is particular—results, in a contingent but knowing way, from the universal providence. The god that reigns, yet does not govern, thus makes possible the government. In other words, the government is an epiphenomenon of providence (or of the kingdom).

Defining in this way the nature of the providential act, Alexander transmitted to Christian theology the possible canon of a divine *gubernatio* of the world. Whether providence manifests itself only in the universal principles or descends to earth to look after the lowest particular things, it will in any case need to pass through the very nature of things and follow their immanent “economy.” The government of the world occurs neither by means of the tyrannical imposition of an external general will, nor by accident, but through the knowing anticipation of the collateral effects that arise from the very nature of things and remain absolutely contingent in their singularity. Thus, what appeared to be a marginal phenomenon or a secondary effect becomes the very paradigm of the act of government.

It is therefore not surprising that an Arabic author of the ninth century, Jabir ibn Hayyan, could interpret Alexander's thought on providence in a way that turns it into a kind of original paradigm of liberalism, as if the master, providing for his own interests and those of his house, could also be useful—it does not matter how knowingly—to the little animals that hide in it:

Alexander of Aphrodisias's book is characterized by the fact that, according to him, the ninth sphere does not deliberately exercise its providence over this world: there is nothing in this world that escapes its providence, but only accidentally. To demonstrate this, he gives the following example: the master of a household or of a palace does not look after the feeding of the mice, the lizards, the cockroaches and the ants that live in it, or provide for their subsistence, as he does for him and his family. However, providing for his household, he accidentally also provides for these little animals. (Ibid., p. 167)

✠ The theory, of Stoic origin, of the negative collateral effect of providence is fully articulated by Philo. The irreducibly harmful and “malevolent” elements of creation (from lightning to hail, from poisonous snakes to scorpions) are conceived as concomitant effects, or blurrings [*bavures*] of the providential structure of the cosmos:

And hail and snow-storms, and other things of that kind, are {collateral effects} [*epakolouthēi*] of the cooling of the air. And, again, lightnings and thunders arise from the collision and repercussions of the clouds [ . . . ] And earthquakes, and pestilences, and the fall of thunderbolts, and things of that kind [ . . . ] {are not primary works of nature, but follow necessary things as concomitant effects} [ . . . ] As for reptiles, those which are venomous have not been called into existence by an immediate providence, but by {collateral effects}, as I said before; for they are brought into life when the moisture which is in them changes to a more violent heat. (Philo, *On Providence [Fragment II]*, pp. 753–754)

Modern governmental reason reproduces precisely the double structure of providence. Every act of government aims at a primary target, yet, precisely for this reason, it can lead to “collateral damages,”\* which can be expected or unexpected in their specifics, but are in any case taken for granted. The computation of collateral effects, which can even be considerable (in the case of war, they entail the death of human beings and the destruction of cities), is, in this sense, an inherent part of the logic of government.

✠ The idea that special providence, brought to an extreme, leads to absurd consequences, can also be found in Christian theologians. The following passage from Jerome is significant (*Commentarium in Abacuc Prophetam*, I, I; *PL*, 25, 1286 a–b):

It is absurd to extend the majesty of God to the point of making him aware of how many mosquitoes are born and die at any moment, of the number of fleas

\* In English in the original.—Trans.

and the immense multitude of flies, or of how many fish are born in the sea and similar issues. We should not be fatuous adulators of God who reduce providence to the level of these issues.

5.6. In Stoic thought, where the concept originated, providence is strictly entwined with the problem of fate. Plutarch's treatise *On Fate* offers, in this sense, an instructive example of how a pagan philosopher active between the first and second centuries of the Christian era could contribute, without the least intention, to the elaboration of the governmental paradigm.

Plutarch begins by defining the concept of fate (*heimarmenē*): following a Stoic model that clearly shows how ontology had by then redoubled itself into a pragmatics [*prammatica*], he distinguishes between fate as a substance (*ousia*) and fate as an activity (*energeia*, "effectiveness"). As a substance, fate amounts to the soul of the world that is divided spatially into three parts: the heaven of the fixed stars, the part containing the "errant" planets, and the part located beneath the heavens in the terrestrial region. As an activity—and this is the aspect that seems to interest Plutarch the most—fate is assimilated to a law (*nomos*) "determining the course of everything that comes to pass" (Plutarch, *On Fate*, 568d, p. 313).

However, what is decisive is the way in which Plutarch uses the paradigm of the law to articulate the connection between fate in general and fate in particular (*kata meros* or *kath' ekastha*: *ibid.*, 569d, p. 321). Just as civil law (*politikos nomos*: *ibid.*) does not address this or that individual, but arranges according to a universal condition (*hypothesis*, "presupposition") all that happens in the city, so fate establishes the general conditions according to which connections between particular facts will then take place (*ibid.*, pp. 321–323). In other words, from the perspective of fate, all that happens is considered as the effect of an antecedent. Plutarch thus identifies what pertains to destiny with what is effectual or conditional (*to ex hypotheseōs*):

Let us next determine the character of what is "consequent of an hypothesis," and show that fate is of that character. We meant by "consequent of an hypothesis" that which is not laid down independently, but in some fashion is really "subjoined" to something else, wherever there is an expression implying that if one is true, another follows. (*Ibid.*, 570a, p. 323)

The principle according to which "everything conforms to destiny [*panta kath' heimarmenēn*]" (*ibid.*, 570c, p. 325) has a meaning only if we specify that the phrase "conforms to destiny" does not refer to the antecedents, but exclusively to the order of the effects and consequences. "And we must call 'destined' and

‘in conformity with destiny’ only the things that are effects of what has been established primarily [*proēgēsamenois*] in the divine appointment of things” (ibid., 570e, p. 327). That is, destiny divides what is real into two different levels: that of the general antecedents (*proēgoumena*) and that of the particular effects. The former are somehow *in* destiny, but do not occur *according to* destiny, and destiny is that which results effectually from the correlation between the two levels.

It is at this stage that Plutarch introduces his doctrine of providence, which is nothing but a more rigorous formulation of his theory of fate. Like the fate-substance, providence also has a triple figure, which reflects the schema of the three divine orders of the second pseudo-Platonic Letter. The first and supreme providence is the intellection or the will of the primary god, “beneficent to all things,” in accordance with which every being has been ordered “as is best and most excellent” (ibid., 572f, p. 343). It “has begotten destiny, and includes it in a sense” (ibid., 574b, p. 351). The second providence, which was created together with destiny and is, like it, included in the first providence, is that of the secondary gods that walk through heaven; mortal things are arranged and preserved in conformity with it. The third providence, which was created “after destiny” and is contained within it, rests with the demons who are commissioned to oversee and order the individual actions of men. According to Plutarch, only the first providence is worthy of its name. It is the “eldest of all beings,” and as such superior to destiny, since “all that conforms to destiny conforms to providence” but not vice versa (ibid., 573b, pp. 343–345). While destiny was compared with a law, the first providence is similar to a “political legislation appropriate to the souls of men” (ibid., 573d, p. 347).

For Plutarch, providence and fate are, at the same time, different and strictly intertwined. If the first providence corresponds to the level of what is primary and of the universal, fate, which is contained by providence and partly identical with it, corresponds to the level of particular effects that derive from it. But nothing is more ambiguous than the relation of “collaterality” or of “effectuality” (*akolouthia*). It is necessary to measure the novelty that this concept introduces into classical ontology. Overturning the Aristotelian definition of the final cause and its primacy, it transforms what appeared in Aristotle as the aim into an “effect.” Plutarch seems to be aware of it when he observes that “perhaps a stickler for precision in such matters might insist that on the contrary it is the particulars that have priority, and that the universal exists for their sake—the end being prior to what serves it” (ibid., 569f, pp. 322–323). In other words, what is specific to the providence-fate machine is its functioning as a bipolar system that ends up producing a kind of zone of indifference between what is primary and

what is secondary, the general and the particular, the final cause and the effects. And although Plutarch, like Alexander, was not in the least aiming at a governmental paradigm, the “effectual” ontology that results from his work in a way contains the condition of possibility for government, understood as an activity that, in the last instance, is not targeting the general or the particular, the primary or the consequent, the end or the means, but their functional correlation.

✂ Modern science’s image of the world has often been opposed to the theological concept of a providential government of the world. However, in their conceptual structure they are more similar than we customarily think. First of all, the model of general providence is based on eternal laws that are entirely analogous to those of modern science. But it is in particular the relation between the first and second causes that presents evident analogies to modern science’s image of the world. Didier Deleule has shown that, in modern thought, from Hume to Adam Smith, a concept arises that, in a perfect analogy with the theory of providence, breaks with the primacy of final causes and replaces them with an order produced by the contingent game of immanent effects. The order of the world does not refer back to an initial plan, but results from the continuous series of the proximate causes; therefore, it works not like a brain, but like a womb (Deleule, pp. 259–267). As a matter of fact, in spite of the idea of a divine *ordinatio*, the twofold structure of the providential order can be perfectly reconciled with the contingency of the second causes and their effects. The government of the world does not result from the imposition of a general and indefectible law, but from the correlation between the general law and the contingent level of the second causes.

5.7. It should not therefore surprise us that, in his treatise on destiny, Alexander decidedly takes sides against the Stoic providence-fate apparatus.

He begins by showing that, given the Aristotelian classification of the four causes (efficient, material, formal, final), fate cannot find a place in any of these without contradictions, or include in itself the totality of events. Following this argument, he is led to attend to an order of events, of tics and meaningless gestures, that ancient man seemed to ignore, like “the touching and pulling out of hairs, and as many actions as resemble this” (Alexander of Aphrodisias, *On Destiny*, p. 21), or to those remnants, refuse, and anomalies that cannot be inscribed in any finalism or in any destinal connection.

Of what will they say the superfluities that grow in certain parts of the body are the causes, or of what the monstrosities and creatures unnatural, who even at the start are incapable of life? [ . . . ] Nay, let someone tell us of what result are the decayed and withered fruits the cause? And of what is the doubling of certain leaves the cause? [ . . . ] No[t] every generated thing [is] from the moment it exists, a cause of something to be. (Ibid., p. 101)

Alexander is perfectly aware of the fact that his opponents claim to reconcile fate with man's capacity for action, and to found through fate the very possibility of a government of the world. He quotes the passage from a treatise in which the nexus fate-government is affirmed explicitly: "So then all things do not take place according to destiny, and the government [*διοικησις*, the administration] of the universe is not free from prevention or interference! Well then [ . . . ] there is no ordered world [*kosmos*]; and as there is no cosmos, there are no gods" (ibid., p. 155). Another proponent of fate claims that if we introduced into the world a movement without cause, "the universe would be scattered, would be rent asunder [ . . . ] and would no longer remain one and eternal, or governed according to one order and one *οικονομία*" (ibid., p. 97). Against these ideas, Alexander resolutely asserts the contingent character (that is, open to the possibility of not producing itself) of human actions. In the conclusion of the treatise we thus read "of those things alone is any man the master, namely, such as it is equally in his own power not to do" (ibid., p. 163) ("power" [*potere*] is the correct term for "*exousian*," not "freedom," as most current translations render it). And yet, just as in the treatise on providence the intention to contain providence within the field of what is general led Alexander to elaborate an ontology of collateral effects that is no longer Aristotelian, but seems to anticipate modern governmental theories, so here the rejection of fate leads him to support in all fields a theory of contingency that can be perfectly reconciled with modern techniques of government. In fact, for the latter, what is essential is not really the idea of a predetermined order, so much as the possibility of managing the disorder; not the binding necessity of fate, but the constancy and computability of a disorder; not the uninterrupted chain of causal connections, but the conditions of the maintenance and orientation of effects that are in themselves purely contingent.

5.8. In the *Questions on Providence*, a text preserved in a medieval Latin translation and attributed to Proclus, the problem of the government of the world does not seem to be posed. Providence is a straightforwardly ontologico-gnoseological problem that coincides with that of the nature and object of divine knowledge; Proclus's precise task consists in firmly establishing *pronoia* in the one and in being. The first Question thus asks whether the object of divine knowledge is universal realities or, rather, individual entities. The answer is that providence, as the highest rank of divine knowledge, grasps—according to a paradigm that should by now be familiar to us—both the whole and individuals, *omnes et singulatim*. But the problem remains essentially a problem of knowledge, and not one of praxis and government. In the same sense,

the second Question examines the problem of the way in which providence knows contingent things. Although these are, in themselves, undetermined and manifold, providence knows them as if they were necessary. In fact, the nature of knowledge is determined by the nature of the one who knows, and not by the known object; therefore providence is not “distributed into parts together with things which are the objects of its knowledge, nor moved about them [ . . . ] but *the one* of Providence abiding in *the one*, is at the same time immutable and indivisible, and knows all things in a way which is eternally the same” (Proclus, *Two Treaties*, p. 8).

The third Question investigates the problem of the essential relation that binds providence, whose nature is identical to that of the one, to contingent things; it is in this context that the problem of government begins to take shape. As a matter of fact, if there were not any kind of connection (*colligatio*) between earthly contingent things and the superior reality, there could be neither a unity nor a government according to the intelligence (*gubernatio secundum intelligentiam*). Proclus entrusts this connection to the demons and the gods.

And the Gods, indeed, will possess this knowledge exemptly, extending to all things their providential attention: but daemons, distributing into parts the superessential illuminations which they receive from them, are allotted a different prefecture over different herds of animals, as far as to the last partition, as Plato says; so that some of them preside over men, others over lions, and others over other animals, or have dominion over plants. And, still more partially, some are the inspective guardians of the eye, others of the liver, and others of the heart. But all things are full of Gods [ . . . ] (Ibid., pp. 23–24)

But here, as in the following Question—which deals with the way in which the gods participate in the world—providence remains an essentially ontological category, which refers back to a kind of gradual and constant effusion of divine being, in which individual beings participate in different degrees according to the specific power of their nature.

Let us now turn to the Letter to Theodore, which was passed on to us along with the Questions, in which Proclus examines the problem of fate and its relation with providence. Theodore, who was a “mechanicus,” that is, a sort of engineer, conceives of the world as an immense mechanism ruled by an ineluctable necessity, where each sphere is contained by another through gears that, starting from a single moving principle, determine the movement of all living and non-living beings. The principle that, according to Theodore, moves and unites this machine-world (*mundiale opus*) as a kind of superengineer (*mechanicus quidam*) is fate or providence.

Against this unitary model of the machine-world, which rules out any freedom (in it, the *autexusion, id est liberi arbitrii*—as the Latin translator paraphrases—would become an empty name [Proclus, *Tria Opuscula*, p. 334]) and any possibility of a divine government of the world, Proclus states that providence and fate rather constitute a system that is hierarchically articulated into two levels. The latter does not rule out freedom and entails a substantial distinction between the two elements or levels. At any point in the universe the primary efficient causes are distinguished from the effects (“ubique autem factivae causae ab effectibus distinctae sunt”: *ibid.*, p. 344), and the acting principle cannot be located on the same level as its effects (“faciens non est tale, quale factum”: *ibid.*, p. 346). In other words, this doctrine presupposes a binary ontology that splits reality into two levels, a transcendent and an immanent one: providence corresponds to the order of transcendent primary causes, while fate corresponds to that of the effects or immanent secondary causes. Providence, that is, the primary cause, is the source of the good, while fate, as a secondary cause, produces the immanent connection of the effects (“providentiam quidem causam esse bonorum hiis quibus providetur, fatum autem causam quidem esse et ipsum, sed connexionis cuiusdam et consequentiae hiis quae generantur”: *ibid.*, p. 342). Together, they work like a two-stroke machine, in which the destinal connection of the effects (fate as *causa connexionis*) carries out and realizes the providential effusion of the transcendent good.

Although the idea of a divine *gubernatio* of the world is not yet enunciated as such, the splitting of being into two different and coordinated levels is the precondition that will allow Christian theology to construct its governmental machine.

✠ This is not the place to pose the problem of the attribution to Proclus of the leaflets translated by William of Moerbeke. Such attribution relies only on the partial agreement between the Latin text and that of three treatises written by the Byzantine scholar Isaac Sebastocrator in the eleventh century, which are supposed to plagiarize the original text by Proclus. It is, however, certain that the ontology that is described in these leaflets is not Neoplatonic, but rather Stoic or Christian. The idea of a creator of the world is repeatedly advanced. It is possible that the author of the leaflets was not Proclus, but a representative of that Judaic-Christian view of the world (at any rate, not a classical one) that we have already encountered a number of times.

5.9. The text that has handed down the apparatus providence-fate to Christian theology is Boethius's *De consolazione philosophiae*. The entire conversation between the disconsolate Boethius and Lady Philosophy, who has chased away as “{theatrical prostitutes}” the muses of poetry, revolves around the way in

which the world is governed by God (“quibus [ . . . ] gubernaculis regatur”: I, 6) and the reasons for the apparent triumph of evil over good and of fortune over justice. The only authentic remedy for the state of confusion and oblivion in which Boethius has fallen is the “{true doctrine about the world’s government [veram de mundi gubernatione sententia]}” (ibid., p. 19). For this reason, after having dispelled Boethius’s initial doubts, the sweet and strict teacher who had once taught him how to “transfer to public administration what I had learned from you in the course of our private leisure” (I, 4, p. 10) now smilingly consents to explain to him the difficult doctrine of providence and fate, whose aporias she herself compares with the Hydra’s heads: once one has been removed, countless others spring up in its place (4, 6).

Providence and fate, transcendence and immanence, which already in Plutarch and Proclus formed a double-faced system, are now clearly articulated with each other to constitute a perfect machine for governing the world. Philosophy explains to her pupil that the generation and movement of the universe receive causes, order, and form from the mind of God. But the latter has established a twofold manner of governing things (“rebus gerendis”: ibid.):

When this manner is thought of as in the purity of God’s understanding, it is called Providence, and when it is thought of with reference to all things, whose motion and order it controls, it is called by the name the ancients gave it, Fate. If anyone will examine their power, it will soon be clear to him that these two aspects are different. Providence is the divine reason itself. It is set at the head of all things and disposes of things. Fate, on the other hand, is the planned order [*dispositio*: this is part of a Latin vocabulary which presupposes that of the *oikonomia*] inherent in things subject to change through which Providence binds everything in its own allotted place. Providence includes all things at the same time, however diverse and infinite, while Fate controls the motion of different individual things in different places and at different times. So this unfolding of the plan in time when brought together as a unified whole in the foresight of God’s mind is Providence; and the same unified whole when dissolved and unfolded in the course of time is Fate. They are different, but the one depends on the other. The order of Fate is derived from the simplicity of Providence. (Ibid., p. 104)

The twofold character of the government of the world—and, at the same time, the unitary nexus that binds together its two aspects—has possibly never been affirmed with more peremptory clarity than it is in this passage. The power that runs the world results from the interaction between a transcendent principle, which is simple and eternal, and an immanent (“inhaerens rebus”) *oikonomia*, which is articulated in time (“*explicata temporibus*”) and space (“*locis [ . . . ]*”).

distributa”). The two principles are heterogeneous, yet interdependent (“alterum [ . . . ] pendet ex altero”), not only because fate follows from providence, but also because, as is explained in the ode that concludes the chapter, if fate did not constrain things in their movement, “those things which stable order now protects, / Divorced from their true source would fall apart.”

Lady Philosophy says explicitly that this is a full-blown paradigm of government in the following passage, in which the economy of the universe is described with images and a vocabulary that evoke the complex administration of a kingdom or of an empire:

God in his Providence constructs a single fixed plan of all that is to happen, while it is by means of Fate that all that He has planned is administered [*amministrat*] in its many individual details in the course of time. So, whether the work of Fate is done with the help of divine spirits of Providence, or whether the chain of Fate [*fatalis series*] is woven by the soul of the universe, or by the obedience of all nature, by the celestial motions of the stars, or by the power of the angels, by the various skills of other spirits, or by some of these, or by all of them, one thing is certainly clear: the simple and unchanging form of things to be managed [*gerendarum* ( . . . ) *rerum*] is Providence, and Fate is the ever-changing web, the disposition in and through time of all the events which God in His simplicity has entrusted to manage. Everything, therefore, which comes under Fate, is also subject to Providence, to which Fate itself is subject, but certain things which come under Providence are above the chain of Fate. These are the things which rise above the order of change ruled over by Fate in virtue of the stability of their position close to the supreme Godhead. (Ibid., p. 105)

Here, providence and fate appear as two powers that are hierarchically coordinated, in which a sovereign decision determines the general principles of the organization of the cosmos, and then entrusts its administration and execution to a subordinated, yet autonomous, power (*gestio* is the juridical term that indicates the discretionary character of the acts carried out by one subject on behalf of another). The fact that there are issues that are directly decided by sovereign providence, and thus remain alien to destiny’s management, does not refute the division of power on which the system relies. The *magistra* explains to her bewildered disciple that the government of the world is all the better (“res optime reguntur”: *ibid.*) if simplicity, remaining in the divine mind, lets the destinal connection of the causes take its course, that is, if sovereign providence (the Kingdom—Boethius speaks explicitly of a “regnum providentiae”: *ibid.*) lets fate (the Government) administer and constrain the actions of men (“fate holds sway over the acts and fortunes of men”: *ibid.*).

From this follows the fated and miraculous character that seems to cover the actions of government. Since the transcendent sovereign knows and decides what fate later constrains in the immanent connection of the causes, to the one who is taken by these, fate—that is, government—appears as a majestic and impenetrable miracle (“Hic iam fit illud fatalis ordinis insigne miraculum, cum ab sciente geritur quod stupeant ignorantes”: *ibid.*). And although things may appear to be unjust and confused, and evil people seem to triumph while the good suffer, everything that happens is nevertheless promptly inscribed in the providential order. As a matter of fact, even evil people actually desire the good, but they are perverted in their desire by error: nothing takes place as a consequence of evil, and the providential government can never change its course (“Nihil est quod mali causa ne ab ipsis quidem improbis fiat; quos [ . . . ] bonum quaerentes prae error avertit, nedum ordo de summi boni cardine proficiens a suo quoquam deflectat exordio”: *ibid.*).

Let us now try to analyze the curious relation that links providence to fate in the governmental machine. Although they are clearly different, they are nevertheless merely two aspects of a single divine action, the *duplex modus* of a single activity of the government of the world that, with a knowing terminological ambiguity, presents itself now as providence and now as fate, now as intelligence and now as *dispositio*, now as transcendent and now as immanent, now as contracted in the divine mind and now as unfolded in time and space. The activity of government is, at the same time, providence, which thinks and orders the good of everybody, and destiny, which distributes the good to individuals, constraining them to the chain of causes and effects. In this way, what on one level—that of fate and individuals—appears as incomprehensible and unjust, receives on another level its intelligibility and justification. In other words, the governmental machine functions like an incessant theodicy, in which the Kingdom of providence legitimates and founds the Government of fate, and the latter guarantees the order that the former has established and renders it operative.

✠ Salvian, bishop of Marseille in the fifth century, begins his treatise *De gubernatione Dei* by evoking in passing the pagan sources of a doctrine of providence. First of all Pythagoras, then Plato “and all the Platonic Schools,” who “acknowledge God as the governor of all creation,” the Stoics, who “bear witness that He remains, taking the place of the governor [*gubernatoris vice*], within that which He directs”; last, Virgil and Cicero, whom he quotes—like the previous authors—from secondary sources (Salvian, I, I, p. 27). In fact, Salvian knows the classical authors only through the citations of the Apologists; the formation of his doctrine of providence is entirely independent of the governmental paradigm that we have so far reconstructed in late classical philosophy (in particular,

it lacks any reference to the bipartition general/special providence). His examples are almost exclusively limited to the Bible, where the divine providence expresses itself most especially in the guise of judgment and punishment.

However, it is significant that even in this context the providential paradigm tends to constitute itself in the guise of government. The metaphor of the *gubernator* remains closely linked to its naval origin, but is also broadened to include what for Salvian are the three aspects of every activity of government:

What could they have felt more proper and more reverent regarding the concern and watchfulness of God than to have likened Him to a helmsman [*gubernatori*]? By this they understood that as the helmsman in charge of a ship never lifts his hand from the tiller [*gubernaculo*], so does God never remove His inmost attention from the world. Just as the helmsman steers, completely dedicated in mind and body to his task, taking advantage of the wind, avoiding the rocks and watching the stars, in like manner our God never puts aside the function [*munus*] of His most loving watch over the universe. Neither does He take away the guidance [*regimen*] of His providence, nor does He remove the tenderness [*indulgentiam*] of His mercy. (Ibid., p. 28)

The second book of the treatise is devoted to the definition, through Biblical examples (*per testimonia sacra*), of the three figures of providence, which Salvian defines as *praesentia*, *gubernatio*, and *iudicium*, and which constitute an extraordinary anticipation of the modern tripartition of powers; here, however, these are reunited in a single holder. Presence, which corresponds to sovereignty, is symbolized by the eye that invigilates and sees; government is symbolized by a hand that leads and corrects; judgment (judiciary power) is symbolized by the word that judges and condemns. Yet, the three powers are strictly entwined and imply one another:

His presence should first be proved, because He who will rule or judge must doubtless be present in order to rule or judge. The divine Word, speaking through the Holy Scripture, says: "The eyes of the Lord, in every place, behold good and evil." Behold here God is present, looking upon us, watching us through His vision wherever we are [ . . . ] The good are watched over for the sake of preserving them; the evil, that they may be destroyed [ . . . ] Let us now see whether He who watches governs us, although the very reason for His watchfulness [*ratio aspiciendi*] has within itself the cause of His governance [*causam* ( . . . ) *gubernandi*]. He does not watch us with this end in view: that, having beheld, He may neglect us. The very fact that He deigns to watch is to be understood as non-neglect, especially since, as Scripture has already testified, the wicked are observed for their destruction, the good for their salvation. By this very fact the economy of the divine government [*dispensatio divini gubernaculi*] is shown, for it is the function of just government to govern and deal with men individually, according to their respective merits. (Ibid., pp. 55–57)

5.10. The theological paradigm of government is contained in Thomas Aquinas's treatise *De gubernatione mundi* (*Summa Theologiae*, I, qq. 103– 113). Here, government is not defined thematically, but through the articulation of a series of *quaestiones*, which progressively determine its specific characters. First of all, government is opposed to chance, just as order is opposed to what happens fortuitously:

Some of the earliest philosophers, in maintaining that everything happens by chance, excluded any sort of government from the world. But this opinion is proved impossible on two counts. The first is the evidence present in the world itself. For we observe among beings of nature that what is best comes to pass either always or most of the time. This would not be the case were there not some providence guiding such beings to an end, the good. Such guidance is what government means. Therefore this regular pattern in things clearly points to the world's being governed. An example from Cicero, quoting Aristotle: if you were to go into a well-laid-out home, from its arrangement you would get a good idea of the arranger's plan. (Ibid., I, q. 103, a. 1)

The second reason seems to come closer to a definition of government and concerns the appropriateness that the things created by God reach their end: "The highest perfection of any being consists in the attaining of its end. Hence it is appropriate to God's goodness that, as he has brought things into being, he also guides them toward their end. This is what governing them means" (ibid.). The generic meaning of governing is thus "guiding creatures toward their end." Thomas specifies that created things need to be governed since, if they were not preserved by the *manus gubernatoris*, they would fall back into the nothingness from which they originated. But in what way is the divine government of the world carried out? It is by no means a matter of a force that, following a common representation, intervenes from the outside and directs the creatures, like the shepherd's hand leads his sheep. What defines divine government is (in a resumption of the Aristotelian identity between *archē* and *physis*) the fact that it fully coincides with the very nature of the things that it directs. Following a paradox that perfectly corresponds to the structure of the order, the divine government of creatures has no other content than the natural necessity inherent in things:

The natural necessity inherent in things that are fixed on one set course is itself an imprint, as it were, from God's guidance of them to their end, even as the trueness of the arrow's flight toward the target is an impetus from the archer and not from the arrow itself. Note this difference, however, that what creatures receive from God constitutes their nature; what a man imposes artificially on the beings of

nature is a coercion. The comparison then is this: a necessity of propulsion in the arrow's flight is a sign of the archer's aiming it; a necessity of nature in creatures is a sign of the provident God's governing them. (Ibid., q. 103, a. 1, ad 3)

Therefore, government defines itself as a very particular form of activity, which is necessarily not violent (in the sense of "against nature," which this term assumes in medieval thought—as opposed to *spontaneus, qui sponte fit*) and articulates itself by means of the very nature of governed things. Divine government and the self-government of the creature coincide; governing can only mean—according to a paradigm that the physiocrats and the theoreticians of the "science de l'ordre," from Le Trosne to Mercier de la Rivière, would rediscover five centuries later—knowing the nature of things and letting it act.

If, however, this identity between natural order and government were both absolute and undifferentiated, government would then be a worthless activity, which, given the original imprint of nature at the moment of creation, would simply coincide with passivity and *laissez-faire*. But this is not the case. It is in the answer given to the questions "whether God is active in every agent cause" and "whether God has the power to do anything outside of the order inherent in creation" that the concept of government receives its specific determinations. Thomas was facing (or rhetorically pretended to be facing) two opposed theses: that of "Islamic fate," according to which God acts immediately in every natural action with a continuous miracle ("*solus Deus immediate omnia operatur*": *ibid.*, 1, q. 105, a. 5) and, on the other hand, that according to which the intervention of God is limited to the original gift of nature and of the *virtus operandi* at the moment of creation.

Thomas argues that the Islamic thesis is impossible because it amounts to eliminating the order of causes and effects in creation. As a matter of fact, if fire did not warm us because of the disposition of its own nature, but because God intervened to produce heat each time that we light a fire, then all creation, deprived of its operative virtue, would become useless: "If all creatures are utterly devoid of any activity of their own, then they themselves would seem to have a pointless [*frustra*] existence, since everything exists for the sake of its operation" (*ibid.*). On the other hand, the opposite thesis that intends to safeguard the freedom of creatures drastically separates them from God and threatens to make them fall back into the nothingness from which they originated. How can we then reconcile divine government with the self-government of creatures? How can government coincide with the nature of things and yet intervene with it?

As we have seen, the solution of this aporia passes through the strategic distinction between first and second causes, *primum agens* and *secundi agentes*. If we

consider the world and the order of things as dependent on the first cause, then God cannot intervene in the world or do anything outside of or against it, “because then he would be doing something contrary to his foreknowledge, his will or his goodness” (ibid., I, q. 105, a. 6). The proper space of an action of government of the world is not, therefore, the necessary space of the *ordo ad Deum* and of first causes, but the contingent one of the *ordo ad invicem* and of second causes.

If we take the order in things as it depends on any of the secondary causes, then God can act apart [*praeter*] from it; he is not subject to that order but rather it is subject to him, as issuing from him not out of a necessity of nature, but by decision of his will. He could in fact have established another sort of pattern in the world; hence when he so wills, he can act apart from the given order [*praeter hunc ordinem institutum*], producing, for example, the effects of secondary causes without them or some effects that surpass the powers of these causes. (Ibid.)

In its preeminent form, the sphere of divine action *praeter ordinem rerum* is the miracle (“Unde illa quae a Deo fiunt praeter causas nobis notas, miracula dicuntur”: ibid., I, q. 105, a. 7).

This action of government is, however, only possible (as we have already seen in Augustine) insofar as God, as first cause, gives to creatures their form and preserves them in being (“dat formam creaturis agentibus, et eas tenet in esse”: ibid., I, q. 105, a. 5). He therefore acts intimately within things (“ipse Deus est proprie causa ipsius esse universalis in rebus omnibus, quod inter omnia est magis intimum rebus; sequitur quod Deus in omnibus intime operetur”: ibid.).

At this point, the meaning of the structural splitting of the *ordo* and its nexus with the bipartite system Kingdom/Government, ontology/*oikonomia*, begins to become evident. The Kingdom concerns the *ordo ad deum*, the relation of creatures to the first cause. In this sphere, God is impotent or, rather, can act only to the extent that his action always already coincides with the nature of things. On the other hand, the Government concerns the *ordo ad invicem*, the contingent relation of things between themselves. In this sphere, God can intervene, suspending, substituting, or extending the action of the second causes. Yet, the two orders are functionally linked, in the sense that it is God’s ontological relation with creatures—in which he is, at the same time, absolutely intimate with them and absolutely impotent—that founds and legitimates the practical relation of government over them; within this relation (that is, in the field of the second causes) his powers are unlimited. The splitting between being and praxis that the *oikonomia* introduces in God actually functions like a machine of government.

5.II. From this fundamental bipolar articulation of God's power over the world also derives the other essential character of the divine activity of government, that is, its being split between a power of rational deliberation and an executive power, which necessarily entails a plurality of mediators and "ministers." Answering the question "whether all things are governed by God immediately," Thomas begins by stating that "with respect to government two elements are to be taken into account: the plan for governing [*ratio gubernationis*], that is, providence, and the carrying out [*executio*] of this plan. As to the first, God governs all things immediately; as to the second, he governs some things through the mediation of others" (ibid. I, q. 103, a. 6). Governmental rationality is, as a matter of fact, a "knowledge having a practical aim, that consists in a knowledge of particulars, the sphere of actions" (ibid.), and as such it certainly rests with God. But since "that form of governing will be better which communicates a higher perfection to the governed [ . . . ] God governs things in such a way that he establishes some beings as causes over the governing of others" (ibid.), that is, as the executors of his *ratio gubernationis*. The strict analogical correlation between the divine government of the world and the secular government of the cities of the earth is proved by the fact that Thomas illustrates his hypothesis by means of a genuinely political paradigm: just as the power of a *rex terrenus* who uses ministers for his government is not for this reason diminished in his dignity, but is rather made more illustrious by it ("ex ordine ministrorum potestas regia praeclarior redditur": ibid., I, q. 103, I. 6, ad 3), so God, leaving to others the execution of his governmental *ratio*, makes his government more perfect.

In the *Summa contra Gentiles* (Book 3, Chapter 77), the distinction between the two aspects of the divine government of the world is strongly restated. The correlation between *ratio gubernandi* and *executio* corresponds to the correlation between *ordinatio* and *ordinis executio*; the first is carried out by means of a *virtus cognoscitiva*, and the second through a *virtus operativa*. But while, on the theoretical level, it is necessary to extend the *ordinatio* down to the smallest details, on the level of the executive practice, the divine government needs to make use of subordinate agents (*agentes inferiores*), who are the executors of divine providence. "It belongs to the dignity of a ruler to have many ministers and a variety of executors of his rule, for, the more subjects he has, on different levels, the higher and greater is his dominion shown to be. But no ruler's dignity is comparable to the dignity of the divine rule. So, it is appropriate that the execution of divine providence be carried out by diverse levels of agents" (ibid., n. 4).

✠ The conceptual distinction between a power of general ordering (*ratio gubernandi, ordinatio*) and an executive power appears in the field of theology before it does in politics. The modern doctrine of the division of powers has its paradigm in this articulation of the providential machine. But even the modern distinction between legitimacy and legality, which appears in the monarchic France of the age of Restoration, has its archetype in the double structure of providence. What Schmitt calls the “legislative State,” that is, the modern rule of law in which every activity of government presents itself as an application and execution of a law enforced impersonally, is, in this perspective, the extreme outcome of the providential paradigm, in which Kingdom and Government, legitimacy and legality coincide.

5.12. In Question 116 of the treatise on the government of the world, Thomas analyzes the providence-fate machine in terms that are almost identical to Boethius’s description. To the question “is there fate in created things?” Thomas answers that the divine providence brings to completion its effects using intermediate causes (“per causas medias suos effectus exequitur”: *Summa Theologiae*, I, q. 116, a. 2). According to the double structure of providence that is by now familiar to us,

we can therefore look at this ordering [*ordinatio*] of effects in two ways. First, with respect to God himself, and from this point of view the ordering of effects is called Providence. Second, with respect to the intermediate causes ordered by God to bring about certain effects, and from this point of view it has the character of fate [*rationem fati*]. (Ibid.)

In this sense, fate depends on God, and is nothing else but “the economy [*dispositio*] itself, or the series, that is, the order of the secondary causes” (ibid., I, q. 116 a. 2, ad 1). *Dispositio*, Thomas specifies, does not here mean something like a quality or a property of an entity, but should be understood in the “economic” sense of order, which does not concern the substance, but the relation (“secundum quod dispositio designat ordinem, qui non est substantia, sed relatio”: ibid., I, q. 116, a. 2, ad 3). If it is considered in relation to its divine principle, this order is single and unchangeable, while it is manifold and changeable in the second causes. And yet not all creatures are submitted to the government of fate to the same extent. Here the problem of providence shows its essential connection with that of grace.

Thomas writes that providence does not arrange rational creatures in the same way as the other creatures (*Contra Gentiles*, Book 3, Chapter 147). Rational creatures are in fact assigned the intellect and reason, which make them capable of seeking the truth. Furthermore, through language, they can communicate among themselves and form a society. However, the ultimate aim of rational creatures exceeds their natural faculty and thus demands a kind of gov-

ernment that is different (“*diversus gubernationis modus*”: *ibid.*) from that of inferior creatures. This special and higher way of governing (“*altior gubernationis modus*”: *ibid.*) is grace. “If man is ordered to an end which exceeds his natural capacity, some help must be divinely provided for him, in a supernatural way, by which he may tend toward his end” (*ibid.*, n. 3).

The divine government of men has therefore two eminent modes: nature and grace. For this, starting from the end of the sixteenth century, the problem of the government of the world will overlap more and more with that of the modes and the efficacy of grace: the treatises and debates on providence will take the shape of analyses and definitions of the figures of grace as preventative grace, concomitant grace, gratuitous grace, habitual grace, sufficient grace, efficient grace, and so on. And not only do the forms of government immediately correspond to the figures of grace, but the necessity for the gratuitous help of God, without which man cannot achieve his aim, corresponds to the necessity of government, without which nature would not be preserved in its being. In any case, just as in the case of nature, grace subscribes to the principle according to which the providential government cannot in any way constrain the free will of men. For this, grace as a figure of government cannot be seen as a “divine compulsion to the good” (“*coactio homini [ . . . ] ad bene agendum*”: *ibid.*, Chapter 148).

That divine help is provided to man so that he may act well is to be understood in this way: it performs our works in us, as the primary cause performs the operations of secondary causes, and as a principal agent performs the action of an instrument. Hence, it is said in Isaiah (26:12–13): “Thou hast wrought all our works for us, O Lord.” Now the first cause causes the operation of the secondary cause according to the measure of the latter. So, God also causes our works in us in accord with our measure, which means that we act voluntarily and not as forced. Therefore, no one is forced to right action by the divine help. (*Ibid.*, n. 3)

The government of the world is the place of a concurrence between grace and our freedom, such that, as Suárez will reassert against the “Lutheran error,” “the necessity of grace is combined with the real use of liberty and the use of liberty [ . . . ] cannot be separated from the operation and cooperation of grace” (Suárez, p. 384). The providential paradigm of the government of men is not tyrannical, but democratic.

5.13. We cannot understand the functioning of the governmental machine if we do not realize that the relation between its two poles—the Kingdom and the Government—is essentially vicarious. Both the emperor and the pope define themselves as *vicarius Christi* or *vicarius Dei*, and it is known that the exclusive

claim to this title gave rise to a long series of conflicts between spiritual and secular powers. Maccarrone and Kantorowicz have reconstructed the history of these claims through which what was originally, especially in the East, the exclusive title of the emperor became, from the fifth century onward, at least in the West, the title par excellence of the bishop of Rome. But, in the perspective of the Trinitarian economy, the vicariousness of power—of any power—appears in a particular light, which, so to speak, makes of it the essential structure of supreme power, the intimate vicissitudinary articulation of the *archē*.

The vicariousness of pontifical power with regard to Christ was theologically founded on the delay of the *parousia*.

Given that Christ had to subtract his carnal presence from the Church [*praesentiam suam carnalem erat Ecclesiae subtracturus*], it was necessary to institute ministers who would administer sacraments to men. These are called priests [ . . . ] And after the subtraction of Christ's corporeal presence, given that questions concerning faith were going to occur, which would have divided the Church, whose unity requires the unity of faith [ . . . ] the one who has this power is Peter, and his successors. (Quidort, p. 111)

Yet, according to a principle that has its paradigm in Paul, the power of Christ is in turn vicarious with respect to that of the Father. In 1 Corinthians 24:28, Paul in fact clearly affirms that, by the time the end comes, after having subjected to himself every power (with the exception of that of the Father, from which his power derives), Christ will return the Kingdom to God, who had subjected everything to Christ. In other words, the power of Christ is, in its relation to the Father, an essentially vicarious power, in which he acts and governs, so to speak, in the name of the Father. And, more generally, the intra-Trinitarian relation between the Father and the Son can be considered to be the theological paradigm of every *potestas vicaria*, in which every act of the vicar is considered to be a manifestation of the will of the one who is represented by him. And yet, as we have seen, the an-archic character of the Son, who is not founded ontologically in the Father, is essential to the Trinitarian economy. *That is, the Trinitarian economy is the expression of an anarchic power and being that circulates among the three persons according to an essentially vicarious paradigm.*

It is not surprising that the same vicarious structure can be found in secular power. In *On the Government of Rulers* (Book 3, Chapter 13), Thomas writes that Augustus wielded a vicarious power with respect to Christ, who was the real monarch and lord of the world (“*verus erat mundi Dominus et Monarcha, cuius vices gerebat Augustus*”). The entire duration of Augustus's principality is

thus presented as if it were a “deputizing for [*fare le veci*] Christ’s monarchy” (“*quas quidem vices monarchiae post Christi veri domini nativitatem gessit Augusto*”: *ibid.*). The Norman Anonymous writes in the same sense that “the king is God and Christ, but according to grace [ . . . ] Even the one who is by nature God and Christ acts by means of his vicar; the latter acts in his stead [*per quem vices suas exequitur*].” But also Christ, who is God by nature, somehow acts by grace, “since according to his human nature he is deified and sanctified by the Father” (Kantorowicz 2005, pp. 101–102). And in the fourth century, the Ambrosiaster had already claimed that the king owns the *imperium* of God as a vicar, since he bears its image (*ibid.*, p. 114).

In other words, power has the structure of a *gerere vices*; it is in its very essence *vices*, vicariousness. That is, the term *vices* names the original vicariousness of sovereign power, or, if you like it, its absolutely insubstantial and “economical” character. The twofold (or threefold) structure of the governmental machine (Kingdom and Government, *auctoritas* and *potestas*, *ordinatio* and *executio*, but also the distinction of powers in modern democracies) acquires in this perspective its proper sense. The Government certainly acts vicariously with regard to the Kingdom; but this has a meaning only within “an economy of the in lieu of [*un’economia delle veci*],” in which the two powers depend on each other.

In other words, vicariousness entails an ontology—or better, the replacement of classical ontology with an “economic” paradigm—in which no figure of being is, as such, in the position of the *archē*, while what is original is the very Trinitarian relation, whereby each figure *gerit vices*, deputizes for the other [*fa le veci dell’altra*]. The mystery of being and of the deity coincides entirely with its “economical” mystery. There is no substance of power, but only an “economy,” only a “government.”

# Threshold

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WE can now attempt to list in the guise of theses the essential characteristics that have been brought to light by our analysis of the providential paradigm. These characteristics define a kind of *ontology of the acts of government*:

(1) Providence (the government) is that through which theology and philosophy try to come to terms with the splitting of classical ontology into two separate realities: being and praxis, transcendent and immanent good, theology and *oikonomia*. Providence presents itself as a machine aimed at joining back together the two fragments in the *gubernatio dei*, the divine government of the world.

(2) Providence represents, in the same sense and to the same extent, an attempt to reconcile the Gnostic splitting between a God who is foreign to the world and a God that governs, which Christian theology had inherited through the “economical” articulation of the Father and the Son. In the Christian *oikonomia*, God as creator faces a corrupted and extraneous nature, which God as savior—who was entrusted with the government of the world—needs to redeem and save for a kingdom that is not, however, “of this world.” The price to be paid by the Trinitarian overcoming of the Gnostic splitting between two deities is the fundamental extraneousness of the world. The Christian government of the world consequently assumes the paradoxical figure of the immanent government of a world that is and needs to remain extraneous.

✠ This “gnostic” structure, which the theological *oikonomia* has transmitted to modern governmentality, reaches its apex in the paradigm of the government of the world that the great Western powers (in particular the United States) try today to put into practice on both a local and a global scale. Independently of whether what is at stake is the breakup of preexisting constitutional forms or the imposition, through military occupation, of so-called democratic constitutional models upon peoples for whom these models turn out to be unworkable, the basic point is that a country—and even the entire world—is being governed by remaining completely extraneous to it.

The tourist, which is the radical reincarnation of the Christian *peregrinus in terra*, is the planetary figure of this irreducible extraneousness with regard to the world. In this sense, he is a figure whose “political” meaning is consubstantial with the prevailing governmental paradigm, just as the *peregrinus* was the figure that corresponded to the providential paradigm. In other words, the pilgrim and the tourist are the collateral effects of the same “economy” (in its theological and secularized versions).

(3) Although the providential machine is unitary, it articulates itself, for this very reason, into two different planes or levels: transcendence/immanence, general providence/special providence (or fate), first causes/second causes, eternity/temporality, intellectual knowledge/praxis. The two levels are strictly entwined, so that the first founds, legitimates, and makes possible the second, while the second concretely puts into practice in the chain of causes and effects the general decisions of the divine mind. The government of the world is what results from this functional correlation.

(4) In its pure form, the paradigm of the act of government is, consequently, the collateral effect. Insofar as it is not aimed at a particular purpose, but derives, as a concomitant effect, from a general law and economy, the act of government represents an area of undecidability between what is general and what is particular, between what is calculated and what is not-wanted. This is its “economy.”

(5) In the providential machine transcendence is never given by itself and separated from the world, as in Gnosis, but is always in relation to immanence. On the other hand, the latter is never really such, since it is always thought as an image or a reflection of the transcendent order. Accordingly, the second level presents itself as an execution (*executio*) of what has been arranged and ordered on the first (*ordinatio*). The division of powers is consubstantial with the machine.

(6) The ontology of the acts of government is a vicarious ontology, in the sense that, within the economical paradigm, every power has a vicarious character, deputizes for another [*fa le veci di un altro*]. This means that there is not a “substance” of power but only an “economy” of it.

(7) The very distinction and correlation between the two levels, between the first and second causes, between the general and the particular economy, guarantees that the government is not a despotic power that does violence to the freedom of creatures. On the contrary, it presupposes the freedom of those who are governed, which manifests itself through the works of the second causes.

It should be clear by now in what sense we can say that the providential apparatus (which is itself nothing but a reformulation and development of the theological *oikonomia*) contains a kind of epistemological paradigm of modern government. It is known that, in the history of law, a doctrine of government and of public administration emerges late (not to mention administration law, which, as such, is purely a modern creation). But well before jurists began to formulate its first elements, philosophers and theologians had already elaborated its canon in the doctrine of the providential *gubernatio* of the world. Providence and fate, with the procession of notions and concepts in which they articulate themselves (*ordinatio/executio*; Kingdom and Government; immediate and mediated government; *primi agentes/agentes inferiores*; primary act/collateral effect, etc.), are not only, in this sense, theological-philosophical concepts, but categories of law and politics.

As a matter of fact, the modern State inherits both aspects of the theological machine of the government of the world, and it presents itself as both providence-State and destiny-State. Through the distinction between legislative or sovereign power and executive or governmental power, the modern State acquires the double structure of the governmental machine. At each turn, it wears the regal clothes of providence, which legislates in a transcendent and universal way, but lets the creatures it looks after be free, and the sinister and ministerial clothes of fate, which carries out in detail the providential dictates and confines the reluctant individuals within the implacable connection between the immanent causes and between the effects that their very nature has contributed to determining. The providential-economical paradigm is, in this sense, the paradigm of democratic power, just as the theological-political is the paradigm of absolutism.

In this sense, it is not surprising that the collateral effect presents itself more often as consubstantial with every act of government. What the government aims at can be obtained, due to its very nature, only as a collateral effect, in an area in which general and particular, positive and negative, calculation and unexpected events tend to overlap. Governing means allowing the particular concomitant effects of a general “economy” to arise, an economy that would remain in itself wholly ineffective, but without which no government is possible. It is not so much that the effects (the Government) depend on being (the Kingdom), but rather that being consists of its effects: such is the vicarious and effectual ontology that defines the acts of government. And when the providential paradigm begins to wane—at least in its transcendent aspect—the providence-State and the destiny-State increasingly tend to identify themselves with the figure of the modern rule of law, in which the law regulates the administration and the

administrative apparatus applies and implements the law. But even in this case, the decisive element remains the one to which, from the beginning, the machine as a whole was destined: the *oikonomia*, that is, the government of men and things. The economic-governmental vocation of contemporary democracies is not something that has happened accidentally, but is a constitutive part of the theological legacy of which they are the depositaries.

## Angelology and Bureaucracy

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**6.1.** In 1935, the same year when he resolutely denies the possibility of a Christian political theology in his monograph, *Monotheism as a Political Problem*, Peterson also affirms the “political” and “public” character of the celestial city and—through its liturgical participation in it—of the Church. He does so, unexpectedly, in the form of a short treatise on angels (*Das Buch von den Engeln. Stellung und Bedeutung der heiligen Engel im Kultus*, 1935), which, although it went unnoticed in the theologian’s bibliography, should be read alongside the better-known work that, in a way, it brings to completion.

“The development of the Church,” writes Peterson, “leads from the earthly to the celestial Jerusalem, from the city of the Jews to that of the angels and saints” (Peterson 1994, p. 197). In this perspective, the Church is constantly described in the treatise using “political” images: in the same way as profane political assemblies, even the Christian *ekklesia* can be defined as “the assembly of citizens of the celestial city with full rights [*Vollbürger*], that gather together to carry out acts of worship” (ibid., p. 198). Even the Pauline text is read, by way of a somewhat violent interpretation, politically: the term *politeuma* in Philippians 3:20, that the Vulgate renders as *conversatio* (way of life, conduct), is translated as “citizenship,” and a note suggests, albeit hesitantly, that the verb *apographesthai* in Hebrews 12:23 (which in all probability has the eschatological meaning of “being written in the book of life”), actually means “inscription in the register of the citizens of the celestial city” (ibid., p. 231). In any case, Peterson’s thesis is that, precisely insofar as it keeps to its path toward its celestial goal, the Church “necessarily comes, through worship, into relation with the inhabitants of the celestial city,” that is, with angels, “citizens of heaven,” and with the blessed (ibid.). In other words, it is a case of demonstrating that all of the cultural expressions of the Church should be understood “either as a participation of the angels in earthly worship or, vice versa, [ . . . ] as participation in the worship that the angels offer to God in heaven” (ibid., p. 199).

The strategic meaning of the cultural link that is thus established between the

Church and the celestial city is clarified a few pages later. Analyzing the so-called liturgical “intervals” of the Book of Revelation, which according to Peterson reveal acclamations stemming from the ceremonies of imperial worship, he announces the, at first glance, surprising thesis that “the cult of the celestial Church and, therefore, also the liturgy of the earthly Church that is bound to the celestial, have an originary relation [*ursprüngliche Beziehung*] with the world of politics” (ibid., p. 202).

The old Augustinian theme according to which the celestial city will be constituted by the angels and the blessed, who will take the place of the fallen angels so as to restore the perfect number of the Kingdom, assumes in Peterson a strongly political flavor. The images that Augustine borrows from the political vocabulary of his time so as to describe the celestial Jerusalem (“[ . . . ] adiunctis etiam legionibus et exercitibus angelorum, ut fiat illa una civitas sub uno rege, et una quaedam provincia sub uno imperatore, felix in perpetua pace et salute [ . . . ]”: Augustine, *Expositions on the Book of Psalms*, 36, 3–4) are interpreted literally by Peterson as the foundation of the “politico-religious [*religiös-politische*]” character of the celestial city and, therefore, of the Church that, through worship, communicates with it: “It is a case of the politico-religious concept or, in other words, of the concept of order [*Ordnungsbegriff*] of a celestial hierarchy that the worship of the Church issues in. This is a further confirmation of our thesis that Christian worship has an originary relation to the political sphere” (Peterson 1994, p. 214).

While in the book on *Monotheism as a Political Problem* Peterson resolutely denies, in contrast to Schmitt, the legitimacy of a political-theological interpretation of Christian faith, he nonetheless affirms at the same time with equal determination the politico-religious character of the Church. For this reason it is all the more striking that he continues to make comparisons with the profane political sphere: “In the same way that the emperor, in being accompanied by his bodyguards, expresses the publicity [*Öffentlichkeit*] of his political dominion, so Christ appearing at mass with angels as his bodyguards, expresses the publicity of his politico-religious lordship” (ibid., p. 223). But this “public” character has not “been conferred on the Church by the State; it belongs to it from its origin, inasmuch as it has a Lord that, in the same way as he has a celestial kingdom, also possesses a celestial publicity” (ibid.). The political nature of which Peterson speaks consists, in other words, entirely in the relation that worship establishes, by way of the participation of angels, with this “celestial publicity”: “The relation between the *Ekklesia* and the celestial *polis* is [ . . . ] a political relation, and for this reason the angels must always enter into the acts of worship of the Church” (ibid.).

The reason for the exclusion of political-theology begins to be revealed here: if politics, from the Christian standpoint, is solely an angelological-cultural relation between the Church and the celestial kingdom, all extrapolation of this “politico-religious” character from the worldly sphere is illegitimate.

In Christian eschatology, every possible theological meaning of worldly politics has been exhausted once and for all: “That celestial worship has an originary relation with the political world in the Book of Revelation is explained by the fact that the apostles have abandoned the earthly Jerusalem, as the center of politics and worship, to turn to the celestial Jerusalem, as a city and regal court, but also as a temple and place of worship. Another fact is linked to this, that is, that the anthem of the Church transcends all national anthems, in the same way that the language of the Church transcends all others. To conclude, it should be noted that such an eschatological transcendence has as a final consequence that the entire universe is borne along by the song of praise” (ibid., p. 206).

6.2. The thesis that summarizes the theological strategy of the treatise is that the angels are the guarantors of the originary relation between the Church and the political sphere, of the “public” and “politico-religious” character of worship that is celebrated both in the *ekklēsia* and in the celestial city. But if we now ask what this “politicality” consists in, we will be surprised to see that the “publicity,” which finds both its heraldic emblem and its originary reality in the angels, is defined solely through the song of praise. Christian worship has a genuine relation to the political sphere only to the extent that it tends “to transform Church worship into a service similar to the cult of angels; but this is possible only by bringing into worship a song of praise [*Lobgesang*] that is similar in its essence to the song of praise of the angels” (ibid., p. 214). For this reason, according to Peterson, liturgy culminates in the *Sanctus* [*trisagio*], in the hymn that glorifies God through the triple acclamation *Sanctus, sanctus, sanctus*; and as it is said of the angels that “they sing with untiring lips and ceaseless praise the *Sanctus*, we can for this very reason participate continuously in the angelical liturgy in the form of a daily and nightly service” (ibid., p. 215).

That the song of praise and glory is not merely one characteristic of the angels among others, but defines their essence and therefore their “politicality,” is affirmed without reservation by Peterson in the conclusion of his treatise.

In this exuding and flowing [*Verströmen und Ausströmen*] in words and song, in this phenomenon consists the essence of these angels [ . . . ] It is not a case of angels being, to begin with and abstractly, “angels in general,” that sing in addition, but rather of angels that are such inasmuch as they spread, in the way

we have described, in the glorification of the *Holy, holy, holy*. It is this cry [*Ruf*] that properly constitutes their essence; in this exuding they are what they are, that is, Cherubims and Seraphims. (Ibid., p. 226)

If the politicality and truth of the *ekklesia* is defined by its participation in the angels, then men can also reach their full celestial citizenship only by imitating the angels and participating with them in the song of praise and glorification. The political vocation of man is an angelic vocation, and the angelic vocation is a vocation to the song of glory. The circle is closed:

The celestial songs correspond to the songs of the Church, and the intimate life of the Church is articulated according to the participation in the celestial song. The angels are the expression of the public character of worship that the Church offers to God: and since the angels are in relation with the politico-religious world in heaven, it follows that, through them, even the worship of the Church is necessarily related to the political sphere. Finally, if through their song the angels distinguish in the Church the “angel-intimating” [*Engel-Ähnliche*] and the “people” [*Volk*], they are also those that awaken the mystical life of the Church, which achieves completion when man, incorporated into the angelic choruses, begins to praise God from the depths of his creaturely being. For this reason we also sing in the *Te Deum*:

*Te deum laudamus, te Dominum confitemur,  
Te aeternum Patrem omnis terra veneratur,  
Tibi omnes Angeli, tibi caeli et universae Potestates  
Tibi Cherubim et Seraphim incessabili voce proclamant:  
Sanctus, sanctus, sanctus Dominus deus Sabaoth,  
Pleni sunt caeli et terra majestatis gloriae tuae.* (Ibid., p. 230)

The brief note to the text of the *Te Deum*, which closes the treatise as if to seal it, underlines for the last time the politicality that is in question in worship:

It should be noted that the *Te Deum* defines God as *Pater immensae majestatis* and the Son as *Rex gloriae*. Even the *Te Deum* confirms the politico-religious character of the language of Christian worship. (Ibid., p. 243)

6.3. Of course, Peterson could not be unaware that the attribute of the song of praise through which he defines the angels constitutes, in the Christian tradition of angelology, only one aspect of their being. Gregory the Great—whose *Homelia in Evangelium*, one of the incunabula of Christian angelology Peterson refers us to on more than one occasion—clearly expresses the dual function of the angels. Commenting on the verse from Daniel (7:10) “*Millia millium ministrabant ei et decies millies centena millia assistebant ei,*” he writes “administering [*ministrare*]

differs from assisting [*assistere* meaning ‘standing before, in the presence of someone’], because the angels that serve as God’s ministers emerge to bring to us the announcements, whereas those angels that assist bask in his intimate contemplation and are thus not sent to work outside” (*Homelia in Evangelium*, II, 34, 11–12, in *PL*, 76, 1254c). And since those who administer are more numerous than those who mainly assist, the number of assistants is defined, whereas that of those who minister remains undefined (*millia millium* was perceived to express a generic number). Alexander of Hales and Philip the Chancellor define this dual character of the angelic condition as a duality of “virtues” (“The spirits, which we call angels, have two virtues: the virtue of administering [*virtus administrandi*] and that of assisting God [*virtus assistendi Deo*], that is, of contemplating”: Alexander of Hales, *Glossa in quatuor libros sententiarum Petri Lombardi*, II, d. 10, p. 98) or “forces” (“The angels have two forces [*duplicem vim*], the contemplative, which assists God, and the administrative, which is concerned with us: the contemplative force, or assistive, is more noble than the one concerned with us,” Philip the Chancellor, *Summa de bono*, vol. 1, Chapter “De bono gratie,” §“De bono gratie in angelis,” q. 2, p. 384). And Bonaventure summarizes the fundamental division in the nature of angels with the image of Jacob’s ladder:

Angelic operations can be reduced to two: the contemplative operation and the administrative [ . . . ] And it is through these two that the angelic spirits and their operations can be distinguished. The contemplative consists in an ascent to the highest things; the administrative in the descent to human ones. The two encounter one another on the ladder on which the angels climb and descend [ . . . ] (*De div. II, De sanctis angelis I*, coll. 2)

In *The Banquet* (Book II, Chapter 4, p. 49), Dante distinguishes in the same way between two “blessednesses” in the nature of angels, the contemplative blessedness with which the angels see and glorify the face of God, and the “blessedness” of “governing the world,” which corresponds in men to “active (that is, civil) life.”

Of the two functions it is the second—the administrative, where the angels collaborate in the divine government of the world (for this reason Bonaventure calls it *opus gubernationis*)—which attracts most of the medieval theologians’ attention. It defines the vocation of angels to such an extent that Ambrose was able to write that, whereas men are created “in the image” (of God), the angels are created “*ad ministerium*” (*Explanatio super Psalmos*, 17, 13).

Following these premises, beginning with the *quaestio* 106, Aquinas’s treatise *De gubernatione mundi* becomes a treatise on angelology, which takes up more than half of the entire book and constitutes the broadest treatment that the

“Angelic Doctor” has dedicated to this theme. Having answered in the affirmative to the questions of whether the world in general is governed, and if it is governed by God, Aquinas confronts the problem, decisive from the point of view of the ministerial function of angels, “Whether all things are governed by God immediately” (*Summa Theologiae*, I, q. 103, a. 6, ad 3, p. 25). Against those who claim that God can govern everything alone, without the need of intermediaries, and that it is not possible that he has need of ministers, as a *rex terrenus*, Aquinas maintains instead that a government is all the more perfect if it makes use of intermediaries for its execution.

Since the carrying out of government is for the sake of bringing the governed to their perfection, the form of governing will be better which communicates a higher perfection to the governed. Now there is more excellence in a thing’s being both good in itself and a cause of good in others, than in its simply being good in itself. Consequently, God governs things in such a way that he establishes some beings as causes over the governing of others [ . . . ] That a king have ministers of his reign is not an indication only of limitation but also of majesty, since the panoply of ministers displays the king’s power. (Ibid., p. 27)

Bonaventure is even more explicit in this regard: if God, like all sovereigns, could do alone what he makes the angels do, he, in truth, needs the angels “so that in the ministry and in the operations a congruous and fitting order is conserved [*ut salvetur in ministerio et actionibus decens et congruus ordo*]” (*In quatuor libros sententiarum*, Book 2, Commentarius 10, art. 1, q. 1, ad. 1).

Having thus established the necessity and ministerial character of angels, in the subsequent seven Questions Aquinas painstakingly analyzes and describes the modes of their reciprocal illumination, their complex hierarchical relations, the nature of their language, the order and hierarchies of the fallen angels, the dominion of angels over corporeal beings and the modes of their action with regard to man, the ministry and missions of angels and, finally, the nature of the custodian angels.

Central to all these analyses are the concepts of hierarchy, ministry, and order. Even before confronting them thematically in a close reading of *The Celestial Hierarchy* by Dionysius the Aeropagite, Aquinas discusses them indirectly and allows them to emerge in each Question, showing a veritable hierarchical obsession that concerns both the angelic and human ministries. Thus, with regard to illumination, he excludes the possibility that a lesser angel might be able to illuminate one higher in the hierarchy (whereas, in an exception to the usual parallelism that Aquinas establishes between the celestial and earthly hierarchies, in the case of the ecclesiastical hierarchy it is possible that those beneath can teach

their superiors). In the section on the language of angels (*Summa Theologiae*, I, q. 107, a. 2, pp. 111–113), Aquinas treats the problem of whether a lesser angel can speak to one who is higher in the hierarchy with extreme seriousness (the answer is positive but not without reservations). In discussing the government of corporeal creatures by angels, the hierarchical principle of the offices and ministries of the angels is raised to a universal law that also includes civil hierarchies:

It is commonly found in human affairs, as well as in nature, that a particular power is controlled and governed by a universal one as, for example, the bailiff's power is controlled by the power of the king. Among the angels also, as stated before, the higher angels [ . . . ] are above the lower ones [ . . . ] (Ibid., I, q. 110, a. 1, p. 5)

The general division of angels into two great classes or categories is reaffirmed by Aquinas when he compares paradise to a royal court, which appears to be somewhat similar to a Kafkaesque castle, in which the functionaries are ordered by rank in accordance to the greater or lesser distance between them and the sovereign:

Angels are represented as being present and as administering by analogy with those who attend [*famulantur*] upon a king. Some remain always present to the king and hear his commands directly. And there are others (for example, those in charge of the provincial administration) to whom the royal commands are announced by those present to the king. These latter are said to be ministers but not to be present. (Ibid., I, q. 112, a. 3, p. 43)

The caesura between assistants and administrators (that is, between contemplation and government) cuts through each angel, which is divided between the two poles that are constitutive of the angelic function, which is at once administrative and mysteric:

We must therefore note that all angels see the divine essence directly, and in this respect all those who minister are also said to be “*present to God*.” Thus Gregory says, *those sent on an external ministry for the sake of our salvation can be present to God always and see the face of the Father*. Nevertheless, not all the angels are capable of apprehending the hidden secrets of the divine mysteries in the same clear light of the divine essence, but only the higher angels through whom these secrets are made known to the lower ones. (Ibid.)

✠ The problem of whether the administering angels are more or less numerous than the assisting ones and, more generally, the problem of the number of angels was a subject upon which opinion differed. Aquinas summarizes this as follows:

Gregory says that there are more angels ministering than remain present because he understands the text, *Thousands of thousands ministered to him*, not in a multiplicative sense but in the partitive sense as though it meant thousands *out of*

thousands. Thus the number of ministering angels is indefinite and this signifies that it goes beyond any finite number. The number of those present, however, is finite since it is added, *and ten thousand times a hundred thousand were present to him* [ . . . ] This view accounts for the number of angelic orders, since six minister and three remain present. However, Dionysius declares that the angelic population exceeds every population of material things, so that, just as the higher bodies immeasurably transcend the lower bodies in greatness, the higher beings of non-material nature transcend all the things of material nature [ . . . ] But since it is written [by Dionysius] *ten thousand times a hundred thousand*, those present are said to be many more than those on ministry [ . . . ] {Such figures should not however be taken literally, as though the angels were so many but no more; their number is much greater inasmuch as it exceeds every material multitude.} (Ibid., I, q. 112, a. 4, ad 2, pp. 45–47)

The prevalence of the glorious-contemplative aspect over the administrative (or vice versa) is translated here immediately into a numerical excess. In any case, it is interesting to note that the first time that we see the idea of a *multitudo* or of an infinite mass of rational living beings, it does not refer to men but to citizens of the celestial city; and yet, it is not a case of a formless mass but of a multitude that is perfectly and hierarchically ordered.

6.4. The introduction of the theme of hierarchy into angelology—and even the invention of the very term “hierarchy”—is the work of an apocryphal author whose gesture is one of the most tenacious mystifications in the history of Christian literature, and it is still waiting to be uncovered. The ambiguity that has marked its reception, especially in the Latin West since the ninth century, has led to the confusion of what is in truth a sacralization of ecclesiastical hierarchy (and, perhaps, every hierarchy) with a mystical theology. And yet a reading that has freed itself from the screen of the tralatitious interpretation leaves us in no doubt as to the strategy of the apocryphal author, who wrote a *Celestial Hierarchy* soon after his *Ecclesiastical Hierarchy*: it is a case, on the one hand, of placing the angels in a hierarchy, arranging their ranks according to a rigidly bureaucratic order and, on the other hand, of angelifying the ecclesiastical hierarchies, by distributing them according to an essentially sacred gradation. In other words, it is a case of transforming the *mysterium* into a *ministerium* and the *ministerium* into a *mysterium*, following a contiguity whose meaning in medieval Christian culture Kantorowicz had already made the object of study (Kantorowicz 2005, p. 195).

The very invention of the term “hierarchy” (which is a specific contribution of the apocryphal author, whose vocabulary is otherwise heavily dependent upon Proclus) is clear-sighted. As Aquinas rightly notes, it does not mean “sacred order” but “sacred power” (“sacer principatus, qui dicitur hierarchia”: *Summa*

*Theologiae*, I, q. 108, a. 1, 3, p. 121). In fact, the central idea that runs throughout the Dionysian corpus is that what is sacred and divine is hierarchically ordered, and its barely disguised strategy aims—through the obsessive repetition of a triadic schema that descends from the Trinity, via the angelic triarchies, to the earthly hierarchy—at the sacralization of power.

The parallelism between celestial hierarchy and earthly hierarchy is, after all, already announced in the opening of the treatise on angels and repeated more than once in the text; it is then taken up almost in the same terms in the *Ecclesiastical Hierarchy*. “Power, which loves men and introduces us to mystery,” writes the Pseudo-Dionysius, “reveals the celestial hierarchies to us and establishes our hierarchy in such a way that it is linked to their ministry [*syllleitourgon*] through the resemblance with its celestial form” (*Celestial Hierarchy*, 124a, p. 16). “For thus our hierarchy,” repeats the treatise on the earthly hierarchy, “reverently arranged in ranks fixed by God, is like the Celestial hierarchies, preserving, so far as man can do, its Godlike characteristics and Divine imitation” (*Ecclesiastical Hierarchy*, 536d, p. 88).

In both treatises, however, the hierarchy is in itself the principle that brings about the work of salvation and deification: the “Divinity [. . .] bequeathed the Hierarchy for the salvation and deification of all rational and intelligent beings” (*ibid.*, 376b, p. 52). Hierarchy is essentially the activity of government, which as such implies an “operation” (*energeia*), a “knowledge” (*epistēmē*), and an “order” (*taxis*) (*Celestial Hierarchy*, 164d, p. 21; see *Ecclesiastical Hierarchy*, 372a, p. 50: hierarchy as *theourgikē epistēmē*). And its origin and its archetype is the Trinitarian economy: “The origin of this hierarchy is the Triad—the Fountain of Life, the Essence of Goodness, the One Cause of things that be—from which all being and good come to things [. . .] it is the real salvation of Beings through its rational design” (*ibid.*, 373c, p. 52). For this reason—that is, insofar as it is a “Divine imitation” (*Celestial Hierarchy*, 164d, p. 21) and a “likeness of God” (*ibid.*, 165a), the hierarchy (whether it be earthly or celestial) is essentially triadic. It gives the cadence to the internal articulation of that divine government of the world that, via two characteristic terms (the first invented and the second derived from Proclus), the apocryphal author defines as *thearchia* (divine power or government, a concept that is more powerful than the modern “theocracy”) and *diakosmēsis* (ordered arrangement, *oikonomia*).

✠ The hierarchy (the “sacred power”) of the Pseudo-Dionysius is in this sense an unfolding of the concept of *diakosmēsis* in Proclus (see *Elements of Theology*, prop. 144 and 151). *Diakosmeō* means “to govern by ordering” (or “to order by governing”); in the same way, in the concept of “hierarchy” it is impossible to distinguish between “ordered arrangement” and “government.”

6.5. At this point the strategy of the apocryphal author begins to reveal itself. The intricate mystagogical framework and initiatory vocabulary, drawn from Neoplatonism, are given their meaning and real function by an apparatus that is ultimately governmental. *Thearchia*, whose triadic manifestation is the hierarchical government of the world, is ineffable, unnameable, and suprasubstantial; it is the invisible principle of power. The providential *oikonomia* is fully translated into a hierarchy, into a “sacred power” that penetrates and traverses the divine as well as the human world, from the celestial principalities to the nations and peoples of the earth:

For the Angels, as we have already previously said, complete the whole series of celestial minds, as being the last Order of the heavenly Beings, who possess the Angelic characteristic. Yea, rather, they are more properly named Angels by us than those of higher degree. Especially because their Hierarchy is occupied in making known, and is more particularly concerned with the things of the world. For the very highest Order, as being placed in the first rank near the Hidden One, we must consider as directing in spiritual things in a more hidden fashion than the Order itself. But the second Order, which is composed of the holy Lordships and Powers and Authorities, directs the Hierarchy of the Principalities and Archangels and Angels more clearly indeed than the first Hierarchy, but more hiddenly than the Order after it. We must bear in mind that the more revealing Order of the Principalities, Archangels, and Angels presides through each other over the Hierarchies among men, in order that the instruction, and conversion, and communion, and union with God may be in due order, and, in short, that the procession from God vouchsafed in a manner becoming His goodness to all the Hierarchies, and passing to all in common, may be in a most sacred regularity. Hence, the sacred scripture has assigned our Hierarchy to Angels, naming the distinguished Michael the Archon of the Jewish people and others over other peoples. For the Most High established borders of nations according to the number of Angels of God. (*Celestial Hierarchy*, 260a–b, pp. 34–35)

This is absolutely clear in the most theologically dense treatise, on *The Divine Names*. Toward the end of the book, when analyzing the names that express God’s sovereignty (Saint of saints, King of kings, Ruling still and eternally, Lord of lords, God of gods), the apocryphal author defines regality (*basileia*) as the “appointment [*dianemēsis*] of all bound [*horos*], order [*kosmos*], law [*thesmos*] and rank [*taxis*]” (*The Divine Names*, 969b, p. 86). It is an original definition that, in contrast with the traditional ones (the Aristotelian, the Judeo-Christian, or the neo-Pythagorean), understands regality as an essentially hierarchical principle. If other names (for instance, “holiness” and “Lordship”) express the superiority and the perfection of power, nevertheless it is regality understood as an ordering,

distributing, and hierarchizing element that expresses most effectively the essence of the “All-transcendent Cause” (ibid., 969c):

[ . . . ] from it [ . . . ] have sprung forth and have been imparted [*dianenemētai*] to all things the unsullied perfection [*akribeia*] of spotless purity; every order [*diataxis*] and all ordered government [*diakosmēsis*] which expels all disharmony and inequality and disproportion, and converts to Itself the things found worthy to participate in It; [ . . . ] But the Scriptures give the names Holy, King, Lord, God, to the first Orders in each hierarchy through which the secondary ranks, receiving the gifts from God, bring the unity of their participation into multiplicity through their own diversity, and this variety the First Orders, in their Providential divine activity, bring together into their own unity. (Ibid., 969d–972b, pp. 86–87)

According to the postulate of the governmental machine with which we are now familiar, an absolutely transcendent thearchy beyond every cause acts in truth as a principle of immanent order and government. That apophatic theology has here the function of cover and serves, in fact, to found a governmental hierarchy is evident in the function of acclamation and liturgy that belongs to the divine names, with which the ineffable god must—in apparent contrast with his unsayability—ceaselessly be celebrated and his praises sung. We “must praise [*hymnein*, to sing with hymns and praise] Him of innumerable Names as Holy of Holies and King of kings, reigning in Eternity, and eternally [ . . . ] Lord of lords, God of Gods [ . . . ] these things must be celebrated absolutely” (ibid., 969a–c, p. 86). Ineffable sovereignty is the hymnological and glorious aspect of power that, according to a paradigm that we have already encountered in Peterson, cherubims, seraphims, and Thrones celebrate by singing the *Sanctus*:

For some of them [angels], to speak after the manner of men, proclaim as a “voice of many waters,” “Blessed is the glory of the Lord, from His place.” But others cry aloud that frequent and most august word of God, “Holy, Holy, Holy, Lord of Sabaoth, the whole earth is full of His glory.” (*Celestial Hierarchy*, 212b, p. 30)

For this reason the apocryphal author can refer the final exposition of the angelical doctrine back to a lost or fictitious treatise he had composed, which bears the name *The Divine Hymns (Peri tōn theiōn hymnōn)* (ibid.). The angel that shouts out the hymn of praise, is, however, in accordance with its dual nature, at once contemplative and ministerial, an essential part of the providential machine that carries out the divine government of the world:

[The thearchy] is alone and one of three-fold subsistence, sending forth His most kindly forethought to all created things, from the supercelestial minds to

the lowest of the earth; as principle and cause of all creation, and containing all things supernaturally in His resistless embrace. (Ibid., 212c, p. 31)

The hierarchy is a hymnology.

✠ Hugo Ball was the first to grasp the true character of the Pseudo-Dionysius's angelology. Even if Schmitt's statement that Ball sees Dionysius as a "monk who subordinates himself to the priest, who therefore gives precedence to the priest's hierarchical-ecclesiastical office over every ascetic endeavor, however great, and over all martyrdom" (Schickel, p. 51) is not entirely correct, it reflects the idea of the hierarchical superiority of the ecclesiastical hierarchy that is at the heart of Ball's book *Byzantinisches Christentum* (1923), in which the figure of the Pseudo-Dionysius is analyzed at length.

6.6. The parallels between celestial and worldly bureaucracy are not an invention of the Pseudo-Dionysius. If already in Athenagoras the angels are defined by means of terms and images drawn from the language of administration (see §2.8 above), the analogy is clearly affirmed in the passage of the *Adversus Praxean* by Tertullian that we have already analyzed (see §2.11 above: "Therefore, if the divine monarchy is also administered by so many 'legions' and 'armies of angels' [ . . . ]": *Against Praxeas*, 3, p. 32) and in Clement of Alexandria: "Also the grades of the Church, of bishops, presbyters, deacons, are imitations of the angelic glory, and of that *oikonomia* which, the Scriptures say, awaits those who, following the footsteps of the apostles, have lived in perfection of righteousness" (*The Stromata*, Book VI, Chapter XIII, p. 505).

After the Pseudo-Dionysius, these parallels become commonplace and, as in Tertullian, are extended to profane power. A "sacred rule, which is what the term 'hierarchy' means, exists among men and among angels," writes Thomas Aquinas (*Summa Theologiae*, q. 108, a. 1, 3, p. 121). Exactly the same as in the case of the angels, the orders of ecclesiastical functionaries are distinguished according to the three functions of purification (*purgare*), enlightenment (*illuminare*), and perfection (*perficere*) (ibid., a. 2, 3, p. 125). But the civil hierarchies also have to be articulated according to orders and degrees:

The very meaning of hierarchy, then, demands a distinction of orders that has its explanation on the basis of differing offices and acts. This is illustrated in the case of a city, where there are classes of people differing according to their varying activities—judges, soldiers, peasants and the like are distinct classes. Yet, while within the one city there are such classes, all are reducible to three, in the sense that any organized group is made up of a beginning, and middle and an end. Hence in cities there are three classes of people: some are at the top, the upper class; some are at the bottom, the common people; some are in between, the

middle class [*populus honorabilis*]. So too, then, in each of the angelic hierarchies there are orders, distinct on the basis of diverse acts and offices [ . . . ] (Ibid., a. 2, p. 127)

Having established the centrality of the notion of hierarchy, angels and bureaucrats tend to fuse, exactly as they do in Kafka's world. Not only are celestial messengers organized according to offices and ministries, but worldly functionaries in turn assume angelic qualities and, in the same way as angels, become capable of cleansing, enlightening, and perfecting. Moreover, following an ambiguity that characterizes the history of the relation between spiritual power and secular power, the paradigmatic relation of angelology and bureaucracy runs now in one direction, now in another. Sometimes, as in Tertullian's writings, the administration of the worldly monarchy is the model of the angelic ministries, whereas at others the celestial bureaucracy furnishes the archetype for the worldly.

What is decisive, however, is that long before the terminology of civil administration and government was developed and fixed, it was already firmly constituted in angelology. Not only the concept of hierarchy but also that of ministry and of mission are, as we have seen, first systematized in a highly articulated way precisely in relation to angelic activities.

✠ In a short article published in 1928, which did not fail to catch Kantorowicz's attention, Franz Blatt had already demonstrated how, in the manuscripts of the patristic texts, the two terms *mysterium* and *ministerium* obstinately tend to merge. Exemplary among the numerous cases cited is a passage from Jerome's Eighteenth Letter in which (in relation to the seraphims) some codices reveal the *lectio difficilior*: "in diversa mysteria mittantur," while others (where it is not possible to think that an error might have been made by the scribe) have the more obvious "in diversa ministeria mittantur." Blatt certainly hits the target with his suggestion that the evolution from "ministry" to "mystery" can be explained by the fact that, particularly in the case of the priest who officiates the mass (which is at once sacrament and service), the two terms coincide perfectly (Blatt, p. 81). But the origin of the confusion is older and depends on the Pauline expression "economy of the mystery" and its inversion in a "mystery of the economy" of which we have already spoken in relation to Hippolytus and Tertullian. It is not surprising then that the first conscious interplay—at once alliterative and conceptual—between the two terms was in the Vulgate of 1 Corinthians 4:1, where *hypēretas Christou kai oikonomos mystērion theou* is rendered "ministros Christi et dispensatores mysteriorum Dei." The administration (the "economy") is essentially concerned with the arcane, while, on the other hand, mystery can only be dispensed administratively and "economically." It is this link—which is absolutely constitutive of the economy of the Trinity—that explains the frequent and deliberately promiscuous use of the terms *mysterium* and *ministerium* from the early Fathers to late Scholasticism (an instructive example can be found in Marius

Victorinus, *In Epistolam ad Ephesios*, II, 4, 12, in *PL*, 8, 1275c: “dono Christi instituta sunt hujusmodi et mysteria et ministeria”; see the observations made by Benz, p. 153).

In the same letter of Jerome’s that we have already cited, it is possible to note one of the first testimonies to the metonymic evolution that will lead the term *ministerium* (which signifies “service, assignment”) to assume the modern administrative significance of “set of functionaries and offices.” Jerome asks: “Quando [Deus] Thronos, Dominationes, Potestates, Angelos, totumque ministerium coeleste condiderit?” (Hieronymus, *Epistolae*, I, 18, 7, in *PL*, 22, 365). Just as the angelic bureaucracy anticipates the human in its hierarchical perfection, so the “celestial ministry” precedes the earthly ministry that inherits from its theological model its own arcane character.

6.7. Toward the end of Question 108, shortly before moving on to discuss the order of demons, Aquinas makes a sudden digression to ask if the hierarchies and orders of angels will remain even after the Day of Judgment. The question is by no means to be taken for granted nor is it avoidable. Indeed, once the history of the world and its creatures has reached its end and the elect, as well as the damned, have received either eternal bliss or eternal punishment, what is the purpose of the existence of the orders of angels? How can we imagine inoperative angels?

The problem was complicated further by the fact that, in a passage of the First Letter to the Corinthians (15:24), Paul appeared to indicate the elimination or deactivation of the ranks of angels at the time of the parousia: “Then comes the end, when he [Christ] hands over the Kingdom to God the Father, after he has rendered inoperative [*katargēsēi*; Latin: *evacuaverit*] every ruler and every authority and power.” The return of the messianic Kingdom to the hands of the Father implies the consummation of the historical task of redemption. In his commentary on Paul’s Epistles, Aquinas had already discussed the problem of the end of government and of the function of angels from this viewpoint, distinguishing between “glory” and “execution,” between those angels who direct and those who execute:

*After he does away with every principality, power and virtue, that is, when all dominion both human and angelic shall have ceased, then we shall be immediately under God [immediate erimus sub Deo] [ . . . ] But will not the orders of angels remain distinct? I answer yes, as to the eminence of glory [ad eminentiam gloriae], by which one is superior to another, but not as to the efficacy of their executive government toward us [ad efficaciam executionis ad nos]. Therefore, he says that those angels whose names concern the execution will be rendered inoperative, namely, principalities, powers and virtues. He does not name those angels who belong to the higher hierarchy, because they are not executors [ . . . ] neither does he say that their dominations will be rendered inoperative, because although they belong to the executive, they do not perform the activity themselves, but direct and command. (Aquinas, *Commentary on the First Epistle to the Corinthians*, Chapter 15, l. 3)*

Even on the last day, the function of the angels is, in some ways, still thinkable; not only, according to Matthew 25:31, will they witness the Last Judgment, but they will also be “sent in every place to gather up the resurrected” (Daniélou, p. 131). Moreover, according to Origen, the resurrected will be “sustained by the angels” and “carried upon their shoulders” (ibid., pp. 133–134). But when the last of the blessed has risen to heaven and the last of the damned repelled into hell, what will happen to the celestial ministers?

In the treatise *De gubernatione mundi*, the aporia is fully revealed. The *oikonomia*, the providential government of the world, is not eternal but is completed on the Day of Judgment. “The purpose of the angelic offices is to lead men to salvation. Accordingly the angelic offices and so their orders will not go on after judgment day” (*Summa Theologiae*, I, q. 108, a. 7, 3, p. 151). The Kingdom that will follow is what we might call radically without government. But how can one think a Kingdom without any possible Government?

Aquinas draws certain subtle distinctions in order to resolve this aporia. It is a case of nothing less than separating the hierarchy from its function in an attempt to think the possibility of power surviving its exercise. In the same way that the function of the leader of an army is different in battle and in the triumph that follows it, so the hierarchy and its glory can remain even beyond the government to which they were assigned:

We can take into account two elements in the angelic orders, the distinction of ranks and the carrying out of ministries. As shown, a distinction of ranks among them exists on the basis of their differences in grace and nature. Both differences will last forever; any natural difference would be removable only by destroying the nature; a difference in glory corresponding to a difference in prior merits will also last forever. The carrying out of offices will, after judgment day, in some way continue and in another way stop. It will stop in regard to offices having as their purpose the leading of others to the end; it will continue in the way appropriate to those in possession of the end. The duties of an army’s ranks, for example, are different in battle and in victory. (Ibid., pp. 151–153)

The hierarchy, which appeared to be tightly linked to the exercise of an office or ministry, gloriously outlives it.

6.8. The problem Aquinas is trying to overcome is, in the final analysis, that of the end of the *oikonomia*. The history of salvation, which was the concern of the machine of the providential government of the world, is entirely exhausted. What happens now to the machine? What happens to the billions of angels that, perfectly ordered in nine lines within the celestial hierarchy, have at each instant

from the creation to the Day of Judgment fulfilled their tireless ministry? For some of these Aquinas's verdict is inexorable: "At the final consummation Christ will bring Principalities and Powers to naught as far as leading others to the end is concerned, since once one is attained, there is no need to strive for it" (ibid., p. 153). The statement in the *Questions on Providence* by Matthew of Acquasparta is yet more categorical:

The final consummation allows for neither the cooperation of creatures nor any possible ministry. In the same way that God is the immediate beginning of all creatures, in the same way he is immediately their end, *alpha* and *omega* [ . . . ] Therefore, all administration will cease. All angelic ministries will cease, since it was ordered to conduct men to their end, and once this end has been reached, it must end. All hierarchical operations will cease, all subordination and all superiority, as the Apostle says (in 1 Corinthians 15:24). (Matthew of Acquasparta, p. 316)

The cessation of the governmental machine feeds back into the Trinitarian economy itself. If the latter was constitutively tied to the action of God and his practice of providential government of the world, how can one think of God as inoperative? If the Trinitarian economy had been able to reconcile in a single God the Gnostic division between *deus otiosus* and *deus actuosus*, the cessation of every activity seems to put back in question the very meaning of that economy. For this reason Saint Jerome, in the epistle to Pope Damasus, commenting upon Isaiah (6:2–3), in which it is said that the seraphims covered with their wings the head and feet of the Lord, catches a glimpse of a sign of the impossibility of thinking what precedes the creation of the world or follows its end:

What will happen after the consummation of the century? After humanity has been judged, what life can there be? Will there still be another earth? Will new elements and a new world be created? [ . . . ] Isaiah wants to say that what there was before the world and what there will be after it cannot be told [ . . . ] We know only what is in between and has been revealed through Scripture: when the world was created and when man was created, the flood, the law, and how starting with the first man all the world was filled, until in the last age the Son of God was incarnated for our salvation. Everything else was hidden by the two Seraphims, who covered their head and feet. (Hieronymus, *Epistolae*, I, 18, 7, in *PL*, 22, 365)

It is like saying that of God we can know and think only the economy, the Government, not the Kingdom or the inoperativity; and yet the Government is nothing but the brief interval running between the two eternal and glorious figures of the Kingdom.

It is now comprehensible why, in the theological tradition that finds its most extreme representative in Peterson, the perfect cipher of Christian citizenship is constituted by the song of praise, and the pleromatic figure of the political is bestowed upon the angels who have become inoperative. The doctrine of Glory as the final end of man and as the figure of the divine that outlives the government of the world is the answer that theologians give to the problem of the end of the economy. The angelic ministries survive the universal judgment only as a hymnological hierarchy, as contemplation and praise of the glory of the divine. With every providential operation exhausted and with all administration of salvation coming to an end, only song remains. Liturgy survives only as doxology.

✠ That the problem of how to think the inoperative figure of divinity represents, in Christian theology, a veritable *crux*, is proven by the difficulty encountered—since Irenaeus and Augustine—by the attempts to answer the blasphemous question par excellence: “What was God doing before He made heaven and earth? [ . . . ] Why did He not continue to do nothing forever as He did before?” Already Augustine—who in the *Confessions* (Book II, §10, p. 240) relates the question in this form, attributing it to men *pleni vetustatis suae*—mentions the ironic reply, which in truth betrays incredible embarrassment: “He was getting hell ready for people who pry too deep [*alta* ( . . . ) *scrutantibus gehennas parabat*]” (ibid., §12, p. 241). Eleven centuries later, as testimony to the persistence of the problem, Luther takes it up again in the following form: “He sat in the forest, cutting rods to beat those who ask impertinent questions.”

The question—which, it is no coincidence, derives from pagans and Gnostics, for whom it posed no difficulty—was particularly embarrassing for Christians, precisely because the Trinitarian economy was essentially a figure of action and government. It corresponded perfectly, *a parte ante*, to the question regarding the state not only of God but also of the angels and the blessed after the world’s end.

Hence glory is what must cover with its splendor the unaccountable figure of divine inoperativity. Even if it can fill entire volumes (as in the case of Balthasar), the *theologia gloriae* is what we might call a blank page in the arguments of the theologians. For this reason its typical form is that of mysticism, which—in the face of the glorious figure of power—can do nothing except fall silent. In every other case, *scrutator maiestatis obtunditur a gloria*, as Luther stated in his incisive formula.

In Judaic circles, where God has not taken the *oikonomia* within himself, the question regarding the inoperativity of God is much less embarrassing. According to the Midrash (Tehillim, 90, 391), two thousand years before he created the heavens and the earth, God created seven things (the Torah, the throne, paradise, hell, the celestial sanctuary, the name of the Messiah, and the voice that cries: “Repent, ye sons of men”). In the subsequent two thousand years—always according to this Midrash, which thus answers the question preemptively—he has consulted the Torah, has created other worlds, and has discussed with the letters of the alphabet which of them should be the agent of creation.

6.9. The evacuation of the angelic ministries after the Judgment demonstrates that the divine government of the world is structurally limited in time; that the theological economy is essentially finite. The Christian paradigm of government, like the vision of history that supports it, lasts from the creation until the end of the world. The modern conception of history that takes up without reservation the theological model in many of its aspects, finds itself for this reason in a contradictory situation. On the one hand, it abolishes the eschatology and infinitely prolongs the history and the government of the world; on the other hand, it finds that the finite character of its paradigm returns ceaselessly (which is as evident in Kojève's interpretation of Hegel as it is in the problem of the end of the history of being in the later Heidegger).

The principle according to which the government of the world will cease with the Last Judgment has only one important exception in Christian theology. It is the case of hell. In Question 89, Thomas Aquinas asks himself whether the demons will execute the sentence of the damned ("Utrum daemones exequentur sententiam iudicis in damnatos"). Against the opinion of those who held that, with the Judgment, all function of government and ministry would cease, Aquinas instead claims that the demons will carry out their judicial function as executors of the infernal punishments for all eternity. In the same way as he had argued that the angels would lay down their ministries but would eternally maintain their order and their hierarchies, so now he writes that "so, too, will order be observed in punishments, men being punished by demons, lest the Divine order, whereby the angels are placed between the human nature and the Divine, be entirely set aside" (*Summa Theologiae*, Supplement, q. 89, a. 4).<sup>\*</sup> In other words, hell is that place in which the divine government of the world survives for all eternity, even if only in a penitentiary form. And while the angels in paradise will abandon every form of government and will no longer be ministers but only assistants, despite conserving the empty form of their hierarchies, the demons, meanwhile, will be the indefectible ministers and eternal executioners of divine justice.

However, this means that, from the perspective of Christian theology, the idea of eternal government (which is the paradigm of modern politics) is truly infernal. Curiously, this eternal penitentiary government, this penal colony that knows no expiation, has an unexpected theatrical implication. Among the questions Aquinas poses with regard to the condition of the blessed, is whether they are able to witness the punishments of the damned ("Utrum beati qui erunt

<sup>\*</sup> The Supplement to Questions 89 and 94 Agamben refers to does not appear in the English translation of the *Summa*. A translation of these passages can, however, be found at <http://www.newadvent.org/summa/5.htm>.—Trans.

in patria, videant poenas damnatorum”). He is aware that the horror and the *turpitude* of a similar spectacle is not suitable fare for saints; and yet, with a psychological candor in the face of the sadistic implications of his arguments that it is not easy for us moderns to accept, he affirms without reservations that “the happiness of the saints may be more delightful to them [ . . . ] [if ] they are allowed to see perfectly the sufferings of the damned” (ibid., Supplement, q. 94, a. 1). In addition to this, the blessed and the angels with whom they contemplate it are not allowed to feel compassion before this atrocious spectacle, but only enjoyment, insofar as the punishment of the damned is the expression of the eternal order of divine justice (“et hoc modo sancti de poenis impiorum gaudebunt, considerando in eis ordinem divinae justitiae, et suam liberationem, de qua gaudebunt”: ibid., a. 3).

The “spectacle of suffering,” whose solidarity with the power of the *ancien régime* Foucault has demonstrated, finds here its eternal root.

# Threshold

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THAT angelology directly coincides with a theory of power, that the angel is the figure of the government of the world par excellence is already evident from the simple fact that the angelic names are identified with those of worldly powers: *arkai*, *exousiai*, *kyriotêtes* (*principatus*, *potestates*, *dominationes* in the Latin translation). This is evident in Paul, in whose Letters it is not always easy to distinguish the names of the angels from those of the worldly authorities. After all, the hendiadys *arkai kai exousiai* is commonly used, in the Greek of that time, as a way of indicating human powers in a generic way (so in Luke 12:11, Jesus's followers are dragged into the synagogue before "magistrates, and powers [*epi* (. . .) *tas arkas kai tas exousias*]," and in Titus 3:1, Paul counsels the members of the community to be "subject to *arkais exousiais*"). In the Letter to the Colossians as well, where the cult of angels is certainly in question, it is not clear whether the "principalities and powers" over which the Messiah has triumphed via the cross (Colossians 2:15) are angelic or human powers. And even in the celebrated verse of 1 Corinthians 15:24, the destruction of "all rule and all authority and power" that the Messiah brings about when he hands back the kingdom to God can refer equally well to worldly powers and to the angels. In other passages, in which the terms unequivocally denote angelic powers, these are seen as ambiguous demonic powers. So the Letter to the Ephesians, which opens with the luminous image of the resurrected Messiah whom God places on his right-hand side, "far above all principality, and power, and might, and dominion" (Ephesians 1:21), ends with the evocation of angels themselves as "the rulers of the darkness of this world" (*kosmokratores tou skotou toutou*): "For we wrestle not against flesh and blood, but against principalities, against powers, against the rulers of the darkness of this world, against spiritual wickedness in high places" (Ephesians 6:12).

The intercourse between the angels and the worldly powers is more intimate and essential, and derives, first, from the fact that, insofar as they are figures of the divine government of the world, they are immediately also the "princes of this world" (1 Corinthians 2:6). The worldly and angelic powers become indistinguish-

able in Paul because they both stem from God. The celebrated passage in Romans 13:1–5, on the divine origin of every *exousia* (“there is no power but of God”), should be read from this perspective, and in it one also finds its corrective. Pauline angelology is, in fact, in agreement with the critique of law and authority that it founds. For authority, like law (which “was ordained by angels”: Galatians 3:19; see also Hebrews 2:2), was given “for sin” (Romans 8:3), and its power ceases with the arrival of the Messiah. No “angel” nor any “power” (*arkē*) can separate us from “Christ Jesus our Lord” (Romans 8:38–39), because “we shall judge angels” as well (1 Corinthians 6:3). George B. Caird has observed that the ambiguity of the angelic powers, like that of the law and of every power, resides in the fact that what had been given provisionally and for sin pretends to be valid absolutely.

But when the law is isolated and exalted into an independent system of religion, it becomes demonic. The corruption of the law is the work of sin, and in particular the sin of self-righteousness [ . . . ] All legalism is self-assertion, a claim that we can establish our own righteousness, that we can save ourselves by our own moral and spiritual attainments. (Caird, p. 41)

But this demonic radicalization of the law and of angelic ranks also in some ways constitutes a hypostasis of fury and divine justice that the cabalists will call *Din*, rigor, and that in Paul appears as “indignation and wrath” (*orgē kai thymos*: Romans 2:5–8). The angels, as a cipher for the divine power of government of the world, also represent the dark and demonic aspect of God, which, as such, cannot simply be expunged.

Pauline messianism must be seen from this perspective. It acts as a corrective to the demonic hypertrophy of angelic and human powers. The Messiah deactivates and renders inoperative the law as well as the angels and, in this way, reconciles them with God (*katargeō*\* is the technical term that Paul uses to express the relation between the Messiah and the power of angels and men; I translate *argos* as “inoperative” and not simply as “I destroy”). (One reads in Colossians 1:15–20 that all things, “whether they be thrones, or dominions, or principalities, or powers,” have been created through the Messiah, and through him they will be reconciled with God.)

The theme of the law no longer applied, but studied, that in Kafka’s novels goes hand in hand with that of the constantly inoperative angel-functionaries, here reveals its messianic pertinence. The ultimate and glorious telos of the law and of the angelic powers, as well as of the profane powers, is to be deactivated and made inoperative.

\* The King James Bible uses “fail” for *katargeō*, as in 1 Corinthians 13:8. —Trans.

## The Power and the Glory

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**7.1.** The caesura that divides the nature of angels and articulates their orders into those of assistants and administrators, into choristers of glory and ministers of government corresponds to a dual figure of power that we must now interrogate. Perhaps only in the tension between *gloria* and *gubernatio*, the articulation of Kingdom and Government, which we have attempted patiently to reconstruct by means of the history of the theological-economic paradigm, attains at one and the same time both its full intelligibility and its maximum opacity. Intelligibility, because never as in the opposition between assistants and ministers has the difference between Kingdom and Glory become so effective; opacity, because what is a politics that would not be of government but of liturgy, not of action but of hymn, not of power but of glory?

To answer this question we must first identify the secret thread that unites Peterson's 1935 text on angels to the dissertation that the young theologian, not yet converted to Catholicism, publishes in 1926 under the title *Heis Theos. Epigraphische, formgeschichtliche und religionsgeschichtliche Untersuchungen*. Years later, confronting similar themes, Kantorowicz called Peterson's dissertation "fundamental." The subtitle, which brings together a philological category with concepts drawn from theological studies is, from this point of view, misleading. It is neither a properly theological study nor is it, despite the imposing critical apparatus and the extraordinary erudition, a case of a solely historical-philological investigation. The disciplinary field in which the dissertation is to be placed remains obscure and so requires some preliminary considerations.

In 1934, in the introduction to his book on the formation of imperial Roman ceremonials, Andreas Alföldi lamented that, while the study of the rational-juridical aspects of the imperial State had produced works of the caliber of Mommsen's *Staatsrecht*, the investigation of its ceremonial and religious aspects was left to works of dubious scientific value such as *Culte impérial* by the abbot Beurlier (Alföldi, p. 5). In the same way, in the introduction to his book on the *Laudes Regiae* (1946), Ernst Kantorowicz observed that the study of liturgical sources of

political history remained, till the beginning of the twentieth century, the prerogative of theologians and of Church historians who, as parties to the case, were not necessarily the most trustworthy sources (Kantorowicz 1946, p. vii).

Although composed by a theologian (who could nonetheless claim Franz Boll, Eduard Norden, and Richard Reitzenstein as his teachers), Peterson's dissertation broke with this tradition insofar as it is concerned entirely with the relations between political ceremonies and ecclesiastical liturgy, via the examination of the exhortation *Heis theos*. In the same way that Carl Schmitt was able to confirm many years later, "an enormous amount of material from literary sources and epigraphic evidence is laid out with perfect objectivity, and no judgment for or against any theological standpoint or any specific dogmatic creed can be found" (Schmitt 2008a, p. 61). In other words, it was the case of a first step en route to a science that is still lacking today; one that is dedicated to the history of the ceremonial aspects of power and right; a sort of political archaeology of liturgy and protocol, which we can inscribe here—albeit provisionally—under the heading of "archaeology of glory." It would therefore be valuable for us to follow carefully the development of Peterson's dissertation in order to uncover its results and strategies.

7.2. The inquiry opens with the patient cataloguing of an imposing mass of findings, particularly epigraphic ones, in which the expression *heis theos* appears (sometimes it is expanded in a Binitarian and Trinitarian sense in the expressions *Heis theos kai Christos* or *Heis theos kai Christos autou kai to hagion pneuma*). Peterson deploys a twofold strategy in the face of the dominant interpretations that linked this material to liturgical formulae and that, in the final analysis, were to be understood as professions of faith. On the one hand, he decisively denies that the formulae in question contain anything like a profession of faith; on the other hand, he ascribes them in an equally resolute fashion to the sphere of acclamations: "The formula *Heis theos* is an acclamation, but not a profession of faith" (Peterson 1926, p. 302). This, however, means pushing back the origin of these essentially Christian expressions to a more obscure foundation in which they overlap with the acclamations of the pagan emperors and with the cries that greeted the epiphany of Dionysius in the Orphic rituals, with the exorcisms of the magical papyrus and the formulae of the Mithraic, Gnostic, and Manichean mystic cults. It also means posing the problem of the origin and significance of the acclamations and their relation with Christian liturgy.

What is an acclamation? It is an exclamation of praise, of triumph ("Io triumphe!"), of laudation or of disapproval (*acclamatio adversa*) yelled by a crowd

in determinate circumstances. The acclamation was accompanied by a gesture of raising the right hand (testified in both pagan and Christian art) or, in theaters and circuses, by applause and the waving of handkerchiefs. Here the acclamation could be directed, as testified by Cicero (*Letters to Atticus*, vol. 1, 1.16, pp. 149–163), not only to athletes and actors, but also to the magistrates of the republic and, later, to the emperor. The arrival of the sovereign in a city would give way to a ceremonial parade (the *adventus*), generally accompanied by solemn acclamations. The acclamation could assume a variety of forms that Peterson examines in detail: the desire for victory (*nika, vincas*), of life and fertility (*vivas, floreas, zēs, felicissime*), of long life (*polla ta etē, eis aiōnas, de nostris annis augeat tibi Iuppiter annos*), of strength and salvation (*valeas, dii te nobis praestent, te salvo salvi et securi sumus*), of invocation and prayer (*kyrie, kyrie sōzōn, kyrie eleēson*), and of approval and praise (*axios, dignum et iustum est, fiat, amen*). The acclamations were often ritually repeated and, at times, modulated. A Christian testimony provides us with the details of an *acclamatio adversa* in the Circo Massimo:

Pars maior populi clamabant, dicentes: Christiani tollantur! Dictum est duodecim. Per caput Augusti, christiani non sint! Spectantes vero Hermogenianum, praefectum urbis, item clamaverunt decies: Sic, Auguste, vincas! [. . .] Et statim discesserunt omnes una voce dicentes: Auguste, tu vincas et cum diis floreas!

Augustine himself informs us of the Christian use of acclamatory formulae of the type *axios, dignum est* when describing in a letter the ceremony for the designation of his successor Heraclius as bishop of Hippo:

A populo acclamatum est: Deo gratias, Christo laudes; dictum est vicies terties. Exaudi Christe, Augustino vita; dictum est sexies decies [. . .] Bene meritus, bene dignus; dictum est quinquies. Dignus et iustus est; dictum est sexies [. . .] Fiat, fiat; dictum est duodecies. (Augustine, *Letters*, 213, 5–8)

It is essential to an understanding of the importance of acclamations that, as Peterson notes, “they were in no way irrelevant, but they could acquire a juridical meaning in certain circumstances” (Peterson 1926, p. 141). Peterson refers us to the article “*Acclamatio*,” in the *Realencyclopädie der Classischen Altertumswissenschaft*, commonly called the Pauly-Wissowa; but Mommsen, in his *Staatsrecht*, pointedly recognized the decisive juridical value of acclamations in Roman public law. In the first place, he noted the acclamation with which, in the republican era, the troops accorded the victorious commander the title of *imperator* (Mommsen, vol. 1, p. 124) and, in the imperial epoch, invested him with the title of Caesar (*ibid.*, vol. 2, p. 841). The acclamation of the senators, in the imperial era in particular, could also be used to give the status of decision to a message from the

emperor (ibid., vol. 3, pp. 949–950), and, in the electoral meetings, it could act as a substitute for the votes of individual voters (ibid., p. 350).

It is this juridical value of the acclamation that, at a crucial point, Peterson emphasizes while stating, alongside the thesis of the pagan origin of many Christian acclamations, the essential link that unites law and liturgy. In relation to the formulae *dignum et iustum est* (which appears, in addition to the rituals of elections and ecclesiastic depositions, at the beginning of the anaphora of the Mass as well), Peterson—after criticizing modern juridical science for failing to grasp correctly the meaning of acclamations—suggests that the formula is not to be considered (as had been suggested) to be a shorter type of electoral procedure. Instead, in accordance with a habit that the Church takes up from the profane *ecclesia*, it “expresses, in the form of acclamation, the people’s *consensus*” (Peterson 1926, p. 177). This consensus has, however, a juridical significance that throws a new light on the connection between law and liturgy. Referring to the works of P. Cagin on the tradition of doxological acclamations that registered the analogy with the acclamations for the election of the emperor Gordian (*Aequum est, iustum est! Gordiane Auguste, dii te servent feliciter!*), Peterson writes:

Cagin is certainly correct when, in an incisive chapter, he concludes his analysis with the observation that the first word of the anaphora *vere dignum* is nothing other than a reply to the acclamation of the people: *Dignum et iustum est*. But neither Cagin nor others have sufficiently clarified the fact that, through the acclamation *axion kai dikaion*, both the liturgy and the hymn (*Te deum, Gloria*, etc.) are given a juridical foundation. In other words, *the adoption of the public ceremonial (“leitourgia”) of the “Eucharistia” in the anaphora or the hymn can only occur in the juridical form of an acclamation by the people (“laos”) and the priest.* (Ibid., p. 178)

7.3. In 1927, in an article entitled “Referendum and Petition for a Referendum” (but in German the two corresponding technical terms—*Volksentscheid* and *Volksbegehren*—literally mean “popular decision” and “request from the people”), Schmitt referred to Peterson’s book, which had been published just a year earlier, specifically in relation to the political meaning of acclamations. In this text Schmitt opposes the individual vote by secret ballot that characterizes contemporary democracies to the immediate expression of the united people that characterizes “pure” or direct democracy and, at the same time, links in constitutive fashion people and acclamation.

Individual secret voting, which is not preceded by any sort of public debate procedurally regulated, annihilates precisely the specific possibilities of the united

people. In fact, the real activity, capacity, and function of the people, the center of all popular expression, the original democratic phenomenon, what even Rousseau indicated as being a real democracy, is acclamation, the cry of approval or rejection from the united masses. The people acclaim a leader, the army (identical here with the people) a general or emperor, citizens or rural communities a proposal (where the question remains open as to whether what is acclaimed is a leader or the content of a proposal); the people cries “up with” or “down with,” it exults or complains, takes up arms and calls another leader; it consents to a deliberation with any word or withholds its acclamation with silence. A fundamental piece of research by Erik Peterson that, with regard to its scientific significance, far surpasses the particular area of its subject matter, has described the *acclamatio* and its forms in the early Christian period. (Schmitt 1927, pp. 33–34)

Just as for Peterson the acclamations and liturgical doxologies express the juridical and public character of the Christian people (*laos*), so for Schmitt the acclamation is the pure and immediate expression of the people as constituent democratic power. “This people,” he had written some lines earlier, “possesses constituent power, is the subject of *pouvoir constituant*, and hence is something essentially different from the people that [ . . . ] exerts certain authorities in the form prescribed by the constitution, that is, elects the *Reichstag* or the president of the Reich, or becomes active in the case of a referendum” (ibid., p. 32). For this reason, by shifting Peterson’s thesis into the profane sphere, Schmitt is able to push it to the extreme by affirming that the “acclamation is an eternal phenomenon of all political communities. There is no state without a people, and no people without acclamations” (ibid., p. 34).

Schmitt’s strategy is clear: drawing from Peterson the notion of a constitutive function of the liturgical acclamation, he assumes the habits of a theorist of pure or direct democracy in order to pitch it against Weimar liberal democracy. In the same way that the faithful who utter the doxological formulae exist alongside the angels in the liturgy, so the acclamation of the people in its immediate presence is the opposite of the liberal practice of the secret ballot, which denudes the sovereign subject of his constituent power.

This scientific discovery of the acclamation is the starting point for an explanation of the procedure of direct or pure democracy. One must not ignore the fact that, wherever there is public opinion as social reality and not merely as a political pretext, in all the decisive moments in which the political meaning of a people can be affirmed, there first appear acclamations of approval or refusal that are independent of the voting procedure, because through such a procedure their genuineness could be threatened, insofar as the immediacy of the people united,

which defines this acclamation, is annulled by the isolation of the single voter and by the secrecy of the ballot. (Ibid., p. 34)

7.4. The historians of liturgy know that the primitive Christian liturgy issues from the union of psalmodic and doxological elements with the Eucharistic celebration. In this way, textbooks of liturgy distinguish to this day between *liturgia epaenetica*, or of laudation, and Eucharistic liturgy. A careful examination of the Eucharistic liturgy demonstrates, however, that, in it, acclamations, doxologies, and Eucharistic sacrifice are so closely interwoven that they are actually indiscernible. In Nicolas Cabasilas's fourteenth-century treatise on the divine liturgy, in which the author summarizes the thought of the Eastern Church on the order of divine mysteries, Eucharistic consecration is distinguished from the hymns of praise, from prayers, from the readings of the sacred texts, and from "all that which is said and done before and after the consecration" (Cabasilas, p. 57). And yet, both of these aspects of the liturgy in reality form a "single body" and contribute to the same end, which is the sanctifying of the faithful. "The entire mystagogy," writes Cabasilas, "is a single narrative body [*sōma hen historias*], which conserves from beginning to end its harmony and integrity, in such a way that each of its gestures and formulae makes its common contribution to the whole" (ibid., p. 129). Liturgy and *oikonomia* are, from this perspective, strictly linked, since as much in the songs and the acclamations of praise as in the acts of the priest, it is always only "the economy of the Savior [*oikonomia tou Sōtēros*] that is meant" (ibid., p. 61). In the same way as the offer of bread and wine, the doxologies and the songs are, according to the words of the psalmist (Psalm 50:14–15), a "sacrifice of praise": "Offer unto God thanksgiving; and pay thy vows unto the most High [ . . . ] I will deliver thee, and thou shalt glorify me" (Cabasilas, p. 58).

Consider the liturgy of the Gallic Mass as it was celebrated from the sixth to the eighth century (but any form of the ancient liturgy, from the *Traditio apostolica* to the description of the anaphora in Saint Cyril of Alexandria's *Catachesis*, could serve the same purpose). The Mass began with a preamble in song, in which the bishop would approach the altar, accompanied by a psalmodic antiphone and by the doxology *Gloria Patri*. From our standpoint, it is a case of a series of acclamations:

*Alleluja! Benedictus qui venit, alleluja,  
in nomine Domini: Alleluja! Alleluja!  
Deus Dominus, et illuxit nobis.  
In nomine Domini.*

*Gloria et honor Patri et Filio et Spiritui Sancto  
in saecula saeculorum. Amen.  
In nomine Domini.*

Immediately afterward, the *Trisagion*, the solemn song of praise, was performed in Greek and Latin, and the faithful answered with the acclamation: *Amen*. Then three young boys would together sing the acclamation *Kyrie eleison*, followed by the song *Benedictus* in two alternating choruses.

But the Eucharistic liturgy was at the time, as with the contemporary ritual, so thick with interspersed doxologies and acclamations that a separation of the different elements cannot be conceived. The formulation called *immolatio* that opened the consecration was a tissue of acclamations: *Vere aequum et iustum est: nos tibi gratias agere, teque benedicere, in omni tempore, omnipotens aeterne Deus [ . . . ] exaudi per Christum Dominum nostrum. Per quem majestatem tuam laudant angeli [ . . . ]* The *immolatio* was followed by the intonation of the triple *Sanctus* and the formula *Vere sanctus, vere benedictus Dominus noster Jesus Christus Filius tuus*.

We shall now examine the substantial presence of acclamations in the liturgy from the standpoint of Peterson's dissertation. If his thesis is correct, we should view the doxological-acclamatory element not only as that which connects the Christian liturgy with the pagan world and Roman public law, but also as the veritable juridical foundation of the "liturgical," which is to say public and "political," character of the Christian celebrations. The term *leitourgia* (from *laos*, the "people") signifies etymologically "public service," and the Church has always tried to underline the public character of liturgical worship in contrast to private devotions. Only the Catholic Church—as the *Enchiridia liturgica* traditionally emphasize—can perform the legitimate worship of God (*cultum legitimum aeterno patri persolvere*: Radó, p. 7). Peterson's thesis can in this sense be said to provide the basis for the public character of the liturgy through the acclamations of the people united in an *ekklēsia*. The two terms (*laos* and *ochlos*) that, in the Septuagint and the New Testament, designate the people are, in the tradition of public law, contrasted with one another and rearticulated in the terms of *populus* and *multitudo*:

The *laos* that takes part in the *eucharistia* is *laos* only to the extent that it has juridical capacity. Think of Cicero's *Republic*, 1, 25: "Populus autem non omnis hominum coetus quoquo modo congregatus, sed coetus multitudinis iuris consensu et utilitatis communione sociatus." [ . . . ] If the juridical acts of the *laos* in later times were limited simply to the rights of acclamation, this changes nothing in the fact that one can speak in an ordinary way of a *populus* (*laos*) or of an *ekklēsia*

only where there is, for a people, the possibility of performing juridical actions. Someone who one day wants to write a history of the “laicized” [*Laie*] (*laos*) will have to pay attention to all the contexts hinted at here and, at the same time, understand that the *laos* is precisely the *ochlos*, insofar as it must utter liturgical acclamations. Hence, when the *laos* proffers liturgical acclamations, it binds itself to its statute of ecclesiastic law in the same way in which in public law the *laos* receives its statute precisely through the right to proffer its *ekboēsis* (acclamation) to the *despotēs* in the profane *ekklēsia*. (Peterson 1926, p. 179)

Characteristically, it is in a footnote that Peterson interprets the *amen* that intermittently appears in the liturgical celebration as an acclamation in the technical sense, one through which the multitude of the faithful constitutes itself as the “people” (*laos*) (ibid., note 2). When Justin (*The First Apology*, 65, 3, p. 64) informs us that, at the end of the prayer and the Eucharist, “all the people present express their assent by saying *Amen* [*pas ho parōn laos euphēmei legōn: Amēn*],” what is in question is precisely the technico-juridical meaning of the acclamation that constitutes the “publicity” of the liturgy; or more precisely, the “liturgical” character of the Christian Mass.

✠ An analysis of the terms that in the New Testament—and, in particular, Paul’s Letters—refer to the people can shed light on Peterson’s antimessianic strategy. The term *dēmos*, which is so important for our understanding of the *polis*, hardly appears. The people are referred to by the term *ochlos* (as many as 175 times in the New Testament; it is, moreover, translated into Latin by *turba*; in the Vulgate, alongside *turba* and *populus*, one can find the terms *plebs* and *multitudo*; *massa*, which would be a good translation of *ochlos*, has, since Augustine, had the negative meaning of carrier of the original sin: “ea damnatione, quae per universam massam currit”: Augustine, *On Nature and Grace*, § 8.9, p. 28) or with *plēthos* (which appears frequently in Luke) and, in a sense that corresponds to the term that in the Septuagint recurrently designates the chosen people, with *laos* (which occurs 142 times). Peterson relates the impolitical *ochlos* to the theological meaning of *laos*: the *ochlos* becomes *laos*; it becomes “politicized” through liturgy. To do this, he must ignore the peculiar usage adopted by Paul. It is in fact significant that Paul never uses the term *ochlos* and uses *laos* only twelve times, and always with reference to biblical citations (for example, with reference to Hosea in Romans 9:25: “my non-people”). *Hēmeis*, that is, “we,” is the term by which Paul refers to the messianic community in the technical sense, often in opposition to *laos* (as in Romans 9:24) or to Jews and Greeks (as in 1 Corinthians 1:22–24: “For the Jews require a sign, and the Greeks seek after wisdom: But we [*hēmeis de*] preach Christ crucified”). In the cited passage from the First Letter to the Corinthians, the pronoun “we” is qualified immediately by “those who are called” (*autois de tois klētois*). In Paul, the messianic community as such is anonymous and appears to be situated on an undifferentiated threshold between public and private.

7.5. In 1934 and 1935, Andreas Alföldi published the results of his research on the forms and insignia of the imperial Roman ceremonial in the *Römische Mitteilungen*. Abandoning the stereotype already to be found in classical sources according to which the imperial ceremonial, thought to be alien to the traditional sobriety of Roman politics, had been introduced by Diocletian according to the model provided by the rituals of Persian courtiers, Alföldi demonstrates instead how it gradually developed from the last years of the republic and from the first years of the principality in accordance with a paradigm into which several different traditions certainly flowed, but which was substantially theological. In order to understand the “theologico-sacred” character that the relationship between the sovereign and his subjects begins to assume in Rome, it is by no means necessary to more or less arbitrarily draw upon the Eastern model of divine monarchy. “The principality had raised the head of State infinitely higher than the senators, who pray and celebrate sacrifices for his well-being, swear on his name, invoke him as the son of God, and celebrate his birthday and other private festivities as a public ceremonial. The *auctoritas* that, according to their declaration, raises the *principes* above all others, had assumed a religious hue, as had the sacred title of *Augustus* that they bore” (Alföldi, p. 29).

Alföldi minutely reconstructs, from within this perspective, the introduction of the *proskynēsis* (adoration), which already in the republican era appears as the gesture of the suppliant who falls upon his knees before the powerful and, little by little, becomes an integral part of the imperial ritual. The senators and the higher-ranking knights kissed the emperor on each cheek (*salutatio*); but with time they were only allowed to kiss once they had kneeled before him; until the moment when, in Byzantium, the *salutatio* ended up always including the *adoratio*, the kissing of the knees and hands.

Of particular interest is the broad treatment of the costumes and insignia of power that Alföldi significantly dedicates to the memory of Theodor Mommsen, as though he were completing the missing part of the *Staatsrecht* with his own analysis of the ceremonial. Although Alföldi does not always seem to be entirely aware of this, the field of research that opens up here is one in which what is at stake is the very way in which that field will be defined. He shows how the imperial costume, which at the beginning of the principality simply coincides with the toga of the Roman citizen, progressively assumes the characteristics of the robes that the victorious magistrate would wear in the triumphal cortege and, later, as a constant feature from the time of Commodus, the military uniform with *paludamentum* and armor (*lorica*). At the same time, as demonstrated by numerous sculptures, the crown of laurel of the *vir triumphalis* became a techni-

cal attribute of sovereignty, which would later be replaced, especially on coins, by the *corona radiata* (which in contrast to the laurel crown seems never actually to have been worn). In analogous fashion, the *sella curulis* upon which the consuls sat became the seat of the prince who, in isolating himself on a *podium* from at least the time of Caligula, progressively transforms its function into that of a throne (*basileios thronos, hedra basilikē*).

What is decisive, however, is the technico-juridical significance of these transformations. Indeed, it is not a case of a simple passion for luxury and pomp, or merely a desire to distinguish oneself from ordinary citizens, but of a veritable sphere that is constitutive of sovereignty. The difficulty scholars encountered in defining this sphere is evident in their necessarily vague use of terms such as “ceremonial,” “insignia or signs of domination” (*Herrschaftszeichen*), and “symbols of power or of the state” (*Machtsymbole, Staatssymbolik*). We already see this in the way Mommsen observes that, from the third century onward, “the purple clothing of war becomes the symbol of monarchy” (Mommsen, vol. I, p. 433). But what does “symbol” mean here? The technical meaning of objects such as the *fasces lictoriae* in Roman public law or of the crown in medieval law have been known for some time, and yet, a juridical theory able to precisely define their sphere and value is still lacking.

Let us consider the problem of the *mutatio vestis* that leads the emperor to substitute the toga of the citizen with the *paludamentum insigne* of the military commander. To understand this process (as Alföldi does) simply as a consequence of the growing primacy of the army in contrast to the authority of the senate; or to speak, in relation to the ceremonial, of an opposition between law and power, still says nothing about its specific meaning. For we know that already in the republican era, the opposition between toga and *paludamentum* corresponded to the distinction between the *pomerium* and the rest of the territory and so immediately had implications for public law. Under no circumstances could the magistrate enter Rome in military dress, having rather to *sumere togam* before crossing the frontier. So the fact that the emperor would wear his purple *paludamentum* in the city did not so much indicate the factual predominance of the army but mainly signaled a lack of determination of the formal difference between consular power and proconsular power, *pomerium* and territory, the laws of peace and the laws of war. The *mutatio vestis* has, therefore, an immediate performative effect in public law. Only from this perspective can one understand how in Byzantium the ceremonial of the emperor’s robes was assigned to a particular office, called *mētatorion*, in which high-ranking functionaries would be scrupulously attentive to the fact that to each situation there would correspond the correct garb. Only

if we understand the legal significance of the color purple as the insignia of sovereignty is it possible to comprehend how, beginning in the fourth century, the production of the color purple was nationalized and its possession by a private person could result in the crime of lese majesty (Alföldi, p. 169).

Analogous remarks can be made in relation to the complicated protocol that regulates, in addition to the *proskynēsis*, the relation between the erect and the seated posture in the public appearances of the emperor. In this case as well, rather than see in the posture merely the symbolic expression of rank, it is necessary to understand that it is the posture that immediately establishes the hierarchy. In the same way that for the Pseudo-Dionysius the divinity is not manifested in the hierarchy but is itself *ousia* and *dynamis*—glory, substance, and power of the celestial and worldly hierarchies (*Ecclesiastical Hierarchy*, 378a)—so imperial sovereignty is, in its very behavior, in its gestures as in its apparel, both hierarchical ceremonial and insignia.

7.6. Ernst Percy Schramm, a historian who became known even outside the strictly academic field through his edition of Adolf Hitler's *Tischrede*, dedicated a monumental study to the insignia and symbols of power. In the preface and the introduction to the three volumes of *Herrschaftszeichen und Staatssymbolik*, he insists on the need to rescue the field of his research from those “romantics—or worse still—those who seek in the signs of sovereignty what they imagine to be the ‘spirit of the Middle ages’” (Schramm, vol. 1, p. ix) and to abandon, because of their ambiguity, terms like “insignia” and “symbol,” preferring instead the—hardly more precise—“signs of dominion” (*Herrschaftszeichen*) and “symbolism of the state” (*Staatssymbolik*) (ibid.).

Despite the fact that Schramm returns more than once to terminological and methodological questions, and speaks, following the Warburgian *Pathosformeln*, of “formulae of majesty” (*Majestätsformeln*) and of “model-images” (*Bildmodel*), the book is in fact an immense poem dedicated to the signs of power. In the course of the work, which runs to nearly twelve hundred pages, hardly anything escapes the meticulous, ekphrastic passion of the author and the scrupulousness of the cataloguing by his collaborators: from the triumphal *trabea* of the Roman emperor to the mitre and tiara of the pontiffs and the sovereigns; from the holy lance of the Germanic and Lombard kings to the bells (*tintinnabula*) that adorn the gowns of the churchmen and kings; from the infinite forms of the royal and imperial crowns, to the rich phenomenology of the throne in all of its varieties—from the *cathedra Petri* to the thrones of the English, the Aragones, the Poles, the Swedish, the Sicilians.

Of particular interest is the section on monograms and seals, including that of Theodoric the Great concerning which Schramm makes an observation that is worth developing. He writes: the “monogrammatic *nomen regium* [. . .] represents force and law as well as an effigy might: the monogram does not simply explain the image; it rather renders the king present [*stellt* (. . .) *den König dar*] on its own” (ibid., vol. 1, p. 226). In the second volume, the section on flags (*bandum, vandum, banière*) and standards deserves particular attention. Here the character and special performative force of insignia appear with a clarity that, unfortunately, Schramm does not seem to be fully aware of. He refers to the works of a historian of law, Carl Erdmann, who had demonstrated that the particular power of the flag does not lie in its markings or the colors that it contains, but springs from the thing itself. For this reason, “like the crown, the king’s flag must not be lost; just as the king’s honor can be harmed through the crown, so it can be through the flag [. . .] the flag can substitute for the sovereign, it shows where his peace reigns and how far his power extends” (ibid., vol. 2, p. 653).

At the beginning of his work, Schramm stated his wish that “from what has been, until now, the arbitrary and subjective treatment of the signs of power,” there might be born a science as exact and rigorous as that to which we have become accustomed in historical research. At the end of the book, where Schramm attempts to set out the *Grundbegriffe* (Schramm, vol. 3, p. 1098) that guided his work, it is clear that his wish has not been fully realized. In the same way that in the frontispiece to the first volume he had framed his research in light of Goethe’s definition of the symbol (“the symbol is the thing without being the thing and yet it is the thing: an image condensed in the mirror of the mind and yet identical with the object”), so he now evokes a passage from Hegel, who defines the symbolic as “something obscure, which becomes ever more obscure the more forms we learn to understand” (Schramm, vol. 3, p. 1065). Schramm never entirely escapes the obscurity and ambiguity of these concepts. The science of the signs of power still awaits its foundation.

7.7. Karl von Amira, a historian who would compromise himself by a relationship to Nazism and whom Schramm cites in his investigation, advanced a science called “the archaeology of right.” A clear example of Amira’s genealogical method is his work on hand gestures in the miniatures of the medieval code known as *Sachsenspiegel*, whose exuberant mimicry had been compared to the gesticulations of the Neapolitans as described by de Jorio. In the debate between those who, like Jacob Grimm, considered miniature figures exclusively from the perspective of the history of art, as a “symbolism of the artist” (*Simbolyk des Künstlers*), and

those who instead saw in them the expression of a genuinely juridical mimicry, Amira resolutely takes the middle path by mobilizing the resources of both disciplines. He thereby distinguishes between authentic gestures (*echte Handgebärden*), in which the hand immediately symbolizes a spiritual process, and inauthentic gestures, where the hand is only the “instrument of a symbol” that is intended not for the effective expression of a will but is to make visible a social attribute of the person (Amira, p. 168). Amira fixes his attention on the former alone, in order to verify the extent to which each time the gestures of the miniatures can be ascribed with certainty to juridical symbolism.

The distinction between authentic (or pure) gestures and inauthentic ones suggests a conceptual direction for the investigation that Amira, who is only preoccupied with identifying the juridical uses of gesture, does not pursue. One of the most interesting mimetic categories to be found in the work is the gesture that accompanies discourse, the linguistic gesture (*Redegestus*). In this case a gesture that derives from the *ingens manus*, which expressed the special efficacy of imperial power (the open hand that is raised along with the forearm in such a way as to more or less form a right angle with the arm), merges with the gestures that, according to ancient rhetoric, should accompany the *actio* of the orator in order then to become fixed in the gesture of the *Logos* of benediction—which was to assume such an important function in Christian liturgy and iconography (the *benedictio latina*, with thumb, index, and middle finger distended and the other two fingers folded against the palm, or the variant known as the *benedictio graeca* with the little finger distended as well). Quintilian, who in his *Institutiones oratoriae* minutely describes the linguistic gesture in all its variants, writes, in relation to its unquestionable efficacy, that it is the hands themselves that speak (“*ipsae loquuntur*”: II, 3, 85). It would be impossible to define more precisely the power of a linguistic gesture that is irreducible to a scansion or to a mere emphasizing of the discourse: there where the gestures become words, the words become facts. We find ourselves in the presence of a phenomenon that corresponds, even if apparently through an inverse process, to the insoluble interweaving of words and facts, of reality and meaning that defines the sphere of language that linguists call performative and that has attained philosophical status through Austin’s book *How to Do Things with Words* (1962). The performative is indeed a linguistic utterance that is also, in itself, immediately a real fact, insofar as its meaning coincides with a reality that it produces.

But in what way does the performative realize its peculiar efficacy? What allows a certain syntagma (for example, “I swear”) to acquire the status of a fact, negating the ancient maxim according to which words and actions are separated

by an abyss? Linguists do not tell us, as if here they found themselves before a final, magical layer of language. In order for us to answer these questions, it is necessary to begin by reminding ourselves that the performative is always constituted through a suspension of the normal, denotative character of language. The performative verb is necessarily constructed with a *dictum* that, considered in itself, has the nature of a pure statement without which it remains empty and without effect (“I swear” has value only if it is followed or preceded by a *dictum*— for example, “that yesterday I was in Rome”). It is this normal denotative character of the *dictum* that is suspended and, in some way, transformed at the very moment that it becomes the object of a performative phrase.

This means, in all truth, that the performative utterance is not a sign but a signature [*segnatura*], one that marks the *dictum* in order to suspend its value and displace it into a new nondenotative sphere that takes the place of the former. This is the way we should understand the gestures and signs of power with which we are occupied here. They are signatures that inhere in other signs or objects in order to confer a particular efficacy upon them. It is not therefore by chance that the spheres of right and the performative are always strictly conjoined and that the acts of the sovereign are those in which gesture and word are immediately efficacious.

7.8. The insignia of power did not exist only in the imperial age. There was an object in the Roman republic that sheds light on the peculiar nature of the insignia with particular force. It is the *fasces lictoriae*, to which curiously neither Alföldi nor Schramm refer. Their history, which begins with the monarchy, reaches its apogee in the republican era and continues into the imperial era, although increasingly obscured. It is well known that, like the *laudes regiae*, they were provisionally resurrected in the twentieth century. The fasces were elm or birch rods about 130 centimeters in length, bound together with a red strap into which an axe was inserted laterally. They were assigned to a special corporation, half *apparitores* and half executioners, called *lictors*, who wore the fasces on their left shoulder. In the republic, the period about which we have most information, the fasces were the prerogative of the consul and the magistrate who had *imperium*. The lictors, twelve in number, had to accompany the magistrate on every occasion, not just on public occasions. When the consul was at home, the lictors waited in the vestibule; if he went out, even if only to the spa or the theater, they invariably accompanied him.

To define the fasces as the “symbol of *imperium*,” as has sometimes been the case, tells us nothing about their nature or their specific function. So little does

the word *symbol* characterize them that they in fact served to actually inflict capital punishment in its two forms: flogging (the rods) and decapitation (the axe). Thus we begin to understand the nature of the fasces only when we examine in detail the manner in which they were linked to the *imperium*. It immediately defines the nature and the effectiveness of the *imperium*. If, depending on the specific circumstance, a consul did not exercise his *imperium*, he lost his right to the fasces. (In 19 BC the senate conferred on Augustus, who at that time was without consular *imperium*, the right to the fasces; this marked the beginning of an involution that would be fully achieved only in the imperial age.) What is particularly significant is the circumstance that the axe was to be removed from the fasces of the magistrate when he found himself within the *pomerium*, because here the *ius necis* inhering in the *imperium* was limited by the right belonging to each Roman citizen to appeal to the people against the death penalty. For the same reason, the magistrate had to lower the fasces before the popular assemblies.

The fasces do not symbolize the *imperium*; they execute and determine it in such a way that to each of its juridical articulations there corresponds a material articulation of the fasces, and vice versa. For this reason, *fasces attollere* signifies the magistrate's entering office, just as the breaking open of the fasces corresponds to his dismissal. This connection between the fasces and the *imperium* was so immediate and absolute that no one could stand between a magistrate and his lictor (except for a prepubescent son who, according to Roman law, was already subjected to the *ius necisque potestas* of the father). For the same reason, in some sense the lictor was without an existence of his own: not only did his garments conform to that of the magistrate he accompanied (military *sagum* outside the *pomerium*, a toga within the walls), but the very term "lictor" is synonymous with "fasces."

Particularly instructive is the relationship between the fasces and a phenomenon that had a decisive significance for the formation of imperial power. We are speaking of the case of the triumph, whose relation to acclamations we have already noted. The ban on the magistrate's being able to display the fasces with the axe inside Rome had two important exceptions: the dictator and the triumphant general. This means that triumph implies an indetermination of the difference *domi-militiae*, which from the standpoint of public law distinguishes the territory of the city from that of Italy and the provinces. We know that the magistrate who had asked for the triumph to be accorded him had to wait for the decision of the senate outside the *pomerium*, in the Campo Martius; otherwise he would forever forfeit the right to the triumph, which was due only to the victorious general

who effectively possessed *imperium*, that is, who was accompanied by the fasces. Fasces and *imperium* once again demonstrate here their consubstantiality. At the same time, the triumph is revealed to be the seed from which imperial power will develop. If the triumph can be technically defined as the extension within the *pomerium* of prerogatives belonging to the *imperator* that are only valid outside it, the new imperial power will be defined precisely as the extension and fixing of the triumphal right in a new figure. Moreover, if, as in Mommsen's penetrating formulation, the centralization of the *imperium* in the hands of the prince transforms the triumph into a right reserved for the emperor (*kaiserliches Reservatrecht*: Mommsen, vol. I, p. 135), conversely, the emperor may be defined as the one who has the monopoly on triumph and who permanently possesses its insignias and prerogatives. One phenomenon, the *ius triumphi*, which is usually analyzed as if it concerned merely the formal apparatus and pomp of power, instead shows itself to be the original juridical core of an essential transformation of Roman public law. What appeared to be merely a question of clothing and splendor (the purple gown of the triumphant general, the crown of laurels that encircles his brow, the axe as a symbol of the power of life and death) becomes the key to understanding the decisive transformations of the constitution. Thus the way is cleared for a more precise understanding of the meaning and nature of the insignia and of the acclamations and, more generally, of the sphere that we have defined with the term "glory."

7.9. In the first half of the tenth century, Constantine VII Porphyrogenitus gathered in an ample treatise the traditions and prescriptions relating to the imperial ceremony (*basileios taxis*). In the introduction, Constantine presents his task as the "most intimate and desirable, because through a praiseworthy ceremony, imperial power appears better ordered and majestic" (Constantine Porphyrogenitus, *Le livre des cérémonies*, I, p. 1). It is clear, however, from the beginning, that the end of this gigantic choreography of power is not merely aesthetic. The emperor writes that it is a case of placing at the heart of the royal palace a kind of optical device, a "clear and well-polished mirror, so that, in carefully contemplating the image of imperial power in it [ . . . ] it is possible to hold its reins with order and dignity" (ibid., I, p. 2). Never has the ceremonial folly of power reached such an obsessive liturgical scrupulousness as it does in these pages. There is not a gesture, garment, ornament, word, silence, or place that is not ritually fixed or meticulously catalogued. The *incipit* of the chapters announces, for each one, what "must be observed" (*hosa dei paraphylattein*) for this or the other occasion, what must be "known" (*isteon*), and what acclamations (*aktalogia*) are to be expressed for each festival, procession, and assembly. An infinite hierarchy of

functionaries and other people involved in the various tasks, divided into the two great classes of the “bearded ones” and the “eunuchs,” watches over the protocol to ensure that it is observed at every moment. The *ostiarii* announce the entrance of the dignitaries, and the silentiaries regulate the silences and the euphemias before the sovereign; the manglavites and the members of the *Hetaireia* escort him during the solemn processions; dieticians and dressers (*bestētores*) provide personal care; and the cartularies and the prothonotaries follow its signatures and the chancellor. Emperor Constantine’s opening description of the coronation ceremony reads as follows:

When all is ready, the emperor departs the Augusteion, wearing his *skaramangion* and purple *sagion*, escorted by his personal staff, and proceeds as far as the vestibule called *Onopodion*; here he receives the first homage of the patricians. The Master of Ceremonies says: “Acclaim [*Keleusate!*]” and they exclaim: “Many good years [*Eis pollous kai agathous chronous!*]” Then they all proceed down as far as the great Konsistorion, and within the Konsistorion the consuls and the rest of the senators assemble. The sovereigns stand in the *kiborion*, while all the senators together with the patricians prostrate themselves. As they rise, the sovereigns give a sign to the Praipositos of the Sacred Cubicle and the silentiaries intone: “Acclaim!” and they wish him “Many good years!” And then the group of sovereigns moves toward the cathedral, passing through the Scholae, and the factions, properly attired, are standing in their assigned places, making the sign of the cross.

And when the emperor has entered the Horologion, the curtain is raised and he goes into the *mētātōrion*; he changes into the *divitision* and the *tzitzakion*, and throws over them the *sagion*; then he enters with the patriarch. He lights candles on the silver doors, walks through the central nave, and he proceeds to the *sōlea*; he prays before the holy gates, and, having lit other candles, he ascends the ambo together with the patriarch. The patriarch recites a prayer over the mantle, and, when he is finished, the servants of that room take up the mantle and dress the sovereign up with it. The patriarch recites a prayer over the sovereign’s crown, and, when the prayer is complete, he takes in his hands the crown [*stemma*] and places it on the head of the emperor, and immediately the people [*laos*] thrice cry out with the acclamation [*anakrazei*] “Holy, Holy, Holy [*Hagios, Hagios, Hagios!*] Glory in the heavens [*Doxa en hypsistois*] to God and peace on earth!” And other people cry out: “Many years to the emperor [*autokratoros*] and to the great king!” and what follows. Wearing the crown he goes down and enters the *mētātōrion* and sits on the royal seat [*sellion*], and the dignitaries [*ta axiōmata*] enter, prostrating themselves and kissing his knees. First come the magistrates. Second the patricians and generals; third the swordbearers [*protospathari*]; fourth the *logothete*, the *domestikos* of the excubitors, of the *hikanatoi* and of the numbers [*noumeroi*], the senatorial swordbearers [*spatharioi*], and the consuls. Fifth come

the swordbearers; sixth the squires; seventh the counts [*komētes*] of the Scholae; eighth the Candidates of the cavalry; ninth the scribes [*skribōnoī*] and domestics; tenth the secretaries, the dressers, and the silentiaries; eleventh the imperial *mandatores* and candidates of the infantry; twelfth the counts of the *arithmos*, of the *hikanatoi*, the tribunes and counts of the fleet.

To all the Praepositos says: “Acclaim!” and they exclaim “Many happy years!”  
[ . . . ] (Ibid., I, p. 47)

7.10. It is hardly necessary to underline the central role that acclamations play in imperial ceremonies and liturgy. In Constantine’s treatise, insofar as they constitute an essential part of every ceremony, they, when not undertaken by the master of ceremonies or by the silentiaries, are entrusted to the special functionaries called the *kraktai* (literally, the “shriekers”) who, acting like chief *clagues* (or, rather, like the presbyters who start to sing the psalmody in the liturgical celebration), articulate them along with the people in the guise of responses. So, in the procession for Christ’s birth, at the moment when the sovereigns arrive at the *Lychni*

[ . . . ] the *kraktai* cry: “*Polla, polla, polla* [Many, many, many (‘years’: is implied)],” and the people [*laos*] reply “*Polla etē, eis polla* [Many years and many more].” And once again the *kraktai*: “Many years [*chronoi*] for you divine sovereign”; and the people thrice cry: “Many years to you.” Then the *kraktai*: “Many years to you, attendants of the Lord,” and the people call out three times: “Many years to you.” Then the *kraktai* cry: “Many years to [such-and-such] autocrat of the Romans”; and for three times the people reply: “Many years to you.” The *kraktai*: “Many years to you [such-and-such] august dignitary of the Romans,” and thrice the people reply: “Many years to you” [ . . . ] (Ibid., I, 2, p. 30)

What is significant, if at first disconcerting, is that the same ritualizing of acclamations takes place for the horse racing in the hippodrome. The shriekers cry out here as well: “Many many many” and the people reply, just as they do in the Christmas ceremony: “Many years, and many more,” substituting the name of the race winner for that of the emperor. In Byzantium, beginning already in the Justinian era, the two factions into which the spectators are divided in the hippodrome, the Blues and Greens, have a strong political character and even constitute, so to speak, the only form of political expression left to the people. Therefore, it is not surprising that sporting acclamations are invested with the same process of ritualization that defines the acclamations of the emperors. Under Justinian’s rule there was even an uprising that shook the city for almost a week, which had as its slogan a sporting acclamation (*nika*, “win!”; exactly as

today, in Italy, an important political faction draws its name from an acclamation heard in the stadiums).\*

Alföldi shows that to these acclamations in Byzantine hippodromes there correspond, in even earlier times, analogous acclamations in Rome, which sources describe to us in detail. Despite involving thousands of men applauding, these acclamations did not occur by chance, but were, in the words of an attentive witness such as Cassius Dio, “a chorus that was accurately prepared [*hōsper tis akribōs choros dedidagmenos*]” (Alföldi, p. 81). It is with acclamations of the same type that the crowds in the stadiums will later turn to the emperor and empress, in what must have appeared an extraordinary piece of choreography that traversed and animated the mass of spectators like a wave of color:

Immediately a jubilant roar resounds: with a thousand voices the common people wish the princes good fortune. “Long life to Justin and to the august Sophia,” they acclaim all around. The applause and cries of joy reverberate, and the crowds alternate in answering one another. All together they raise their right arm and all together bring it down. In the whole stadium the people *certatim micat* (flashes, palpitates) and dense waves of white sleeves (*manicis albensibus*) are produced. Songs are sung and songs are added to the movement [ . . . ] (Ibid., p. 82)

Alföldi, who dedicates considerable space to the analysis of the political significance of acclamations, does not however manage to define its specific nature. On the whole, in the emergence of the acclamatory and ceremonial aspect of power, and in the contemporaneous raising up of the sovereign above the community of citizens, Alföldi sees an element that is in some ways antagonistic to law:

Alongside the juridical formulation of the power of the prince we can also see another formative principle of imperial omnipotence, which is not objective and rational, but subjective and imaginary. In it, it is not reason but sentiment that is expressed. (Ibid., pp. 186–187)

And yet, he has to admit shortly afterward that one cannot correctly understand phenomena such as acclamations as long as one sees in them only a form of purely subjective adulation:

It is entirely misguided to glimpse here something like ephemeral individual adulation, since the praise is beginning to end bound objectively. The official discourses of the prince, like the acclamations directed at him, betray the same formal constraints as do works of poetry or art. (Ibid., p. 188)

\* Agamben is here referring to *Forza Italia*—literally “Go Italy!” or “Come on Italy!”—the party Silvio Berlusconi founded in 1993 and led until its dissolution into *Il Popolo della Libertà* (The People of Freedom) in 2008. —Trans.

At the end of his 1935 study, he appears to oppose—in the process that leads to the constitution of the imperial State—right (*Recht*) and power (*Macht*), which are “incorporated into the army and the senate respectively, and confer on the empire real power [*Gewalt*] and formal sanction” (ibid., p. 272). But the simple opposition of violence and formal sanction leaves in the shadows the decisive fact that we are dealing here with two procedures of legitimation that, in the last instance, are both presented in the form of acclamations. The opposition between a juridical and a religious element is equally insufficient (ibid., p. 186), because the acclamation is precisely the point at which they appear to coincide without remainder. More pertinent is Alföldi’s observation, with regard to the purple robes of the emperor, which unfortunately he fails to develop, that what “founds sovereignty juridically is no longer the *auctoritas* of the Optimates nor the *consensus* of the people, but this consecrated symbol of power [*dieses geheiligte Machtsymbol*]” (ibid., p. 169).

In other words, the acclamation points toward a more archaic sphere that brings to mind the one that Gernet used to call, using an infelicitous term, prelaw, in which terms that we customarily consider juridical appear to act in a magic-religious manner. More than a chronologically earlier stage, we must here think of something like a threshold of indistinction that is always operative, where the juridical and the religious become truly indistinguishable. A threshold of this type is that which elsewhere we have called *sacertas*, in which a double exception, from both human and divine law, allows a figure to emerge, *homo sacer*, whose relevance for Occidental law and politics we have attempted to reconstruct. If we now call “glory” the uncertain zone in which acclamations, ceremonies, liturgies, and insignia operate, we will see a field of research open before us that is equally relevant and, at least in part, as yet unexplored.

7.II. Kantorowicz has dedicated an exemplary study to the history of one liturgical acclamation: the *Laudes Regiae*, published in 1946 but largely written between 1934 and 1940 when the scholar, who as a twenty-year-old had fought against the revolutionary workers’ councils in Munich, figured among the “displaced foreign scholars”\* (and it is with this title that, while at Berkeley, he received a special subsidy to complete his research). The book reconstructs the history of a particular acclamation—specifically a *laude* or *laetania*, which begins with the phrase “Christus vincit, Christus regnat, Christus imperat”—that was in use in the GaulFrankish Church beginning with the eighth century and spread from here to the whole of Europe in various forms. The peculiarity of this long

\* In English in the original.—Trans.

acclamation, which concerns Christ the victor, king, and emperor, is that it unites the divinity not only with the names of the saints, but also with those of the pontiff and the emperor. Having called upon Christ the victor three times, the hymn of praise passes on to the repeated acclamatory *exaudi* phrase, and acclaim the pontiff and then the emperor with a phrase of the type *vita* (“Leoni summo pontifici et universali pape vita/Carolo excellentissimo et a deo coronato atque magno et pacifico regi Francorum et Longobardorum ac Patricio Romanorum vita et victoria”). After a lengthy list of names of angels and saints (acclaimed with a phrase of the type “Sancte Gabrihel, Sancte Silvestre tu illum adiuva”), the acclamation unexpectedly mentions the functionaries and the imperial army (“omnibus iudicibus vel cuncto exercitui Francorum vita et victoria”). At this point, the *tricolon*, “*Christus vincit* (. . .) *regnat* (. . .) *imperat*,” is once again repeated three times and then followed by a series of Christological acclamations of a “military” type (*Rex regum, gloria nostra, fortitudo nostra, victoria nostra, arma nostra invictissima, murus noster inexpugnabilis*, etc.), whose origin Kantorowicz traces back to the pagan imperial acclamations in the *Historia Augusta*. There then follows a series of doxologies and hymns of praise to the second person of the Trinity; and, finally, the invocation of *Christe eleison* and the closing acclamations *Feliciter feliciter feliciter, tempora bona habeas, multos annos*, which, as we know, made up part of the acclamations to the Roman emperors.

The acclamation, which promiscuously united heaven and earth, angels and functionaries, emperor and pontiff, was destined to play an important role at the point where profane power and spiritual power, courtly and liturgical protocol met. It is particularly instructive to follow, with Kantorowicz, the incessant comings and goings of the acclamations between the two spheres. It emerges and is fully comprehensible only in the context of what Kantorowicz calls “Carolingian political theology” (Kantorowicz 1946, p. 59). This begins to develop with Pepin as a restoration of biblical regality (*Regnum Davidicum*) against the Roman Empire, and culminates in the introduction of the biblical rite of unction. In this manner, the Carolingian kings effect a form of liturgization of secular power; it is in this context that one should place the appearance of the *Laudes Regiae*. They “represent an early and most remarkable example of the hierarchical-theocratic tendency. In this artfully composed chant the orders of dignitaries on earth, both secular and ecclesiastical, and the series of celestial intercessors reflect, and merge into, each other” (*ibid.*, pp. 61–62).

In following the successive development of the *Laudes* in Roman liturgy, Kantorowicz demonstrates that they contain elements that indubitably stem from pagan acclamations. Indeed, the imperial ceremony of pagan Rome had

been progressively “litanized” and transformed into the form of divine service for which the acclamations were a constitutive element. In the tight interweaving of the religious and the profane, acclamations, which contained improvised elements at the very beginning, became increasingly formalized in a process in which ecclesiastical liturgy and profane protocol mutually reinforced one another.

No matter how much the liturgical language had originally borrowed from that of the court, the language of the court ceremonial stiffened as the terms became filled with ecclesiastical spirit and echoed the language of the liturgy. The formula of dismissing the court dignitaries, *Ite missa est*, became all the more solemn as it now matched the words of the dismissal in church, and a change such as that of the invocation *Exaudi Caesar!* to *Exaudi Christe!* is likewise indicative of the shift from a “Here and Now” to a transcendency beyond time and motion. (Ibid., p. 66)

It is in this context that the *laudes* became part of the ritual of imperial coronation in the West. In Byzantium in 450, Flavius Marcianus had himself crowned in a ceremony where, in addition to the acclamation by the senate and the army, an essential role was reserved for the Church. But in the West, the coronation of the sovereign only passed into the hands of the clergy with Pepin and Charlemagne. “Recognition by the Church, therefore, gradually gained so much in importance and esteem that the assent of the other king-creating powers, above all that of the acclaiming people, was more or less overshadowed by sacerdotal functions” (ibid., pp. 78–79). In the solemn coronation ceremony of Charlemagne that took place in Rome on Christmas Day, AD 800, the *laudes* played an essential part, whose technical-legal significance Kantorowicz tries, at times a little uncertainly, to define. Of course,

[ . . . ] in the High Mass which followed the consecration [ . . . ] the chant inevitably elicited the vision that not only the visible Church acclaimed, confirmed and recognized the new ruler, but also that through the Church the Heavens consented to the new *Deo coronatus*. The chant implied that the new king was acclaimed also by the choirs of angels and saints, as well as by Christ himself, who, in his quality as Victor, King, and Commander, recognized the new *christus* of the Church as his fellow ruler. (Ibid., p. 82)

According to Kantorowicz, it is not a case of a mere allegory but, to the extent that one can speak of “realism” in medieval culture, of a perfectly “realistic” conception. Nothing better than a miniature in the manuscript of the *Laudes* shows in what way one should understand their admirable efficacy: the artist depicts the king, with a crown, scepter, and globe, seated on a throne formed

by a large X, which constitutes the initial of the *tricolon Kristus vincit: the regale carmen* is the very throne of majesty.

However great the importance of the acclamations, for Kantorowicz it does not have a constitutive value, but only a recognitional one.

The laudes acclamation, representing the recognition of the king's legitimacy, was an accessory manifestation, impressive by its festal and solemn character, but not indispensable; for legally the liturgical acclaim added no new element of material power which the king had not already received earlier by his election and coronation [ . . . ] By means of this chant, the Church professed and publicly espoused the king in a solemn form. However, the weight of this profession or espousal cannot be measured by legal standards. (Ibid., p. 83)

And with an implicit but unequivocal polemical reference to Peterson, Kantorowicz denies that this recognition stems from the people:

“People” and “Church” are not the same thing. The laudes, representing the recognition of the ruler on the part of the visible and invisible Church, therefore cannot be regarded as an “acclamation on the part of the people” and even less so as “the people's consent.” [ . . . ] Besides, the laudes were sung by the clergy, not by the people. (Ibid., p. 82)

Nevertheless, there is an important exception to this restriction on the juridical value of the *laudes*: the coronation of Charlemagne in Rome. In his description of the ceremony, Kantorowicz comes as close as possible to a veritable theory of the juridical-constitutional meaning of acclamations.

This event was extraordinary in every respect, and it was extraordinary also with reference to the ceremonial [ . . . ] However, even through the dimness of the extant accounts the two acclamations seem to be discernible, those of the people and those of the Church. It is a question of interpreting the two main sources with regard to whether or not we are to make a distinction, on the one hand, between the hails of the “faithful Romans” who, after the pope had placed the crown on Charlemagne's head, shouted their “Karolo, piissimo Augusto a Deo coronato, magno et pacifico imperatori, vita et victoria,” and, on the other hand, the chant of the laudes proper, in which this hail was repeated by the Roman *clergy* [ . . . ] The shouts of the Romans and the laudes, as they then followed one after the other without a break, seem to have formed one single tumultuous outburst of voices in which it is idle to seek the particular cry which was “constitutive” and legally effective. (Ibid., p. 84)

7.12. What is at stake in Kantorowicz's interpretation of the *laudes regiae* is political theology. It unites the 1946 book with the following one, *The King's Two*

*Bodies* (1957), whose subtitle is *A Study in Medieval Political Theology*. The latter attempted to reconstruct, through a history of the idea of the mystical body of the king, the formation of a veritable “myth of the state,” just as the former reconstructed imperial ideology through the history of acclamations where liturgical elements and profane ones were indissolubly interwoven.

Thus, the analysis of the theological-political meaning of the *laudes* predominates over the analysis of their strictly juridical value. This is evident in the concluding chapter of the book dedicated to “the *laudes* in modern times.” Between the thirteenth and the sixteenth centuries, the use of the *laudes* in liturgy and in coronation ceremonies began to fall away everywhere. But they arise again unexpectedly in the course of the 1920s, revived by theologians and musicologists at precisely the moment in which, “with the irony of which History is so fond” (*ibid.*, p. 184), the European political scene was dominated by the emergence of totalitarian regimes. They play an important role in the convergent itineraries of Pius XI, elected pontiff in February 1922, and Benito Mussolini, who takes power in October of that same year. “Fascist challenges were answered, without closing the door completely, by the papal counterchallenges when Pius XI, at the end of the Holy Year 1925, instituted the new feast of ‘Christ the King’” (*ibid.*). In the solemn mass for this festival, the song *Christus vincit [ . . . ] regnat [ . . . ] imperat* was revived in a new rendering that immediately became popular. From this moment onward, according to the constant oscillation between the sacred and the profane that characterizes the history of acclamations, the *laudes* shifted from the faithful to fascist militants, who—among other things—used them in the course of the Spanish Civil War. Even earlier, in 1929, the fascist minister for education included the *laudes regiae* in an official collection of “patriotic songs,” in which the acclamation *vita* of the original text assumed the form *Regi nostro Victorio Dei gratia feliciter regnante pax, vita et salus perpetua; Duci Benito Mussolini italicae gentis gloriae pax, vita et salus perpetua*.

Recounting this new and extreme version of the *laudes* at the end of his book, Kantorowicz observes that acclamations are “indispensable to the emotionalism of a Fascist regime” (*ibid.*, p. 185). And in a footnote on Nazi acclamations he launches a final, ironic attack on Peterson, writing that the acclamation *Ein Reich, ein Volk, ein Führer*, declared in Vienna in 1938 on the occasion of the annexation of Austria, “leads via Barbarossa [ . . . ] to the *Heis theos* so brilliantly discussed by Peterson” (*ibid.*, p. 185, note 23). The attempt to exclude the very possibility of a Christian “political theology,” so as to found in glory the only legitimate political dimension of Christianity, comes dangerously close to the totalitarian liturgy.

7.13. The works of Kantorowicz, as well as those by Alföldi and Schramm, show that the relation between the theological and the political is not univocal, but always runs in both directions. Jan Assmann, an Egyptologist who, after having worked on Egyptian doxologies, investigated—on Jacob Taubes’s suggestion—political theology in Egypt and in Judaism, reformulated the Schmittian theorem according to which all “significant concepts of the modern theory of the state are secularized theological concepts” (Schmitt 2005, p. 36), by turning it into the axiom “the significant concepts of theology are theologized political concepts” (Assmann, p. 20). Every inversion of a thesis remains, however, in some sense implicitly in agreement with the original. More interesting than taking sides with one thesis or the other is, however, to try to understand the functional relationship that links the two principles. Glory is precisely the place at which this bilateral (or bi-univocal) character of the relation between theology and politics clearly emerges into the light. Louis Bréhier, one of the first scholars to become interested in the interrelations between imperial cult and ecclesiastical liturgy, observed, not without irony, that “when the pope goes to Constantinople, in the course of the sixth and seventh centuries, the emperor adores him, but at the same time he adores the emperor. In the same way, in the tenth century, the emperor and the patriarch adore one another when they meet at Saint Sophia” (Bréhier and Batiffol, p. 59).

More original—or better, more decisive—than the opposition between theology and politics, spiritual power and profane power, is the glory within which they coincide. What, from the perspective of Schmitt’s political theology (or of its reversal in Assmann), appeared as a clear distinction between two principles that find their point of contact in secularization (or sacralization), from the perspective of glory—and of the economic theology of which it forms a part—crosses a threshold of indetermination where it is not always easy to distinguish between the two elements. The theology of glory constitutes, in this sense, the secret point of contact through which theology and politics continuously communicate and exchange parts with one another.

In a passage from *Joseph and His Brothers*, a novel that caused such labor among scholars of myth, Thomas Mann observes that—in a phrase that is Assmann’s starting point—religion and politics are not two fundamentally distinct things but that, on the contrary, they “exchange clothes.” It is possible, however, that this exchange can take place only because underneath the garments there are no body and no substance. Theology and politics are, in this sense, what results from the exchange and from the movement of something like an absolute garment that, as such, has decisive juridical-political implications. Like many of the concepts we have encountered in our investigation, this garment of glory is

a signature [*segnatura*] that marks bodies and substances politically and theologically, and orientates and displaces them according to an economy that we are only now beginning to glimpse.

✠ In two exemplary studies, Albrecht Dieterich (*Eine Mithrasliturgie*, 1903) and Eduard Norden (*Agnostos theos*, 1913) developed a doctrine of the forms of doxology and prayer (see Norden, p. 261). Norden's work shows how literary elements and forms deriving from diverse traditions, profane as well as religious (Stoic, Judaic, mystico-hermetic, etc.), converge in Christian doxological formulations. This is formally consistent with the concrete examples detailed in Alföldi, Schramm, and Kantorowicz's investigations. The doxologies, both profane and religious, have the same morphological structure; but this still does not say anything about the strategies they pursue or the function they have to perform.

# Threshold

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THE scholars who have been concerned with the ceremonial aspects of power—and Kantorowicz is certainly the most lucid among them—seem to hesitate before the question, which is difficult to sidestep: What is the relation that so intimately links power to glory? If power is essentially force and efficacious action, why does it need to receive ritual acclamations and hymns of praise, to wear cumbersome crowns and tiaras, to submit itself to an inaccessible ceremony and an immutable protocol—in a word, why does something that is essentially operativity and *oikonomia* need to become solemnly immobilized in glory? Ammianus Marcellinus was astonished to observe the fixity of Emperor Constantius II during his solemn *adventus* to Rome, and he compared him not to a living creature nor to a god, but to a *figmentum*, a sort of statue “with a rigid neck, who held his eyes fixed before him, without looking left or right, like a figment in human form” (Alföldi, p. 274). The simple instrumental explanation that states that this is a stratagem of the powerful to justify their ambition or a *mise-en-scène* to produce reverential fear and obedience in the subjects, while it can occasionally get somewhere near the truth, is certainly not able to account for the deep and original connection that involves not only the political sphere but also the religious one. If one bears in mind the complicated choreography, the economic expense, and the imposing symbolic apparatus that were mobilized as much in Byzantium in the ninth century as in Berlin in the twentieth, the mere exhibition of arms would certainly have been more appropriate for the task. And ceremonial glory is frequently experienced by someone who receives it as a painful obligation that even the sovereign, who is above the law, must submit to as one does to a veritable *lex ceremoniarum*. According to the words of the pontiff to Charles V at the moment he offers his feet to be kissed: “I suffer against my will the kissing of my feet, but I am forced by the law of the ceremonial” (“*invitus passus sum osculari pedes meos, sed lex ceremoniarum ita cogit*”: Kantorowicz 1946, p. 180, note 3).

Instrumental explanations—like the sociological theory that understands ceremonies as a sort of symbolic *mise-en-scène* of a whole society (Schenk, pp. 506–507)—do not take us much further than the late Baroque antiquarians who saw in it the consequence of original sin, which had produced inequality between men and the creation of a sort of *theatrum ceremoniale* in which the powerful enacted the signs of their wickedness (Lünig, pp. 1–70).

In the following pages we shall try to grasp the connection between power and glory in the exemplary case of acclamations and liturgical doxologies. We shall try to make strategic use of Luther's warning, that glory blinds those who try to penetrate majesty, by not asking the questions: What is glory? What is power? Instead, we shall pursue what is a more humble aim only in appearance: to investigate the forms of their relations and their operations. We shall, in other words, interrogate not glory but glorification, not *doxa* but the *doxazein* and the *doxazestai*.

## The Archaeology of Glory

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**8.1.** The studies on glory in the field of theology were knocked off course for a long time by the apparently commanding work of Hans Urs von Balthasar, *Herrlichkeit. Eine theologische Aesthetik*. Despite the clear etymological connection between the German term *Herrlichkeit* and the sphere of domination and power (*Herrschaft*, *herrschen*), Balthasar chose to orientate his study of glory in terms of aesthetics. “We here attempt,” he writes in the foreword to the first volume, “to develop a Christian theology in the light of the third transcendental, that is to say: to complement the vision of the true and the good with that of the beautiful (*pulchrum*)” (Balthasar 1982, p. 9). In contrast to Protestantism, which had deaestheticized theology, he proposed to restore it to the aesthetic rank that belongs to it. He of course recognized that the *kabod*, glory in its original biblical sense, presupposed the idea of “lordship” and “sovereignty”; however, for him, it was a case of transferring these concepts into the sphere of beauty—or, rather, of an aesthetics characterized heavily by Kantian references:

It is a case of envisioning the revelation of God, and God can only be truly recognized in his lordship and sovereignty, in what Israel calls *kabod* and the New Testament calls glory, despite all the question marks concerning human nature and the cross. This means: God comes to us primarily not as teacher (“the true”), nor as “redeemer” with many ends for us (“the good”), but to show and radiate himself, the glory of his eternal trinitarian love, in the “disinterestedness” that true love has in common with beauty. (Balthasar 1965, p. 27)

Balthasar is aware of the risk inherent in such a project, that of “aestheticizing theology”; but he thinks he can sufficiently guard against it by shifting the emphasis from the adjective to the substantive and distinguishing in this sense a “*theological aesthetics*” from an “*aesthetic theology*,” in which “the attribute will inevitably be understood in the worldly, limited, and, therefore, pejorative sense” (Balthasar 1982, p. 79).

One may doubt, of course, whether the effectiveness of such a purely verbal precaution is sufficient. In the 1930s, Walter Benjamin, recognizing in fascism the project of an “aestheticizing of politics,” placed in opposition to it a “politicization of art” (not of aesthetics). In contrast to Balthasar’s attempt to “aestheticize glory” and to transfer a genuinely “political” concept (from Peterson’s perspective it in fact defined the specifically “public” character of liturgy) into the sphere of beauty, our reading of glory will never forget the context to which it belongs from the start. In the Bible, neither *kabhod* nor *doxa* is ever understood in an aesthetic sense: they are concerned with the terrifying appearance of YHVH, with the Kingdom, Judgment, and the throne—all things that can be defined “beautiful” only from a perspective that it is hard not to call aestheticizing.

8.2. The syntagma “glory of God” (*kabhod YHVH*) is a fundamental concept of Judaism. Immediately after the treatment of the names of God in the *Guide of the Perplexed*, Maimonides defines its meaning and, at the same time, its contextual problematic, through a tripartite structure:

Similarly *kabhod* is sometimes intended to signify the created light that God causes to descend in a place in order to confer honor upon it in a miraculous way: *And the glory of Y.H.V.H. abode upon mount Sinai, and [the cloud] covered it, and so on* [Exodus 24:16]; *And the glory of Y.H.V.H. filled the tabernacle* [Exodus 40:34]. The expression is sometimes intended to signify his true essence and true reality [ . . . ] as when he says, *Show me, I pray Thee, Thy glory* [Exodus 33:18], and was answered: *For man shall not see Me and live* [Exodus 33:20]. This answer indicates that the *glory* that is spoken of here is His essence [ . . . ] *Kabhod* is sometimes intended to signify the glorification of Him [ . . . ] by all men. In fact all that is other than God [ . . . ] glorifies Him. For the true way of glorifying Him consists, in apprehending His greatness. Thus everybody who apprehends His greatness and His perfection, honors Him according to the extent of his apprehension [ . . . ] It is in view of this notion being named *glory* that it is said, *The whole earth is full of His glory* [Isaiah 6:3], this being equivalent to the dictum, *And the earth is full of His praise* [Habakkuk 3:3], for praise is called *glory*. Thus it is said: *Give glory to the Lord your God* [Jeremiah 13:16]; and it is said: *And in His temple all say: Glory* [Psalm 29:9] [ . . . ] Understand then the equivocality with reference to *glory* and interpret the latter in every passage in accordance with the context. (Maimonides, *The Guide of the Perplexed*, Book 1, Chapter 64, pp. 156–157)

Of the three points at which Maimonides articulates the meaning of *kabhod*, the first refers to the episode in Exodus 40:34, in which “the glory of Y.H.V.H.” appears to the Jews as consuming fire, surrounded by a cloud that only Moses can penetrate. The second, in which the term would designate the essence of God, is

actually derived from the same context. While speaking to Moses, *YHVH* covers him with his hand so as to prevent him from seeing his blinding *kabhod*, but the skin and face of Moses nevertheless receive such splendor that the Jews are unable to look at him, and he must place a veil over his face. With a characteristic gesture, Maimonides derives the second meaning of the term—which the biblical passage in no way suggests—from the fact that the *kabhod*, in its first sense as “created light,” does not simply reveal *YHVH* but hides him to the same degree. This impossibility of seeing forms the basis of the second meaning, that of *kabhod* as God’s “true reality” hidden behind the *kabhod* understood as “created light.”

The third meaning—that of praise by creatures—insofar as it designates a certain human praxis (even though Maimonides extends glorification to include inanimate creatures who “bespeak” the *kabhod* of God in their own way), is the only concrete meaning. But this time as well Maimonides uses it to derive the second meaning inasmuch as praise presupposes the greatness and perfection of the divine being. In some way then, the *glorification* stems from the *glory* that, in truth, it founds.

It is interesting to note how Maimonides’ strategy can be found repeated without significant variations in modern studies of this question, both Jewish and Christian. Works of lexicography and monographs both end up distinguishing the same three meanings, more or less, as Maimonides, at times specifying more precisely the second meaning in terms of “power” [*potenza*], “greatness,” “weight” (this last being the etymological meaning of the Semitic root *kbd*). The relation, established by Maimonides, between the *kabhod* as “created light” and *kabhod* as the being of God, is developed by modern theologians, Christian and Jewish, in the sense of binding glory to the “manifestation” of God, to the divine essence insofar as it is made visible and perceptible.

This meaning of *kabhod*, which in the final instance is identified with *YHVH* himself, is then opposed to the “objective” meaning of “glorification”: “There is also a *kabhod* that creatures offer to God. It can be described as the ‘objective’ *kabhod* of *YHWH*” (Stein, p. 318—the medieval theologians, more correctly named this glory “subjective”). This *kabhod*, which is expressed in acclamations and hymns of praise, is at times presented as the natural and joyous reply of men to the manifest glory of God. At other times it resembles the honor that is bestowed upon the profane powers and cannot easily be related to the *kabhod*-being of God, as it was for Maimonides. In this case, modern scholars aim precisely at leaving out this objective meaning (*ibid.*, p. 323).

However, for the ancients as well as for the moderns, the problem is precisely to justify—or at times to conceal—the double meaning, the homonymy and

ambiguity of *kabbod*: at once glory and glorification, objective and subjective *kabbod*, divine reality and human praxis.

✠ In the rabbinical tradition, the *kabbod YHVH* is related to the *Shekinah* (literally, “habitation,” “residence”) that expresses the presence of God among men. Hence, where the biblical passage states: “The Lord is in this place” (Genesis 28:16), the *Targum* translates this as “Truly the Glory of the *Shekinah* dwells in this place.” And in the *Alphabet of Rabbi Akiba* one can read: “[At that hour God looked and saw his throne and his *Kabbod* and his *Shekinah*}]” (quoted in Scholem 1997). Even Maimonides relates glory to the verb *shakan* (to reside) and with *Shekinah*, which for him does not mean manifestation, but only “[God’s] abode in a place” (Maimonides, *The Guide of the Perplexed*, Book I, Chapter 25, p. 55).

In the same way, Sa’adiah Ga’on—and along with him Yehudah Halevi and the other medieval philosophers—identify *Shekinah* with *kabbod*: “[The bright apparition that proves to the prophet the authenticity of the revelation God made to him is a light that was created: it is called *kabbod* in the Bible and *Shekinah* in the rabbinic tradition}]” (quoted in Scholem 1990). The *Shekinah* is not identical with God but, as with the *kabbod* in its first meaning of the term according to Maimonides, it is one of his free creations, which precedes the creation of the world.

✠ In the Old Testament and in rabbinical Judaism, the *kabbod* assumes a particular meaning in eschatology. This will coincide with the full revelation of the glory of God, which will appear in Zion as a cloud and a canopy (Isaiah 4:5). In the *Deutero-Isaiah*, it will appear not only to the Jews but to “all flesh” (“And the glory of the LORD shall be revealed, and all flesh shall see it together”: Isaiah 40:5). According to Habakkuk 2:14: “For the earth shall be filled with the knowledge of the glory of the LORD [YHWH], as the waters cover the sea.” Ezekiel’s terrible vision, which with its winged “living creatures” and its throne of sapphire would so profoundly influence Christian apocalypticism, is presented by the prophet as a vision of glory: “This was the appearance of the likeness of the *kabbod* of the LORD. And when I saw it, I fell upon my face, and I heard a voice of one that spake” (Ezekiel 1:28).

8.3. The Septuagint translates *kabbod* with *doxa*, and this Greek term (which the Vulgate will translate as “glory”) thereby becomes the technical term for glory in the New Testament. But as occurs with any translation, in this passage the biblical *kabbod* undergoes a profound transformation. What was originally an element external to God, one that signified his presence, became—in conformity with the new theological context—an expression of the internal relations of the Trinitarian economy. This means that between *oikonomia* and *doxa* there is a constitutive nexus, and that it is not possible to understand economic theology if one does not at the same time give an account of this connection. In the same way that Christian theology had dynamically transformed biblical monotheism by dialectically opposing within it the unity of substance and of ontology (the

*theologia*) to the plurality of persons and practices (the *oikonomia*), so the *doxa theou* defines the operation of reciprocal glorification between the Father and the Son (and, more generally, between the three persons). The Trinitarian economy is constitutively an economy of glory.

We can perhaps say that this glorious economy appears nowhere with the same clarity as in the Gospel of John. It melodically resonates from one end of the text to the other—in the same way that it does, with a different tone, in the Letters of Saint Paul—and achieves its most vibrant expression in Jesus's prayer before his arrest: "Father, the hour is come; glorify [*doxason*] thy Son, that thy Son also may glorify [*doxasēi*] thee [ . . . ] I have glorified thee on the earth: I have finished the work which thou gavest me to do. And now, O Father, glorify thou me with thine own self with the glory which I had with thee before the world was" (John 17:1–5). A little earlier, when the betrayal was predicted, the same theme was announced in the words of Jesus to his disciples, who sat around him at the table: "Now is the Son of man glorified [*edoxasthē*], and God is glorified [*edoxasthē*] in him. If God be glorified in him, God shall also glorify him in himself, and shall straightaway glorify him" (John 13:31–32).

One is struck in these passages by the perfect circularity of the economy that they describe. The work—the economy of salvation—that Jesus has accomplished upon earth is, in truth, the glorification of the father—that is, an economy of glory. But it is, to the same extent, the glorification of the son through the work of the father. And this doxological circle is marked not only by the insistent repetition of forms of the same verb, but seems to be perfectly completed in the idea that glory precedes the very creation of the world and thus defines the Trinitarian relationship from the beginning ("glorify thou me with thine own self with the glory which I had with thee before the world was"). In Jewish messianism, the name ("*chem*" is a concept intimately linked to that of glory) is part of the five (or seven) things created before the world; but John, who takes up this Jewish motif, turns it into the doxological nucleus of the intradivine relation. And while the economy of salvation that was entrusted to the son is accomplished in time, the economy of glory has neither beginning nor end.

However, the economy of glory in John's Gospel includes men as well. Referring to those to whom he revealed the name of the father (that is, the glory), Jesus adds: "And all mine are thine, and thine are mine; and I am glorified [*dedoxasmai*] in them" (John 17:10). And immediately afterward he expands upon this: "And the glory which thou gavest me I have given them" (John 17:22). Thus to the glorious economy of the Trinity corresponds the reciprocal glorification of men and God.

✠ The term that in Homeric Greek corresponds to the semantic sphere of glory is not *doxa* but *kleos*. *Kleos*, which is a term etymologically connected with the sphere of words and of “that which is heard” (*klyō*), is not a property of the gods, and indeed it results from the activity of a special category of men: the poets. They of course need the cooperation of divine beings, the Muses, who push them to “sing about the *kleos* of men” (Homer, *The Odyssey*, Book 8, 73); but the glory that they confer and that can get “through heaven” (*ibid.*, 74) is their jealously guarded and exclusive competence. For this very reason, it is not a case of knowledge, so much as of something that exhausts itself entirely within the sphere of the word. “We poets,” says Homer, “hear the *kleos* and we know nothing” (Homer, *Iliad*, Book 2, 486).

Gregory Nagy has shown how the *Iliad* and the *Odyssey* are first of all poems of the *kleos* of Achilles and Odysseus and that it is precisely the theme of glory that unites the two poems. If Achilles, the best of the Achaeans, is the one who exchanges return and life for glory (“there is no *nostos* for me, but there will be eternal *kleos*”: Homer, *Iliad*, Book 9, 413), Odysseus had both return and glory (Nagy, p. 29). But it is once again the poets who bestow glory. Both the Phaeacian singer in the *Odyssey* (8, 72–82) and the poet of the *Theogony* present themselves as masters of glory, who look as much to the past as to the future (“that I might spread the fame [*kleioimi*] of past and future”: Hesiod, *Theogony*, p. 12).

The Homeric world has therefore a figure of glory that is entirely the work of man, mere glorification. For this reason, many centuries later, a Roman poet was able to push this “glorifying” strain of poetry to the limit, writing that not just heroes, but “the gods too (if I may be allowed to say so) exist through poetry; even the majesty of one so great has need of the voice of someone to celebrate it” (“Di quoque carminibus, si fas est dicere, fiunt / tantaque maiestas ore canentis eget”: Ovid, *The Pontic Epistles*, Book IV, 8, 55–56, p. 455).

8.4. In the Second Letter to the Corinthians, Paul takes up again the *kabbod* of Exodus 29ff., in order to found, by meticulously building up a series of optical images, his theory of glory. The—provisional—glory that illuminates Moses’ face after he received the tablets of the law from God (which were defined, following Paul’s implacable critique of the law, as a “ministration of death,” *diakonia tou thanatou*: 2 Corinthians 3:7) is incomparably less than that which results from the “ministration of redemption” that the Messiah brought to mankind. Nevertheless the members of the messianic community (the term “Christian” is unknown to Paul) have no need to place a veil (*kalyμμα*) over their faces, as Moses does—a veil that “even unto this day, when Moses is read [ . . . ] is upon their heart” (2 Corinthians 3:15). In fact, the Messiah involves the deactivation of the veil (*hoti en Christōi katargeitai*: 2 Corinthians 3:14). When the Jews are converted, the veil will be removed from them as well. “But we all, with open face [*anakekalymmenōi prosōpōi*] beholding as in a glass [*katoptrizomenōi*] the

glory of the Lord, are changed into the same image from glory to glory [*apo doxēs eis doxan*], even as by the Spirit of the Lord” (2 Corinthians 3:18).

The economy of glory is expressed here in solely optical terms. And it is the same image that Hebrews 1:3 specifies further. The son is *apaugasma*, that is, at once reflection and radiation of God’s glory (the verb *apaugazein* in fact means as much “to irradiate, to emit luminous rays” as much as it means “to reflect irradiating rays”). This is why in 2 Corinthians 4:6, God shines the light on Christ’s face (*en prosōpoi Christou*), “the light of the knowledge of the glory of God.”

The optical phenomenology of glory unfolds in the following way: God, “the Father of glory” (Ephesians 1:17), radiates his glory onto the face of Christ who reflects it and radiates in turn like a mirror onto the members of the messianic community. The celebrated eschatological verse 1 Corinthians 13:12 should be read in this light: the glory that we now see enigmatically in a mirror (*di’ esoptrou en ainigmati*), we will go on to see face-to-face (*prosōpon pros prosōpon*). In the present, we await the “glorious appearing” (Titus 2:13), in the same way as all that which is created impatiently waits to be “delivered from the bondage of corruption into the glorious liberty of the children of God” (Romans 8:13).

In contrast to John, here the stress lies not on the reciprocal glorification of Father and Son, but on the radiation of glory by the Father onto the Son and to the members of the messianic community. At the heart of Paul’s gospel lies not the Trinitarian economy but messianic redemption.

8.5. It is necessary to explode the commonly held view, frequently repeated in the lexicons, that a theory of glory is lacking in the Church Fathers of the first centuries after Christ. Precisely the opposite is true. That is, as could be expected, it is precisely those authors who develop the theology of the economy who also produce the elements for a theology of glory. This is particularly true in the case of Irenaeus. In the fourth book of *Against Heresies*, he takes up, through the canonical citation from Exodus 33:20 (“there shall no man see me [God], and live”), the biblical theme of the unknowability of *kabod* (of the “marvelous glory,” *anexēgētos doxa*: Irenaeus, *Against Heresies*, Book 4, Chapter 20, §5, p. 366). But, to the unknowability of the biblical God he opposes the revelation of God by way of the prophetic Spirit and, above all, through the son, the true “exegete,” “administrator” or “dispenser,” and singer of glory:

From the beginning the Son is the interpreter [*exēgētēs*] of the Father, since from the beginning he has been with him. It is by his song that the prophetic visions, and the diversities of gifts, and his own ministries, and his Father’s glorification [*doxologia*], have been orderly and systematically revealed unto mankind, in meet

time to profit withal. And so the Word [*Logos*] became the dispenser of the father's grace for the good of men, and for their sake He wrought such mighty and manifold *economies*; on the one side revealing God to men, on the other, presenting man unto God: and as He guards the invisibility of the Father, lest at any time man should become a despiser of God, and that he might always have something to grow toward, so on the other hand through many and manifold economies He reveals God unto men, lest men altogether falling away from God, should cease to be at all. For the glory of God is a living Man, and the life of man is to see God. (Ibid., §7, pp. 368–369)

In this extraordinary passage the glorification performed by the *Logos* is described in the same “economic” terms with which Irenaeus had described the economy of salvation. Not only does the economy of salvation presuppose the economy of glory, but the latter is the “exegesis” of what would otherwise remain “indescribable,” as much in the life of the deity as in the world of men. Glory is, in other words, the economy of economies; that which, inasmuch as it interprets the economies (*tas oikonomias exegeito*), reveals how much *YHVH* remained unknown in the *kabbod*:

Therefore, if neither Moses saw God, nor Elias, nor Ezekiel, who did see many of the celestial things, and if the things which they did see were resemblances of the Lord's glory and prophecies of things to come; it is plain that the Father indeed is invisible, concerning whom also the Lord said, *No man hath God seen at any time*. But his word [*Logos*], at his own pleasure, and for the profit of such as behold, revealed the brightness of the Father and has interpreted the economies (as the Lord has said, “*The Only Begotten God, who is in the Bosom of the Father, He hath interpreted Him*”: John 1:18). (Ibid., §11, p. 372)

✠ Important cues for a theology of glory can also be found in the *Adversus Praxean* by Tertullian, that is, precisely in the incunabulum of economic theology. Tertullian not only knows perfectly well that what was, in the economy of salvation (*in ipsa oikonomia: Against Praxeas*, §23, p. 91), a lessening and diminution for the son would have resulted in an economy of glory that was the complete opposite (“gloria tamen et honore coronaturus illum in caelos resumendo”: *ibid.*, p. 92); but also, through the strategic citation of John, he glimpses in glory the inseparable relation that ties the Father to the Son, the irrevocable abode of the Son in the Father: “Jesus said: ‘And God will glorify Him in Himself;’ that is, the Father, the Son whom He ‘having Him in Himself,’ though He has been sent forth to earth, will later glorify by resurrection” (*ibid.*, p. 94).

8.6. The most condensed exposition of a theology of glory in the writings of the Church Fathers of the first centuries is to be found in the digression—which almost forms a *peri doxēs* treatise—that Origen inserts in the thirty-second book

of his commentary on the gospel according to John. The theme of glory appears to him so important that, at the end of the digression, the author feels he must thank God because, despite the inadequacy of his arguments, what he wrote appears to him to be “well above his abilities [*pollōi meizosin tēs hemeteras axias*]” (Origen, *Commentaire*, p. 345). He begins by taking his leave of the pagan, purely acclamatory meaning of the term (glory as “praise by the multitude”: *ibid.*, p. 329), to which he opposes not only the canonical passage from Exodus on the *kabhad* of God that is revealed to Moses, but also the interpretation of this passage that Paul makes in the Second Letter to the Corinthians (2 Corinthians 3:7–11). The interpretation of these passages that Origen proposes is a perfect example of his exegetical method, which distinguishes the literal from the anagogical (or spiritual) meaning:

If, from the corporeal standpoint, a divine epiphany is produced under the tent and in the temple and on the face of Moses after he spoke with God, from the anagogical point of view one could speak of the “vision of the Glory of God,” that which is known and is seen in God with an entirely purified intellect. The intellect that has been purified and has overcome all material things so as to carefully contemplate God, becomes divine through that which it contemplates. One can say that that is what the glorification of the face of him who has contemplated God consists in. (*Commentaire*, pp. 333–335)

In other words, Origen interprets glory in terms of knowledge and, immediately afterward, applies this exegesis to the passage in John according to which “the son of man has been glorified and God has been glorified through him” (*ibid.*, p. 335). The specific and ingenuous contribution made by Origen is to read into this passage nothing less than the process of divine self-knowledge:

Thus, knowing the Father, the Son has been glorified through his very knowledge, which is the greatest good and leads to perfect knowledge since it is that with which the Son knows the Father. I believe, however, that he has been glorified by his knowledge, since it is in this way that he comes to know himself [ . . . ] All this glory, through which the Son of man is glorified, was glorified by a gift of the Father. And of all the elements that lead to the full glory of man, the principal one is God insofar as he is not glorified simply because he is known *by* the Son, but is glorified *in [en]* his Son. (*Ibid.*, pp. 335–337)

The process of reciprocal glorification between father and son coincides with God’s self-knowledge, which is to be understood as an *autosophia* (*ibid.*), and this process is so intimate that the glorification cannot be said to be produced by the son but only *in* the son. At this point it is clear why the “economy of

passion" (*hē oikonomia tou pathos*) is able to coincide perfectly with the glorious economy through which the son reveals the father (*ek tēs oikonomias apokalyptein ton patera ho hyios*: *ibid.*, p. 343):

For this reason, when Jesus arrived at the economy in accordance with which he was to be raised above the world and, once recognized, to be glorified by the glory of those who would go on to glorify him, he spoke these words: "Now the Son of man has been glorified"; and since "no man knoweth the Father, save the Son who reveals him" and the Son was about to reveal the Father through an economy, for this reason "God as well was glorified in him." (*Ibid.*)

The economy of passion and the economy of revelation coincide in glory, and the latter (or, rather, glorification) defines the set of Trinitarian relations. The trinity is a doxology.

8.7. Modern theologians distinguish, as we have seen, between "economic trinity" (or trinity of revelation) and "immanent trinity" (or trinity of substance). The former defines God in his praxis of salvation through which he reveals himself to men. The immanent trinity instead refers to God as he is in himself. We rediscover here, in the opposition between two trinities, the fracture between ontology and praxis, theology and economy that we have seen constitutively marking the formation of economic theology (see §3.4 above). To the immanent trinity there correspond ontology and theology; to the economic there correspond praxis and *oikonomia*. Our investigation has tried to reconstruct the way in which these original polarities have, at different levels, developed into the polarities of transcendent order and immanent order, Kingdom and Government, general providence and special providence, which define the operation of the machine of the divine government of the world. The economic trinity (Government) presupposes the immanent trinity (the Kingdom), which justifies and founds it.

It comes as no surprise, therefore, that immanent trinity and economic trinity, distinguished at the very beginning, are then perpetually reunited and articulated together by the theologians and that it is precisely this articulation that is at stake in theology. The "economic Trinity *is* the immanent Trinity, and vice versa" (Moltmann, p. 160): this is the principle that must guide all attempts to think their relation. The work of sacrifice and salvation, which is in question in economic theology, cannot be erased in the immanent trinity.

If the central foundation of our knowledge of the Trinity is the cross, on which the Father delivered up the Son for us through the Spirit, then it is impossible to conceive of any Trinity of substance in the transcendent primal ground of this event, in which cross and self-giving are not present. (*Ibid.*)

That is, there are not two different trinities, but a single trinity that is, at once, a single divine story of salvation and a single economy. And yet, this identity should not be understood as “the dissolution of the one in the other” (ibid.). According to the complex mechanism that, as we have seen, marks the relations between theology and economy from the beginning—and, then, the functioning of the governmental machine—the two trinities, though intimately articulated, remain distinct. What is in question is rather the reciprocity of their relations.

What this thesis is actually trying to bring out is the interaction between the substance and the revelation, the “inwardness” and the “outwardness” of the triune God [ . . . ] From the foundation of the world, the *opera trinitatis ad extra* correspond to the *passiones trinitatis ad intra*. (Ibid.)

Glory is the place where theology attempts to think the difficult conciliation between immanent trinity and economic trinity, *theologia* and *oikonomia*, being and praxis, God in himself and God for us. For this reason, the doxology, despite its apparent ceremonial fixity, is the most dialectical part of theology, in which what can only be thought of as separate must attain unity.

Real theology, which means the knowledge of God, finds expression in thanks, praise and adoration. And it is what finds expression in doxology that is the real theology. There is no experience of salvation without the expression of that experience in thanks, praise and joy. An experience which does not find expression in this way is not a liberating experience [ . . . ] So God is not loved, worshipped and perceived merely because of the salvation that has been experienced, but for his own sake. That is to say, praise goes beyond thanksgiving. God is recognized, not only in his goodly works but in his goodness itself. And adoration, finally, goes beyond both thanksgiving and praise. (Ibid., pp. 152–153)

In glory, economic trinity and immanent trinity, God’s praxis of salvation and his being are conjoined and move through each other. From here stems the indissoluble knot that binds together doxological elements in the strict sense and the Eucharistic mimesis that one finds in liturgy. Praise and adoration directed toward the immanent trinity presuppose the economy of salvation, just as in John, the Father glorifies the Son and the Son glorifies the Father. *The economy glorifies being, as being glorifies the economy*. And only in the mirror of glory do the two trinities appear to reflect into one another; only in its splendor do being and economy, Kingdom and Government appear to coincide for an instant. Hence the Council of Nicaea, in order to avoid all risk of separating the Son from the Father, the economy from the substance, felt the need to insert into the symbol of faith the formula *phōs ek phōtos*, “light of light.” For this reason,

Augustine, while seeking obsessively to eliminate all risk of subordination by the trinity, takes up an image of light and glory (Augustine, *On the Trinity*, Book 4, Chapter 20, §27).

✠ Given that glory is the place in which the movement of the Trinitarian economy has to reveal itself in full, it is also the place in which the risk of noncoincidence between being and praxis and of a possible asymmetry in the relation between the three divine persons is at its highest. It comes as no surprise then that it is precisely in the excursus on glory that Origen seems to adopt a subordinationalist position that could make him appear as a precursor to Arius. Having commented upon the reciprocal glorification of Father and Son in John, he prudently puts forward the idea of a self-glorification of the Father that is independent of the one that he receives from the Son:

I wonder whether God can be glorified in a way that is independent of his being glorified by the Son, since he has the advantage of being glorified in himself; through the contemplation of himself he rejoices in his own knowledge and vision with an indescribable satisfaction and joy that are greater than that of the Son, since he finds his joy and satisfaction in himself—as far as it is possible to express such ideas with respect to God. Indeed, I use these terms that cannot really be applied to God, because I lack the unspeakable words. (Origen, *Commentaire*, pp. 337–339)

That subordinationalism is rejected from the beginning as an intolerable heresy is not so much and not only because it implies a superiority of the Father over the Son (in the Gospels, Jesus frequently attributes to the Father just such a superiority), but also and above all because it endangers the functioning of the Trinitarian apparatus, which is founded upon a perfect interpersonal circulation of glory between immanent trinity and economic trinity.

It is still with reference to the passage in John that Augustine, in *On the Trinity*, warns against every attempt to introduce an asymmetry into glory so as to found upon it the superiority of one person over another.

But here also let them wake up if they can, who have thought this, too, to be testimony on their side, to show that the Father is greater than the Son, because the Son hath said, “Father, glorify me.” Why, the Holy Spirit also glorifies Him. Pray, is the Spirit, too, greater than He? [ . . . ] Whence it may be perceived that all things that the Father hath are not only of the Son, but also of the Holy Spirit, because the Holy Spirit is able to glorify the Son, whom the Father glorifies. But if he who glorifies is greater than he whom he glorifies, let them allow that those are equal who mutually glorify each other [*invicem*]. (Augustine, *On the Trinity*, Book 2, Chapter 4, §6, pp. 47–48)

The economy of glory can only function if it is perfectly symmetrical and reciprocal. *All economy must become glory, and all glory become economy.*

8.8. Theology never manages truly to get to the bottom of the fracture between immanent trinity and economic trinity, between *theologia* and *oikonomia*. This is demonstrated in the very glory that was supposed to celebrate their reconciliation. It is marked by a fundamental dissymmetry in which only the economic trinity is completed at the end of days, but not the immanent trinity. After the Last Judgment, when the economy of salvation is complete and “God may be all in all” (1 Corinthians 15:28), the economic trinity will be reabsorbed by the immanent trinity and “what remains is the eternal praise of the triune God in his glory” (Moltmann, p. 161). The paradisiacal liturgy ends up in doxology; it knows no mass but only the hymn of praise. In this asymmetry of glory, the “anarchic”—and, at the same time, generated—character of the Son reemerges, putting in question the laboriously achieved result of the long and acrimonious dispute with Arianism. The economy is anarchical and, as such, has no foundation in God’s being; and yet, the Father has generated the Son before the eternal times. This is the “mystery of the economy,” whose darkness glory is not able completely to dispel in its light. To the original paradox of a generated anarchy, at the end of days, there corresponds that of an economic—and yet finite—anarchy. (The attempt to think, at one and the same time, an infinite being and its finite history—and hence, the figure of being that survives its economy—forms precisely the theological inheritance of modern philosophy, which achieves its most extreme form in the last works of Heidegger.)

Of course, the operation of glory—or at least its pretension—is to express the pleromatic figure of the trinity, in which economic trinity and immanent trinity are once and for all securely articulated together. But it can only fulfill this task by continuously dividing what it must conjoin and each time rejoining what must remain separated. For this reason, just as in the profane sphere glory was an attribute, not of Government but of the Kingdom, not of the ministers but of the sovereign, so the doxology refers ultimately to the being of God, not to his economy. And yet, just as we have seen that the Kingdom is nothing but that which remains if one removes Government, and the Government that which remains if the Kingdom removes itself, in such a way that the governmental machine always consists in the articulation of these two polarities, equally, one could say that the theo-doxological machine results from the correlation between immanent trinity and economic trinity, in which each of these two aspects glorifies the other and stems from the other. Government glorifies the Kingdom, and the Kingdom glorifies Government. But the center of the machine is empty, and glory is nothing but the splendor that emanates

from this emptiness, the inexhaustible *kabhod* that at once reveals and veils the central vacuity of the machine.

8.9. The aporias implicit in every theology of glory are evident in the work of the Protestant theologian who lies at the origin of Balthasar's attempt to aestheticize doxology. In a decisive passage of his *Church Dogmatics*, Karl Barth inserts a brief treatise on glory, which the Catholic theologian takes up and expands upon in his masterpiece. Even though the stylistic form of the work of the two theologians is very different, their aim is substantially the same. Barth is perfectly well aware that glory refers to "His freedom, majesty and sovereignty" (Barth, p. 641). For him it defines "His competence to make use of His omnipotence [ . . . ] and to exercise His lordship [*Herrschaft*]" (ibid.). Abruptly shifting his analysis of glory into the "immediately proximate" (ibid.) sphere of beauty, he uses this concept as a supplement (*Hilfsbegriff*: ibid, p. 653) to confront what appears to him a "blind spot" (ibid., p. 650) in the theological conception of glory. That is to say, it is a case of nothing less than the neutralization of the idea that the glory and sovereignty of God are reducible to the *brutum factum* of his omnipotence and his force.

Or can we say positively of the method of God's glory, of His self-glorification, only that it has the whole omnipotence of God behind it, that it persuades [*überzeugt*] and convinces [*überführt*, literally, "it guides us from above"] by ruling, mastering [*herrscht*] and subduing [*überwältigt*] with the utterly superior force [ . . . ]? [ . . . ] When the Bible uses the term "glory" to describe the revelation and knowledge of God, does it not mean something other and more than the assertion of a brute fact? [ . . . ] We have seen that when we speak of God's glory we do emphatically mean God's "force." Yet the idea of "glory" contains something which is not covered by that of "force." For the idea of "kingdom" which precedes the other two concepts in the doxology of the Lord's Prayer seems to say something of wider range than can be described by "force" alone. Light too, has force and is force, but it is not this that makes it light. Has not and is not God more than is covered by the idea of force when He has and is light and is glorious? (Ibid.)

We find here, as we find at the hidden root of all aestheticisms, the need to cover and dignify what is in itself pure force and domination. Beauty names precisely the "supplementary element" that enables one to think glory beyond the *factum* of sovereignty, to "depoliticize" the lexis of *Herrlichkeit* (that Barth, not by chance, had up to this point expressed with the technical terms of political sovereignty and government: *herrschen, führen, walten*), transferring it into the sphere of aesthetics.

If we can say that God is beautiful, to say this is to say how He enlightens and convinces and persuades us. It is to describe not merely the naked fact of His revelation or its power [*Gewalt*] but the shape and form in which it is a fact and is power. (Ibid.)

Barth is perfectly aware of the impropriety and inadequacy of the term “beauty,” which inevitably refers one to the profane sphere “of pleasure, desire, and enjoyment” (ibid., p. 651); and yet the risk of aestheticism (“drohende Ästhetizismus”: ibid., p. 652) is precisely the price to be paid if one is to detach the theory of glory from the sphere of *Gewalt*, of power. That beauty should become the designation, at once improper and absolutely inevitable, of glory, means that the problem of the relation between immanent trinity and economic trinity, between ontology and *oikonomia* will have to be related to the aesthetic sphere as well. God’s glory and freedom are not an “abstract freedom or sovereignty” (ibid., p. 659). The being of God is not “self-enclosed and pure divine being” (ibid.); what makes him divine and real is his being nothing other than the being of the Father, the Son, and the Holy Spirit. “His being [ . . . ] is not form in itself but the concrete form of the triune being of God” (ibid.). The trinity of God is, in this sense, “the secret of His beauty” (ibid., p. 661). The decisive moment of the transferral of the biblical *kabod* into the neutral sphere of aesthetics, which only a few years later Balthasar will consider to have been fully achieved, takes place here.

8.10. There is also another reason behind the aestheticization of glory. It allows one to confront the problem that, in the history of theology, is—at one and the same time—ever present and always eluded by new means. We are speaking of that glory that the theologians define as *subiectiva, seu formalis* (or, external); that is, the glorification that men (and with them the angels) owe to God. Inasmuch as it constitutes the doxological nucleus of liturgy, it enjoys a lustrous prestige and self-evidence; however, despite the specifications and arguments of the theologians, it certainly cannot be said that its rationale is equally clearly illuminated.

As long as there has been glory there has been glorification; and this not only in the profane sphere. The *kabod* that YHVH has inasmuch as he is “king of glory” (*melek ha-kabod*) is also something that men owe him. “Give *kabod* to YHWH, give him thanks” is the cry that ceaselessly resounds among the sons of Israel. It culminates in Isaiah’s *trisagion* (Isaiah 6:3), where “the whole earth is full of his [God’s] glory.” It is the glorifying *kabod* that liturgy formalizes in doxology proper, which in the synagogue takes the form of the *Kaddish*, which exalts, blesses, and praises the name of YHVH.

In the great eschatological doxology of Revelation 4:3, which we shall need to consider below, and in Paul's Letters one discovers early testimonies of the Christian doxologies concerning he who, as "lord" or "father" of glory is, or should be, already firmly in possession of it (both in the form of the prescription "Glorify!," *doxasate*—1 Corinthians 6:20—as well as in the form of ritual doxologies of the type found in Hebrews 13:21, "To whom be glory for ever and ever. Amen"). In this case as well, the Church formalizes glorification, in ritual fashion, as much in the daily duty of prayer as in liturgy.

One should note the singular explanation for this dual figure of glory that is supplied by the theologians. Subjective glory is nothing but the joyous response of man to the objective glory of God. We do not praise God because he has any need of it (he is already filled with glory). Nor do we praise him because it is useful for us. "The only reason for praising God is that he is worthy of praise" (Mascall, p. 112). Through a perfectly circular line of argument, subjective glory is due to objective glory, because the latter is worthy of glory. That is: glorification is due to glory because in some sense it derives from it.

This vicious circle is what is crystallized in the thirteenth century by the scholastic definition provided by William of Auvergne:

A very early meaning of the glory of God is nothing but his extremely eminent magnificence and nobility, and this is the glory of God in himself or close to himself, for which reason praise, glorification, and every form of worship are owed him. Another meaning of what is named the glory of God is that through which he is glorified, that is, honored, preached about, praised, and adored by the elect and by all men. (William of Auvergne, *De retributionibus sanctorum*, p. 320)

✠ As we have already seen with regard to the term "order," which means as much a transcendent relation with God (*ordo ad Deum*) as a property immanent in creatures (*ordo ad invicem*), so glory is at once an essential attribute of God and something that creatures owe to him and that expresses their relation to him. Moreover, in the same way that the dual meaning of the term "order" ultimately ends up befitting the very essence of God, so the ambiguity of the term "glory" makes of it the name that defines God's most intimate nature. In this sense, both terms are signatures [*signature*] rather than concepts.

8.II. Not even Barth's treatise manages to escape the circularity of glory. On the contrary, it takes an extreme form in which the Lutheran tradition's reservations with respect to the theology of glory are set aside. Barth's treatise begins with the statement that, in the New Testament, glory indicates the honor that God himself enjoys, as well as the glory that he receives from creatures. This co-existence of two contradictory meanings in the same term is, however, "absolutely necessary" (Barth, p. 670). Glory and the hymn of praise that the creatures bestow upon

God are, in fact, nothing but the “echo” (*Widerhall*: *ibid.*) that answers the glory of God. Rather, insofar as it has its foundation in glory, glorification “can only be understood in the proper and decisive sense as the work of God’s glory” (*ibid.*). Furthermore, the being and liberty of creatures essentially depend upon the act of glorification and thanksgiving. “The creature becomes free for the glory of God not because it could and wanted to do so but because it only did so through the glory of God” (*ibid.*, p. 671). And they do not merely thank, but “*are* themselves thankfulness [*Dank*” (*ibid.*). The circularity of glory here attains its ontological formulation: becoming free for the glorification of God means to understand oneself as constituted, in one’s very being, by the glory with which we celebrate the glory that allows us to celebrate it. “It does not belong to the essence of the creature to have or to be the power to glorify God. This ability is God’s [ . . . ] God gives Himself to the creature [ . . . ] And the creature to whom God gives Himself may praise Him” (*ibid.*). The liberation of creatures from their “powerlessness” is manifested in glorification and “results in the praise of God” (*ibid.*, p. 672).

If creatures are essentially the glorification of glory, a glory that divine glory bestows upon itself, it is clear that the life of creatures culminates in obedience (*Lebensgehorsam*: *ibid.*, p. 674). “It has no alternative but to thank and praise God. And in this thanks and praise it has nothing else to offer God but itself—nothing more and nothing less” (*ibid.*). The preeminent location for this service is the Church. At the end of his treatise, and in singularly lofty tones that seem more suited to a Catholic theologian, Barth celebrates the Church as the proper space of glory. Certainly the Church is not identified, as it is in Peterson, with the community of angels and the blessed who celebrate the glory of God in the heavens (*ibid.*, p. 675). However, the Church is the form in which we are “surrounded by the glory of God, and in which we participate in it” (*ibid.*, p. 676).

It should now be clear in what sense the preliminary exclusion from the theory of glory of any reference to the political sphere is misleading. For as we have seen already with respect to Peterson, after the repression of politics in theology, it reappears—as is the case with all forms of repression—in an improper form in doxology. Such an absolute reduction of creatures to their glorifying function is clearly reminiscent of the behavior demanded of their subjects by the profane powers in Byzantium and in the Germany of the 1930s, which Barth voluntarily abandoned. Here, as well, the highest dignity and the highest freedom are to be found in the glorification of the sovereign. Here, as well, the glorification is due to the sovereign not because he needs it but, as his resplendent insignia, his throne, and crown reveal, because he is glorious in himself. The circularity of the paradigm is the same in both cases.

8.12. The paradox of glory has the following form: glory is the exclusive property of God for eternity, and it will remain eternally identical in him, such that nothing and no one can increase or diminish it; and yet, glory is glorification, which is to say, something that all creatures always incessantly owe to God and that he demands of them. From this paradox follows another one, which theology pretends to present as the resolution of the former: glory, the hymn of praise that creatures owe to God, in reality derives from the very glory of God; it is nothing but the necessary response, almost the echo that the glory of God awakens in them. That is (and this is the third formulation of the paradox): everything that God accomplishes, the works of creation and the economy of redemption, he accomplishes only for his glory. However, for this, creatures owe him gratitude and glory.

The paradox, in its three forms, culminates in post-Tridentine and Baroque theology, that is, when the theory of profane sovereignty achieves a new configuration. We could say that the first formulation of the paradox implodes in the motto of Ignatius of Loyola, which became something similar to the insignia of the Society of Jesus: *Ad maiorem Dei gloriam*. There has been much discussion of the origin and meaning of this motto, which perfectly summarizes Ignatius's intentions when he decided to abandon worldly honors for the honor of God. One thing that is clear is that he takes the paradox of glory to its extreme, since the human activity of glorification now consists in an impossible task: the continual increase of the glory of God that can in no way be increased. More precisely—and perhaps this is the real meaning of the motto—the impossibility of increasing the inner glory of God translates into an unlimited expansion of the activity of external glorification by men, particularly by the members of the Society of Jesus. What cannot be increased—glory in the first sense of the term—demands the infinite increase of glory in the exterior and subjective sense. This means, on the one hand, that the nexus of glory and glorification has now been severed and that the worldly work of glorification relies on the glory of God, which should justify it. On the other hand, it means that glorification begins to react on glory, and the idea begins to form that the action of men can start to influence divine glory and increase it. In other words, while the difference between glory and glorification begins to become indeterminate, the accent shifts progressively from the former onto the latter.

The manifesto for the primacy of glorification over glory can be found in the booklet *De perfectionibus moribusque divinis* (1620), by Leonard Lessius, a Jesuit theologian who had an enduring influence on the theology of glory between the seventeenth and eighteenth centuries. Under the heading *De ultimo fine*, he poses

the following simple question: “What benefit could God draw from the creation and from the government of the world?” The answer that is at first glance surprising is, logically speaking, entirely consistent. God, “being infinitely perfect and in every way blessed,” can draw no benefit for himself from the multiplicity, variety, and beauty of creatures, which are as though “suspended over nothingness by the beam of divine light” (Lessius, p. 513). The purpose of the creation and the government of the world must, therefore, be “something external [*quid extrinsecum*], such as having children similar to himself, who participate in his glory and his blessedness” (ibid.).

Lessius is certainly aware of the distinction between internal glory—which is the same as the splendor and excellence of the divinity himself (that is the objective internal glory) and amounts to the knowledge, love, and enjoyment that God has within himself (formal internal glory)—and external glory. But the specific contribution of his manifesto springs from its overturning of the relation between the two glories. God cannot have created the world in order to acquire or increase his internal glory, which he already possesses *plenissime*. So his purpose cannot be anything but the acquiring and increasing of his external glory.

Glory is not necessarily an intrinsic good. The glory of kings and princes, which mortals so value and desire, consists in external things, in the splendor of the courts, in the magnificence of their palaces, in military power, and the like. Even if no internal increase in divine glory is possible, nevertheless an extrinsic increase is possible through the addition of those things in which the glory of persons consists: that is, an increase in the sons of God by whom glory is recognized, loved, and praised. In this sense, the glory of God is greater; in this sense, it can be said that it is increased. This is the glory that God wanted to acquire for himself through all his external works. (Ibid., pp. 516–517)

Lessius also ruthlessly sacrifices to the logical coherence of this vainglorious God the idea of God’s love for creatures. Since every creature “is nothing when compared to him” and since “the glory of God is more important than any of the creatures’ goods,” God’s actions must “necessarily advance his glory rather than the perfection of his creatures” (ibid., p. 538). It is of this external glory that God is jealous (as testified to in Isaiah 48:11: “I will not give my glory unto another”); and it is this glory that man must propose as the end of all his actions (Lessius, p. 539).

Without the preliminary comprehension of this theory of glory, it is difficult to fully understand the post-Tridentine politics of the Church, the fervor of the missionary orders, and the imposing activity *ad maiorem Dei gloriam*—and, at the same time, the notoriety—of the Society of Jesus. Once again, in the dimension of glory, the Church and the profane power enter into a durable threshold

of indetermination, in which it is difficult to measure the reciprocal influences and the conceptual exchanges. At the same time as the sovereign territorial state begins to adopt the figure of the “government of men,” the Church, setting aside its eschatological preoccupations, increasingly identifies its own mission with the planetary government of souls, not so much for their salvation, as for the “increased glory of God.” The indignant reaction of a twentieth-century Catholic philosopher in the face of this God who is merely egotistical, a sort of “eternal Caesar,” who only uses men “as an instrument to demonstrate to himself his glory and power,” stems from this.

✠ It is against the background of the theory of glory from the Baroque era that one can understand how such usually sober-minded thinkers as Malebranche or Leibniz have been able to think the glory of God in terms of his self-satisfaction with his own perfection. Malebranche calls glory “the love that God has for himself,” and he pushes the principle according to which God acts only for his own glory to the point at which he ends up denying that the reason for the incarnation is nothing but the will to redeem humanity from sin. Through the incarnation of the Word, God receives a “glory of infinite splendor,” and for this reason Malebranche denies that “the Fall was the only cause of the Incarnation of the Son of God” (Malebranche 1923, dialogue 9, §5, p. 232).

Equally unedifying is the idea of glory that, following Bayle, Leibniz ascribes to God in his *Theodicy*:

“God,” [Bayle] says, “the Being eternal and necessary, infinitely good, holy, wise and powerful, possesses from all eternity a glory and a bliss that can never increase or diminish.” This proposition of M. Bayle’s is no less philosophical than theological. To say that God possesses “glory” when he is alone, that depends upon the meaning of the term. One may say, with some, that glory is the satisfaction one finds in being aware of one’s own perfections; and in this sense God possesses it always. But when glory signifies that others become aware of these perfections, one may say that God acquires it only when he reveals himself to intelligent creatures; even though it be true that God thereby gains no new good, and it is rather the rational creatures who thence derive advantage, when they apprehend aright the glory of God. (Leibniz, §109, p. 183)

It is enough to confront these conceptions of glory with what Spinoza writes in the scholium to Proposition 36 of Book V of the *Ethics* to measure the abyss that separates them.

8.12. The title of Lessius’s brief treatise (*De ultimo fine*) refers to the condition of the blessed after the Last Judgment. In paradisiacal blessedness, when the work of salvation is complete and “all the movements and ministries” (Lessius, p. 549) have been deactivated, nothing will be left to the angels and the blessed but the contemplation, love, and celebration of the glory of God. They will sim-

ply “contemplate his infinite beauty, exult in his glory with ineffable joy, with perpetual praise, benediction, and thanksgiving” (ibid.).

One of the most important points to be discussed with regard to glory is, in fact, precisely the “glory of the elect,” that is, the condition of the blessed in paradise. Not only does this imply a transformation of the body that, according to Paul’s teaching (1 Corinthians 15:44), now becomes a “glorious body,” but the whole rational creature, with its intelligence and will, must participate in the glory of God as the highest good. The heated debate that divides theologians from the time of the early Scholastics concerns the character of this participation. According to Thomas Aquinas and the Dominicans, the element that defines paradisiacal blessedness is the intellect, which is to say, knowledge or the “beatific vision” of God. According to Bonaventure and the Franciscans, blessedness is instead defined as an operation of the will, that is, love.

In 1951, a young Oxford theologian, Eric L. Mascall, published, in a French journal that brought together the writings of theologians such as Jean Daniélou and intellectuals of various backgrounds (among whom were Maurice de Gandillac and Graham Greene), an article that took up the question of blessedness from a perspective that cannot but interest us closely here. According to Mascall, neither knowledge nor love can define in a satisfactory fashion the supreme purpose of man. Not only is knowledge essentially egotistic because it concerns, above all, our enjoyment of God, but it is not ultimately useful either to men or to God—at least not in the postjudicial condition. As far as love is concerned, it cannot be truly disinterested either, because, as Saint Bernard reminded us, to love God without thinking of our happiness at the same time, is a psychological impossibility (Mascall, p. 108).

The only thing that can define the first and essential element of our blessed state is neither the love nor the knowledge of God but only his *praise*. The only reason to love God is that he is worthy of praise. We do not praise him because it is good for us, although we find our good in it. We do not praise him because it is good for him, because in fact our praise cannot benefit him. (Ibid., p. 112)

The praise that is in question here is, of course, first and foremost doxology and glorification:

Praise is superior both to love and to knowledge, although it can include both and transform them, because praise does not concern itself with interest but only with glory [ . . . ] In the worship that on earth we bestow on God, the first place is due to praise as well [ . . . ] And what scripture allows us to glimpse of celestial worship always shows us praise. The vision of Isaiah in the temple, the song of

the angels in Bethlehem, the celestial liturgy of the fourth chapter of Revelation repeat the same thing: *Gloria in excelsis deo* [ . . . ] “Our Lord and God, you are worthy of receiving glory, honor, and power.” (Ibid., p. 114)

Here we discover all the elements of the theory of glory with which we have become familiar. The specific value of glory as the ultimate purpose of man lies, curiously, in the fact that ultimately neither God nor men need it or draw any utility from it. And yet, in contrast to Lassius, praise is not extrinsic to God. “The archetype of all praise can be found within the Trinity itself, within the eternal filial response of the word to God his Father” (ibid., p. 115). God is, in other words, literally composed of praise, and, by glorifying him, men are admitted to participate in his most intimate existence. But if things stand thus, if the praise that men give God is intimate and consubstantial with him, then doxology is, perhaps, in some way a necessary part of the life of the divinity. Basil used the term *homotimos* (“of the same glory”) as a synonym for *homousios*, the technical term that in the Nicene symbolism denoted consubstantiality, suggesting thereby a proximity between the glory and the being of God. Perhaps the distinction between internal glory and external glory serves precisely to cover over this intimate link between glorification and the substance of the divinity. What appears in God when the distinction breaks down is something that theology absolutely does not want to see, a nudity that must be covered by a garment of light at any cost.

8.14. Catholic liturgy contains a doxology that bears the curious name of *improperia*, that is, reproaches. It appears for the first time in liturgical texts of the ninth century, but is probably older still. The peculiarity of this doxology is that it is introduced by an antiphon in which God turns to his people and reproaches them: “Popule meus, quid feci tibi aut in quo contristavi te? Responde mihi” (My people, what have I done to you, in what way have I displeased you? Answer me). In other versions, the complaint comes from Christ himself: “Quid ultra debui facere tibi, et non feci?” (What more should I have done that I have not done already?). Only at this point do the deacons respond from the altar, singing the great hymn of praise, *trisagion*: *Agios ho Theos, agios ischyros, agios athanatos, eleēson hēmas*.

It is decisive in this case that it is God himself who is demanding praise. In the legend contained in the Greek menology, he does not limit himself to uttering reproaches but provokes an earthquake that does not stop until the people and the emperor sing together the doxology “Sanctus Deus, sanctus fortis, sanctus et immortalis, miserere nobis.” Lassius’s theory, which suggested that the purpose of the divinity’s actions could only be that of glorification, is confirmed here. More-

over, according to the anaphora of Basil's liturgy "it is deserving and just, and fitting the greatness of your sanctity, to praise you, sing to you, bless you, adore you, offer up thanks to you, glorify you"; but God appears to need this praise and adoration, to the point of requesting from men the acclamation "three times holy" (*trisagios phonē*) that he already receives from the seraphims in heaven. If, as is recited in John Chrysostom's liturgy, the power of the Lord is incomparable and unrepresentable (*aneikastos*) and his glory surpasses all comprehension (*akatalēptos*), why utter it and represent it incessantly in the doxologies? Why call him "sovereign" (*despotēs*); why invoke the "ranks and armies" (*tagmata kai stratias*) of angels and archangels in "the service of his glory" (*leitourgian tēs doxēs*)? The answer that, in the form of an acclamation of the type, *axios*, monotonously accents the anaphora—*hoti prepei soi pasa doxa*, "because all glory is suited to you"—suggests that the *prepei* ("fits, is suited") hides a more intimate necessity: the acclamation has a sense and value that escape us and that we should pursue.

8.15. In the Western Church, the hymn of praise par excellence, the *doxologia maxima*, is the *Te Deum*, the tradition of which has, without any real evidence, been traced back to Ambrose and Augustine. The historians of liturgy who have long debated its authorship, time of composition, and place of origin are more or less in agreement in considering it to contain three parts, which at a certain point were firmly bound together to form its twenty-nine verses: the first (verses 1–13) and oldest is a hymn to the Trinity, probably composed in the Ante-Nicene era; the second (verses 14–21), which is entirely Christological, is probably more recent since it seems to bear witness to the anti-Arian polemics; and the last (verses 22–29) concludes the hymn with a series of quotations from the Psalms.

Scholars, who are as usual entirely concerned with questions of chronology and attribution, omit to say what is nevertheless obvious beyond any possible doubt: whatever its origin might be, the *Te Deum* is formed from start to finish by a series of acclamations in which the Trinitarian and Christological elements are inserted into a substantially uniform doxological and epenetic context. Verses 1–10 appear to have no other purpose than to assure the divinity of the praise and glory that surrounds him on all sides, on earth as in heaven, in the past as in the present:

*Te Deum laudamus te Dominum confitemur  
Te aeternum patrem omnis terra veneratur  
Tibi omnes angeli Tibi caeli et universae potestates  
Tibi Cherubim et Seraphim incessabili voce proclamant  
Sanctus sanctus sanctus Dominus Deus Sabaoth  
Pleni sunt caeli et terra maiestatis gloriae tuae*

*Te gloriosus apostolorum chorus  
 Te prophetarum laudabilis numerus  
 Te martyrum candidatus laudat exercitus  
 Te per orbem terrarum sancta confitetur Ecclesia.*

The mention given to the persons of the Trinity, which follows this meticulous enumeration of the names and functions of the glorifiers, seems to be aimed above all at specifying the one to whom the praise is directed, reiterating it in the form of doxological attributes:

*Patrem immensae maiestatis  
 Venerandum tuum verum et unicum Filium  
 Sanctum quoque paraclytum Spiritum.*

However, even in the following Christological verses, which certainly contain doctrinal elements, as in the formula *hominem suscipere*, Christ is first invoked in eschatological terms as the “king of glory,” and it is as such that the faithful who glorify him ask in exchange to be allowed to participate in his eternal glory:

*Tu rex gloriae Christe  
 Tu patris sempiternus es filius  
 Tu ad liberandum suscepisti hominem non horruisti virginis uterum  
 Tu devicto mortis aculeo aperuisti credentibus regna caelorum  
 Tu ad dexteram Dei sedes in gloria patris  
 Iudex crederis esse venturus  
 Te ergo quaesumus tuis famulis subveni quos pretioso  
 sanguine redimisti  
 Aeterna fac cum sanctis tuis in gloria munerari.*

In the final antiphon, one is struck by the biblical citations that assure us that the service of glory will be eternal and ceaseless, day after day, age after age:

*Per singulos dies benedicimus te  
 Et laudamus nomen tuum in saeculum et in saeculi saeculum.*

Even more evident is the acclamative structure of the other great doxology, the *Gloria* that the most ancient documents—such as the *Constitution of the Apostles* (AD 380)—attribute to the Matins. In this case the text is nothing more than an uninterrupted collage of acclamations of every type: of praise, benediction, thanks, supplication:

*Gloria in excelsis Deo  
 et in terra pax  
 hominibus bonae voluntatis*

*Laudamus te*  
*benedicimus te*  
*adoramus te*  
*glorificamus te*  
*gratias agimus tibi*  
*propter magnam gloriam tuam*  
*Domine Deus rex caelestis*  
*Deus pater omnipotens*  
*Domine Fili unigenite Jesu Christe*  
*Cum Sancto Spiritu*  
*Domine Deus agnus Dei*  
*Filius patris, qui tollis peccata mundi*  
*Miserere nobis [ . . . ]*

As we have seen, Peterson, Alföldi, and Kantorowicz have shown that liturgical acclamations often have a profane origin, that the formulae of the liturgy of glory are derived from the acclamations of the imperial ceremonials. It is, however, probable that the exchange took place in both directions. We know, for example, that both the *Te Deum* and the *Gloria* have had an extraliturgical use, the former on the battlefields (at Las Novas de Tolosa and in Liège in 1213) and the latter at the time of the discovery of the body of the martyr Mallosus and of the arrival of Pope Leo III at the court of Charlemagne. In all these instances, it was a case of a sudden explosion of triumph and jubilation, as is often the case with acclamations. But how can one explain, beyond the relation between profane and religious ceremonials, the massive presence of acclamations in the Christian liturgy? Why must God be continually praised, even if the theologians (at least up to a certain point in history) never tire of assuring us that he has no need of it? Does the distinction between internal and external glory, which reciprocally respond to one another, really constitute a sufficient explanation? Does it not rather betray the attempt to explain the unexplainable, to hide something that it would be too embarrassing to leave unexplained?

8.16. Marcel Mauss's unfinished doctoral thesis on prayer, which was only published in 1968, has rightly been called "one of the most important works" (Mauss 1968, p. 356) that the great French anthropologist has left us. He begins by noting—and his observations of 1909 interestingly remind one of Kantorowicz's analogous considerations on the situation of liturgical studies almost forty years later—the singular poverty of scientific literature on such an important question. Philologists, who are more used to analyzing the meaning of words than their efficacy, were put off by the unquestionably ritualistic character of

prayer; the anthropologists, solely occupied with the study of primitive cultures, put to one side what appeared to them to be a late product in the evolution of religions. Therefore, once again the subject was abandoned and left in the hands of theologians and philosophers of religion whose theories are, for obvious reasons, “the account they give of their experiences [which] is in no way scientific” (Mauss 2003, p. 29).

Mauss’s thesis comes to a sudden end after 175 pages, when presumably he was about to draw the final consequences from his analysis of the oral rites of an Australian people, the Arunta, which he had chosen as his *terrain de recherche*; but both in the previous pages and in an almost contemporaneous series of articles, he leaves no doubt as to the hypothesis that guided his research. Prayer—even when it takes the form of praise or a hosanna—is, above all, an oral rite and, therefore, like all rites, an “effective act” that concerns sacred things and acts upon them. As such, it is

also efficacious and with a *sui generis* efficacy, for the words of prayer can give rise to the most extraordinary phenomena. Certain early rabbis, by saying the appropriate *berakâ* (blessing), could change water into fire and the great kings, by using certain formulae, could change impious Brahmins into insects which were then devoured by towns that had been changed into ant hills. Even when all efficacy seems to have disappeared from prayer which has become pure adoration, or when all power seems to be confined to a god, as in Catholic, Jewish or Islamic prayer, it is still efficacious because it causes the God to act in a certain way. (Ibid., p. 54)

It is not always easy, from this perspective, to distinguish between magic and religion: “There are all sorts of degrees between incantations and prayers, as there are generally between the rites of magic and those of religion” (ibid., p. 55). Nevertheless, Mauss distinguishes magical rites from religious ones because, while the former appear to be endowed with an immanent power, the latter produce their effects only through the intervention of divine powers, which exist outside the rite itself. “Thus the Indian performs a magic rite when, in hunting, he believes that he is able to stop the sun by placing a stone at a certain height in a tree, whereas Joshua performed a religious rite when, in order to stop the same sun, he invoked the omnipotence of Jahweh” (ibid., p. 53). And while the aim of spells and magical rituals is not to influence sacred beings, but to produce an immediate effect upon reality, prayer “on the contrary, is above all a means of acting upon sacred beings; it is they who are influenced by prayer, they who are changed” (ibid., p. 56). Before turning to his fieldwork, he defines prayer as follows: “*Prayer is a religious rite which is oral and bears directly on the sacred*” (ibid., p. 57).

A work that had considerable influence on Mauss's thought, and of which he wrote a review only a year after it was published, was *La doctrine du sacrifice dans le Brâhmanas* (1899). The author, Sylvain Levi, who had been his indology teacher in Paris, wanted to show that the oldest Brahmin religion "had no moral qualities" and that sacrifice is essentially defined by its material effects: "It resides completely in the acts and ends with them, and it consists entirely in the scrupulous observance of rites" (Mauss 1968, p. 353). The most surprising result of Levi's research was, however, that Indian sacrifice is not simply an effective action, as are all rites; it does not limit itself to merely influencing the gods; it creates them:

According to the theologians of the Vedic era, the gods, like the demons, are born from sacrifice. It is thanks to it that they have ascended to the heavens, in the same way as the one who carries out a sacrifice still does. They gather around the sacrifice; they are a product of the sacrifice that they share among themselves, and it is this distribution that determines the way in which they share the world. Moreover, sacrifice is not only the author of the gods. It is a god itself or, rather, the god par excellence. It is the master, the indeterminate, infinite god, the spirit from which everything proceeds, that ceaselessly dies and is reborn. (Ibid.)

Thus, both sacrifice and prayer present us with a theurgical aspect in which men, by performing a series of rituals—more gestural in the case of sacrifice, more oral in that of prayer—act on the gods in a more or less effective manner. If this is true, the hypothesis of a primacy of glorification over glory should be considered in a new light. Perhaps glorification is not only that which best fits the glory of God but is itself, as effective rite, what produces glory; and if glory is the very substance of God and the true sense of his economy, then it depends upon glorification in an essential manner and, therefore, has good reason to demand it through reproaches and injunctions.

✠ In peremptorily advancing his idea of the theurgical character of prayer, Mauss was taking up an idea that Émile Durkheim—with whom he enjoyed close intellectual and familial relations—had put forward in his *Elementary Forms of Religious Life*. Durkheim writes:

It is necessary, then, to refrain from believing, with Smith, that the cult was instituted only for the benefit of men and that the gods have no use for it. They still need it as much as their faithful do. No doubt, the men could not live without gods; but on the other hand, the gods would die if they were not worshipped. Thus the purpose of the cult is not only to bring the profane into the communion with sacred beings but also to keep the sacred beings alive, to remake and regenerate them perpetually. (Durkheim, p. 350)

8.17. The idea that there is a close relationship between human behaviors—in particular oral rites—and the glory of God is present in rabbinical literature as well as in the Kabbalah. Charles Mopsik dedicated to this theme an exemplary study whose subtitle is significant: *Les rites qui font Dieu* (The Rites That Make God) (1993). That the Kabbalah contained theurgical elements was well known; Mopsik, however, demonstrates through the analysis of an extraordinary quantity of texts not only that it is one of its absolutely central motifs but also that analogous themes are already clearly present in early rabbinical literature. Alongside texts that repeat the by now familiar principle that observance of worship “neither helps nor harms God,” as we have seen through the discussion of the Christian tradition, one also finds numerous testimonies that point decisively in the opposite direction. Already in the Midrash on Lamentations we can read that “when the Israelites carry out the will of the blessed Saint, whoever he may be, they strengthen the force of the Power above, as it is written, ‘let the power of my lord be great’ (Numbers 14:17). And when they do not carry out the will of the Saint, may he be blessed, they weaken the strength from above and, in this way, they also walk without strength before he who persecutes them” (in Mopsik, p. 53). According to other rabbinical sources, prayers and laudations have the remarkable power of crowning YHVH with a regal diadem that the angel Sandalphon weaves for him by invoking his name in what appears to be a veritable coronation ceremony, in which God, as the Midrash states, “forces himself to receive a crown from his servants.” But Mopsik is able to demonstrate with ease that YHVH’s very regality seems to depend in some way on the prayers of the just (*ibid.*, p. 58).

In the Kabbalah, this theurgical conception attains its full stature. A direct relationship between worship and glory, identified with the *sefirah* Malkut (the Kingdom), is at the center of the thinking of Shem Tov ibn Shem Tov as much as of Meir ibn Gabbai, a Spanish kabbalist who dedicated his principal work to this relationship, *The Book of Sacred Worship* (1531). Shem Tov, taking up again the Midrash on Lamentations, argues that ritual practices provoke an “overflowing” of the celestial world onto the terrestrial:

The forms of the lower world in fact have their root in the superior reality, because man is an upside-down tree, the roots of which are in the air. If man is united with the Glory of the Name and sanctifies himself and concentrates, he will be able to bring about the overflowing into the higher glory, in the same way as when one lights a fire or a lamp to illuminate the home. But if man neglects to worship the divine and despairs of it, this causes the reabsorption of the divine light that was shining on the lower beings. (In Mopsik, p. 260)

For his part, Ibn Gabbai, forcing a rabbinical expression that means “for the needs of the temple,” announces a veritable theurgical theorem in the form: “Worship is ‘a need of the one who is Highest’” (ibid., p. 365). Adopting a bold musical metaphor, the relationship of worship and glory is compared to that of two musical instruments tuned by the same tuning fork, “so that, through the vibration of a chord in one of them, we bring about a corresponding vibration in the other” (ibid., p. 367).

In the great texts of the medieval Kabbalah, the statement of the theurgical character of worship turns on the interpretation of Psalms 119:126, in which the verse that can mean “it is time for thee, Lord, to work” is interpreted as though it meant “it is time to make God” (Mopsik, p. 371). In the face of the extreme consequences of such an exegesis, scholars have asked how it is possible that such a radical thesis, which implies that man was, ultimately, “the creator of the creator”—or at least he who sustains his being and perpetually “fixes” him—could have emerged within a religion that never stopped denouncing the vanity of the pagan gods, created by men. And yet, in the tripartite form of “making the Name,” “making the Saturday,” and “making God,” such a thesis is formulated beyond any doubt in the cabalists of Gerona and in the *Zohar* as much as in the Kabbalah after the expulsion from Spain: “He who observes a commandment below, affirms it and makes it above” (Azriel of Gerona in Mopsik, p. 558).

To make, here, does not necessarily mean to create *ex novo*: the idea is, rather, that without ritual practices, the divine pleroma loses its strength and decays; that God, in other words, needs to be continually restored and repaired by the pity of men, in the same way that he is weakened by their impiety. On the basis of the close link between worship and glory that we have already observed, the cabalists speak in this sense of a “restoration of glory.”

Carrying out commandments below, one carries them out above, and their archetype awakens so as to restore the superior Glory [ . . . ] It is a case of the restoration of Glory, the secret of the glorious Name [ . . . ] The right below awakens the right above and together they restore and make the superior Glory and augment and intensify his energy [ . . . ] (Gabbai in Mopsik, p. 602)

This conception is so solid, diffuse, and coherent that, at the end of his investigation, Mopsik, evoking Durkheim’s thesis on the divine need of worship, discreetly suggests that he might have been influenced by the Kabbalah: “Durkheim, who was the son of a rabbi, began his studies at the Rabbinical School in Paris. Let us leave to the historians of sociology the task of drawing conclusions from this, if it is right to do so” (Mopsik, p. 648).

8.18. It was not our intention to formulate hypotheses on the theurgic origins of the doxologies and acclamations, nor was it to announce scientific mythologems on the genesis of glory. As we have seen, sociologists, anthropologists, and historians of religion have, in part, already effectively confronted this problem. For us the task is rather to try, once again, to understand the functioning of the governmental machine, whose bipolar structure we have tried to define in the course of our investigation and which was the reason for the archaeology of glory that we have sketched out. The analysis of the theology of glory is only the shadow that our inquiry into the structure of power casts over the past. That doxologies and acclamations are, in the final instance, concerned with producing and augmenting glory is, of course, something that interests us. It is not necessary to share Schmitt's thesis on secularization in order to affirm that political problems become more intelligible and clear if they are related to theological paradigms. On the contrary, we have tried to show that this comes about because doxologies and acclamations in some sense constitute a threshold of indifference between politics and theology. Just as liturgical doxologies produce and strengthen God's glory, so the profane acclamations are not an ornament of political power but found and justify it. And just as the immanent trinity and economic trinity, *theologia* and *oikonomia* constitute, within the providential paradigm, a bipolar machine from whose distinction and correlation stems the government of the world, so Kingdom and Government constitute the two elements or faces of the same machine of power.

However, beyond merely registering this correspondence, our interest lies in understanding its operation. In what way does liturgy "make" power? And if the governmental machine is twofold (Kingdom and Government), what function does glory play within it? For sociologists and anthropologists it always remains possible to turn to magic as the sphere that, bordering upon rationality and immediately preceding it, allows one to explain that which we do not understand about the society in which we live as ultimately a magical survival. We do not believe in the magical power of acclamations and of liturgy, and we are convinced that not even theologians or emperors really believed in it. If glory is so important in theology it is, above all, because it allows one to bring together within the governmental machine immanent trinity and economic trinity, the being of God and his praxis, Kingdom and Government. By defining the Kingdom and the essence, it also determines the sense of the economy and of Government. It allows, that is, for us to bridge that fracture between theology and economy that the doctrine of the trinity has never been able to completely resolve and for which only the dazzling figure of glory is able to provide a possible conciliation.

8.19. In Christian liturgy, *amen* is the acclamation par excellence. Already in the biblical usage of this term, which belongs to the semantic sphere of stability and fidelity, it is used as the acclamation of consensus or in response to a doxology (*berakhah*) and, later, in the synagogue, as the response to a benediction. This anaphoric function of *amen*, which must always refer to a word that precedes it—which, typically, must not be enunciated by the one who says *amen*—is essential. The enunciation of this acclamation was so important in Judaism that in the Talmud (b Tractate Shabbat, 119b) one finds the phrase: “He who answers *amen* with all his strength opens the doors of paradise for himself.” Paul’s frequent use of the word at the end of a doxology (Romans 1:25: “Blessed for ever. Amen”) is perfectly coherent with this tradition, which we find in the most ancient Christian liturgy, particularly in the acclamation at the end of the prayer of the Eucharist (*omnes respondent: amen*). After what we have seen regarding the particular relation that unites glory with the divine essence, we will not be surprised that in the Talmud, to the question “What does *amen* mean?” (b Tractate Shabbat, 119b) one may reply “God, the faithful king” (*el melek ne’eman*); and that an analogous identification of divinity and acclamation can be found in Revelation 3:14 where Christ is defined as “the Amen, the true witness” (*ho Amēn, ho martyrs ho pistos*).

It is interesting to follow the story of the translation of this term—or rather, of its nontranslation into Greek and Latin. The Septuagint, which frequently renders it as *genoito* (let it be) and sometimes with *alēthōs* (truly), frequently leaves it untranslated (as in Nehemiah 8:6: “And all the people answered, Amen”). The New Testament limits itself to transcribing it into Greek letters, although in some passages *alēthōs* and *nai* appear to presuppose an *amēn*. On the other hand, the Latin translations of the Old Testament, following the *genoito* of the Septuagint, render *amen* as *fiat*.

Augustine, on more than one occasion, poses the problem of the appropriateness of translating the term into Latin. He is aware of the quasijudicial value of the acclamation, which significantly he compares to some institutions of Roman law (“Fratres mei, amen vestrum subscriptio vestra est, consensio vestra est, adstipulatio vestra est”: “My brothers, your amen is your signature [*firma*], your consensus, your agreement as guarantors to a contract”: Augustine, *Sermons*, fragment 3). In the small treatise on translation contained in *De doctrina christiana*, he distinguishes the two terms *amen* and *halleluia*, which are not translated but could be, from interjections such as *hosanna* and *racha*, which, since they express a feeling rather than a concept, “are said to be untranslatable into another tongue” (Augustine, *On Christian Doctrine*, Book 2,

Chapter II, §16, p. 641). He notes, however, that the term *amen* has remained untranslated “propter sanctiorem auctoritatem,” on account of the more sacred authority that attaches to it (*ibid.*) (“authority,” another term that derives from the lexicon of law). And in relation to the doxologies, Isidore takes up Augustine’s observation, stating that “it is not permitted for Greek, Latin, or barbarian to translate these two words, *alleluia* and *amen*, wholly into their own language” (Isidore, *The Etymologies*, 6, 19–20, p. 147).

The constant tendency to transform acclamations that, originally, may even have been spontaneous, into ritual formulae is present in profane liturgies just as much as it is in religious ones. It goes hand in hand with a desemanticization of the terms through which the acclamations are expressed; like the *amen*, they are often intentionally left in the original language. Numerous testimonies reveal how, already in the fourth century, the faithful appeared to understand *amen* as a simple formula that marked the end of a prayer and not as an acclamation that answers to a doxology.

As in the case of every acclamation, its effect and function are more important than the comprehension of its meaning. The audience who, today, in a French or American concert hall cry out “bravo,” might not know its precise meaning or the grammar of the Italian term (not varying it even if it is said of a woman or to more than one person), but they know perfectly well the effect that the acclamation must produce. It rewards the actor or virtuoso and obliges him to return to the stage. Those who know about show business go so far as to claim that actors need applause in the same way that one needs nourishment. This means that, in the sphere of doxologies and acclamations, the semantic aspect of language is deactivated and appears for a moment as an empty rotation; and, yet, it is precisely this empty turning that supplies it with its peculiar, almost magical, efficacy: that of producing glory.

✠ It has often been noted that in the Gospels Jesus uses *amen* in a way that has no parallel in the Old Testament nor in rabbinical literature; he uses it not as a liturgical response but instead at the beginning of his statements, in expressions of the form: *Amēn amēn legō ymīn* [ . . . ] (in the Vulgate: *Amen amen dico vobis*). It is possible to glimpse in this particular use something like a self-conscious messianic transformation of acclamation into affirmation, of the doxology that approves and repeats into a position that, at least in appearance, innovates and transgresses.

8.20. Among the manuscripts that Mauss left unfinished at the time of his death, there is a study of the notion of nourishment (*anna*) in the Brahmana, the theological part of the Veda. Among the notions—at once “curiously ab-

stract and surprisingly coarse” (Mauss, *Manuscript*, p. 1)—invented by the Brahmins of the Vedic era, “nourishment” is one of the most primitive. Already in the Rig-Veda one of the aims of sacrifice is to obtain nourishment, the juice and strength that food contains; and among the gods, there are two whose principal attribute is that of nourishing themselves: “Agni, the god of fire, who is nourished by the combustible, and Indra, the god who drinks *soma*, who is nourished by the sacrifice of this ambrosia (*amrita*), this essence of immortality” (ibid., pp. 3–4). But it is in the Brahmana that the doctrine of nourishment attains a theological and “almost philosophical” (ibid., p. 18) consistency. The *anna* is no longer the nourishment of this or that god; it is “nourishment in general, *anna*-in-itself, *annadya*, the edible, and the possession of what is edible” (ibid., p. 8). The *annadya* thereby becomes one of the qualities that define the *kshatra*, regal power. Not only does the king, to whom sacrifices are offered, become the “lord of nourishment”; we also see the gradual birth of a veritable “cult of nourishment” in India, having the character of a public cult, in the course of which nourishment “becomes the object of a kind of divinization” (ibid., p. 14). The *anna*, stripping itself of its material qualities, becomes the principle of life, the force that maintains and augments life; “one might almost say that nourishment is the vital breath and spirit” (ibid., p. 20). Insofar as it is the living principle and the active and spiritual essence, nourishment can be common to men as much as it is to the gods, and “sacrifice is nothing but the nourishment of the gods” (ibid., p. 24) in which men participate and from which they also draw nourishment. It is precisely in developing this idea of nourishment that Mauss is able to recount the tale of the formation, beyond the pantheon of the divine persons, of the idea of Prajapati, of a “unique, cosmic existence, of a God, male and firstborn, at once sacrifice and offering” (ibid., p. 28). On the last page, just before the manuscript abruptly breaks off, in the course of describing the cultural function of the Prajapati, Mauss appears to intentionally evoke, without ever naming, the Christian sacrifice: the body of Prajapati is “the matter of the universal feast [ . . . ] the supreme host that nourishes this entire world”; he is the nourishment-god who, in saying “there is no other nourishment than me,” offers himself up as a sacrifice for the life of his creatures (ibid., 29). “The divine essence,” concludes Mauss, “was, from this point of view, a food, nutrition itself. God was food” (ibid.).

Among the papers that refer to the incomplete study of nourishment in the Brahmana, there is a brief article, “Anna-Viraj,” in which the theory of *anna* is taken in an unexpected direction. The *viraj* is a metrical Vedic form composed of three feet of ten syllables each (the title could be translated as

“nourishment-hymn”). The Brahmana regards this metrical form as itself possessing a fundamental and specific nutritional virtue. “The ideal of the Brahmins was to compose through a collection of hymns, of songs [ . . . ], a male life, a bird, animal, or man and offer this supreme mystical food to the eating god, creator of the world” (Mauss 1974, p. 594). What is decisive here is that the hymn, the *viraj*, does not simply produce the food, but *is* food in-itself. In order to assure at all costs the presence of nourishment, the Brahmins would employ the rites of mantra composed with this meter; and lacking these, verses and formulae from other sources would be transposed, prosodically, into the form of the *viraj*. “Arbitrary pauses after every ten syllables; interruptions with musical cries repeated ten times; any expedient, barbarous or refined, is used to force songs intended to be sung in other forms into the procrustean bed of the *viraj*” (ibid., p. 595). The link between the metrical form and its nutritious character is so essential that the Brahmin theologians affirm without reserve that if one sings the hymn in the form of the *viraj*, “that is because the *viraj* has ten syllables, because the *viraj* is nutrition” (ibid., p. 597). The link is so intimate that Mauss, in the unfinished manuscript on the notion of nutrition, appears to suggest that the speculations on the *anna*-nutrition could precisely enable one to comprehend the sense of the prosodic structure of the Veda: “These hymns, songs, meters, these things expressed through numbers, these numbers, these rhythmical gestures, veiled words, cries that mean nutrition and are arranged, in relation to others, like food is arranged within the body or near it, all is part of a system of which we will discover the explanation when we have carried out the history of the ideas and the symbols concerning food” (Mauss, *Manuscript*, pp. 15–16).

In the theology of the Brahmana, the gods nourish themselves with hymns, and men, who ritually sing the *viraj*, provide for the gods’ nourishment in this way (and indirectly provide for their own as well). This perhaps permits us to unexpectedly shed some light on the essence of liturgy. Just as in the case of the Eucharistic sacrifice, the god who offers himself as nourishment to men can do so only in the context of the doxological canon, so in the Brahmana, the metrical form of the hymn must be ritually fixed since it amounts to the food of god. And vice versa.

8.21. That the ultimate purpose of the word is to celebrate is a recurrent theme in the poetic tradition of the West. The specific form of celebration in this tradition is the hymn. The Greek term *hymnos* is derived from the ritual acclamation that was shouted out during the marriage ceremony: *hymēn* (frequently followed by *hymenaios*). It does not correspond to a definite metrical form, but,

from the time of the most ancient attestations in the so-called Homeric hymns, it refers above all to the song in honor of the gods. This, in any case, is its content in Christian hymnology, which flourishes in the fourth century, if not earlier, with Ephrem the Syrian, Ambrose, Hilary, and Prudentius among the Latin speakers, and Gregory of Nazianzus and Synesius from the Eastern Church. Isidore defines it in tripartite form: praise, the object of praise (God), and song:

Hymnus est canticus laudantium, quod de Graeco in Latino laus interpretatur, pro eo quod sit carmen laetitiae et laudis. Proprie autem hymni sunt continentes laudem Dei. Si ergo sit laus et non sit Dei, non est hymnus; si sit et laus et Dei laus, et non cantetur, non est hymnus. Si ergo et in laudem Dei dicitur et cantatur, tunc est hymnus.

(The hymn is the song of he who praises, which in Greek means “praise,” because it is a poem of joy and praise. But hymns in the proper sense are those that contain praise of God. If, therefore, there is praise but not of God, it is not a hymn; if there is praise of God, but it is not sung, it is not a hymn. If, on the other hand, it is in praise of God and is sung, only then is it a hymn.) (Isidore, *The Etymologies*, 6, 19, 17)

Sacred hymnology begins its irreversible decline at the end of the Middle Ages. The Franciscan *Laudes creaturarum*, despite not being fully part of the hymnological tradition, constitutes the last great example of it and, at the same time, marks its end. Modern poetry is more elegiac than hymnological, despite some important exceptions in the German tradition in particular (as well as in the Italian, as is the case with Manzoni’s *Sacred Hymns*).

In the poetry of the 1900s, Rilke is a case apart. He dressed up an indubitably hymnological intention in the garb of elegy and lament. The almost liturgical aura of sacredness that has always surrounded the *Duino Elegies* is probably owed to this contamination of elements, to this spurious attempt to grasp a dead poetic form. Their hymnological character, in the technical sense, is evident from the first verse, which calls into question the angelic hierarchies (“Who, if I cried out, would hear me among the angelic orders?”: Rilke 2000, p. 5), that is, precisely those who must share the hymn with men (“For the reason why we recite this doxology is to share in the singing [*koinōnoi tēs hymnōdias* ( . . . ) *genōmetha*] of the angelic armies,” writes Cyril of Jerusalem in his *Mystagogic Catechesis*, p. 183). The angels, to whom Rilke addresses his hymn of praise (“Praise the world to the Angel”: Rilke 2000, 9, 53, p. 55), which they sing along with him, remain to the end the privileged interlocutors of the poet (“may I emerge singing praise and jubilation to the assenting angels [*zustimmenden Engeln*] who join in the song”:

ibid., 10, 1–2, p. 59). And in the *Sonnets to Orpheus*, which Rilke considered to be an essential companion to the *Elegies* and almost a kind of esoteric exegesis of the same, he clearly announces the hymnological (that is, celebratory) vocation of his poems: “Rühmen, das ist!,” “Praising, that’s it!” (Rilke 1987, 7, 1, p. 15). The eighth sonnet thus supplies the key to the elegiac titles of his hymns: the lamentation (*Klage*) can exist only in the sphere of celebration (“Nur im Raum der Rühmung darf die Klage / gehn [ . . . ]”: ibid., 8, 1–2) just as in the tenth elegy the hymn passes with equal necessity into the sphere of the lament.

Furio Jesi, who has dedicated some exemplary studies to Rilke’s work, in a planned preface to an edition of the *Elegies* that would never see the light of day, overturns the customary critical accounts that glimpse in the *Elegies* an exceptionally rich doctrinal content. He asks whether it makes sense to speak of “content” in this case. He proposes to bracket out the doctrinal content of the *Elegies* (which is in any case a sort of rehash of the clichés of Rilke’s poetry) and to read them as a series of rhetorical possibilities that keep the poet from remaining silent. The poet wants to speak, but what wants to speak within him is the unknowable. For this reason,

The discourse that resonates has no content: it is a pure will to discourse. The content of the voice of the secret that ultimately resonates is nothing other than the fact that “the secret speaks.” For this to occur, it is necessary that the modalities of discourse are emptied out of all content, and that this is done in a totalizing manner in order to bring to an end all the activity that has gone before, all the words uttered, at a single point. The organization of the multitude of Rilkean commonplaces, even of the oldest, in the context of the *Elegies*, follows from this. But so does the necessity for there to be somewhere for the content of these *topoi* to flow, so that in the *Elegies* they are able to echo in vain [ . . . ] (Jesi, p. 118)

Jesi’s definition of the *Elegies* as a poem that has nothing to say, as a pure “as-severation of the semantic nucleus of the word” (ibid., p. 120), is valid—in truth—for the hymn in general; that is, it defines the most profound intention of every doxology. At the point where it perfectly coincides with glory, praise is without content; it culminates in the *amen* that says nothing but merely assents to and concludes what has already been said. And what the *Elegies* lament and, at the same time, celebrate (according to the principle that lamentation can take place only in the sphere of celebration) is precisely the incurable absence of the content of the hymn, the turning in the void of language as the supreme form of glorification. The hymn is the radical deactivation of signifying language, the word rendered completely inoperative and, nevertheless, retained as such in the form of liturgy.

✠ In the final years of his poetic production, between 1800 and 1805, Hölderlin composed a series of often fragmentary and unfinished poems that have traditionally been called “hymns.” And in the technical sense they are hymns, because their content is fundamentally concerned with the gods and demigods (here, the latter can be said to take the place of the angels in some way). Nevertheless, because of a decisive shift, what these hymns celebrate is not the presence of the gods but their departure. In other words, Hölderlin’s late hymns are the symmetrical inverse of Rilke’s elegies: whereas the latter are hymns dressed up as elegies, Hölderlin writes elegies in the form of hymns. This sober inversion, this irruption of elegy into an alien context, is marked metrically by the breaking of the hymn’s rhythm. The particularly fierce prosodic fragmentation that characterizes Hölderlin’s hymns has not escaped the notice of the critics. It is precisely in order to underline this tearing apart of the syntactic structure that Adorno called his reading of Hölderlin’s final literary productions “*Parataxis*.” Norbert von Hellingrath, who in 1913 edited the first philologically accurate posthumous edition of Hölderlin’s writings, had registered this prosodic breaking more thoroughly. He drew on Alexandrine philology—in particular the work of Dionysius of Halicarnassus—the poetological distinction between *harmonia austera* and *harmonia glaphyra* (or austere connection—whose greatest exemplar is Pindar—and elegant connection—literally “hollow,” derived from *glaphy*, “cave”) and translated it into modern terms such as *harte* and *glatte Fügung*, hard articulation and flat articulation. In his comments on Hölderlin’s translation of Pindar’s fragments, he writes: “We can render this Greek terminology with ‘hard articulation’ and ‘flat articulation’ and establish that it is realized through the hard or flat character of the syntactical articulation of single elements in the three parallel strata of the poem: the rhythm of the words, the *melos*, and the sound” (Hellingrath, pp. 20–21). It is not so much the parataxis itself that defines the hard articulation as that, in it, single words are isolated from their semantic context to the point of constituting a sort of autonomous unity, whereas in the case of the flat articulation, the images and the syntactic context subordinate and link together a number of words. “The hard articulation does all it can to emphasize the word itself, imparting it to the listener and tearing it, as much as possible, from the associative context of the images and feelings to which it belonged” (ibid., p. 23).

The broken prosody and the almost aprosody of Hölderlin’s late hymns could not be characterized more precisely. The single words—sometimes even simple conjunctions such as *aber*, “but”—are isolated and jealously wrapped up in themselves; and the reading of the verse and the strophe is nothing but a succession of scansion and caesura in which all discourse and all meaning appear to break up and retract, as in a sort of prosodic and semantic paralysis. In this “staccato” of rhythm and thought, the hymn exhibits the elegy—that is, the lament for the taking leave of the gods or, rather, for the impossibility of the hymn—as its only proper content. Poetry’s bitter tendency to isolate words, which the Alexandrines used to call “free style,” can be defined as “hymnical.” It rests on the fact that every doxology is ultimately concerned with the celebration of the name, that is, with the enunciation and repetition of the divine names. In hymn, all names tend to

be isolated and become desemanticized in the proper names of the divine. In this sense, every poem presupposes the hymn—however distant they are—which is to say, it is only possible against the backdrop and within the horizon of the divine names. In other words, poetry is a field of tensions traversed by the currents of the *harmonia austera* and the *harmonia glaphyra*, and at whose polar extremes there stand, on the one hand, hymn, which celebrates the name and, on the other hand, elegy, which is the lament for the impossibility of proffering the divine names. Breaking the hymn, Hölderlin shatters the divine names and, at the same time, takes leave of the gods.

The most extreme form of the hymnical isolation of the word in modern poetry may be found in the work of Mallarmé. Mallarmé has enduringly sealed French poetry by giving a genuinely hymnical purpose to an unheard of exasperation of *harmonia austera*. The latter disarticulates and breaks the metrical structure of the poem to such an extent that it literally explodes in a handful of names without links, disseminated across the page. Isolated in a “vibratile suspension” from their syntactic context, the words, restored to their status of *nomina sacra*, are exhibited—in Mallarmé’s words—as “ce qui ne se dit pas du discours,” as that which in language tenaciously resists the discourse of meaning. This hymnological explosion of the poem is the *Coup de dés*. In this unrecitable doxology, the poet, in a gesture that is at once an initiation and an epilogue, has constituted modern lyric poetry in the form of an a-theological (or rather, theo-logical) liturgy, in comparison to which the celebratory intention of Rilke’s elegy seems decidedly belated.

8.22. The special relation that ties glory to inoperativity is one of the recurrent themes of economic theology that we have tried to reconstruct. Inasmuch as it names the ultimate ends of man and the condition that follows the Last Judgment, glory coincides with the cessation of all activity and all works. It is what remains after the machine of divine *oikonomia* has reached its completion and the hierarchy of angelic ministries has become completely inoperative. While in hell something like penal administration is still in operation, paradise not only knows no government, but also no writing, reading, no theology, and even no liturgical celebration—besides doxology, the hymn of glory. Glory occupies the place of postjudicial inoperativity; it is the eternal *amen* in which all works and all divine and human words are resolved.

In Judaism, inoperativity as the dimension most proper to God and man is given a grandiose image in the Sabbath. Indeed, the festivity of the Jews par excellence has its theological foundation in the fact that it is not the work of creation that is considered sacred but the day on which all work ceases (Genesis 2:2–3; Exodus 20:11). Thus, inoperativity is the name of what is most proper to God (“{Only God truly posses inoperative [*anapauesthai*] being}”: Philo, *On the Cherubim*, §90, p. 89; “{The Sabbath, which means inoperativity [*anapausis*], belongs to God}”: *ibid.*, §87, p. 89) and, at the same time, that which is awaited

in eschatology (“They should not enter into my inoperativity [*eis tēn katapausin mou*]”: Psalms 95:11).

In Paul’s Letters, in particular the Epistle to the Hebrews, the eschatological theme of inoperativity is introduced through a Midrash on Psalm 95:11. Paul (or whoever is the author of the epistle) calls “sabbatism” (*sabbatismos*: Hebrews 4:9) the inoperativity and beatitude that await the people of God.

Let us therefore fear, lest, a promise being left us of entering into his inoperativity [*katapausis*], some of you will be excluded from it. For unto us was the gospel preached, as well as unto them: but the word preached did not profit them, not being mixed with faith in them that heard it. For we who have believed do enter into inoperativity, as He said, *As I have sworn in my wrath, if they shall enter into my inoperativity*: although the works were finished from the foundation of the world. For He spake in a certain place of the seventh day on this wise, *And God did rest the seventh day from all His works*. And in this place again, *they shall not enter into my inoperativity*. Seeing therefore it remaineth that some must enter therein, and they to whom it was first preached entered not in because of their lack of obedience: Again, He limiteth a certain day, saying in David, *Today, after so long a time; as it is said, Today if ye will hear His voice, harden not your hearts*. For if Joshua had given them inoperativity, then would He not afterward have spoken of another day? There remaineth therefore a sabbatism to the people of God. For he that is entered into His inoperativity, he also hath ceased from his own works, as God did from His. (Hebrews 4:1–10)

The link that Paul, developing a biblical and rabbinical motif, establishes between the eschatological condition, Sabbath, and inoperativity profoundly marks the Christian conception of the Kingdom. In his commentary on the Epistle to the Hebrews, John Chrysostom identifies without reservation inoperativity, sabbatism, and the Kingdom of heaven: “For [Paul] said not inoperativity but ‘Sabbath-keeping’; calling the kingdom ‘Sabbath-keeping,’ by the appropriate name” (John Chrysostom, *Homilies on the Epistle to the Hebrews* 6, §2, p. 654); “What other inoperativity [*katapausis*] then is there, except the kingdom of Heaven [*basileia tōn ouranōn*], of which the Sabbath was an image and type [*eikōn kai typos*]?” (ibid., 6, §7, p. 651). Sabbatism is the name of eschatological glory that is, in essence, inoperativity. *The Clementine Homilies*, a text strongly influenced by Judeo-Christian traditions, defines God himself as Saturday and inoperativity. In an extremely dense theological passage, after attributing to God the name “nothing” (*to ouden*) and linking him to the void, the author writes: “This is the mystery of the Sabbath [*hebdomados mystērion*]. He Himself is the inoperativity of all things [*tōn holōn anapausis*]” (Clement of Alexandria, *The Clementine*

*Homilies*, Chapter 17, §10, pp. 320–321). And in the Pseudo-Dionysius, in the passage that we have already cited on hymnology, glory, the hymnical, and inoperativity are tightly conjoined and the hymns of the angels are defined as “divine places of thearchical inoperativity [*theioi topoi tēs thearchikēs ( . . . ) katapauseōs*]” (*Celestial Hierarchy*, 7, 57).

It is in Augustine that this theme becomes a problem or, more precisely, the supreme theological problem, that of the eternal Saturday (“sabbatum non habens vesperam,” “the Saturday that does not set”), which concludes—in a sublime and, at the same time, tortured glimpse—*The City of God*, that is, the work that contains his most extreme meditation on theology and politics. Immediately, the problem is clearly announced in all its simplicity: “How the saints shall be employed when they are clothed in immortal and spiritual bodies [*Quid acturi sint in corporibus immortalibus atque spiritalibus sancti?*]” (*The City of God*, Book XXII, Chapter 29, p. 691). Augustine realizes that one cannot properly speak either of “action” or *otium* and that the problem of the final inoperativity of creatures surpasses the intelligence of both men and angels. What is in question is “‘the peace of God which,’ as the apostle says, ‘passeth all understanding’” (*ibid.*).

The vision of this “peace” is, for Augustine, so difficult to conceive that, on the one hand, he is keen to qualify it by stating that it will not only be intellectual, because we will see God through the senses of our glorious body. On the other hand, he forgets that what is in question is precisely a “peace” and appears to maintain that on the eternal Saturday we will see God govern a new heaven and a new earth (*ibid.*). But he quickly returns to the decisive question, that of the unthinkable nature of the inoperativity of the blessed. It is a case of a new state that knows no *acedia* (*desidia*) or need (*indigentia*), and whose movements, which it is impossible even merely to imagine, will nevertheless be full of glory and decorum (*ibid.*, XXII, 30). He finds no other adequate expression for the blessed inoperativity, which is neither a doing nor a not-doing, than a “becoming Sabbath” of the resurrected in which they are identified with God:

“Be inoperative and know that I am God [*vacate et videte quoniam ego sum Deus*].” There shall be the great Sabbath which has no evening [ . . . ] For we shall be the Sabbath, when we shall be filled and replenished with God’s blessing and sanctification. There shall we be inoperative [*vacantes*], and know that He is God [ . . . ] But when we are restored by Him and perfected with greater grace, we shall be eternally inoperative [*vacabimus in aeterno*] to see that He is God, for we shall be full of Him when He shall be all in all. (*Ibid.*, p. 695)

Here, in a stuttering attempt to think the unthinkable, Augustine defines the final condition as a sabbatism to the nth degree, a making the Sabbath take rest in the Sabbath, a resolving of inoperativity into inoperativity:

After this period God shall be inoperative on the Sabbath, when He shall make inoperative in itself that very Sabbath that we shall be [*cum eundem diem septimum, quod nos erimus, in se ipso Deo faciet requiescere*] [ . . . ] Suffice it to say that this shall be our Sabbath, which shall be brought to a close, not by an evening, but by the Lord's day, as an eighth and eternal day [ . . . ] There we shall be inoperative [*vacabimus*] and see, see and love, love and praise. This is what shall be in the end without end. For what other end do we propose to ourselves than to attain to the kingdom of which there is no end? (Ibid., p. 696)

And only at this point, in the full glory of the Sabbath, where nothing is in excess and nothing is lacking, Augustine can conclude his work and pronounce his *amen*:

I think I have now, by God's help, discharged my obligation in writing his large work. Let those who think I have said too little, or those who think I have said too much, forgive me; and let those who think I have said just enough join me in giving thanks to God. Amen. (Ibid.)

8.23. If the postjudicial condition coincides with the supreme glory (“*vera ibi gloria erit*”: *The City of God*, p. 696) and if glory in the century of centuries has the form of an eternal Sabbath, what remains to be investigated is precisely the meaning of this intimacy between glory and sabbatism. At the beginning and the end of the highest power there stands, according to Christian theology, a figure not of action and government but of inoperativity. The indescribable mystery that glory, with its blinding light, must hide from the gaze of the *scrutatores maiestatis* is that of divine inoperativity, of what God does before creating the world and after the providential government of the world is complete. It is not the *kabbod*, which cannot be thought or looked upon, but the inoperative majesty that it veils with its clouds and the splendor of its insignia. Glory, both in theology and in politics, is precisely what takes the place of that unthinkable emptiness that amounts to the inoperativity of power. And yet, precisely this unsayable vacuity is what nourishes and feeds power (or, rather, what the machine of power transforms into nourishment). That means that the center of the governmental apparatus, the threshold at which Kingdom and Government ceaselessly communicate and ceaselessly distinguish themselves from one another is, in reality, empty; it is only the Sabbath and *katapausis*—and, nevertheless, this

inoperativity is so essential for the machine that it must at all costs be adopted and maintained at its center in the form of glory.

In the iconography of power, profane and religious, this central vacuity of glory, this intimacy of majesty and inoperativity, found its exemplary symbol in the *hetoimasia tou thronou*, that is, in the image of the empty throne.

The adoration of an empty throne has ancient roots and can be found in the Upanishads. In Mycenaean Greece, the throne discovered in the so-called Throne Room in Knossos is, according to the archaeologists, an object of worship and not a seat designed to be used. The bas-relief in the Medici Villa in Rome, which represents the empty throne from the front and surmounted by a crown surrounded by towers, appears to testify to a cult of the throne in the rites of the Magna Mater (Picard, p. 11). A cult of the throne for political ends, dating back to the fourth century BC about which we are well informed is that of the empty throne of Alexander, established in Cynda by Eumenes, the commander in chief of the Macedonian troops in Asia, in 319–312 BC. Claiming inspiration from Alexander himself who appeared to him in a dream, Eumenes fitted out the royal tent with an empty golden throne at its center on which rested the crown, scepter, and sword of the deceased monarch. Before the empty throne stood an altar on which officers and soldiers spread incense and myrrh before performing a ritual *proskynēsis*, as though Alexander had been present.

The first record of this oriental custom in Rome is to be found in the *sella curulis*—the seat usually allocated to the republican magistrates in office—which the senate awarded to Caesar to be exhibited at the games, empty and adorned with a golden crown encrusted with precious stones. In Augustus's epoch, both the written testimonies and his image as it is reproduced on coins show that the golden throne of the *divus Iulius* was constantly exhibited at the games. We know that Caligula had an empty throne placed on the Capitoline Hill, in front of which the senators were made to perform the *proskynēsis*. Alföldi provides reproductions of coins that clearly demonstrate that under Titus and Domitian, the empty *sellae* of the emperors, surmounted by a crown, had by then been transformed into thrones as objects of devotion similar in every way to the *pulvinaria* and the *lectisternia* upon which the gods were represented. Cassius Dio (72, 17, 4) tells us that, for Commodus, whether he was present or absent, theaters were fitted out with the symbols of Hercules: a golden throne, a lion skin, and a club.

However, the cultural meaning of the empty throne culminates in Christianity, in the grandiose eschatological image of the *hetoimasia tou thronou*, which adorns the triumphal arches and apses of the paleo-Christian and Byzantine

basilicas. So the fifth-century mosaic on the arch of Saint Sixtus III in Santa Maria Maggiore in Rome shows an empty throne encrusted with multicolored stones, on which rests a cushion and a cross; next to it one can make out a lion, an eagle, a winged human figure, some fragments of wings, and a crown. In the church of San Prisco in Capua, another mosaic represents the empty throne, between a winged bull and an eagle, resting on which is a scroll fastened with seven seals. In the Byzantine basilica of Santa Maria Assunta in Torcello, the *hetoimasia* in the mosaic of the Last Judgment shows a throne with a cross, a crown, and a sealed book, accompanied above it by seraphims with six wings and, on either side, by two large figures of angels. In Mystras, in the church of Saint Demetrius, a fresco of the thirteenth century exhibits an empty throne suspended from the air, draped in purple, and surrounded by six acclaiming angels; just above it, in a crystalline transparent rhombus, there is a book, an amphora, a snow-white bird, and a black bull.

Historians usually interpret the image of the empty throne as a symbol of regality, both divine and profane. “The value of the throne,” writes Picard, “never appears with as much force as it does when the throne is empty” (Picard, p. 1). This interpretation, which is certainly simplistic, could be developed in the terms of Kantorowicz’s theory of the “two bodies” of the king, which suggests that the throne, like the other insignia of regality, refers more to the office and the *dignitas* of the sovereign than to his person.

A similar explanation cannot, however, provide an account of the empty throne in the Christian *hetoimasia*. This must first be referred back to its eschatological context in Revelation 4:1–11. Here the apostle has inseparably conjoined the originary paradigm of all Christian liturgical doxologies with an eschatological vision that takes up again the motifs of the hallucinatory prophecies of Isaiah 6:1–4 and Ezekiel 1:1–28. The image of the throne, upon which, in Isaiah, YHVH sits and in Ezekiel, a “likeness as the appearance of a man” (1:26), is derived from both of these passages. From Ezekiel the “four living creatures” (1:5) with the faces of a lion, a bull, a man, and an eagle (which from the time of Irenaeus would be identified with the evangelists); from Isaiah, the song of the *Trisagion* (“holy holy holy is the Lord omnipotent”), which makes here its first appearance in Christian doxology. It is decisive, however, that while in the apocalyptic text, the anonymous being who sits on the throne “was to look upon like a jasper and a sardine stone” (Revelation 4:3), in the representations of the *hetoimasia tou thronou* the throne is absolutely empty—aside from the book (which in the text lies “in the right hand of him that sat”), the crown, and, later, the symbols of the crucifixion.

The term *hetoimasia*, like the verb *hetoimazō*, and the adjective *hetoimos* is, in the Greek of the Septuagint, a technical term that, in the Psalms, refers to YHVH's throne: “{The LORD prepared His throne in Heaven}” (Psalms 102:19); “Justice and judgment are the *hetoimasia* of thy throne” (89:14); “Thy throne is established (*hetoimos*) of old” (93:2). *Hetoimasia* does not mean the act of preparing and fitting out something, but the readiness of the throne. The throne has always been ready and has always awaited the glory of the Lord. According to rabbinical Judaism, the throne of glory is, as we have seen, one of the seven things that YHVH created before the creation of the world. In the same sense, in Christian theology the throne has been ready for all eternity because the glory of God is co-eternal with it. *The empty throne is not, therefore, a symbol of regality but of glory.* Glory precedes the creation of the world and survives its end. The throne is empty not only because glory, though coinciding with the divine essence is not identified with it, but also because it is in its innermost self-inoperativity and sabbatism. The void is the sovereign figure of glory.

8.24. The apparatus of glory finds its perfect cipher in the majesty of the empty throne. Its purpose is to capture within the governmental machine that unthinkable inoperativity—making it its internal motor—that constitutes the ultimate mystery of divinity. And glory is as much the objective glory that exhibits the inoperativity of the divinity, as it is the glorification in which human inoperativity celebrates its eternal Sabbath. The theological and profane apparatuses of glory coincide here, and, following the aims that have governed our investigation, we can make use of it as the epistemological paradigm that will enable us to penetrate the central mystery of power.

We can now begin to understand why doxology and ceremonials are so essential to power. What is at stake is the capture and inscription in a separate sphere of the inoperativity that is central to human life. The *oikonomia* of power places firmly at its heart, in the form of festival and glory, what appears to its eyes as the inoperativity of man and God, which cannot be looked at. Human life is inoperative and without purpose, but precisely this *argia* and this absence of aim make the incomparable operativity [*operosità*] of the human species possible. Man has dedicated himself to production and labor [*lavoro*], because in his essence he is completely devoid of work [*opera*], because he is the Sabbatical animal par excellence. And just as the machine of the theological *oikonomia* can function only if it writes within its core a doxological threshold in which economic trinity and immanent trinity are ceaselessly and liturgically (that is, politically) in motion, each passing into the other, so the governmental apparatus functions because it

has captured in its empty center the inoperativity of the human essence. This inoperativity is the political substance of the Occident, the glorious nutrient of all power. For this reason festival and idleness return ceaselessly in the dreams and political utopias of the Occident and are equally incessantly shipwrecked there. They are the enigmatic relics that the economic-theological machine abandons on the water's edge of civilization and that each time men question anew, nostalgically and in vain. Nostalgically because they appear to contain something that belongs to the human essence, but in vain because really they are nothing but the waste products of the immaterial and glorious fuel burnt by the motor of the machine as it turns, and that cannot be stopped.

✠ Aristotle has written on the idea of the constitutive inoperativity of humanity as such in a passage from the *Nichomachean Ethics* (1097b). When he comes to define happiness as the ultimate end of the science of politics, Aristotle poses the question of what “the function of man” is (*to ergon tou anthropou*) and he evokes the idea of a possible inoperativity of the human species:

For just as for a flute-player, a sculptor, or any artist, and, in general, for all things that have a function [*ergon*] or activity [*praxis*], the good and the “well” is thought to reside in the function, so would it seem to be for man, if he has a function. Have the carpenter, then, and the tanner certain functions or activities, and has man none? Is he naturally functionless [*argon*]? (Aristotle, *Nichomachean Ethics*, 1097b, 25–30, vol. 2, p. 1735)

The idea is immediately dropped and the work of man is identified with that particular “operativity” (*energeia*) that is life according to the *logos*. But the political relevance of the theme of an essential inoperativity of man as such did not escape Averroes, who makes power [*potenza*] and not the act of thought what determines the specific character of the human species, or Dante, who in *De Monarchia* (I, 3) places it at the heart of his doctrine of the multitude.

8.25. We can now try to answer the questions that without ever having been explicitly formulated have accompanied our archaeology of glory from the beginning: Why does power need inoperativity and glory? What is so essential about them that power must inscribe them at all costs in the empty center of its governmental apparatus? What nourishes power? And finally, is it possible to think inoperativity outside the apparatus of glory?

If by following the epistemological strategy that has orientated our investigation we reformulate our first three questions above on the plane of theology, Judaism and the New Testament agree on a single answer: *chayye 'olam, zōē aiōnios*, eternal life. First of all these syntagmas name what is due to the just in the

future eon. In this sense, *zōē aiōnios* appears for the first time in the Septuagint as the translation of *chayye 'olam* in Daniel 12:2, where it is written that “many of them that sleep in the dust of the earth shall awake, some to everlasting life, and some to shame and everlasting contempt.” Here, “everlasting,” or “eternal,” as is clear in both the Hebrew *'olam*, which indicates the divine world and the eschatological reality, and the Greek *aiōn* (“the *aiōn*,” writes John of Damascus, “was created before heaven and before time”), does not have a merely temporal significance but designates a special quality of life and, more precisely, the transformation that human life undergoes in the world to come. Hellenic Judaism defines it, therefore, as “{true life}” (*alēthinē zōē*: Philo, *The Special Laws* I, §32, pp. 536–537) or “{incorruptible life}” (*aphthartos zōē*: *ibid.*, *On the Giants*, §15; *On Flight and Finding*, §59, pp. 153 and 326, respectively) or even “carefree life” (*zōē amerimnos*). The rabbinical tradition describes this future life in opposition to the present life and, at the same time, in a singular contiguity with it; that is, as a deactivation of biological functions and bad instincts: “In the world to come there will be no eating and drinking, nor any generation and reproduction. There will be no commerce and trade, quarrels, envy or hostility; the just will sit with their crowns on their heads and will be refreshed by the splendor of the *shekinah*” (Talmud, b Berakhot, 17a).

The crown that the just wear upon their heads is derived from the diadem that is owed to the triumphant *imperator* or athlete as a symbol of victory and expresses the glorious quality of eternal life. It is this same symbol of a “crown of glory” (*stephanos tēs doxēs*) or a “crown of life” (*stephanos tēs zōēs*) that in the New Testament becomes the technical term for the glory of the blessed: “Be thou faithful unto death, and I will give thee a crown of life” (Revelation 2:10); “Ye shall receive a crown of glory that fadeth not away” (1 Peter 5:4); and “He shall receive the crown of life” (James 1:12).

Paul uses this symbol on more than one occasion to describe the eschatological situation of the just, who are compared to athletes running a race (“they do it to obtain a corruptible crown; but we an incorruptible”: 1 Corinthians 9:25; “I have fought a good fight, I have finished my course, I have kept the faith: Henceforth there is laid up for me a crown of righteousness, which the Lord, the righteous judge, shall give me at that day”: 2 Timothy 4:7–8). For him, however, the theme of eternal life not only indicates a future condition but the special quality of life in messianic time (*ho nyn kairos*, the time-of-now), that is, the life in Jesus the Messiah (“unto eternal life by Jesus Christ our Lord”: Romans 5:21). This life is marked by a special indicator of inoperativity, which in some ways anticipates the sabbatism of the Kingdom in the present: the *hōs mē*, the

“as not.” In the same way that the Messiah has brought about the law and, at the same time, rendered it inoperative (the verb that Paul uses to express the relation between the Messiah and the law—*katargein*—literally means “to render *argos*,” inoperative), so the *hōs mē* maintains and, at the same time, deactivates in the present all the juridical conditions and all the social behaviors of the members of the messianic community:

But this I say, brethren, the time is short: it remaineth, that both they that have wives be as though they had none [*hōs mē*]; and they that weep, as though they wept not; and they that rejoice, as though they rejoiced not; and they that buy, as though they possessed not; and they that use this world, as not abusing it: for the fashion of this world passeth away. (1 Corinthians 7:29–31)

Under the “as not,” life cannot coincide with itself and is divided into a life that we live (*vitam quam vivimus*, the set of facts and events that define our biography) and a life for which and in which we live (*vita qua vivimus*, what renders life livable and gives it a meaning and a form). To live in the Messiah means precisely to revoke and render inoperative at each instant every aspect of the life that we live, and to make the life for which we live, which Paul calls the “life of Jesus” (*zōē tou Iesou*—*zōē* not *bios*!) appear within it: “For we which live are always delivered unto death for Jesus’s sake, that the life also of Jesus might be made manifest in our mortal flesh” (2 Corinthians 4:11). The messianic life is the impossibility that life might coincide with a predetermined form, the revoking of every *bios* in order to open it to the *zōē tou Iesou*. And the inoperativity that takes place here is not mere inertia or rest; on the contrary, it is the messianic operation par excellence.

By contrast, in the future eon, when the just will enter into the inoperativity of God, the eternal life is, for Paul, placed decisively under the sign of glory. The celebrated passage in 1 Corinthians 15:35–55—the interpretation of which is the source of so much endeavor for the theologians from Origen to Thomas Aquinas—in truth says nothing more than this: that the bodies of the just will be resurrected in glory and will be transformed into glory and into the incorruptible spirit. What in Paul is left intentionally indeterminate and generic (“It is sown in dishonor; it is raised in glory: it is sown in weakness; it is raised in power: it is sown a natural body; it is raised a spiritual body”) is articulated and developed into a doctrine of the glorious body of the blessed by the theologians. In accordance with an apparatus that has by now become familiar to us, a doctrine of glorious life that isolates eternal life and its inoperativity in a separate sphere comes to substitute that of the messianic life. Life, which rendered all

forms inoperative, itself becomes a form in glory. Impassivity, agility, subtlety, and clarity thereby become the characters that define the life of the glorious body according to the theologians.

8.26. In the scholium to Proposition 36 of Book V of the *Ethics*, Spinoza unexpectedly evokes the idea of glory in relation to the mind's love for God. The proposition had shown that the intellectual love of the mind for God is nothing other than the love with which God loves himself and that, therefore, the mind's love for God is not distinct from God's love of men. It is at this point that the scholium develops a theory of glory that mobilizes and condenses in a few, vertiginous lines the theological motifs of the Jewish *kabhod* and Christian *doxa*:

From this we clearly understand in what our salvation or blessedness or freedom consists, namely, in the constant and eternal love toward God, that is, in God's love toward men. This love or blessedness is called Glory in the Holy Scriptures, and rightly so. For whether this love be related to God or to the mind, it can properly be called spiritual contentment, which in reality cannot be distinguished from glory. For insofar as it is related to God, it is pleasure (if we may still use this term) accompanied by the idea of himself, and this is also the case insofar as it is related to the mind. (Spinoza, *Ethics*, Book V, Proposition 36, pp. 378–379)

Moreover, pushing to the limit the correspondence between glory and glorification, inner glory and outer glory, glory names here a movement internal to the being of God, which proceeds as much from God toward men as from men toward God. But we also discover here the Sabbatical connection between glory and inoperativity (*menuchah*, *anapausis*, *katapausis*—here rendered with the term *acquiescentia*, which was unknown in classical Latin), understood here in a specific way. Inoperativity and glory are, here, the same thing: “Acquiescentia [. . .] revera a gloria [. . .] non distinguitur.”

In order to fully grasp the sense of this radicalization of the theme of glory and inoperativity it will, therefore, be necessary to return to the definition of *acquiescentia* contained in the demonstration of Proposition 52 of the fourth book. “Self-contentment” [*acquiescentia in se ipso*] writes Spinoza, “is the pleasure arising from man's contemplation of himself and his power of activity” (ibid., Book IV, Proposition 52, proof, p. 347). What does Spinoza mean when he writes of “man's contemplation of himself and his power of activity”? What is an inoperativity that consists in contemplating one's own power [*potenza*] to act? And how, from this perspective, are we to understand an inoperativity that “cannot be distinguished from glory”?

Philo had written that the inoperativity of God does not mean inertia or inactivity [*aprasia*], but a form of action that implies neither suffering nor effort:

In fact, only God, among existing things, is inoperative [*anapauomenon*], and by “inoperativity” I do not mean “inactivity” (since that which is by its nature energetic, that which is the cause of all things, can never desist from doing what is most excellent), but I mean an energy [*energeian*] completely free from labor [*aponotatēn*], without any feeling of suffering, and with the most perfect ease [*eumareias*]; for one may say, without impropriety, that the sun and moon, and the entire heaven, inasmuch as they are not endowed with independent power, and are continually in a state of motion and agitation, [do suffer] [ . . . ] and the most undeniable proofs of their labor are the yearly seasons [ . . . ] God is subject to no labor [ . . . ] and that which has no participation in weakness, even though it moves everything, cannot possibly cease to enjoy inoperativity for ever. So that rest and inoperativity are the appropriate attributes of God alone. (Philo, *On the Cherubim*, §87–90, p. 89)

Spinoza describes as “contemplation of [ . . . ] power” what one might describe as an inoperativity within the operation itself, that is, a *sui generis* “praxis” that consists in rendering all specific powers of acting or doing inoperative. The life, which contemplates its (own) power to act, renders itself inoperative in all its operations, and lives only (its) livability. We write “own” and “its” in parentheses, because it is only through the contemplation of power, which renders all specific *energeia* inoperative, that something like an experience of one’s “own” and a “self” becomes possible. “Self,” subjectivity, is what opens itself as a central inoperativity in every operation, like the live-*ability* of every life. In this inoperativity, the life that we live is only the life through which we live; only our power of acting and living, our act-*ability* and our live-*ability*. Here the *bios* coincides with the *zōē* without remainder.

One can therefore understand the essential function that the tradition of Western philosophy has assigned to contemplative life and to inoperativity: properly human praxis is sabbatism that, by rendering the specific functions of the living inoperative, opens them to possibility. Contemplation and inoperativity are, in this sense, the metaphysical operators of anthropogenesis, which, by liberating the living man from his biological or social destiny, assign him to that indefinable dimension that we are accustomed to call “politics.” Opposing the contemplative life to the political as “two *bioi*” (Aristotle, *Politics*, 1324a, p. 2102), Aristotle deflected politics and philosophy from their trajectory and, at the same time, delineated the paradigm on which the economy-glory apparatus would model itself. The political is neither a *bios* nor a *zōē*, but the dimension

that the inoperativity of contemplation, by deactivating linguistic and corporeal, material and immaterial praxes, ceaselessly opens and assigns to the living. For this reason, from the perspective of theological *oikonomia* the genealogy of which we have here traced, nothing is more urgent than to incorporate inoperativity within its own apparatuses. *Zōē aiōnios*, eternal life, is the name of this inoperative center of the human, of this political “substance” of the Occident that the machine of the economy and of glory ceaselessly attempts to capture within itself.

✠ A model of this operation that consists in making all human and divine works inoperative is the poem. Because poetry is precisely that linguistic operation that renders language inoperative—or, in Spinoza’s terms, the point at which language, which has deactivated its communicative and informative functions, rests within itself, contemplates its power of saying [*potenza di dire*] and in this way opens itself to a new possible use. In this way, Dante’s *La Vita Nuova* and Leopardi’s *Canti* are the contemplation of the Italian language, Arnauld Daniel’s *sestina* the contemplation of the Provençal language, Hölderlin’s hymns or the poems of Bachmann the contemplation of the German language, *Les Illuminations* of Rimbaud the contemplation of the French language, and so on. And the poetic subject is not the individual who wrote these poems, but the subject that is produced at the point at which language has been rendered inoperative and, therefore, has become in him and for him, purely sayable.

What the poem accomplishes for the power of saying, politics and philosophy must accomplish for the power of acting. By rendering economic and biological operations inoperative, they demonstrate what the human body *can do*; they open it to a new, possible use.

✠ It is only from the perspective opened by this genealogy of government and of glory that Heidegger’s decision to pose the question of technology as the ultimate problem of metaphysics acquires its proper significance and, at the same time, reveals its limits. The *Ge-stell*, which Heidegger defines as the essence of technology, “the complete orderability of all that is present” (Heidegger 1994, p. 54), the activity that arranges and accumulates things and even men as resources (*Bestand*), is nothing other than that which, from within the horizon of our investigation, appears as *oikonomia*; that is, as the theological apparatus of the government of the world. “Orderability” (*Bestellbarkeit*) is nothing other than governmentality; and that which, on the theological plane, is presented as that which must be ordered and guided toward salvation, arranges itself, on the plane of technology, as a resource to sustain the *Ge-stell*. The term *Ge-stell* corresponds perfectly (not only in its form: the German *stellen* is equivalent to *ponere*, that is, *to place*) to the Latin term *dispositio*, which translates the Greek *oikonomia*. The *Ge-stell* is the apparatus of the absolute and integral government of the world.

The failure of Heidegger’s attempt to resolve the problem of technology is also evident here. Insofar as technology is not, in itself, “anything technological” (*ibid.*, p. 57),

but is the epochal figure of the unveiling-veiling of being, it rests in the final analysis on ontological difference in the same way that, in theology, the economy-government is founded in the economy of the Trinity. Therefore, the problem of technology is not something that can be decided by men, and the self-refusal of the world that takes place in the *Ge-stell* is the “supreme mystery of being” (ibid., p. 107), just as the “mystery of the economy” is the most intimate mystery of God. For this reason men cannot but correspond (*entsprechen*) to this mystery in a dimension in which philosophy appears to pass into religion and which, in its very name (*Kehre*), repeats the technical term for conversion (in German, *Bekehrung*). Salvation (*Rettung*), which grows in the danger of technology, does not signify an action but a bringing back into the essence, a guarding (*in die Hut nehmen*), a preserving (*wahren*) (ibid., p. 102).

Heidegger cannot resolve the problem of technology because he was unable to restore it to its political *locus*. The economy of being, its epochal unveiling in a veiling is, like economic theology, a political mystery that corresponds to power’s entering into the figure of Government. And the operation that resolves this mystery, which deactivates and renders inoperative the technological-ontological apparatus, is political. It is not a guarding of being and of the divine but an operation that, within being and the divine, deactivates its economy and accomplishes it.

# Threshold

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HERE, the investigation that has led us from the *oikonomia* to glory may come to a halt, at least provisionally. It has brought us into proximity with the center of the machine that glory envelops with its splendor and songs.

The essential political function of glory, of acclamations and doxologies appears to have declined. Ceremonies, protocols, and liturgies still exist everywhere, and not only where monarchical institutions persist. In receptions and solemn ceremonies, the president of the republic continues to follow protocol rules the observance of which is ensured by special functionaries, and the Roman pontiff continues to sit on the *cathedra Petri* or on the *sedia gestatoria* and wears paraments and tiaras, whose meaning is largely lost to the memory of the faithful.

Generally speaking, however, ceremonies and liturgies tend today to be simplified; the insignia of power reduced to a minimum; crowns, thrones, and scepters kept in glass cases in museums or treasuries; and the acclamations that had such great importance for the glorious function of power appear everywhere to have almost disappeared. It is certainly true that it was not so long ago that, in the field of what Kantorowicz called the “emotionalism” of fascist regimes, acclamations played a decisive function in the political life of certain great European states: perhaps never has an acclamation, in the technical sense of the word, been expressed with so much force and efficacy as was “Heil Hitler” in Nazi Germany or “Duce duce” in fascist Italy. And yet these uproarious and unanimous cries that resounded yesterday in the piazzas of our cities appear today to be part of a distant and irrevocable past.

But is it really so? Taking up again in 1928, in his *Constitutional Theory*, the theme of his article, written a year earlier, “Referendum and Petition for a Referendum,” Schmitt specifies the constitutive function of acclamation in public law and does so precisely in the chapter dedicated to the analysis of the “theory of democracy.”

“People” is a concept that becomes present only in the *public* sphere [*Öffentlichkeit*]. The people appear only in the public, and they first produce the pub-

lic generally. People and public exist together: no people without public and no public without the people. By its *presence*, specifically, the people initiate the public. Only the present, truly assembled people are the people and produce the public. The correct idea that supports Rousseau's famous thesis that the people cannot be represented rests on this truth. They cannot be represented, because they must be *present*, and only something absent, not something present, may be represented. As a present, genuinely assembled people, they exist in the pure democracy with the greatest possible degree of identity: as [*ekklesiā*] in the market of Greek democracy; in the Roman forum; as assembled team or army; as a local government of a Swiss Land [ . . . ] The genuinely assembled people are first a people, and only the genuinely assembled people can do that which pertains distinctly to the activity of this people. They can *acclaim* in that they express their consent or disapproval simply by calling out, calling higher or lower, celebrating a leader or a suggestion, honoring the king or some other person, or denying the acclamation by silence or complaining [ . . . ] When indeed only the people are actually assembled for whatever purpose, to the extent that it does not only appear as an organized interest group, for example, during street demonstrations and public festivals, in theaters, on the running track, or in the stadium, this people engaged in acclamation is present, and it is, at least potentially, a political entity. (Schmitt 2008b, p. 272)

Schmitt's contribution here is not only to have established an indissoluble link between acclamations and democracy as well as between acclamations and the public sphere but also that of identifying the forms in which it can subsist in contemporary democracies, in which "genuine popular assemblies and acclamations are entirely unknown" (*ibid.*, p. 273). In contemporary democracies, acclamations survive, according to Schmitt, in the sphere of public opinion and only by setting out from the constitutive nexus of people—acclamation—public opinion is it possible to reintegrate into its rights the notion of publicity, which is today "rather obscure, [but] is essential for all political life, especially for modern democracy" (*ibid.*, p. 272).

*Public opinion is the modern type of acclamation.* It is perhaps a diffuse type, and its problem is resolved neither sociologically nor in terms of public law. However, its essence and political significance lie in the fact that it can be understood as an acclamation. There is no democracy and no state without public opinion, as there is no state without acclamation. (*Ibid.*, p. 275)

Of course, Schmitt is conscious of the essential risks that democracy is exposed to, from such a perspective, with the manipulation of public opinion; but, in accordance with the principle that the ultimate criterion of the political exist-

tence of a people is its capacity to distinguish friend from enemy, he maintains that, while that capacity exists, such risks are not decisive:

In every democracy, there are parties, speakers, and demagogues, from the [*prostatatai*] of the Athenians up to the *bosses* in American democracy. Moreover, there are the press, films, and other methods of psycho-technical handling of great masses of people. All that escapes a comprehensive set of norms. The danger always exists that invisible and irresponsible social powers direct public opinion and the will of the people. (Ibid.)

More than the singular linking (which is already present in the 1927 article) of acclamations to the genuine democratic tradition—they appear to belong rather to the tradition of authoritarianism—what we wish to focus on is the suggestion that the sphere of glory—of which we have attempted to reconstitute the meaning and archaeology—does not disappear in modern democracies, but simply shifts to another area, that of public opinion. If this is true, the problem of the political function of the media in contemporary society that is so widely debated today acquires a new meaning and a new urgency.

In 1967, Guy Debord—in what appears to us a truism today—diagnosed the planetary transformation of capitalist politics and economy as an “immense accumulation of *spectacles*” (Debord, p. 12) in which the commodity and capital itself assume the mediatic form of the image. If we link Debord’s analysis with Schmitt’s thesis according to which public opinion is the modern form of acclamation, the entire problem of the contemporary spectacle of media domination over all areas of social life assumes a new guise. What is in question is nothing less than a new and unheard of concentration, multiplication, and dissemination of the function of glory as the center of the political system. What was confined to the spheres of liturgy and ceremonials has become concentrated in the media and, at the same time, through them it spreads and penetrates at each moment into every area of society, both public and private. Contemporary democracy is a democracy that is entirely founded upon glory, that is, on the efficacy of acclamation, multiplied and disseminated by the media beyond all imagination. (That the Greek term for glory—*doxa*—is the same term that today designates public opinion is, from this standpoint, something more than a coincidence.) As had always been the case in profane and ecclesiastical liturgies, this supposedly “originary democratic phenomenon” is once again caught, orientated, and manipulated in the forms and according to the strategies of spectacular power.

We are now beginning to better understand the sense of the contemporary definitions of democracy as “government by consent” or “consensus democracy”<sup>\*</sup> and the decisive transformation of the democratic institutions that is at stake in these terms. In 1994, following the verdict of the German Federal Court that rejected the appeal to the unconstitutional nature of the ratification of the Maastricht Treaty, a debate took place in Germany between an illustrious scholar of constitutional law, Dieter Grimm, and Jürgen Habermas. In a brief article (significantly entitled in the interrogative, “Braucht Europa eine Verfassung?” “Does Europe Need a Constitution?”), the German constitutional theorist intervened in the discussion, which was particularly animated in Germany, between those who believed the treaties that had led to European integration had formal constitutional value and those who instead believed that an actual constitutional document would be required. He underlined the irresolvable difference between international treaties, whose juridical foundation lies in the agreement between states, and constitutions that presuppose the constitutive act of the people.

[ . . . ] It is inherent in a constitution in the full sense of the term that it goes back to an act taken by or at least attributed to the people, in which they attribute political capacity to themselves. There is no such source for primary Community law. It goes back not to a European people but to the individual member states, and remains dependent on them even after its entry into force. (Grimm, p. 290)

Grimm had no nostalgia for the nation-state model or for that of the national community whose unity is in some sense presupposed in a substantial form or “rooted in ethnic origin” (*ibid.*, p. 297); but he could not but register that the lack of a European public opinion and of a common language makes the formation even of something like a common political culture impossible, at least for now.

This thesis, which lucidly reflected the principles of modern public law, substantially coincided with the position of those sociologists, such as Lepsius, who, in more or less the same years, while distinguishing between *ethnos* (national collectivity based upon descent and homogeneity) and *dēmos* (the people as “nation of citizens”), had affirmed that Europe did not yet possess a common *dēmos* and cannot therefore constitute a politically legitimate European power.

To this conception of the necessary relationship between people and constitution, Habermas opposes the thesis of a popular sovereignty that is entirely emancipated from a substantial subject-people (constituted by “members of a

<sup>\*</sup> In English in the original.—Trans.

collectivity who are physically present, participating, and involved”) and fully resolved in the communicative forms without subject that, according to his idea of publicity, “regulate the flows of the political formation of public opinion and will” (Habermas, p. xxxix\*). Once popular sovereignty dissolves itself and is liquefied in such communicative procedures, not only can the symbolic place of power no longer be occupied by new symbols of identity, but the objections of constitutionalists to the possibility that something like a “European people”—correctly, that is communicatively, understood—can exist, also fall away.

It is well known that in subsequent years a “European constitution” was drafted, with the unexpected consequence—which should have been anticipated—that it was rejected by the “citizens as people” [*popolo dei cittadini*] who were asked to ratify what was certainly not an expression of their constituent power. The fact is that, if to Grimm and the theorists of the people-constitution nexus one could object that they still harked back to the common presuppositions of language and public opinion, to Habermas and the theorists of the people-communication one could easily object that they ended up passing political power into the hands of experts and the media.

What our investigation has shown is that the holistic state, founded on the immediate presence of the acclaiming people, and the neutralized state that resolves itself in the communicative forms without subject, are opposed only in appearance. They are nothing but two sides of the same glorious apparatus in its two forms: the immediate and subjective glory of the acclaiming people and the mediatic and objective glory of social communication. As should be evident today, people-nation and people-communication, despite the differences in behavior and figure, are the two faces of the *doxa* that, as such, ceaselessly interweave and separate themselves in contemporary society. In this interlacing of elements, the “democratic” and secular theorists of communicative action risk finding themselves side by side with conservative thinkers of acclamation such as Schmitt and Peterson; but this is precisely the price that must be paid each time by theoretical elaborations that think they can do without archaeological precautions.

That “government by consent”<sup>†</sup> and the social communication on which, in the last instance, consensus rests, in reality hark back to acclamations is what can be shown even through a summary genealogical inquest. The first time that the concept of “consensus” appears in the technical context of public law is in a crucial passage from Augustus’s *Res gestae divi Augusti*, where he briefly summarizes

\* The English translation omits this passage from the 1990 Suhrkamp edition.—Trans.

† In English in the original.—Trans.

the concentration of constitutional powers in his person: “In consulatu sexto et septimo, postquam bella civilia extinxeram, per consensum universorum potitus rerum omnium” (“In my sixth and seventh consulates, after putting out the civil war, [having obtained everybody’s consent, I assumed all powers]”: *Res gestae divi Augusti*, §34). The historians of Roman law questioned the foundation of this extraordinary concentration of powers in public law. Mommsen and Kornemann, for example, maintain that it was no longer based on the function of the triumvirate, but upon a state of exception of a certain kind (*Notstandkommando*) (Kornemann, p. 336). It is peculiar, however, that Augustus unequivocally founds it upon consent (“per consensum universorum”), and also that immediately beforehand he specifies the ways in which that consent manifested itself: “Twice I triumphed with an ovation, and three times I enjoyed a *curule* triumph and twenty-one times I was named emperor [*Bis ovans triumphavi, tris egi curulis triumphos et appellatus sum viciens et semel imperator*]” (*Res gestae divi Augusti*, §4). For a historian such as Mommsen, who had never heard of “communicative action,” it was certainly not easy to relate the notion of consensus back to a foundation in public law; but if one understands the essential link that ties it to acclamation, consensus can be defined without difficulty, paraphrasing Schmitt’s thesis on public opinion, as the “modern form of acclamation” (it matters little that the acclamation is expressed by a physically present multitude, as in Schmitt, or by the flow of communicative procedures, as in Habermas). In any case, consensual democracy, which Debord called “the society of the spectacle” and which is so dear to the theorists of communicative action, is a glorious democracy, in which the *oikonomia* is fully resolved into glory and the doxological function, freeing itself of liturgy and ceremonials, absolutizes itself to an unheard of extent and penetrates every area of social life.

Philosophy and the science of politics have omitted to pose the questions that appear decisive in every way, whenever the techniques and strategies of government and power are analyzed, from a genealogical and functional perspective: Where does our culture draw the criterion of politicality—mythologically and in fact? What is the substance—or the procedure, or threshold—that allows one to confer on something a properly political character? The answer that our investigation suggests is: glory, in its dual aspect, divine and human, ontological and economic, of the Father and the Son, of the people-substance and the people-communication. The people—whether real or communicational—to which in some sense the “government by consent”<sup>\*</sup> and the *oikonomia* of con-

\* In English in the original.—Trans.

temporary democracies must hark back, is, in essence, acclamation and *doxa*. Establishing whether, as we have tried to show liminally, glory covers and captures in the guise of “eternal life” that particular praxis of man as living being [*vivente uomo*] that we have defined as inoperativity, and whether it is possible, as was announced at the end of *Homo Sacer I*, to think politics—beyond the economy and beyond glory—beginning from the inoperative disarticulation of both *bios* and *zōē*, is the task for a future investigation.

## Appendix

# The Economy of the Moderns

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### 1. *The Law and the Miracle*

1.1. In the second half of the seventeenth century, the question of providence assumed in France the forms that Pascal ridicules in his *Provincial Letters*. Due to the increasing interest in all areas for governmental practices and for the theory of power, the debate among theologians also focused on the ways in which providence governs (and hence on nature and on grace, which are its principal instruments) and on the relation between government and the governed (to what extent providence obligates rational creatures and in what sense they remain free with respect to the grace they receive). According to Pascal's testimony, what irreducibly divides Jesuits, Molinists, Thomists, and Jansenists is precisely the question of "sufficient" grace and "effective" grace; that is, the ways in which God intervenes in the government of the second causes.

Their differences on the subject of sufficient grace is chiefly this. The Jesuits maintain there is a general grace bestowed upon all mankind, but in a sense subordinated to free will, so that this grace is rendered effective or ineffective as the world chooses, without any additional assistance from God. It does not need anything external to itself to make its operations effectual. On this account it is distinguished by the word *sufficient*. In contrast, the Jansenists affirm that no grace is actually sufficient unless it is also effective. That is, all principles that do not determine the will to act effectively are insufficient for action because, they say, no one can act with effective grace. (Pascal 2003, pp. 245–246)

Although Jesuits and Thomists are in agreement in condemning the Jansenists, great confusion also reigns among them with regard to the definition of grace (whether sufficient or effective)—the instrument par excellence of providential government. Indeed, the Thomists call sufficient that grace that is not sufficient, since it is not enough to determine action. "That is to say, all men have grace enough, and all have not grace enough—this grace is sufficient and it is insufficient;

that is to say, it is nominally sufficient and really insufficient” (ibid., pp. 247–248). “Where are we now?” Pascal continues ironically.

Which side am I to take here? If I deny sufficient grace, I am a Jansenist. If I admit it with the Jesuits in such a sense that there is no necessity for efficacious grace, I am, you tell me, a heretic. If I agree with you, I fly against common sense. I am a madman, say the Jesuits. What then am I to do in this inevitable situation of being either considered a madman, a heretic, or a Jansenist? (Ibid., p. 248)

In reality, what hides behind an apparently terminological question is the very way in which we are to conceive the divine government of the world, and, in a more or less witting way, the theologians are in fact discussing politics. The providential government of the world is derived from a difficult balance between the action of governing (grace, in its various forms) and the free will of governed individuals. If Cornelius Jansen’s position is unacceptable to the Church, this is because, in affirming that grace is always efficacious and, as such, invincible, he destroys the freedom of men and transforms the activity of providence into an absolute and impenetrable government that—like the government of the large baroque states, with their mysteries and their “reasons”—saves the elect and condemns the others to eternal damnation through its will.

1.2. It is in this context that Malebranche publishes in 1680—fifteen years after the vociferous debate surrounding the publication of the *Provincial Letters*—his *Treatise on Nature and Grace*. In this text he gives a new formulation to the doctrine of general providence and special providence, of first causes and secondary causes, which would exert a lasting influence not only among theologians but also and above all on philosophers, to whom it was explicitly directed (“pour lesquels j’ai écrit le Traité”: Malebranche 1979, p. 146). Since it is a case of nothing less than an absolutization of divine government, which radically transforms the sense of secondary causes (now conceived of as occasional causes), it is worth following the summary exposition that Malebranche gives of his doctrine in the *Eclaircissements* appended to the treatise.

The subject of providential action is the divine will. Therefore, Malebranche begins by distinguishing the general wills from the particular wills.

I say that God acts by general wills, when he acts in consequence of general laws which he has established. For example, I say that God acts in me by general will when he makes me feel pain at the time when I am pricked; because in consequence of the general and efficacious laws of the union of the soul and the body which he has established, he makes me feel pain when my body is ill disposed. In the same way, when a ball strikes a second one, I say that God moves the second

by a general will, because he moves it in consequence of the general and efficacious laws of the communication of motion—God having generally established at the moment that the two bodies strike, the motion is divided between the two according to certain proportions; and it is through the efficacy of this general will that bodies have the power to move each other. (Malebranche 1992, p. 195).

It will, on the other hand, be said that God acts with a particular will if this produces its effects independently of a general law. If God makes me feel the pain of a prick without a cause having acted on my body, within me or outside me, and if a body begins to move without being struck by another, this could be the effect of a particular will, that is, of a miracle.

Malebranche's strategy consists in more or less completely excluding from providence the particular wills and reducing the problem of the divine government of the world to the terms of the relationship between general will and the causes that he defines as occasional (in other words, he transforms secondary causes into occasional ones).

When one sees that an effect is produced immediately after the action of an *occasional* cause, one must judge that this effect is produced by the efficacy of a general will. A body moves immediately after having been struck: the collision of the bodies is the action of the *occasional* cause; thus this body moves by a general will. A stone falls on the head of a man and kills him; and this stone falls like all others, I mean that its movement continues nearly according to the arithmetical progression 1, 3, 5, 7, 9, etc. That supposed, I say that it moves by the efficacy of a general will, or according to the laws of the communication of motion, as it is easy to demonstrate. (Ibid., p. 197)

But also when an effect is produced without there being an occasional cause (if, for example, a body moves without having been knocked by another), we cannot be sure whether it is a particular will or a miracle that has intervened. One can suppose, in fact, that God has established a general law according to which the angels have the power to move bodies with their will; the particular angelic will will act as an occasional cause of the will of God and the mechanism of providential government will in all cases be the same.

Thus one can often be assured that God acts by general wills; but one cannot in the same way be assured that he acts by particular wills even in the most attested miracles. (Ibid.)

The fact is that, according to Malebranche, it conforms better to divine wisdom to act according to simple and general ways than through a multiplicity of particular wills. In this way he formulates a kind of Ockham's razor with respect to

miracles: miracles, like entities, *non sunt multiplicanda extra necessitatem*. If one sees the rain fall on a field that was much in need of it, it is not necessary to verify whether or not it also fell on neighboring fields or on the roads that did not need it, “for one must not, without necessity, have recourse to miracles” (ibid., p. 200).

For, since there is more wisdom in executing his plans by simple and general means than in complex and particular ways [ . . . ] one must do this honor to God, to believe that this way of acting is general, uniform, constant, and proportioned to the idea that we have of an infinite wisdom. (Ibid., pp. 200–201)

The paradigm of providential government is not the miracle but the law; not the particular will but the general.

This is also the only reasonable way to account for the evils that seem to us to be irreconcilable with what we suppose to be the designs of providence. God has established as a general law that we should feel a pleasant sensation when we enjoy the fruits that are suited to nourishing our bodies. If we feel that same sensation when we eat poisoned fruit, this does not mean that God departs from the law that he has established through a particular will. On the contrary:

[ . . . ] since a poisoned fruit excites in our brain motions like those which good fruit produces therein, God gives us the same feeling, because of the general laws which unify the soul and the body—in order that it be wakeful to its preservation. In the same way God gives those who have lost an arm feelings of pain with respect to this arm only by a general will [ . . . ] Thus it is certain that rains which are useless or harmful to the fruits of the earth are necessary consequences of the general laws of the communication of motion which God has established to produce the effects in the world [ . . . ] (Ibid., pp. 198–199)

The Stoic theory of collateral effects is here taken up against and inscribed within the divine government of the world that is dominated by general laws, the order of which corresponds perfectly to that which the natural sciences are just beginning to decipher.

A wise man must act wisely; God cannot deny himself; his ways of acting must bear the character of his attributes. Now God knows all, and foresees all; his intelligence has no limits. Thus his way of acting must bear the character of an infinite intelligence. Now to choose occasional causes, and to establish the general laws to execute some work, indicates a knowledge infinitely more extensive, than to change his wills at every moment, or to act by particular wills. Thus God executes his plans by general laws, whose efficacy is determined by occasional causes. Certainly it requires a greater breadth of mind to create a watch which, according to the laws of mechanism, goes by itself and regularly—whether one

carries it oneself, whether one holds it suspended, whether one shakes it as one pleases—than to make one which cannot run correctly if he who has made it does not change something in it at every moment according to the situation it is placed in [ . . . ] Thus to establish general laws, and to choose the simplest ones, which are at the same time the most fruitful, is a way of acting worthy of him whose wisdom has no bounds; and by contrast to act by particular wills indicates a limited intelligence [ . . . ] (Ibid., pp. 210–211)

This is not, for Malebranche, to deny or play down the power of providence; on the contrary, it now coincides so perfectly with the order of the world that it is no longer necessary to distinguish it from nature; nature is nothing other than “the general laws which God has established to construct or to preserve his work by very simple means, by an action which is uniform [and] constant” (ibid., p. 196). Every other conception of nature, for instance, that of pagan philosophers, is a “chimera.” But this nature, in which God “does all in all things” (ibid.), to the extent that he acts only through the general wills and laws, is in no way distinguishable from that of modern science. For this reason Fénelon, commenting on Malebranche’s treatise, perceptively observes that “his God must coincide with the order of the world,” which “could not violate this order without ceasing to be God” (Fénelon, p. 342).

1.3. What is in every way decisive is the function that Malebranche gives to Christology in providential government. He interprets the Trinitarian *oikonomia* in the sense that Jesus Christ, after his sacrifice, where he acted as the *meritorious* cause of redemption, was constituted by the Father as the *occasional* cause of grace and, as such, he executes and renders effective in its particulars the grace that God established through his general laws. “Thus he himself applies and distributes his gifts, as *occasional* cause. He disposes of everything in the house of God, like a well-loved son in the house of his father” (Malebranche 1992, p. 201). In other words, he is an integral part of the governmental machine of providence, and occupies the place of the determining node that articulates its execution in every area and for all individuals. It is in this sense that, according to Malebranche, one must understand both the affirmation in the Gospel that states that to Christ has been given “omnis potestas in coelo et in terra” (Matthew 28:18), and that of Paul according to which Christ is the head of the Church of which the faithful are members (Ephesians 4:6). The words of Paul

[ . . . ] do not simply say that Jesus Christ is the *meritorious* cause of all graces: they express even more distinctly the notion that Christians are members of the body of which Jesus Christ is the head; that it is in him that we believe and that

we live a wholly new life; that it is through his internal working *kat' energeian*, that his Church is formed, and that he has thus been established by God as the sole *occasional* cause who, by his different desires and different efforts, distributes the graces which God as true cause diffuses in men. (Malebranche 1992, p. 203)

Christ acts, in other words, as the chief of the executive of a *gubernatio* of which God is the supreme legislator. But, just as the *oikonomia* did not imply the division of the divinity, in the same way the power [*potenza*] assigned to Christ does not involve a division of sovereignty. For this reason Malebranche is able to speak, with respect to Christ, of a “sovereign power” (“puissance souveraine de cause occasionnelle”: Malebranche 1979, p. 148, even if this was given to him by the father) and, at the same time, to define its function simply as “ministry”:

Jesus Christ, as a man, is the head of the Church, and it is he who distributes among its members the grace that sanctifies. But since he only has this power as a consequence of the general laws that God has established in him in order to execute his great design, the eternal temple, one can truly say that it is God, and only God, who gives inner grace, although he only gives it in truth through the ministry of Jesus Christ, who—as a man—determines the efficacy of the divine will through his prayers and his desires. (Malebranche 1979, p. 185)\*

In this sense, Christ is compared to the angels that, in the Bible, act as “ministers of God” (*ibid.*, p. 183). In the same way as the angels gave the Old Law, of which they were ministers, so Christ “is the angel of the New Law” (*ibid.*, p. 186) and, as “minister” of it, he has been elevated above the angels (*ibid.*, p. 187).

✠ Even in Malebranche the definition of the providential role of the angels betrays a “ministerial,” that is, genuinely governmental, preoccupation. Not only are the angels the envoys and ministers of God, but their action—which coincides with the area traditionally assigned to miracles—provides, within the system of laws and general wills, something like the paradigm of the state of exception, which allows Malebranche to formulate in new terms his critique of miracles. According to Malebranche, there are in the Old Testament many places that testify to miraculous events, but these must not be interpreted as being caused by the particular wills of God that are contrary to his general laws. Instead, they should be understood as the consequence of a general will through which he has communicated his power to the angels: “I believe I can prove with the authority of Sacred scripture that the angels have received from God a power over the present world; that God executes their wills and, through them, his designs, according to certain general laws, in such a way that everything that appears miraculous in the Old Testament in no way proves that God acts in accordance with particular wills”

\* The English translation of the *Eclaircissements* appended to Malebranche’s *Treatise on Nature and Grace* is only partial. This passage and the subsequent ones are unavailable. Page references refer to the French original.—Trans.

(*ibid.*, pp. 182–183). So-called miracles are the consequence of a general law with which God has given to his angelic ministers the power to act in apparent violation of another general law (for instance, that of the communication of movements). The exception is, in other words, not a miracle (a particular will outside the system of general laws), but the effect of a general law that confers on the angels a special power of government. Miracles are not outside the legal system but represent a particular case in which a law is not applied so that another law, through which God delegates his sovereign power to the angels in view of the best possible government, can be.

Schmitt's theory of the state of exception—which, though suspending the application of some norms, is not situated outside the global legal order—corresponds perfectly to the model of angelic power to be found in the Treatise.

1.4. What is at stake in the treatise is the definition of the best possible government. The difficulty that the task runs into (the same as that with which Jansen struggles) is the conciliation of two propositions that are in apparent contradiction with one another: “God wants all men to be saved” and “Not all men are saved.” It is nothing less than a contrast in God between the will, which wishes that all men, even the wicked, will be saved, and the wisdom that cannot but choose the most simple and general laws for this end. The best government will therefore be that which is able to find the most economic relationship between will and wisdom or, as Malebranche writes, between the wisdom that has order and constancy in its sights, and fecundity (which demands that the Church be broader and more numerous):

God loves men and wants them all to be saved; he wants to sanctify them all; he wants his work to be beautiful; that his Church be the broadest and the most perfect. But God loves his wisdom infinitely more, because he loves it invincibly with a natural and necessary love. He cannot therefore dispense with acting in a manner that is most wise and worthy of himself; he must follow the behavior that corresponds best to his attributes. But by acting in ways that are most simple and worthy of his wisdom, his work cannot be more beautiful or greater than it is. For if God had been able to make his Church greater and more perfect than it is, by following other equally simple paths, it would mean that by acting as he did, he did not intend to execute the work that was most worthy of him [ . . . ] The wisdom of God, which prevented him from complicating his paths and carrying out miracles at each instant, obliges him to act in a general, constant, and uniform way. For this reason he does not save all men, although in reality he wishes them all to be saved. Despite loving his creatures, he only does for them what his wisdom enables him to do; and, although he wants a broad and perfect Church, he does not make it absolutely greater and more perfect but the greatest and most perfect in relation to the paths that are most worthy of him. For, once again, God does not form his designs other than by comparing the means with the work that they can

execute. And when he knew that there was a better relationship between wisdom and fecundity, between certain means and certain works, then, to speak as humans do, he took the decision, chose his paths, and established his decrees. (Ibid., p. 171)

Bayle had already begun to ask how such statements could be in accord with the commonly accepted notions of the nature and omnipotence of the supreme being. In his *Réponse aux questions d'un provincial*, which Leibniz cites in his *Theodicy*, he writes:

These [notions] teach us that all things not implying contradiction are possible for him, that consequently it is possible for him to save people whom he does not save: for what contradiction would result supposing the number of the elect were greater than it is? They teach us [ . . . ] that [ . . . ] he has no will which he cannot carry out. How, then, shall we understand that he wills to save all men and that he cannot do so? (Leibniz, §223, pp. 266–267)

In reality, Malebranche's theses become fully comprehensible only if one places them on their true terrain, which is that of the government of the world. In question is not the abstract point regarding the omnipotence or impotence of God, but the possibility of the government of the world, that is, of *an ordered relation between general laws and particular occasional causes*. If God, as the possessor of sovereignty, acted from start to finish according to particular wills, infinitely multiplying his miraculous interventions, there would be neither government nor order but only chaos and what one might call a pandemonium of miracles. For this reason, as sovereign, he must *reign* and not *govern*; he must fix the laws and the general wills and allow the contingent play of occasional causes and particular wills their most economical execution:

A God that knows everything must not disturb the simplicity of his paths. An immutable being must always maintain uniform behavior. A general cause must not act through particular wills. The government of God must bear the signs of his attributes, unless the immutable and necessary order does not force him to change it; because, with respect to God, order is an inviolable law; he loves it invincibly and will always prefer it to the arbitrary laws with which he executes his designs. (Malebranche 1979, p. 188)

But what results from the relationship between general will and occasional causes, between Kingdom and Government, God and Christ is an *oikonomia* in which what is at stake is not so much whether men are good or evil, but in what way the damnation of many can be reconciled in an ordered way with the salvation of few, and the evil nature of some people is nothing but the collateral effect of the goodness of others.

✠ In Leibniz's polemic with Bayle, from which resulted his *Essais de Théodicée sur la bonté de Dieu, la liberté de l'homme et l'origine du mal*, he evokes the name of Malebranche on more than one occasion and declares himself in agreement with his theory of the general wills, which he claims—rightly or wrongly—to have fathered. He writes:

The excellent author of *The Search for Truth*, having passed from philosophy to theology, published finally an admirable treatise on Nature and Grace. Here he showed in his way [ . . . ] that the events which spring from the enforcement of general laws are not the object of a particular will of God [ . . . ] I agree with Father Malebranche that God does things in the way most worthy of him. But I go a little further than he, with regard to “general and particular acts of will.” As God can do nothing without reasons, even when he acts miraculously, it follows that he has no will about individual events but what results from some general will. (Leibniz, §204–206, pp. 254–256)

The proximity of his theory of preestablished harmony and of the best of possible worlds to Malebranche's system seemed to Leibniz so great that it led him to remind his readers that he had been the first to elaborate it:

While I was in France I showed to M. Arnauld a dialogue I had composed in Latin on the cause of evil and the justice of God [the *Confessio philosophi*]; it was not only before his disputes with Father Malebranche, but even before the book on *The Search for Truth* appeared. (Ibid., §211, p. 260)

The very idea of “theodicy” is, in fact, already present in Malebranche: “It is not enough,” he writes, “to have it understood that God is powerful and that he makes his creatures do what he wishes. It is necessary, if possible, to justify his wisdom and his goodness” (Malebranche 1979, p. 174). Like Malebranche, Leibniz also affirms that God always chooses the most simple and general paths,

[ . . . ] which it is easiest to explain, and which also are of greatest service for the explanation of other things [ . . . ] And even though the system of Pre-established Harmony were not necessary otherwise, because it banishes superfluous miracles, God would have chosen it as being the most harmonious [ . . . ] It is as if one said that a certain house was the best that could have been constructed at a certain cost. One may, indeed, reduce these two conditions, simplicity and productivity, to a single advantage, which is to produce as much perfection as possible: thus Father Malebranche's system in this point amounts to the same as mine. (Leibniz, §208, p. 257)

The consequences that Leibniz drew from his system with regard to the problem of the origin and necessity of evil are well known. Divine wisdom embraces all possible worlds, compares them, and weighs them up in order to penetrate the major or minor degree of

perfection. It sets them out and distributes them in an infinity of possible universes, each of which contains an infinity of creatures:

The result of all these comparisons and deliberations is the choice of the best from among all the possible systems, which wisdom makes in order to satisfy goodness completely; and such is precisely the plan of the universe as it is. (Ibid., §225, pp. 267–268)

But the choice of the best possible world has a price, which is the quantity of evil, of suffering, and damnation that is contained within it as the necessary attendant effect. Once again Malebranche is called upon to justify the providential choice in the name of general laws:

But one must believe that even sufferings and monstrosities are part of order; and it is well to bear in mind not only that it was better to admit these defects and these monstrosities than to violate general laws, as Father Malebranche sometimes argues, but also that these very monstrosities are in the rules, and are in conformity with general acts of will, though we are not capable of discerning this conformity. It is just as sometimes there are appearances of irregularity in mathematics which issue finally in a great order when one has finally got to the bottom of them: that is why I have already in this work observed that according to my principles all individual events, without exception, are consequences of general acts of will. (Ibid., §241, pp. 276–277)

Even the most beautiful minds have zones of opacity in which they get lost to the point that a much weaker mind can ridicule them. This is what occurred to Leibniz with Voltaire's caricature of his position in *Candide*. In the case of Leibniz this defeat has two reasons. The first is juridical-moral, and concerns the justificatory intent that is expressed in the very title, *Theodicy*. The world as it is does not require justification but saving; and, if it does not require saving, it needs justifying even less. But to want to justify God for the way in which the world is amounts to the worst misunderstanding of Christianity that one can imagine. The second and more important reason has a political character, and concerns his blind faith in the necessity of the law (of the general will) as the instrument of the government of the world. According to this aberrant idea, if the general law requires as a necessary consequence that Auschwitz takes place, then also "monstrosities are within the rules," and the rule does not become monstrous for this reason.

1.5. The influence of Malebranche on Rousseau's political theory has been widely documented (Bréhier, Riley, Postigliola). However, scholars have merely reconstructed the considerable terminological debts and the remarkable influences that run between them, but they have rarely investigated the structural analogies that accompanied and made possible the shift from the theological context to the political one. In particular, the monograph by Patrick Riley, *The General Will*

*Before Rousseau*, has traced a broad genealogy of the notions of *volonté générale* and *volonté particulière*, which leads from the theology of the eighteenth century up to the *Contract social*. Rousseau did not invent these notions but drew them from theological debates on grace where, as we have seen, they had a strategic function in the conception of the providential government of the world. Riley demonstrates that the general will in Rousseau can be defined without any doubt as a secularization of the corresponding category in Malebranche and that, more generally, French theological thought, from Arnaud to Pascal, from Malebranche to Fénelon, has left substantial traces in all of Rousseau's work. But to what extent this might also determine the displacement of an entire theological paradigm into a political dimension is something that remains outside Riley's study. That the transfer of a notion from the field of theology to the field of politics might imply some unexpected consequences and, hence, something like an "unforgivable omission," in the case of Rousseau, was not lost on Alberto Postigliola (Postigliola, p. 224). But he limits himself to showing that the notion of "general will" in Malebranche is synonymous with the divine attribute of infinity, which renders problematic, if not contradictory, its shift into the profane sphere of Rousseau's city in which the generality can only be finite. We will attempt to show instead that with the notions of *volonté générale* and *volonté particulière* the entire governmental machine of providence is transferred from the theological to the political sphere, thereby compromising not only some points of Rousseau's *économie publique*, but giving it its fundamental structure; that is to say, the relationship between sovereignty and government, law and executive power. Through the *Social Contract* the republican tradition inherited without reservations a theological paradigm and a governmental machine of which it is still far from becoming conscious.

1.6. In the course of the 1977–1978 lectures *Securité, territoire, population*, Foucault defined in a few, extremely dense lines, the fundamental structure of Rousseau's political project (Foucault, pp. 106–108). He seeks here to demonstrate that the problem of sovereignty did not leave the stage at the moment the art of government came to the fore in European politics. On the contrary, never is it posed with such urgency as it is at this time: although up until the seventeenth century one limited oneself to deducing a paradigm of government from the theory of sovereignty, it then became an inverse process; given the growing primacy of the arts of government, it became a case of discovering the juridical form and theory of sovereignty that were able to sustain and found this primacy. It is at this stage that he illustrates his thesis via a reading of Rousseau and, in particular, of the relationship between the 1775 article on "Political Economy"

in the *Encyclopedia* and the *Social Contract*. The problem with the article lies, according to Foucault, in the definition of an “economy” or an art of government that is no longer modeled on the family, but that has the common aim of governing in the best possible way and with maximum efficacy in order to make men happy. When Rousseau writes the *Social Contract*, the problem will instead be precisely that of

how, with notions like those of “nature,” “contract,” and “general will,” one can give a general principle of government that will allow for both the juridical principle of sovereignty and the elements through which an art of government can be defined and described [ . . . ] The problem of sovereignty is not eliminated; on the contrary, it is made more acute than ever. (Foucault, p. 107)

Let us attempt to advance Foucault’s analysis in light of the results of our investigation. To begin with, he has come as close as he possibly can to the intuition of the bipolar character of the governmental machine, although the methodological decision to set aside the analysis of the juridical universals prevents him from articulating it fully. Rousseau’s theory of sovereignty is certainly a function of a theory of government (or of “public economy,” as he sometimes defines it); but the correlation between the two elements is, in Rousseau, still more intimate and tight than it appears in Foucault’s brief analysis and is entirely founded upon the theological model that he adopts from Malebranche and the French theorists of providence.

What is decisive from this point of view is the distinction and articulation of sovereignty and government, which is at the basis of Rousseau’s political thought. “I urge my readers also,” he writes in his article on the *Economie politique*, “to distinguish carefully *public economy*, about which I am to speak, and which I call *government*, from the supreme authority, which I call *sovereignty*—a distinction that consists in the one having the legislative right and in certain cases obligating the body of the nation itself, while the other has only the executive power and can obligate only private individuals” (Rousseau 1992, p. 142). In the *Social Contract* the distinction is restated as the articulation between general will and legislative power on the one hand, and government and executive power on the other. That for Rousseau the distinction has a strategic relevance is proved by the fact that he forcefully denies that it is a case of division and presents it instead as an internal articulation of one indivisible supreme power:

For the same reason that sovereignty is inalienable it is indivisible; for the will is either general, or it is not; it is either that of the body of the people, or that of only a part of it. In the first case, this declared will is an act of sovereignty

and constitutes law; in the second case, it is only a particular will, or an act of magistracy—it is at most a decree. But our politicians, being unable to divide sovereignty in its principle, divide it in its object. They divide it into force and will, into legislative power and executive power; into rights of taxation, of justice, and of war; into internal administration and foreign relations—sometimes conflating all of these branches, and sometimes separating them. They make the sovereign into a fantastic being, formed of disparate parts; it is as if they created a man from several different bodies, one with eyes, another with arms, another with feet, and nothing else. The Japanese conjurors, it is said, cut up a child before the eyes of the spectators; then throwing all its limbs into the air, they make the child come down again alive and whole. Such almost are the jugglers' tricks of our politicians; after dismembering the social body, by magic worthy of the circus, they recombine its parts, in any unlikely way. This error arises from their not having formed clear ideas about the sovereign authority, and from their regarding as elements of this authority what are only emanations from it. (Rousseau 2002, p. 171)

In the same way as in the paradigm of providence, general providence and special providence do not stand in contrast with each other nor do they represent a division within the one divine will; and, as in Malebranche, the occasional causes are nothing but the particular actualization of God's general will, so in Rousseau, the government, or executive power, claims to coincide with the sovereignty of law from which it nevertheless distinguishes itself as its particular emanation and actualization. The concept of emanation, utilized by Rousseau, has not failed to surprise his commentators; but the choice of term is all the more significant if one returns it to its original context, which is that of the emanative causes of Neoplatonism, which were incorporated into the theory of creation and providence through the work of Boethius, Johannes Scotus Eriugena, the *Liber de causis*, and Jewish theology. Precisely because of this origin, in Rousseau's time the term did not have a good press. In the article by Diderot, "Kabbalah," in the *Encyclopaedia*, the emanative paradigm was defined as the "axis around which the entire philosophical Kabbalah and system of emanations turn, according to which it is necessary that all things emanate from the divine essence." And even more critical judgments could be found in the entry "Emanation," which, having restated the link with the Kabbalah, warned that "this theory leads straight to pantheism." Introducing the term at a delicate point in his system, Rousseau must have calculated the implications of his choice. This did not hark back to the Kabbalah but to Christian theology, in which the term referred first to the procession of persons in the Trinitarian economy (until the seventeenth century this was, in fact, the only meaning of the French term *émanation*) and to the

theory of causes in the creationist and providential paradigm. In this context, the term implied that the divine principle has not been diminished nor is it divided by its Trinitarian articulation and by its activity of creation and conservation of the world. It is in this sense that Rousseau uses the term; in order to exclude, in contrast to those thinkers whom he ironically calls *les politiques*, that sovereignty is in some way divisible. And yet, just as in the case of the Trinitarian economy and in the theory of providence, what cannot be divided is articulated through the distinctions *sovereign power/government*, *general will/particular will*, *legislative power/executive power*, which mark within it a series of caesurae that Rousseau tries carefully to minimize.

1.7. Through these distinctions the entire economic-providential apparatus (with its polarities *ordinatio/executio*, providence/fate, Kingdom/Government) is passed on as an unquestioned inheritance to modern politics. What was needed to assure the unity of being and divine action, reconciling the unity of substance with the trinity of persons and the government of particulars with the universality of providence, has here the strategic function of reconciling the sovereignty and generality of the law with the public economy and the effective government of individuals. The most nefarious consequence of this theological apparatus dressed up as political legitimation is that it has rendered the democratic tradition incapable of thinking government and its economy (today one would instead write: economy and its government, but the two terms are substantially synonymous). On the one hand, Rousseau conceives of government as the essential political problem; on the other hand, he minimizes the problem of its nature and its foundation, reducing it to the activity of the execution of sovereign authority. The ambiguity that seems to settle the problem of government by presenting it as the mere execution of a general will and law has weighed negatively not only upon the theory, but also upon the history of modern democracy. For this history is nothing but the progressive coming to light of the substantial untruth of the primacy of legislative power and the consequent irreducibility of government to mere execution. And if today we are witnessing the government and the economy's overwhelming domination of a popular sovereignty emptied of all meaning, this perhaps signifies that Occidental democracies are paying the political price of a theological inheritance that they had unwittingly assumed through Rousseau.

The ambiguity that consists in conceiving government as executive power is an error with some of the most far-reaching consequences in the history of Western political thought. It has meant that modern political thought becomes lost in abstractions and vacuous mythologems such as the Law, the general will,

and popular sovereignty, and has failed to confront the decisive political problem. *What our investigation has shown is that the real problem, the central mystery of politics is not sovereignty, but government; it is not God, but the angel; it is not the king, but ministry; it is not the law, but the police—that is to say, the governmental machine that they form and support.*

✠ The two sovereignties, the dynastic and the popular-democratic, refer to two completely different genealogies. The dynastic sovereignty of divine right is derived from the theological-political paradigm; the popular-democratic is derived from the theological-economic-providential paradigm.

✠ Rousseau does not hide the fact that the fundamental articulations of his political system derive from a theological paradigm. In the article on *Political Economy*, he affirms that the principal difficulty of the system that he proposes is that of reconciling “public freedom and the government’s authority” (Rousseau 1992, p. 145). This difficulty has been removed, writes Rousseau, by the “most sublime of all human institutions, or rather by a divine inspiration, which teaches mankind to imitate here below the unchangeable decrees of the Deity” (ibid.). In other words, the sovereignty of the law, to which Rousseau refers, imitates and reproduces the structure of the providential government of the world. Just as in Malebranche, for Rousseau the general will, the law, subjugates men only in order to make them freer, and in immutably governing their actions does nothing but express their nature. And just as in letting oneself be governed by God they do nothing but let their own nature take its course, so the indivisible sovereignty of the Law guarantees the coincidence of the governing and the governed.

The agreement with Malebranche’s thought also appears forcefully in the third Letter from the Mountain in relation to the critique of miracles. Rousseau closely connects the miracle with the exception (it is “a real and visible exception to [God’s] Laws”: Rousseau 2001, p. 173) and firmly criticizes the necessity of miracles to faith and revelation. In question is not so much whether God “can” carry out miracles, so much as—through a perhaps conscious return to the distinction between absolute power and ordering power—whether God “wants” to do so (ibid.). It is interesting to observe that Rousseau, despite denying the necessity of miracles, does not exclude them entirely, but conceives them as exceptions. Schmitt’s theory, which sees in miracles the theological paradigm of the state of exception (Schmitt 2005, p. 49), finds its confirmation here.

## 2. *The Invisible Hand*

2.1. The term *oikonomia* disappears from the theological language of the West in the course of the Middle Ages. Certainly, its equivalents *dispositio* and *dispensatio* continue to be used, but they progressively lose their technical meaning and merely designate in a generic way the divine activity of the government of the world. The humanists and erudite scholars of the seventeenth century are

not ignorant of the theological meaning of the Greek term, which is defined with sufficient clarity in Étienne Chauvin's and Johann Kaspar Suicer's lexicons (1682, particularly in the meaning of the "incarnation of the word of God") and in the theological compendia such as Petavius's *De theologicis dogmatibus* (1644–1650). However, when in the course of the eighteenth century, the term reappears in the Latinate form *oeconomia* and especially in its equivalents in other European languages with the meaning that is familiar to us: "activity of management and government of things and people," it appears to spring, as it were, *ex novo* already formed in the heads of the *philosophes* and the *économistes*, without any essential relation either to classical economics or to its theological past. It is well known that the economics of the moderns is not derived from Aristotelian economics, nor from the medieval treatises of *Oeconomica* that refer to it, and even less to the moralizing tradition of works such as Menius's *Oeconomia christiana* (Wittenberg, 1529) or Battus's (Antwerp, 1558), which have as their object the behavior of the Christian family. But the more or less subterranean connections that might link the economics of the moderns to the paradigm of the theological *oikonomia* and the divine government of the world have been left almost entirely unexplored. It is not our intention to reconstruct the specifics of these links, but it seems clear that a genealogical inquiry into economics could usefully focus on the relation to the theological paradigm, whose essential traits we have sought to delineate. We will merely give a few summary indications here that others might wish to complete.

2.2. In 1749 Linneaus publishes in Uppsala his *Specimen academicum de oeconomia naturae*. Given the strategic function that the syntagma "economy of nature" will perform in the birth of modern economics, it is worthwhile dwelling on the definition he gives of it at the beginning of his book:

By "economy of nature" we mean the wise disposition [*dispositio*] of natural beings, established by the sovereign Creator, according to which they tend to common ends and execute reciprocal actions. Everything contained within the limits of this universe loudly celebrates the wisdom of the Creator. Everything that falls within our senses, everything that is presented to our mind and deserves observation combines, through its disposition, to manifest the glory of God; that is, to produce ends that God wanted as the purpose of all his works.

However surprising this conception may appear in an author we are accustomed to think of as the founder of modern scientific taxonomy, the derivation of the syntagma from the economic-providential tradition is here obvious and beyond doubt. *Oeconomia naturae* simply means—in perfect accordance with the theo-

logical paradigm that is familiar to us—the wise and providential *dispositio* that the creator has impressed upon his creation and through which he governs it and leads it to its ends, in such a way that an apparent evil in reality agrees with the general good. Moreover, from the start of the 1740s, Linneaus writes a series of short works that have this idea at their heart. In *Curiositas naturalis* (1748), an inhabitant of the moon falls unexpectedly to earth and observes in astonishment the terrible and disordered struggle of all against all that appears to reign on this planet. But as he observes events in an increasingly careful manner, the citizen of the moon begins to decipher—beneath the apparently cruel chaos—the immutable order of general laws in which he recognizes the intention and hand of a divine creator. The experiment is taken up again in 1760 in the more substantial and pondered *Dissertatio academica de politia naturae*. The “economy of nature” cedes its place to a *politia naturae*, but this, according to the terminology of *Policeywissenschaft* that has by this time become consolidated, means simply knowledge and government of the order and internal constitution of human society. In this book a moon-dweller is also thrown to earth naked as Adam in the middle of wars and horrifying slaughter. Once again, however, he gradually achieves an understanding of the hidden order that governs the reciprocal relations between creatures and moves them according to a perfectly circular motion.

One can rationally conclude that there is a necessary *politia* in the natural realm. A realm without government, without order, and without control would gradually fall into ruin. In a state, we call *politia* the direction and just administration of the whole; and this conception cannot but be confirmed if one follows as far as possible the chain of nature.

It is in the knowledge of this “natural police” that man’s true vocation consists:

Man who is himself the eye and mind of the earth, always taking care to observe with astonishment the economy of the creator, discovers that he is the only being that must venerate God by observing the perfection of his work.

2.3. The concept of an “economy of nature,” in what contemporaries called *la secte économiste*—that is, the Physiocrats—is entirely in agreement with these premises. The influence of Malebranche upon Quesnay is well documented (see Kubova in Quesnay, vol. 1, pp. 169–196), and, more generally, the influence of the model of the providential order on Physiocratic thought does not require proof. And yet, there has not been sufficient reflection on the curious circumstance that the modern science of economics and government has been constituted on the basis of a paradigm that had been developed within the horizon

of the theological *oikonomia* and whose concepts and signatures [*signature*] it is possible to precisely document.

The concept of “order,” which we have seen to play an essential role in the constitution of the divine government of the world, has a particular relevance in this regard. It is at the center of Quesnay’s thinking even before the 1750s, when he composes the celebrated *Tableau économique* (1758) and the articles “Fermiers” and “Grains” of the *Encyclopaedia* (1756). Well before taking on the form with which we are familiar, the term “economy” had established itself already in the first half of the eighteenth century in the syntagma “animal economy.” However, animal economy is not a social science but a branch of medicine, which broadly corresponds to physiology. In 1736, Quesnay, who remained a medical doctor until the end of his life, composes the *Essay physique sur l’économie animale*, where the latter is defined in terms of an immanent order that forcefully calls to mind a paradigm of government. The animal economy, he writes, does not designate the animal as such, but

[ . . . ] the order, the mechanism, the set of functions and movements that support animal life, the perfect and universal exercise of which, if executed faithfully, with alacrity and ease, constitutes the most flourishing state of health, in which the smallest disturbance is itself an illness.

It is sufficient to transfer this order of the “state of health” to the political state, from nature to society, in order that it be immediately converted into a paradigm of government. The *gouvernement économique d’un royaume* is nothing but the *ordre naturel plus avantageux*, and this results from the immutable laws that the Supreme Being has established for the formation and conservation of his work. Economy for Quesnay means order, and order founds government. For this reason the 1762 edition of the *Dictionnaire de l’Académie* can record as the meaning of the term *économie* “the order through which a political body principally subsists” (the 1798–1799 edition adds, “in this case it is called political economy”). Also here, as in Thomas Aquinas, order operates as a signature [*segnatura*] that serves to relate the theological order of the universe to the immanent order of human society; the general laws of providence and nature with the set of particular phenomena. Quesnay writes:

Men cannot penetrate the designs for the construction of the universe of the Supreme Being; they cannot raise themselves to the destined ends of the immutable rules that he has established for the formation and conservation of his work. Nevertheless, if these rules are examined with care, one will realize that the physical causes of physical harm are the same as the causes of physical good; that rain, which irritates the traveler, fertilizes the earth. (Quesnay, vol. 2, p. 73)

(The example of the rain that is at once benign and destructive is, not coincidentally, what Malebranche uses to define the mechanism of providence.)

This substantially theological idea of a natural order impressed upon things is so clearly present in the thought of the *économistes* that the science that we call “political economy” could have been called the “science of order.” This is the name that Le Trosne persistently gives it in his treatise *De l'ordre social* (1777), whose biblical epigraph taken from the book of Psalms leaves no doubt as to the origin of the concept. Despite the fact that Le Trosne is the first of the *économistes* to develop a theory of value that overcomes the limits of Physiocracy, his system rests upon unequivocally theological foundations. Indeed, through the concept (or rather, the signature [*segnatura*]) of “order” and the “economic truths” that it implies, he attempts to make it possible to comprehend and govern the politics that had “seemed to try to appear impenetrable up to that point” (Le Trosne, p. VIII).

The science of administration presented nothing but factitious, arbitrary, and variable rules; and, since it could not achieve trust, to achieve respect it adopted the mysterious obscurity of the oracles. (Ibid., p. IX)

But as soon as men glimpse the “science of order,” the mysteries dissipate and are replaced by the knowledge of the economy through which human societies have been established according to the same laws that support the physical world:

There exists a *natural, immutable, and essential order* instituted by God in order to govern civil societies in the way most advantageous to sovereigns and subjects; men have by necessity partly conformed to it; otherwise any association between them would become impossible. And if societies are not as happy as they should be and as they should desire to be, that is because the disorders and evils that they undergo stem from the fact that, of that order, they merely know some general principles without understanding it as a whole, without drawing from it the practical consequences that follow from it, and moving away from it on some essential points. This order, which is so important to discover and understand, has a *physical basis* and is derived, through a chain of necessary relations, from the laws of physical order; these are the only means of growth for sustenance, riches, and populations and, consequently, for the prosperity of empires and for the measure of happiness that the social state entails. (Ibid., pp. 302–303)

The “economic science” of the Physiocrats is nothing but the “application” and transposition of the natural order into the “government of societies” (ibid., p. 318); but the *physis* in question is that which results from the paradigm of the divine government of the world, that is, from the ensemble of relations that exists

between general laws and particular cases, between first causes and secondary causes, between ends and means, the calculation of which is the object of that “invention that is so important and ingenious” (ibid., p. 320) that is the *tableau économique*. The use of the syntagma *gouvernement de l'ordre*, to which the eighth discourse (*De l'évidence et la possibilité du gouvernement de l'ordre*) of Le Trosne's treatise is dedicated, is decisive. Here the genitive is, at once, subjective and objective; in the same way as in Thomas Aquinas, order is not an externally imposed schema, it is the being of God himself, which founds the government of the world and, at the same time, the dense network of immanent relations that, by linking the creatures together, renders them governable.

Political economy is constituted, in other words, as a social rationalization of providential *oikonomia*. It is not by chance, therefore, that the epigraph on the frontispiece of Le Mercier de la Rivière's treatise on the *Ordre naturel et essentiel des sociétés politiques* (1767) situates the new science with the words of Malebranche: “Order is the inviolable law of the Spirits and nothing is regulated if it does not conform to it.”

2.4. Christian Marouby has demonstrated the importance of the concept of “economy of nature” in Adam Smith (Marouby, pp. 232–234). When it appears for the first time in the *Theory of Moral Sentiments* (1759), its links with the providential paradigm are entirely explicit. Not only does Smith avail himself of it to express the link that the “Author of nature” has established between the final causes and secondary causes, ends and means (Smith 2002, Part I, §II, Chapter 5, note), but, more generally, he underlines on more than one occasion the affinity between his conception and the providential paradigm. Smith calls upon the “ancient Stoics”: “The ancient Stoics were of the opinion that, as the world was governed by the all-ruling providence of a wise, powerful, and good God, every single event ought to be regarded as making a necessary part of the plan of the universe, and as tending to promote the general order and happiness of the whole: that the vices and follies of mankind, therefore, made as necessary a part of this plan as their wisdom or their virtue; and by that eternal art which educes good from ill, were made to tend equally to the prosperity and perfection of the great system of nature” (ibid., Part I, §II, Chapter 3, p. 44). But Perrot has demonstrated the influence that French authors such as Mandeville, Malebranche, Pierre Nicole, and Pascal exercised over his thinking (Perrot, p. 348). Perrot believes that the celebrated passage according to which “it is not from the benevolence of the butcher, the brewer, or the baker that we expect our dinner, but from their regard to their own interest,” derives from Nicole and Pascal; and

it is from this perspective that one should investigate the celebrated image of the invisible hand.

It appears, as is well known, twice in Smith's work: the first time in the *Theory of Moral Sentiments* and, the second, in Chapter 2 of the fourth book of the *Wealth of Nations*:

As every individual [. . .] directing that industry in such a manner as its produce may be of the greatest value, he intends only his own gain, and he is in this, as in many other cases, led by an invisible hand to promote an end which was no part of his intention. Nor is it always the worse for the society that it was no part of it. (Smith 1976, p. 477)

That the metaphor has a biblical origin is not in doubt. Even if the immediate derivation is to be sought in all probability in the authors chronologically closer to Smith, our investigation into the genealogy of the providential economic paradigm has led us by chance to this image on more than one occasion. According to Augustine, God governs and administers the world, from the great to the small things, with an occult hand sign (“omnia, maxima et minima, occulto nutu administranti”: Augustine, *The Literal Meaning of Genesis*, 3, 17, 26); in Salvian's treatise on the government of the world, empires and provinces, but also the smallest details of private homes are led by “quasi quadam manu et gubernaculo” (Salvian, *On the Government of God*); Thomas Aquinas (*Summa Theologiae*, q. 103, a. 1, ad 2, p. 5) speaks in the same way of a *manus gubernatoris* that governs the created without being seen; in Luther (*De servo arbitrio*), the creature is itself a hand (*Hand*) of the hidden God; finally, in Bossuet, “Dieu tient du plus haut des cieus les rênes de tous les royaumes; il a tous les coeurs en sa main” (Bossuet 1936, Part III, Chapter 7, pp. 1024–1025).

But the analogy is even stronger and deeper than the image of the “invisible hand” allows us to infer. Didier Deleule has magisterially analyzed the link between Hume and Smith's thought and the birth of economic liberalism. He opposes the “naturalism” of Hume and Smith to the “providentialism” of the Physiocrats who are direct tributaries, as we have seen, of a theological paradigm. To the idea of an original divine design, comparable to a project developed in the brain, Hume opposes, as we have seen, that of an absolutely immanent principle of order, which functions instead as a “stomach,” rather than as a brain. “Why,” he makes Philo ask, “can an ordered system not be woven out of a stomach rather than a brain?” (Deleule, pp. 259 and 305, note 30). If it is probable that the Smithian image of the invisible hand is to be understood, in this sense, as the action of an immanent principle, our reconstruction of the bipolar machine

of the theological *oikonomia* has shown that there is no conflict between “providentialism” and “naturalism” within it, because the machine functions precisely by correlating a transcendent principle with an immanent order. Just as with the Kingdom and the Government, the intradivine trinity and the economic trinity, so the “brain” and the “stomach” are nothing but two sides of the same apparatus, of the same *oikonomia*, within which one of the two poles can, at each turn, dominate the other.

Liberalism represents a tendency that pushes to an extreme the supremacy of the pole of the “immanent order-government-stomach” to the point that it almost eliminates the pole “transcendent God-kingdom-brain.” But by doing so it merely plays off one side of the theological machine against the other. And when modernity abolishes the divine pole, the economy that is derived from it will not thereby have emancipated itself from its providential paradigm. In the same way, in modern Christian theology, there are forces that cast Christology into a near a-theological drift; but in this case as well, the theological model is not overcome.

2.5. In the *Theodicy*, Leibniz relates the opinion of certain cabalists according to which Adam’s sin consisted in his separating the divine Kingdom from its other attributes, thereby making a dominion within a dominion:

With the Hebrew Cabalists, *Malcuth* or the Kingdom, the last of the Sephiroth, signified that God controls everything irresistibly, but gently and without violence, so that man thinks he is following his own will while he carries out God’s. They said that Adam’s sin had been *truncatio Malcuth a caeteris plantis*, that is to say, that Adam had cut back the last of the Sephiroth, by making a dominion for himself within God’s dominion [ . . . ] but that his fall had taught him that he could not subsist of himself, and that man must be redeemed by the Messiah. (Leibniz, §372, p. 348)

According to Leibniz, Spinoza (who in the *Theologico-Political Treatise* again takes up the image of the *imperium in imperio* in order to criticize the modern idea of freedom), in his system, had done nothing but take the cabalist thesis to its extreme point.

The *oikonomia* of the moderns is this *truncatio Malcuth* that, taking for itself a sovereignty separated from its divine origin, in truth maintains the theological model of the government of the world. It establishes an *oikonomia* in the *oikonomia*, leaving intact the concept of government that conformed to this model. For this reason, it does not make sense to oppose secularism and the general will to theology and its providential paradigm; what is needed is, rather, an archaeological operation like the one that we have attempted here, one that, by moving

upstream to a time before the separation that took place and that turned the two poles into rival but inseparable brothers, undoes the entire economic-theological apparatus and renders it inoperative.

That the two poles of this apparatus are not antagonistic, but remain secretly in agreement until the end, is evident in the thinking of the theologian who has brought the providential standpoint to such an extreme that it appears to resolve itself completely and without remainder in the image of the world of modernity. In his *Traité du libre arbitre* Bossuet tries at all costs to reconcile human freedom with the divine government of the world. God, he writes, wishes for all eternity that man be free, and not only potentially but in the actual and concrete exercise of his freedom.

What is there more absurd than to say that man is not free because God wants him to be unfree? Should one not instead say, on the contrary, that he is free because God wants him so; and that, just as it comes about that we are free as a consequence of the decree that states that we are free, in the same way we freely execute this or that action as a consequence of the same decree that extends to the particulars? (Bossuet 1871, Chapter 8, p. 64)

The divine government of the world is so absolute and it penetrates creatures so deeply, that the divine will is annulled in the freedom of men (and the latter in the former):

It is not necessary that God, to make us conform with his decree, places within us anything other than our own determination or that he places it within us through others. Just as it would be absurd to say that our own determination takes away our freedom, equally it would be to affirm that God takes it from us through his decree; and just as our will, deciding to choose one thing rather than another, does not take away the power to choose, one must conclude in the same way that God does not take it from us either. (Ibid., p. 65)

At this point, theology can resolve itself into atheism, and providentialism into democracy, because *God has made the world just as if it were without God and governs it as though it governed itself*:

One can in fact say that God makes us just as we would be were we able to be on our own; because he makes us in all the principles and states of our being. Therefore, it is true to say that the state of our being is to be all that God wishes us to be. In the same way he makes man be what man is; and body be what body is; and thought be what thought is; and passion be what passion is; and action be what action is; and necessary be what necessary is; and free be what free is; and free in action and exercise what free in action and exercise is [ . . . ] (Ibid.)

In this grand image, in which the world created by God is identified with the world without God, and where contingency and necessity, freedom and slavery all merge into one another, the glorious center of the governmental machine appears clearly. Modernity, removing God from the world, has not only failed to leave theology behind, but in some ways has done nothing other than to lead the project of the providential *oikonomia* to completion.

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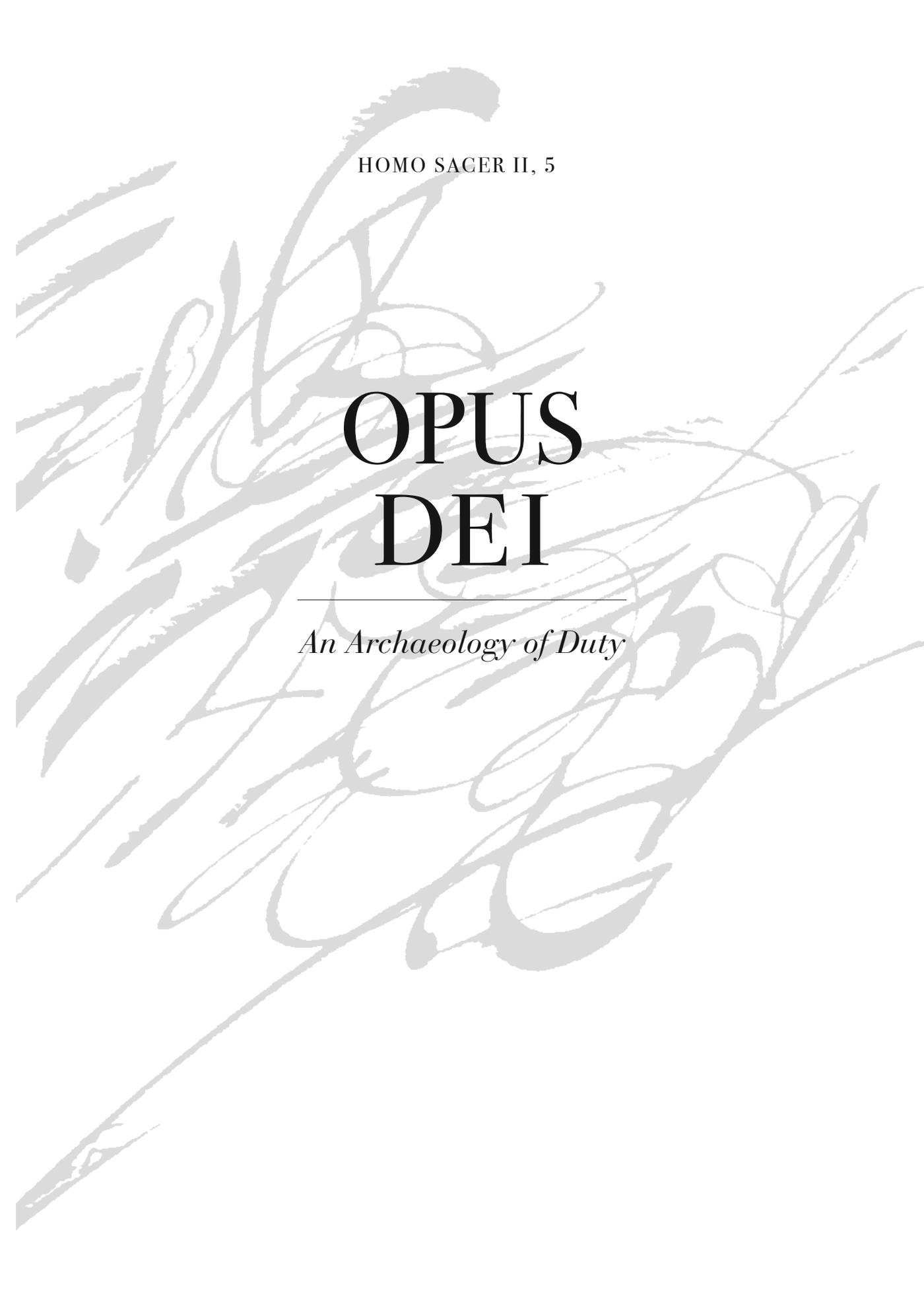
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HOMO SACER II, 5

# OPUS DEI

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*An Archaeology of Duty*

TRANSLATED BY ADAM KOTSKO

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## Translator's Note

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One difficulty facing the translator of this work was the multiplicity of Italian terms connoting the concept of “duty.” The first is *ufficio*, which primarily connotes “duty” but can also mean “office” in the sense, for example, of holding a political office. (Though the English term *office* can carry connotations of “duty,” this meaning is somewhat antiquated.) Like the Latin term *officium*, which plays a decisive role in Agamben’s archaeological investigation, this term can also refer to the “Divine Office” or liturgy. I have rendered this term as “office,” “duty,” or “office or duty,” depending on the context, and have frequently left the Italian word in brackets. Most notably, the term *ufficio* is rendered as “duty” in the subtitle of the work as a whole but as “office” in the title of the third chapter.

A related word is *dovere*, a noun meaning “duty” and also the infinitive of the Italian auxiliary verb meaning “must, should, ought to, to have to.” One challenge in translating this term comes in Agamben’s references to two ontologies, one of *essere* and one of *dovere-essere*. This distinction is often captured in English by juxtaposing the terms *is* and *ought*, but that conventional translation lacks the connotations of the imperative or command that Agamben associates with the ontology of *dovere-essere*. Thus I translate this contrast as one between “being” and “having-to-be.”

Finally, a much less frequent term is *vece*, which carries connotations of duty, as well as alteration and vicarious action (as in the phrase *fare le veci*, to act in someone’s place or stead). When this term occurs, I have translated it according to the context but left the Italian word in brackets.

Another difficulty stems from words related to the Latin term *effectus*: the Italian *effettuale*, *effettualità*, etc. In Italian these terms are generally translated with words like *real*, *actual*, or *true*, but to emphasize the etymological connections Agamben is making, I have chosen to translate them more literally with the English terms *effective* or *effectiveness*.

Works are cited according to the page number of the original text, followed by the page number of the English translation (where applicable), or else by a

standard textual division that is consistent across translations and editions. All translations from the Bible are based on the New Revised Standard Version. Translations have been frequently altered throughout for greater conformity with Agamben's usage. Where no English translation is listed in the bibliography, the translations are my own. Where the main text is a close paraphrase of a Latin quotation or where Agamben's purpose in quoting a Latin text is simply to demonstrate the presence of a particular term or phrase in that text, I have often opted not to provide an English translation in order to avoid redundancy.

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# Preface

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*Opus Dei* is a technical term that, in the tradition of the Latin Catholic Church that starts from the *Rule of St. Benedict*, designates the liturgy, that is, “the exercise of the priestly office of Jesus Christ. . . . In the liturgy the whole public worship is performed by the Mystical Body of Jesus Christ, that is, by the Head and His members” (Vatican Council II, Constitution of the Sacred Liturgy, December 4, 1963).

The word *liturgy* (from the Greek *leitourgia*, “public services”) is, however, relatively modern. Before its use was extended progressively, beginning at the end of the nineteenth century, we find in its place the Latin *officium*, whose semantic sphere is not easy to define and in which nothing, at least at first glance, would seem to have destined it for its unusual theological success.

In *The Kingdom and the Glory* we investigated the liturgical mystery above all in the face it turns toward God, in its objective or glorious aspect. In this volume our archaeological study is oriented toward the aspect that above all concerns the priests, that is, the subjects to whom belongs, so to speak, the “ministry of the mystery.” And just as in *The Kingdom and the Glory* we sought to clarify the “mystery of the economy,” which theologians had constructed by reversing a Pauline expression that was clear in itself, here it is a matter of tearing the liturgical mystery out of the obscurity and vagueness of the modern literature on the subject, returning it to the rigor and splendor of the great medieval treatises of Amalarius of Metz and William Durand. The liturgy is, in truth, not very mysterious at all, to the point that one can say that, on the contrary, it coincides with perhaps the most radical attempt to think a praxis that would be absolutely and wholly effective. The mystery of the liturgy is, in this sense, the mystery of effectiveness, and only if one understands this arcane secret is it possible to understand the enormous influence that this praxis, which is only apparently separate, has exercised on the way in which modernity has thought both its ontology and its ethics, its politics and its economy.

As happens in every archaeological study, this one leads us well beyond the sphere from which we started. As the diffusion of the term *office* in the most diverse sectors of social life attests, the paradigm that the *Opus Dei* has offered to human action has been shown to constitute for the secular culture of the West a pervasive and constant pole of attraction. It is more efficacious than the law because it cannot be transgressed, only counterfeited. It is more real than being because it consists only in the operation by means of which it is realized. It is more effective than any ordinary human action because it acts *ex opere operato*, independently of the qualities of the subject who officiates it. For all these reasons, office has exercised on modern culture an influence so profound—that is, subterranean—that we do not even realize that not only does the conceptuality of Kantian ethics and of Kelsen's pure theory of law (to name only two moments, though certainly decisive ones, in its history) depend entirely upon it, but that the political militant and the ministerial functionary are also inspired in the same way by the model of the “acts of office,” that is, duties.

The paradigm of the office signified, in this sense, a decisive transformation of the categories of ontology and of praxis, whose importance still remains to be measured. In office or duty, being and praxis, what a human does and what a human is, enter into a zone of indistinction, in which being dissolves into its practical effects and, with a perfect circularity, it is what it has to be and has to be what it is. Operativity and effectiveness define, in this sense, the ontological paradigm that in the course of a centuries-long process has replaced that of classical philosophy: in the last analysis—this is the thesis that our study will wish to put forward for reflection—being and acting today have for us no representation other than effectiveness. Only what is effective, and as such governable and efficacious, is real: this is the extent to which office, under the guise of the humble functionary or the glorious priest, has changed from top to bottom the rules of first philosophy as much as those of ethics.

It is possible that today this paradigm is going through a decisive crisis, the results of which cannot be foreseen. Despite the renewed attention toward liturgy in the twentieth century, of which the so-called “liturgical movement” in the Catholic Church on the one hand and the imposing political liturgies of the totalitarian regimes on the other are an eloquent testimony, many signs allow one to think that the paradigm that office or duty has offered to human action is losing its attractive power precisely when it has reached its maximum expansion. Thus, it was all the more necessary to try to establish its characteristics and define its strategies.

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To act is said in two ways:

1. the true and primary act, that is, to produce things from non-being to being
2. to produce an effect in that in which an effect is produced.

—Al-Kindi

The work of art is the setting-to-work of the truth of Being.

—Martin Heidegger

## Liturgy and Politics

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1. The etymology and meaning of the Greek term *leitourgia* (from which our word *liturgy* derives) are clear. *Leitourgia* (from *laos*, people, and *ergon*, work) means “public work” and in classical Greece designates the obligation that the city imposes on the citizens who have a certain income to provide a series of services for the common interest. These services ranged from the organization of gymnasia and gymnastic games (*gymnasiarchia*) to the preparation of a chorus for the city festival (*chorēgia*, for example the tragic choruses for the Dionysian festival), from the acquisition of grain and oil (*sitēgia*) to arming and commanding a trireme (*triērarchia*) in case of war, from directing the city’s delegation to the Olympic or Delphic games (*architheōria*) to the expectation that the fifteen richest citizens would pay the city for all the citizens’ property taxes (*proeisphora*). It was a matter of services that were of a personal and real character (“each one,” writes Demosthenes, “liturgizes both with person and with property” [*tois sōmasi kai tais ousiais leitourgēsai*]; Fourth Philippic Oration 28) that, even if they were not numbered among the magistracies (*archai*), had a part in the “care of common things” (*tōn koinōn epimeleian*; Isocrates 25). Although the services of the liturgy could be extremely onerous (the verb *kataleitourgeō* meant “to be ruined by liturgies”) and there were citizens (called for this reason *diadrasipolitai*, “citizens in hiding”) who sought by every means to exempt themselves from them, the fulfillment of the liturgies was seen as a way of obtaining honor and reputation, to the point that many (the prime example, referred to by Lysis, is that of a citizen who had spent in nine years more than twenty thousand drachmae for the liturgies) did not hesitate to renounce their right not to serve the liturgies for the two following years. Aristotle, in the *Politics* (1309a18–21), cautions against the custom, typical of democracies, of “costly but useless liturgies like equipping choruses and torch-races and all other similar services.”

Since the expenses for the cult also concern the community (*ta pros tous theous dapanēmata koina pasēs tēs poleōs estin*), Aristotle can write that a part of the common land must be assigned to the liturgies for the gods (*pros tous theous*

*leitourgias*; *ibid.*, 1330a13). The lexicons register numerous witnesses, both epigraphic and literary, of this cultic use of the term, which we will see taken up again with a singular continuity both in Judaism and among Christian authors. Moreover, as often happens in these cases, the technico-political meaning of the term, in which the reference to the “public” is always primary, is extended, at times jokingly, to services that have nothing to do with politics. A few pages after the passage cited, Aristotle can thus speak, in reference to the season best suited to sexual reproduction, of a “public service for the procreation of children” (*leitourgein . . . pros teknopoiian*; *ibid.*, 1335b29); in the same sense, with even more accentuated irony, an epigram will evoke “the liturgies” of a prostitute (*Anthologia Palatina* 5.49.1; *qtd. in Strathmann*, 217). It is inexact to claim that in these cases “the significance of the *leitōs* [public element] is lost” (*Strathmann*, 217). On the contrary, the expression always acquires its antiphrastic sense only in relation to the originary political meaning. When the same Aristotle presents as a “liturgy” the nursing of puppies on the part of the mother (*De animalia incessu* 711b30; *qtd. in Strathmann*, 217) or when we read in a papyrus the expression “to oblige to private liturgies” (*Oxyrhynchus Papyri* 3.475.18; *qtd. in Strathmann*, 218), in both cases the ear must perceive the forcing implicit in the metaphorical shift of the term from the public and social sphere to the private and natural sphere.

✠ The system of liturgies (*munera* in Latin) reached its greatest diffusion in imperial Rome starting in the third century AD. Once Christianity becomes so to speak the religion of the State, the problem of the exemption of the clergy from the obligation of public services acquires a special interest. Already Constantine had established that “those who see to the ministry of the divine cult [*divini cultui ministeria impendunt*], that is, those who are called clergy, must be completely exempted from any public service [*ab omnibus omnino muneribus excusentur*]” (*qtd. in Drecoll*, 56). Although this exemption implied the risk that affluent people would become clergy to escape onerous *munera*, as a subsequent decree of Constantine that prohibited *decuriones* from taking part in the clergy proves, the privilege was maintained, albeit with various limitations.

This proves that the priesthood was seen in some way as a public service and this may be among the reasons that will lead to the specialization of the term *leitourgia* in a cultic sense in the sphere of Greek-speaking Christianity.

2. The history of a term often coincides with the history of its translations or of its use in translations. An important moment in the history of the term *leitourgia* thus comes when the Alexandrian rabbis who carried out the translation of the Bible into Greek choose the verb *leitourgeō* (often combined with *leitourgia*) to translate the Hebrew *šeret* whenever this term, which means generically “to serve,” is used in a cultic sense. Starting from its first appearance

in reference to Aaron's priestly functions, in which *leitourgeō* is used absolutely (*en tōi leitourgein*: Exodus 28:35), the term is often used in a technical combination with *leitourgia* to indicate the cult in the "tent of the Lord" (*leitourgein tēn leitourgian . . . en tēi skēnēi*; Numbers 8:22, referring to the Levites; *leitourgein tas leitourgas tēs skēnēs kyriou*, in 16:9). Scholars have wondered about this choice with respect to other available Greek terms, like *latreuō* or *douleō*, which are generally reserved for less technical meanings in the Septuagint. It is more than probable that the translators were well aware of the "political" meaning of the Greek term, if one remembers that the Lord's instructions for the organization of the cult in Exodus 25–30 (in which the term *leitourgein* appears for the first time) are only an explication of the pact that a few pages earlier constituted Israel as a chosen people and as a "kingdom of priests" (*mamleket kohanim*) and a "holy nation" (*goj qados*) (Exodus 19:6). It is significant that the Septuagint here has recourse to the Greek term *laos* (*esesthe moi laos periousios apo pantōn tōn ethnōn*, "you shall be my treasured people out of all the nations"; Exodus 19:5) in order then to subsequently reinforce its "political" meaning by translating the text's "kingdom of priests" as "royal priesthood" (*basileion hierateuma*, an image significantly taken up again in the First Epistle of Peter 2:9—"you are a chosen race, a *basileion hierateuma*"—and in Revelation 1:6) and *goj qados* as *ethnos hagion*.

The election of Israel as "people of God" immediately institutes its liturgical function (the priesthood is immediately royal, that is, political) and thus sanctifies it insofar as it is a nation (the normal term for Israel is not *goj*, but *am qados*, *laos hagios*, "holy people"; Deuteronomy 7:6).

✠ The technical meaning of *leitourgia* and *leitourgeō* to indicate the priestly cult is standard in Alexandrian Judaism. Thus, in the *Letter of Aristeas* (second century BCE), *tōn hierēōn hē leitourgia* refers to the cultic functions of the priest, meticulously laid out, from the choice of victim to the care of the oil and the spice (Aristeas 92). A little after *Eleazar en tēi leitourgiai* designates the high priest in the act of officiating, whose holy vestments and paraments are described with care (96ff.). The same can be said for Flavius Josephus and Philo (who also use the term in a metaphorical sense, for example with respect to the intellect: "when the mind is ministering to God [*leitourgei theoi*] in purity, it is not human, but divine"; Philo 84).

3. All the more significant is the lack of importance of this lexical group in the New Testament (with the notable exception of the Letter to the Hebrews). Beyond the Pauline corpus (where one also reads the term *leitourgos* five times), *leitourgein* and *leitourgia* figure only twice, the first time quite generically in reference to Zechariah's priestly functions in the Temple (Luke 1:23) and the second in reference to five "prophets and teachers" of the *ecclēsia* of Antioch (Acts 13:1–2).

The passage from Acts (*leitourgountōn de autōn tōi kyriōi*; 13:2) does not mean, as some have wanted to suggest with an obvious anachronism, “while they were celebrating the divine service in honor of the Lord.” As the Vulgate had already understood in translating it simply as *ministrantibus autem illis Domino*, *leitourgein* is here the equivalent of “while they were carrying out their function in the community for the Lord” (which was precisely, as the text had just specified, that of prophets and teachers—*prophētai kai didaskaloi*; Acts 13:1—and not of priests, nor is it clear what other *leitourgia* could be in question at this point; as to prayer, Luke generally refers to it with the term *orare*).

Even in the Pauline letters the term often has the secular meaning of “service for the community,” as in the passage in which the collection made for the community is presented as a *leitourgēsai* (Romans 15:27) or as *diakonia tēs leitourgias* (2 Corinthians 9:12). It is also said of the action of Epaphroditus, who has put his life at risk, that he has carried it out in order to make up for the “liturgy” that the Philippians have not been able to perform (Philippians 2:30). But even in the passages where *leitourgia* is deliberately connected to a properly priestly terminology, it is necessary to take care not to incautiously mix up the respective meanings, thus allowing the specificity and audacity of Paul’s linguistic choice, which intentionally juxtaposes heterogeneous terms, to pass unnoticed. The exemplary case is Romans 15:16: “to be a *leitourgos* of Jesus Christ to the Gentiles, carrying out the holy action of the good news of God [*hierourgounta to euangelion tou theou*].” Here commentators project onto *leitourgos* the cultic meaning of *hierourgeo*, writing: “What follows shows that [Paul] is using *leitourgos* cultically almost in the sense of priest. For he construes it in terms of *hierourgein to euanglion*. He discharges a priestly ministry in relation to the Gospel” (Strathmann, 230). The hapax *hierourgein to euanglion*, in which the good news becomes, with an extraordinary forcing, the impossible object of a *sacrum facere* (just as, with an analogous *tour de force*, *latreia*, the sacrificial cult, is linked in Romans 12:1 to the adjective *logikē*, “linguistic”), is all the more effective if *leitourgos* conserves its proper meaning as “one entrusted with a community function” (*minister*, as the Vulgate correctly translates it). The connection of the cultic terminology of the Temple to something—the announcement made to the pagans and, as is said immediately after, the “offering of the Gentiles,” *prosphora tōn ethnōn*—which can in no way take place in the Temple, has an obvious polemical meaning and does not intend to confer a sacrificial aura to Paul’s preaching.

Analogous considerations can be made for Philippians 2:17: “But even if I am being poured out as a libation [*spendomai*] over the sacrifice and the offering

of your faith [*epi tēi thysiai kai leitourgiai tēs pisteōs*], I am glad and rejoice with all of you.” Whatever the connection between *spendomai* and the words that follow, the affirmation gains its pregnancy only if, leaving aside the anachronism that sees in *leitourgia* a priestly service (the Pauline community obviously could not have been familiar with priests), one perceives the contrast and almost the tension that Paul skillfully introduces between cultic terminology and “liturgical” terminology in the proper sense.

✠ It has been known for some time (see Dunin-Borkowski) that in the earliest Christian literature the terms *hiereus* and *archieus* (priest and high priest) are reserved solely for Christ, while for the members or heads of the communities, a properly priestly vocabulary is never used (leaders are defined simply as *episkopoi* [superintendents], *presbyteroi* [elders], or *diakonoī* [servants]). A priestly vocabulary appears only with Tertullian (*On Baptism* 17.1; *Against the Jews* 6.1.14), Cyprian (*Epistle* 59.14, 66.8), and Origen (*Homiliae in Numeros* 10.1). In the Pauline letters, which mention *episkopoi* and *diakonoī* (in Colossians 1:25, Paul calls himself a *diakonos*), particular attention is dedicated to the various functions carried out in the community, none of which is defined in priestly terms. (Cf. 1 Corinthians 12:28–31: “And God has appointed in the church first apostles [*apostolous*], second prophets [*profētas*], third teachers [*didaskalous*]; then deeds of power [*dynameis*], then gifts of healing [*charismata iamatōn*], forms of assistance [*antilēpseis*], of leadership [*kybernēseis*], various kinds of tongues [*genē glōssōn*];” Romans 12:6–8: “We have gifts that differ according to the grace given to us: prophecy, in proportion to faith; ministry, in ministering [*diakonian en tēi diakoniai*], the teacher, in teaching [*didaskōn en tēi didaskaliai*], the comforter, in comforting [*parakalōn en tēi paraklēsei*].”)

4. The author of the Letter to the Hebrews elaborates a theology of the messianic priesthood of Christ, in the context of which the lexical group that interests us occurs four times. Developing the Pauline argumentation about the two covenants (2 Corinthians 3:1–14), the theological nucleus of the letter plays on the opposition between the Levitical priesthood (*levitikē hierōsynē*, 7:11), corresponding to the old Mosaic covenant and encompassing the descendants of Aaron, and the new covenant, in which the one who assumes the “liturgy” of the high priest (*archieus*, this time encompassing the descendants of Melchizedek) is Christ himself. Of the four appearances from the lexical family, two refer to the Levitical cult: in 9:21 Moses sprinkles with blood “the tent and all the vessels used in the liturgy” (*panta ta skeuē tēs leitourgias*); in 10:11 the author evokes the priest of the old covenant, who “stands day after day for his liturgical functions [*leitourgōn*], offering again and again the same sacrifices.” The remaining two occurrences refer in turn to Christ, the high priest of the new covenant. In the first (8:2) he is defined as “liturgue of the holy

things and of the true tent” (*tōn hagiōn leitourgos kai tēs skēnēs tēs alēthinēs*; cf. Numbers 16:9); in the second (8:6) it is said that he “has obtained a different and better liturgy (*diaphorōteras tetychen leitourgas*), to the degree to which the covenant of which he is mediator is better.” While in fact the sacrifices of the Levites are only an example and shadow (*hypodeigma kai skia*, 8:5) of heavenly things and cannot therefore complete or render perfect (*teleiōsai*, 9:9, 10:1) those who offer them, the sacrifice of the new covenant, in which Christ sacrifices himself, annuls sin (*athetēsīn hamartias*, 9:26) and purifies (*katharīei*, 9:14) and sanctifies the faithful once and for all (*teteleiōken eis to diēnekes tous hagiāzomenous*, 10:14).

Let us reflect on the identity that the text presupposes between the action of Christ and liturgy. His salvific action is not only presented as a “liturgy,” but as the high priest of a sacrifice in which the officiator sacrifices himself (*heauton prosēnenken*, 9:14), Christ accomplishes a liturgical action that is, so to speak, absolute and perfect and that for this reason can be carried out only once (*hapax prosenechtheis*, 9:28; *mian . . . prosenenkas thysian*, 10:12). In this sense Christ coincides without remainder with his liturgy—he is essentially liturgy—and precisely this coincidence confers on his liturgy its incomparable efficacy.

The intention of the author in decisively opposing the two figures of the priest is doubtless to present the messiah in the hieratic vestments of a celebrant, and so one must not forget that the messianic priesthood that is here in question presents some entirely peculiar characteristics that distinguish it point by point from the Levitical priesthood and that the sense of the letter lies precisely in this counterposition. It is decisive that while the Levitical sacrifices must be ceaselessly repeated and each year renew the memory of sins (*anamnēsis hamartiōn*, 10:3), the sacrifice of the new covenant happens, as the author never stops repeating, only once and cannot be repeated in any way. In the affirmation of this unrepeatability of the sacrifice, whose unique priest, “having obtained an eternal redemption, enters once for all [*ephapax*] into the sanctuary” (9:12), the author of Hebrews remains faithful to a genuine messianic inspiration, on the basis of which (with all due respect to subsequent ecclesiastical practice) it is not possible to found any cultic liturgy. In the same instant in which he defines him as *leitourgos* and evokes for him a “different and better liturgy,” the author of Hebrews knows that the high priest of the new covenant has irrevocably closed the door of the temple behind him. The *diaphorōtera leitourgia* is not, in this sense, a celebration, that is, something essentially repeatable (this is the etymological meaning of *celeber*). The paradox of the Christian liturgy is that by taking as the model of its priesthood

the liturgical action of the *archiereus* Christ and founding its celebrations on the Letter to the Hebrews, it devotes itself to repeating an unrepeatable act, to celebrating what cannot be celebrated.

5. Rudolf Sohm defined the primitive church as a charismatic community, within which no properly juridical organization was possible. “As soon as it is certain that no human Word but only God’s Word shall rule in the Church, so is it also certain that there can be no power or official appointment in Christendom which should have *legal* authority over the congregation. One apprehends the Word of God not in some form or other but in its inner power. Christianity has only to follow that Word which by the power of an inner, free assent it *recognizes* as the Word of God. . . . *There can be no legal power to rule* [rechtliche Regierungsgewalt] *in the Church*” (Sohm, 22–23/13–14). The organization of the primitive community can consequently have only a charismatic character: “Christendom is organized through the distribution of the *gifts of grace* (*Charismen*), which both qualify and call the individual Christian to different activities in Christendom. The charisma is from God. Thus the service (*diakonia*) to which the charisma calls is a service imposed by God” (Sohm, 26/15). Hence the radical thesis, according to which “canon law stands in contradiction with the nature of the church. The true church, the church of Christ knows no canon law” (Sohm, 459).

According to Sohm the situation changes when—in a moment to which the Letter of Clement to the Corinthians testifies—the way was paved for the idea that the presbyters and bishops have a right to exercise their “liturgy” and that the community cannot remove them from their position, which thus comes to acquire a “legal meaning” (Sohm, 159). “The immediate consequence of the letter of Clement,” writes Sohm, “was a change in the constitution of the Roman community” (165), whose ultimate demand is the transformation of the primitive church into the Catholic Church, of the original charismatic community into the juridical organization that is familiar to us.

Here is not the place to enter into the merits of the discussion provoked by Sohm’s thesis among church historians and students of canon law. What interests us rather, in the economy of our archaeological inquiry, are the meaning and special relevance that the term *leitourgia* and its derivatives have in Clement’s letter.

6. The Letter of Clement to the Corinthians is the first text in which a pastoral preoccupation assumes the form of a theorization of the ecclesiastical hierarchy understood as a “liturgy.” The context of the problem is well known: Clement, who represents “the church of God, which sojourns in exile [*paroi-*

*kousa*] at Rome” (preamble; translation altered), writes to the church in exile at Corinth, in which a conflict (indeed, a true and proper *stasis*, a civil war, 1.1) is dividing the faithful from the heads of the community, who have been dismissed from their function. In the struggle that opposes “those of no repute against the highly reputed, the foolish against the wise, the young against the elders” (3.3), Clement resolutely takes the side of the latter. What is decisive in his strategy is not the recourse to military metaphors, which will have considerable success in the history of the church (as in an army, “each in his own rank executes the orders given by the emperor and the commanders,” 37.3), so much as the idea of founding the function of the presbyters and bishops in the Levitical priesthood. Clement knows the priestly Christology of the Letter to the Hebrews and once defines Christ as “the High Priest of our offerings” (*archierea tōn prosphorōn hēmōn*, 36.1). But what interests him are not the special characteristics and effectiveness of this priesthood but rather the fact that Christ constitutes the foundation of the apostolic succession: “So then Christ is from God, and the apostles are from Christ” (42.2). Contradicting what is said in the Letter to the Hebrews (which had substituted the priesthood of Christ for the Levitical priesthood) and with a curious anachronism (the priestly functions in the Temple of Jerusalem, destroyed in AD 70 by the Romans, had been halted for some time), Clement institutes a paradigmatic relation between the hereditary order of the Levites and that of the apostolic succession in the Church. In the construction of this analogy the concept of *leitourgia* takes on a central role. Just as in the Temple of Jerusalem “the offerings and liturgical functions [*prosphoras kai leitourgiās*]” are “not to be done carelessly or in disorder, but at designated times and seasons . . . for to the high priest the proper liturgies [*idiai leitourgiāi*] have been given, and to the priests the proper office has been assigned, and upon the Levites the proper ministries [*diakoniai*] have been imposed,” so also in the Church each must act and please God in the rank that is proper to him, “not overstepping the designated rule of his liturgy [*ton hōrismenon tēs leitourgiās autou kanonā*]” (40.2–41.1). The apostles, in fact, foreseeing that there would be a sort of dispute over the episcopal function (*peri tou onomatos tēs episkopēs*), “have established as a rule that, after the death of those they had appointed, other approved men should succeed to their liturgy [*diadexontai tēn leitourgian autōn*]” (44.2). For this reason Clement can now forcefully claim that “these men we consider to be unjustly removed from their liturgy [*apoballesthai tēs leitourgiās*] . . . who have carried out their liturgical function blamelessly [*leitourgēsantas amemptōs*] before the flock of Christ” (44.3). And he can conclude with an encomium to those “presbyters [*presbyteroi*] who have gone on ahead, who took their departure at

a mature and fruitful age” (44.5) and with a reproach of the faithful in Corinth who have deprived them “of the liturgy that they had exercised honorably and blamelessly” (44.6).

It is obvious that in the letter the term *leitourgia*, while also maintaining the originary meaning of a service for the community, acquires the characteristics of a stable and lifelong office, an object of a canon (*kanōn*) and rule (*epinomē*, which the old Latin version of the letter renders as *lex*). All of Clement’s vocabulary tends in this direction: *kathistēmi* (establish, nominate), *diadechomai* (a technical term for succession in an office), *hypotassō* (to submit oneself to an authority; conversely, those who are disobeying are responsible for a *stasis* [civil war, insurrection]). The paradigmatic reference to the Levitical cult, moreover, confers on the term a priestly character and aura (as it had already had in the Septuagint) that was anything but taken for granted at that point (as we have seen, none of the original documents use the term *priest*—*hierus*, *sacerdos*—to indicate a member of the community). From an occasional public service, which does not have a specific title within the community, liturgy begins to transform into a special activity, into a “ministry” that tends to define a particular subject as entitled to it: the bishop and the presbyters in the letter and, later, the priest. What defines this activity? What constitutes a determined sphere of action as a liturgy?

✠ In the section of the *Apostolic Constitutions* known as the *Canones apostolici* one can see how the passage from a charismatic community to an organization of a juridical type was not only a fact already in some sense achieved, but had constituted the object of a precise strategy. The text—which, although composed around the end of the fourth century, pretends to be a work of the apostles themselves—actually opens with a lengthy treatment of the traditional charismas (glossolalia, etc.), but the goal of the author is obviously to minimize their relevance with respect to what he defines immediately after as “ecclesiastical organization” (*ekklēsiastikē diatypōsis*). In question are precisely the “constitutions” (*diatexeis*, a technical term for testamentary provisions) that the apostles had established as a configuration or general model (*typos*) of the church, from the ordination of the bishop to the articulation of the hierarchy to the rituals of the sacraments. What is evident in the *Constitutions* is the construction of a separate ecclesiastical hierarchy which culminates in the bishop: “Those which were then the sacrifices now are prayers, and intercessions, and thanksgivings [*eucharistiai*]. Those which were then first-fruits, and tithes, and offerings, and gifts, now are oblations, which are presented by holy bishops to the Lord God, through Jesus Christ, who has died for them. For these are your high priests [*archieis*] and presbyters are your priests, and your present deacons instead of your Levites” (*Apostolic Constitutions* 2.4.25). “If anyone does anything without the bishop,” one reads a little further down, “he does it to no purpose [*matēn*]” (2.4.27). “For neither

may we address ourselves to Almighty God, but only by Christ. In the same manner, therefore, let the laity make known all their desires to the bishop by the deacon" (2.4.28).

In Irenaeus, by contrast, the charismata are still not subordinated to the succession according to apostolic ordination. The passage in which he recommends obedience to the presbyters, "who, together with the succession of the episcopate, have received a *charisma veritatis certum*" (Irenaeus 4.26.2), does not mean, as has been suggested, that he claims a sort of infallibility for the bishop. Rather, the fact that immediately afterward he distinguishes between good and evil presbyters and confirms the importance of the *charismata Dei* shows that Irenaeus conceives the latter as an equally important element of ecclesiastical ordination: "Where, therefore, the gifts of the Lord have been placed [*ubi igitur charismata dei posita sunt*], there it behooves us to learn the truth, namely, from those who possess the succession of the Church which is from the apostles, and among whom exists what is sound and blameless in conduct, as well as that which is unadulterated and incorrupt in speech" (Irenaeus 4.26.5). At the end of the second century, a charismatic community and a hierarchical organization still cohabitated in a functional unity in the church.

7. Guy Stroumsa has recently called attention to the persistence of sacrificial ideology in Christianity. It is well known that after the second destruction of the Temple, rabbinic Judaism oriented itself in the direction of a spiritualization of the liturgy, transforming it from a sequence of rites that accompanied the sacrificial action into a collection of prayers that were actually substituted for the sacrifices. From this perspective the *talmud Torah*, the study of the Torah, supplanted sacrificial practices, and "the rabbis gathered in Yavneh in 70 succeeded in transforming Judaism—without admitting doing so, and perhaps also without admitting it completely even to themselves—into a non-sacrificial religion" (Stroumsa, 129/72). Christianity, by contrast, defined itself early on "as a religion centered on sacrifice, even if it was a reinterpreted sacrifice. The Christian *anamnēsis* of the sacrifice of Jesus has a power very different from that of the Hebrew memory of Temple sacrifices, because the *anamnēsis* is the reactivation of the sacrifice of the Son of God, performed by the priests" (Stroumsa, 129/72).

Stroumsa could have added that the construction of the sacramental liturgy is founded, starting already with the Church Fathers, on explicit and unreserved opposition of the sacraments of the Old Law—which signify and announce but do not achieve what they signify—to the sacraments of the New Law, which accomplish what they signify.

In reality the author of the Letter to the Hebrews does not establish any connection between the doctrine of Christ's priesthood and the eucharistic celebration. This is not the place to reconstruct the genealogy of this connection, whose strategic importance for the Church is obvious. Already implicit in Origen

(*Homiliae in Numeros* 9.5.2, 10.21), it often appears surreptitiously, through the simple juxtaposition of the two motifs. Thus in two passages of the *Apostolic Constitutions*, in which the ecclesiological preoccupation is evident: “Lord, grant that this your servant, whom you have chosen to be a bishop, may feed your holy flock and discharge the office of a high priest [*archierateuein*] before you blamelessly night and day . . . offering to you a pure and unbloody sacrifice, which you have appointed through Christ as the mystery of the new covenant” (*Apostolic Constitutions* 8.2.5; translation altered); “The first High Priest therefore, who is so by nature [*prōtos . . . tēi physēi archiereus*], is Christ the only begotten; not having snatched that honor to himself but having been appointed such by the Father. He was made man for our sake, and offering the spiritual sacrifice to his God and Father, before his suffering charged us alone to do this” (8.5.46); and in Epiphanius (“so as to be made a priest for us after the order of Melchizedek . . . for he abides forever to offer gifts for us—after first offering himself by the cross, to abolish every sacrifice of the old covenant”; Epiphanius 55.4.5–7, 2:80–81). Later, we find the two terms connected in Ambrose (“Who then is the author of the sacraments but the Lord Jesus? . . . We learn that those sacraments were prefigured in the times of Abraham, when holy Melchizedek offered sacrifice, having neither beginning nor end of days. Hear, O man, what the Apostle Paul says to the Hebrews”; *On the Sacraments* 4.13, 5.1) and in Augustine (“Also, our priest forever according to the order of Melchizedek, he offered himself as a sacrifice for our sins, and recommended the reenactment of that sacrifice to be celebrated in memory of his suffering and death, so that what Melchizedek offered to God now we see offered in the Church of Christ throughout the whole world”; *De diversis questionibus*, question 61 [117]).

In each case, in bringing together two distinct texts, it is a matter of conceiving the institution of the Eucharist as a priestly service of Jesus, who according to the doctrine of the letter acts as high priest of the order of Melchizedek and in this way transmits the priestly ministry to the apostles and to their successors in the Church. In this sense one can say that the definition of the priestly character of the ecclesiastical hierarchy is constructed precisely through founding the sacramental liturgy in the doctrine of Christ as high priest. In the *summa* of the Catholic liturgy that is William Durand’s *Rationale divinatorum officiorum*, the connection already has the obviousness of a formula: *Missa instituit Dominus Iesus, sacerdos secundum ordinem Melchisedech, quando panem et vinum in corpus et sanguinem suum transmutavit, dicens: “Hoc est corpus meum, hic est sanguis meus,” subiungens: “Hoc facite in meam commemorationem”* (The Lord Jesus instituted the mass as priest according to the order of Melchizedek, when he transmuted

bread and wine into his body and blood, saying, ‘This is my body, this is my blood,’ and enjoining, ‘Do this in memory of me’; Durand, bk. 1, 240).

The Council of Trent (session XXII, chap. 1) confirms beyond any doubt the foundational and eternal character of Christ’s priesthood, which is renewed and perpetuated in the eucharistic liturgy, in the celebration of which the Church is linked to Christ as the liturgue of the Letter to the Hebrews:

He, therefore, our God and Lord, though He was by His death about to offer Himself once upon the altar of the cross to God the Father that He might there accomplish an eternal redemption, nevertheless, that His priesthood might not come to an end with His death, at the last supper, on the night He was betrayed, that He might leave to His beloved spouse the Church a visible sacrifice, such as the nature of man requires, whereby that bloody sacrifice once to be accomplished on the cross might be represented . . . , declaring Himself constituted a priest forever according to the order of Melchizedek, offered up to God the Father His own body and blood under the form of bread and wine, and under the forms of those same things gave to the Apostles, whom He then made priests of the New Testament, that they might partake, commanding them and their successors in the priesthood by these words to do likewise: Do this in memory of me.

In the idea of Christ as a “priest forever,” the “once for all” (*hapax*) of the Letter to the Hebrews is joined with the “forever and ever” of the eucharistic celebration ceaselessly repeated by the Church, and the continuity of the ecclesiastical hierarchy of Clement’s letter receives its priestly seal.

The definition of the liturgy in twentieth-century encyclicals has only confirmed this connection: “The sacred liturgy is, consequently, the public worship which our Redeemer as Head of the Church renders to the Father, as well as the worship which the community of the faithful renders to its Founder, and through Him to the heavenly Father” (*Mediator Dei* §20; cf. Braga and Bugnini, 571).

The fact that the Church has founded its liturgical praxis on the Letter to the Hebrews, namely by putting at its center an unceasing reactualization of the sacrifice achieved by Christ the *leitourgos* and high priest, constitutes both the truth and the aporia of Christian liturgy (which Augustine summarizes in the antithesis *semel immolatus . . . et tamen quotidie immolatur* [offered once . . . and yet he is offered daily]). The problem, which will never cease to appear again and again in the history of the Church as its central “mystery,” is precisely that of how one is to understand the reality and effectiveness of the sacramental liturgy and, at the same time, of how this “mystery” can take the form of a “ministry,” which defines the specific praxis of the members of the ecclesiastical hierarchy.

8. The doctrine of the liturgical character of Christ's sacrifice has its root in the doctrine of the Trinity itself. We have shown how the Fathers, in order to reconcile the unity of substance with the plurality of persons in God and in close hand-to-hand combat with Gnosis, initially formulate the doctrine of the Trinity in terms of an *oikonomia*, of an activity of "administration" and "management" of the divine life and of creation (Agamben, 17–50). In the words of Tertullian, who (in opposition to the monarchians) was among the first to elaborate the doctrine of the Trinity as a divine "economy": "they must believe in one only [God], yet they must believe in him along with his *oikonomia*. . . . A unity which derives from itself a trinity is not destroyed but administered by it [*non destruat ab illa sed administratur*]" (*Against Praxeas* 3.1; qtd. in Agamben, 42). Reversing an expression of Paul, who in his letters had spoken, in reference to the divine plan of redemption, of an "economy of the mystery" (*oikonomia tou mystēriou*, Ephesians 3:9), Hippolytus, Irenaeus, and Tertullian thus presented the very articulation of the Trinity and its salvific action as a "mystery of the economy" (*mystērion tēs oikonomias, oikonomias sacramentum*). The insistence on the "mysterious" character of the divine work of salvation shows, however, that the caesura they had wanted to avoid on the level of being reappears as a fracture between God and his action, between ontology and praxis. What is mysterious is now no longer, as in Paul, the divine plan of redemption, which demanded an *oikonomia* that was clear in itself. What is inscrutable or mysterious is now the "economy" itself, the very praxis through which God secures the salvation of his creation. Whatever meaning is to be assigned to the term *mystērion* and its Latin equivalent *sacramentum*, what is essential here is that the divine economy takes the form of a mystery.

Through the incarnation, Christ takes this mysterious economy on himself. But on the basis of the passage from John according to which "the Son of Man has been glorified by God and God has been glorified in him" (13:31), the "economy" is understood simultaneously as a glorification and as a reciprocal manifestation of the Father through the Son and of the Son in doing the Father's work. In Origen's commentary on the Gospel of John, the "economy of the passion" of the savior thus coincides perfectly with the economy of the glory by which the Son reveals and celebrates the Father. The mystery of the economy is a doxological, which is to say liturgical, mystery.

It is along with this aporetic conception of the trinitarian "economy," in which Christ acts as "economy" of both redemption and the glory of the Father, that one must read the doctrine of the Letter to the Hebrews, in which Christ is presented in the guise of a *leitourgos*, of a high priest who takes upon himself the "liturgy,"

the “public” and “sacrificial” service of the redemption of the human race. Trinitarian Christology is elaborated, that is to say, through a twofold metaphorical register: to the political and cultic metaphor of Christ as liturgue of redemption in the Letter to the Hebrews there corresponds point by point in the Fathers the “economic” metaphor of Christ as administrator and dispenser of the divine mystery of salvation. The relation and tension between these two metaphors define the *locus* in which Christian liturgy is situated. In liturgically celebrating his sacrifice (his “mystery”), Christ brings the trinitarian economy to completion. The mystery of the economy, insofar as it is an economy of salvation, is fulfilled in and transformed into a liturgical mystery, in which the economic metaphor and political metaphor are identified.

Modern theologians are accustomed to distinguishing the “economic Trinity” (or Trinity of revelation), which defines God in his salvific action with respect to humans, and the “immanent Trinity” (or Trinity of substance), which defines the internal articulation of the divine life in itself. Economic Trinity and immanent Trinity must correspond in the liturgy. But the tensions and contradictions that are implicit in the “economic-mysterious” paradigm of the Trinity will also continue to mark the public activity of the Church, in which mystery and economy, priestly action and economic-political praxis, *opus operatum* and *opus operantis* will continue to be endlessly distinguished and superimposed. The “kingdom of priests” of Exodus 19:6 and the “royal priesthood” of the Septuagint and the First Letter of Peter define the paradigm and, at the same time, the constitutive aporia of the Church’s liturgy.

9. The Letter to the Hebrews and the Letter of Clement constitute two polarities, and Christian liturgy will never cease to articulate itself and define itself through the tension between the two. On the one hand, the *semel* [once] of the efficacious but unrepeated sacrament, whose sole subject is Christ; on the other, the *quotidie* [daily] of the “liturgy” of the bishop and the presbyter in the community. On the one hand, the *mystery* of a perfect sacrificial action, whose effects are accomplished once and for all (in the words of Cabasilas’s liturgical treatise, “sanctification”); on the other, the *ministry* of those who must celebrate its memory and renew its presence (which Cabasilas calls “signification,” *sēmasia*: Cabasilas, 130). On the one hand, in the words of the encyclical *Mediator Dei*, with which the modern Church, in a crucial moment of its history, sought to restore vitality to the liturgical tradition, the “objective” element of the liturgy, the “*mysterium* of the mystical body,” whose operator is grace, which is manifested in the charismas and acts in the sacraments *ex opere operato* (through the simple completion

of a certain action); on the other, the “subjective” element of the cult provided by the participation of the faithful, *ex opere operantis Ecclesiae* (§27; cf. Braga and Bugnini, 574–75).

The insistence with which the encyclical *Mediator Dei* attempts to negate and almost to exorcise the contradiction between “the action of God” and “the collaboration of man,” between the efficacy of “the external administration of the sacraments, which comes from the rite itself (*ex opere operato*)” and “the meritorious action of their ministers of recipients, which we call the agent’s action (*opus operantis*),” between “the ascetical life and devotion to the liturgy” (§36; cf. Braga and Bugnini, 578), betrays a difficulty that the Church has never succeeded in fully unraveling.

What defines the Christian liturgy is precisely the aporetic but always reiterated attempt to identify and articulate at the same time in the liturgical act—understood as *opus Dei*—mystery and ministry, that is, of making the liturgy as effective soteriological act and liturgy as the clergy’s service to the community, *opus operatum* and *opus operantis Ecclesiae*, coincide.

✠ It is customary, based on the authority of Du Cange, to attribute the creation of the syntagma *opus Dei* to the Benedictine rule, where it appears multiple times to designate the liturgical office. In truth, the compiler of the rule depends in this case as well on his principal source, the *Regula magistri*. The concordance of Vogüé’s edition registers around thirty occurrences for the expression *opus Dei* and shows, moreover, that already in the first quarter of the sixth century (when, according to Vogüé, the *Regula Dei* would have been composed) the syntagma had become a technical term for the monastic office. If it is a matter of an invention on the part of the author of the rule, it could derive from his definition of the monastery as *officina divinae artis* (*Officina vero monasterium est, in qua ferramenta cordis in corporis clausura reposita opus divinae artis diligenti custodia perseverando operari potest* [The workshop is the monastery, where the instruments of the heart are kept in the enclosure of the body, and the work of the divine art can be accomplished with assiduous care and perseverance]; Vogüé, 1:380/119). According to the correspondence between liturgy and trinitary economy that we have evoked, the origin of the expression is with all likelihood to be sought in the definition of Christ as *primum opus Dei*, which one finds, for example, in an Arian text, the letter of Candidus to Marius Victorinus on the divine generation (mid-fourth century): *Dei filius, qui est logos apud Deum, Jesus Christus, per quem effecta sunt omnia et sine quo nihil factum est, neque generatione a Deo, sed operatione a Deo, est primum opus et principale Dei* (“the Son of God, who is the ‘Logos with God,’ Jesus Christ, ‘through whom all things were made and without whom nothing was made,’ is, not by God’s begetting but by God’s operation, the first and original effect of God”; in Victorinus, 122/55). In any case the syntagma *opus Dei*, which extended its effectiveness well beyond monasticism, acquires its proper sense in the context of the liturgy, conceived as the place in which mystery and ministry, priestly service and community obligation

tend to coincide. When the syntagma is today associated with a powerful Catholic organization, founded in 1928 by Josemaría Escrivá de Balaguer, one must not forget that their choice of the name is perfectly coherent with this premise.

10. The distinction between *opus operatum* and *opus operantis* in the encyclical *Mediator Dei* comes from the scholastic tradition and found its sanction in the Council of Trent (session VII, canon 8, *Denzinger* 851): “If any one saith, that by the said sacraments of the New Law grace is not conferred through the act performed [*ex opere operato*], but that faith alone in the divine promise suffices for the obtaining of grace; let him be anathema.”

In this formulation is expressed a principle that constitutively defines the liturgical praxis of the Church: the independence of the objective effectiveness and validity of the sacrament from the subject who concretely administers it. *Opus operatum* thus designates the sacramental act in its effective reality, *opus operantis* (the oldest formulation is actually *opus operans*) designates the action insofar as it is carried out by the agent and is qualified by his moral and physical dispositions.

The origin of the distinction goes back to the disputes over the validity of baptism that divided the Church between the third and fourth century. The salient moments here are the controversy between Cyprian and Pope Stephen in 256 and that between Augustine and the Donatists between 396 and 410. In both cases it is a matter of affirming, against Cyprian and the Donatists, the validity of baptism conferred by a heretic or by an unworthy minister, that is, of securing the objective validity of the sacrament and the priestly action beyond any subjective conditions that could render them null or ineffective. Just as those who were baptized by Judas, writes Augustine, did not have to be baptized again, since it is Christ who baptized them, “In like manner, then, they whom a drunkard baptized, those whom a murderer baptized, those whom an adulterer baptized, if it was the baptism of Christ, were baptized by Christ” (*In Evangelium Johannis Tractatus* 5.18). As happens in every institution, it is a matter of distinguishing the individual from the function he exercises, so as to secure the validity of the acts that he carries out in the name of the institution.

In Aquinas the doctrine of the efficacy of the sacraments *ex opere operato* is already fully elaborated. He first of all distinguishes the sacraments of the Hebrew law, which “did not have effectiveness *ex opere operato*, but only through faith,” from those of the new law, “which confer grace *ex opere operato*” (Thomas Aquinas, *Scriptum super Sententiis* 92). In the treatise on the sacraments in the *Summa theologica* (III, qq. 60–65), the neutralization of the *opus operantis* and the subjective condition is developed through the doctrine of the priest as instrumental cause of an act whose primary agent is Christ himself. And, as “the instrumental

cause works not by the power of its form, but only by the motion whereby it is moved by the principal agent” (q. 62, art. 1), so “the ministers of the Church work instrumentally in the sacraments, because, in a way, a minister is of the nature of an instrument” (q. 64, art. 5). For this reason, insofar as the minister is a sort of “animate instrument” (q. 64, art. 8) of an operation whose agent is Christ, not only is it not necessary that he have faith or love, but even a perverse intention (for example, baptizing a woman with the intention of taking advantage of her) does not take away the validity of the sacrament. In virtue of the effectiveness *ex opere operato* and not *ex opere operantis*, in fact “the perverse intention of the minister perverts the sacrament insofar as it is his action: not insofar as it is the action of Christ, whose minister he is” (q. 64, art. 10, sol. 3).

✠ Grundmann has observed that the early and clear formulation of the doctrine of the *opus operatum* that is found already in Innocent III’s *De sacro altaris mysterio* can be considered as a response to the polemics of the spiritual movements, like the Waldensians, who called into question the validity of the sacrament imparted by unworthy priests (Grundmann, 519/413n50). “In the sacrament of the body of Christ nothing more is accomplished by a good priest, and nothing less by a bad priest . . . because it is confected not through the merit of the priest, but through the word of the Creator. Therefore the sin of the priest does not impede the effect of the sacrament, just as the sickness of the doctor does not corrupt the power of the medicine. Therefore, although the one doing the work is sometimes unclean, nevertheless the work done is always clean.” (*In sacramento corporis Christi nihil a bono maius, nihil a malo minus perficitur sacerdote . . . quia non inmerito sacerdotis, sed in verbo conficitur creatoris. Non ergo sacerdotis iniquitas effectum impedit sacramenti, sicut nec infirmitas medici virtutem medicinae corrumpit. Quamvis igitur opus operans aliquando sit immundum, semper tamen opus operatum est mundum*; Innocent III, *De sacro altaris mysterio*, bk. 3, chap. 5.)

II. Modern treatises on the sacraments attribute the first formulation of the doctrine of the *opus operatum* in a generic way to the *Sentences* of Peter of Poitiers, a twelfth-century theologian who, owing to his subtlety, was aligned with Peter Abelard, Gilbert of Poitiers, and Peter Lombard among the “labyrinths of France.” A survey of the two passages of the work in which the distinction appears will prove particularly instructive. The first articulation of the doctrine does not, in fact, have to do with the theory of the sacraments but that of the action of demons. “And the devil,” writes Peter in his labyrinthine style,

serves God and God approves the works that he has done, but not the way in which he has done them [*opera eius quae operatur, non quibus operatur*]: the works done, as one is accustomed to saying, not the doing of the works [*opera operata, ut dici solet, non opera operantia*], which are all evil, since they do not proceed

from charity. So God approved of the passion of Christ carried out by the Jews, insofar as it was the Jews' work done [*opus iudaeorum operatum*], but did not approve the Jews' doing of the work [*opera iudaeorum operantia*] and the actions by which they worked that passion. God is offended by the devil's action, but not by the act itself; God does not want the devil to do that which God commands him to do in the way he does it. If one reads in the Scriptures that God commands the devil to do something, as is said for example in the Book of Kings (chap. 22) of the deception of Ahab . . . this must not be understood to mean that he commands it as he wants it. Rather, if he wants him to do it, he does not, however, want him to do it as he does it. Even if the devil does what God wants, he does not do it as God wants and for that reason, he is always sinning. (Peter of Poitiers, *Sententiae* 1.16)

One can understand why in the modern treatises the attribution of the doctrine of the *opus operatum* to Peter of Poitiers must necessarily remain generic. That the first formulation of the distinction that would furnish the paradigm of the sacramental paradigm of the priest was conceived to define the action of the devil within the providential economy cannot fail to appear embarrassing for historians of theology. It is only in book 5, in fact, in connection with the effectiveness of baptism, that Peter moves the distinction into the sphere of the theory of the sacraments:

When someone is baptized, it is by the authority of someone: either Christ or the priest. If it is by the authority of the priest and not by the baptism of Christ, then it is the priest who remits the sins. . . . [The purification] is the work of someone, either the one baptizing or the one being baptized. If it is the work of the one baptizing and it is by virtue of charity, then the merit of the baptism belongs to the one baptizing. In the same way he has the merit of the baptismal action [*baptizatione*], in the sense in which *baptizatio* is called the action by which he baptizes, which is a different work from baptism [*baptismus*], since it is a doing of a work [*opus operans*], while baptism is a work done [*opus operatum*], if one can say so. (Peter of Poitiers, *Sententiae* 5.6)

✠ It is important to note that both Peter of Poitiers and Innocent III speak of *opus operans* and not of *opus operantis*, as later theologians do. The distinction—in which, as we will see, its novelty consists—does not, that is to say, divide only the subject of the action but also the action itself, considered in one moment as the work of an agent and in another in itself, that is, in its effectiveness.

12. The stakes in the strategy that leads to distinguishing the *opus operatum* from the *opus operans* are clear at this point. It is a matter of separating, in an action, its effective reality from the subject who carries it out (though he cannot,

for that reason, be exonerated from all responsibility for it) as much as from the process through which it is accomplished. Let us reflect on the singular status that thus comes to belong to the priestly action. It is split in two: on the one hand, the *opus operatum*, that is, the effects that derive from it and the function that it carries out in the divine economy; on the other, the *opus operans* (or *operantis*), that is, the subjective dispositions and modalities through which the agent calls the action into being. The liturgy as *opus Dei* is the effectiveness that results from the articulation of these two distinct and yet conspiring elements.

In this sense the ethical connection between the subject and his action is broken: what is determinative is no longer the right intention of the agent but only the function that his action carries out as *opus Dei*. Just as the demon's action as *opus operatum* is carried out in the service of God even if it remains evil as *opus operantis*, so the liturgical action of the priest is effective as *opus Dei* even if the unworthy priest is committing a sin. The liturgy thus defines a peculiar sphere of action, in which the mystery paradigm of the Letter to the Hebrews (Christ the high priest's *opus operatum*) and the ministerial paradigm of the letter of Clement (the *opus operantis Ecclesiae*) coincide and are at the same time distinguished. This can happen, however, only at the price of dividing and emptying of its personal content the action of the priest, who, as the "animate instrument" of a mystery that transcends him, exercises an action that is still in some sense his own. In this sense, if on the one hand (with respect to the mystery and the *opus operatum*) he is not a subject but an instrument who in Aquinas's words does not act "by the power of its form," on the other hand (with respect to his ministry) he maintains his specific action, just as the axe, in Aquinas's example, "does not accomplish the instrumental action save by exercising its proper action, that is, by cutting" (*Summa theologiae* III, q. 62, art. 1). *The priest as animate instrument is that paradoxical subject who fulfills the "ministry of the mystery."* Insofar as in him the *opus operantis* can coincide with the *opus operatum* only on condition of being distinguished from it and can be distinguished from it only on condition of disappearing into it, one can say that (in the terminology of speech acts) its felicity is its infelicity and its infelicity is its felicity.

✠ It is significant that the 1947 encyclical *Mediator Dei* devotes special attention to the problem of the distinction between *opus operatum* and *opus operantis Ecclesiae* and seeks in every way to minimize the problem of the gap (*discrepantia*) that persists between them. "In the spiritual life," reads the text, "there can be no opposition or discrepancy [*discrepantia vel repugnantia*] between the action of God, who pours forth His grace into men's hearts so that the work of the redemption may always abide, and the tireless work and collaboration of human beings [*sociam laboriosamque hominis operam*], who must

not render vain the gift of God. No more can the efficacy of the external administration of the sacraments, which comes from the rite itself (*ex opere operato*), be opposed to the meritorious action of their ministers of recipients, which we call the agent's action (*opus operantis*). Similarly, no conflict exists between public prayer and prayers in private, between morality and contemplation, between the ascetical life and devotion to the liturgy. Finally, there is no opposition between the jurisdiction and teaching office of the ecclesiastical hierarchy, and the specifically priestly power exercised in the sacred ministry" (§36; translation altered; cf. Braga and Bugnini, 578).

Moreover, insofar as the text claims several times that, at least as concerns the sacraments, the effectiveness of the cult is produced "first of all and principally from the act itself (*ex opere operato*)" (§27; cf. Braga and Bugnini, 574), it is not clear how one should understand the necessity of the *opus operantis Ecclesiae* that the encyclical is anxious to affirm.

It is possible to recognize here the theological model of that division, and at the same time cooperation, between the necessary activity and initiative of the political militant on the one hand and the dialectical laws of history that guarantee their effectiveness on the other, which has made a lasting mark on praxis in the Marxist tradition.

# Threshold

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**I**N perfect consistency with the etymological meaning of the term *leitourgia*, the Church has always emphasized the “public” character of its own liturgy. The piety and private prayers of the faithful are certainly important, but as the encyclical *Mediator Dei* admonishes, they have their proper value insofar as they prepare for participation in the public cult, which has its center in the eucharistic celebration (§66; cf. Braga and Bugnini, 578), and, if separated from this, they are “sterile and deserve to be condemned” (§32; cf. Braga and Bugnini, 576). The definition of the liturgy contained in the encyclical expresses this public character through an image familiar to political historians: the “mystical body” of Christ, constituted by the inseparable union of the society of the faithful and its “Head”: “The sacred liturgy is . . . the public worship . . . rendered by the Mystical Body of Christ in the entirety of its Head and members” (§20; cf. Braga and Bugnini, 571).

It is this political meaning of the Church as liturgical assembly that Erik Peterson puts at the center of his 1935 book on the angels. “The Christian *ecclesia*,” he writes, is “the assembly of the citizens with full rights [*Vollbürger*] of the heavenly city for the accomplishment of specific cultic acts” (Peterson, 198/108). “The worship of the heavenly Church,” we read a few pages later, “and therefore implicitly too of the earthly Church’s liturgy, which is joined with that of the heavenly, has an original relationship to the political world” (Peterson, 202/112).

The distinction and at the same time the conjunction between heavenly Church and earthly Church corresponds here to the twofold articulation between *opus operatum* and *opus operans*, immanent Trinity and economic Trinity, that we have seen to define the liturgy. The liturgy actualizes the political community between heavenly Church and earthly Church and at the same time the unity of immanent Trinity and economic Trinity in a sacramental praxis. Yet precisely for this reason it is constitutively marked by a duplicity. Insofar as it expresses the operation internal to the very divine life, the economic activity of Christ the “liturgue” and priest and of his mystical body can only be effective

*ex opere operato*. And moreover, insofar as it defines the praxis of the Church as political community, there cannot be liturgy without the *opus operans* of its members. “The work of redemption,” claims the encyclical, “which in itself is independent of our will, requires a serious interior effort on our part if we are to achieve eternal salvation” (§31; cf. Braga and Bugnini, 576).

By defining the peculiar operativity of its public praxis in this way, the Church has invented the paradigm of a human activity whose effectiveness does not depend on the subject who sets it to work and nonetheless needs that subject as an “animate instrument” to be actualized and rendered effective. The liturgical mystery, insofar as in it the mystery of the trinitarian economy reaches its actualization, is the mystery of this praxis and this operativity.

## From Mystery to Effect

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1. The term *mystery* is at the center of a reflection on liturgy that has profoundly marked the Church's conception of its activity today. Odo Casel (1886–1948), a Benedictine monk of the Rhineland monastery of Maria Laach, was one of the principal inspirations of what was later to be defined as the “Liturgical Movement” (*liturgische Bewegung*). Already Ildefons Herwegen, named abbot of Maria Laach in 1914, had immediately founded a rereading of the sources of the liturgical tradition, which starting from 1918 was advanced in the publication of two series with the significant titles *Liturgiegeschichtliche Quellen* (Sources for the History of Liturgy) and *Ecclesia orans* (The Praying Church). In 1921 Casel supplemented these two publications with the “Jahrbuch für Liturgiewissenschaft” (Yearbook for the Study of Liturgy), which proposed a systematic and at the same time historical study of the Church's worship. In the twenty years that that publication lasted, the “Jahrbuch” became, by its imposing bulk of philological-lexical and theological studies, the organ of what, in the title of a monograph dedicated to Maria Laach, has rightly been defined as a “renewal of the Church from the spirit of liturgy” (Jeggle-Merz). From the perspective of Casel and his followers the liturgy ceases to be the completion of a rite that received its meaning from elsewhere—in faith or in dogmatic theology—and becomes the *locus theologicus* par excellence, from which the Church can alone find its life and its reality. “Christianity,” writes Casel, “is not a ‘religion’ or a confession in the way the last three centuries would have understood the word: a system of more or less dogmatically certain truths to be accepted and confessed, and of moral commands to be observed or at least accorded recognition. Both elements of course belong to Christianity, intellectual structure and moral law; but neither exhausts its essence” (Casel 1, 35/9). Christianity—such is the thesis that summarizes Casel's thought—is essentially “mystery,” a liturgical action that each time renders present in ritual form the salvific praxis of Christ, and the worshipping community obtains salvation by entering into contact with this praxis. And it is

to oppose the desacralization and rationalization that defines the modern world that Casel undertakes his vindication of mystery.

✠ By forcefully affirming the centrality of the mystery-action in the reality of the Church, Casel (and with him the Liturgical Movement) seems to refer implicitly to the ancient axiom that confirms the primacy of liturgy over faith in the tradition of the Church: *legem credendi statuat lex supplicandi* (or, in abbreviated form, *lex orandi-lex credendi*, the law of prayer is the law of faith). As has been written, for Casel, “the authentic liturgical traditions are not simply one among many sources of knowledge of faith, but the *source and central witness* of the life of faith and so of all theology” (Kilmartin, 96–97). And it is certainly not an accident if in the imposing philological labor of his school, the analysis of liturgical texts and sacramentaries comes before that of Scripture or of theological texts in the strict sense. Liturgy predominates over doctrine exactly as the accent falls on praxis rather than theory in contemporary political movements. Given the success of the Liturgical Movement’s theses within the Church, it is not surprising that in his encyclical, Pius XII dedicates an important passage to the refutation of their extreme versions. While forcefully underlining the vital importance of liturgical praxis, the principle according to which the norm of liturgy decides that of faith is exactly reversed: “The sacred liturgy, consequently, does not decide or determine independently and of itself what is of Catholic faith. . . . If one desires to differentiate and describe the relationship between faith and the sacred liturgy in absolute and general terms, it is perfectly correct to say, *lex credendi legem statuat supplicandi*—let the rule of belief determine the rule of prayer” (§48; cf. Braga and Bugnini, 581). And moreover, what the pope has in mind is, as the rubric of the chapter in question suggests, the “strictest connection between liturgy and dogma” (*arcta connexio liturgiae et dogmatis*; Braga and Bugnini, 580), in which the liturgy “can supply proofs and testimony, quite clearly, of no little value, towards the determination of a particular point of Christian doctrine” (§48; cf. Braga and Bugnini, 581).

2. The first twenty years of the twentieth century were rightly defined as “the age of movements.” Not only do the parties, on the right as much as on the left of the political spectrum, give way to movements (both the workers’ movements and Fascism and Nazism define themselves as “movements”), but also in the arts, in the sciences, and in every sphere of social life movements are substituted for schools and institutions to such a degree that it is practically impossible to provide a comprehensive list of them (it is significant that when, in 1914, Freud sought a name for his school, he decided in the end on “the psychoanalytic movement”).

A common characteristic of movements is a decided distancing with regard to the historical context in which they are produced and the vision of the world of the epoch and culture to which they are opposed. In this sense the liturgical movement also participates in the same reaction against humanist individualism and the rationalization of the world that defines many movements that followed

the First World War. A reading of the first chapter of Casel's book-manifesto, *Das christliche Kultmysterium* (*The Mystery of Christian Worship*, 1932), entitled "The Mystery and Modern Man," is particularly instructive from this point of view. Our time, writes Casel, is witnessing the decline of individualism and humanism, which by stripping nature and the world of the divine had believed themselves to have forever dispelled the obfuscation of mystery. In this way, by means of the collapse of rationalist humanism, our time has opened up "a new turning to the mystery" (Casel 1, 30/5). The world "becomes for him once more a stage on which God's drama is being carried out. . . . God's mystery once again inspires dread, attracts and calls us" (ibid.). With a barely veiled allusion to so much that was happening in those years in the secular sphere and, in particular, to the rediscovery of ceremonials and liturgies in the political sphere, Casel can thus write: "Today the world outside Christianity and the church is looking for mystery; it is building a new kind of rite in which man worships himself. But through all this the world will never reach God" (ibid., 33/7).

3. Casel's strategy was already clearly articulated in the dissertation he defended in 1918 at the University of Bonn under August Brinkmann: *De philosophorum Graecorum silentio mystico* (*On the Mystical Silence of the Greek Philosophers*). Under the appearances of a purely historical-philological study, we find already enunciated here the two theses that will guide his subsequent labors.

The first, which constitutes the theme of the dissertation, is that the pagan mysteries (Eleusian, Orphic, and Hermetic) must not be seen as a secret doctrine, which one could pronounce in words but that one is prohibited to reveal. Such a meaning of the term *mystery*, according to Casel, is late and derives from the influence of the Neopythagorean and Neoplatonic schools. Originally, *mystery* designates a praxis, that of the *drōmena*, the gestures and acts by means of which a divine action is accomplished in time and in the world for human salvation: *silentium mysticum non quaecumque theologiam, sed actiones ritusque sacros texisse* (mystical silence does not conceal any kind of theology, but sacred actions and rites; Casel 2, 19).

The second thesis, which concludes the dissertation in the form of a question, is in reality a programmatic declaration: "Greek philosophy has ceased, but it is not dead. Thus it is possible to ask oneself if Christians took up the Greek mystery-doctrine again and put it back into use and what influence it exercised not only on their philosophy and theology, but also in sacred worship and in their moral precepts (in particular among monks). I propose to treat this argument elsewhere [*qua de re alio loco erit agendum*]" (ibid., 158).

One can say that all of Casel's subsequent work is the patient, methodical, and obstinate carrying out of this program. Through an imposing series of lexical and historical-philological studies, he seeks to demonstrate the connection of the Christian sacramental liturgy with the pagan mysteries and to show that Christian worship is by nature essentially a "mystery."

✠ The attempt to put the pagan mysteries and Christian liturgy in relation in this way is in truth already implicitly present in the gesture with which Clement of Alexandria opposes the "mysteries of the *logos* (*tou logou ta mystēria*)" to the pagan mysteries (*Exhortation to the Greeks*, chap. 12). At any rate, between the end of the nineteenth century and the first decades of the twentieth century, historians of religion—from Usener to Dieterich, from Reitzenstein to Wilhelm Bousset—had observed and documented beyond any doubt the obvious connection between the salvific experience that is in question in the pagan mysteries and the Christian message. The fact that the claim of this connection would now come from a Benedictine monastery and become widespread within the Church accounts for both the new meaning that it assumes in twentieth-century theology and the polemics that accompany its diffusion. Still in 1944, three years before the Curia would take a position on the theses of the Liturgical Movement with the encyclical *Mediator Dei*, a Jesuit theologian, Hugo Rahner, could write in a lecture on *Pagan Mysteries and Christian Mysteries* that "the matter still is very much under discussion" (Rahner, 152).

Casel's doctrine can be seen as the attempt to construct a non-Judaic genealogy of Christian liturgy (which in fact, as Werner's studies show, we know instead to derive in many aspects directly from the synagogue). "Judaism," he never tires of repeating, "did not know mysteries. . . . The Hebraic religion of the law was not mystical; where mystic ideas appear, as in the prophets, these do not refer to worship. An authentic concept of mystery is found only in Hellenism" (Casel 3, 140). In this sense it is possible that this distancing from the Judaic genealogy may have contained, given its historical context, unconscious anti-Semitic implications (which their author, to be fair, does not seem to have ever expressed).

4. The thesis of the derivation of Christian liturgy from the pagan and late-classical mysteries has given rise to interminable discussions among theologians and historians of liturgy. The lexical studies of Casel and his students on the semantic history (which they call "theological philology") of the terms *mysterium*, *sacramentum*, and *leitourgia* show that in the Fathers already between the fourth and fifth centuries there is certainly a clear awareness of the meaning that these terms had in the pagan context. As to the derivation of the Latin term *sacramentum* from the classical oath—which in the figure of the vow implied a consecration and was in this sense present in the mystery-initiations—the polemics, already kindled in Casel's lifetime, have continued after his death.

The debate over “theological philology” nevertheless risks obscuring a more essential problem, which concerns not the problem of the continuity between pagan mysteries and Christian mysteries so much as that of the very nature of the liturgical mystery. If we want to fully understand what Casel means by mystery, we must interrogate the function that it takes on in his argumentative strategy. What is at stake for Casel, then, in the definition of Christianity as a “mystery”? Why is the genealogical connection with pagan mysteries so decisive for him?

For Casel, *mystery* means essentially “cultic action.” Defining Christianity as a mystery is therefore equivalent for him first of all to affirming that the Church is not simply a community of believers, defined by sharing a doctrine crystallized in a set of dogmas. The Church is defined rather through participation in the mystery of the cultic action: “Yet just as the economy of salvation is not merely teaching, but first and foremost Christ’s saving deed, so, too, the church leads humanity to salvation not merely by word only, but by sacred actions” (Casel I, 32/7).

Christ’s salvation must be made real in us. This does not come about through a mere application, with our behavior purely passive, through a “justification” purely from “faith,” or by an application of the grace of Christ, where we have only to clear things out of the way in a negative fashion to receive it. Rather, what is necessary is a living, active sharing in the redeeming deed of Christ; passive because the Lord makes it act upon us, active because we share in it by a deed of our own. To the action of God upon us (*opus operatum*) responds our cooperation (*opus operantis*), carried out through grace from him. (Ibid., 41–42/14)

This means, if we look closely, that the Church is something like a political community (Casel uses the expression “cultic community”), which is fully accomplished only in the performance of a special action, which is the liturgy. Evoking the originary political meaning of the term *leitourgia*, Casel affirms that the two terms *mystery* and *liturgy* mean the same thing but from two different points of view: “*mystery* means the heart of the action, that is to say, the redeeming work of the risen Lord, through the sacred actions he has appointed; *liturgy*, corresponding to its original sense of ‘people’s work,’ ‘service,’ means rather the action of the church in conjunction with this saving action of Christ’s” (ibid., 75/40).

In another text he specifies that “mystery means the divine action [*göttliche Tat*] in the Church, namely objective facts [*objektive Tatsachen*], which happen in and for a community [*Gemeinschaft*] and thus find a supraindividual expression in community service [*Gemeinschaftsdienste*]” (Casel 4, 146). This divine action is effectively present in the liturgical action, which is defined therefore as “the ritual execution [*Vollzug*] of Christ’s redemptive work in and through the

Church, that is, the presence of the divine action of salvation [*die Gegenwart göttlicher Heilstat*] under the veil of symbol” (ibid., 145).

✠ The centrality of the liturgical mystery’s pragmatic character is affirmed forcefully in one of the first texts published by Casel in the *Jahrbuch für Liturgiewissenschaft*, “*Actio* in liturgischer Verwendung” (*Actio* in liturgical use). This text is particularly important because it permits us to pose the problem of the relationship between liturgy and law. Through the analysis of a formula contained in the oldest sacramentaries and still in the Roman Missal, Casel shows that the name of the eucharistic celebration was originally *actio*, “action.” At this point Casel mentions the opinion of Baumstark, according to whom the liturgical use of the term derives from Roman law, in which *actio* designated that eminent form of acting that is the *legis actio*, the oath (Baumstark, 38–39). *Actio* here meant the particular performative efficacy of the pronouncement of a ritual formula (and of the gesture that accompanied it), which in the oldest form of the trial, the *legis actio sacramenti*, also included the giving of an oath. Although Honorius of Autun had already noted the analogy between the trial and the mass, writing that “the canon is also called *actio*, because in it there takes place the case between the people and God [*quia causa populi in eo cum deo agitur*]” (c. 577), Casel drops Baumstark’s thesis to suggest that the liturgical use of the term *actio* is rather to be put in relation with Roman sacrificial terminology, where *agere* and *facere* designated the sacrificial praxis. “The designation of the canon as *actio* proves that, at the time of its origin, the ancient and strictly liturgical conception of the *eucharistia* as sacrificial offering was already vibrant. It also furnishes an important index for the evaluation of ancient Christian liturgy, whose content was not an engrossed silence and whose object was not an abstract theological doctrine, but an action, a deed [*Handlung, Tat*]” (Casel 5, 39).

Concerned as always to underline the practical character of the liturgy, Casel does not notice that the analogy with the *legis actio* would have allowed him to understand the peculiar nature of the liturgical action. The efficacy *ex opere operato* that defines it corresponds precisely with the performative efficacy of the pronouncement of the formula of the *actio*, which immediately actualized the juridical consequences contained in the declaration (*uti lingua nuncupasset, ita ius esto*). In both law and liturgy, what is in question is the peculiar performative regime of the efficacy of an *actio*, and our task is precisely to define it.

✠ A similar denegation of the quite evident proximity between liturgical effectiveness and law is found in Walter Dürig’s essay on the concept of the pledge in Roman liturgy. The term *pignus*, which in Roman law designates the object that the debtor hands over to the creditor in full possession as a guarantee of payment, is transposed into the liturgical texts in reference to the cross, to relics of the saints, and in particular to the Eucharist, defined as “pledge of redemption.” Just as the pledge constitutes in the hands of the creditor a concrete anticipation of the future payment, so also the cross and the Eucharist anticipate the presence of the eschatological reality. The problem is not whether or not there is a juridical relation at the base of the eucharistic texts on the *pignus* (which Dürig

intends precisely to deny: *ibid.*, 398), so much as that of the obvious structural analogy between the juridical sphere and the liturgical sphere.

5. If the true reality of the Church is the liturgical mystery and if this is defined by means of the effective presence of the divine redemptive action, then understanding the nature of liturgy will mean understanding the nature and modes of this presence. To this decisive problem, which appears in filigree in all his writings, Casel has dedicated a specific essay, which is entitled precisely *Mysteriengegenwart*, “Mystery-Presence.”

According to Casel, the term *mystery-presence* is a tautology because “presence belongs to the essence of mystery” (Casel 4, 145). This defines “the most proper nucleus of Christian liturgy,” which is nothing other than the presentification (*repraesentatio* in the literal sense of “rendering newly present”) of the *Heilstat*, of Christ’s salvific action and therefore first of all of Christ himself. Casel cites in this connection the passage from Ambrose’s *De mysteriis* in which this presence is affirmed as such: “Believe, therefore, that the presence of the Divinity is there [in the sacrament]. If you believe the working, do you not believe the presence? Where would the working come from, if the presence did not precede it?” (*On the Mysteries* 8.159–60/48).

The presence that is in question in the mystery is not, however, the historical presence of Jesus on Golgotha but a presence of a particular type, which solely applies to the redemptive action of Christ (and therefore Christ insofar as he is redeemer). Christ has in fact appeared to the Church in a twofold figure: “as the historical man Jesus, whose divinity was still veiled . . . and as *kyrios Christos*, who through his passion has been eternally transfigured at the right hand of the Father” (Casel 4, 155). In the liturgical mystery “only the actions that Christ achieved as redeemer” are present, “not the mere historical circumstances, which are devoid of value for the *oikonomia*” (*ibid.*, 174). This means that in the eucharistic sacrifice, “Christ does not die anew in a historical-real sense; rather his salvific action becomes sacramentally, *in mysterio, in sacramento*, present and in this way accessible to those who are seeking salvation” (*ibid.*).

It remains the case that, for Casel, this presence is, however, effective (*wirklich*) and not simply efficacious (*wirksam*) (*ibid.*, 159). Commenting on Augustine’s saying *Semel immolatus est in semetipso Christus, et tamen quotidie immolatur in sacramento* (Christ was sacrificed once in himself, and yet he is sacrificed daily in the Sacrament [qtd. in Thomas Aquinas, *Summa theologica* III, q. 83, art. 1]), he writes that if the *immolatio* that takes place on the altar is not real, but sacramental, nevertheless and precisely for that reason “it is not a mere

representation [*Darstellung*—in that case it would not be a sacrament—but an effectiveness under the sign [*Wirklichkeit unter dem Zeichen*]. In a word: *sacramentum, mysterium*” (ibid., 182).

For this reason, according to Casel, Protestantism, which denies that Christ’s sacrifice is effectively present in the Eucharist, destroys “the most proper force of the Catholic liturgy, which is that of being the objective mystery, full of effectiveness [*wirklichkeitserfülltes*], of Christ’s salvific action” (ibid., 200).

6. To explain the singular modality of presence that he defines as *Mysteriengenwart*, Casel refers in his essay to a tradition of the Greek Fathers, from Cyril of Jerusalem to John Chrysostom, who interpret this presence in a pneumatic sense. What is present in the mysteries is “the Pnuma of Christ, or more precisely, the pneumatic Lord,” who constantly acts through them in the Church (ibid., 162). A similar spiritual terminology, which has its place and its proper sense in trinitarian theology, nevertheless does not say anything as to the mode of this mystical presence, to what we can define as an “ontology of the mystery.” The Latin Fathers and the scholastics had given terminological expression to this problem by means of a peculiar vocabulary, which designated the mode of the presence and operativity of Christ in the sacraments. I have in mind the term *effectus*. It is with the semantic history of this term in Christian liturgy that we must therefore contend.

At the end of the essay on the *Mysteriengenwart*, the term *effectus* makes its appearance at a crucial point, which has to do with the interpretation of Aquinas’s eucharistic doctrine. With regard to the *immolatio* that takes place in the Eucharist, Aquinas in fact distinguishes two modes or senses in which this term is said. In the first sense it is a matter of an image that represents the passion of Christ (*imago quaedam . . . repraesentativa passionis Christi, quae est vera eius immolatio*); in the second, by contrast, the term designates the *effectus* of Christ’s passion, “because, to wit, by this sacrament, we are made partakers of the fruit of our Lord’s Passion” (*Summa theologica* III, q. 83, art. 1; cf. Casel 4, 181). Casel cites other passages from the *Summa* in which the term *effectus* designates the effective reality of the sacrament, considered either with respect to representation (*id ex quo habet effectum, scilicet et ipse Christus contentus et passio eius repraesentata*) or else with respect to the use and goal of the sacrament (*id per quod habet effectum, scilicet usus sacramenti*) (ibid., 184). According to Casel, the term *effectus* names this effective unity of image and presence in the liturgical mystery, in which the presence is real in its operativity, that is, as *Heilstat*, salvific action: “mystery-presence means a real presence, but a reality of a special type. A reality, to the extent to which it corresponds solely to the goal of the sacrament,

which is that of permitting the faithful to participate, for their salvation, in the life of Christ as savior” (Casel 4, 191).

In a brief but dense essay on the *Roman Prayers* published in the “Jahrbuch” three years later, Casel returns to the concept of *effectus* to confirm that it does not mean efficacy (*Wirkung*) but effectiveness (*Wirklichkeit*). From this perspective he analyzes a series of texts, among which he singles out a passage from a sermon of Leo the Great that furnishes him with the essential documentation for his argument: “it was necessary that what had been promised in a figurative mystery [*figurato promissa mysterio*] be fulfilled in a manifest effectiveness [*manifesto implerentur effectu*], that the true lamb take away the signified lamb [*ovem significativam ovis vera removeret*], and that the variety of the victims be brought to completion through one sole sacrifice. . . . In order that the shadows may cede place to the body and the images pass away with the presence of truth, the ancient observance is abolished by the new sacrament, the sacrifice is sacrificed, and the legal holiday is fulfilled in the very instant in which it is transformed” (Casel 6, 38).

It seems difficult to deny that in this passage *effectus* does not designate simply the *Wirkung*, the effects of grace produced by the sacramental rite, but even and above all the *Wirklichkeit*, the reality in its effective fullness. “*Effectus*,” concludes Casel, “does not mean here the effect [*Wirkung*], but the full effectiveness [*die volle Wirklichkeit*], in opposition to the incomplete and exterior appearance” (ibid., 38). This is what corresponds invisibly to the exterior action, in which “all that was here represented symbolically becomes a reality, but a reality of an invisible and pneumatic type, which can thus also become productive of the effects of grace” (ibid., 45).

Let us reflect, however, on the peculiar character of this mystery “reality,” which coincides neither with the presence of the historical Christ in flesh and bone (*sicut corpus in loco*) nor with his simple symbolic representation, as in a theater. The liturgical mystery is not limited to representing the passion of Christ, but in representing it, it realizes its effects, so that one can say that the presence of Christ in the liturgy coincides totally with its effectiveness. But this implies, as we will see, a transformation of ontology, in which substantiality and effectiveness will seem to be identified.

✠ By defining the effectiveness of the Christian sacrifice in this way, Casel takes up the scholastic doctrine of the difference between the sacraments of the *vetus lex* (old law), which had a purely ceremonial and prophetic character and did not produce a salvific effect, and those instituted by Christ, which by bringing to completion what the Judaic *sacra* were limited to announcing, performatively achieve what they figure (*efficiunt quod*

*figuranti*). In this connection Casel speaks of an “image full of effectiveness” (*wirklichkeit-gefülltes Bild*). In this sense his labors on the liturgy can be set alongside the studies on the image as living reality or *Pathosformel* charged with effectiveness that Ludwig Klages and Aby Warburg were carrying out in different circles in those same years.

7. Walter Diezinger has dedicated a monograph to the term *effectus* in Catholic liturgy. While presenting itself as an investigation of historical semantics, it announces in the preface “an *Auseinandersetzung* with Odo Casel’s doctrine of the mysteries” (Diezinger, 9), which has to do precisely with the article just cited. Diezinger goes back over the texts cited by Casel and reads, alongside these, a vast number of liturgical documents. His goal is to show that if in some, as in the passage cited from Leo the Great, the meaning of *Wirklichkeit* seems indubitable, in others what seems to be in question is instead something like a *Wirkung*.

Diezinger’s monograph shows in any case that the term *effectus*—whatever its exact meaning may be—develops an absolutely central function in liturgical texts, which is precisely what we must understand. The debate over the polysemy of the term *effectus* actually leaves in the shadows an otherwise decisive question, and that is whether a transformation might not by chance be hidden precisely in the semantic oscillation between “effect” and “effectiveness”—a transformation that, beyond the semantic history of the term, instead has to do with the history of ontology, the very modality of being that the term seeks to name. The opposition between *Wirkung* and *Wirklichkeit*, effect and effectiveness, is in fact not semantic (the two terms share the same root and the same etymology) so much as ontological. Rather, it is perhaps not an opposition that is at stake but an indetermination, which corresponds to a decisive mutation of the very conceptuality of ontology. While in the vocabulary of classical ontology being and substance are considered independently of the effects that they can produce, in effectiveness being is inseparable from its effects; it names being insofar as it is effective, produces certain effects, and at the same time is determined by them. Effectiveness is, that is to say, the new ontological dimension that is affirmed first in the liturgical sphere and is then to be extended progressively until in modernity it coincides with being as such.

Understanding the meaning of *effectus* in liturgical texts will thus mean being confronted with a transformation in the conception of being that intimately concerns us. It is perhaps the case that we do not have any representation of being today other than effectiveness, and it is this dimension that is in question in terms like *Wirklichkeit*, *realitas*, “reality,” as much as in the definition of *Dasein* in §9 of *Being and Time* as that entity whose essence “lies [*liegt*] in its existence” (Heidegger 4, 42/67).

8. An examination of the occurrences of the term *effectus* in the *Thesaurus linguae latinae* proves particularly instructive from this perspective. In contrast with the verb *efficio*, from which it derives etymologically, the term *effectus* appears in Latin relatively late (around AD 45). But after the first occurrences (in Cicero and Varro), it is precisely the semantic oscillation between effect and effectiveness that proves to be an index of a mutation that has to do with the very ontological categories through which reality is conceived. Contrary to Diezinger, who seeks very carefully to keep *Wirkung* and *Wirklichkeit* distinct, the compilers of the entry in fact warn that it is impossible to separate with certainty the meaning of effectiveness (*actus efficiendi*) from that of effect of the act (*actus fructus*): *et est saepe in arbitrio interpretantis singulos locos, utram significationem potius accipiat*.

The initial two meanings registered in the *Thesaurus* may seem banal at first glance. The first is Cicero's affirmation according to which *effectus eloquentiae audientium approbatio* (*Tusculan Disputations* 2.3). This does not mean "the effect of eloquence is the approval of the listeners," which would be a truism, but as results unequivocally from the context, "the reality, the effectiveness of eloquence lies in the approval of the listeners" (that is, in the effect that it gives rise to). That is to say, Cicero has in mind something, a mode of being, in which reality and effect are indiscernible.

The second occurrence is in Varro (*On the Latin Language* 9.39). Varro here observes that, in comparing words, one must not be concerned only with what they have in common in form (*quid habeat in figura simile*), but also *in eo quem habeat effectum*, which does not mean "the effect that they have" so much as rather (as implied in the example that follows) "the effectiveness of their use."

That *effectus* does not designate simply the effect, but a special modality of something's being, is evident in the syntagma *esse in effectu*, which one comes across frequently starting with Cicero. Particularly significant from this perspective is a passage (*De finibus* 3.32) in which unjust actions (*peccata*) are distinguished according to their being *in effectu* (as in mistreating one's parents or profaning temples) or their being *sine effectu* as in being sad or experiencing an erotic desire, *in libidine esse*). Here also the translation "to have or not have effects" would be manifestly insufficient: what is in question is the ontological status of the act, whether the effectiveness that belongs to it is full or somehow lacking, depending on whether one is dealing with an action or a state.

The properly ontological meaning of the term *effectus* becomes clear later in a series of passages in which it expresses a particular declension of the Aristotelian *energeia* in its relation to *dynamis*. In this sense the term appears in Calcidius's commentary on the *Timaeus*, in relation to the definition of material. Material

(*silva*, as Calcidius calls it) is by its nature deprived of qualities and formal determinations (*sine qualitate ac sine figura et sine specie*) and is moreover never given if not accompanied by these latter. And just as we can remove from it in thought those qualities without which it does not exist, so also can we attribute to it the possession of them *non effectu sed possibilitate* (Calcidius 337). *Effectus* is here opposed to possibility but not exactly as *energeia* is opposed to *dynamis* in Aristotle. Calcidius takes care to specify that possibility or potential must be understood here not in the sense in which one says that the seed contains in itself the potential of the plant but in which one says bronze has a potential insofar as it can become a statue through the operation of an external (*extrinsecus*) agent. That is to say, *effectus* names not simply being-at-work (*energeia*) but the operation that actualizes a potential from the outside and in this sense renders it effective.

One can thus understand why Quintilian, in a text that was to exercise no small influence on Christian authors, can distinguish between arts *in actu* (or *in agendo*), like dance, which has its end in itself and does not leave behind any work once the act is ended (*nihilque post actum operis relinquit*), and arts *in effectu*, like painting, which reaches its end in a work (*operis . . . consummatione finem accipit* [*Instituto Oratoria* 2:18.1–2]). More than the Aristotelian distinction between *praxis*, which has its *telos* in itself, and *poiēsis*, which has an external end (a distinction that would here be out of place, because for Aristotle a *technē-ars* can in no case be defined as a *praxis*: *anankē tēn technēn poiēseōs all'ou praxeōs einai* [*Nicomachean Ethics* 1140a17]), what is in question here is the different ontological status, the different mode of presence that belongs to due species of arts. While the *energeia* in dance is of the order of *actus* (*in actu posita*), that of painting is of the order of *effectus*, in the operation of which it is rendered effective, is given reality and consistency in an *opus*—considered, however, not in itself, but first of all as *effectus* of an *operatio*.

For this reason Ambrose, taking up the passage of Quintilian in the *Hexameron* (I, 5.17) in connection with the divine creation of the world (probably through the mediation of Basil), develops it, in his already fully liturgical vocabulary, by distinguishing between *artes actuosae*, which “relate to the movement of the body or to the sound of the voice” and in which nothing remains after the operation, and those arts, like architecture and weaving, which *cessante quoque operationis officio, operis munus adpareat . . . ut operatori operis sui testimonium suffragetur* (even when the craftsman’s office has ceased, still exhibit his skill, so that testimony is presented of the craftsman’s own work). Only in appearance does Ambrose here seem to be aiming at a primacy of the work. The syntagma *operis munus*—not the work, but the function of the work—put in correspondence

with the *operationis officium*, the action conceived as an “office,” and the reference to the craftsman show that in truth he is moving in an ontological dimension that has nothing to do with that of Aristotle. What is in question is not the mode of being and the permanence of a form and a substance (that is, of a being that, in Aristotelian terms, “is what it was”) but a dislocation of being into the sphere of praxis, in which being is what it does, is its operativity itself.

It is significant that the divine creation itself can in this way be presented through the vocabulary of *officium* and *munus*. The work, which was in Aristotle the paradigm of being, is here only the proof and the effect of a working (*est enim hic mundus divinae specimen operationis, quia dum opus videtur, praefertur operator* [this world is an example of the workings of God, because, while we observe the work, the Worker is brought before us]). The ontological status of the liturgical act, of the *opus Dei*, in which being and praxis, effectiveness and effect, operation and work, *opus operatum* and *opus operans* are inseparably intertwined, here has its obscure precursor.

✠ In reality, the paradigm of action that is in question here is much closer than it seems to that of the *artes actuosae*, like dance and theater. In a passage from the *De finibus* (3.7.24), which contains perhaps the most precise definition of effectiveness, Cicero, comparing the *officium* of wisdom to the gestures and movements of the actor and the dancer, writes that in these latter, “its end, being the actual exercise of the art, is contained within the art itself, and is not something extraneous to it [*in ipsa insit, non foris petatur extremum, id est artis effectio*].” The end here is not an external work (as in *poiēsis*), but nor does it coincide, as it might seem at first glance, with the action itself (as in *praxis*). In fact, it only coincides with the act to the extent to which it is the execution (*effectio*) of an art. What is decisive here is that it is a specifically artistic operation (theatrical or choral) that furnishes a new ontological-practical paradigm, that is to say, that what is in question is not an ethical paradigm, but a particular technical paradigm. While Aristotle in fact considered the work (*ergon*) as the *telos* of the artisan or artist’s *poiēsis*, here, by means of the paradigm of performative arts like dance and theater, which are by definition without a work, the *telos* is no longer the work, but the *artis effectio* (execution of the art).

9. It is from this semantic constellation that an ontological paradigm is progressively elaborated among the Christian authors in which the decisive characteristics of being are no longer *energeia* and *entelecheia* but effectiveness and effect. It is from this perspective that one must consider the appearance in the Fathers, around the middle of the third century, of the terms *efficacia* and *efficientia*, closely linked to *effectus* and used in a technical sense to translate (and betray) (*tradurre [e tradire]*) the Greek *energeia*. Thus Rufinus can write: *aliud est possibilitatem esse in aliquo, aliud efficaciam vel efficientiam, quos*

*Graeci dynamin et energeian vocant* (it is one thing for there to be possibility in something, another for there to be *efficacia* or *efficientia*, which the Greeks call *dynamin* and *energeian* [in his translation of Origen's *Commentary on Romans* 8.2]). That Rufinus means by this term simply effectiveness is proved beyond any doubt by subsequent passages, in which *efficacia* and *efficientia* are glossed *hoc est re ipsa atque effectu* and an example is given in the work of the blacksmith or of the one who *effectu operis agit*, renders his work effective (literally, “acts with the effectiveness of the work, with its ‘operativity’”). The thing and the work, considered inseparably in their effectiveness and in their function: this is the new ontological dimension that is substituted for the Aristotelian *energeia*. And it is interesting to note that before finding its canonical translation as *potentia-actualitas*, the couple *dynamis-energeia* had been rendered by the Latin Fathers as *possibilitas-efficacia* (*effectus*).

A gloss on the adjective *efficax* clearly expresses the semantic sphere that is in question here: *efficax dicitur quasi effectum capiens* (*Gramm.*, suppl. 74, 23). What is effective is not so much what produces an effect as what “takes effect,” is given effectiveness—that is, exists in the mode of *effectus*. It is in this sense that in the Vulgate of Hebrews 4:12 Jerome renders the text's *energēs* with *efficax*: *vivus est enim sermo Dei et efficax et penetrabilior omni gladio* (the Word of God is living and active, able to penetrate more than any sword). And that this effectiveness implies, as *effectus* already did in Calcidius, a divine or human operation, and not simply an immanent natural process, is obvious in those passages in which the term *efficientia* is opposed to *natura*: *sit . . . in eo efficientia potius quam natura sapientiae* (in him there is effectiveness rather than a wise nature; Hilary of Poitiers, *In Evangelium Matthaei Commentarius* II.2).

It is in Augustine (*De gratia Christi et peccato originalis* 1.4.5) that we find confirmed with perfect awareness the pertinence of *effectus* to the sphere of ontology: *posse in natura, velle in arbitrio, esse in effectu* (the “ability” we place in our nature, the “volition” in our will, and the “actuality” in the effect). Let us linger over this triple affirmation, which seems to have almost the form of a theory but, restored to its context, permits us to understand and, so to speak, to follow at close range the transformation of ontology that was to be carried out in the Christian sphere. The phrase is not Augustine's but is contained in a citation from Pelagius, whose opinion Augustine refers to in order to refute it. “We distinguish,” writes Pelagius in his impassioned defense of the human possibility not to sin, “three things, arranging them in a certain graduated order. We put in the first place ‘ability’ [*posse*]; in the second, ‘volition’ [*velle*]; and in the third, ‘actuality’ [*esse*]. The ‘ability’ we place in our nature, the ‘volition’ in our will, and the ‘actuality’ in the effect

[*esse in effectu*].” It is obvious that in Pelagius the three elements still articulate an ontological gradation in the Aristotelian sense, which corresponds to the passage from the mode of being of potentiality (*posse*, which according to Pelagius belongs exclusively to God), through the will (*velle*), to the act (*esse*, which here significantly has its place in effectiveness, *in effectu*). But when Augustine summarizes his adversary’s theses, the ontological conceptuality gives way to a practical conceptuality, within which *esse* is already synonymous with “acting”: *Nam cum [Pelagius] tria distinguat . . . possibilitatem, voluntatem, actionem* ([Pelagius] posits and distinguishes three faculties . . . capacity, volition, and action; 1.3.4).

Here the transformation of the ontological paradigm that is already a fait accompli clearly shows its strength: being coincides without remainder with effectiveness, *in the sense that it does not simply exist but must be effectuated and actualized*. What is decisive is no longer the *work* as a stable dwelling in presence but *operativity*, understood as a threshold in which being and acting, potential and act, working and work, efficacy and effect, *Wirkung* and *Wirklichkeit* enter into a reciprocal tension and tend to become undecidable. This tension and this undecidability define the liturgical mystery that the Church recognizes as its most proper and highest task.

✠ Nothing better illustrates the new meaning that *energeō* and *energeia* are acquiring and will acquire with ever greater clarity in Christian literature than the Pauline use of the terms. While *energeia* and *dynamis* in Aristotle designate a diverse and correlated mode of existing and being present (“*Energeia* is”; *Metaphysics* 1048a32), in Paul (and in his Latin translators) *energeia* indicates not a mode of being but rather the effectuation of a potency, the operation through which it receives reality and produces determinate effects. From this perspective God is defined twice as the principle that renders everything effective and real (*ho theos ho energōn ta panta en pasin*; 1 Corinthians 12:4) and that has rendered effective the “potency of his great power” (*kata tēn energeian tou kratous tēs ischyos, hēn enērgēsen en tōi Christōi*; Ephesians 1:19–20). Particularly significant in this sense is the frequent use of the syntagma *kata tēn energeian tēs dynamēōs*, “according to the working of his potency” (Ephesians 1:20, 3:7, 4:16; Philippians 3:21). It is not surprising that in all these cases, Jerome made use of the terms *operare* (*qui operatur omnia in omnibus*) and *operatio* (*secundum operationem potentiae*) in his translation.

10. The place where the ontology of effectiveness finds its complete expression is the theory of the sacrament as sign, elaborated by the scholastics from Berengar of Tours and Hugh of St. Victor up to Aquinas. According to this theory, what defines the sacraments is their being at once a sign and the cause of that of which they are a sign. It is not surprising that in order to characterize this special performativity of the sacrament, the theologians have recourse to

the vocabulary of effectiveness. “The sacrament,” one reads in an anonymous thirteenth-century *Summa sententiarum*, “is not only a sign of something sacred, but is also efficacy.” Or in the formula that Aquinas cites as canonical, the sacraments *efficiunt quod figurant*, effectuate what they signify.

The paradigm of this effectiveness of the sacrament is the performativity of Christ’s words that is at the center of the eucharistic liturgy. In this sense two passages from Ambrose are fundamental. In them the word of Christ is defined by means of its effective or operative character (for this purpose, Ambrose coins the adjective *operatorius*, which is not found before him; cf. Pépin, 333), and this effectiveness of the word defines in its turn the performativity of the sacrament. In the first passage (*De fide* 4.7), citing Hebrews 4:12, Ambrose translates with the adjective *operatorius* the word *energēs*, with which the author of the letter defined the word of God: *Sed non sermo noster operatur, solum est verbum Dei, quod nec prolativum est, nec quod endiatheton dicunt: sed quod operatur et vivit et sanat. Vis scire quale verbum? Audi dicentem: “vivum est enim verbum Dei et validum atque operatorium et acutum.”* (But the words we speak have no direct efficacy in themselves; it is the Word of God alone, which is neither an utterance, nor an *endiatheton*, as they call it, but works efficaciously, is living, and has healing power. Would you know what is the nature of the Word—hear the Scriptures. “For the Word of God is living and mighty.”) In the second passage (*On the Sacraments* 4.15) the “operatorious” character of Christ’s word is evoked to explain the efficacy of the formula of eucharistic consecration: *Quis est sermo Christi? Nempe is, quo facta sunt omnia. Iussit dominus, factum est caelum; iussit dominus, facta est terra; iussit dominus, facta sunt maria; iussit dominus, omnis creatura generata est. Vides ergo quam operatorius sermo sit Christi. Si ergo tanta vis est in sermone domini Iesu, ut inciperent esse quae non erant, tanto magis operatorius est, ut sint, quae erant et in aliud commutentur.* (What is the word of Christ? That, to be sure, whereby all things are made. The Lord commanded, and the earth was made; the Lord commanded, and the seas were made; the Lord commanded, and every creature was produced. You see, therefore, how effective is the word of Christ. If, therefore, there is such power in the word of the Lord Jesus, that the things which were not began to be, how much more is it effective, that things previously existing should, without ceasing to exist, be changed into something else?)

The effectiveness of the liturgical action coincides here with the performativity of Christ’s word. And it is striking that what modern linguistics defines as the structural characteristic of performative verbs becomes fully intelligible on the level of the effective ontology that is in question in the sacramental liturgy

(and probably derives from it). That words act, carrying out what they signify, implies that the being that they bring about is purely effective.

II. The decisive characteristic of the new effective ontology in this sense is operativity, to which the coinage of the adjective *operatorius* on the part of Ambrose and, even earlier, the enormous diffusion of the term *operatio* (extremely rare in classical Latin, with seven total occurrences registered in the *Thesaurus*) both testify. Classical Latin knew the adjective *operativus* to designate the efficacy of a drug. That now the neologism *operatorius* in Ambrose instead acquires an ontological meaning is obvious, beyond the two passages already cited on the divine Word, in the introduction of his *Hexameron*, which pronounces an unheard-of thesis about the history of philosophy: “Still others . . . like Aristotle . . . postulate two principles, matter and form, and along with these a third principle which is called ‘efficient,’ to which effective operation belongs [*dua principia ponerent, materiem et speciem et tertium cum his, quod operatorium dicitur, cui suppeteret . . . efficere*]” (*Exameron* I.I.I).

It is not clear which Aristotelian concept Ambrose is referring to, but it is certain that *operatorium* here designates a third thing between material and form and therefore between potential and act. It is in this sense that both Ambrose and, after him, Augustine and Isidore most often use the expression *operatoria virtus* (or *operatoria potentia*), referring to the divine potency. Scholars have asked which Greek equivalent Ambrose could have had in mind for his neologism: *energētikon*, as Albert Blaise suggests, or, as Jean Pépin maintains, *poiētikon* (this sense is found in Philo, in the syntagma *poiētikē dynamis*; Pépin, 338–39). In any case the reference to Aristotle and the connection to potential show that Ambrose has in mind an ontological dimension that is not simply potential nor simply actual but is rather an *operatoria virtus*, that is, a potential that is given reality through its own operation.

It is from this perspective that it is necessary to consider the diffusion of the word *operatio* in patristic terminology. Particularly significant is its occurrence in trinitarian theology, in which it designates the Logos as an operation internal to the divine being. “‘To be,’” writes Marius Victorinus,

is the Father, [and] “to act” is the Son. . . . Certainly “to be” itself has innate action within [*habet quidem ipsum quod est esse intus insitam operationem*]; for without motion, that is, without action, what is life or what is understanding? . . . For with the appearance of action, it both is and is called action, and it both is and is regarded as self-begetting. Thus therefore, that itself which is “to act” has also “to be” itself [*sic igitur id ipsum quod est operari et ipsum esse habet*]; but, rather,

it does not have it; for “to act” is itself “to be”—for they are simultaneous and simple [*ipsum enim operari esse est, simul et simplex*]. (Victorinus, 196/94–95)

In this extraordinary passage the new ontological paradigm finds perhaps its fullest formulation: being contains within itself an operation, is this operation, and at the same time is distinguished from it, as the Son is distinguished and at the same time is indiscernible from the Father. It is not being in action but *ipsum enim operari esse est*; operativity itself is being and being is in itself operative.

✠ It is significant from this perspective that the term *operatio* is technicized to designate the operativity of the liturgical action, distinct from the simple *opus* in which it is materialized. As Ambrose can write with reference to baptism (*On the Sacraments* 1.15): “The work is one thing, the working another [*aliud opus, aliud operatio*]. The water is the work, the working is of the Holy Spirit.” While classical ontology put the accent on the work rather than on the operation that produces it, it is the superiority of the operation over the work that defines the new ontological paradigm. Contemporaneously, the same term, *operatio*, becomes specialized to mean the operativity of the trinitarian economy. In the letter from the Arian Candidus to Marius Victorinus already cited, Jesus Christ proceeds from God “not by begetting, but by operation” [*neque generatione a deo, sed operatione a deo*],” and “he is in the Father and the Father is in him and both are one according to act [*secundum operationem et in patre est ipse et in ipso pater est*]” (Victorinus, 122/55–56). In the same sense the Son is defined by Candidus as *effectus* and *opus* of the Father’s will.

Certainly the anti-Arian orthodoxy will insist instead on the thesis according to which the Son coincides with the very will of the Father and, for that reason, cannot be said to be “effectuated” (*effectum*) by the latter. Nevertheless, beyond the difference that separates the two doctrines, it is significant that in both cases the presupposed ontology is an energetic-operative ontology, in which the divine being is hypostatized, is actualized in the Son.

12. Aquinas’s most original contribution to the doctrine of sacramental effectiveness has to do with the concept of cause. The Aristotelian tradition distinguished four types of cause: final, efficient, formal, and material. To explain the special efficacy of the sacraments, Aquinas adds to these a fifth, which in truth is presented as a specification of the efficient cause and which he defines as “instrumental cause” (*causa* or *agens instrumentale*).

What defines the instrumental cause is its twofold action, insofar as it acts according to its nature only insofar as it is moved by a principal agent, which uses it as instrument. “An instrument has a twofold action; one is instrumental, in respect of which it works not by its own power but by the power of the principal agent [*non in virtute propria, sed in virtute principalis agentis*]: the other is its proper action, which belongs to it in respect of its proper form: thus it belongs to an axe to cut asunder by reason of its sharpness, but to make a couch,

insofar as it is the instrument of an art” (*Summa theologica* III, q. 62, art. 1). The two actions, while distinct, coincide perfectly: the axe “does not accomplish the instrumental action save by exercising its proper action: for it is by cutting that it makes a couch [*scindendo enim facit lectum*]” (ibid.).

It is in this way that God makes use of the sacraments: “The principal agent of justification is God, who in himself has no need for instruments; but, in accordance with the human being who must be saved . . . he makes use of sacraments as instruments of justification” (*Scriptum super sententiis* IV, 32). And both the sacrament (thus the baptismal water, which “in respect of its proper power, cleanses the body, and thereby, inasmuch as it is the instrument of the Divine power, cleanses the soul”; *Summa theologica* III, q. 62, art. 1) and the priest who administers the sacrament (*eadem ratio est ministri et sacramenti*, q. 64, art. 1).

It might be surprising that Aquinas was able to think the mystery of the liturgical action by means of a humble and quotidian category. But it is precisely the paradigm of instrumentality (that is, of something whose own action is always also the action of another) that allows Aquinas to define the effective nature of the sacraments, as “signs that effect what they signify.” “The principal cause cannot properly be called a sign of its effect [*signum effectus*], even though the latter be hidden and the cause itself sensible and manifest. But an instrumental cause, if manifest, can be called a sign of a hidden effect [*signum effectus occulti*], for this reason, that it is not merely a cause but also in a measure an effect insofar as it is moved by the principal agent. And in this sense the sacraments of the New Law are both cause and signs. Hence, too, is it that, to use the common expression, ‘they effect what they signify’ [*efficiunt quod figurant*]” (ibid., q. 62, art. 1, sol. 1).

Let us reflect on the paradoxical nature of this cause that is at the same time an effect and that solely and precisely as effect carries out its principal action (justification). The instrumental cause is not, therefore, a simple specification of the Aristotelian efficient cause but a new element, which subverts the very distinction of cause and effect on which the four Aristotelian causes are founded. In the horizon of a totally operative and effective ontology, the cause is cause insofar as it is effect, and the effect is effect insofar as it is cause.

13. It is this instrumental character of the priest as minister of the sacraments that allows us to understand in what sense theologians can define the priestly function as a “taking the place of Christ” (*sacerdotes vicem gerunt Christi*; Durand, bk. I, 169) or “works in Christ’s person” (*sacerdos novae legis in persona ipsius [Christi] operatur*; *Summa theologica* III, q. 22, art. 4).

Here it is not a matter of a figure of juridical representation so much as, so to speak, a constitutive vicariousness, which concerns the priest's ontological nature and renders indifferent the accidental qualities of the individual who exercises the ministry.

A minister is of the nature of an instrument. . . . An instrument acts not by reason of its own form, but by the power of the one who moves it. Consequently, whatever form or power an instrument has, in addition to that which it has as an instrument, is accidental to it: for instance, that a physician's body, which is the instrument of his soul, wherein is his medical art, be healthy or sickly; or that a pipe, through which water passes, be of silver or lead. Therefore the ministers of the Church can confer the sacraments, though they be wicked. (Ibid., q. 64, art. 5)

The phrase "to act in his place" (*fare le veci*) is here to be taken literally: there is not an ordinary place of priestly praxis, but this is always constitutively an "alteration" (*vece*); it is something "done" or "acted out" and never a substance. The one in whose "stead" (*vece*) the function is carried out in his turn takes the place of another and precisely this constitutive vicariousness defines the "function." *Not only does "functioning" always imply an alterity in whose name the "function" is carried out, but the very being that is here in question is factual and functional—it refers each time to a praxis that defines and actualizes it.*

By means of the paradigm of vicariousness and instrumental cause, the principle—one which will find its broadest application in public law—is introduced into ethics according to which the moral or physical characteristics of the agent are indifferent to the validity and effectiveness of his or her action. "He who approaches a sacrament, receives it from a minister of the Church, not because he is such and such a man, but because he is a minister of the Church [*non in quantum est talis persona, sed in quantum est Ecclesiae minister*]" (ibid., art. 6). The distinction between the *opus operans*, which can at times be impure (*aliquando immundum*) and the *opus operatum*, which *semper est mundum* (is always pure; Durand, bk. 1, 245) here has its foundation. But in this way the action becomes indifferent to the subject who carries it out and the subject becomes indifferent to the ethical quality of his action.

14. If we turn now to the thesis of Casel from which we began, we can only note its exactness: *effectus* in liturgical language means *Wirklichkeit*, an eminent mode of reality and presence. This mode of presence is nevertheless indiscernible from its effects and its actualization—it is, in the sense we have seen, operativity and praxis. From this perspective it is the very essence of the liturgical mystery that is clarified: the mystery is the effect; what is mysterious

is effectiveness, insofar as in it being is resolved into praxis and praxis is substantiated into being. *The mystery of the liturgy coincides totally with the mystery of operativity.* In conformity with the indetermination of potency and act, of being and praxis, which is here in question, this coincidence is operative, in the sense that in it a decisive transformation in the history of ontology is carried out: the passage from *energeia* to effectiveness.

In this ontological dimension the connection between *mysterium* and *oikonomia* that defines the Trinity also reaches a point of clarity: there is a liturgical mystery because there is an economy of the divine being. In the words of a modern theologian, the liturgy is not a third level of the mystery, after the mystery of the intradivine economy and that of the historical economy: the liturgical mystery is the indissoluble unity of the first two (Kilmartin, 196–97). The sacramental celebration only causes the divine economy to be commemorated and rendered each time newly *effective*. *There is an oikonomia—that is, an operativity—of the divine being: this and nothing else is the mystery.*

One can say then that what is at stake in both the conception of the Trinity as an economy and that of the liturgy as a mystery is the constitution of an ontology of the *effectus*, in which potency and act, being and acting are distinct and, at the same time, articulated through a threshold of indiscernibility. To what extent this effective ontology, which has progressively taken the place of classical ontology, is the root of our conception of being—to what extent, that is to say, we do not have at our disposal any experience of being other than operativity—this is the hypothesis that all genealogical research on modernity will have to confront.

15. Let us try to translate this new ontological paradigm into the conceptuality of classical ontology. Perhaps nowhere else is the transformation that this latter undergoes so evident as in the philosopher who made the Aristotelian *Organon* known to the Latins through his activity as a translator: Boethius. He is the one to whom we owe, among other things, the translation of *ousia* with *substantia*, which transmitted to the Middle Ages the substantialist conception of being as “what stands under” the accidents. But let us read the passage of the *Contra Eutychen* in which he seeks to define the meaning of the term *substantia* (which in this treatise corresponds instead to the term *hypostasis*). “That thing has substance [*substāt*],” writes Boethius, “which furnishes from below [*subministrat*] to other accidental things a subject [*subiectum*] enabling them to be [*ut esse valeant*]; for it ‘subtends’ [*sub illis enim stat*] those things so long as it is subjected to accidents [*subiectum est accidentibus*]” (Boethius, 88–89).

Not only is substance here plainly an operation that renders the accidents capable of being (*minister* and *ministrare*—from which *subministrare* derives—are already part and parcel of the technical liturgical vocabulary in the age of Boethius), but being, too, which they attain by means of substance, is something operative that results from this operation. And it is in this sense that Boethius writes a little earlier that “the *subsistentiae* are present [*sint*] in universals but acquire substance [*capiant substantiam*] in particulars” (ibid., 86–87): substance is something that is “taken” and effective, and it does not have a being independent of its effectuation. Commenting on this singular expression, which has no parallels in the Greek texts from which Boethius draws his terminology, de Libera writes that “the term *substantia*, like the verb *substare*, signifies a property for Boethius. *Capere substantiam* signifies acquiring the property of working in hiding in such a way as to permit something to serve as subject to accidents” (de Libera, 185). In reality it is not a matter of a property but of an operativity within being, through which the latter, which in the universals simply is, is realized and rendered effective in individual beings.

The *Contra Eutychem* is a treatise on trinitarian theology, and the semantic transformation of the first Aristotelian category is to be read in connection with the doctrine of the three hypostases of the one divine substance that had prevailed in the Church starting with Athanasius. Dörrie has shown that in Athanasius “hypostasis” no longer means a reality (*Realität*), but a realization (*Realisierung*), in which one same essence is manifested and rendered effective in three aspects or, as will be said later, persons (Dörrie, 60). And it is this operative meaning of the term *substance*, in which the act of realizing and rendering effective remains in the foreground, that theologians will make use of to interpret the passage from the Letter to the Hebrews (11:1) in which faith is defined as “the substance of things hoped for” (*sperandarum substantia rerum, elpizomenōn hypostasis*). “Since things in hope are without substance [*anhypostata*],” writes John Chrysostom, “faith offers substance to them [*hypostasin autois charizetai*]” (qtd. in Dörrie, 63). And Haimo of Auxerre will write in the same sense: *Resurrectio generalis necdum facta est et cum necdum sit in substantia, spes facit subsistere in anima nostra* (The general resurrection has not yet been done, and while it is not yet in substance, hope causes it to subsist in our soul; qtd. in ibid., 61). Being does not exist but is done and realized; it is, in any case, the result of a praxis, of which faith is the operator. According to the formulation cited from Marius Victorinus, in faith the working itself is being. Christian faith is a mobilization of ontology, in which what is in question is the transformation of being into operativity.

16. In the paradigm of operativity, a process that was present from the very beginning of Western ontology, even if in a latent form, reaches its culmination: the tendency to resolve, or at least to indeterminate, being into acting. In this sense the potential-act distinction in Aristotle is certainly ontological (*dynamis* and *energeia* are “two ways in which being is said”): nevertheless, precisely because it introduces a division into being and afterward affirms the primacy of *energeia* over *dynamis*, it implicitly contains an orientation of being toward operativity. This distinction constitutes the originary nucleus of the ontology of effectiveness, whose very terminology takes form, as we have seen, by means of a translation of the term *energeia*. Being is something that must be realized or brought-into-work: this is the decisive characteristic that Neoplatonism and Christian theology develop, starting from Aristotle, but in what is certainly a non-Aristotelian perspective.

The place and moment when classical ontology begins that process of transformation that will lead to the Christian and modern ontology is the theory of the hypostases in Plotinus (which will exercise a decisive influence on Augustine’s trinitarian doctrine through Marius Victorinus). An essential function is here developed by the very term *hypostasis*. Dörrie has shown, as we have seen, that this term—which in Hippocratic treatises still meant “sediment, deposit”—already in Neoplatonism, and afterward in Christian authors, acquires an active meaning and designates the realization of a transcendent principle; it means, that is to say, not *Realität* but *Realisierung*. To the extent that the One becomes more and more transcendent, it is all the more essential that it be given reality through three hypostases, which will constitute the logical model of the Christian Trinity (Picavet, *passim*). But this means that ontology is conceived fundamentally as a realization and a hypostatic process of putting-to-work, in which the categories of classical ontology (being and praxis, potential and act) tend to be indetermined and the concept of will, as we will see, develops a central function.

The operator of this indetermination in Plotinus is the term *hoion* (as if, so to speak), whose strategic meaning clearly appears in the passage of the *Enneads* in which the will to overcome the duality of being and acting, potential and act, goes together with the impossibility of dropping it altogether. In *Enneads* 6.8.7 Plotinus writes with regard to the One:

His, so to speak [*hoion*], hypostasis and his, as it were, *energeia* are not two distinct things (they are not this even in the intellect); neither is the *energeia* according to [*kata*] its being, nor the being according to the *energeia*. It cannot possess being in action [*energein*] as something that follows from its nature, nor will its activity and its life, as we may call it, be referred to its, in a manner of speaking,

substance, but its (something like) substance is with and, so to put it, originates with its *energeia* and it itself makes itself from both, for itself and from nothing.

The technical use of *hoion* (Plotinus affirms it without reserve; *ibid.*, 6.8.13: “one should understand and always add *hoion* to every individual concept”) and the final idea of a *synousia* and of a conjoined generation of substance and *energeia*, shows how a tendency toward the indetermination of the categories of classical ontology is at work in Neoplatonism that will lead to the elaboration of the paradigm of effectiveness in the Christian sphere.

17. In his 1941 course “Metaphysics as History of Being,” reprinted in the second volume of *Nietzsche* in the *Gesamtausgabe* (1961), Heidegger dedicates an important section to the “change of *energeia* to *actualitas*” (*Die Wandel der energeia zur actualitas*). “Now *ergon*,” he writes,

becomes the *opus* of the *operari*, the *factum* of the *facere*, the *actus* of the *agire*. The *ergon* is no longer what is freed in the openness of presencing [*das ins Offene des Anwesens Freigelassene*], but what is effected in working [*das im Wirken Gewirkte*]. The essence of the “work” is no longer “workness” [*Werkheit*] in the sense of distinctive presencing in the open, but rather the “reality” [*dies Wirklichkeit*] of a real thing which rules in working and is fitted into the procedure of working. Having progressed from the beginning essence of *energeia*, Being has become *actualitas*. (Heidegger I, 412/12)

Heidegger identifies the Roman matrix of this transformation (from the point of view of historiography, it is a matter of a “transition from the Greek to the Roman conceptual language”) and signals the determinant influence that the “Roman church” exercised in it (*ibid.*). The ontological paradigm that oriented this transformation of ontology according to Heidegger is, however, “the biblical-Christian faith in creation”: “Being which has changed to *actualitas* gives to beings as a whole that fundamental characteristic which the representational thinking of the biblical-Christian faith in creation can take over in order to secure metaphysical justification for itself” (*ibid.*, 414/14).

The above analyses have shown that the decisive theological paradigm of the ontology of operativity is not the concept of creation but rather the sacramental liturgy, with its theses on the *effectus* of the *opus operatum*. In this sense the investigations undertaken here reconstruct a missing chapter in the history of the transformation of *energeia* into *actualitas* and must be understood—like those of Heidegger, of which they represent a completion—as a contribution, thought from the perspective of the history of being (*seinsgeschichtlich*; *ibid.*, 415/15), to the “destruction” of the ontology of modernity.

Putting the creationist paradigm at the center of his reconstruction of the history of being leads Heidegger to define the central trait of modern metaphysics as a working in the sense of a causing and producing. The *ergon*, which named the persistence of being in presence in a form, now becomes the product of an effectuating and a producing:

When Being has changed to *actualitas* (reality), beings are what is real. They are determined by working, in the sense of causal making. The reality of human action and divine creation can be explained in terms of this. . . . *Esse*, in contradistinction to *essentia*, is *esse actu*. *Actualitas*, however, is *causalitas*. The causal character of Being as reality shows itself in all purity in that being which fulfills the essence of being in the highest sense, since it is that being which can never not be. Thought “theologically,” this being is called “God.” . . . The highest being is pure actuality [*Verwirklichung*] always fulfilled, *actus purus*. (Ibid., 414–15/14–15)

Standing before God is the human world understood as the effectiveness that is caused by creation: “The real is the existing. The existing includes everything which through some manner of causality *constituitur extra causas*. But because the whole of beings is the effected and effective product [*das Gewirkte-Wirkende*] of a first producer [*Wirker*], an appropriate structure enters the whole of beings which determines itself as the co-responding of the actual produced being to the producer as the highest being” (419/18). And it is this conception of being as effectiveness that, according to Heidegger, renders possible the transformation of truth into certainty, in which the human being, whom faith in God renders certain of salvation, secures its unconditional dominion over the world by means of techniques.

One can ask to what extent this reconstruction of the determinate influence of Christian theology on the history of being is indebted to the privilege accorded to the creationist paradigm. It is by virtue of this model that Heidegger could think the essence of technology as production and disposition and the *Gestell* as the securing of the real in the mode of availability. But precisely for this reason he was not able to see what has today become perfectly obvious, and that is that one cannot understand the metaphysics of technology if one understands it only in the form of production. It is just as much and above all governance and *oikonomia*, which in the last analysis can even provisionally put causal production between parentheses in the name of a more refined and diffuse form of management of human beings and of things. And it is this peculiar praxis whose characteristics we have sought to define through our analysis of liturgy.

✠ In his reconstruction of the passage from *energeia* to *actualitas*, Heidegger never mentions the terms that, as we have seen, furnish the first Latin translation of *energeia*, namely *effectus* and *operatio*, and prefers to concentrate on the word *actualitas*, which appears only in late scholasticism. It is possible that there are reasons for this internal to his thought, the ontology of which is more in solidarity with the paradigm of operativity that he intends to critique than is commonly believed. The being of *Dasein*, that is, of the being whose essence lies in existence and which, insofar as it must each time assume its being thrown into facticity, has to be its own ways of being—it is decisively effective, even if in a peculiar sense. Since “it has to do, in its being, with its own being,” *Dasein* is not, but has to be its own being, that is, must realize it and render it effective. For this reason, *Dasein* can be presented in Heidegger at the same time as a given and as an accomplishment, that is, as something that exists in the mode of its own incessant effectuation.

It is significant, from this perspective, that even at the foundation of the Heideggerian interpretation of the work of art (which is put forth consistently as ontological and not aesthetic), one finds an analogous operative paradigm. The celebrated definition of art as a “setting-to-work of truth” (*das Kunst ist das Ins-Werk-setzen der Wahrheit*; Heidegger 2, 64/55) in the last analysis presupposes an operative ontology. In the *Introduction to Metaphysics* (1935) the work of art is what “effectuates [*erwirkt*] Being in a being” and “to effectuate [*erwirken*] means to bring-into-work” (Heidegger 3, 122/170). Being is something that must be “brought-into-work,” and art and philosophy are the agents of this operation.

In the *Zusatz* added to the *Ursprung des Kunstwerks* (*Origin of the Work of Art*) in 1956, Heidegger, who uses the term *Gestell* in the essay (“What we here call ‘figure’ [*Gestalt*] is always to be thought out of *that particular* placing [*stellen*] and placement [*Ge-stell*] as which the *work* comes to presence when it sets itself up and sets itself forth [*sich aufund herstellt*]”); Heidegger 2, 50), can thus significantly evoke without reservation the mutual belonging between the *Gestell* that takes place in the work of art and the *Gestell* as the term that designates technological production (ibid., 67–68). A little before, he points out the ambiguity implicit in the expression *in-das-Werk-setzen*, which can mean both that being is brought into work by itself and that it has need of human intervention for this. In Heideggerian ontology, being-there and being, *Dasein* and *Sein* are implicated in a relationship of reciprocal effectuation, in which, as in the paradigm of liturgical operativity, one can say both that being-there brings being into work and renders it effective and that being actualizes being-there. In any case the relationship between *Dasein* and *Sein* is something like a liturgy, an at once ontological and political performance.

# Threshold

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LET us attempt to summarize in thesis form the characteristics that define the ontology of the liturgical mystery.

1. In liturgy what is in question is a new ontological-practical paradigm, namely that of effectiveness, in which being and acting enter into a threshold of undecidability. If, in the words of Foucault, Plato taught the politician not what he must do but what he must be in order ultimately to act well (Foucault 1, 273), now it is a matter of showing how one must act in order to be able to be—or, rather, of reaching a point of indifference, in which the priest is what he has to do and he has to do what he is. The subordination of acting to being, which defines classical philosophy, thus loses its meaning.

2. While being and substance are independent of the effects that they can produce, in effectiveness being is thus indiscernible from its effects; it consists in them (*esse in effectu*) and it is “functional” to them.

3. An essential characteristic of effectiveness is operativity. We understand with this term the fact that being does not simply exist but is “brought into work,” is effectuated and actualized. Consequently, *energeia* no longer designates being-at-work as a full dwelling of presence but an “operativity” in which the very distinctions between potential and act, operation and work are indeterminated and lose their sense. The *opus* is the *operatio* itself and the divine potency, which in its very virtuality is brought into work and actualized, is operative (*operatoria virtus Dei*). Operativity is, in this sense, a real virtuality or a virtual reality.

4. In this dimension cause and effect persist, but at the same time they are indeterminated: on the one hand, the agent acts only insofar as it is an effect in its turn (insofar as it is, as an instrument, acted upon by a principal agent); on the other, the effect is autonomized by its cause (which is only its instrumental, not efficient or final, cause).

5. Consequently, the sacramental action is divided in two: a manifest action (*opus operans* or *operantis*) that seems to act but in reality does nothing but offer the instrument and the “place” [*vece*] to a hidden agent, to whom all the operation’s efficacy belongs. But it is precisely owing to this separation of an action (reduced to instrumental cause) from its efficacy that the sacramental operation can unfailingly attain its effectiveness *ex opere operato*.

## A Genealogy of Office

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**1** In the history of the Church the term that names the effective praxis whose characteristics we are seeking to define is not *liturgy* (which in Latin appears only starting from the seventeenth century and prevails as a general technical term only in the twentieth century) but *officium*.

Certainly in the early centuries various terms compete in the translation of the Greek *leitourgia* and serve more generally to designate the function that it expressed. First of all, there is the term that indicated the political liturgy in the Roman Empire: *munus*. Since *munus* corresponded perfectly to *leitourgia* in Roman political-juridical vocabulary, secular sources speak indifferently of *munera decurionum*, *curialium*, *gladitorium*, *annonarium*, *militiae*, and so forth and distinguish, as the Greeks did for *leitourgia*, among *munera personalia*, *munera patrimonii*, and *munera mixta*. It is not surprising, therefore, to see the term pass in time into the vocabulary of the Church to designate either the divine service of the priest generically or else the very sacrifice of Christ. Still in Ambrose, who also provides a decisive impulse in the use of the term *officium*, both meanings are attested. Recounting in a letter that while he was beginning to celebrate mass in the new basilica, some of the faithful had departed at the news of the arrival of imperial officials in another basilica, he writes: *Ego tamen mansi in munere, missam facere coepi* (I then remained on duty and began to say mass; Epistle 20, *PL* 16, c. 995), where *munus* can only designate the function that he was carrying out. In another letter, by contrast, it is the very death of Christ that is defined significantly as *publicum munus: quia cognoverat per filii mundi redemptionem aula regalis, etiam sua morte putaverat aliquid publico addituram muneri* (since the redemption of the world would prove to be royal power for the son, thus he held his death to be something added to his public duty; Epistle 63, *PL* 16, c. 1218). As in the Letter to the Hebrews, Christ's sacrifice appears here as a public performance, a liturgy done for the salvation of humanity.

The Latin term that seemed destined to designate par excellence the liturgical function at first, however, is *ministerium*. Not only is it with this term

(together with *minister* and *ministrare*) that Jerome translates the term *leitourgia* in the Vulgate of the Letter to the Hebrews and the Pauline corpus, but he also uses it to translate *diakonia* (for example, in Ephesians 4:12, 2 Corinthians 6:3, and Romans 11:13). And that this must have reflected an ancient usage is proved by the Latin translation of Clement's letter to the Corinthians, which scholars believe goes back to the second century. Here we find, to translate the lexical group in question in the passages we have cited, *ministerium* (9.4, 41.1, 40.2–5, 44.2–3), *ministrationem* (20.10), *minister* (8.1, 41.2), *ministrare* (9.2; but in three cases—32.2, 34.5, and 34.6—*leitourgeō* is rendered with *servire* and *deservire*). Ambrose sometimes uses *ministerium* loosely alongside *officium* (*remittuntur peccata . . . per officium sacerdotis sacrumque ministerium* [Sins are forgiven . . . in the priest's sacred office and mystery]; *Cain et Abel*, 2.4.15; thus in Cyprian: *officii ac ministeri sui oblitus*; Epistle 3.1), and in the pseudo-Clementine *Recognitions*, to indicate the episcopal function we find, in addition to *ministerium*, also *officium* (*episcopatus officium*: 3.66.4; thus in Clement's Epistle to James, 4.4; in Rufinus's prologue, *apostolatus officium*).

It is in this context that one must situate Ambrose's decision—apparently an arbitrary one—to entitle his book on the virtues and duties of the clergy *De officiis ministrorum*, thus inaugurating the sequence of treatises—from Isidore's *De ecclesiasticis officiis* to the *Liber officialis* of Amalarius of Metz, from Jean Belet's *Summa de ecclesiasticis officiis* and Sicardus of Cremona's *Mitræ* up to the monumental *Rationale divinarum officiorum* of William Durand—that would lead to the affirmation of the term *officium* as a general designation of the liturgical praxis of the Church.

2. In an archaeology of the term *officium*, the inaugural moment is when Cicero, in the course of his repeated attempts to elaborate a Latin philosophical vocabulary, decides to translate the Stoic concept of *kathēkon* with the term *officium* and to inscribe under the rubric *De officiis* a book that, rightly or wrongly, was to exercise an enduring influence over Western ethics. The phrase expressing doubt, “rightly or wrongly,” is here justified by the fact that neither the Greek concept nor the Latin equivalent proposed by Cicero has anything to do with what we are accustomed to classify as morality, that is, with the doctrine of good and evil. “We count appropriate action neither a good nor an evil [*officium nec in bonis ponamus nec in mali*],” Cicero declares unreservedly in the work that he dedicates to the supreme good (*De finibus* 3.17.58). Nor is it a matter of a concept belonging to the sphere of law. The *De officiis* is not a treatise on the good or on absolute duty, nor on what one is juridically obligated to do or not

to do. Rather it is, as has been suggested, a treatise on the *devoir de situation* (Goldschmidt, 155), on what is respectable and appropriate to do according to the circumstances, above all taking account of the agent's social condition.

Since the theoretical intent of the treatise is indissoluble from a strategy of translation from Greek into Latin (*semper cum graecis latina coniunxi . . . ut par sis in ultriusque orationis facultate* [I have always combined Greek and Latin studies . . . so I recommend that you should do the same, so that you may have equal command of both languages]; *De officiis* 1.1), only correctly situating this will allow us to fully understand its results and contents.

According to Diogenes Laertius, the first to introduce the term *kathēkon* (which in common language means “what is appropriate, opportune”) into philosophical vocabulary had been Zeno, who defines it in this way: “an action for which a reasonable defense can be adduced [*eulogon . . . apologismon*], such as harmony in the tenor of life's process, which indeed pervades the growth of plants and animals; for even in plants and animals, they hold, you may discern *kathēkonta*” (7.107; Arnim, 1:230). The Stoics distinguished from *kathēkon* what they called *katorthōma*, the action rightly done (that is, according to the good). With respect to this, which, being an act in conformity with virtue (*kat'aretēn energēmata*), is always good and always appropriate (*aei kathēkei*) independently of circumstances and is for this reason called *teleion kathēkon*, perfectly appropriate, simple *kathēkonta* acts, whose appropriateness depends on the circumstances, are defined as “intermediate” (*mesa*). “Another division is into duties which are always incumbent and those which are not. To live in accordance with virtue is always a duty, whereas dialectic by question and answer or walking-exercise and the like are not at all times incumbent” (7.109; Arnim, 2:496). Intermediate appropriate actions are situated, in this sense, between right actions and bad or mistaken actions: “Of actions, some are right (*katorthōma*), others are erroneous (*hamartēmata*), and others are neither one nor the other. The following are right actions: to have judgment, to be wise, to act justly, to rejoice, to help others, to live prudently. The following are erroneous actions: to act senselessly, to be intemperate, to act unjustly, to be sad, to steal, and in general to do things contrary to right reason. Things that are neither right nor bad are to speak, to ask questions, to respond, to walk, to emigrate, and the like” (Stobaeus 2.96.18, qtd. in Arnim, 2:501).

The difference between *kathēkon* and *katorthōma* is obvious in a passage from Cicero's *Paradoxa stoicorum*. He takes up the case of a *gubernator* (pilot) who, by negligence, causes his ship to be shipwrecked. From the point of view of the good in itself (*katorthōma*), the fault of the pilot, who is committed to

the art of navigation, is the same if the ship was loaded with gold as it would be if it was loaded with straw. From the point of view of *kathēkon*, by contrast, the circumstances prove determinative and the fault is greater if the ship was loaded with gold. *Ergo in gubernatione*, Cicero will write when he takes up the example again in the *De finibus* (4.76), *nihil, in officio plurimo interest quo in genere peccetur. Et si in ipsa gubernatione negligentia est navis eversa, maius est peccatum in auro quam in palea.* (Hence the nature of the object upon which the offence is committed, which in navigation makes no difference, in conduct makes all the difference. Indeed in the case of navigation too, if the loss of the ship is due to negligence, the offence is greater with a cargo of gold than with one of straw.) Navigation in itself is not an *officium* but an action that, measured according to the rules of the art, can only be correct or incorrect, good or bad. From the perspective of *officium*, by contrast, the same action will be considered according to the subjective and objective circumstances that determine it. It is thus even more surprising that the book destined to introduce the notion of duty into Western ethics would not attend to the doctrine of good and evil but that of the eminently variable criteria that define the action of a subject “in a situation.”

3. It is in this context that one must situate Cicero’s decision to translate the Greek term *kathēkon* with the Latin *officium*. Despite the confidence with which Cicero seems to put forward his translation (*quod de inscriptione quaeris, non dubito quin kathēkon officium sit* [As to your query about the title, I have no doubt that *kathēkon* corresponds with *officium*]; *Letters to Atticus* 16.11.4), this must be far from settled, if a first-rate connoisseur of the Greek language like Atticus (*sic enim Graecae loquebatur*, Cicero says of him, *ut Athenis natus videretur* [he speaks Greek so well that he seems to have been born in Athens]) does not seem to be completely convinced of it (*id autem quid dubitas quin etiam in rempublicam caderet? Nonne dicimus consulum officium, senatus officium, imperatori officium? Praeclare convenit; aut da melius* [But why should you doubt whether the word fits appropriately in political affairs? Don’t we say the *officium* of consuls, of the Senate, of generals? It is quite appropriate; if not, suggest a better word]; *ibid.*, 16.14.3).

The scholars who have worked on *De officiis* have been focused above all on its Greek sources—in particular Panaetius’s treatise *Peri tou kathēkontos*—and on the relation between the work and contemporary political events, which marked the definitive crisis of the Ciceronian idea of the *res publica*, faithful to the model of the Scipionian aristocracy. Here what interests us rather is the sense of the strategy inherent in the very choice of the term *officium* on Cicero’s part.

While modern scholars derive the etymology of *officium* from a hypothetical \**opficium*, “the fact of actualizing a work” or “the work effectuated by an *opifex* (artisan) in his *officina*” (Hellegouarc’h, 152), it is significant that the Latins instead traced it back to the verb *efficere* (Donatus, *Ad Ter. Andr.*, 236.7, qtd. in *ibid.*: *officium dicitur ab efficiendo, ab eo quo quaeritur in eo, quid efficere unumquemque conveniat pro condicione personae*). Thus what was decisive for them was the sense of an “effective completed action or an action which it is appropriate to carry out in harmony with one’s own social condition.”

The term’s sphere of application was so broad, however, that Cicero can write at the beginning of his treatise that *nulla enim vitae pars neque publici neque privati neque forensibus neque domesticis in rebus, neque si tecum agas quid, neque si cum alterum contrahas vacare officio potest* (no phase of life, whether public or private, whether in business or in the home, whether one is working on what concerns oneself alone or dealing with another, can be without *officio*; *De officiis* 1.4). In this sense Plautus, in addition to an *officium scribae* and a *puerile officium*, can mention an *officium* of the prostitute opposed to that of the matron (*non matronarum officium est sed meretricium* [it’s not the duty of matrons, but of whores]; *Casina* 585) and, in a negative sense, an *improbi viri officium* (an “office of the rascal,” as elsewhere there is a question of a *calumniatoris officium* [the method of a pettifogger]; *Rhetorica ad Herennium* 2.10.14). In all these cases the subjective genitive shows that it is a matter of the behavior that we expect from a certain subject in a situation, behavior that can, in turn (as in the case of the *patronus* with respect to the freedman or the client), be configured as a genuine obligation (as in Terence’s *tu tuum officium facies* in relation to the obligation of the patron to protect and assist the client).

The peculiar nature of *officium* appears with greater clarity, however, precisely where there is not an obligation or duty in the strict sense. It is the case of *observantia* or *adsectatio*, which, in a heavily ritualized society like Rome, designates the behavior of the client who wants to render the proper honor to his patron, above all when, as was often the case, he was an influential public person. We know that *adsectatio* is expressed in three forms (Hellegouarc’h, 160–61):

- 1 *Salutatio*, which was not our salutation or greeting but the client’s visit to pay respects in the patron’s house. Not all *salutatores* were admitted into the intimacy of the master of the house: many were received only in the *atrium*, to receive the *sportula* there when the *nomenclator* called their name. With respect to the *salutatio*, a source informs us that, even though it was considered the lowest form of *officium* (*officium minimum*), it could be done (*effici*) in a way that could be much appreciated by the patron.

- 2 *Deductio*, which designated the act of accompanying (*deducere*) the patron from his house to the forum (and perhaps, if one wanted to be particularly obsequious, from the forum to his house on the way home). This was an important *officium*, because the patron's prestige also depended on the number of his companions (ibid., 36: *deductorum officium maius est quam salutatorum*).
- 3 Finally, there is *adsectatio* in the broad sense, which included *salutatio* and *deductio*, but was not limited like they were to a specific occasion, but consisted in securing for the patron a kind of permanent court.

To assess what was *officiosior* (more in conformity with *officium*) in these situations was a question that obviously could not be decided once and for all but had to take account of all kinds of circumstances and nuances, which it was the duty of the *officiosus vir* to evaluate.

Particularly instructive in this sense is the obscene usage of the term, which we find, for example, in Ovid and in Propertius (*officium faciat nulla puella mihi* [no girl does her duty to me]; Ovid, *Ars* 2.687; *saepest experta puella officium tota nocte valere meum* [often a girl has felt my duty all night long]; Propertius 2.22.24, qtd. in Platter, 220) and, with customary wit, in Petronius (“instantly lowering his eyes to my middle, he officiously laid his hands on those parts, and greeted me by name” [*ad inguina mea luminibus deflexis movit officiosam manum et “salve” inquit*]; *Satyricon* 105.9). Even though it is certainly a matter of an intentional antiphrastic extension of a word that, as Cicero never stops repeating, belonged first of all to the sphere of *honestum*, *decorum*, and friendship, precisely this usage of the word in an obscene context can help us understand the proper meaning of the term. Seneca the Elder relates the unconscious *gaffe* of the orator Quintus Haterius, who in the course of defending a freedman accused of having had sexual relations with his patron candidly declared that *impudicitia in ingenuo crimen est, in servo necessitas, in liberto officium* (unchastity is a crime for the freeborn, necessity for the slave, and duty for a freedman) (Platter, 219–20).

*Officium* is neither a juridical or moral obligation nor a pure and simple natural necessity: it is the behavior that is expected among persons who are bound by a relation that is socially codified, but the compulsory nature of which is sufficiently vague and indeterminate that it can be connected—even if in a derisory way—even to behavior that common sense considered self-evidently offensive to decency. In the last analysis, it is a matter of taking up again the terminology of Zeno, of a question of “plausibility” and “coherence”: *officium* is what causes an individual to comport himself in a consistent way—as a prostitute if one is a prostitute, as a rascal if one is a rascal, but also as a consul if one is a consul and, later, as a bishop if one is a bishop.

4. Although the translation of *officium* as “duty” became common starting from the seventeenth century, the strong sense of (moral or juridical) obligation that duty would acquire in modern culture is lacking in the Latin term. Certainly when Seneca, responding to Hecaton’s question of whether slaves could benefit the master of the house, evokes the distinction between *beneficium*, *officium*, and *ministerium*, *officium* is defined as the necessity that obliges sons and wives to do certain things in encounters with the father or husband (*officium esse filii, uxoris, earum personarum quas necessitudo suscitatur et ferre opem iubet* [a responsibility attaches to a son or a wife or to those roles in which a relationship motivates them and urges them to help out]; *On Benefits* 3.18.1), while in the case of the duties of slaves toward the master one speaks rather of *ministerium*. And moreover, even though *officium* toward parents had in this sense the character of a *necessitudo*, nothing shows better than a passage of the *Digest* that the necessity of *officium*, while having a character that was in some way juridical, was however formally distinct from a contractual obligation:

Just as the making of a loan for use is an act of free will or of *officium*, rather than of necessity, so also it is the right of the party who confers the favor to prescribe terms and limits with reference to the same. When, however, this has been done (that is to say, after the loan has been made), then the prescribing of terms and going back and unseasonably depriving the party of the property loaned, interferes not only with the *officium* displayed but also with the obligation created by giving and receiving the property [*non officium tantum impedit, sed et suscepta obligatio inter dandum accipiendumque*]. (*Digest*, Paul., 29 *ad ed.*, D. 13.6.17.3)

From this passage it becomes clear that, while *obligatio* derives from an action, *officium* derives, as we already know, from a condition or a status (in this case parentage or affinity: *necessarii sunt, ut Gallus Aelius ait, qui aut cognati, aut adfines sunt, in quos necessaria officia conferuntur* [as Gallus Aelius said, there must be either kinsmen or relatives upon whom the necessary *officia* are conferred]; Festus 12.158.22L).

✠ A passage from Gellius (13.3.1) informs us that the Romans distinguished between *necessitas*, which indicated an absolute material necessity (*vis quaequam premens et cogens*) and *necessitudo*, which expressed a juridical obligation (of human or divine law, *ius quoddam et vinculum religiosae coniunctionis*). The same author informs us thus that to designate a law and an office, the term *necessitas* was less frequent (*infrequens*). The distinction seems to coincide with what, according to Kelsen, opposes the two German words *müssen* and *sollen*, material necessity and juridical necessity.

5. Cicero suggests what the proper nature of *officium* may be when he formulates the argument of the work. Every question surrounding *officium*, he writes, presents two aspects: the first concerns the highest good (*fnis bonorum*), the second the precepts “by which one can give form to the use of life in all its aspects [*in omnes partes usus vitae conformari possit*]” (*De officiis* 1.7). Although these precepts also in some way have to do with the good, what characterizes them is that “they seem rather to look to the institution of the common life [*magis ad institutionem vitae communis spectare videntur*]” (*ibid.*). What does “giving form to the use of life” and “instituting the common life” mean here? That the meaning of these expressions is not only juridical or moral but, so to speak, anthropological is clarified immediately after, when Cicero opposes the way of life proper to beasts to the properly human way of life. While the animal, moved only by sensation, adapts itself immediately to what is nearby and present (*quod adest quodque praesens est*) and does not concern itself with the past and the future, “the human being, because he is endowed with reason, by which he comprehends the connections among things [*consequentia*], perceives the causes of things, understands the relation of cause to effect and of effect to cause, draws analogies, and connects and associates the present and the future, easily surveys the course of his whole life and makes the necessary preparations for its conduct [*facile totius vitae cursum videt ad eamque degendam praeparat res necessarias*]” (*ibid.*, 1.11). This care of things and other human beings produced by reason “stimulates their souls and makes them more capable of governing things [*exsuscitat etiam animos et maiores ad rem gerendam facit*]” (*ibid.*, 1.12).

“Conducting life [*vitam degere*],” “governing things [*rem gerere*]”: this is the meaning of the “giving form to the use of life [*usum vitae conformare*]” and the “instituting the common life [*vitam instituere*]” that were in question in *officium*. If human beings do not simply live their lives like the animals, but “conduct” and “govern” life, *officium* is what renders life governable, that by means of which the life of humans is “instituted” and “formed.” What is decisive, however, is that in this way, the politician and the jurist’s attention is shifted from the carrying out of individual acts to the “use of life” as a whole; that is, it is identified with the “institution of life” as such, with the conditions and the *status* that define the very existence of human beings in society.

It is from this perspective that Seneca can speak of an *officium humanum*, of an office that applies to human beings insofar as they are bound with their fellow humans in a relationship of *sociabilitas*: *cum possim breviter illi formulam humani officii tradere: omne hoc, quod vides, quo divina atque humana conclusa sunt, unum est: membra sumus corporis magni. Natura nos cognatos dedit, cum ex isdem et in*

*eadem gigneret. Haec nobis amorem indidit mutuuum et sociabile fecit.* (Meanwhile, I can lay down for humankind a rule, in short compass, for our duties in human relationships: all that you behold, that which comprises both god and humanity, is one—we are the parts of one great body. Nature produced us related to one another, since she created us from the same source and to the same end. She engendered in us mutual affection, and made us prone to friendship; *Ad Lucilium epistulae morales* 95.51–52). *Officium* thus constitutes the human condition itself, and human beings, insofar as they are *membra . . . corporis magni* (parts of one great body), are beings of *officium*.

✠ In 1934, Max Pohlenz, one of the greatest scholars of Stoicism, published a monograph whose subtitle was *Cicero's "De Officiis" and Panaetius's Ideal of Life*. Taking account of the date of publication, however, the choice of title is significant: *Antikes Führertum*. According to Pohlenz, the ultimate sense of Cicero's work was that of furnishing a theory of *Führertum*, of political leadership, as "service performed for the people in its totality [*Dienst am Volksganzen*]." "Cicero," he writes, "adhered to the ideal of the era of Scipio and dreamed of a new leader [*Führer*], of a new Scipio who by the authority of his person would be able to raise to new life the ancient Roman constitution and the good times of old. . . . The epoch of the *libera res publica*, in which a politician could guide the state by relying solely on the love and trust of the people, had faded. A new leader [*Führer*] was necessary, who with an authoritarian power, even if perhaps still in the ancient form, would put an end to partisan struggles. Cicero himself felt that the ideal of the political leader [*das Führerideal*] which he recognized was no longer adapted to the present. Hence the tragic character of the *De Officiis*" (Pohlenz, 146).

However one wants to read the obvious parallelism with the situation in the Germany of his time, it is significant that Pohlenz situates *officium* in the sphere of the theory of political governance. *Officium* is *Führertum* understood as a *leitourgia*, as service performed for the people.

6. At this point Cicero's strategy becomes more clear: it is a matter of defining, between morality and law, the sphere of *officium* as that in which what is in question is the distinctively human capacity to govern one's own life and those of others. But the ambiguity of this strategy, which at least in part explains its influence on medieval and modern ethics, is that the definition of this sphere is carried out alongside a rereading in the light of *officium* of an essential part of ancient ethics: the theory of virtue. From the beginning, in fact, by establishing four *loci* of *honestum*, Cicero affirms that a certain type of *officia* arises from each of them (*certa officiorum genera nascuntur*; *De officiis* I.5). But in the course of the discussion, these *officia* are then so closely tied up with the corresponding virtues that it is impossible to distinguish them from each other.

*De officiis* in fact presents itself in this sense as a treatise on the virtues: not only is the first book made up essentially of an analysis of justice, beneficence, magnanimity, and temperance, but in the two following books, as well, ample space is dedicated to the analysis of liberality and being true to one's word and to the definition of virtue in general (ibid., 2.18). If *officium* is what renders the life of human beings governable, the virtues are the apparatus that allows one to actualize this governance. This treatment of the duties (*uffici*) as virtues and of virtues as duties (*uffici*) is the most ambiguous legacy that Cicero's work was to transmit to the Christian West.

7. It can certainly come as a surprise that three centuries later Ambrose, setting about the task of writing what will be presented as a treatise on the ethics of the priests, had decided to take up again not only the title but also the structure and themes of Cicero's work. The text is, in fact, constructed from beginning to end in a tenacious parallelism—and at the same time in a taking of distance that is just as ostentatious but no less real—with respect to its pagan model.

The long preamble on silence, articulated around a detailed *midrash* on Psalm 38 (*dixi custodiam vias meas, ut non delinquam in lingua mea* [I have said: I will guard my ways that I may not sin with my tongue]), apparently serves only to allow us to understand that the idea of the composition of the treatise had come to Ambrose almost by chance while meditating on the *silendi patientia* and the *opportunitas loquendi* that are at question in a verse of the Holy Scripture ("It was while I was meditating on this Psalm, then, that the idea came to me to write about *officia*" [*successit animo de officiis scribere*]; 1.7.23), rather than by the reading of Cicero's text, which was very familiar to those, like Ambrose, who had arrived at the priesthood from the halls of the tribunes and public administration (*raptus de tribunalibus atque administrationis infulis ad sacerdotium*; Epistle 1.4). In reality, the reference to Panaetius and Cicero that immediately follows and the resolution to turn to his "sons in the Gospel" precisely as Cicero had turned to his son (*sicut Tullius ad erudiendum filium, it ego quoque ad vos informandos filios meos . . . quos in avangelio genui* [In the same way that Cicero wrote to instruct his son, I too am writing to mold you, my sons . . . whom I have begotten in the gospel]; *De officiis* 1.7.24) show beyond a doubt what the author's strategy is: it is a matter of transferring the concept of *officium* from the secular sphere of philosophy to that of the Christian Church. To this end he inserts a brief etiological account, according to which the composition of the work derived from a suggestion of the Holy Spirit: "As though he was encouraging me to write on the subject [*quasi adhortaretur ad scribendum*], the Holy

Spirit brought before me a reading which confirmed my view that we too are able to speak of *officium* [*qua confirmaremur etiam in nobis officium dici posse*]” (ibid., 1.8.25). It is not an accident that the passage in question is the Latin version of Luke 1:23, which we have seen is one of only two places where the term *leitourgia* appears in the Gospel: *ut impleti sunt dies officii eius* (“that the days of his *officium* were completed,” a reference to Zachariah’s priestly functions). “From what we read here, then,” concludes Ambrose, “it is clear that we too are able to speak of *officium*” (a “we can” that, after the Holy Spirit’s exhortation, sounds more like a “we must”).

And not only Holy Scripture, he adds immediately, but also reason proves that Christians can use the term, if it is true, according to the etymology that Ambrose takes from Donatus, that *officium* derives from *efficere* (*quandoquidem officium ab efficiendo dictum*). The etymology will meet with success among Christian authors, who from Isidore and Sicardus to Durand will take it up again, adding to it the tautological (paronymic) formula *quia unusquisque debet efficere suum officium* (which does not mean “each must do his duty” so much as rather “each must render his social condition effective”).

From the very beginning the three essential points of Ambrose’s strategy are thus fixed, as though they go without saying: (1) to transfer into the Church and Christianize the concept of *officium*; (2) *officium* translates *leitourgia* and not only *kathēkon*; (3) it refers to the sphere of operativity that Ambrose, as we have seen (chap. 2, §10 above), knows to be precisely that of the Christian mystery.

8. Exactly like its Ciceronian model, whose disorganized and “improvised” character scholars have emphasized (Testard, 14), Ambrose’s book has also appeared incoherent, repetitive, and above all without originality to modern readers. In reality the often slavish tracing of Cicero’s text and the lack of originality cease to appear surprising if one understands that they are perfectly functional for the goal that Ambrose puts forward, which is nothing other than the introduction of the concept of *officium* into the Church. It is for this reason that he can follow Cicero’s argumentation point by point, except each time substituting for the pagan *exempla* examples drawn from Holy Scripture. To the episodes from Roman and Greek history there now correspond events from the history of the Hebrews. In the argumentation, Abraham, Moses, David, Solomon, and Jacob take the place of Cato, Pompey, Scipio, Philip of Macedon, and Tiberius Gracchus.

Just as rigorous is the interweaving of *officia* and the virtues that the biblical examples are called upon to document. Just as Cicero derived from the four

parts of *honestum* the same number of offices and virtues, so Ambrose, taking up Cicero's list punctiliously (*prudencia, iustitia, fortitudo, temperantia*), affirms that "whatever category of duty you look at derives from one of these four virtues [*ab his quattuor virtutibus nascuntur officiorum genera*]" (*De officiis* 1.15.116). In this way, through the simple substitution of examples, the pagan *officia* become Christian, the Stoic virtues Christian virtues, the decorum of the Roman senator and magistrate the dignity and *verecundia* of Christian ministers.

One can understand, then, why a master of prose like Cicero and a subtle orator like Ambrose can apparently fall into "disconnected fragments" (according to the editor of a recent Italian edition) and into a "lack of internal coherence" (Steidle, 19). The meaning of the two books is neither in *inventio* nor in *dispositio*—the two pillars of Latin rhetoric. What is at stake in both cases is, rather, essentially terminological and political. That is to say, in the one case it is a matter of bringing a concept extraneous to politics and morality into those spheres and—under the pretext of a Greek translation—technicizing it. In the other case it is a matter of transferring Cicero's *officium* point-by-point into the Church to found on it the praxis of priests. But as often happens, a terminological transformation, if it expresses a change in ontology, can turn out to be just as effective and revolutionary as a material transformation. Putting on the garments and mask of *officium*, not only the virtues but the entire edifice of ethics and politics along with them meets with a displacement whose consequences we must perhaps still weigh.

9. Neither Cicero nor Ambrose gives a definition of duty (*ufficio*). The first, who affirms in the preface of his work that every discussion of the problem must begin by defining *quid sit officium*, afterward neglects to do so and limits himself to articulating his discussion of it by means of a twofold division. The second explicitly declares that he is renouncing a definition in favor of exemplification. In the absence of a definition, it then becomes convenient in Ambrose's case to reflect on the etymology of the term suggested by him, which perhaps contains a useful indication. Repeating Donatus's etymology (*ab efficiendo*), as we have seen, he adds to it, however, a striking specification: *officium ab efficiendo dictum putamus, quasi efficium: sed propter decorum sermonis una immutata littera* (for the word *officium* is, we believe, derived from *efficere*, as though it were *efficium*, "achievement"; but in the interests of euphony, one letter has been changed) (1.8.26). In this way, through the fabulation of an inexistent word (*efficium*), the term is forcefully brought back to the sphere of effectiveness and *effectus* (*efficere* means *aliquid ad effectum adducere*): *officium* is not defined by the *opus* of an *operari* but by the *efficium* of an *efficere*. Thus it is pure effectiveness.

Diezinger has brought to light the close correlation that liturgical texts establish between *officium* and *effectus*. The liturgical action (*officium* in the broad sense) results from the coming together of two elements that are distinct and at the same time inseparable: the *ministerium* of the priest—*officium* in the strict sense, which acts only as instrumental cause—and the divine intervention—the *effectus*—that completes it and renders it effective. A series of texts pulled from ancient sacramentaries and the *Missale romanum* almost obsessively articulate this correlation: *id quod fragili supplemus officio, tuo potius perficiatur effectu . . . ut quod nostro ministratur officio, tua benedictione potius impleatur . . . quod humilitatis nostrae gerendum est ministerio, virtutis tuae compleatur effectus . . . ad piae devotionis officium et ad tuae sanctificationi effectu* (Diezinger, 76, 106). And the extent to which this correlation is strict and is to be understood as a genuine biunity appears beyond a doubt in the most ancient formulary for the defrocking of an unworthy bishop: *Sic spiritualis benedictionis et delibationis mysticae gratiae, quantum in nobis est, te privamus, ut perdas sacrificandi et benedicendi et officium et effectum* (Thus of the spiritual blessing and portion of divine grace, insofar as it is in us, we deprive you, that you may lose the power of sacrificing and the power of blessing and your *officium* and your *effectum*) (ibid., 79). *Officium* and *effectus* are distinct but somehow indistinguishably connected, in such a way that their biunity constitutes the effectiveness of the liturgical action from which the bishop is now excluded.

10. Let us reflect on the paradoxical circular structure that appears in these examples and the implications that it may have for the conception of human action and ethics. Action is divided into two elements, the first of which, *ministerium* (or *officium* in the strict sense), defines only the instrumental being and action of the priest and, as such, is presented in terms of humility and imperfection (*fragili officio . . . humilitatis nostrae ministerio*). The second, which actualizes and perfects the first, is divine in nature; moreover, it is, so to speak, inscribed and contained in the first, in such a way that the correct fulfillment of the priestly function necessarily and automatically implies the actualization of the *effectus* (one will recognize here the duality of *opus operantis* and *opus operatum* by which the scholastics will define the liturgical mystery).

The divine *effectus* is determined by the human minister and the human minister by the divine *effectus*. Their effective unity is *officium-effectum*. This means, however, that *officium institutes a circular relation between being and praxis, by which the priest's being defines his praxis and his praxis, in turn, defines his being*. In *officium* ontology and praxis become undecidable: the priest has to be what he is and is what he has to be.

What is at stake in Ambrose's strategy is clear at this point: it was a matter of singling out—beyond the principles of ancient ethics and nonetheless in continuity with it—a concept with which to think and define the action of the priest and of the Church in its totality.

If the problem of the early Church was that of reconciling a spiritual dignity (the possession of charismas) with the carrying out of a juridical-bureaucratic function and the celebration of the divine *mysterium* as the fulfillment of a human *ministerium*, the Ciceronian concept of *officium*, which did not designate an absolute ethical principle so much as rather a “duty in a situation” (according to the formula that Durand takes up from Isidore: *proprius vel congruus actus uniuscuiusque personae secundum mores et leges civitatis vel instituta professionis*; Durand, bk. 2, 14), furnished a coherent model to allow these two aspects to coincide to the greatest possible degree.

What results from this is, as we have seen, a paradoxical ethical paradigm, in which the connection between the subject and his action is broken and, at the same time, reconstituted on another level: an act that consists entirely in its irreducible effectiveness and whose effects are nonetheless not truly imputable to the subject who brings them into being.

II. In a passage from the *De lingua latina* Varro distinguishes three modalities of human acting, which “on account of their similarity are erroneously confused by those who think that they are only one thing”: *agere, facere, gerere*:

For a person can make [*facere*] something and not act [*agere*] it, as a poet makes [*facit*] a play and does not act it [*agere* also means “to recite”], and on the other hand the actor acts [*agit*] it and does not make it, and so a play is made [*fit*] by the poet, not acted, and is acted [*agitur*] by the actor, not made. On the other hand, the *imperator* [the magistrate invested with supreme power] in that he is said to carry on [*gerere*] affairs, in this neither makes [*facit*] nor acts [*agit*] but carries on [*gerit*], that is, assumes and supports [*sustinet*], a meaning transferred from those who carry burdens [*onera gerunt*], because they support them. (Varro, 6.77.245)

The distinction between *facere* and *agere* derives, in the last analysis, from Aristotle, who in a celebrated passage from the *Nicomachean Ethics* opposes them in this way: “doing [*praxis*] and making [*poiēsis*] are generically different, since making aims at an end distinct from the act of making, whereas in doing the end cannot be other than the act itself: doing well [*eupraxia*] is in itself the end” (1140b4–5). What is new and typically Roman, by contrast, is the identification of a third type of human action: *gerere*.

*Gerere*, which originally meant “to carry,” means in political-juridical language “to govern, administer, carry out an office” (*rem publicam gerere, gerere magistratum, honores, imperium*). With an analogous semantic evolution, the verb *sustinere* also acquires the political meaning of “assuming an office” (*munus sustinere in re publica*). While for Aristotle the paradigm of political action is praxis, *gerere* designates, then, the specifically Roman concept of the activity of the one who is invested with a public function of governance. The *imperator*, the magistrate invested with an *imperium*, neither acts nor produces; his action is not defined, like doing or making, by an external result (the work), nor does it have its end in itself: *it is defined by its very exercise, by the magistrate’s assuming and fulfilling a function or an office*. In this sense Varro can say that the magistrate “assumes and supports” (*sustinet*) his action: inverting the effective circle between *munus* and exercise, between *ministerium* and *effectus*, the action here coincides with the effectuation of a function that is itself to be defined. *Gerere* is, in this sense, the paradigm of *officium*.

✠ In the last sentence of the passage cited, the most authoritative manuscript of the *De lingua latina* (Laurentian LI, 10) does not have *onera gerunt*, but *honera gerunt*. While *sustinere* can also be said of weights (*onera*), *gerere* is never used with *onera*, while the expression *gerere honores* is common. The scribe who copied the manuscript in the eleventh century did not know the classical sense of *gerere* in relation to *honores* and substituted for this term the more banal *onera*, forgetting to cancel the *h*. Emending *onera* to *honores*, the passage would read: “a meaning transferred from those who exercise public functions, because they assume and support them,” which gives what is certainly a better sense.

12. The nature of office and its *gerere* is strikingly illuminated if one puts it in relation with the sphere of command, that is, with the action proper to the *imperator*.

Let us reflect on the entirely special nature of the command, which is not properly an act (for this reason Varro can say that the one who commands “neither does nor acts” but assumes and supports; 6.77.245) but has sense only insofar as it takes as its object and assumes onto itself the action of another (who is assumed to have to obey, that is, to execute the command). It is in this sense that, as Magdelain has noted (34–42), the imperative defines the proper verbal mood of law (*ius esto, emptor esto, piaculum dato, sacer esto, exta porrici- unto, paricidas esto*), insofar as the decree of the norm, otherwise void in itself, always has as its object the behavior or action of an individual external to it. But precisely for this reason, it is not easy to define from the semantic point of view the meaning of the imperative, which in Indo-European languages coincides morphologically with the verbal root. There is in fact no substantial

difference between the action expressed on the constative level (“he walks”) and the same action carried out in the execution of an order (“walk!”). And moreover, the goal of an action carried out in order to execute an order is not only that which results from the nature of the act, but it is (or claims to be) also and above all the execution of the order. (For this reason—at least up until the Nuremberg trials—it was maintained that someone who was following an order was not to be held responsible for the consequences of his act.)

Here one can see the proximity between the ontology of command and the ontology of office that we have sought to define. Both the one who executes an order and the one who carries out a liturgical act neither simply *are* nor simply *act*, but are determined in their being by their acting and vice versa. The official—like the officiant—is what he has to do and has to do what he is: he is a being of command. The transformation of being into having-to-be, which defines the ethics as much as the ontology and politics of modernity, has its paradigm here.

✠ The peculiar structure of *officium* is reflected in canonist circles in the discussions between those who consider office as an objective matter and those who consider it as a subjective matter. According to the former, office as an institutional reality (*ministerium, dignitas, honor*) is something like an objective element, defined by a normative scheme of behavior and substantiated in a *titulus* and a *beneficium* (an economic profit). For the latter, by contrast, it is essentially *munus*, an activity carried out by a subject in the exercise of a function (cf. Vitale, 101).

It is sufficient, however, to consider the terms of the dispute with greater attentiveness to establish that in reality it is a question of two aspects of the same phenomenon. Certainly the canonistic tradition seems to emphasize the priority of the subjective element of the exercise of office (*officium datur principaliter non propter dignitatem, sed propter exercitium*; *ibid.*, 98). But the fact that the two elements represent two poles of one single system, in terms of which they are founded and defined in turn, becomes clear, beyond the terminological oscillations, in the very close correlation that the texts establish between the objective element and the subjective element of *officium*. Thus, according to Panormitanus, the prelacy is a position (*honor*), which is however conferred not for the sake of honor but for the service that it implies (*non datur propter honorem, sed propter onus*). Precisely for this reason, honor is nevertheless due to the prelate (*in consequentia praelato debetur honor*; *ibid.*), and in the decretal that regulates the ceremony of ordination, under the heading *de sacra unctione*, one reads that *caput inungitur propter auctoritatem et dignitatem, et munus propter ministerium et officium* (*ibid.*, 132).

When modern canonists, in order to reconcile the two positions, conceive office as a “subjective situation” or as a “competence-duty” that establishes for a certain subject the legitimation (and correlative duty) to carry out certain acts in virtue of his position or function, they do nothing but confirm the circularity that we have seen to define liturgical praxis.

✠ One can now understand the pertinence of the concept of instrumental cause, by means of which Aquinas explains the sacramental action. Just as the instrument by definition acts only insofar as it is acted upon by the principal agent, so also the efficacy of the ministerial action derives not from the person of the minister but from the function and the office that he carries out. In this sense, in the words of Varro, the minister does not act but assumes and “supports” the action implied in his function.

From this perspective it is interesting to reflect on the concept of a “function,” which seems to be closely connected to that of office (*officio fungi; munere, consulatu fungi*). It has been rightly observed (Gasparri, 35) that “to function means to act as if one were another, in the capacity of someone’s *alter ego*, either an individual person or a community. To have a function means not only to be competent to carry out acts for which others carry the responsibility for the agent, but to act declaratively, openly as such.” The term *function* names the constitutive vicariousness of office. The analogy with the paradigm of instrumental cause in Aquinas, in which God acts by means of the one who exercises the priestly function, is obvious.

# Threshold

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PERHAPS the most decisive influence that *officium* as the paradigm of priestly praxis has exercised on Western ontology is the transformation of being into having-to-be and the consequent introduction of duty into ethics as a fundamental concept.

Let us reflect on the striking circularity that we have seen to define *officium*. The priest must carry out his office insofar as he is a priest and he is a priest insofar as he carries out his office. Being prescribes action, but action completely defines being: “having-to-be” means this and nothing else. The priest is that being whose being is immediately a carrying out and a service—a liturgy.

This insubstantiality of the priest, in which ontology and praxis, being and having-to-be enter into an enduring threshold of indifference, is proven by the doctrine of the *character indelebile* that confirms priestly ordination starting with Augustine. As the absolute impossibility of identifying any substantial content for it shows, the *character* expresses nothing but a zero degree of liturgical effectiveness, which is attested as such even when the priest has been suspended *a divinis*. This means that the priesthood, of which the *character* is the cipher, is not a real predicate but a pure signature, which manifests only the constitutive excess of effectiveness over being.

Hence the tendentially vanishing quality of the subject whom the signature marks and constitutes. Since he has to be what he does and does what he is, the subject of a liturgical act is not truly a subject (on the theological level this is expressed in the thesis according to which his action, as *opus operatum*, is done by another, namely Christ). In reality, whoever believes himself to have to perform an act claims not to be, but to have to be. He claims, that is, to dissolve himself entirely into a liturgy. Action as liturgy, and the latter as a circular relation between being and praxis, between being and having-to-be: this is the disquieting inheritance that modernity, from the moment it put duty and office at the center of its ethics and its politics, has more or less consciously accepted

without the benefit of an inventory. It is toward this transformation of being into having-to-be—and the ontological proximity between command and office implied in it—that we must now orient our investigation.

## The Two Ontologies; or, How Duty Entered into Ethics

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1. Anyone who goes through the pages of the *Genealogy of Morals* cannot fail to notice a curious lacuna. The three essays into which Nietzsche divided the book lay out, respectively, a critical genealogy of the opposition “good/evil, good/bad”; of guilt and the bad conscience; and, finally, of ascetic ideals. It lacks, however, a genealogy of perhaps the fundamental concept—at least starting from Kant—of modern ethics: duty. It is certainly evoked in the second essay, in connection with guilt, which is traced back to the notion of debt and to the creditor-debtor relationship (the German term for guilt, *Schuld*, also means “debt”). But Nietzsche is focused here above all on the connection between the feeling of guilt, bad conscience, and remorse. That the importance of the concept of duty naturally cannot be avoided is proven by the fragments that come from the time of the drafting of the work, in which we read, for example: “The problem: *You must!* An inclination that fails to give itself a foundation, similar in this to the sexual instinct, would not fall under the censure of the instincts, but on the contrary would be their criterion of value and their judge” (Nietzsche, 265; cf. *ibid.*, 151). And nonetheless, despite this and similar notes, a fourth essay on duty was not included in the book.

There are generally good reasons for exclusions, and in this case they are perfectly understandable. The fact is that Nietzsche’s teacher, Schopenhauer, had dedicated a chapter to the genealogy of duty in his 1840 work *Über die Grundlage der Moral* (*On the Basis of Morality*). Here, under the heading “Von der imperativen Form der kantischen Ethik” (“On the Imperative Form of the Kantian Ethics”), we read that “putting ethics in an *imperative* form as a *doctrine of duties* [*Pflicht*], and thinking of the moral worth or worthlessness of human actions as the fulfillment or violation of *duties*, undeniably spring, together with the *obligation* [*Sollen*], solely from theological morals, and accordingly from the Decalogue” (Schopenhauer, 123/56). According to Schopenhauer, the theological imperative, which made sense only in view of a punishment or reward and could not be separated from them, has been surreptitiously transferred by Kant into

philosophy, where it has assumed the contradictory form of an “absolute or categorical duty.” Insofar as Kantian morals are founded, in this sense, on “concealed theological hypotheses”—it is, in truth, a “moral theology” (*Moraltheologie*)—one can say that it has made “the result that which ought to have been the principle or presupposition (theology), and . . . as presupposition that which should have been deduced as result (the order or command)” (ibid., 124/57).

Once its theological origin has been identified, Schopenhauer can unmask or, at least, read in a new light the definition of “the fundamental idea of the whole Kantian ethics, namely, *duty*. It is ‘the necessity of an action out of respect for the law’ [*die Nothwendigkeit einer Handlung, aus Achtung vor dem Gesetz*]” (ibid., 134/67). The syntagma “necessity of an action” is, according to Schopenhauer, nothing but a “cleverly concealed and very forced paraphrase of the word ‘you must’ (*soll*),” which, as such, refers to the language of the Decalogue (ibid., 135/67). Consequently, the cited definition “‘duty is the necessity of an action out of respect for the law,’ would therefore read in natural and undisguised language, ‘*Duty* signifies an action which *ought* to be done out of *obedience* to a law.’ This is the gist of the matter” (ibid., 135/68).

The genealogy sketched by Schopenhauer, which is certainly correct, shows how little has been done in removing the mask from something, laying bare its hidden origin. By relating Kantian ethics to its theological presuppositions one does not gain much, in fact, as far as what would be of interest above all, namely, the understanding of the practical paradigm that has produced both the structure and the specific characteristics of human action that is in question in it. As Foucault had suggested, doing a genealogy does not mean “removing the mask in order to finally unveil a primary identity” (Foucault 2, 138). It means, rather—by means of the fine-grained analysis of details and episodes, of strategies and tactics, of lies and truths, of *détours* and main roads, of practices and knowledges—to attempt, in the case that here interests us, to replace the question that can be taken for granted, namely, “What is the origin of the idea of duty?” with the no less obvious questions “What are the stakes in the strategy that leads to conceiving human action as an *officium*?” and “What is the nature of a liturgical act, of an act that can be defined totally in terms of *officium*?”

2. It is decisive that, in the liturgical tradition, the relation between the two elements of the action, the *officium* and the *effectus*, is conceived according to the model potential-act. Not only, as we have seen, does *effectus* translate the Greek *energeia* in the earliest versions, but in the missals and sacramentaries the divine *effectus* completes and perfects (*perficiatur, impletur, compleatur . . .*) each time

what was in some way in potential in the priest's action. According to the appeal that the test of the *Missale Romanum* addresses to God: *vere dignum . . . aeternae Deus, qui invisibili potentia tuorum sacramentorum mirabiliter operaris effectum* (you are truly worthy, O eternal God, who by the invisible potency of your sacraments wonderfully work your effect) (Diezinger, 78).

Here as well, however, the passage from the paradigm of *energeia* to that of effectiveness implies a novelty that is not negligible. While in Aristotle *dynamis* and *energeia* were two ontological categories, two "ways in which being is said," which designated as such two different modes of presence, now what is in question is instead the constitution of praxis, the relation between a certain function—the *munus* or *ministerium* of the priest—and its being rendered effective (*effectus*).

It will be helpful to reflect on the differences and, at the same time, the analogies between the Aristotelian and Christian models. If in the Aristotelian model of the architect (*Metaphysics* 1046b32ff.) *dynamis* and *energeia* are two distinct and homogeneous modes of presence of being-an-architect, in the case of the priest, *officium* and *effectum* are two (heterogeneous) elements whose concurrence defines liturgical praxis. In both cases, however, what is decisive is the problem of what permits the passage from potential to act and from *ministerium* to *effectus*. In the Aristotelian tradition the element that secured this passage was *hexis* (in Latin, *habitus*) and the *locus* in which the problem was dealt with was the theory of the virtues (this explains why in both Cicero and Ambrose the analysis of *officium* is worked out in a treatise on the virtues). An archaeology of *officium* will therefore necessarily have to confront the way in which theologians, in taking up the Aristotelian approach, articulate the doctrine of *habitus* and of the virtues.

3. Any understanding of the Aristotelian theory of the virtues must begin from the passage of the *Nicomachean Ethics* (1105b19–20) in which they are defined as "habits" (*hexeis*): "Since in the soul there are produced three things: passions [*pathē*], potencies [*dynamēis*], and habits [*hexeis*], virtue [*aretē*] therefore must be one of these three things." The inscription of the virtues in the sphere of the habits, which immediately follows, is motivated solely by exclusion: insofar as they are neither passions nor potentials, "it remains that the virtues are habits" (1106a12). For this reason a virtue will be that *hexis* "from which [*aph'ēs*] one becomes good [*agathos gignetai*] or will do one's function well [*eu to heautou ergon apodōsei*]" (1106a24).

The correct interpretation of a concept or a theory depends on the preliminary comprehension of the problem that it is meant to confront. As often hap-

pens, however, this problem cannot be singled out while remaining solely within the treatise on ethics but demands a confrontation with the theory of *hexis* that Aristotle unfolds in book Theta of the *Metaphysics*. The theme of this book is the division between being in *potential* (*dynamis*) and *act* (*energeia*). Only starting from this division of ontology is it possible to comprehend why Aristotelian ethics must take the form of a theory of the virtues, which is to say of the habits (*hexeis*). If being is divided into potential and act, something will in fact be needed to render possible, regulate, and operate the passage from the one to the other. This element, which defines and articulates the passage of potential from the merely generic (the potential according to which we say that the child can learn to write or play the flute) to the effective potential of the one who already knows how to write or play the flute and can therefore put it in action, is *hexis*, the habit (*hexis* from *echō*, “to have”) of potential.

It is on this second mode of potential that Aristotle concentrates his attention. In *On the Soul* (417a22–30) he thus places two modes (*tropoi*) of being in potential in opposition to the one who exercises in action a knowledge or a technique:

One sense of “instructed” is that in which we might call someone instructed because he is one of a class of instructed persons who have knowledge; but there is another sense in which we call instructed a person who has [*echonta*] knowledge, for example, of grammar. Each of these two has potency, but in a different sense: the former, because the class to which he belongs and his matter [*to genos kai hē hylē*] is of a certain kind, the latter, because he is capable, whenever he likes, of knowing in act [*hoti boulētheis dynatos theōrein*], provided that external causes do not prevent him. But there is a third kind of instructed person—one who, in exercising his knowledge, is in act [*entelecheiai ōn*, possesses himself in his end]; he is in actuality instructed and in the strict sense knows, for example, this particular A. The first two men are only potentially [*kata dynamin*] instructed; but whereas the one becomes so in actuality through a qualitative alteration by means of learning, and after frequent changes from a contrary state [that is from privation, *sterēsis*, which for Aristotle is the opposite of *hexis*], the other passes by a different process from having [*echein*] sensation and grammar without exercising it in act, to exercising it in act [*eis to energein*].

Habit is therefore the mode in which a being (in specific, a human being) “has” in potential a technique, a knowledge, or a faculty, “has” a potential to know and act. It is, that is to say, the point where being crosses into having. But it is precisely this that constitutes *hexis* as an aporetic concept. It is in fact essential to the Aristotelian theory of habit that this “having” maintains itself in a con-

stitutive relation with its privation (*sterēsis*). “So a thing is potential,” one reads in *Metaphysics* 1019b6–10, “in virtue of having a certain habit, and also in virtue of having the privation [*esterēsthai*] of that habit . . . and if privation [*sterēsis*] is not in a sense habit [*hexis*] . . . , then everything will be potential by having [*echein*] a certain habit or principle and through having the privation of it, if it can ‘have’ a privation.”

This relation with privation (or, as he can also say, with *adynamia*, impotential or potential not to) is essential for Aristotle because it is only through it that potential can exist as such, independently of its passing into action. The strategic meaning of the concept of habit is that, in it, potential and act are separated and nonetheless maintained in relation. Only insofar as habit is also habit of a privation can potential endure and have mastery over itself, without always already losing itself in action. For this reason the decisive thesis on potential-habit reads, “Every potential is an impotential for producing the same result in respect of the same subject [*tou autou kai kata to auto pasa dynamis adynamia*]” (*Metaphysics* 1046a30). Having the *hexis* of a potential means being able not to exercise it. In *On the Soul* (412a35) habit is thus compared to sleep, in which a person has knowledge but does not put it into action: “waking is analogous to the exercise of a knowledge, sleep to its possession but not its exercise [*echein kai mē energein*].” Something like a subject of *hexis* is constituted only through this possibility of not using it. As Aristotle never stops repeating against the Megarians, someone truly has a potential who can both put it and not put it into action (cf. *Metaphysics* 1046b29, 1047a25).

✠ In the passage cited from book Theta of the *Metaphysics* (1046a30), the Ross edition has *pasa dynamis adynamiai*, “every potential is in impotential,” which is not much different in terms of the sense, but betrays the editors’ discomfort before such a radical affirmation. The most authoritative manuscripts and, significantly, the commentary of Alexander of Aphrodisia, have the reading *adynamia*, “every potential is impotential.”

✠ In the seminar of Le Thor of September 1966, Heidegger asked the participants in an improvised way, “What is the fundamental concept of Aristotle?” Since no one responded, the youngest of them suggested, not without fear: “*Kinēsis*, movement,” a response that proved to be exactly correct. The theory of potential and habit is in truth a way for Aristotle to introduce movement into being, and the passage cited from the *Nicomachean Ethics* (1106a22–23) is the proof of that. Aristotle does not say “is good” but “becomes good” (*agathos gignetai*): what is in question is not only the crossing from being into having, but also of being into acting and of acting into being. According to a paradigm that has marked Western ethics with its aporias, the virtuous person becomes what he is and is what he becomes.

4. Only if one situates it in the context of the theory of habit does the Aristotelian conception of virtue acquire its proper sense. By means of the concept of *hexis*, Aristotle had given reality and consistency to potential and rendered thinkable its peculiar relation with act (a potential that always already passed blindly into act or that, like generic potential, had no relation with action could not have interested him). But precisely what had assured philosophical citizenship to *hexis*, namely its relation with privation, now rendered problematic how to think concretely its passage into action. If habit is always also privation, a potential not to pass into action, who and what will be in a position to define that passage for it?

While assigning to habit an essential place in the relation between potential and act and in this way situating *hexis* in a certain sense beyond the opposition potential/act, Aristotle never stops repeating, however, the supremacy of the *ergon* and the act over simple habit. “And the end of each thing,” he writes in the *Eudemian Ethics* (1219a9–10), “is the *ergon*, and from this, therefore, it is plain that the *ergon* is a greater good than the habit.” And in the *Nicomachean Ethics* (1098b30–31), the image of sleep as a cipher of the one who has a *hexis* but does not use it returns, but with a completely negative meaning: “it makes a great difference whether we put the greatest thing in possession [*en ktēsei*] or in use [*en chrēsei*], in habit [*en hexei*] or in act [*en energeiai*]. For one may possess the habit without its producing any good result, as for instance when one is asleep or is otherwise inoperative; but virtue in *energeia* cannot be inoperative—it will of necessity act, and act well.”

The theory of the virtues is the response to the problem of the inoperativity of habit, the attempt to render governable the essential relation that links it to privation and potential-to-not (*adynamia*). Hence the insufficiency and the aporias of the aretology that Aristotle transmitted to Western ethics. Virtue (*aretē*) is, in fact, “a certain habit” (*hexis tis*: *Metaphysics* 1022b14) and at the same time something that, in habit, renders it capable of passing into action and of acting in the best way. For this reason the above-cited Aristotelian definition of virtue is, in a certain sense, twofold and is situated on the plane of being as much as on that of action: “virtue is a habit from which [or thanks to which, *aph’ēs*] one becomes good [*agathos gignetai*] and from which [or thanks to which] one will do one’s work well [*eu to heautou ergon apodōsei*]” (*Nicomachean Ethics* 1106a22–23). The repetition of *aph’hēs* underlines the twofold status of habit-virtue, at once ontological (“it becomes good”) and practical (“it does its work well”).

However, the way in which this species of habit that virtue represents can obtain this result is not defined in any way, unless it is through the frequent

exercise that transforms it into “custom” (*ethos*). In a passage from the *Eudemian Ethics* (1220b1–5), which was to exercise a strong influence on the scholastics, this connection between custom and the becoming operative of virtuous habit is forcefully expressed: “As even its name implies that it derives from habit [*ethos*], by our often moving in a certain way a character [*ēthos*] not innate in us is finally trained to be operative [*energētikon*] in us (which we do not observe in inanimate objects, for not even if you throw a stone upwards ten thousand times will it ever rise upward unless a force moves it).” And that the connection between ethical virtue and habit serves to render habit governable in view of action and passage to the act is stated in the definition of moral character that immediately follows: “let moral character then be defined as a quality of the spirit in accordance with governing reason that is capable of following reason [*kata epiktatikon logon*].”

✠ Precisely because Aristotle thinks action starting from potential-habit, which maintains an originary connection with privation and the potential not to pass into action (*echein kai mē energein*, to have without exercising), his ethics must necessarily run up against an aporia (that is, an “absence of a way”). The theory of virtue, which was to render this passage possible, remains in its essence an ethology, a theory of custom-character, because all the elements that Aristotle has recourse to in order to govern action by means of virtue (like choice, *proairesis*, and will, *boulēsis*) are obviously adventitious and, in presupposing a subject external to potential, have no basis in the habit that they are supposed to guide. For this reason Aristotelian virtue is now presented as an ontological property (a modality of habit), now as a quality of the work and of the action, and one same work defines both *hexis* and the action and its subject (“the same work belongs to a thing and to its goodness (although not in the same way): for example, a shoe is the work of the art of shoemaking and of the act of shoemaking; so if there is such a thing as shoemaking goodness and a good shoemaker, a good shoe is the work of both”; *Eudemian Ethics* 1219a19ff.). For the same reason, Aristotle can affirm that “the *ergon* is better than the *hexis*” and at the same time assert, with perfect circularity, that “the better the *hexis*, the better the *ergon*” (ibid., 1219a6).

It remains the case that habit is the logical place where something like a theory of subjectivity could have arisen. Melville’s *Bartleby*, a man who by definition has the potential to write but is not able to exercise it, is the perfect cipher of the aporias of Aristotelian ethics.

5. It is against this aporetic background of Aristotelian ethics that the scholastic theory of the virtues in their relation with *officium* becomes fully intelligible. The joining of *officium* and virtue that is already implicit in Cicero and Ambrose, and constitutes the specific work of the ethics of late scholasticism, in fact has the goal of conferring effectiveness to virtue in the governance of habit

and potential. For this reason, in Aquinas's *Summa* the treatment of the virtues is preceded by a theorization of the problem of *habitus* (*Summa theologica* IaIIae, qq. 49–54), which articulates and unfolds in a systematic way the hints scattered in Aristotle's work.

First of all, habit is presented here as a specifically human form of potential. While natural potentials are particular to only one operation (*secundum se ipsas sunt determinae ad unum*), and for this reason have need of a habit to be able to pass into action, human potential can operate in different ways and with different ends (*se habet ad multa*) and thus has need of a principle that disposes it to the operation. This principle, which leads human potential (in itself constitutively undecided) to action, is *habitus* (ibid., q. 49, art. 4). But habit also distinguishes human potential from natural potential for another reason. The potential of a natural agent is always and only an active principle of its action, as one sees in fire, which can only burn (*sicut in igne est solum principium activum calefaciendi*). The act of such an agent can never be translated into a habit: “for this reason natural things cannot become accustomed or unaccustomed (*et inde est quod res naturales non possunt aliquid consuescere vel dissuescere*).” For human acts, by contrast, there is both an active principle and a passive principle of their action, and in this second aspect they produce habits. Passivity is therefore the specific foundation of human *habitus*: “For everything that is passive and moved by another is disposed by the action of the agent; wherefore if the acts be multiplied a certain quality is formed in the power which is passive and moved, which quality is called a habit” (ibid., q. 51, art. 2).

What properly defines habit is, according to Aquinas, its essential connection with action. Responding positively to the question “whether habit implies a disposition to action,” Aquinas specifies that every habit, insofar as it is related to a potential, is constitutively ordered to the act (*primo et principaliter importat ordinem ad actum*; ibid., q. 49, art. 3). It is because of this essential proximity to the act that habit is defined as “first act” (*actus primus*) with respect to the operation, conceived as *actus secundus* (ibid.). Developing Averroës's affirmation according to which “habit is that whereby we act when we will,” the seat of habit is located in the will:

In the will and in every appetitive power there must be something by which the power is inclined to its object. . . . And therefore in respect of those things to which it is inclined sufficiently by the nature of the power itself, the power needs no special quality to incline it. But since it is necessary, for the end of human life, that the appetitive power be inclined to something fixed, to which it is not inclined by the nature of the power, which in humans has a relation to many

and various things, therefore it is necessary that, in the will and in the other appetitive powers, there be certain qualities to incline them, and these are called habits. (Ibid., q. 50, art. 5)

The aporetic connection between habit and the ability not to pass into action, which defined the *echein kai mē energein* of Aristotle's sleeper, is thus bracketed.

6. It is this constitutive ordering of habit to action that the theory of the virtues develops and pushes to an extreme. From the beginning of the treatise on the virtues in the *Summa* (*Summa theologica* IaIIae, qq. 55–67), virtue is defined unreservedly—with a term that recalls the one (*operatorius*) with which Ambrose had defined the operativity of the word of Christ—as “operative habit” (*habitus operativus*). If virtue is a perfection of potential and this is both potential to be (*ad esse*), which has to do with the body, and to act (*ad agere*), which concerns the rational faculty, human virtue refers only to the potential to act: “human virtue, of which we are speaking now, cannot belong to the body, but belongs only to that which is proper to the soul. Wherefore human virtue does not imply reference to being, but rather to act. Consequently it is essential to human virtue to be an operative habit” (ibid., q. 55, art. 2). If, with respect to the Aristotelian *hexis*, the Thomistic *habitus* was already oriented toward action, virtue is the apparatus that must guarantee its belonging to the act, its being in every case “operative.”

However, because a habit can be operative also with respect to evil, it is necessary that virtuous habit be defined as “good.” With respect to simple potential, which can be disposed to good as much as to evil, good habit is distinguished from bad not because it has a good object but because it is in harmony with the nature of the agent (*habitus bonus dicitur qui disponit ad actum convenientem naturae agentis*; ibid., q. 55, art. 3). In the same way, virtue implies the perfection of a potential, but evil knows no perfection and is, so to speak, constitutively “infirm” (*omne malum defectum quemdam importat; unde et Dionysios dicit quod omne malum est infirmum*). If in the last analysis “every virtue is necessarily ordered to the good, therefore human virtue, which is an operative habit, is a good habit and operative of the good [*bonus habitus et boni operativus*]” (ibid.).

What is decisive here is not the coherence of the argument, from which one can in any case draw the consequence that the good does not define potential, but the perfection or imperfection of potential determines what is good and what is bad. What is essential, once more, is the effectiveness of virtue, its rendering habit operative. The goodness of virtue is its effectiveness, its pushing

and orienting potential toward its perfection. And for human beings this does not consist in being but in working. Only through action is the human being assimilated to God:

Virtue which is referred to being [*virtus ad esse*] is not proper to humanity; but only that virtue which is referred to works of reason, which are proper to humanity. . . . As God's substance is His act, the highest likeness of man to God is in respect of some operation. Wherefore . . . happiness or bliss by which man is made most perfectly conformed to God, and which is the end of human life, consists in an operation [*in operatione consistit*]. (Ibid., q. 55, art. 2)

7. The definition of virtue that follows (which the article significantly places under the heading: "Whether virtue is suitably defined?") repeats observations already made, without contending with the problems and aporias that the discussion had come up against. Both the absolutely operative character of virtue and its unfailing orientation to the good are repeated. But what confers its power to virtue and what differentiates it from vice, the other operative power, is in no way explained: "The end of virtue, since it is an operative habit, is operation. But it must be observed that some operative habits are always referred to evil, as vicious habits: others are sometimes referred to good, sometimes to evil; for instance, opinion is referred both to the true and to the untrue: whereas virtue is a habit which is always referred to good" (*Summa theologica* IaIIae, q. 55, art. 4).

On the one hand, the end of virtue consists in its very operativity, but on the other, insofar as it is a form of habit, it refers necessarily to the nature of the subject with which it must fit. The very expression "operative habit" seems in itself contradictory, insofar as it refers at once to ontology (habit) and to praxis (operativity). Virtue is that by means of which being is indeterminated into praxis and action is substantialized into being (or in the words of Aristotle, that thanks to which a human being "becomes good" and, at the same time, that thanks to which "he does his work well").

In this sense the definition of virtue presents more than an analogy with the circularity that characterizes the effectiveness of *officium*. The priest has to carry out his office as priest, but he is a priest insofar as he carries out his office. And just as the subject of the liturgical act is not truly such, but is acted upon by Christ *ex opere operato*, so also the subject of the virtuous act is acted upon by operative habit, so that Aquinas can write that in virtue, "God works in us without us" (*Deus in nobis sine nobis operatur*; *ibid.*).

It is not surprising, then, that in the person of the priest virtue and office enter into a durable constellation. For this reason, already starting with Ambrose,

treatises on the priestly office are also treatises on the priests' virtues. Both office and virtue are brought into the same circle: the good (the virtuous) is such because it acts well and acts well because it is good (virtuous).

8. The place where virtue and office enter into a threshold of indetermination is the theory of *religio*. Here, in the definition of the *status religionis* as virtue, the liturgical tradition of *officium* and that of the moral treatise on the virtues are united in the figure of a virtue whose essential content is a duty and an *officium* that appears in every sense as a virtue.

Let us consider the discussion of *religio* in the *Summa*, in which "religion" is counted among the "virtues attached to justice" (*Summa theologiae*, IIaIIae, q. 81). Aquinas opens with a brief analysis of the etymologies of the term, both that of Isidore (which goes back to Cicero) from *religere* (*religiousus a religione appellatus, qui retractat et tamquam relegit ea quae ad cultum Domnini pertinent* [a man is said to be religious from *religio*, because he often ponders over and, as it were, reads again (*relegit*) the things which pertain to the worship of God]) and the Augustinian etymology from *religare* (*a religando, ut Agostinus: religet nos religion uni omnipotenti deo* [from *religare*, wherefore Augustine says: May religion bind us to the one Almighty God]). In both cases religion designates a special and exclusive relationship of the human being with God (*religio ordinat hominem solum ad Deum* [religion directs the human being to God alone]; *ibid.*, art. 1).

But it is in article 2, in response to the question "whether religion is a virtue," that the essential relation between virtue and duty is formulated for the first time. If virtue, according to the Aristotelian definition, is "that which makes its possessor good, and his act good likewise [*virtus est quae bonum facit habentem et opus eius bonum reddit*]," then every good action will necessarily belong to virtue. And since by all appearances, rendering someone his due (*reddere debitum alicui*) is a good, religion, which consists in rendering to God the honor that is owed to him (*reddere honorem debitum Deo*), is a virtue par excellence.

To the objection according to which virtue presupposes a free will and not an obligation like that which defines the service that the human being owes to God, Aquinas responds that "even a slave can voluntarily do his duty by his master, and so he makes a virtue of necessity [*et sic facit de necessitate virtutem*]. . . . In a similar manner, to render due service [*debitam servitutem*] to God may be an act of virtue." Further, "insofar as its actions are directly and immediately ordered to the honor of God, religion excels among the moral virtues [*praeminet inter alias virtutes morales*]" (*ibid.*, art. 6).

Let us reflect on the striking practical paradigm that is in question here, which seems to constitute in some way the model of the Kantian and pre-Kantian “duty of virtue” (*Tugendpflicht*). In the concept of a virtue whose sole object is a *debitum*, of a being that coincides totally with a having to be, virtue and *officium* coincide without remainder. The “duty to be” is, therefore, the apparatus that permits the theologians to resolve the circularity between being and acting in which the doctrine of the virtues remained caught. The act carried out thanks to the operative inclination of virtuous habit is, in reality and to the same extent, the execution of a duty. Literally making “a virtue of necessity,” the religious person is at once inclined to duty and obligated to virtue.

9. A gauge of the process that brings the liturgical tradition and the ethical tradition to coincide is the evolution of the concept of “devotion.” Theologians never lost awareness of the pagan origin of *devotio*, with which the commander consecrated his own life to the infernal gods to obtain victory in a battle. Aquinas still knows perfectly well that *olim, apud gentiles, devoti dicebantur qui se ipsos idolis devovebant in mortem pro sui salute exercitus* (in olden times among the heathens a devotee was one who vowed to his idols to suffer death for the safety of his army) (*Summa theologica* IIaIIae, q. 82, art. 1) and that therefore “those persons are said to be ‘devout’ who, in a way, devote themselves to God, so as to subject themselves wholly to Him.” And moreover, already with Tertullian and Lactantius, while the term *votum* maintains its originary technical sense, the meaning of the term *devotio* is progressively transformed to designate both the cultic activity of the faithful and the interior attitude with which this is carried out. Students of Casel’s school, who have analyzed the use of the term in the earliest sacramentaries, speak in this connection of two meanings of the term, one moral and one liturgical (thus in Leo the Great *devotio* means at times simply the celebration of the Eucharist; cf. Daniels, 47). In reality one must speak not of two meanings but two aspects of one meaning, one practical and exterior and one psychological and interior. Outside of liturgical texts in the strict sense, in fact, and particularly in the monastic sphere, the term more and more often indicates the unconditional interior dedication that accompanies the carrying out of the exterior acts of the religious life. In this sense devotion is assimilated to a virtue. In Cassian’s *Cenobitic Institutions* devotion is not only presented as the willing abnegation with which the monastic offices are carried out (*quae explere tanta devotione et humilitate*; Cassian, 146), but as such it is classified among the virtues, alongside faith and justice (ibid., 438: *tantae iustitiae, tantae virtutes, tanta fides atque devotio*).

It is therefore not surprising that in Aquinas the discussion of devotion immediately follows that of *religio*. It is part of the interior acts of religion and designates in this sense the *prompta voluntas*, the willing impulse and promptness in carrying out the acts of divine worship: “It belongs to the same virtue, to will to do something, and to have the will ready to do it. . . . Now it is evident that to do what pertains to the worship or service of God belongs properly to religion. . . . Wherefore it belongs to that virtue to have the will ready to do such things, and this is to be devout [*quod est esse devotum*]” (*Summa theologiae* IIaIIae, q. 82, art. 2). As in the *religio* of which it forms a part, in devotion *officium* becomes immediately virtue.

10. The problem of *religio*-virtue, to which Aquinas dedicates only one question in the *Summa*, assumes in Suárez the dimensions of an entire treatise in three books. According to the characteristic strategy of the Spanish theologian, the *De natura et essentia virtutis religionis* is not only—as it in fact is—a detailed and faithful commentary on the text of the *Summa*, so much as its systematic and almost imperceptible dislocation into a new systematic-juridical context. The concept of *debitum*, which in Aquinas was hardly formulated, becomes first of all the formal definition of religion and the nucleus around which the entire treatise revolves.

Already in the preface the declared goal of the treatise is not the theoretical analysis of the essence of *religio* but the practical and juridical presentation of the *debitum* that is in question in it. Just as the divine wisdom does not limit itself to illuminating the mind with knowledge, but also furnishes a norm to the will, so also would theology be less praiseworthy if it limited itself to illuminating the mind without guiding customs (*si mentem illustraret, non mores dirigeret*). “For this reason,” concludes Suárez, “I could do no less than to become immersed in the explanation of these questions, which teach us to render to God the worship that is due to him [*quae nos Deo debitum cultum edocerent*]” (Suárez, 1).

To the citations from Isidore and Augustine, to which Aquinas referred for the etymology of the term *religio*, Suárez thus adds one from Lactantius, which has at its center the juridical notion of the *vinculum* that obliges the human being to God (*religionem dictam esse ab illo vinculo naturali, quo Deo obligamur*). The definition of religion that follows strictly unifies duty and habit in the idea of a virtue that is at the same time an *officium*: “the name of religion can thus be correctly explained: since the rational creature is bound by a natural debt and by an intimate inclination to offer worship to its author, it is bound anew [*religatur*] by a voluntary choice and by a habit added to it. Therefore the virtue that fulfills this *officium* can be called *religio*” (ibid., 5).

Thanks to this coincidence of virtue and duty, in the following chapters *debitum* can be constituted as the “definition and formal object” (*ratio et objectum formale*) of religion. What defines *religio* as a virtue is not simply the fact that by means of it worship and honor are rendered to God, but that these are rendered to him *solo in quanto dovuti*: “the function of justice is to render duty, but religion is part of justice. . . . Moreover the honor and worship of God form a part of religion only insofar as they are duties [*honor et cultus Dei non cadit in religione, nisi ut ei debitus*]” (ibid., 20). For this reason, against those who distinguish religious duty (which is owed to God solely by reason of his excellence) from legal duty (which also derives from a juridical precept), Suárez affirms the properly legal nature of the *debitum religionis*: “religion . . . renders to God the worship that is owed to him by right [*iure proprio illi debitum*] and moreover the duty that it fulfills is not generically moral, but proper and legal [*non utcumque morale, sed proprium et legale*]” (ibid., 22). In the idea of a being that is totally dissolved into a debt, into a having to be, law and religion necessarily coincide.

II. Two points in Suárez’s treatise are of particular interest to us. The first is where he specifies the legal nature of the bond that unites the human being and God in religion with the term *respect* (*reverentia*—the same word with which Kant will translate the German term *Achtung* in the *Metaphysics of Morals*, where it defines the nonempirical feeling that the human being experiences before the moral law). Respect does not coincide with obedience because while the first has to do with the excellence of the person (*directe respicere personam excellentem*), the second concerns solely the concrete norm that emanates from it (*personae excellentis praeceptum*; Suárez, 13). If one remembers that for Suárez religious duty has a juridical character, the subtlety with which he distinguishes respect (which is a duty, but so to speak to the law as such *propter excellentiam*, independently of the concrete content of the norms) from obedience (which has to do solely with a certain normative content) is all the more striking. Religion is the virtue that applies to God by means of a duty that derives not from a norm but from the respect that the law as such—or rather, the legislator—inspires.

The second point is where Suárez defines religious duty as an “infinite debt.” In contrast with other human duties, the debt that is in question in *religio* cannot be satisfied once and for all, because it is in its essence inexhaustible: “It cannot happen, in fact, that the material and debt of religion can be exhausted [*exauriri possit*], because it is proper to this virtue that its debt can never be absolved and fulfilled [*impleri solutione*], both because it is a matter of a debt that is in some way infinite [*debitum quodammodo infinitum*] and because it grows with

its very satisfaction, insofar as through this the human being receives a further benefit. This does not happen in justice with respect to human beings, whose debt can be wiped out with its satisfaction, in such a way that there is no place to display justice any further. Through the acts of religion, by contrast, the human being can never exhaust the debt that he has before God" (ibid., 22).

In the figure of a virtue that can never fully satisfy its debt, the idea—so dear to the moderns—of an infinite task or duty makes its first appearance in Western ethics. As Kant will write almost two centuries later, "Virtue is always *in progress* and yet always starts *from the beginning*.—It is always in progress because, considered *objectively*, it is an ideal and unattainable, while yet constant approximation to it is duty" (Kant I, 409/537).

Here one clearly sees that the idea of a "duty-to-be" is neither solely ethical nor solely ontological; rather, it aporetically binds being and praxis in the musical structure of a fugue, in which acting exceeds being not only because it always gives it new precepts but also and above all because being itself has no content other than a pure debt.

12. In the genealogy of the idea of duty Samuel Pufendorf's letter to Christian Thomasius of July 17, 1688, occupies a peculiar place. In it we in fact find clearly affirmed for the first time, even if in a cursory way, the principle according to which the category that must guide the discussion of ethics is not virtue but duty. "On the other hand," Pufendorf writes to his friend, "I consider it a strong argument for rational people that one must not organize morality according to Aristotle's eleven virtues, from the moment that I could demonstrate that they were adapted only to a certain type of republic. And in general [*in universum*] my opinion is that one must not organize and discuss morality according to virtues, but according to duties [*die Morale nicht secundum virtutes, sed secundum officia einrichten und tractiren soll*]" (Pufendorf I, 197).

Since this peremptory thesis marks the entrance into modern ethics of the idea of duty that was never again to leave it, it will be useful to linger on the modalities and context of its enunciation. First of all, the objection against the virtues is articulated in two moments, one specific and one general (*in universum*). The first refers to the fact that, as Pufendorf had suggested in the immediately preceding letter of June 19, in formulating his ethics Aristotle in reality had in mind those Greek democracies that he considered the best type of republics. This narrow formulation is followed by the more general affirmation according to which ethics must not be treated according to virtue but according to duty.

It is characteristic of Pufendorf's letters that they are often presented as a series of digressions (each time introduced by a brusque *sonsten*, "on the other hand") that, at least in appearance, seem to have no connection among them. In this case the passage that immediately precedes, from which the paratactic *sonsten* would be taking distance, contains a fierce critique of the thought of Spinoza. Pufendorf, who in his letter of June 16 had evoked his encounter with the philosopher, ironically defined as "*ein leichtfertiger vogel* [a thoughtless character], *deorum hominumque irrisor*, who has bound in one volume the New Testament and the Koran," shows that he knows the thinker well, because he indicates the root of his "brazen atheism" (*welcher ein unverschämter atheist ist*) in the concept of immanent cause: "to the extent to which he calls God *causam immanentem omnium rerum*, he says nothing different from what Orpheus had said according to Aristotle, Apuleius in the *De mundo*, and Virgil in book six of the *Aeneid*" (ibid., 195).

The three passages in question (in particular the last two) do not in any way contain a negation of the existence of God but a radical formulation of pantheism (*omnia Iove plena esse* in the words of Apuleius, *De mundo*, 34; the citation from Virgil refers to the celebrated *spiritus intus alit, totamque infusa per artus / mens agitat molem et magno se corpore miscet* [one primal Mind, immingled with the vast and general frame, fills every part and stirs the mighty whole]; *Aeneid* 6.724–27). Atheism, in the philosophical discourse of the time, does not designate those who deny the existence of God but those who deny the divine governance of the world, that is, providence. It is in this sense that Leibniz could write of Spinoza that "he was truly an atheist." Perhaps there is therefore a connection between the critique of Spinoza and the affirmation of *officium* for ethics, which it will now be helpful to investigate.

13. In 1673 Pufendorf published *De officio hominis et civis* (*On the Duty of Man and the Citizen*), in which he summarized the results of his magnum opus, *De iure naturae et gentium* (*On the Law of Nature and of the Nations*, 1672), organizing them around the concept of *officium*. At the same time, he actualized the project earlier enunciated in the letter to Thomasius of an ethics articulated according to duties and not according to virtues. In the book of 1672 the sphere of ethical-juridical phenomena had been defined as that of *entia moralia* (that is, with a terminology borrowed precisely from the atheist Spinoza), the "modes" of which are added to physical beings "for the purpose of directing and regulating the free, voluntary actions of human beings, and for giving human life a certain order and grace" (Pufendorf 2, 14/100). And just as physical substances

presuppose a space in which they consist and move, so also to moral beings there corresponds a “state” (*status*), in which they “exercise their actions and their effects.” The action of moral beings (in particular of persons) in the sphere of the “state” is defined by their *imputativitas*, that is, by the fact that they and their effects can and must be imputed to agents. The obligation that arises from these actions does not coincide with external constraint but penetrates into the very will of the agent, as a sort of intrinsic moral sense (*obligatio vero moraliter voluntatem afficiat et peculiari quasi sense eandem intrinsece imbuat*; *ibid.*, 72/121), which leads it to conform to the prescription of the norm.

In *De officio*, duty (*officium*) is the term that designates human action insofar as it conforms to the obligation that arises from the prescription of natural law (*officium . . . vocatur actio hominis, pro ratione obligationis ad praescriptum legis recte attemperata*; Pufendorf 3, 13/17). The fundamental principle of the law of nature, to which *officium* must conform, is *socialitas*, which is formulated in these terms: “every man ought to do as much as he can to cultivate and preserve sociality [*cui libet homini quantum in se colendam et servandam societatem*]” (*ibid.*, 23/35). To found this precept and confer the force of law to it, Pufendorf has need not only of a God but of a transcendent God who governs the world with his providence: “these precepts get the force of law [*vim legis obtineat*] only upon the presuppositions that God exists and governs all things by his providence [*deum esse et sua providentia omnia regere*]” (*ibid.*, 23/36). Unlike other creatures, in fact, the human being is constituted in such a way that it cannot survive as a human being without society (*citra socialem vitam*): “the human being is obligated by God to observe natural law, which is not a product of human will and changeable at his pleasure, as the means which God himself has established expressly to achieve this end” (*ibid.*, 23/36). For this reason there is no difference between denying that God exists and denying that God cares for human affairs: “both opinions utterly undermine all religion [*cum utrumque omnem religionem plane tollat*]” (*ibid.*, 25/40). There is therefore a connection between the critique of Spinozism and putting forth duty as a fundamental category of ethics: it is a matter, in both cases, of affirming the solidarity between divine governance of the world and imputability of human actions. The threefold division of duties into duties toward God, toward oneself, and toward others confirms this solidarity. Situated on the hinge between human *socialitas* and divine providence, *officium* renders governance possible and guarantees its effectiveness.

✠ The specific service of Pufendorf’s work is that of diverting the tradition of natural law into the concept of *officium*. Before him, Hobbes had already declared in the preface of the *De cive* that the goal of his treatise was to define “the duties [*officia*] of men, first as

men, then as citizens” (*On the Citizen*, 7), and it is likely that the very title of Pufendorf’s book was only a summary of this program. But as Strauss showed already in a 1933 review and then in the 1936 book *The Political Philosophy of Hobbes*, in reality Hobbes substitutes for the notion of duty that of right (the right to the conservation of life, founded not on a divine precept but on human beings’ fear in the face of violent death). Naturally, this right can also be presented as a duty, as happens at times in Strauss himself: “in Hobbes there is only one basis for duty: the fear of violent death” (Strauss, 258).

✠ In Jean Domat the articulation of law in terms of duty is already complete. When, at the beginning of his treatise on public law (1697), the great French jurist defines the foundation of the *police générale d’un État* with the term *devoir*, what he names with this term is, however, nothing but the *officium* of which we have sought to reconstruct the genealogy. “*Tout le monde sait,*” he writes, “*que la société des hommes forme un corps dont chacun est membre, et cette vérité que l’Écriture nous apprend et que la lumière de la raison nous rend évidente, est le fondement de tous les devoirs qui regardent la conduite de chacun envers tous les autres et envers le corps. Car ce sort de devoirs ne sont autre chose que les fonctions propres aux engagements où chacun se trouve par le rang qu’il tient dans le corps.*” (Everyone knows that human society forms a body of which each is a member, and this truth that Scripture teaches us and that the light of reason renders evident to us is the foundation of all the duties that concern the conduct of each toward all the others and toward the body. For these kinds of duties are nothing but the functions proper to engagements where each is found according to the rank that he holds in the body.) (Domat, 2). For this reason the term *devoir* is closely connected in Domat with the term *conduite*: the life and action of human beings in society is always “conduct,” the object of a guidance and a governance.

14. It is obvious that the paradigm of duty or office [*ufficio*] finds its most extreme and aporetic formulation in Kantian ethics. Since this is certainly not the place for an exhaustive investigation of Kantian ethics in light of duty or office, we will limit ourselves to indicating the most obvious connections, which others will be able to integrate in detail.

It is in the last work that Kant dedicated to morality, the *Metaphysics of Morals* of 1797, that these connections are clearly shown even on the lexical level. At the center of his treatise Kant places the concept of a “duty to virtue” (*Tugendpflicht*), the concept of “an end that is also a duty” (Kant I, 395/525). In identifying duty and virtue, it is a question of bringing the dimension of ethics to coincide with that of an action whose sole motive and impulse (*Triebfeder*) is duty. But this is precisely what defines the paradigm of duty or office, in particular in its extreme figure of *religio*, in which, as we have seen, the theory of the virtues had been firmly joined with liturgical office, opening up the road to the project, already clearly formulated in Pufendorf, of an ethics founded on duties. If the whole theological tradition that we have examined, from Ambrose

to Suárez, tends in the last analysis to arrive at a zone of indifference between virtue and duty or office, Kantian ethics, with its “duty of virtue,” is the complete realization of this project. Here it is not a matter, however, so much of verifying the immediate genetic connections (the idea of a “duty of virtue”—*Pflicht der Tugend*—is already explicitly formulated in Crusius and Meier, and Kant did not have any need to extract it from the theory of *religio* in Suárez). Instead, what is at stake is to understand that if the aberrant idea of an action carried out only for the sake of duty (that is, in obedience to a command, and not for the sake of a natural inclination) was able to penetrate into ethics and impose itself there, this is only because the Church, by means of a centuries-long praxis and theorization, had elaborated duty or office as a model of the highest human activity, embodied in the office of the priest and, even before that, in the priesthood of Christ. The “duty of virtue” is not, in this sense, anything but the definition of the devout life that Kant had assimilated by means of his pietistic education.

✠ In his *Directive to Live Reasonably* (1744) Crusius had defined the concept of a duty of virtue in this way: “the foundation of moral necessity lies in a law and in our responsibility to observe it: moreover we call the corresponding duty a duty of virtue [*Pflicht der Tugend*]” (Crusius, 201).

15. If in office the guarantee of the effectiveness of the liturgical action *ex opere operato* is in Christ, what takes the place of Christ as guarantee of the effectiveness of duty in Kant is the law. In the *Groundwork of the Metaphysics of Morals*, duty is in fact defined as “the necessity of an action from respect for the law” (Kant 2, 400/55). The essential connection between duty and law is constantly repeated by Kant: “The concept of duty stands in immediate relation to a law” (Kant 1, 388/520); it is resolved, however, into “an obligation [*Nöthigung*] or constraint [*Zwang*] of free choice through the law” (ibid., 379/512).

Since the constraint that is in question in the moral law is not, as in juridical law, an external force but an autoconstraint (*Selbstzwang*), which must overcome the resistance of natural inclinations, Kant has need for an apparatus that would render the autoconstraint of moral duty operative. This apparatus is “respect” (*Achtung, reverentia*), the same bond that, according to Suárez, immediately unites the human being with God in *religio*.

When Kant introduces the concept of respect in the *Groundwork of the Metaphysics of Morals*, defining it as the subjective counterpart of the law, he must have felt so unsure of it that he accompanied it with a long note, in which he is anxious to forestall possible objections against this “obscure feeling,” whose provenance in the theological sphere must have been familiar to him in any case:

“It could be objected,” he writes, “that I only seek refuge, behind the word *respect*, in an obscure feeling, instead of distinctly resolving the question by means of a concept of reason” (Kant 2, 402/56, footnote). The rational explanations that he supplies at this point, however, risk being even more obscure than the “feeling” that they are supposed to clarify. In fact it is not, by contrast with the other feelings that can be traced back to an inclination or to fear, “a feeling *received* by means of influence” (that is, a pathological feeling), but is “a feeling *self-wrought* by means of a rational concept” (ibid.). The *Critique of Practical Reason* repeats this anomalous origin, proposing that respect for the moral law “is a feeling that is produced by an intellectual principle” and that it is, moreover, the only feeling “that we can cognize completely *a priori*” (Kant 3, 73/199–200). Such an *a priori* feeling is not, in reality, a feeling but “signifies merely consciousness of the *subordination* of my will to a law” (Kant 2, 402/56, footnote). It is in fact nothing but the recognition and the effect of subjection to a command, which defines the very form of the law: “Only what is connected with my will merely as ground and never as effect, what does not serve my inclination but outweighs it or at least excludes it altogether from calculations in making a choice—hence the mere law for itself—can be an object of respect and so a command” (ibid., 400/55); “What I cognize immediately as a law for me I cognize with respect. . . . Immediate determination of the will by means of the law and consciousness of this is called *respect*, so that this is regarded as the *effect* of the law on the subject and not the *cause* of the law” (ibid., 402/56, note b).

Like *reverentia* in Suárez, which is not owed to a concrete norm (*praeceptum personae excellentis*) but to the excellence of the person as such (*persona excellens*), respect does not refer to a specific command but to the law in general, conformity with which must become the only motive for the action: “Since I have deprived the will of every impulse that could arise for it from obeying some law, nothing is left but the conformity of actions as such with universal law . . . , which is that *I ought never to act except in such a way that I could also will that my maxim should become a universal law*” (ibid., 402/56–57).

16. In the first part of the *Metaphysics of Morals* Kant defines the nature of the command and duty stemming from the law in terms of an external constraint and immediately afterward transfers this definition to morality in the form of autoconstraint (*Selbstzwang*). The structure of the imperative and of duty cited in the definition—the constraint of free will by means of a law—nonetheless remains the same, independent of whether it comes from the outside (juridical constraint) or from the inside (ethical constraint) (Kant 1, 379/512).

The paradox of autoconstraint, which renders necessary the determinate introduction of the concept of will, is that it must have the objective form of constraint and, at the same time, the subjective form of an impulse (*Triebfeder*): “But since the human being is still a *free* (moral) being, when the concept of duty concerns the internal determination of his will (the impulse), the constraint that the concept of duty contains can be only self-constraint (through the representation of the law alone); for only so can that *necessitation* [*Nöthigung*] (even if it is external) be united with the freedom of his choice. Hence in this case the concept of duty will be an ethical one” (ibid., 380/512–13). In the *Critique* ethical duty (the “duty of virtue”) is defined as that duty which, owing to respect, presents itself at the same time as an impulse: “The concept of duty, therefore, requires of the action *objective* accord with the law but requires of the maxim of the action *subjective* respect for the law, as the sole way of determining the will by the law” (Kant 3, 81/205). Precisely for this reason, however, Kant is constrained—so as to be able to define the *monstrum* of a duty that is also an impulse and of a will that can be freely determined by the law—to conjugate the modal verbs in a paradoxical way among one another: the human being “must judge that he *can* do [*können*] what the law tells him unconditionally that he *ought* to do [*dass er thun soll*]” (Kant 1, 380/513). Ethical duty is “to be able to do what one must.” In the *Groundwork* this paradoxical conjugation reaches its extreme form: if all imperatives, juridical as much as moral, are expressions of a duty (*Sollen*), that duty will be truly ethical which has the form of a “one must be able to will [*man muss wollen können*]”: “We must *be able to will* that a maxim of our action become a universal law: this is the canon of moral appraisal of action in general” (Kant 2, 424/75). The verb *to be able to* (*potere*), which expresses the possibility of an action, a power to do, is subordinated in a contradictory way to a “having to do” and has as its object not a doing but a “willing”: and it is this empty, unintelligible interweaving of the modal categories that defines the paradigm of the command of the moral law. Tied up together in this formula, the modal verbs sustain and annul each other. When one considers the centrality of the notion of will in Kant, one must not forget that it has its foundation in this paradoxical interweaving.

17. When he seeks in the *Critique* to give an emotional content to this empty feeling (which consists, so to speak, solely in the elimination of all emotional content and all inclinations), Kant finds nothing but the “*negative effect*” of humiliation (Kant 3, 78/203): “the effect of this law on feeling is merely humiliation, which we can thus discern a priori though we cannot cognize in it the force of the pure practical law as incentive but only the resistance to incentives of

sensibility” (ibid.). That is to say, respect is the feeling—purely negative and in itself devoid of all pleasure—of subjection to a command: “As *submission* to a law, that is, as a command (indicating constraint for the sensibly affected subject), it therefore contains in it no pleasure but instead, so far, displeasure in the action” (ibid., 80/205). Respect is, then, the degree zero of feeling, or that feeling (or that displeasure) which remains when all natural inclinations and all “pathological” (or passive) feelings have been excluded as motives for the action.

At his point Kant can join respect (*Achtung*) and duty (*Pflicht*) together. The action carried out only for the sake of respect for the law is in fact named “duty”: “The consciousness of a *free* submission of the will to the law combined with an unavoidable constraint put on all inclinations though only by one’s own reason, is respect for the law. . . . An action that is objectively practical in accordance with this law, with the exclusion of every determining ground of inclination, is called *duty*, which, because of that exclusion, contains in its concept *necessitation*, that is, determination to actions however *reluctantly* they may be done” (ibid., 80/204–5).

It is not surprising that Kant has to confess that the feeling of respect thus defined remains, despite the explanations that he has supplied for it and the decisive function it develops in ethics, “impenetrable for speculative reason,” and he refers, in the last analysis, to an artificial statement that is as simple as it is improbable: “one cannot wonder,” he writes in the *Critique of Practical Reason*, “at finding this influence of a mere intellectual idea on feeling quite impenetrable [*unergründlich*] for speculative reason and at having to be satisfied that one can yet see a priori this much: that such a feeling is inseparably connected with the representation of the moral law in every finite rational being” (ibid., 80/204).

If the origin of respect remains, even in the *Metaphysics of Morals*, “inscrutable” (*unerforschliche Ursprung*; Kant I, 400/529), this is because respect, exactly like duty, has no content other than subjection to the command of the law. For this reason Kant must insist on the precedence of respect over duty and be on guard against the vicious circle that would otherwise be verified between respect and duty: “A duty to have respect would thus amount to being put under obligation to duties [*zur Pflicht verpflichtet*]” (ibid., 255). As an empty or zero-degree feeling, respect is only the shadow that duty—that is, compulsion before the command of the law—throws on the subject.

✠ In a celebrated 1963 essay, Jacques Lacan proposed a parallel reading of Kant and Sade (Lacan, *passim*) in which the object of the law and the object of repressed desire were identified. We can ask ourselves whether, as Gilles Deleuze was to suggest five years later, the subversion of the Kantian law had not been accomplished more effectively by

Sacher-Masoch than by Sade. The virtuous Kantian and the masochist indeed coincide precisely in the fact that both find their proper element solely in duty and humiliation, that is, in the execution of a command. In this sense Kantian ethics—and, with it, a great part of modern ethics—is essentially masochistic. At first glance, however, the masochist differs from the virtuous Kantian, because while for the latter the command contains no pleasure, the former finds its pleasure in humiliation. It is not sufficient to say, however, that the masochist finds pleasure in being humiliated by the command of the law. It is necessary to add that the masochist finds pleasure in the fact that the law finds pleasure in humiliating him. The masochist does not find pleasure in pain and humiliation, but in procuring for the sadist a pleasure that consists in inflicting pain and humiliation. The masochist—the subtlety of his strategy consists in this—causes the law (embodied by the sadist) to get off and only achieves pleasure in this way. The law is maintained and its command is executed with zeal, but it no longer has anything respectable in itself, because its command contains pleasure. While the operation of the Sadean turns immediately against the law as such, the masochist's operation is turned against respect, which it undermines at its base and destroys. It is an ephemeral victory, however, because—as the modern masochistic masses, who do not respect the leader they acclaim, effectively show—they certainly cannot for this reason be called more free. The downfall of the leader, which reveals to them the possibility of contempt, is also the sanction of their servitude.

18. In the *Introduction to Metaphysics* Heidegger asserts that the process that leads to the separation between being (*Sein*) and having-to-be (*Sollen*) finds its completion in Kant (Heidegger 3, 151/212). The having-to-be that is in question in this separation is not, however, something “that is assigned and referred to being from who knows where”; rather, it comes from being itself (ibid., 150/211). The moment has come to attempt to interrogate, from the perspective of the archaeology of duty or office that interests us here, the ontological sense and the historical-philosophical strategies implicit in this separation, which is also, and to the same extent, an articulation. What in Kant reaches completion in the form of having-to-be is the ontology of operativity, whose fundamental outlines we have sought to reconstruct. In this ontology, as we have seen, being and acting are indeterminated and contracted onto one another, and being becomes something that does not simply *exist* but *has to be* brought about. It is not possible, however, to understand the nature and the proper characteristics of the ontology of operativity if one does not understand that it is, from the very beginning and to the same extent, an ontology of command. That contraction of being and having-to-be has the form of a command, is essentially and literally an “imperative.” Having-to-be is not, in this sense, a juridical or religious concept that is added to being from the outside: it implies and defines an ontology, which is progressively affirmed and is historically set up as the ontology of modernity.

Let us consider the linguistic form of the imperative, which we have evoked several times before. Meillet has observed that in Indo-European languages, it usually coincides with the verb's root and suggests that it could therefore represent the "essential" form of the verb (Meillet, 191). What defines the imperative from the semantic point of view is, however, that it does not refer denotatively to the world, does not describe or declare a state of things: it is limited to commanding and demanding (as a rule, someone else's action). Not even the action of the one who obeys the command can be considered as the semantic content of the imperative. As Kelsen has noted, "If an individual by his acts expresses a will directed at a certain behavior of another . . . then the meaning of his acts cannot be described by the statement that the individual *will* (future tense) behave in that way, but only that he *ought* to [*soll*] behave in that way" (Kelsen 1, 13/5). Aquinas did not express anything different, saying that the command does not have the action of the other as object, but his free will. The imperative presupposes as its foundation and, at the same time, as its object not a being but a willing.

If the ontology of the tradition of classical philosophy has a substantial character, in the sense the being implies a denotative connection between words and things, the imperative, as the primitive form of the verb, presupposes another ontology, which claims to refer not to the world "as it is" but to how it "has to be." In this sense, despite the identity between the two forms "you walk" and "walk!," from the ontological point of view *esti* and *estō* are—or at least claim to be—essentially heterogeneous.

It is significant, then, that the imperative defines the verbal mode proper to law and religion. Not only are the laws of the Twelve Tables (*sacer esto, paricidas esto, aeterna auctoritas esto*) and the formulas of juridical transactions (*emptor esto, heres esto*) in the imperative, but the oath, perhaps the oldest of the juridical-religious institutions, also implies a verb in the imperative (*martyrs estō, istō Zeus*). And it is superfluous to recall that in the monotheistic religions God is a being who speaks in the imperative and to whom one speaks in the same verbal mode in worship and prayer.

One understands, from this perspective, why juridical-religious formulas (of which the oath, the command, and the prayer are eminent examples) have a performative character: if the performative, by the simple fact of being uttered, actualizes its own meaning, this is because it does not refer to being but to having-to-be. It presupposes an ontology of *estō* and not of *esti*.

There are, that is to say, two distinct and connected ontologies in the tradition of the West: the first, the ontology of the command, proper to the juridical-religious sphere, which is expressed in the imperative and has a performative character;

the second, proper to the philosophical-scientific tradition, which is expressed in the form of the indicative (or, in a substantivated form, in the infinitive or participle—*esti*, *einai*, *on*, “is,” “to be,” “being”). The ontology of *estō* and of “be!” refers to a having-to-be; that of *esti* and of “is” relate to being. Clearly distinct and in many ways opposed, the two ontologies live together, struggle with each other, and nevertheless never cease to intersect, to hybridize, and to prevail over one another by turns in the history of the West.

✠ In twentieth-century thought a veritable anthropology of command was developed by Arnold Gehlen. According to this author, who in the last analysis aimed to found a theory of the institution, the central function of the imperative in human society derives from the absence in human beings of an instinctually preestablished conduct. The human being does not simply live like the other animals, whose conduct is instinctively regulated, but must “lead his life [*sein Leben führen*].” The institution, with its laws and imperatives, is situated precisely in this gap: “The imperative is thus the form in which the entity is thought as valid and obligatory and in which it is rendered autonomous by transcending the simple representation that one has of it. It . . . exonerates the will from choice: behavior is already decided in a preliminary way, and it is so independently of the affective situation, from the state of the soul in which it is found from time to time and from circumstances. . . . This is the only form—beyond that of blunt habit—owing to which a behavior can be rendered durable: the imperative is virtually the being-already-completed of the action” (Gehlen, 170).

It is in the light of the specific situation of the human being’s instinctual lack that Gehlen intends to make his social justification of the imperative and the command hold unconditionally, with a radicality with respect to which a more thorough consideration of his own youthful unconditional adhesion to National Socialism should perhaps have counseled more prudence: “The obligatory modality, the being-already-decided of behavior, the inhibition of analytic reason, the component of social reciprocity: these are all the moments of the imperative but also of the dynamics of the residual human instincts when we imagine them transposed into the consciousness of a being that acts according to its own will. An elementary rite, for example: ‘This is taboo! It is forbidden to touch it!’ would be, so to speak, the analogy of an authentic inhibition, instinctive and rigidly directed at a specific subject, if, naturally, a similar inhibition existed in the human being” (ibid., 172). In this anthropological perspective, Gehlen also explains the Kantian imperative: “Already Kant had recognized how the imperative responds to a social need and by depriving it of any content, had made of the simple interest for universal validity . . . the content of duty” (ibid., 171).

19. Kant represents the moment when the ontology of command and having-to-be reaches its most extreme elaboration and, by penetrating into the ontology of substance and being, seeks to transform it from within. If this is obvious as far as ethics is concerned, it is less obvious that the *Critique of Pure*

*Reason* can also be read from this perspective. The possibility of metaphysics coincides here with the use of “pure” reason, that is, its use without reference to beings and experience. The replacement of the “glorious name of ontology” with that of “transcendental philosophy” means precisely that an ontology of having-to-be has already taken the place of the ontology of being. The transcendental object and the noumenon therefore do not designate any being, but an X, “of which we know nothing, nor in general . . . can we know anything.” They are not beings but demands, not substances but imperatives, to which nothing corresponds on the level of experience. In the same way, the ideas of reason are “regulative” ideals, “commands,” and not denotative words. That is to say, having-to-be corresponds in Kantian ethics with the function that the noumenon and the thing in itself take on in metaphysics: just as these impose on thought the opening of a space that must however remain empty, so also the categorical imperative commands practical reason in a determinate way and nonetheless does not say anything (it is not surprising, from this perspective, that Schopenhauer had been able to identify the dimension of the will with that of the thing in itself and to entitle one of the supplements to his principal work “Transcendental Considerations on the Will as a Thing in Itself”).

At the threshold of modernity, when theology and metaphysics seemed to definitively cede the field to scientific rationality, Kant’s thought represents the secularized reappropriation of the ontology of *estō* in the bosom of the ontology of *esti*, the catastrophic reemergence of law and religion in the bosom of philosophy. In the face of the triumph of scientific knowledge, Kant sought to secure the survival of metaphysics, engrafting the ontology of command and having-to-be into that of being and substance and allowing it to act there. He believed himself to have secured in this way the possibility of metaphysics and to have founded, at the same time, an ethics that was neither juridical nor religious. Yet on the one hand, he welcomed the inheritance of the theological-liturgical tradition of *officium* and operativity without rendering an account of it, and on the other, he took leave of classical ontology in a lasting way.

The “Copernican revolution” worked out by Kant did not consist in having put the subject at the center in place of the object, so much as rather—but the two services are, in truth, inseparable—in having substituted an ontology of command for an ontology of substance. And one does not understand the history of post-Kantian philosophy if one does not know how to make out in it the succession of crossings, conflicts, and compromises between the two ontologies, which with phenomenology and *Being and Time* reach their provisional rendering of accounts, in which *estō* and *esti*, “be!” and “is” seem for an instant to be indeterminated.

⌘ During his trial in Jerusalem, Eichmann declared at a certain point that he had “lived his whole life according to Kant’s moral precepts, and especially according to a Kantian definition of duty.” Asked to specify what he intended to say, he added, thus showing that he actually had read the *Critique of Practical Reason*: “I meant by my remark about Kant that the principle of my will must always be such that it can become the principle of general laws” (Arendt, 135–36).

Curiously, Arendt, who is certainly ironic toward this “version of Kant ‘for the household use of the little man’” (ibid., 136), seems to maintain that Eichmann’s thesis was to be taken seriously in some way. “Much of the horribly painstaking thoroughness in the execution of the Final Solution . . . can be traced to the odd notion, indeed very common in Germany, that to be law-abiding means not merely to obey the laws but to act as though one were the legislator of the laws that one obeys. . . . Whatever Kant’s role in the formation of ‘the little man’s’ mentality in Germany may have been, there is not the slightest doubt that in one respect Eichmann did indeed follow Kant’s precepts: a law was a law, there could be no exceptions” (ibid., 144).

Kant’s blindness is not to have seen that, in the society that was arising with the industrial revolution, in which human beings had been subjected to forces that they could not in any way control, the morality of duty would habituate them to consider obedience to a command (it matters little whether external or internal, because nothing is easier than interiorizing an external command) as an act of freedom.

20. That the Kantian ontology is in truth an ontology of command becomes most evident in Kelsen. He moves from an absolutization without reserve of *Sein* and *Sollen*, being and having-to-be, assumed unconditionally as a dualistic postulate: “My studies begin from the presupposition of separating two opposed fundamental principles: being and having-to-be, content and form. I am aware that a monistic conception cannot and must not recognize as definitive the dualism between being and having-to-be, content and form. If, however, I here take into consideration two opposed principles and remember that I have to renounce the attempt to link together being and having-to-be, form and content, on a higher level that would comprehend these two concepts that exclude one another, it is with justification that from my point of view I have not, at bottom, found a sincere response other than this: I am not a monist” (Kelsen 2, v–vi). The difference between being and having-to-be cannot be further explained: it is an immediate given of our consciousness. “Nobody can deny that the statement: ‘something is’—that is, the statement by which an existent fact is described—is fundamentally different from the statement: ‘something ought to be’—which is the statement by which a norm is described. Nobody can assert that from the statement that something is, follows a statement that something ought to be, or vice versa” (Kelsen I, 14/5–6).

The pure theory of law presupposes, that is to say, two ontologies that are irreducible to one another and, like Kant, chooses as its proper sphere that of command and having-to-be. It is “pure” because it claims to maintain itself constantly in the sphere of the *Sollen*, without ever trespassing into that of *Sein*. Juridical duty does not coincide, in fact, with a being or a state of things, that is, with due behavior, but expresses only the fact that a certain behavior is decreed by a norm and that this norm refers to another norm (coercive sanction) and this again to another: “Legal obligation is not, or not immediately, the behavior that ought to be. Only the coercive act, functioning as a sanction, ought to be. If we say, ‘He who is legally obligated to a certain behavior, “ought” to [*soll*] behave in this way according to the law,’ we only express the idea that a coercive act as a sanction ought to be executed if he does not behave in this way” (ibid., 141/119).

The relationship between norm and behavior is not, that is to say, a relation of being but a relation of having-to-be. Norms, considered in themselves, are not concrete facts but “meanings [*Sinngehalte*] and precisely the sense of the acts in which the norm is established. This sense is a *Sollen*. Both ethics and jurisprudence are normative sciences, having as their object norms containing a *Sollen* [*Soll-Normen*], understood as meanings” (ibid., 73n1).

And just as the sense of the norm is not identified with the factual behavior prescribed, so also the command, which is in question in the norm, does not coincide with the act of will of which it constitutes the sense, which already has the form of a being. The norm does not decree that one behave in a certain way, only that one *has to* [*soll*] behave in a certain way.

Kelsen’s program of constructing a theory of law without any reference to being cannot be completely actualized. The two ontologies (being and having-to-be), while clearly distinct, cannot be entirely separated, and they refer to and presuppose one another. This appears clearly in the theory of sanction and penalty. To say that the norm that establishes the sanction affirms that the executioner *must* apply the penalty and not that he in fact apply it, takes away any value from the very idea of a sanction. The problem of violence—like that of pleasure—cannot easily be expunged from law and ethics and constitutes a tangent point between the two ontologies. As in Kant, being and having-to-be are articulated together in the pure theory of law in the manner of a fugue, in which separation refers to a tangent and this latter again to a separation.

# Threshold

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THE moment has perhaps come to attempt to read the ontology of operativity and command, which we have here sought to define by means of an archaeology of office, in parallel with the “metaphysics of will” that Ernst Benz has reconstructed in a book whose importance for the history of philosophy is still far from being fully appreciated (Benz, *passim*). Benz’s studies show that the concept of will, which in Greek philosophy of the classical era did not have an ontological meaning, was elaborated (probably developing motifs drawn from Hermetic texts) by Neoplatonism and later by Christian theology beginning in the fourth century, to explain the process of hypostatization of the One and the trinitary articulation of the Supreme Being.

If at the beginning of this process there stood the production in the One of an inclination toward itself (*neusis pros heauton*), this is defined, in the treatise of the sixth *Ennead*, which bears the significant title “Free Will and the Will of the One,” as “will” (*thelēsis, boulēsis*) and “love” (*agapē, erōs*): “all therefore was will and in the One there was nothing unwilled or prior to will: he was above all will [*prōton ara hē boulēsis auto*]” (Benz, 302). Will, which is originally will of self, names the intradivine movement through which the One, unfolding itself toward itself, is constituted as intellect (*nous*) and gives itself reality and existence in three primary hypostases. From this perspective, will and potential are identified: “the power (of the One) is absolutely sovereign over itself [*hautēs kyrian*], being what it wills to be [*touto ousan ho thelei*]” (*Enneads* 6.8.9; cf. Benz, 298). And not only is potential essentially will, but the good is also only will of self (“the nature of the good is in reality the will of itself [*thelēsis hautou*]”; *Enneads* 6.8.13; cf. Benz, 299). With a gesture in which one can make out the birth of the modern metaphysics of the will, Plotinus ultimately identifies will with being itself: “will [*boulēsis*] and substance [*ousia*] must in itself coincide necessarily with being in itself” (*Enneads*, *ibid.*; cf. Benz, 301).

By means of this identification of being and will, the progressive unfolding of the divine unity into the hypostases is already conceived “in a homoousian

way” (Benz, 414), as it will be in Christian theology. Will is at once the origin of the movement of the hypostases and the principle that agrees to lead them back to unity. It is precisely this “voluntarization” (*Voluntarisierung*, *ibid.*) of Greek metaphysics that, by transforming from within both the image of the world of the *Timaeus* and the Aristotelian unmoved mover, will render possible the elaboration of the Christian creationist paradigm.

With a consistent analysis Benz can show at this point how it was precisely the assimilation of the Plotinian model—through Marius Victorinus, the Gnostics, Irenaeus, Origen, and Athanasius—that permits the articulation together of trinitarian theology and Christian anthropology that will find its complete formulation in the Augustinian triad of memory, intellect, and will (*ibid.*, 365–413).

Solely preoccupied with the argumentation of his archaeology of will, Benz—who is surely perfectly aware that the doctrine of the hypostases implies a “dynamic conception” of the divine being (*ibid.*, 414)—does not seem to be interested in the definition of the characteristics of the new operative ontology that is here in question. What our archaeology has intended to show is that, on the contrary, only a point-by-point definition of these characteristics allows us to explain the appearance and centrality of the concept of will. It is not only a matter of the fact that here being is “mobilized” and put in movement (which was already achieved in Aristotelian ontology): what is decisive is that the movement of being is here not produced in itself and by nature but implies an *energeia* and an incessant “putting-to-work,” that is to say, that it is thought as an *ergon* that refers to the effectuation on the part of a subject that will be, in the first and last instance, identified with the will. This is perfectly evident in Plotinus, who can write: “For if we were to grant activities [*energeias*] to the One, and ascribe his activities to what we might call his will [*hoion boulēsei autou*—for he does not act without willing [*ou gar aboulōn energei*—and his activities are what we might call his substance [*ousia*], his will and his substance will be the same thing” (*Enneads* 6.8.13).

And it is for this reason that according to Christian theology, the process of trinitarian autohypostatization as much as the creation of the world are produced not *a necessitate naturae* but *a voluntate divinae maiestatis* (Victorinus, *qtd.* in Benz, 78): the trinitarian economy and the creation are thought according to the model of putting to work and *energeia* and not as an impersonal natural process. Hence also the necessity of identifying the potency of God with his will: *haec semper voluntas a Deo et in Deo est potentia* (*ibid.*).

When the metaphysics of the will finds its extreme expression in modern thought in Schelling (“In the final and highest judgment, there is no other Being

than will. Will is primal Being [*Ursein*] to which alone all predicates of Being apply. . . . All of philosophy strives only to find this highest expression" [21]), one must not forget that the concept of will was introduced into ontology between the third and fourth centuries because the concept of being was progressively being transformed in an operative sense. Just as duty was introduced into ethics to give a foundation to command, so also the idea of a will was elaborated to explain the passage from potency to effectiveness. If being is something that must be realized, if it necessarily implies a putting-to-work, it will be necessary to presuppose a will that renders it possible. This demand is already embryonically present in Aristotle, in whom the concept of will appears for the first time in an ontological context precisely to explain the passage from potential to act: that which has the *hexis* of a potential can pass to the act "when it wills [*hoti boulētheis*]" (*On the Soul* 417a26–27). In the same sense, because human potential, as a rational potential, can produce a thing and its contrary, "it will be necessary that the sovereign element [*kyrion*] be something else, by which I mean desire or choice [*orexin ē proairesin*]" (*Metaphysics* 1048a11).

The ontology of command and the ontology of operativity are therefore closely bound: as a putting-to-work, the command also presupposes a will. According to the formula that expresses the prince's command (*sic volo, sic iudeo*), "willing" can only mean "commanding," and "commanding" necessarily implies a will. Will is the form that being takes in the ontology of command and operativity. If being does not exist, but must actualize itself, then in its very essence it is will and command; and vice versa, if being is will, then it does not simply exist but has to be. The problem of the coming philosophy is that of thinking an ontology beyond operativity and command and an ethics and a politics entirely liberated from the concepts of duty and will.

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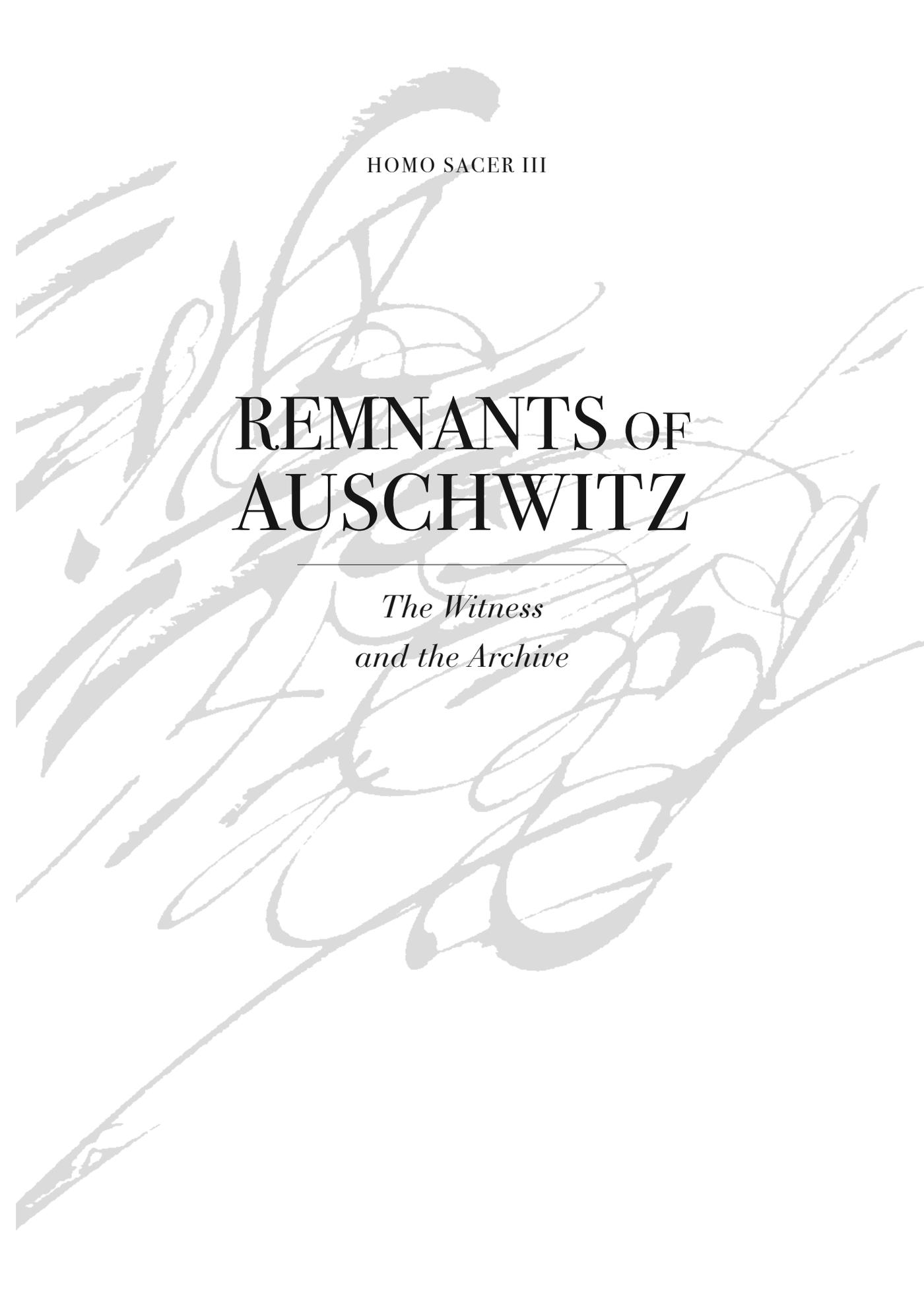
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HOMO SACER III

REMNANTS OF  
AUSCHWITZ

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*The Witness  
and the Archive*

TRANSLATED BY DANIEL HELLER-ROAZEN

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In memoriam

Bianca Casalini Agamben

“To be exposed to everything is to be capable of everything.”

To Andrea, Daniel, and Guido who, in discussing these pages with me,  
allowed them to come to light.

And then it shall come to pass in that day, that the remnant of Israel, and such as are escaped of the house of Jacob, shall no more again stay upon him that smote them; but shall stay upon the Lord, the Holy One of Israel, in truth.

The remnant shall be saved, even the remnant of Jacob, unto the mighty God.

Isaiah 10: 20–22

Even so then at this present time also there is a remnant according to the election of grace . . . and so all Israel shall be saved.

Romans 11: 5–26

# Preface

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Thanks to a series of increasingly wide-ranging and rigorous studies—among which Raul Hilberg’s *The Destruction of the European Jews* occupies a special place—the problem of the historical, material, technical, bureaucratic, and legal circumstances in which the extermination of the Jews took place has been sufficiently clarified. Future studies may shed new light on particular aspects of the events that took place in the concentration camps, but a general framework has already been established.

The same cannot be said for the ethical and political significance of the extermination, or even for a human understanding of what happened there—that is, for its contemporary relevance. Not only do we lack anything close to a complete understanding; even the sense and reasons for the behavior of the executioners and the victims, indeed very often their very words, still seem profoundly enigmatic. This can only encourage the opinion of those who would like Auschwitz to remain forever incomprehensible.

From a historical perspective, we know, for example, the most minute details of how the final phase of the extermination was executed, how the deportees were led to the gas chambers by a squad of their fellow inmates (the so-called *Sonderkommando*), who then saw to it that the corpses were dragged out and washed, that their hair and gold teeth were salvaged, and that their bodies, finally, were placed in the crematoria. We can enumerate and describe each of these events, but they remain singularly opaque when we truly seek to understand them. This discrepancy and unease has perhaps never been described more directly than by Zelman Lewental, a member of the *Sonderkommado* who entrusted his testimony to a few sheets of paper buried under crematorium III, which came to light seventeen years after the liberation of Auschwitz. “Just as the events that took place there cannot be imagined by any human being,” Lewental writes in Yiddish, “so is it unimaginable that anyone could exactly recount how our experiences took place. . . . we, the small group of obscure people who will not give historians much work to do.”

What is at issue here is not, of course, the difficulty we face whenever we try to communicate our most intimate experiences to others. The discrepancy in question concerns the very structure of testimony. On the one hand, what happened in the camps appears to the survivors as the only true thing and, as such, absolutely unforgettable; on the other hand, this truth is to the same degree unimaginable, that is, irreducible to the real elements that constitute it. Facts so real that, by comparison, nothing is truer; a reality that necessarily exceeds its factual elements—such is the aporia of Auschwitz. As Lewental writes, “the complete truth is far more tragic, far more frightening. . . .” More tragic, more frightening than what?

Lewental had it wrong on at least one point. There is no doubt that “the small group of obscure people” (“obscure” here is to be understood in the literal sense as invisible, that which cannot be perceived) will continue to give historians work to do. The aporia of Auschwitz is, indeed, the very aporia of historical knowledge: a non-coincidence between facts and truth, between verification and comprehension.

Some want to understand too much and too quickly; they have explanations for everything. Others refuse to understand; they offer only cheap mystifications. The only way forward lies in investigating the space between these two options. Moreover, a further difficulty must be considered, one which is particularly important for anyone who studies literary or philosophical texts. Many testimonies—both of executioners and victims—come from ordinary people, the “obscure” people who clearly comprised the great majority of camp inhabitants. One of the lessons of Auschwitz is that it is infinitely harder to grasp the mind of an ordinary person than to understand the mind of a Spinoza or Dante. (Hannah Arendt’s discussion of the “banality of evil,” so often misunderstood, must also be understood in this sense.)

Some readers may be disappointed to find that there is little in this book that cannot already be found in the testimonies of survivors. In its form, this book is a kind of perpetual commentary on testimony. It did not seem possible to proceed otherwise. At a certain point, it became clear that testimony contained at its core an essential lacuna; in other words, the survivors bore witness to something it is impossible to bear witness to. As a consequence, commenting on survivors’ testimony necessarily meant interrogating this lacuna or, more precisely, attempting to listen to it. Listening to something absent did not prove fruitless work for this author. Above all, it made it necessary to clear away almost all the doctrines that, since Auschwitz, have been advanced in the name of ethics. As we shall see, almost none of the ethical principles our age believed it could recognize as valid

have stood the decisive test, that of an *Ethica more Auschwitz demonstrata*. For my own part, I will consider myself content with my work if, in attempting to locate the place and theme of testimony, I have erected some signposts allowing future cartographers of the new ethical territory to orient themselves. Indeed, I will be satisfied if this book succeeds only in correcting some of the terms with which we register the decisive lesson of the century and if this book makes it possible for certain words to be left behind and others to be understood in a different sense. This is also a way perhaps the only way—to listen to what is unsaid.

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## The Witness

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**1.1.** In the camp, one of the reasons that can drive a prisoner to survive is the idea of becoming a witness. “I firmly decided that, despite everything that might happen to me, I would not take my own life . . . since I did not want to suppress the witness that I could become” (Langbein 1988: 186). Of course, not all deportees, indeed only a small fraction of them, give this reason. A reason for survival can be a matter of convenience: “He would like to survive for this or that reason, for this or that end, and he finds hundreds of pretexts. The truth is that he wants to live at whatever cost” (Lewental 1972: 148). Or it can simply be a matter of revenge: “Naturally I could have run and thrown myself onto the fence, because you can always do that. But I want to live. And what if the miracle happens we’re all waiting for? Maybe we’ll be liberated, today or tomorrow. Then I’ll have my revenge, then I’ll tell the whole world what happened here—inside there” (Sofsky 1997: 340). To justify one’s survival is not easy—least of all in the camp. Then there are some survivors who prefer to be silent. “Some of my friends, very dear friends of mine, never speak of Auschwitz” (Levi 1997: 224). Yet, for others, the only reason to live is to ensure that the witness does not perish. “Others, on the other hand, speak of it incessantly, and I am one of them” (ibid.).

1.2. Primo Levi is a perfect example of the witness. When he returns home, he tirelessly recounts his experience to everyone. He behaves like Coleridge’s Ancient Mariner:

You remember the scene: the Ancient Mariner accosts the wedding guests, who are thinking of the wedding and not paying attention to him, and he forces them to listen to his tale. Well, when I first returned from the concentration camp I did just that. I felt an unrestrainable need to tell my story to anyone and everyone! . . . Every situation was an occasion to tell my story to anyone and everyone: to tell it to the factory director as well as to the worker, even if they had other things to do. I was reduced to the state of the Ancient Mariner. Then I began

to write on my typewriter at night. . . . Every night I would write, and this was considered even crazier! (Levi 1997: 224–25)

But Levi does not consider himself a writer; he becomes a writer so that he can bear witness. In a sense, he never became a writer. In 1963, after publishing two novels and many short stories, he responds unhesitatingly to the question of whether he considers himself a writer or a chemist: “A chemist, of course, let there be no mistake” (Levi 1997: 102). Levi was profoundly uneasy with the fact that as time passed, and almost in spite of himself, he ended up a writer, composing books that had nothing to do with his testimony: “Then I wrote. . . . I acquired the vice of writing” (Levi 1997: 258). “In my latest book, *La Chiave a stella*, I stripped myself completely of my status as a witness. . . . This is not to deny anything; I have not ceased to be an ex-deportee, a witness. . . .” (ibid.: 167)

Levi had this unease about him when I saw him at meetings at the Italian publisher, Einaudi. He could feel guilty for having survived, but not for having borne witness. “I am at peace with myself because I bore witness” (ibid.: 219).

1.3. In Latin there are two words for “witness.” The first word, *testis*, from which our word “testimony” derives, etymologically signifies the person who, in a trial or lawsuit between two rival parties, is in the position of a third party (*\*terstis*). The second word, *superstes*, designates a person who has lived through something, who has experienced an event from beginning to end and can therefore bear witness to it. It is obvious that Levi is not a third party; he is a survivor [*superstite*] in every sense. But this also means that his testimony has nothing to do with the acquisition of facts for a trial (he is not neutral enough for this, he is not a *testis*). In the final analysis, it is not judgment that matters to him, let alone pardon. “I never appear as judge”; “I do not have the authority to grant pardon. . . . I am without authority” (ibid.: 77, 236). It seems, in fact, that the only thing that interests him is what makes judgment impossible: the gray zone in which victims become executioners and executioners become victims. It is about this above all that the survivors are in agreement: “No group was more human than any other” (ibid.: 232). “Victim and executioner are equally ignoble; the lesson of the camps is brotherhood in abjection” (Rousset, cf. Levi 1997: 216).

Not that a judgment cannot or must not be made. “If I had had Eichmann before me, I would have condemned him to death” (ibid.: 144). “If they have committed a crime, then they must pay” (ibid.: 236). The decisive point is simply that the two things not be blurred, that law not presume to exhaust the question. A nonjuridical element of truth exists such that the *quaestio facti* can never be reduced to the *quaestio iuris*. This is precisely what concerns the survivor:

everything that places a human action beyond the law, radically withdrawing it from the Trial. “Each of us can be tried, condemned and punished without even knowing why” (ibid.: 75).

1.4. One of the most common mistakes—which is not only made in discussions of the camp—is the tacit confusion of ethical categories and juridical categories (or, worse, of juridical categories and theological categories, which gives rise to a new theodicy). Almost all the categories that we use in moral and religious judgments are in some way contaminated by law: guilt, responsibility, innocence, judgment, pardon. . . . This makes it difficult to invoke them without particular caution. As jurists well know, law is not directed toward the establishment of justice. Nor is it directed toward the verification of truth. Law is solely directed toward judgment, independent of truth and justice. This is shown beyond doubt by the *force of judgment* that even an unjust sentence carries with it. The ultimate aim of law is the production of a *res judicata*, in which the sentence becomes the substitute for the true and the just, being held as true despite its falsity and injustice. Law finds peace in this hybrid creature, of which it is impossible to say if it is fact or rule; once law has produced its *res judicata*, it cannot go any further.

In 1983, the publisher Einaudi asked Levi to translate Kafka’s *The Trial*. Infinite interpretations of *The Trial* have been offered; some underline the novel’s prophetic political character (modern bureaucracy as absolute evil) or its theological dimension (the court as the unknown God) or its biographical meaning (condemnation as the illness from which Kafka believed himself to suffer). It has been rarely noted that this book, in which law appears solely in the form of a trial, contains a profound insight into the nature of law, which, contrary to common belief, is not so much rule as it is judgment and, therefore, trial. But if the essence of the law—of every law—is the trial, if all right (and morality that is contaminated by it) is only tribunal right, then execution and transgression, innocence and guilt, obedience and disobedience all become indistinct and lose their importance. “The court wants nothing from you. It welcomes you when you come; it releases you when you go.” The ultimate end of the juridical regulation is to produce judgment; but judgment aims neither to punish nor to extol, neither to establish justice nor to prove the truth. Judgment is in itself the end and this, it has been said, constitutes its mystery, the mystery of the trial.

One of the consequences that can be drawn from this self-referential nature of judgment—and Sebastiano Satta, a great Italian jurist, has done so—is that punishment does not follow from judgment, but rather that judgment is itself

punishment (*nullum iudicium sine poena*). “One can even say that the whole punishment is in the judgment, that the action characteristic of the punishment—incarceration, execution—matters only insofar as it is, so to speak, the carrying out of the judgment” (Satta 1994: 26). This also means that “the sentence of acquittal is the confession of a judicial error,” that “everyone is inwardly innocent,” but that the only truly innocent person “is not the one who is acquitted, but rather the one who goes through life without judgment” (ibid.: 27).

1.5. If this is true—and the survivor knows that it is true—then it is possible that the trials (the twelve trials at Nuremberg, and the others that took place in and outside German borders, including those in Jerusalem in 1961 that ended with the hanging of Eichmann) are responsible for the conceptual confusion that, for decades, has made it impossible to think through Auschwitz. Despite the necessity of the trials and despite their evident insufficiency (they involved only a few hundred people), they helped to spread the idea that the problem of Auschwitz had been overcome. The judgments had been passed, the proofs of guilt definitively established. With the exception of occasional moments of lucidity, it has taken almost half a century to understand that law did not exhaust the problem, but rather that the very problem was so enormous as to call into question law itself, dragging it to its own ruin.

The confusion between law and morality and between theology and law has had illustrious victims. Hans Jonas, the philosopher and student of Heidegger who specialized in ethical problems, is one of them. In 1984, when he received the Lucas Award in Tübingen, he reflected on the question of Auschwitz by preparing for a new theodicy, asking, that is, how it was possible for God to tolerate Auschwitz. A theodicy is a trial that seeks to establish the responsibility not of men, but of God. Like all theodicies, Jonas’s ends in an acquittal. The justification for the sentence is something like this: “The infinite (God) stripped himself completely, in the finite, of his omnipotence. Creating the world, God gave it His own fate and became powerless. Thus, having emptied himself entirely in the world, he no longer has anything to offer us; it is now man’s turn to give. Man can do this by taking care that it never happens, or rarely happens, that God regrets his decision to have let the world be.”

The conciliatory vice of every theodicy is particularly clear here. Not only does this theodicy tell us nothing about Auschwitz, either about its victims or executioners; it does not even manage to avoid a happy ending. Behind the powerlessness of God peeps the powerlessness of men, who continue to cry “May that never happen again!” when it is clear that “that” is, by now, everywhere.

1.6. The concept of responsibility is also irremediably contaminated by law. Anyone who has tried to make use of it outside the juridical sphere knows this. And yet ethics, politics, and religion have been able to define themselves only by seizing terrain from juridical responsibility—not in order to assume another kind of responsibility, but to articulate zones of non-responsibility. This does not, of course, mean impunity. Rather, it signifies—at least for ethics—a confrontation with a responsibility that is infinitely greater than any we could ever assume. At the most, we can be faithful to it, that is, assert its unassumability.

The unprecedented discovery made by Levi at Auschwitz concerns an area that is independent of every establishment of responsibility, an area in which Levi succeeded in isolating something like a new ethical element. Levi calls it the “gray zone.” It is the zone in which the “long chain of conjunction between victim and executioner” comes loose, where the oppressed becomes oppressor and the executioner in turn appears as victim. A gray, incessant alchemy in which good and evil and, along with them, all the metals of traditional ethics reach their point of fusion.

What is at issue here, therefore, is a zone of irresponsibility and “*impotentia iudicandi*” (Levi 1989: 60) that is situated not *beyond* good and evil but rather, so to speak, *before* them. With a gesture that is symmetrically opposed to that of Nietzsche, Levi places ethics before the area in which we are accustomed to consider it. And, without our being able to say why, we sense that this “before” is more important than any “beyond”—that the “underman” must matter to us more than the “overman.” This infamous zone of irresponsibility is our First Circle, from which no confession of responsibility will remove us and in which what is spelled out, minute by minute, is the lesson of the “terrifying, unsayable and unimaginable banality of evil” (Arendt 1992: 252).

1.7. The Latin verb *spondeo*, which is the origin of our term “responsibility,” means “to become the guarantor of something for someone (or for oneself) with respect to someone.” Thus, in the promise of marriage, the father would utter the formula *spondeo* to express his commitment to giving his daughter as wife to a suitor (after which she was then called a *sponsa*) or to guarantee compensation if this did not take place. In archaic Roman law, in fact, the custom was that a free man could consign himself as a hostage—that is, in a state of imprisonment, from which the term *obligatio* derives—to guarantee the compensation of a wrong or the fulfillment of an obligation. (The term *sponsor* indicated the person who substituted himself for the *reus*, promising, in the case of a breach of contract, to furnish the required service.)

The gesture of assuming responsibility is therefore genuinely juridical and not ethical. It expresses nothing noble or luminous, but rather simply obligation, the act by which one consigned oneself as a prisoner to guarantee a debt in a context in which the legal bond was considered to inhere in the body of the person responsible. As such, responsibility is closely intertwined with the concept of *culpa* that, in a broad sense, indicates the imputability of damage. (This is why the Romans denied that there could be guilt with respect to oneself: *quod quis ex culpa sua damnum sentit, non intelligitur damnum sentire*: the damage that one causes to oneself by one's own fault is not juridically relevant.)

Responsibility and guilt thus express simply two aspects of legal imputability; only later were they interiorized and moved outside law. Hence the insufficiency and opacity of every ethical doctrine that claims to be founded on these two concepts. (This holds both for Jonas, who claimed to formulate a genuine "principle of responsibility" and for Lévinas, who, in a much more complex fashion, transformed the gesture of the *sponsor* into the ethical gesture par excellence.) This insufficiency and opacity emerges clearly every time the borders that separate ethics from law are traced. Let us consider two examples, which are very far from each other as to the gravity of the facts they concern but which coincide with respect to the *distinguo* they imply.

During the Jerusalem trial, Eichmann's constant line of defense was clearly expressed by his lawyer, Robert Serviatius, with these words: "Eichmann feels himself guilty before God, not the law." Eichmann (whose implication in the extermination of the Jews was well documented, even if his role was probably different from that which was argued by the prosecution) actually went so far as to declare that he wanted "to hang himself in public" in order to "liberate young Germans from the weight of guilt." Yet, until the end, he continued to maintain that his guilt before God (who was for him only a *höherer Sinnesträger*, a higher bearer of meaning) could not be legally prosecuted. The only possible explanation for this insistence is that, whereas the assumption of moral guilt seemed ethically noble to the defendant, he was unwilling to assume any legal guilt (although, from an ethical point of view, legal guilt should have been less serious than moral guilt).

Recently, a group of people who once had belonged to a political organization of the extreme Left published a communiqué in a newspaper, declaring political and moral responsibility for the murder of a police officer committed twenty years ago. "Nevertheless, such responsibility," the document stated, "cannot be transformed . . . into a responsibility of penal character." It must be recalled that the assumption of moral responsibility has value only if one is

ready to assume the relevant legal consequences. The authors of the communiqué seem to suspect this in some way, when, in a significant passage, they assume a responsibility that sounds unmistakably juridical, stating that they contributed to “creating a climate that led to murder.” (But the offense in question, the instigation to commit a crime, is of course wiped out.) In every age, the gesture of assuming a juridical responsibility when one is innocent has been considered noble; the assumption of political or moral responsibility without the assumption of the corresponding legal consequences, on the other hand, has always characterized the arrogance of the mighty (consider Mussolini’s behavior, for example, with respect to the case of Giacomo Matteotti, the member of the Italian parliament who was assassinated by unknown killers in 1924). But today in Italy these models have been reversed and the contrite assumption of moral responsibilities is invoked at every occasion as an exemption from the responsibilities demanded by law.

Here the confusion between ethical categories and juridical categories (with the logic of repentance implied) is absolute. This confusion lies at the origin of the many suicides committed to escape trial (not only those of Nazi criminals), in which the tacit assumption of moral guilt attempts to compensate for legal guilt. It is worth remembering that the primary responsibility for this confusion lies not in Catholic doctrine, which includes a sacrament whose function is to free the sinner of guilt, but rather in secular ethics (in its well-meaning and dominant version). After having raised juridical categories to the status of supreme ethical categories and thereby irredeemably confusing the fields of law ethics, secular ethics still wants to play out its *distinguo*. But ethics is the sphere that recognizes neither guilt nor responsibility; it is, as Spinoza knew, the doctrine of the happy life. To assume guilt and responsibility—which can, at times, be necessary—is to leave the territory of ethics and enter that of law. Whoever has made this difficult step cannot presume to return through the door he just closed behind him.

1.8. The extreme figure of the “gray zone” is the *Sonderkommando*. The SS used the euphemism “special team” to refer to this group of deportees responsible for managing the gas chambers and crematoria. Their task was to lead naked prisoners to their death in the gas chambers and maintain order among them; they then had to drag out the corpses, stained pink and green by the cyanotic acid, and wash them with water; make sure that no valuable objects were hidden in the orifices of the bodies; extract gold teeth from the corpses’ jaws; cut the women’s hair and wash it with ammonia chloride; bring the corpses into the crematoria

and oversee their incineration; and, finally, empty out the ovens of the ash that remained. Levi writes:

Concerning these squads, vague and mangled rumors already circulated among us during our imprisonment and were confirmed afterward. . . . But the intrinsic horror of this human condition has imposed a sort of reserve on all the testimony, so that even today it is difficult to conjure up an image of “what it meant” to be forced to exercise this trade for months. . . . One of them declared: “Doing this work, one either goes crazy the first day or gets accustomed to it.” Another, though: “Certainly, I could have killed myself or got myself killed; but I wanted to survive, to avenge myself and bear witness. You mustn’t think that we are monsters; we are the same as you, only much more unhappy.” . . . One cannot expect from men who have known such extreme destitution a deposition in the juridical sense, but something that is at once a lament, a curse, an expiation, an attempt to justify and rehabilitate oneself. . . . Conceiving and organizing the squads was National Socialism’s most demonic crime. (Levi 1989: 52–3)

And yet Levi recalls that a witness, Miklos Nyszli, one of the very few who survived the last “special team” of Auschwitz, recounted that during a “work” break he took part in a soccer match between the SS and representatives of the *Sonderkommando*. “Other men of the SS and the rest of the squad are present at the game; they take sides, bet, applaud, urge the players on as if, rather than at the gates of hell, the game were taking place on the village green” (Levi 1989: 55).

This match might strike someone as a brief pause of humanity in the middle of an infinite horror. I, like the witnesses, instead view this match, this moment of normalcy, as the true horror of the camp. For we can perhaps think that the massacres are over—even if here and there they are repeated, not so far away from us. But that match is never over; it continues as if uninterrupted. It is the perfect and eternal cipher of the “gray zone,” which knows no time and is in every place. Hence the anguish and shame of the survivors, “the anguish inscribed in everyone of the ‘tohu-bohu,’ of a deserted and empty universe crushed under the spirit of God but from which the spirit of man is absent: not yet born or already extinguished” (Levi 1989: 85). But also hence our shame, the shame of those who did not know the camps and yet, without knowing how, are spectators of that match, which repeats itself in every match in our stadiums, in every television broadcast, in the normalcy of everyday life. If we do not succeed in understanding that match, in stopping it, there will never be hope.

1.9. In Greek the word for witness is *martis*, martyr. The first Church Fathers coined the word *martirium* from *martis* to indicate the death of persecuted Christians, who thus bore witness to their faith. What happened in the camps

has little to do with martyrdom. The survivors are unanimous about this. “By calling the victims of the Nazis ‘martyrs,’ we falsify their fate” (Bettelheim 1979: 92). Nevertheless, the concepts of “witnessing” and “martyrdom” can be linked in two ways. The first concerns the Greek term itself, derived as it is from the verb meaning “to remember.” The survivor’s vocation is to remember; he cannot *not* remember. “The memories of my imprisonment are much more vivid and detailed than those of anything else that happened to me before or after” (Levi 1997: 225). “I still have a visual and acoustic memory of the experiences there that I cannot explain. . . . sentences in languages I do not know have remained etched in my memory, like on a magnetic tape; I have repeated them to Poles and Hungarians and have been told that the sentences are meaningful. For some reason that I cannot explain, something anomalous happened to me, I would say almost an unconscious preparation for bearing witness” (ibid.: 220).

The second point of connection is even more profound, more instructive. The study of the first Christian texts on martyrdom—for example, Tertullian’s *Scorpiacus*—reveals some unexpected teachings. The Church Fathers were confronted by heretical groups that rejected martyrdom because, in their eyes, it constituted a wholly senseless death (*perire sine causa*). What meaning could be found in professing one’s faith before men—persecutors and executioners—who would understand nothing of this undertaking? God could not desire something without meaning. “Must innocents suffer these things? . . . Once and for all Christ immolated himself for us; once and for all he was killed, precisely so that we would not be killed. If he asks for the same in return, is it perhaps because he too expects salvation in my death? Or should one perhaps think that God demands the blood of men even while he disdains that of bulls and goats? How could God ever desire the death of someone who is not a sinner?” The doctrine of martyrdom therefore justifies the scandal of a meaningless death, of an execution that could only appear as absurd. Confronted with the spectacle of a death that was apparently *sine causa*, the reference to Luke 12: 8–9 and to Matthew 10: 32–33 (“Whosoever therefore shall confess me before men, him will I confess also before my Father which is in heaven. But whosoever shall deny me before men, him will I also deny before my Father which is in heaven”) made it possible to interpret martyrdom as a divine command and, thus, to find a reason for the irrational.

But this has very much to do with the camps. For what appears in the camps is an extermination for which it may be possible to find precedents, but whose forms make it absolutely senseless. Survivors are also in agreement on this. “Even to us, what we had to tell would start to seem *unimaginable*” (Antelme 1992: 3). “All the attempts at clarification . . . failed ridiculously” (Améry 1980: vii). “I am

irritated by the attempts of some religious extremists to interpret the extermination according to the manner of the prophets: as a punishment for our sins. No! I do not accept this. What is terrifying is that it was senseless. . . ." (Levi 1997: 219).

The unfortunate term "holocaust" (usually with a capital "H") arises from this unconscious demand to justify a death that is *sine causa*—to give meaning back to what seemed incomprehensible. "Please excuse me, I use this term 'Holocaust' reluctantly because I do not like it. But I use it to be understood. Philologically, it is a mistake. . . ." (ibid.: 243). "It is a term that, when it first arose, gave me a lot of trouble; then I learned that it was Wiesel himself who had coined it, then regretted it and wanted to take it back" (ibid.: 219).

1.10. The history of an incorrect term can also prove instructive. "Holocaust" is the scholarly transcription of the Latin *holocaustum* which, in turn, is a translation of the Greek term *holocaustos* (which is, however, an adjective, and which means "completely burned"; the corresponding Greek noun is *holocaustōma*). The semantic history of the term is essentially Christian, since the Church Fathers used it to translate—in fact with neither rigour nor coherence—the complex sacrificial doctrine of the Bible (in particular, of Leviticus and Deuteronomy). Leviticus reduces all sacrifices to four fundamental types: *olah*, *hattat*, *shelamin*, *minha*. As Marcel Mauss and Henri Hubert write in "The Nature and Function of Sacrifice,"

The names of two of these are significant. The *hattat* was the sacrifice employed especially to expiate the sin called *hattat* or *hataah*, the definition of which given in Leviticus is unfortunately extremely vague. The *shelamin* is a communion sacrifice, a sacrifice of thanksgiving, of alliance, of vows. As for the terms *olah* and *minha*, they are purely descriptive. Each recalls one of the special operations of sacrifice: the latter, the presentation of the victim, if it is of vegetable matter, the former, the dispatch of the offering to the divinity. (Mauss and Hubert 1964: 16)

The Vulgate usually translates *olah* by *holocaustum* (*holocausti oblatio*); *hattat* by *oblatio*; *shelamin* by *hostia pacificorum*; *minha* by *hostia pro peccato*. The term *holocaustum* is transmitted from the Vulgate to the Latin Fathers, who used it primarily in the many commentaries of the Holy Writ to indicate the sacrifices of the Hebrews. (Thus in Hilarius, *In Psalmata*, 65, 23: *holocausta sunt integra hostiarum corpora, quia tota ad ignem sacrificii deferebantur, holocausta sunt nuncupata.*) Two points are particularly important here. First, early on, the Church Fathers used the term in its literal sense as a polemical weapon against the Jews, to condemn the uselessness of bloody sacrifices (Tertullian's text, which refers to Marcion, is

exemplary: *Quid stultius. . . quam sacrificiorum cruentorum et holocaustatum nidorosurum a deo exactio?* “What is more foolish than a god who demands bloody sacrifices and holocausts that smell of burnt remains?” *Adversus Marcionem* 5, 5; cf. also Augustine, C. *Faustus*, 19, 4). Second, the term “holocaustum” is extended as a metaphor to include Christian martyrs, such that their torture is equated with sacrifice (Hilarius, *In Psalmata*, 65, 23: *Martyres in fidei testimonium corpora sua holocausta voverunt*). Christ’s sacrifice on the cross is thus ultimately defined as a holocaust (Augustine, *In Evang. Joab.*, 4I, 5: *se in holocaustum obtulerit in cruce Iesus*; Rufinus, *Origines in Leviticum*, 1, 4: *holocaustum. . . carnis eius per lignum crucis oblatum*).

Thus begins the semantic migration by which the term “holocaust” in vernacular languages gradually acquires the meaning of the “supreme sacrifice in the sphere of a complete devotion to sacred and superior motives.” In English, the term appears in its literal sense in Tindale (*Mark* xii. 33: “A greater thyng than all holocaustes and sacrificises”) and H. More (*Apocal. Apoc.* 101: “In the latter part thereof stands the altar of Holocausts”). The term appears in its metaphorical sense in Bp. Alcock (*Mons Perfect* C iija: “Very true obedience is an holocauste of martyrdom made to Cryste”), J. Beaumont (*Psyche* xxiv. cxciv: “The perfect holocaust of generous love”) and Milton, where it signifies a complete consumption by fire (*Samson* 1702: “Like that self-begotten bird In the Arabian woods embost, That no second knows nor third, And lay erewhile a Holocaust”). It is repeated, over and over again, through to the twentieth century (for example, *Hansard Commons* 6 March, 1940: “the general holocaust of civilized standards”) (*Oxford English Dictionary* 1989: 315).

But the term’s usage in polemics against the Jews also has a history, even if it is a secret one not recorded by dictionaries. In the course of my research on sovereignty, I happened upon a passage by a medieval chronicler that constitutes, to my knowledge, the first use of *holocaust* with reference to a massacre of Jews, in this case in a violently anti-Semitic fashion. Richard of Duizes testifies that on the day of the coronation of Richard I (1189), the inhabitants of London engaged in a particularly bloody pogrom: “The very day of the coronation of the king, at about the hour in which the Son was burnt for the Father, they began in London to burn the Jews for their father the demon (*incoeptum est in civitate Londoniae immolare judaeos patri suo diabolo*); and the celebration of this mystery lasted so long that the holocaust could not be completed before the next day. And the other cities and towns of the region imitated the faith of the inhabitants of London and, with the same devotion, sent their bloodsuckers to hell (*pari devotione suas sanguisugas cum sang uine transmiserunt ad inferos*)” (Cardini 1994: 131).

Insofar as it implies the substitution of a literal expression with an attenuated or altered expression for something that one does not actually want to hear mentioned, the formation of a euphemism always involves ambiguities. In this case, however, the ambiguity is intolerable. The Jews also use a euphemism to indicate the extermination. They use the term *so'ah*, which means “devastation, catastrophe” and, in the Bible, often implies the idea of a divine punishment (as in Isaiah 10:3: “What will you do in the day of punishment, when the *so'ah* will come from afar?”). Even if Levi probably refers to this term when he speaks of the attempt to interpret the extermination as a punishment for our sins, his use of the euphemism contains no mockery. In the case of the term “holocaust,” by contrast, the attempt to establish a connection, however distant, between Auschwitz and the Biblical *olah* and between death in the gas chamber and the “complete devotion to sacred and superior motives” cannot but sound like a jest. Not only does the term imply an unacceptable equation between crematoria and altars; it also continues a semantic heredity that is from its inception anti-Semitic. This is why we will never make use of this term.

I.II. Several years ago, when I published an article on the concentration camps in a French newspaper, someone wrote a letter to the editor in which, among other crimes, I was accused of having sought to “ruin the unique and unsayable character of Auschwitz.” I have often asked myself what the author of the letter could have had in mind. The phenomenon of Auschwitz is unique (certainly in the past, and we can only hope for the future). As Levi points out: “Up to the moment of this writing, and notwithstanding the horror of Hiroshima and Nagasaki, the shame of the Gulags, the useless and bloody Vietnam war, the Cambodian self-genocide, the *desaparecidos* in Argentina, and the many atrocious and stupid wars we have seen since, the Nazi concentration camp still remains an *unicum*, both in its extent and its quality” (Levi 1989: 21). But why unsayable? Why confer on extermination the prestige of the mystical?

In the year 386 of our era, in Antioch, John Chrysostom composed his treatise *On the Incomprehensible Nature of God*. He opposed those who maintained that God's essence could be understood, on the grounds that “everything that He knows of Himself we can also easily find in ourselves.” Vigorously arguing against his adversaries in affirming the incomprehensibility of God, who is “unsayable” (*arrētos*), “unspeakable” (*anekdiēgētos*), and “unwritable” (*anepigraptos*), John well knew that this was precisely the best way to glorify (*doxan didonai*) and adore (*proskuein*) Him. Even for the angels, after all, God is incomprehensible; but because of this they can glorify and adore Him, offering Him their mystical

songs. John contrasts the angelic hosts with those seeking in vain to understand God: “those ones [the angels] glorify, these ones seek to understand; those ones adore in silence, these ones give themselves work to do; those ones divert their gaze, these ones are not ashamed to stare into unsayable glory” (Chrysostom 1970). The verb that we have translated “to adore in silence” is, in the Greek text, *euphemein*. *Euphemein*, which originally means “to observe religious silence,” is the origin of the modern word “euphemism,” which denotes those terms that are substituted for other terms that cannot be uttered for reasons of modesty or civility. To say that Auschwitz is “unsayable” or “incomprehensible” is equivalent to *euphemein*, to adoring in silence, as one does with a god. Regardless of one’s intentions, this contributes to its glory. We, however, “are not ashamed of staring into the unsayable”—even at the risk of discovering that what evil knows of itself, we can also easily find in ourselves.

1.12. Testimony, however, contains a lacuna. The survivors agree about this. “There is another lacuna in every testimony: witnesses are by definition survivors and so all, to some degree, enjoyed a privilege. . . . No one has told the destiny of the common prisoner, since it was not materially possible for him to survive. . . . I have also described the common prisoner when I speak of ‘Muslims’; but the Muslims did not speak” (Levi 1997: 215–16). “Those who have not lived through the experience will never know; those who have will never tell; not really, not completely. . . . The past belongs to the dead. . . .” (Wiesel 1975: 314).

It is worth reflecting upon this lacuna, which calls into question the very meaning of testimony and, along with it, the identity and reliability of the witnesses. “I must repeat: we, the survivors, are not the true witnesses. . . . We survivors are not only an exiguous but also an anomalous minority: we are those who by their prevarications or abilities or good luck did not touch bottom. Those who did so, those who saw the Gorgon, have not returned to tell about it or have returned mute, but they are the Muslims, the submerged, the complete witnesses, the ones whose deposition would have a general significance. They are the rule, we are the exception. . . . We who were favored by fate tried, with more or less wisdom, to recount not only our fate but also that of the others, indeed of the drowned; but this was a discourse ‘on behalf of third parties,’ the story of things seen at close hand, not experienced personally. The destruction brought to an end, the job completed, was not told by anyone, just as no one ever returned to describe his own death. Even if they had paper and pen, the drowned would not have testified because their death had begun before that of their body. Weeks and months before being snuffed out, they had already lost the ability

to observe, to remember, to compare and express themselves. We speak in their stead, by proxy" (Levi 1989: 83–4).

The witness usually testifies in the name of justice and truth and as such his or her speech draws consistency and fullness. Yet here the value of testimony lies essentially in what it lacks; at its center it contains something that cannot be borne witness to and that discharges the survivors of authority. The "true" witnesses, the "complete witnesses," are those who did not bear witness and could not bear witness. They are those who "touched bottom": the Muslims, the drowned. The survivors speak in their stead, by proxy, as pseudo-witnesses; they bear witness to a missing testimony. And yet to speak here of a proxy makes no sense; the drowned have nothing to say, nor do they have instructions or memories to be transmitted. They have no "story" (Levi 1986: 90), no "face," and even less do they have "thought" (ibid.). Whoever assumes the charge of bearing witness in their name knows that he or she must bear witness in the name of the impossibility of bearing witness. But this alters the value of testimony in a definitive way; it makes it necessary to look for its meaning in an unexpected area.

1.13. It has already been observed that, in testimony, there is something like an impossibility of bearing witness. In 1983, Jean-François Lyotard published *The Differend*, which, ironically repeating the recent claims of revisionists, opens with a logical paradox:

You are informed that human beings endowed with language were placed in a situation such that none of them is now able to tell about it. Most of them disappeared then, and the survivors rarely speak about it. When they do speak about it, their testimony bears only upon a minute part of this situation. How can you know that the situation itself existed? That it is not the fruit of your informant's imagination? Either the situation did not exist as such. Or else it did exist, in which case your informant's testimony is false, either because he or she should have disappeared, or else because he or she should remain silent. . . . To have "really seen with his own eyes" a gas chamber would be the condition which gives one the authority to say that it exists and to persuade the unbeliever. Yet it is still necessary to prove that the gas chamber was used to kill at the time it was seen. The only acceptable proof that it was used to kill is that one died from it. But if one is dead, one cannot testify that it is on account of the gas chamber. (Lyotard 1988: 3)

A few years later, Shoshana Felman and Dori Laub elaborated the notion of the Shoah as an "event without witnesses." In 1990, one of the authors further developed this concept in the form of a commentary on Claude Lanzmann's film. The Shoah is an event without witnesses in the double sense that it is

impossible to bear witness to it from the inside—since no one can bear witness from the inside of death, and there is no voice for the disappearance of voice—and from the outside—since the “outsider” is by definition excluded from the event:

It is not really possible to *tell the truth*, to testify, from the outside. Neither is it possible, as we have seen, to testify from the inside. I would suggest that the impossible position and the testimonial effort of the film as a whole is to be, precisely, neither simply inside nor simply outside, but paradoxically, *both inside and outside*: to create a *connection* that did not exist during the war and does not exist today *between the inside and the outside*—to set them both in motion and in dialogue with one another. (Felman and Laub 1992: 232)

This threshold of indistinction between inside and outside (which, as we shall see, is anything but a “connection” or a “dialogue”) could have led to a comprehension of the structure of testimony; yet it is precisely this threshold that Felman fails to interrogate. Instead of developing her pertinent analysis, the author derives an aesthetic possibility from a logical impossibility, through recourse to the metaphor of song:

What makes the power of the testimony in the film and what constitutes in general the impact of the film is not the words but the equivocal, puzzling relation between words and voice, the interaction, that is, between words, voice, rhythm, melody, images, writing, and silence. Each testimony speaks to us beyond its words, beyond its melody, like the unique performance of a singing. (Ibid.: 277–78)

To explain the paradox of testimony through the *deus ex machina* of song is to aestheticize testimony—something that Lanzmann is careful to avoid. Neither the poem nor the song can intervene to save impossible testimony; on the contrary, it is testimony, if anything, that founds the possibility of the poem.

1.14. The incomprehension of an honest mind is often instructive. Primo Levi, who did not like obscure authors, was attracted to the poetry of Paul Celan, even if he did not truly succeed in understanding it. In a brief essay, entitled “On Obscure Writing,” he distinguishes Celan from those who write obscurely out of contempt for the reader or lack of expressivity. The obscurity of Celan’s poetics makes Levi think instead of a “pre-suicide, a not-wanting-to-be, a flight from the world for which a willed death appears as completion.” The extraordinary operation accomplished by Celan on the German language, which has so fascinated Celan’s readers, is compared by Levi—for reasons worth reflecting on—to an inarticulate babble or the gasps of a dying man. “This darkness that grows

from page to page until the last inarticulate babble fills one with consternation like the gasps of a dying man; indeed, it is just that. It enralls us as whirlpools enrall us, but at the same time it robs us of what was supposed to be said but was not said, thus frustrating and distancing us. I think that Celan the poet must be considered and mourned rather than imitated. If his is a message, it is lost in the ‘background noise: It is not communication; it is not a language, or at the most it is a dark and maimed language, precisely that of someone who is about to die and is alone, as we will all be at the moment of death’ (Levi 1990: 637).

In Auschwitz, Levi had already attempted to listen to and interpret an inarticulate babble, something like a non-language or a dark and maimed language. It was in the days that followed the liberation of the camp, when the Russians moved the survivors from Buna to the “big camp” of Auschwitz. Here Levi’s attention was immediately drawn to a child the deportees called Hurbinek:

Hurbinek was a nobody, a child of death, a child of Auschwitz. He looked about three years old, no one knew anything of him, he could not speak and had no name; that curious name, Hurbinek, had been given to him by us, perhaps by one of the women who had interpreted with those syllables one of the inarticulate sounds that the baby let out now and again. He was paralyzed from the waist down, with atrophied legs, as thin as sticks; but his eyes, lost in his triangular and wasted face, flashed terribly alive, full of demand, assertion, of the will to break loose, to shatter the tomb of his dumbness. The speech he lacked, which no one had bothered to teach him, the need of speech charged his stare with explosive urgency. (Levi 1986: 191)

Now at a certain point Hurbinek begins to repeat a word over and over again, a word that no one in the camp can understand and that Levi doubtfully transcribes as *mass-klo* or *matisklo*. “During the night we listened carefully: it was true, from Hurbinek’s corner there occasionally came a sound, a word. It was not, admittedly, always exactly the same word, but it was certainly an articulated word; or better, several slightly different articulated words, experimental variations of a theme, on a root, perhaps even on a name” (Levi 1986: 192). They all listen and try to decipher that sound, that emerging vocabulary; but, despite the presence of all the languages of Europe in the camp, Hurbinek’s word remains obstinately secret. “No, it was certainly not a message, it was not a revelation; perhaps it was his name, if it had ever fallen to his lot to be given a name; perhaps (according to one of our hypotheses) it meant ‘to eat,’ or ‘bread’; or perhaps ‘meat’ in Bohemian, as one of us who knew that language maintained. . . . Hurbinek, the nameless, whose tiny forearm—even his—bore the tattoo of

Auschwitz; Hurbinek died in the first days of March 1945, free but not redeemed. Nothing remains of him: he bears witness through these words of mine” (ibid.).

Perhaps this was the secret word that Levi discerned in the “background noise” of Celan’s poetry. And yet in Auschwitz, Levi nevertheless attempted to listen to that to which no one has borne witness, to gather the secret word: *mass-klo*, *matisklo*. Perhaps every word, every writing is born, in this sense, as testimony. This is why what is borne witness to cannot already be language or writing. It can only be something to which no one has borne witness. And this is the sound that arises from the lacuna, the non-language that one speaks when one is alone, the non-language to which language answers, in which language is born. It is necessary to reflect on the nature of that to which no one has borne witness, on this non-language.

1.15. Hurbinek cannot bear witness, since he does not have language (the speech that he utters is a sound that is uncertain and meaningless: *mass-klo* or *matisklo*). And yet he “bears witness through these words of mine.” But not even the survivor can bear witness completely, can speak his own lacuna. This means that testimony is the disjunction between two impossibilities of bearing witness; it means that language, in order to bear witness, must give way to a non-language in order to show the impossibility of bearing witness. The language of testimony is a language that no longer signifies and that, in not signifying, advances into what is without language, to the point of taking on a different insignificance—that of the complete witness, that of he who by definition cannot bear witness. To bear witness, it is therefore not enough to bring language to its own nonsense, to the pure undecidability of letters (*m-a-s-s-k-l-o*, *m-a-t-i-s-k-l-o*). It is necessary that this senseless sound be, in turn, the voice of something or someone that, for entirely other reasons, cannot bear witness. It is thus necessary that the impossibility of bearing witness, the “lacuna” that constitutes human language, collapses, giving way to a different impossibility of bearing witness—that which does not have language.

The trace of that to which no one has borne witness, which language believes itself to transcribe, is not the speech of language. The speech of language is born where language is no longer in the beginning, where language falls away from it simply to bear witness: “It was not light, but was sent to bear witness to the light.”

## The *Muselmann*

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### 2.1. The untestifiable, that to which no one has borne witness, has a name. In the jargon of the camp, it is *der Muselmann*, literally “the Muslim.”

The so-called *Muselmann*, as the camp language termed the prisoner who was giving up and was given up by his comrades, no longer had room in his consciousness for the contrasts good or bad, noble or base, intellectual or unintellectual. He was a staggering corpse, a bundle of physical functions in its last convulsions. As hard as it may be for us to do so, we must exclude him from our considerations. (Améry 1980:9)

(Again the lacuna in testimony, one which is now consciously affirmed.)

I remember that while we were going down the stairs leading to the baths, they had us accompanied by a group of *Muselmänner*, as we later called them—mummy-men, the living dead. They made them go down the stairs with us only to show them to us, as if to say, “you’ll become like them.” (Carpi 1993: 17)

The SS man was walking slowly, looking at the Muslim who was coming toward him. We looked to the left, to see what would happen. Dragging his wooden clogs, the dull-witted and aimless creature ended up bumping right into the SS officer, who yelled at him and gave him a lashing on the head. The Muslim stood still, without realizing what had happened. When he received a second and, then, a third lashing because he had forgotten to take off his cap, he began to do it on himself, as he had dysentery. When the SS man saw the black, stinking liquid begin to cover his clogs, he went crazy. He hurled himself on top of the Muslim and began kicking his stomach with all his strength. Even after the poor thing had fallen into his own excrement, the SS man kept beating his head and chest. The Muslim didn’t defend himself. With the first kick, he folded in two, and after a few more he was dead. (Ryn and Klodzinski 1987: 128–29)

Two phases must be distinguished in the symptoms of malnutrition. The first is characterized by weight loss, muscular asthenia, and progressive energy loss in movement. At this stage, the organism is not yet deeply damaged. Aside from the slowness of movement and the loss of strength, those suffering from

malnutrition still do not show any symptoms. If one disregards a certain degree of excitability and irritability, not even psychological changes can be detected. It was difficult to recognize the point of passage into the second stage. In some cases it happened slowly and gradually; in others it happened very quickly. It was possible to ascertain that the second phase began when the starving individual lost a third of his normal weight. If he continued losing weight, his facial expression also changed. His gaze became cloudy and his face took on an indifferent, mechanical, sad expression. His eyes became covered by a kind of layer and seemed deeply set in his face. His skin took on a pale gray color, becoming thin and hard like paper. He became very sensitive to every kind of infection and contagion, especially scabies. His hair became bristly, opaque, and split easily. His head became longer, his cheek bones and eye sockets became more pronounced. He breathed slowly; he spoke softly and with great difficulty. Depending on how long he had been in this state of malnutrition, he suffered from small or large edemas. They appeared on his lower eyelids and his feet and, then, on other parts of his body depending on the time of day. In the morning, after his night-time sleep, they were most visible on his face. In the evening, on the other hand, they most easily could be seen on his feet and the lower and upper parts of his legs. Being on his feet all the time made all the liquids in him accumulate in the lower part of his body. As the state of malnutrition grew, the edemas multiplied, especially on those who had to stand on their feet for many hours—first on the lower part of their legs, then on their behinds and testicles and even on their abdomens. The swellings were often accompanied by diarrhea, which often preceded the development of edemas. In this phase, they became indifferent to everything happening around them. They excluded themselves from all relations to their environment. If they could still move around, they did so in slow motion, without bending their knees. They shivered since their body temperature usually fell below 98.7 degrees. Seeing them from afar, one had the impression of seeing Arabs praying. This image was the origin of the term used at Auschwitz for people dying of malnutrition: Muslims. (Ibid.: 94)

No one felt compassion for the Muslim, and no one felt sympathy for him either. The other inmates, who continually feared for their lives, did not even judge him worthy of being looked at. For the prisoners who collaborated, the Muslims were a source of anger and worry; for the SS, they were merely useless garbage. Every group thought only about eliminating them, each in its own way. (Ibid.: 127)

All the *Muselmänner* who finished in the gas chambers have the same story, or more exactly, have no story; they followed the slope down to the bottom, like streams that run down to the sea. On their entry into the camp, through basic incapacity, or by misfortune, or through some banal incident, they are overcome before they can adapt themselves; they are beaten by time, they do not begin to

learn German, to disentangle the infernal knot of laws and prohibitions until their body is already in decay, and nothing can save them from selections or from death by exhaustion. Their life is short, but their number is endless; they, the *Muselmänner*, the drowned, form the backbone of the camp, an anonymous mass, continually renewed and always identical, of non-men who march and labour in silence, the divine spark dead in them, already too empty to really suffer. One hesitates to call them living; one hesitates to call their death death, in the face of which they have no fear, as they are too tired to understand.

They crowd my memory with their faceless presence, and if I could enclose all the evil of our time in one image, I would choose this image which is familiar to me: an emaciated man, with head dropped and shoulders curved, on whose face and in whose eyes not a trace of thought is to be seen. (Levi 1986: 90)

2.2. There is little agreement on the origin of the term *Muselmann*. As is often the case with jargon, the term is not lacking in synonyms. “The expression was in common use especially in Auschwitz, from where it spread to other camps as well. . . . In Majdanek, the word was unknown. The living dead there were termed ‘donkeys’; in Dachau they were ‘cretins,’ in Stutthof ‘cripples,’ in Mauthausen ‘swimmers,’ in Neuengamme ‘camels,’ in Buchenwald ‘tired sheikhs,’ and in the women’s camp known as Ravensbruck, *Muselweiber* (female Muslims) or ‘trinkets’”(Sofsky 1997: 329n5).

The most likely explanation of the term can be found in the literal meaning of the Arabic word muslim: the one who submits unconditionally to the will of God. It is this meaning that lies at the origin of the legends concerning Islam’s supposed fatalism, legends which are found in European culture starting with the Middle Ages (this deprecatory sense of the term is present in European languages, particularly in Italian). But while the muslim’s resignation consists in the conviction that the will of Allah is at work every moment and in even the smallest events, the *Muselmann* of Auschwitz is instead defined by a loss of all will and consciousness. Hence Kogon’s statement that in the camps, the “relatively large group of men who had long since lost any real will to survive . . . were called ‘Moslems’—men of unconditional fatalism” (Kogon 1979: 284).

There are other, less convincing explanations. One example appears in the *Encyclopedia Judaica* under the entry *Muselmann*: “Used mainly at Auschwitz, the term appears to derive from the typical attitude of certain deportees, that is, staying crouched on the ground, legs bent in Oriental fashion, faces rigid as masks.” Another explanation is suggested by Marsalek, who associates “the typical movements of *Muselmänner*, the swaying motions of the upper part of the body, with Islamic prayer rituals” (Sofsky 1997: 329n5). There is also the rather

improbable interpretation of *Muselmann* as *Muschelmann*, “shell-man,” a man folded and closed upon himself (Levi seems to allude to this interpretation when he writes of “husk-men”).

In any case, it is certain that, with a kind of ferocious irony, the Jews knew that they would not die at Auschwitz as Jews.

2.3. This disagreement concerning the etymology of the term *Muselmann* has as its precise counterpart an uncertainty as to the semantic and disciplinary field in which the term should be situated. It is not surprising that the physician Fejkiel, who worked for a long time in the concentration camps, tended to treat the *Muselmann* as a medical case, beset with a particular malnutritional disorder endemic to the camps. To a certain degree, it was Bruno Bettelheim who first considered this issue, when in 1943 he published his essay “Individual and Mass Behavior in Extreme Situations” in the *Journal of Abnormal and Social Psychology*. In 1938–39, before being liberated, Bettelheim spent a year in Dachau and Buchenwald, which at the time were the two largest Nazi concentration camps for political prisoners. Though the living conditions of the camps during those years cannot be compared to Auschwitz, Bettelheim had seen *Muselmänner* with his own eyes, and immediately recognized the novel transformations that “extreme situations” produced in the personalities of camp prisoners. For him, the *Muselmann* became the paradigm through which he conceived his study of childhood schizophrenia, written years after he immigrated to the United States. The Orthogenic School, which he founded in Chicago to treat autistic children, thus had the form of a kind of counter-camp, in which he undertook to teach *Muselmänner* to become men again. There is not one character trait in Bettelheim’s detailed phenomenology of childhood autism described in *The Empty Fortress* that does not have its dark precursor and interpretative paradigm in the behavior of the *Muselmann*. “What was external reality for the prisoner is for the autistic child his inner reality. Each ends up, though for different reasons, with a parallel experience of the world” (Bettelheim 1967: 65). Just as autistic children totally ignored reality in order to retreat into an imaginary world, so the prisoners who became *Muselmänner* substituted delirious fantasies for the relations of causality to which they no longer paid any attention. In the semicross-eyed gaze, hesitant walk, and stubborn repetitiveness and silence of Joey, Marcie, Laurie, and the other children of the school, Bettelheim sought a possible solution to the enigma that the *Muselmann* had confronted him with at Dachau. Nevertheless, for Bettelheim, the concept of “extreme situation” continued to imply a moral and political connotation; for him, the *Muselmann*

could never be reduced to a clinical category. Because what was at stake in the extreme situation was “to remain alive and unchanged as a person” (Bettelheim 1960: 158), the *Muselmann* in some sense marked the moving threshold in which man passed into non-man and in which clinical diagnosis passed into anthropological analysis.

As for Levi, whose first testimony was a “Report on the Hygienic and Sanitary Organization of the Monowitz (Auschwitz, High Silesia) Concentration Camp for Jews,” written in 1946 at the request of the Soviet authorities, the nature of the experience to which he was called to bear witness was never in question. “Actually, what interests me is the dignity and lack of dignity of man,” he declared in 1986 to Barbara Kleiner, with a sense of irony that probably went unnoticed by his interviewer (Levi 1997: 78). The new ethical material that he discovered at Auschwitz allowed for neither summary judgments nor distinctions and, whether he liked it or not, lack of dignity had to interest him as much as dignity. As suggested by the ironically rhetorical Italian title *Se questo è un uomo* (literally “If This Is a Man,” translated as *Survival in Auschwitz* in English), in Auschwitz ethics begins precisely at the point where the *Muselmann*, the “complete witness,” makes it forever impossible to distinguish between man and non-man.

An explicit political meaning has also been attributed to the extreme threshold between life and death, the human and the inhuman, that the *Muselmann* inhabits:

The *Muselmann* embodies the anthropological meaning of absolute power in an especially radical form. Power abrogates itself in the act of killing. The death of the other puts an end to the social relationship. But by starving the other, it gains time. It erects a third realm, a limbo between life and death. Like the pile of corpses, the *Muselmänner* document the total triumph of power over the human being. Although still nominally alive, they are nameless hulks. In the configuration of their infirmity, as in organized mass murder, the regime realizes its quintessential self. (Sofsky 1997: 294)

At times a medical figure or an ethical category, at times a political limit or an anthropological concept, the *Muselmann* is an indefinite being in whom not only humanity and non-humanity, but also vegetative existence and relation, physiology and ethics, medicine and politics, and life and death continuously pass through each other. This is why the *Muselmann*'s “third realm” is the perfect cipher of the camp, the non-place in which all disciplinary barriers are destroyed and all embankments flooded.

2.4. Recently, philosophers and theologians alike have invoked the paradigm of the “extreme situation” or “limit situation.” The function of this paradigm is analogous to the function ascribed by some jurists to the state of exception. Just as the state of exception allows for the foundation and definition of the normal legal order, so in the light of the extreme situation—which is, at bottom, a kind of exception—it is possible to judge and decide on the normal situation. As Kierkegaard writes, “the exception explains the general as well as itself. And when one really wants to study the general, one need only look around for a real exception.” In Bettelheim, the camp, as the exemplary extreme situation, thus allows for the determination of what is inhuman and human and, in this way, for the separation of the *Muselmann* from the human being.

Referring to the concept of the limit situation and, in particular, to the experience of the Second World War, Karl Barth justly observed that human beings have the striking capacity to adapt so well to an extreme situation that it can no longer function as a distinguishing criterion. “According to the present trend,” he wrote in 1948,

we may suppose that even on the morning after the Day of Judgment—if such a thing were possible—every cabaret, every night club, every newspaper firm eager for advertisements and subscribers, every nest of political fanatics, every discussion group, indeed, every Christian tea-party and Church synod would resume business to the best of its ability, and with a new sense of opportunity, completely unmoved, quite uninstructed, and in no serious sense different from what it was before. Fire, drought, earthquake, war, pestilence, the darkening of the sun and similar phenomena are not the things to plunge us into real anguish, and therefore to give us real peace. “The Lord was not in the storm, the earthquake or the fire” (1 Kings 19: 11 ff.). He really was not. (Barth 1960: 115)

All the witnesses, even those submitted to the most extreme conditions (for example, the members of the *Sonderkommando*), recall the incredible tendency of the limit situation to become habit (“doing this work, one either goes crazy the first day or gets used to it”). The Nazis so well understood this secret power inherent in every limit situation that they never revoked the state of exception declared in February 1933, upon their rise to power. In this sense, the Third Reich has been aptly defined as a “Night of St. Bartholomew that lasted twelve years.”

Auschwitz is precisely the place in which the state of exception coincides perfectly with the rule and the extreme situation becomes the very paradigm of daily life. But it is this paradoxical tendency of the limit situation to turn over into its opposite that makes it interesting. As long as the state of exception and the normal situation are kept separate in space and time, as is usually the case,

both remain opaque, though they secretly institute each other. But as soon as they show their complicity, as happens more and more often today, they illuminate each other, so to speak, from the inside. And yet this implies that the extreme situation can no longer function as a distinguishing criterion, as it did for Bettelheim; it implies that the extreme situation's lesson is rather that of absolute immanence, of "everything being in everything." In this sense, philosophy can be defined as the world seen from an extreme situation that has become the rule (according to some philosophers, the name of this extreme situation is "God").

2.5. Aldo Carpi, professor of painting at the Academy of Brera, was deported to Gusen in February 1944, where he remained until May 1945. He managed to survive because the SS began to commission paintings and drawings from him once they discovered his profession. They mostly commissioned family portraits, which Carpi produced from photographs; but there were also requests for Italian landscapes and "Venetian nudes," which Carpi painted from memory. Carpi was not a realistic painter, and yet one can understand why he wanted to paint the actual scenes and figures from the camp. But his commissioners had absolutely no interest in such things; indeed, they did not even tolerate the sight of them. "No one wants camp scenes and figures," Carpi notes in his diary, "no one wants to see the *Muselmann*" (Carpi 1993: 33).

Other witnesses confirm this impossibility of gazing upon the *Muselmann*. One account is particularly eloquent, even if it is indirect. A few years ago, the English film shot in Bergen-Belsen immediately after the camp's liberation in 1945 was made available to the public. It is difficult to bear the sight of the thousands of naked corpses piled in common graves or carried on the shoulders of former camp guards, of those tortured bodies that even the SS could not name (we know from witnesses that under no circumstances were they to be called "corpses" or "cadavers," but rather simply *Figuren*, figures, dolls). And yet since the Allies intended to use this footage as proof of Nazi atrocities and make it public in Germany, we are spared no detail of the terrible spectacle. At one point, however, the camera lingers almost by accident on what seem to be living people, a group of prisoners crouched on the ground or wandering on foot like ghosts. It lasts only a few seconds, but it is still long enough for the spectator to realize that they are either *Muselmänner* who have survived by some miracle or, at least, prisoners very close to the state of *Muselmänner*. With the exception of Carpi's drawings, which he did from memory, this is perhaps the sole image of *Muselmänner* we have. Nevertheless, the same cameraman who had until then patiently lingered over naked bodies, over the terrible "dolls" dis-

membered and stacked one on top of another, could not bear the sight of these half-living beings; he immediately began once again to show the cadavers. As Elias Canetti has noted, a heap of dead bodies is an ancient spectacle, one which has often satisfied the powerful. But the sight of *Muselmänner* is an absolutely new phenomenon, unbearable to human eyes.

2.6. What no one wants to see at any cost, however, is the “core” of the camp, the fatal threshold that all prisoners are constantly about to cross. “The *Muselmann* stage was the great fear of the prisoners, since not one of them knew when his fate would become that of the Muslim, the sure candidate for the gas chambers or another kind of death” (Langbein 1972: 113).

The space of the camp (at least of those camps, like Auschwitz, in which concentration camp and extermination camp coincide) can even be represented as a series of concentric circles that, like waves, incessantly wash up against a central non-place, where the *Muselmann* lives. In camp jargon, the extreme limit of this non-place is called *Selektion*, the selection procedure for the gas chamber. This is why the prisoner’s most pressing concern was to hide his sickness and his exhaustion, to constantly cover over the *Muselmann* who at every moment was emerging in him. The entire population of the camp is, indeed, nothing other than an immense whirlpool obsessively spinning around a faceless center. But like the mystical rose of Dante’s *Paradiso*, this anonymous vortex is “painted in our image” (*pinta della nostra effige*); it bears the true likeness of man. According to the law that what man despises is also what he fears resembles him, the *Muselmann* is universally avoided because everyone in the camp recognizes himself in his disfigured face.

It is a striking fact that although all witnesses speak of him as a central experience, the *Muselmann* is barely named in the historical studies on the destruction of European Jewry. Perhaps only now, almost fifty years later, is the *Muselmann* becoming visible; perhaps only now may we draw the consequences of this visibility. For this visibility implies that the paradigm of extermination, which has until now exclusively oriented interpretations of the concentration camp, is not replaced by, but rather accompanied by, another paradigm, a paradigm that casts new light on the extermination itself, making it in some way even more atrocious. Before being a death camp, Auschwitz is the site of an experiment that remains unthought today, an experiment beyond life and death in which the Jew is transformed into a *Muselmann* and the human being into a non-human. And we will not understand what Auschwitz is if we do not first understand who or what the *Muselmann* is—if we do not learn to gaze with him upon the Gorgon.

2.7. One of the paraphrases by which Levi designates the *Muselmann* is “he who has seen the Gorgon.” But what has the *Muselmann* seen, and what, in the camp, is the Gorgon?

In an exemplary study that draws on literature, sculpture, and vase painting, François Frontisi-Ducroux has shown how the Greeks conceived of the Gorgon, that horrid female head covered with serpents whose gaze produced death and which Perseus, with Athena’s help, had to cut off without seeing.

First of all, the Gorgon does not have a face in the sense expressed by the Greek term *prosopon*, which etymologically signifies “what stands before the eyes, what gives itself to be seen.” The prohibited face, which cannot be seen because it produces death, is for the Greeks a non-face and as such is never designated by the term *prosopon*. Yet for the Greeks this impossible vision is at the same time absolutely inevitable. Not only is the Gorgon’s non-face represented innumerable times in sculpture and vase painting; the most curious fact concerns the mode of the Gorgon’s presentation. “Gorgo, the ‘anti-face,’ is represented only through a face . . . in an ineluctable confrontation of gazes . . . this *antiprosopon* is given over to the gaze in its fullness, with a clear demonstration of the signs of her dangerous visual effects” (Frontisi-Ducroux 1995: 68). Breaking with the iconographical tradition by which the human figure is drawn in vase painting only in profile, the Gorgon does not have a profile; she is always presented as a flat plate, without a third dimension—that is, not as a real face but as an absolute image, as something that can only be seen and presented. The *gorgoneion*, which represents the impossibility of vision, is what cannot *not* be seen.

But there is more. Frontisi-Ducroux establishes a parallel between this frontality, which breaks with the iconographical convention of vase painting, and apostrophe, the rhetorical figure by which the author, rupturing narrative convention, turns to a character or directly to the public. This means that the impossibility of vision of which the Gorgon is the cipher contains something like an apostrophe, a call that cannot be avoided.

But then “he who has seen the Gorgon” cannot be a simple designation for the *Muselmann*. If to see the Gorgon means to see the impossibility of seeing, then the Gorgon does not name something that exists or that happens in the camp, something that the *Muselmann*, and not the survivor, would have seen. Rather, the Gorgon designates the impossibility of seeing that belongs to the camp inhabitant, the one who has “touched bottom” in the camp and has become a non-human. The *Muselmann* has neither seen nor known anything, if not the impossibility of knowing and seeing. This is why to bear witness to the *Muselmann*, to attempt to contemplate the impossibility of seeing, is not an easy task.

That at the “bottom” of the human being there is nothing other than an impossibility of seeing—this is the Gorgon, whose vision transforms the human being into a non-human. That precisely this inhuman impossibility of seeing is what calls and addresses the human, the apostrophe from which human beings cannot turn away—this and nothing else is testimony. The Gorgon and he who has seen her and the *Muselmann* and he who bears witness to him are one gaze; they are a single impossibility of seeing.

2.8. That one cannot truly speak of “living beings” when referring to *Muselmänner* is confirmed by all the witnesses. Améry and Bettelheim define them as “walking corpses” (Améry 1980: 9, Bettelheim 1979: 106). Carpi calls them “living dead” and “mummy-men” (Carpi 1993: 17); “one hesitates to call them living,” writes Levi (1986: 90). “Finally, you confuse the living and the dead,” writes a witness of Bergen-Belsen. “Basically, the difference is minimal anyhow. We’re skeletons that are still moving; and they’re skeletons that are already immobile. But there’s even a third category: the ones who lie stretched out, unable to move, but still breathing slightly” (Sofsky 1997: 328n2). “Faceless presences” or “shadows,” in every case they inhabit “the limit between life and death”—to cite the title of Ryn’s and Klodzinski’s study dedicated to the *Muselmann*, which today remains the sole monograph on the subject.

But this biological image is immediately accompanied by another image, which by contrast seems to contain the true sense of the matter. The *Muselmann* is not only or not so much a limit between life and death; rather, he marks the threshold between the human and the inhuman.

The witnesses are in agreement about this too. “Non-men who march and labor in silence, the divine spark dead within them” (Levi 1986: 90). “They had to give up responding to it [the environment] at all, and become objects, but with this they gave up being persons” (Bettelheim 1960: 152). There is thus a point at which human beings, while apparently remaining human beings, cease to be human. This point is the *Muselmann*, and the camp is his exemplary site. But what does it mean for a human being to become a non-human? Is there a humanity of human beings that can be distinguished and separated from human beings’ biological humanity?

2.9. What is at stake in the “extreme situation” is, therefore, “remaining a human being or not,” becoming a *Muselmann* or not. The most immediate and common impulse is to interpret this limit experience in moral terms. It was thus a question of trying to preserve dignity and self-respect, even if in the camp dignity and respect could not always be translated into corresponding actions.

Bettelheim seems to imply something of the kind when he speaks of a “point of no return” beyond which the prisoner became a *Muselmann*:

To survive as a man not as a walking corpse, as a debased and degraded but still human being, one had first and foremost to remain informed and aware of what made up one’s personal point of no return, the point beyond which one would never, under any circumstances, give in to the oppressor, even if it meant risking and losing one’s life. It meant being aware that if one survived at the price of overreaching this point one would be holding on to a life that had lost all its meaning. It would mean surviving—not with a lowered self-respect, but without any. (Bettelheim 1960: 157)

Naturally, Bettelheim realized that in the extreme situation, real freedom and choice were practically non-existent and often amounted to the degree of inner awareness with which one obeyed an order:

This keeping informed and aware of one’s actions—though it could not alter the required act, save in extremities—this minimal distance from one’s own behavior, and the freedom to feel differently about it depending on its character, this too was what permitted the prisoner to remain a human being. It was the giving up of all feelings, all inner reservations about one’s actions, the letting go of a point at which one would hold fast no matter what, that changed prisoner into moslem . . . Prisoners who understood this fully, came to know that this, and only this, formed the crucial difference between retaining one’s humanity (and often life itself) and accepting death as a human being (or perhaps physical death). (Bettelheim 1960: 158)

For Bettelheim, the *Muselmann* is therefore the one who has abdicated his inalienable freedom and has consequently lost all traces of affective life and humanity. This passage beyond the “point of no return” is such a disturbing experience and, for Bettelheim, becomes such a criterion of moral distinction between human and non-human as to deprive the witness not only of all pity, but also of lucidity, bringing him to mistake what ought never to be confused. Thus Höss, the commander of Auschwitz condemned in Poland in 1947, is transformed for Bettelheim into a kind of “well fed and well clothed” *Muselmann*.

While his physical death came later, he became a living corpse from the time he assumed command of Auschwitz. That he never became a “moslem” was because he continued to be well fed and well clothed. But he had to divest himself so entirely of self respect and self love, of feeling and personality, that for all practical purposes he was little more than a machine functioning only as his superiors flicked the buttons of command. (Bettelheim 1960: 238)

To his eyes, the *Muselmann* also becomes an improbable and monstrous biological machine, lacking not only all moral conscience, but even sensibility and nervous stimuli. “One might even speculate,” Bettelheim writes,

as to whether these organisms had by-passed the reflex arc that once extended from external or internal stimulus via frontal lobes to feeling and action. . . . Prisoners entered the moslem stage when emotion could no longer be evoked in them. . . . Despite their hunger, even the food stimulus reached their brain clearly enough to lead to action. . . . Other prisoners often tried to be nice to them when they could, to give them food and so forth, but they could no longer respond to the emotional attitude that was behind someone’s giving them food. (Bettelheim 1960: 152, 156)

Here the principle according to which “no one wants to see the *Muselmann*” involves the survivor as well. Not only does he falsify his own testimony (all the witnesses agree that no one in the camps “was good to the *Muselmänner*”), he does not realize that he has transformed human beings into an unreal paradigm, a vegetative machine. The sole goal of this paradigm is to allow at any cost for the distinction of what, in the camps, has become indistinguishable: the human and the inhuman.

2.10. What does it mean “to remain human”? That the answer is not easy and the question itself needs to be considered is implicit in the survivor’s warning: “Consider if this is a man.” At issue is not a question, but an injunction (“I command these words to you” [Levi 1986: 11]) that calls into question the very form of the question—as if the last thing one can expect here is a statement or a denial.

Instead, it is necessary to withdraw the meaning of the term “man” to the point at which the very sense of the question is transformed. It is remarkable that Levi’s and Antelme’s testimonies, which were both published in 1947, seem to engage in an ironic dialogue on this subject even in their titles, *If This Is a Man* and *The Human Species*. For Antelme, at issue in the camps was an “almost biological” claim to belong to the human species, the final sentiment of belonging to a species: “the negation of our quality as men provokes an almost biological claim of belonging to the human species [*espèce*]” (Antelme 1992: 5–6, translation slightly emended).

It is important that Antelme uses the technical term *espèce* here instead of referring to the more familiar one of *le genre humain*. For it is a matter of biological belonging in the strict sense (the “almost” is a euphemism of sorts, a slight scruple before the unimagined), not of a declaration of moral or political

solidarity. And precisely this is what must be “considered,” and considered not as a question of dignity, as Bettelheim seems to think. The task is so dark and enormous as to coincide with the one set by the SS: to take seriously the law of the camp, “pigs, not men.”

Of the heroes we know about, from history or from literature, whether it was love they cried forth, or solitude, or vengeance, or the anguish of being or of non-being, whether it was humiliation they rose up against, or injustice—of these heroes we do not believe that they were ever able to express as their last and only claim an ultimate sense of belonging to the human race. To say that one felt oneself contested as a man, as a member of the human species—may look like a feeling discovered in retrospect, an explanation arrived at afterwards. And yet it was that we felt most constantly and immediately, and that—exactly that—was what the others wanted. (Ibid.: translation slightly emended)

What is the “ultimate” sense of belonging to the human species? And does such a sense exist? For many, the *Muselmann* seems to constitute nothing other than an answer to this question.

2.II. Levi begins to bear witness only after dehumanization has been achieved, only once it no longer makes any sense to speak of dignity. He is the only one who consciously sets out to bear witness in place of the *Muselmänner*, the drowned, those who were demolished and who touched bottom. It is implicit in many testimonies that at Auschwitz everyone somehow set their human dignity aside. But perhaps nowhere is this expressed as clearly as in the passage in *The Drowned and the Saved* in which Levi evokes the strange desperation that overcame the prisoners at the moment of liberation: “Just as they felt they were again becoming men, that is, responsible. . . .” (Levi 1989: 70). The survivor is therefore familiar with the common necessity of degradation; he knows that humanity and responsibility are something that the deportee had to abandon when entering the camp.

It is important that certain individuals—pious Chaim, taciturn Szabo, sage Robert, courageous Baruch—did not give in. But testimony is not for them; it is not for the “better ones.” And even if they had not died—but “the best all died” (ibid.: 82)—they would not be the witnesses; they would not be able to bear witness to the camp. Perhaps to something else—their own faith, their own strength (and this is precisely what they did, in dying)—but not to the camp. The “complete witnesses,” those for whom bearing witness makes sense, “had already lost the ability to observe, to remember, to compare and express themselves” (ibid.: 84). To speak of dignity and decency in their case would not be decent.

When one of his friends tried to convince him that his survival was providential, that he had been “marked, chosen,” Levi responds with contempt—“Such an opinion seemed monstrous to me” (ibid.: 82). Levi suggests that to claim that a recognizable good was kept at Auschwitz, that something precious was in the camp and carried out into the normal world, is not acceptable and does not bear witness to the good. This too is the meaning of the thesis that it is not the “best, those predestined to do good, the bearers of a message” who survive (ibid.: 82). The survivors are not only “worse” in comparison with the best ones—those whose strength rendered them less fit in the camp—they are also “worse” in comparison with the anonymous mass of the drowned, those whose death cannot be called death. This is the specific ethical aporia of Auschwitz: it is the site in which it is not decent to remain decent, in which those who believed themselves to preserve their dignity and self-respect experience shame with respect to those who did not.

2.12. In *The Notebooks of Malte Laurids Brigge*, Rilke provides a famous description of the shame that comes from having preserved decency and dignity. Encountering some vagrants in the streets of Paris, Malte recognizes that, despite his apparent dignity and clean collar, the vagrants identify him as one of them:

True, my collar is clean, my underwear too, and I could, just as I am, walk into any café I felt like, possibly even on the grand boulevards, and confidently reach out my hand to a plate full of pastries and help myself. No one would find that surprising; no one would shout at me or throw me out, for it is after all a genteel hand, a hand that is washed four or five times a day. . . . Though there are still one or two individuals, on the Boulevard Saint-Michel for example, or on the rue Racine, who are not fooled, who don't give a damn about my wrists. They look at me and know. They know that in reality I am one of them, that I'm only acting. . . . And they don't want to spoil my fun; they just grin a little and wink at me. . . . Who are these people? What do they want of me? Are they waiting for me? How do they recognize me? . . . For it's obvious they are outcasts, not just beggars; no, they are really not beggars, there is a difference. They are human trash, husks of men that fate has spewed out. Wet with the spittle of fate, they stick to a wall, a lamp-post, a billboard, or they trickle slowly down the street, leaving a dark, filthy trail behind them. . . . And how did that small, gray woman come to be standing at my side for a whole quarter of an hour in front of a store window, showing me an old, long pencil that pushed infinitely slowly up out of her wretched, clenched hands. I pretended that I was busy looking at the display in the window and hadn't noticed a thing. But she knew I had seen her; she knew I was standing there trying to figure out what she was doing. For I understood quite well that the pencil in itself was of no importance: I felt that it was a sign, a sign for the initiated, a sign only outcasts could recognize; I sensed that she

was directing me to go somewhere or do something. And the strangest part was that I couldn't get rid of the feeling that there actually existed some kind of secret language which this sign belonged to, and that this scene was after all something that I should have expected . . . . Since then, hardly a day has passed without a similar encounter. Not only in the twilight, but at noon, in the busiest streets, a little man or an old woman will suddenly appear, nod to me, show me something, and then vanish, as if everything necessary were now done. It is possible that one fine day they will decide to come as far as my room; they certainly know where I live, and they'll manage to get past the concierge. (Rilke 1983: 38–41)

What interests us here is less that Malte expresses the fundamental ambiguity of Rilke's gesture, which is divided between the consciousness of having abandoned every recognizable human aspect and of attempting to elude this situation at any cost, and by which every descent into the abyss becomes merely a preface to the predictable ascent into the *hauts lieux* of poetry and nobility. What is decisive, rather, is that when confronted with the outcasts, Malte realizes that his dignity is a useless comedy, something that can only induce them to "grin a little and wink" at him. The sight of them, the intimacy they suggest, is so unbearable to Malte that he fears they may one day appear at his house to bring shame upon him. This is why he takes refuge in the *Bibliothèque Nationale*, among his fellow poets, where the outcasts will never be admitted.

Perhaps never before Auschwitz was the shipwreck of dignity in the face of an extreme figure of the human and the uselessness of self-respect before absolute degradation so effectively described. A subtle thread ties Malte's "husks of men" to the "husk-men" of whom Levi speaks. The young poet's small shame before the vagrants of Paris resembles a meek messenger who announces the great, unprecedented shame of the survivors in the face of the drowned.

2.13. The paradoxical ethical situation of the *Muselmann* must be considered. He is not so much, as Bettelheim believes, the cipher of the point of no return and the threshold beyond which one ceases to be human. He does not merely embody a moral death against which one must resist with all one's strength, to save humanity, self-respect, and perhaps even life. Rather, the *Muselmann*, as Levi describes him, is the site of an experiment in which morality and humanity themselves are called into question. The *Muselmann* is a limit figure of a special kind, in which not only categories such as dignity and respect but even the very idea of an ethical limit lose their meaning.

If one establishes a limit beyond which one ceases to be human, and all or most of humankind passes beyond it, this proves not the inhumanity of human beings but, instead, the insufficiency and abstraction of the limit. Imagine

that the SS let a preacher enter the camp, and that he tried with every possible means to convince the *Muselmänner* of the necessity of keeping their dignity and self-respect even at Auschwitz. The preacher's gesture would be odious; his sermon would be an atrocious jest in the face of those who were beyond not only the possibility of persuasion, but even of all human help ("they were nearly always beyond help" (Bettelheim 1960: 1561). This is why the prisoners have always given up speaking to the *Muselmann*, almost as if silence and not seeing were the only demeanor adequate for those who are beyond help.

Simply to deny the *Muselmann's* humanity would be to accept the verdict of the SS and to repeat their gesture. The *Muselmann* has, instead, moved into a zone of the human where not only help but also dignity and self-respect have become useless. But if there is a zone of the human in which these concepts make no sense, then they are not genuine ethical concepts, for no ethics can claim to exclude a part of humanity, no matter how unpleasant or difficult that humanity is to see.

2.14. Years ago, a doctrine emerged that claimed to have identified a kind of transcendental condition of ethics in the form of a principle of obligatory communication. It originated in a European country that more than any other had reasons to have a guilty conscience with respect to Auschwitz, and it soon spread throughout academic circles. According to this curious doctrine, a speaking being cannot in any way avoid communication. Insofar as, unlike animals, they are gifted with language, human beings find themselves, so to speak, condemned to agree on the criteria of meaning and the validity of their actions. Whoever declares himself not wanting to communicate contradicts himself, for he has already communicated his will not to communicate.

Arguments of this kind are not new in the history of philosophy. They mark the point at which the philosopher finds himself at a loss, feeling the familiar ground of language somehow giving way beneath him. In his proof of the "strongest of all principles," the principle of non-contradiction, in Book Gamma of the *Metaphysics*, Aristotle is already compelled to take recourse to such argumentation. "Some, owing to a lack of training," he writes, "actually ask that it be demonstrated; for it is lack of training not to recognize of which things demonstration ought to be sought, and of which not. In general, it is impossible that there should be a demonstration of everything, since it would go on to infinity and, therefore, not be a demonstration. . . . But even this [the principle of non-contradiction] can be demonstrated, in the manner of a refutation, if only the disputant says something. If he says nothing, it is ridiculous to look for a statement in response

to someone who says nothing; such a person, insofar as he is such, is altogether similar to a vegetable” (Aristotle 1993: 8, translation emended).

Insofar as they are founded on a tacit presupposition (in this case, that someone must speak), all refutations necessarily leave a residue in the form of an exclusion. In Aristotle, the residue is the plant-man, the man who does not speak. It suffices for the adversary simply and radically to cease speaking for the refutation to lose its force. Not that the entry into language is something that human beings can call into question as they see fit. Rather, the simple acquisition of speech in no way obliges one to speak. The pure pre-existence of language as the instrument of communication—the fact that, for speaking beings, language already exists—in itself contains no obligation to communicate. On the contrary, only if language is not always already communication, only if language bears witness to something to which it is impossible to bear witness, can a speaking being experience something like a necessity to speak.

Auschwitz is the radical refutation of every principle of obligatory communication. This is so not only because, according to survivors’ testimonies, any attempt to induce a Kapo or an SS to communicate often ended in a beating; nor is it the case simply because, as Marsalek recalls, in certain camps the place of communication was taken by the rubber whip, ironically renamed *der Dolmetscher*, “the interpreter.” Nor because “not being talked to” was the normal condition in the camp, where “your tongue dries up in a few days, and your thought with it” (Levi 1989: 93).

The decisive objection is different. It is, once again, the *Muselmann*. Let us imagine for a moment that a wondrous time machine places Professor Apel inside the camp. Placing a *Muselmann* before him, we ask him to verify his ethics of communication here too. At this point, it is best, in every possible way, to turn off our time machine and not continue the experiment. Despite all good intentions, the *Muselmann* risks once again being excluded from the human. The *Muselmann* is the radical refutation of every possible refutation, the destruction of those extreme metaphysical bulwarks whose force remains because they cannot be proven directly, but only by negating their negation.

2.15. It is not surprising that the concept of dignity also has a juridical origin. This time, however, the concept refers to the sphere of public law. Already in the Republican era, the Latin term *dignitas* indicates the rank and authority that inhere in public duties as well as, by extension, those duties themselves. It is thus possible to speak of *dignitas equestre, regia, imperatoria*. From this perspective, a reading of the twelfth book of the *Codex Iustinianus*, entitled *De Dignitatibus*,

is particularly instructive. Its task is to assure full respect for the orders of the various “dignities” (not only the traditional ones of the senators and consuls, but also those of the prefect to the praetorian, of the provost to the sacred cubiculum, of the casket masters, decans, epidemetics, the metats, and the other degrees of Byzantine bureaucracy). It takes care to forbid access to duties (*porta dignitatis*) for those whose lives did not correspond to an appropriate rank (for example, those marked by public censorship or infamy). But the construction of a genuine theory of dignities is the work of medieval jurists and canonists. In a now classic book entitled *The King's Two Bodies: A Study in Mediaeval Political Theology*, Ernst Kantorowicz showed how legal science is strictly bound to theology in the formulation of one of the cardinal points of the theory of sovereignty: the perpetual character of political power. Dignity is emancipated from its bearer and becomes a fictitious person, a kind of mystical body that accompanies the royal body of the magistrate or the emperor, just as Christ's divine person doubles his human body. This emancipation culminates in the principle so often repeated by medieval jurists that “dignity never dies” (*dignitas non moritur, Le Roi ne meurt Jamais*).

The simultaneous separation and unity of dignity and its bodily bearer finds clear expression in the double funeral of the Roman Emperor (and, later, in that of the kings of France). Here a wax image of the dead sovereign, which represented his “dignity,” is treated as a real person, receives honors and medical attention, and is burned in a solemn funeral rite (*junus imaginarium*).

The work of the canonists develops along lines parallel to those of the jurists. They construct a corresponding theory of the various ecclesiastical “dignities” that culminates in the *De dignitate sacerdotum* treatises used by officiates. On the one hand, the priest's rank is elevated beyond that of angels, insofar as during the mass, his body becomes the place of Christ's incarnation. On the other hand, however, the ethics of dignity is emphasized, that is, the need for the priest to behave as befits his lofty position (thus to abstain from *mala vita*, for example, and not to handle the body of Christ after having touched female pudenda). And just as public dignity survives death in the form of an image, so priestly sanctity survives through the relic (“dignity” is the name that, above all in France, indicates the relics of the holy body).

When the term “dignity” is introduced into treatises of moral philosophy, the model developed by legal theory is simply followed, point by point, in order to be interiorized. In Rome as in the Middle Ages, the rank of the magistrate or priest is accompanied by a particular bearing and external appearance (from the beginning, *dignitas* also indicates the physical appearance adequate to an elevated condition and, according to the Romans, corresponds in man to feminine

*venustas*). A pale image of dignity is thus spiritualized by moral philosophy and, then, usurps the place and name of the missing “dignity.” And just as law once emancipated the rank of the *persona ficta* from its bearer, so morality—with an inverse and specular gesture—liberates the bearing of the individual from the possession of a duty. A “dignified” person is now a person who, while lacking a public dignity, behaves in all matters as if he had one. This is clear in those classes which, after the fall of the *ancien régime*, lose even the last public prerogatives that absolute monarchy had given them. And, later, it can be observed in the lower classes, which are by definition excluded from every political dignity and to which all kinds of educators begin to teach lessons on the dignity and honesty of the poor. Both classes are compelled to live up to an absent dignity. The correspondence is often even linguistic: *dignitatem amittere* or *servare*, which indicated the loss or continuation of a duty, now becomes “to lose” or “to keep” dignity, to sacrifice or save, if not rank, then at least its appearance.

When referring to the legal status of Jews after the racial laws, the Nazis also used a term that implied a kind of dignity: *entwürdigten*, literally to “deprive of dignity.” The Jew is a human being who has been deprived of all *Würde*, all dignity: he is merely human—and, for this reason, non-human.

2.16. In certain places and situations, dignity is out of place. The lover, for example, can be anything except “dignified,” just as it is impossible to make love while keeping one’s dignity. The ancients were so convinced of this impossibility that they maintained that even the name of amorous pleasure was incompatible with dignity (*verbum ipsum voluptatis non habet dignitatem*), and they classified erotic matters under the comic genre. (Servius informs us that Book Four of the *Aeneid*, which brings tears to the eyes of modern readers, was considered a perfect example of the comic style.)

There are good reasons for this impossibility of reconciling love and dignity. Both in the case of legal *dignitas* and in its moral transposition, dignity is something autonomous with respect to the existence of its bearer, an interior model or an external image to which he must conform and which must be preserved at all costs. But in extreme situations—and love, in its own way, is also an extreme situation—it is not possible to maintain even the slightest distance between real person and model, between life and norm. And this is not because life or the norm, the internal or the external, in turn takes the upper hand. It is rather because they are inseparable at every point, because they no longer leave any space for a dignified compromise. (St. Paul knows this perfectly when, in the Letter to the Romans, he defines love as the end and fulfillment of the Law.)

This is also why Auschwitz marks the end and the ruin of every ethics of dignity and conformity to a norm. The bare life to which human beings were reduced neither demands nor conforms to anything. It itself is the only norm; it is absolutely immanent. And “the ultimate sentiment of belonging to the species” cannot in any sense be a kind of dignity.

The good that the survivors were able to save from the camp—if there is any sense in speaking of a “good” here—is therefore not dignity. On the contrary, the atrocious news that the survivors carry from the camp to the land of human beings is precisely that it is possible to lose dignity and decency beyond imagination, that there is still life in the most extreme degradation. And this new knowledge now becomes the touchstone by which to judge and measure all morality and all dignity. The *Muselmann*, who is its most extreme expression, is the guard on the threshold of a new ethics, an ethics of a form of life that begins where dignity ends. And Levi, who bears witness to the drowned, speaking in their stead, is the cartographer of this new *terra ethica*, the implacable land-surveyor of *Muselmannland*.

2.17. We have seen that to be between life and death is one of the traits constantly attributed to the *Muselmann*, the “walking corpse” par excellence. Confronted with his disfigured face, his “Oriental” agony, the survivors hesitate to attribute to him even the mere dignity of the living. But this proximity to death may also have another, more appalling meaning, one which concerns the dignity or indignity of death rather than of life.

As always, it is Levi who finds the most just and, at the same time, most terrible formula: “One hesitates,” he writes, “to call their death death.” It is the most just formula, for what defines *Muselmänner* is not so much that their life is no longer life (this kind of degradation holds in a certain sense for all camp inhabitants and is not an entirely new experience) but, rather, that their death is not death. This—that the death of a human being can no longer be called death (not simply that it does not have importance, which is not new, but that it cannot be called by the name “death”)—is the particular horror that the *Muselmann* brings to the camp and that the camp brings to the world. But this means—and this is why Levi’s phrase is terrible—that the SS were right to call the corpses *Figuren*. Where death cannot be called death, corpses cannot be called corpses.

2.18. It has already been observed that what defines the camp is not simply the negation of life, that neither death nor the number of victims in any way exhausts the camp’s horror, and that the dignity offended in the camp is not that of life but rather of death. In an interview given to Günther Gaus in 1964,

Hannah Arendt thus described her reaction upon learning the truth about the camps, in all its details:

Before that we said: Well, one has enemies. That is entirely natural. Why shouldn't a people have enemies? But this was different. It was really as if an abyss had opened. *This ought not to have happened.* And I don't just mean the number of victims. I mean the method, the fabrication of corpses and so on—I don't need to go into that. This should not have happened. Something happened there to which we cannot reconcile ourselves. None of us ever can. (Arendt 1993: 13–14)

Every sentence here is charged with a meaning so awful as to compel whoever speaks to have recourse to phrases that stand halfway between euphemism and the unprecedented. First of all, the curious expression repeated in two versions, “this should not have happened,” appears at first glance to have at least a resentful tone, which is surprising given its origin on the lips of the author of the most courageous and demystifying book on the problem of evil in our time. The impression grows as one reads the final words: “Something happened there to which we cannot reconcile ourselves. None of us ever can.” (Resentment, Nietzsche said, is born from the will's impossibility to accept that something happened, from its incapacity to reconcile itself to time and to time's “so it was.”)

Arendt identifies what should not have happened and nevertheless happened immediately afterward. It is something so appalling that, having named it, Arendt makes a gesture bordering on reluctance or shame (“I don't need to go into that”): “the fabrication of corpses and so on.” Hilberg informs us that the definition of extermination as a kind of fabrication by “conveyor belt” (*am laufenden Band*) was used for the first time by a physician of the SS, F. Entress. Since then, it has been repeated countless times, often out of context.

In each case, the expression “fabrication of corpses” implies that it is no longer possible truly to speak of death, that what took place in the camps was not death, but rather something infinitely more appalling. In Auschwitz, people did not die; rather, corpses were produced. Corpses without death, non-humans whose decease is debased into a matter of serial production. And, according to a possible and widespread interpretation, precisely this degradation of death constitutes the specific offense of Auschwitz, the proper name of its horror.

2.19. Yet it is not at all obvious that the degradation of death constitutes the ethical problem of Auschwitz. Whenever Auschwitz is approached from this perspective, certain contradictions arise inevitably. This is already the case with those authors who, many years before Auschwitz, denounced the degradation of death in our time. The first of these authors, of course, is Rilke, who may even

constitute the unexpected, more or less direct, source of Entress's expression concerning the chain production of death in the camps. "Now there are 559 beds to die in. Like a factory [*fabrikmässig*], of course. With production so enormous, each individual death is not made very carefully; but that isn't important. It's the quantity that counts" (Rilke 1983: 8–9). And in the same years, Péguy, in a passage that Adorno evoked concerning Auschwitz, spoke of the loss of the dignity of death in the modern world: "the modern world has succeeded in swallowing what is perhaps the hardest thing in the world to swallow, since it is something that in itself, almost in its texture, has a kind of special dignity, something like a particular incapacity to be swallowed: death."

Rilke opposes "serial" death to the "proper death" of good old times, the death that everyone carried within him just "as a fruit has its core" (ibid.: 10), the death that "one had" and that "gave to each person special dignity and silent pride." The entire *Book of Poverty and Death*, written in the shock of Rilke's stay in Paris, is dedicated to the degradation of death in the big city, where the impossibility of living becomes the impossibility of bringing to fruition one's own death, the "great death each of us has within us" (Rilke 1995: 90). It is remarkable, though, that if one excludes the obsessive recourse to imagery of childbirth and abortion ("we give birth to our own stillborn death" [ibid.: 91]) and bitter and ripe fruit ("this death hangs green, devoid of sweetness, / like a fruit inside them / that never ripens" [ibid.: 90]), proper death distinguishes itself from the other kind of death only by the most abstract and formal predicates: proper/improper and internal/external. Faced with the expropriation of death accomplished by modernity, the poet reacts according to Freud's scheme of mourning; he interiorizes the lost object. Or, as in the analogous case of melancholy, by forcing to appear as expropriated an object—death—concerning which it makes no sense to speak either of propriety or impropriety. Nowhere does Rilke say what renders Chamberlain Brigge's death a "princely" and proper death, with the one exception that the Old Brigge dies precisely in *his* house, surrounded by *his* servants and *his* dogs. Rilke's attempt to give back "a special dignity" to death leaves an impression of such indecency that in the end, the peasant's dream to kill his suffering lord "with a dung fork" seems to betray the poet's own repressed desire.

2.20. Before Hannah Arendt, Martin Heidegger, Arendt's teacher in Freiburg in the mid-twenties, had already used the expression "fabrication of corpses" to define the extermination camps. And, curiously enough, for Heidegger the "fabrication of corpses" implied, just as for Levi, that it is not possible to speak of

death in the case of extermination victims, that they did not truly die, but were rather only pieces produced in a process of an assembly line production. “They die in masses, hundreds of thousands at a time,” reads the text of Heidegger’s lecture on technology given in Bremen under the title “The Danger” (*Die Gefahr*).

Do they die? They de cease. They are eliminated. They become pieces of the warehouse of the fabrication of corpses. They are imperceptibly liquidated in extermination camps. . . . But to die (*Sterben*) means: to bear death in one’s own Being. To be able to die means: to be capable of this decisive bearing. And we are capable of it only if our Being is capable of the Being of death. . . . Everywhere we face the immense misery of innumerable, atrocious deaths that have not died [*ungestorbener Tode*], and yet the essence of death is closed off to man. (Heidegger 1994: 56)

Not without reason, a few years later, the objection was raised that for an author implicated even marginally in Nazism a cursory allusion to the extermination camps after years of silence was, at the very least, out of place. What is certain, however, is that the victims saw the dignity of death to be so negated for them that they were condemned to perish—according to an image recalling Rilke’s reference to “aborted deaths”—in a death that is not dead. But what, in the camp, could a *dead* death have been, a death borne in its very Being? And is there truly any sense at Auschwitz in distinguishing a proper death from an improper death?

The fact is that, in *Being and Time*, death is assigned a particular function. Death is the site of a decisive experience that, under the name “Being-towards-death,” expresses perhaps the ultimate intention of Heidegger’s ethics. For in the “decision” that takes place here, everyday impropriety—made up of chatter, ambiguities, and diversions and in which man finds himself always already thrown—is transformed into propriety; and anonymous death, which always concerns others and is never truly present, becomes the most proper and insuperable possibility. Not that this possibility has a particular content, offering man something to be or to realize. On the contrary, death, considered as possibility, is absolutely empty; it has no particular prestige. It is the simple *possibility of the impossibility of all comportment and all existence*. Precisely for this reason, however, the decision that radically experiences this impossibility and this emptiness in Being-towards-death frees itself from all indecision, fully appropriating its own impropriety for the first time. The experience of the measureless impossibility of existing is therefore the way in which man, liberating himself of his fallenness in the world of the “They” (*das Man*), renders his own factual existence possible.

Auschwitz's position in the Bremen lecture is therefore all the more significant. From this perspective, the camp is the place in which it is impossible to experience death as the most proper and insuperable possibility, as the possibility of the impossible. It is the place, that is, in which there can be no appropriation of the improper and in which the factual dominion of the inauthentic knows neither reversal nor exception. This is why, in the camps (as in the epoch of the unconditional triumph of technology, according to the philosopher), the Being of death is inaccessible and men do not die, but are instead produced as corpses.

Yet one may still wonder if Rilke's model, which rigidly separates proper from improper death, did not produce a contradiction in the philosopher's thinking. In Heidegger's ethics, authenticity and propriety do not hover above inauthentic everydayness, as an ideal realm placed above reality; instead, they are "an emended apprehension of the improper" in which what is made free are simply the factual possibilities of existence. According to Hölderlin's principle often invoked by Heidegger, "where there is danger, there grows the saving power," precisely in the extreme situation of the camp appropriation and freedom ought to be possible.

The reason for which Auschwitz is excluded from the experience of death must be a different one, a reason that calls into question the very possibility of authentic decision and thus threatens the very ground of Heidegger's ethics. In the camp, every distinction between proper and improper, between possible and impossible, radically disappears. For here the principle according to which the sole content of the proper is the improper is exactly verified by its inversion, which has it that the sole content of the improper is the proper. And just as in Being-towards-death, the human being authentically appropriates the inauthentic, so in the camp, the prisoners exist *everyday anonymously* toward death. The appropriation of the improper is no longer possible because the improper has completely assumed the function of the proper; human beings live factually at every instant toward their death. This means that in Auschwitz it is no longer possible to distinguish between death and mere decease, between dying and "being liquidated." "The free person," Améry writes thinking of Heidegger, "can assume a certain spiritual posture toward death, because for him death is not totally absorbed into the torment of dying" (Améry 1980: 18). In the camp this is impossible. And this is so not because, as Améry seems to suggest, the thought of ways of dying (by phenol injection, gas, or beating) renders superfluous the thought of death as such. Rather, it is because where the thought of death has been materially realized, where death is "trivial, bureaucratic, and an everyday affair" (Levi 1989: 148), both death and dying, both dying and its ways, both death and the fabrication of corpses, become indistinguishable.

2.21. Grete Salus, an Auschwitz survivor whose words always sound true, once wrote that “man should never have to bear everything that he can bear, nor should he ever have to see how this suffering to the most extreme power no longer has anything human about it” (Langbein 1988: 96). It is worth reflecting on this singular formulation, which perfectly expresses the specific modal status of the camp, its particular reality, which, according to survivors’ testimony, renders it absolutely true and at the same time unimaginable. If in Being-towards-death, it was a matter of creating the possible through the experience of the impossible (the experience of death), here the impossible (mass death) is produced through the full experience of the possible, through the exhaustion of its infinity. This is why the camp is the absolute verification of Nazi politics, which, in the words of Goebbels, was precisely the “art of making possible what seems impossible” (*Politik ist die Kunst, das unmöglich Scheinende möglich zu machen*). And this is why in the camp, the most proper gesture of Heidegger’s ethics—the appropriation of the improper, the making possible of existence—remains ineffectual; this is why “the essence of death is closed off to man.”

Whoever was in the camp, whether he was drowned or survived, bore everything that he could bear—even what he would not have wanted to or should not have had to bear. This “suffering to the most extreme power,” this exhaustion of the possible, nevertheless has nothing “human” about it. Human power borders on the inhuman; the human also endures the non-human. Hence the survivor’s unease, the “unceasing discomfort . . . that . . . was nameless,” in which Levi discerns the atavistic anguish of Genesis, “the anguish inscribed in every one of the ‘tohu-bohu’ of a deserted and empty universe crushed under the spirit of God but from which the spirit of man is absent: not yet born or already extinguished” (Levi 1989: 85). This means that humans bear within themselves the mark of the inhuman, that their spirit contains at its very center the wound of non-spirit, non-human chaos atrociously consigned to its own being capable of everything.

Both the survivor’s discomfort and testimony concern not merely what was done or suffered, but what *could* have been done or suffered. It is this *capacity*, this almost infinite potentiality to suffer that is inhuman—not the facts, actions, or omissions. And it is precisely this *capacity* that is denied to the SS. The executioners unanimously continue to repeat that they *could* not do other than as they did, that, in other words, they simply *could* not; they had to, and that is all. In German, to act without being capable of acting is called *Befehlnotstand*, having to obey an order. And they obeyed *kadavergehorsam*, like a corpse, as Eichmann said. Certainly, even the executioners had to bear what they should not have had (and, at times, wanted) to bear; but, according to Karl Valentin’s profound

witticism, in every case “they did not feel up to being capable of it.” This is why they remained “humans”; they did not experience the inhuman. Perhaps never was this radical incapacity to “be able” expressed with such blind clarity as in Himmler’s speech of October 4, 1943:

Most of you know what it means when 100 corpses lie there, or when 500 corpses lie there, or when 1,000 corpses lie there. To have gone through this and—apart from a few exceptions caused by human weakness—to have remained decent, that has made us great. That is a page of glory in our history which has never been written and which will never be written. . . . (Hilberg 1979: 648)

It is not by chance, then, that the SS showed themselves to be almost without exception incapable of bearing witness. While the victims bore witness to their having become inhuman, to having borne everything that they *could* bear, the executioners, while torturing and killing, remained “honest men”; they did not bear what they nevertheless could have borne. And if the extreme figure of this extreme potentiality to suffer is the *Muselmann*, then one understands why the SS could not see the *Muselmann*, let alone bear witness to him. “They were so weak; they let themselves do anything. They were people with whom there was no common ground, no possibility of communication—this is where the contempt came from. I just couldn’t imagine how they could give in like that. Recently I read a book on winter rabbits, who every five or six years throw themselves into the sea to die; it made me think of Treblinka” (Sereny 1983: 313).

2.22. The idea that the corpse deserves particular respect, that there is something like a dignity of death, does not truly belong to the field of ethics. Its roots lie instead in the most archaic stratum of law, which is at every point indistinguishable from magic. The honor and care given to the deceased’s body was originally intended to keep the soul of the dead person (or, rather, his image or phantasm) from remaining a threatening presence in the world of the living (the *larva* of the Latins and the *eidōlon* or *phantasma* of the Greeks). Funeral rites served precisely to transform this uncomfortable and uncertain being into a friendly and potent ancestor with whom it would then be possible to establish well-defined cultic relations.

The ancient world was, however, familiar with practices that aimed at rendering impossible any reconciliation with the dead. Sometimes it was simply a matter of neutralizing the hostile presence of the phantasm, as in the horrid *mascalismos* ritual, in which the extremities of the corpse of a killed person (hands, nose, ears, etc.) were cut off and strung along a little cord, which was then passed under the armpit so that the dead person could not take revenge for

the offenses he suffered. The deprivation of burial (which is at the origin of the tragic conflict between Antigone and Creon) was also a form of magic revenge exerted on the corpse of the dead person, who was thus eternally condemned to remain a *larva*, incapable of finding peace. This is why in archaic Greek and Roman law, the obligation to hold a funeral was so strict that in the absence of a corpse, it was stipulated that a *colossus*—a kind of ritual double of the deceased (usually a wooden or wax effigy)—be burned in its place.

In firm opposition to these magical practices stand both the philosopher's statement that "the corpse is to be thrown away like dung" (Heraclitus, fr. 96) and the evangelical precept that enjoins the dead to bury the dead (of which there is an echo, in the Church, in the prohibition of certain Franciscan spiritual currents regarding the officiation of funeral rites). It is even possible to say that from the beginning, the link and alternating contrast of this double heredity—a magico-juridical one and a philosophico-messianic one—determine the ambiguity of our culture's relation to the question of the dignity of death.

Perhaps nowhere does this ambiguity emerge as forcefully as in the episode in *The Brothers Karamazov* in which the corpse of Starets Zosima gives off an intolerable stench. For the monks who crowd around the cell of the holy Starets are soon divided among themselves. Faced with the dead body's obvious lack of dignity—which, instead of emitting a saintly odor, begins to decompose indecently—the majority calls into question the saintliness of Zosima's life; only a few know that the fate of the corpse does not authorize any consequences on the plane of ethics. The smell of putrefaction that blows over the heads of the incredulous monks in some way evokes the nauseating odor that the crematorial ovens—the "ways of heaven"—dispersed over the camps. Here too, for many, this stench is the sign of Auschwitz's supreme offense against the dignity of mortals.

2.23. The ambiguity of our culture's relation to death reaches its paroxysm after Auschwitz. This is particularly evident in Adorno, who wanted to make Auschwitz into a kind of historical watershed, stating not only that "after Auschwitz one cannot write poetry" but even that "all post-Auschwitz culture, including its urgent critique, is garbage" (Adorno 1973: 367). On the one hand, Adorno seems to share Arendt's and Heidegger's considerations (for which otherwise he has no sympathy whatsoever) regarding the "fabrication of corpses"; thus he speaks of a "mass, low cost production of death." But on the other hand, he scornfully denounces Rilke's (and Heidegger's) claims for a proper death. "Rilke's prayer for 'one's own death,'" we read in *Minima Moralia*, "is a piteous way to conceal the fact that nowadays people merely snuff out" (Adorno 1974: 233).

This oscillation betrays reason's incapacity to identify the specific crime of Auschwitz with certainty. Auschwitz stands accused on two apparently contradictory grounds: on the one hand, of having realized the unconditional triumph of death against life; on the other, of having degraded and debased death. Neither of these charges—perhaps like every charge, which is always a genuinely legal gesture—succeed in exhausting Auschwitz's offense, in defining its case in point. It is as if there were in Auschwitz something like a Gorgon's head, which one cannot—and does not want to—see at any cost, something so unprecedented that one tries to make it comprehensible by bringing it back to categories that are both extreme and absolutely familiar: life and death, dignity and indignity. Among these categories, the true cipher of Auschwitz—the *Muselmann*, the “core of the camp,” he whom “no one wants to see,” and who is inscribed in every testimony as a lacuna—wavers without finding a definite position. He is truly the *larva* that our memory cannot succeed in burying, the unforgettable with whom we must reckon. In one case, he appears as the non-living, as the being whose life is not truly life; in the other, as he whose death cannot be called death, but only the production of a corpse—as the inscription of life in a dead area and, in death, of a living area. In both cases, what is called into question is the very humanity of man, since man observes the fragmentation of his privileged tie to what constitutes him as human, that is, the sacredness of death and life. The *Muselmann* is the non-human who obstinately appears as human; he is the human that cannot be told apart from the inhuman.

If this is true, then what does the survivor mean when he speaks of the *Muselmann* as the “complete witness,” the only one for whom testimony would have a general meaning? How can the non-human testify to the human, and how can the true witness be the one who by definition cannot bear witness? The Italian title of *Survival in Auschwitz*, “If This Is a Man,” also has this meaning; the name “man” applies first of all to a non-man, and the complete witness is he whose humanity has been wholly destroyed. *The human being*, Levi's title implies, *is the one who can survive the human being*. If we give the name “Levi's paradox” to the statement that “the *Muselmann* is the complete witness,” then understanding Auschwitz—if such a thing is possible—will coincide with understanding the sense and nonsense of this paradox.

2.24. Michel Foucault offers an explanation of the degradation of death in our time, an explanation in political terms that ties it to the transformation of power in the modern age. In its traditional form, which is that of territorial sovereignty, power defines itself essentially as the right over life and death. Such

a right, however, is by definition asymmetrical in the sense that it exerts itself above all from the side of death; it concerns life only indirectly, as the abstention of the right to kill. This is why Foucault characterizes sovereignty through the formula *to make die and to let live*. When, starting with the seventeenth century and the birth of the science of police, care for the life and health of subjects begins to occupy an increasing place in the mechanisms and calculations of states, sovereign power is progressively transformed into what Foucault calls “bio-power.” The ancient right to kill and to let live gives way to an inverse model, which defines modern biopolitics, and which can be expressed by the formula *to make live and to let die*. “While in the right of sovereignty death was the point in which the sovereign’s absolute power shone most clearly, now death instead becomes the moment in which the individual eludes all power, falling back on himself and somehow bending back on what is most private in him” (Foucault 1997: 221). Hence the progressive disqualification of death, which strips it of its character as a public rite in which not only individuals and families but the whole people participates; hence the transformation of death into something to be hidden, a kind of private shame.

The point at which the two models of power collide is the death of Franco. Here the person who incarnated the ancient sovereign power of life and death for the longest time in our century falls into the hands of the new medical, biopolitical power, which succeeds so well in “making men live” as to make them live even when they are dead. And yet for Foucault the two powers, which in the body of the dictator seem to be momentarily indistinguishable, remain essentially heterogeneous; their distinction gives rise to a series of conceptual oppositions (individual body/population, discipline/mechanisms of regulation, man-body/man species) that, at the dawn of the modern age, define the passage from one system to the other. Naturally, Foucault is perfectly aware that the two powers and their techniques can, in certain cases, be integrated within each other; but they nevertheless remain conceptually distinct. Yet this very heterogeneity becomes problematic when it is a matter of confronting the analysis of the great totalitarian states of our time, in particular the Nazi state. In Hitler’s Germany, an unprecedented absolutization of the biopower to *make live* intersects with an equally absolute generalization of the sovereign power to *make die*, such that biopolitics coincides immediately with thanatopolitics. From the Foucaultian perspective, this coincidence represents a genuine paradox, which, like all paradoxes, demands an explanation. How is it possible that a power whose aim is essentially to make live instead exerts an unconditional power of death?

The answer Foucault gives to this question in his 1976 College de France course is that racism is precisely what allows biopower to mark caesuras in the biological continuum of the human species, thus reintroducing a principle of war into the system of “making live.” “In the biological continuum of the human species, the opposition and hierarchy of races, the qualification of certain races as good and others, by contrast, as inferior, are all ways to fragment the biological domain whose care power had undertaken; they are ways to distinguish different groups inside a population. In short, to stabilize a caesura of a biological type inside a domain that defines itself precisely as biological” (Foucault 1997: 227).

Let us try to further develop Foucault’s analysis. The fundamental caesura that divides the biopolitical domain is that between *people* and *population*, which consists in bringing to light a population in the very bosom of a people, that is, in transforming an essentially political body into an essentially biological body, whose birth and death, health and illness, must then be regulated. With the emergence of biopower, every people is doubled by a population; every *democratic* people is, at the same time, a *demographic* people. In the Nazi Reich, the 1933 legislation on the “protection of the hereditary health of the German people” marks this caesura perfectly. The caesura that immediately follows is the one by which, in the set of all citizens, citizens of “Aryan descent” are distinguished from those of “non-Aryan descent.” A further caesura then traverses the set of citizens of “non-Aryan descent,” separating Jews (*Volljuden*) from *Mischlinge* (people with only one Jewish grandparent, or with two Jewish grandparents but who neither are of Jewish faith nor have Jewish spouses as of September 15, 1935). Biopolitical caesuras are essentially mobile, and in each case they isolate a further zone in the biological continuum, a zone which corresponds to a process of increasing *Entwürdigung* and degradation. Thus the non-Aryan passes into the Jew, the Jew into the deportee (*umgesiedelt, ausgesiedelt*), the deportee into the prisoner (*Häftling*), until biopolitical caesuras reach their final limit in the camp. This limit is the *Muselman*. At the point in which the *Häftling* becomes a *Muselman*, the biopolitics of racism so to speak transcends race, penetrating into a threshold in which it is no longer possible to establish caesuras. Here the wavering link between people and population is definitively broken, and we witness the emergence of something like an absolute biopolitical substance that cannot be assigned to a particular bearer or subject, or be divided by another caesura.

It is then possible to understand the decisive function of the camps in the system of Nazi biopolitics. They are not merely the place of death and extermination; they are also, and above all, the site of the production of the *Muselman*, the

final biopolitical substance to be isolated in the biological continuum. Beyond the *Muselmann* lies only the gas chamber.

In 1937, during a secret meeting, Hitler formulates an extreme biopolitical concept for the first time, one well worth considering. Referring to Central-Western Europe, he claims to need a *volkloser Raum*, a space empty of people. How is one to understand this singular expression? It is not simply a matter of something like a desert, a geographical space empty of inhabitants (the region to which he referred was densely populated by different peoples and nationalities). Hitler's "peopleless space" instead designates a fundamental biopolitical intensity, an intensity that can persist in every space and through which peoples pass into populations and populations pass into *Muselmänner*. *Volkloser Raum*, in other words, names the driving force of the camp understood as a biopolitical machine that, once established in a determinate geographical space, transforms it into an absolute biopolitical space, both *Lebensraum* and *Todesraum*, in which human life transcends every assignable biopolitical identity. Death, at this point, is a simple epiphenomenon.

## Shame, or On the Subject

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**3.1.** At the beginning of *The Reawakening*, Levi describes his encounter with the first Russian advance guard that, at around noon on January 27, 1945, reached the camp of Auschwitz, which the Germans had abandoned. The arrival of the Russian soldiers, which marks the prisoners' definitive liberation from the nightmare, takes place not under the sign of joy but, curiously enough, under that of shame:

They were four young soldiers on horseback, who advanced along the road that marked the limits of the camp, cautiously holding their sten-guns. When they reached the barbed wire, they stopped to look, exchanging a few timid words, and throwing strangely embarrassed glances at the sprawling bodies, at the battered huts and at us few still alive. . . . They did not greet us, nor did they smile; they seemed oppressed not only by compassion but by a confused restraint, which sealed their lips and bound their eyes to the funereal scene. It was that shame we knew so well, the shame that drowned us after the selections, and every time we had to watch, or submit to, some outrage: the shame the Germans did not know, that the just man experiences at another man's crime, at the fact that such a crime should exist, that it should have been introduced irrevocably into the world of things that exist, and that his will for good should have proved too weak or null, and should not have availed in defence. (Levi 1986: 181–82, translation slightly emended)

More than twenty years later, while writing *The Drowned and the Saved*, Levi once again reflects on this shame. Shame now becomes the dominant sentiment of survivors, and Levi tries to explain why this is so. It is therefore not surprising that, like all attempts at explanations, the chapter of the book entitled "Shame" is ultimately unsatisfying. This is all the more so given that the chapter immediately follows Levi's extraordinary analysis of the "gray zone," which, consciously keeping to the inexplicable, recklessly refuses all explanation. Faced with the *Kapos*, collaborators, "prominent ones" of all kinds, the accursed members of the *Sonderkommando* and even Chaim Rumkowski, the *rex Judaeorum* of the

Lodz ghetto, the survivor ended with a *non-liquet*: “I ask that we meditate on the story of ‘the crematorium ravens’ with pity and rigor, but that judgment of them be suspended” (Levi 1989: 60). But in his chapter on shame Levi seems hastily to lead his subject back to a sense of guilt: “many (including me) experienced ‘shame,’ that is, a feeling of guilt” (Levi 1989: 73). Immediately afterward, in seeking to discern the roots of this guilt, the very author who had only a little earlier fearlessly ventured into an absolutely unexplored territory of ethics now submits himself to a test of conscience so puerile that it leaves the reader uneasy. The wrongs that emerge (having at times shaken his shoulders impatiently when faced with the requests of younger prisoners, or the episode of the water that he shared with Alberto but denied to Daniele) are, of course, excusable. But here the reader’s unease can only be a reflection of the survivor’s embarrassment, his incapacity to master shame.

3.2. The survivor’s feeling of guilt is a *locus classicus* of literature on the camps. Bettelheim expressed its paradoxical character:

the real issue . . . is that the survivor as a thinking being knows very well that he is not guilty, as I, for one, know about myself, but that this does not change the fact that the humanity of such a person, as a feeling being, requires that he *feel* guilty, and he does. One cannot survive the concentration camp without feeling guilty that one was so incredibly lucky when millions perished, many of them in front of one’s eyes. . . . In the camps one was forced, day after day, for years, to watch the destruction of others, feeling—against one’s better judgment—that one should have intervened, feeling guilty for having often felt glad that it was not oneself who perished. (Bettelheim 1979: 297–98)

Wiesel formulates the same kind of aporia in the apothegm “I live, therefore I am guilty,” adding immediately afterward: “I am here because a friend, an acquaintance, an unknown person died in my place.” Ella Lingens offers a similar explanation, as if the survivor could live only in the place of another: “Does not each of us who has returned go around with a guilt feeling, feelings which our executors so rarely feel—‘I live, because others died in my place?’” (Langbein 1972: 539).

Levi also experienced this kind of sentiment. And yet he does not fully accept its consequences; he fights tenaciously against it. The conflict finds expression as late as 1984, in his poem “The Survivor:”

Dopo di allora, ad ora incerta,  
 Quella pena ritorna,  
 E se non trova chi lo ascolti,

Gli brucia in petto il cuore.  
 Rivede i visi dei suoi compagni  
 Lividi nella prima luce,  
 Grigi di polvere di cemento,  
 Indistinti per nebbia,  
 Tinti di morte nei sonni inquieti:  
 A notte menano le mascelle  
 Sotto la mora greve dei sogni  
 Masticando una rapa che non c'è.  
 "Indietro, via di qui, gente sommersa,  
 Andate. Non ho soppiantato nessuno,  
 No ho usurpato il pane di nessuno,  
 Nessuno è morto in vece mia. Nessuno.  
 Ritornate alla vostra nebbia.  
 Non è mia colpa se vivo e respiro  
 e mangio e bevo e dormo e vesto panni."

Since then, at an uncertain hour, that punishment comes back. And if it doesn't find someone who will listen to it, it burns his heart in his chest. Once again he sees the faces of the other inmates, blueish in the light of dawn, gray with cement dust, shrouded in mist, painted with death in their restless sleep. At night their jaws grind away, in the absence of dreams, chewing on a stone that isn't there. "Get away from here, drowned people, go away. I didn't usurp anyone's place. I didn't steal anyone's bread. No one died in my stead. No one. Go back to your mist. It isn't my fault if I live and breathe, eat and drink and sleep and wear clothes." (Levi 1988: 581)

The citation from Dante in the last verse bears witness to the fact that what is at issue in this text is not simply the disavowal of responsibility. The citation comes from the thirty-third canto of the *Inferno* (v. 141), which describes Dante's encounter with Ugolino in the traitors' pit. It contains a double, implicit reference to the problem of the guilt of the deportees. On the one hand, Dante's "dark well" is the place of traitors, in particular those who have betrayed their own relatives and friends. On the other hand, in a bitter allusion to his own situation as a survivor, the cited verse also refers to someone whom Dante believes to be alive, but who is only apparently living, since his soul has already been swallowed by death.

Two years later, when he writes *The Drowned and the Saved*, Levi once again asks himself the following question: "Are you ashamed because you are alive in place of another? And in particular, of a man more generous, more sensitive,

more useful, wiser, worthier of living than you?” But this time too the answer is doubtful:

You cannot block out such feelings: you examine yourself, you review your memories, hoping to find them all, and that none of them are masked or disguised. No, you find no obvious transgressions, you did not usurp anyone’s place, you did not beat anyone (but would you have had the strength to do so?), you did not accept positions (but none were offered to you . . .), you did not steal anyone’s bread; nevertheless you cannot exclude it. It is no more than a supposition, indeed the shadow of a suspicion: that each man is his brother’s Cain, that each one of us (but this time I say “us” in a much vaster, indeed, universal sense) has usurped his neighbor’s place and lived in his stead. (Levi 1989: 81–82)

Yet the same generalization of the accusation (or, rather, the suspicion) somehow blunts its edge; it makes the wound less painful. “No one died in my stead. No one” (Levi 1988: 581). “One is never in the place of another” (Levi 1989: 60).

3.3. The other face of the survivor’s shame is the exaltation of simple survival as such. In 1976, Terrence Des Pres, professor at Colgate University, published *The Survivor: An Anatomy of Life in the Death Camps*. The book, which had an immediate and notable success, set out to show that “survival is an experience with a definite structure, neither random nor regressive nor amoral” (Des Pres 1976: v) and, at the same time, to “render visible that structure” (ibid.). In the final analysis, Des Pres’s anatomical dissection of life in the camps reveals that in the final analysis life is survival and that in the extreme situation of Auschwitz, the very nucleus of “life in itself” comes to light as such, freed from the hindrances and deformations of culture. Des Pres does, at a certain point, invoke the specter of the *Muselmann* as a figure representing the impossibility of survival (“the empirical instance of death-in-life” (ibid.: 99]). But he criticizes Bettelheim’s testimony for having undervalued the prisoners’ anonymous and everyday fight to survive, in the name of an antiquated ethics of the hero, of the one who is ready to renounce his life. For Des Pres, the true ethical paradigm of our time is instead the survivor, who, without searching for ideal justifications “chooses life” and fights simply to survive. The survivor, he writes,

is the first of civilized men to live beyond the compulsions of culture; beyond a fear of death which can only be assuaged by insisting that life itself is worthless. The survivor is evidence that men and women are strong enough, mature enough, awake enough, to face death without mediation, and therefore to embrace life without reserve. (Ibid.: 245)

The life that the survivor chooses to “embrace without reservations,” the “small, additional, added-on life” (ibid.: 24), for which he is ready to pay the highest price, reveals itself in the end to be nothing other than biological life as such, the simple, impenetrable “priority of the biological element.” With a perfect vicious circle in which to continue is nothing other than to go backward, the “additional life” disclosed by survival is simply an absolute a priori:

Stripped of everything but life, what can the survivor fall back upon except some biologically determined “talent” long suppressed by cultural deformation, a bank of knowledge embedded in the body’s cells. The key to survival behavior may thus lie in the priority of biological being. (Ibid.: 228)

3.4. It is not surprising that Bettelheim reacted to Des Pres’s book with indignation. In an article that appeared in *The New Yorker* following the publication of *The Survivor*, Bettelheim reaffirms the decisive importance of the survivor’s feeling of guilt:

It will be startling news to most survivors that they are “strong enough, mature enough, awake enough . . . to embrace life without reserve,” since only a pitifully small number of those who entered the German camps survived. What about the millions who perished? Were they “awake enough . . . to embrace life without reserve” as they were driven into the gas chambers? . . . What about the many survivors who were completely broken by their experience, so that years of the best psychiatric care could not help them cope with their memories, which continue to haunt them in their deep and often suicidal depression? . . . What of the horrible nightmares about the camps which every so often awaken me today, thirty-five years later, despite a most rewarding life, and which every survivor I have asked has also experienced? . . . Only the ability to feel guilty makes us human, particularly if, objectively seen, one is not guilty. (Bettelheim 1979: 296, 313)

Despite their polemical tones, the two adversaries are in fact not as far apart as they seem; they are, more or less consciously, both prisoners of a curious circle. On the one hand, the exaltation of survival constantly requires reference to dignity (“There is a strange circularity about existence in extremity: survivors preserve their dignity in order ‘not to begin to die’; they care for the body as a matter of ‘moral survival’” [Des Pres 1976: 72]). On the other hand, the assertion of dignity and the feeling of guilt have no other sense than survival and “the life instinct” (“those prisoners who blocked out neither heart nor reason . . . those prisoners survived” [Bettelheim 1960: 158]; “Our obligation—to not to those who are dead, but to ourselves, and to those around us who are still alive—is to strengthen the life drives” [Bettelheim 1979: 102]). And it is certainly

not an accident that Bettelheim ends by accusing Des Pres of the same “ethics of heroism” with which Des Pres had earlier criticized Bettelheim: “[Des Pres’s book] makes heroes out of these chance survivors. By stressing how the death camps produced such superior beings as the survivors . . .” (ibid.: 95).

It is as if the symmetrical gestures of the two opposite figures of the survivor—the one who cannot feel guilty for his own survival and the one who claims innocence in having survived—betrayed a secret solidarity. They are the two faces of the living being’s incapacity truly to separate innocence and guilt—that is, somehow to master its own shame.

3.5. It is uncertain whether the correct explanation for the survivor’s shame is that he feels guilty for being alive in the place of another. Bettelheim’s thesis that the survivor is innocent and yet as such obliged to feel guilty is itself already suspect. To assume guilt of this kind, which inheres in the survivor’s condition as such and not in what he or she as an individual did or failed to do, recalls the common tendency to assume a generic collective guilt whenever an ethical problem cannot be mastered. Arendt observed that the surprising willingness of post-war Germans of all ages to assume collective guilt for Nazism, to believe themselves guilty for what their parents or their people had done, betrayed an equally surprising ill will as to the assessment of individual responsibilities and the punishment of particular crimes. Analogously, at a certain point the German Protestant Church publicly declared itself “complicit before the God of Mercy for the evil that our people did to the Jews.” But the Protestant Church was not so ready to draw the inevitable consequence that this responsibility in reality concerned not the God of Mercy but the God of Justice and should have called for the punishment of those preachers guilty of having justified anti-Semitism. The same can be said for the Catholic Church, which, even recently in the declaration of the French episcopate, showed itself willing to recognize its own collective guilt toward the Jews. Yet this very church has never wanted to admit the precise, grave, and documented omissions of Pope Pius XII with respect to the persecution and extermination of Jews (in particular, with respect to the deportation of Roman Jews in 1943).

Levi is perfectly convinced that it makes no sense to speak of collective guilt (or innocence) and that only metaphorically can one claim to feel guilty for what one’s own people or parents did. When a German writes him, not without hypocrisy, that “the guilt weighs heavily on my poor betrayed and misguided people,” Levi responds that “one must answer personally for sins and errors, otherwise all trace of civilization would vanish from the face of the earth” (Levi

1989: 177–78). And the only time Levi does speak of collective guilt, he means it in the only sense possible for him, that is, as a wrong committed by “almost all the Germans of the time”: of not having had the courage to speak, to bear witness to what they could not not have seen.

3.6. But another reason leads one to distrust that explanation. More or less consciously and more or less explicitly, it claims to present the survivor’s shame as a tragic conflict. Beginning with Hegel, the guilty-innocent person is the figure through which modern culture interprets Greek tragedy and, concomitantly, its own secret contradictions. “In considering all these tragic conflicts,” Hegel writes, “we must above all reject the false idea that they have anything to do with guilt or innocence. The tragic heroes are just as much innocent as guilty” (Hegel 1975: 1214). The conflict of which Hegel speaks, however, is not merely a matter of consciousness, in which subjective innocence is simply opposed to objective guilt. What is tragic is, on the contrary, for an apparently innocent subject to assume unconditionally objective guilt. Thus in *Oedipus Rex*

what is at issue . . . is the right of the wide awake consciousness, the justification of what the man has self-consciously willed and knowingly done, as contrasted with what he was fated by the gods to do and actually did unconsciously and without having willed it. Oedipus has killed his father; he has married his mother and begotten children in this incestuous alliance; and yet he has been involved in these most evil crimes without either knowing or willing them. The right of our deeper consciousness today would consist in recognizing that since he had neither intended nor known these crimes himself, they were not to be regarded as his own deeds. But the Greek, with his plasticity of consciousness, takes responsibility for what he has done as an individual and does not cut his purely subjective self-consciousness apart from what is objectively the case. . . . But they do not claim to be innocent of these [acts] at all. On the contrary, what they did, and actually had to do, is their glory. No worse insult could be given to such a hero than to say that he had acted innocently. (Ibid.: 1214, 1215)

Nothing is further from Auschwitz than this model. For the deportee sees such a widening of the abyss between subjective innocence and objective guilt, between what he did do and what he could feel responsible for, that he cannot assume responsibility for any of his actions. With an inversion that borders on parody, he feels innocent precisely for that which the tragic hero feels guilty, and guilty exactly where the tragic hero feels innocent. This is the sense of the specific *Befehlnotstand*, the “state of compulsion that follows an order” of which Levi speaks in discussing the *Sonderkommando* members, which makes any tragic conflict at Auschwitz impossible. The objective element, which for the Greek

hero was in every case the decisive question, here becomes what renders decision impossible. And since he cannot master his own actions, the victim seeks shelter, like Bettelheim, behind the prestigious mask of innocent guilt.

The ease with which the executioners invoke the tragic model, not always in bad faith, provokes distrust in their capacity truly to give reasons for Auschwitz. It has been observed many times that the Nazi functionaries' recourse to *Befehlnotstand* was in itself impudent (among others, cf. Levi 1989: 59). And yet it is certain that at least from a certain point onward, they invoked it not so much to escape condemnation (the objection was already dismissed during the first Nuremberg trial, given that the German military code itself contained an article authorizing disobedience in extreme cases) as, rather, to make their situation appear in terms of a tragic conflict, which was to their eyes clearly more acceptable. "My client feels guilty before God, not the law," Eichmann's lawyer repeated in Jerusalem.

An exemplary case is that of Fritz Stangl, the commander of the Treblinka extermination camp, whose personality Gitta Sereny patiently sought to reconstruct through a series of interviews held in the Düsseldorf prison, published under the significant title *Into that Darkness*. Until the end, Stangl stubbornly maintained his innocence for the crimes attributed to him, without questioning them in the slightest as to their factual accuracy. But during the last interview on June 27, 1971, a few hours before he died from a heart attack, Sereny remarks that Stangl's last resistances have crumbled and that something like a glimmer of ethical conscience appears "in that darkness":

"My conscience is clear about what I did, myself," he said, in the same stiffly spoken words he had used countless times at his trial, and in the past weeks, when we had always come back to this subject, over and over again. But this time I said nothing. He paused and waited, but the room remained silent. "I have never intentionally hurt anyone, myself," he said, with a different, less incisive emphasis, and waited again—for a long time. For the first time, in all these many days, I had given him no help. There was no more time. He gripped the table with both hands as if he was holding on to it. "But I was there," he said then, in a curiously dry and tired tone of resignation. These few sentences had taken almost half an hour to pronounce. "So yes," he said finally, very quietly, "in reality I share the guilt. . . . Because my guilt . . . my guilt . . . only now in these talks . . . now that I have talked about it for the first time. . . ." He stopped.

He had pronounced the words "my guilt": but more than the words, the finality of it was in the sagging of his body, and on his face.

After more than a minute he started again, a half-hearted attempt, in a dull voice. "My guilt," he said, "is that I am still here. That is my guilt." (Sereny 1983: 364)

It is remarkable to hear this allusive evocation of a tragic conflict of a new kind, one so inextricable and enigmatic as to be justly dissolved only by death, from a man who had directed the killing of thousands of human beings in gas chambers. It does not signify the emergence of an instance of truth, in which Stangl “became the man whom he should have been” (ibid.: 366), as Sereny, solely concerned with her dialectic of confession and guilt, seems to think. Instead, it marks the definitive ruin of his capacity to bear witness, the despairing collapse of “that darkness” on itself. The Greek hero has left us forever; he can no longer bear witness for us in any way. After Auschwitz, it is not possible to use a tragic paradigm in ethics.

3.7. The ethics of the twentieth century opens with Nietzsche’s overcoming of resentment. Against the impotence of the will with respect to the past, against the spirit of revenge for what has irrevocably taken place and can no longer be willed, Zarathustra teaches men to will backward, to desire that everything repeat itself. The critique of Judeo-Christian morality is completed in our century in the name of a capacity fully to assume the past, liberating oneself once and for all of guilt and bad conscience. The eternal return is above all victory over resentment, the possibility of willing what has taken place, transforming every “it was” into a “thus I wanted it to be”—*amor fati*.

Auschwitz also marks a decisive rupture in this respect. Let us imagine repeating the experiment that Nietzsche, under the heading “The Heaviest Weight,” proposes in *The Gay Science*. “One day or one night,” a demon glides beside a survivor and asks: “Do you want Auschwitz to return again and again, innumerable times, do you want every instant, every single detail of the camp to repeat itself for eternity, returning eternally in the same precise sequence in which they took place? Do you want this to happen again, again and again for eternity?” This simple reformulation of the experiment suffices to refute it beyond all doubt, excluding the possibility of its even being proposed.

Yet this failure of twentieth-century ethics does not depend on the fact that what happened at Auschwitz is too atrocious for anyone ever to wish for its repetition and to love it as destiny. In Nietzsche’s experiment, the horror of what happened appears at the start, indeed, so much so that the first effect of listening to it is, precisely, to “gnash one’s teeth and curse the demon who has spoken in such way.” Nor can one say that the failure of Zarathustra’s lesson implies the pure and simple restoration of the morality of resentment—even if, for the victims, the temptation is great. Jean Améry was thus led to formulate a genuine anti-Nietzschean ethics of resentment that simply refuses to accept that

“what happened, happened” (Améry 1980: 72). “Resentments as the existential dominant of people like myself,” he writes,

are the result of a long personal and historical development . . . My resentments are there in order that the crime become a moral reality for the criminal, in order that he be swept into the truth of his atrocity. . . . In two decades of contemplating what happened to me, I believe to have recognized that a forgiving and forgetting induced by social pressure is immoral. . . . Natural consciousness of time actually is rooted in the physiological process of wound-healing and became part of the social conception of reality. But precisely for this reason it is not only extramoral, but also *antimoral* in character. Man has the right and the privilege to declare himself to be in disagreement with every natural occurrence, including the biological healing that time brings about. What happened, happened. This sentence is just as true as it is hostile to mortals and intellect. . . . The moral person demands annulment of time—in the particular case under question, by nailing the criminal to his deed. Thereby, and through a moral turning-back of the clock, the latter can join his victim as a fellow human being. (Ibid.: 64, 70, 72)

There is nothing of this in Primo Levi. Naturally he rejects the title of “the forgiver” which Améry attributes to him. “I am not inclined to forgive, I never forgave our enemies of that time” (Levi 1989: 137). And yet for him, the impossibility of wanting Auschwitz to return for eternity has another, different root, one which implies a new, unprecedented ontological consistency of what has taken place. *One cannot want Auschwitz to return for eternity, since in truth it has never ceased to take place; it is always already repeating itself.* This ferocious, implacable experience appears to Levi in the form of a dream:

It is a dream within other dreams, which varies in its details but not in its content. I am seated at the dinner table with my family, or with friends, or at work, or in the countryside—in a surrounding that is, in other words, peaceful and relaxed, apparently without tension and suffering. And yet I feel anguish, an anguish that is subtle but deep, the definite sensation of some threat. And, in fact, as the dream continues, bit by bit or all of a sudden—each time it’s different—everything falls apart around me, the setting, the walls, the people. The anguish becomes more intense and pronounced. Everything is now in chaos. I’m alone at the center of a gray, cloudy emptiness, and at once I *know* what it means, I know that I’ve always known it: I am once again in the camp, and nothing outside the camp was true. The rest—family, flowering nature, home—was a brief respite, a trick of the senses. Now this inner dream, this dream of peace, is over; and in the outer dream, which continues relentlessly, I hear the sound of a voice I know well: the sound of one word, not a command, but a brief, submissive word. It is the order

at dawn in Auschwitz, a foreign word, a word that is feared and expected: “Get up,” *Wstawac*. (Levi 1988: 245–55, translation emended)

In the version recorded in the poem *At an Uncertain Hour*, the experience has the form not of a dream, but of a prophetic certainty:

Sognavamo nelle notti feroci  
 sogni densi e violenti  
 sognati con anima e corpo:  
 tornare, mangiare; raccontare.  
 Finché suonava breve e somnesso  
 il comando dell'alba:  
 “Wstawac”;  
 e si spezzava in petto il cuore.  
 Ora abbiamo ritrovato la casa,  
 il nostro ventre è sazio,  
 abbiamo finito di raccontare.  
 È tempo. Presto udremo ancora  
 il comando straniero:  
 “Wstawac.”

In savage nights, we dreamt teeming, violent dreams with our body and soul: to go back, to eat—to tell. Until we heard the brief and submissive order of dawn: *Wstawac*. And our hearts were broken in our chests.

Now we have found our homes again; our bellies are full; we have finished telling our tales. It's time. Soon we will once again hear the foreign order: *Wstawac*. (Levi 1988: 530)

In this text, the ethical problem has radically changed shape. It is no longer a question of conquering the spirit of revenge in order to assume the past, willing its return for eternity; nor is it a matter of holding fast to the unacceptable through resentment. What lies before us now is a being beyond acceptance and refusal, beyond the eternal past and the eternal present—an event that returns eternally but that, precisely for this reason, is absolutely, eternally unassumable. Beyond good and evil lies not the innocence of becoming but, rather, a shame that is not only without guilt but even without time.

3.8. Antelme clearly bears witness to the fact that shame is not a feeling of guilt or shame for having survived another but, rather, has a different, darker and more difficult cause. He relates that when the war was nearing its end, during the mad march to transfer prisoners from Buchenwald to Dachau, as the Allies were quickly approaching, the SS shot to death all those who would have slowed

down the march because of their physical condition. At times the decimation would take place by chance, in the absence of any visible criterion. One day it was a young Italian's turn:

The SS continues. "*Du komme hier!*" Another Italian steps out of the column, a student from Bologna. I know him. His face has turned pink. I look at him closely. I still have that pink before my eyes. He stands there at the side of the road. He doesn't know what to do with his hands. . . . He turned pink after the SS man said to him, "*Du komme hier!*" He must have glanced about him before he flushed; but yes, it was he who had been picked, and when he doubted it no longer, he turned pink. The SS who was looking for a man, any man, to kill, had found him. And having found him, he looked no further. He didn't ask himself: Why him, instead of someone else? And the Italian, having understood it was really him, accepted this chance selection. He didn't wonder: Why me, instead of someone else? (Antelme 1992: 231–32)

It is hard to forget the flush of the student of Bologna, who died during the march alone at the last minute, on the side of the road with his murderer. And certainly the intimacy that one experiences before one's own unknown murderer is the most extreme intimacy, an intimacy that can as such provoke shame. But whatever the cause of that flush, it is certain that he is not ashamed for having survived. Rather, it is as if he were ashamed for having to die, for having been haphazardly chosen—he and no one else—to be killed. In the camps, this is the only sense that the expression "to die in place of another" can have: everyone dies and lives in place of another, without reason or meaning; the camp is the place in which no one can truly die or survive in his own place. Auschwitz also means this much: that man, dying, cannot find any other sense in his death than this flush, this shame.

In any case, the student is not ashamed for having survived. On the contrary, what survives him is shame. Here, too, Kafka was a good prophet. At the end of *The Trial*, at the moment in which Josef K. is about to die "like a dog," and in which the knife of the executioner turns twice in his heart, something like shame arises in him; "it was as if his shame were to survive him." What is Josef K. ashamed of? Why does the student from Bologna blush? It is as if the flush on his cheeks momentarily betrayed a limit that was reached, as if something like a new ethical material were touched upon in the living being. Naturally it is not a matter of a fact to which he could bear witness otherwise, which he might also have expressed through words. But in any case that flush is like a mute apostrophe flying through time to reach us, to bear witness to him.

3.9. In 1935, Levinas provided an exemplary analysis of shame. According to Levinas, shame does not derive, as the moral philosophers maintain, from the consciousness of an imperfection or a lack in our being from which we take distance. On the contrary, shame is grounded in our being's incapacity to move away and break from itself. If we experience shame in nudity, it is because we cannot hide what we would like to remove from the field of vision; it is because the unrestrainable impulse to flee from oneself is confronted by an equally certain impossibility of evasion. Just as we experience our revolting and yet un-suppressible presence to ourselves in bodily need and nausea, which Levinas classifies alongside shame in a single diagnosis, so in shame we are consigned to something from which we cannot in any way distance ourselves.

What appears in shame is therefore precisely the fact of being chained to oneself, the radical impossibility of fleeing oneself to hide oneself from oneself, the intolerable presence of the self to itself. Nudity is shameful when it is the obviousness of our Being, of its final intimacy. And the nudity of our body is not the nudity of a material thing that is antithetical to the spirit but the nudity of our entire Being, in all its plenitude and solidity, in its most brutal expression, of which one cannot not be aware. The whistle that Charlie Chaplin swallows in *City Lights* makes appear the scandal of the brutal presence of his Being; it is like a recording device that allows one to lay bare the discrete signs of a presence that the legendary Charlot cloak barely hides . . . What is shameful is our intimacy, that is, our presence to ourselves. It reveals not our nothingness but the totality of our existence. . . . What shame discovers is the Being that *discovers* itself. (Levinas 1982: 87)

Let us seek to deepen Levinas's analysis. To be ashamed means to be consigned to something that cannot be assumed. But what cannot be assumed is not something external. Rather, it originates in our own intimacy; it is what is most intimate in us (for example, our own physiological life). Here the "I" is thus overcome by its own passivity, its ownmost sensibility; yet this expropriation and desubjectification is also an extreme and irreducible presence of the "I" to itself. It is as if our consciousness collapsed and, seeking to flee in all directions, were simultaneously summoned by an irrefutable order to be present at its own defacement, at the expropriation of what is most its own. In shame, the subject thus has no other content than its own desubjectification; it becomes witness to its own disorder, its own oblivion as a subject. This double movement, which is both subjectification and desubjectification, is shame.

3.10. In his 1942–43 lecture course on *Parmenides*, Heidegger was also concerned with shame or, more precisely, with the corresponding Greek term *aidos*,

which he defined as “a fundamental word of authentic Greekness” (Heidegger 1992: 74–75, translation modified). According to Heidegger, shame is something more than “a feeling that man has” (ibid., translation modified); instead, it is an emotive tonality that traverses and determines his whole Being. Shame is thus a kind of ontological sentiment that has its characteristic place in the encounter between man and Being. It is so little a matter of a psychological phenomenon that Heidegger can write that “Being itself carries with itself shame, the shame of Being” (ibid., translation modified).

To emphasize this ontological character of shame—the fact that, in shame, we find ourselves exposed in the face of Being, which is itself ashamed—Heidegger suggests that we consider disgust (*Abscheu*). Curiously enough, he does not proceed to develop this point, as if it were immediately obvious, which is not at all the case. Fortunately, Benjamin offers an analysis of disgust that is both brief and pertinent in an aphorism of *One-Way Street*. For Benjamin, the predominant feeling in disgust is the fear of being recognized by what repulses us. “The horror that stirs deep in man is an obscure awareness that in him something lives so akin to the animal that it might be recognized” (Benjamin 1979: 50). Whoever experiences disgust has in some way recognized himself in the object of his loathing and fears being recognized in turn. The man who experiences disgust recognizes himself in an alterity that cannot be assumed—that is, he subjectifies himself in an absolute desubjectification.

We find a reciprocity of this kind again in the analysis that Kerenyi, more or less in the same years, dedicates to *aidos* in his book, *Ancient Religion*. “The phenomenon of *aidos*, a fundamental situation of the Greeks’ religious experience, unites respectively active vision and passive vision, the man who sees and is seen, the seen world and the seeing world—where to see is also to penetrate. . . . The Greek is not only ‘born to see,’ ‘called to see;’ the form of his existence is to be seen” (Kerényi 1940: 88). In this reciprocity of active and passive vision, *aidos* resembles the experience of being present at one’s own being seen, being taken as a witness by what one sees. Like Hector confronted by his mother’s bare chest (“Hector, my son, feel *aidos* for this!”), whoever experiences shame is overcome by his own being subject to vision; he must respond to what deprives him of speech.

We can therefore propose a first, provisional definition of shame. It is nothing less than the fundamental sentiment of being *a subject*, in the two apparently opposed senses of this phrase: to be subjected and to be sovereign. Shame is what is produced in the absolute concomitance of subjectification and desubjectification, self-loss and self-possession, servitude and sovereignty.

3.11. A specific domain exists in which this paradoxical character of shame is consciously taken as an object to be transformed into pleasure—in which shame is, as it were, carried beyond itself. This is the domain of sadomasochism. Here the passive subject, the masochist, is so overtaken by his own passivity, which infinitely transcends him, that he abdicates his condition as a subject by fully subjecting himself to another subject, the sadist. Hence the ceremonial panoply of lace, contracts, metals, girdles, sutures, and constrictions of all kinds through which the masochistic subject vainly tries to contain and ironically fix the very passivity which he cannot assume and which everywhere exceeds him. Only because the masochist's own suffering is first of all that of not being able to assume his own receptivity can his pain be immediately transformed into delight. But what constitutes the subtlety of the masochistic strategy and its almost sarcastic profundity is that the masochist is able to enjoy what exceeds him only on the condition of finding outside himself a point in which he can assume his own passivity and his own unassumable pleasure. This external point is the sadistic subject, the master.

Sadomasochism thus appears as a bipolar system in which an infinite receptivity—the masochist—encounters an equally infinite impassivity—the sadist—and in which subjectification and desubjectification incessantly circulate between two poles without properly belonging to either. This indetermination, however, invests subjects not merely with power, but also with knowledge. The master-slave dialectic here is the result not of a battle for life and death, but rather of an infinite “discipline,” a meticulous and interminable process of instruction and apprenticeship in which the two subjects end by exchanging their roles. Just as the masochistic subject cannot assume his pleasure except in the master, so the sadistic subject cannot recognize himself as such—cannot assume his impassive knowledge—if not by transmitting pleasure to the slave through infinite instruction and punishment. But since the masochistic subject enjoys his cruel training by definition, what was to be the instrument of the transmission of knowledge—punishment—is instead the instrument of pleasure; and discipline and apprenticeship, teacher and pupil, master and slave become wholly indistinguishable. This indistinction of discipline and enjoyment, in which the two subjects momentarily coincide, is precisely shame. And it is this shame that the indignant master continually recalls to his humorous pupil: “Tell me, aren't you ashamed?” That is: “Don't you realize that you are the subject of your own desubjectification?”

3.12. A perfect equivalent of shame can be found precisely in the originary structure of subjectivity that modern philosophy calls *auto-affection* and that,

from Kant onward, is generally identified as time. According to Kant, what defines time as the form of inner sense, that is, “the intuition of ourselves and of our inner state” (Kant 1929: 77), is that in it “the understanding . . . performs this act upon the *passive* subject, whose *faculty* it is, and we are therefore justified in saying that inner sense is affected thereby” (ibid.: 166) and that therefore in time “we intuit ourselves only as we are inwardly affected *by ourselves*” (ibid.: 168). For Kant, a clear proof of this self-modification implicit in our intuition of ourselves is that we cannot conceive of time without drawing a straight line in the imagination, a line which is the immediate trace of the auto-affective gesture. In this sense, time is auto-affection; but precisely for this reason Kant can speak here of a genuine “paradox,” which consists in the fact that we “must behave toward ourselves as passive” (*wir uns gegen uns selbst als leidend verhalten mussten*) (ibid.).

How are we to understand this paradox? What does it mean to be passive with respect to oneself? Passivity does not simply mean receptivity, the mere fact of being affected by an external active principle. Since everything takes place here inside the subject, activity and passivity must coincide. The passive subject must be active with respect to its own passivity; it must “behave” (*verhalten*) “against” itself (*gegen uns selbst*) as passive. If we define as merely receptive the photographic print struck by light, or the soft wax on which the image of the seal is imprinted, we will then give the name “passive” only to what actively feels its own being passive, to *what is affected by its own receptivity*. As auto-affection, passivity is thus a receptivity to the second degree, a receptivity that experiences itself, that is moved by its own passivity.

Commenting on these pages of Kant, Heidegger defines time as “pure auto-affection” that has the singular form of a “moving from itself toward . . .” that is at the same time a “looking back.” Only in this complicated gesture, in this looking to oneself in distancing oneself from oneself, can something like an identical self be constituted:

Time is not an active affection that strikes an already existing subject. As pure auto-affection, it forms the very essence of what can be defined as seeing oneself in general. . . . But the self itself that, as such, can be seen by something is, in essence, the finite subject. Insofar as it is pure auto-affection, time forms the essential structure of subjectivity. Only on the basis of this selfhood can finite Being be what it must be: delivered over to receiving. (Heidegger 1990: 131–32, translation modified)

Here what is revealed is the analogy with shame, defined as being consigned to a passivity that cannot be assumed. Shame, indeed, then appears as the most

proper emotive tonality of subjectivity. For there is certainly nothing shameful in a human being who suffers on account of sexual violence; but if he takes pleasure in his suffering violence, if he is moved by his passivity—if, that is, auto-affection is produced—only then can one speak of shame. This is why the Greeks clearly separated, in the homosexual relation, the active subject (the *erastēs*) and the passive subject (*eromenos*) and, for the sake of the ethnicity of the relation, demanded that the *eromenos* not experience pleasure. Passivity, as the form of subjectivity, is thus constitutively fractured into a purely receptive pole (the *Muselmann*) and an actively passive pole (the witness), but in such a way that this fracture never leaves itself, fully separating the two poles. On the contrary, it always has the form of an *intimacy*, of being consigned to a passivity, to a making oneself passive in which the two terms are both distinct and inseparable.

In his *Compendium grammaticus linguae hebraeae*, Spinoza illustrates the concept of immanent cause—that is, an action in which agent and patient are one and the same person—with the Hebrew verbal categories of the active reflexive and the infinitive noun. “Since it often happens,” he writes, referring to the infinitive noun, “that the agent and the patient are one and the same person, the Jews found it necessary to form a new and seventh kind of infinitive with which to express an action referred both to the agent and the patient, an action that thus has the form both of an activity and a passivity. . . . It was therefore necessary to invent another kind of infinitive, expressing an action referred to the agent as immanent cause . . . which, as we have seen, means ‘to visit oneself,’ or ‘to constitute oneself as visiting’ or, finally, ‘to show oneself as visiting’ (*constituere se visitantem, vel denique praeberere se visitantem*)” (Spinoza 1925: 361). Explaining the meaning of these verbal forms, Spinoza is not satisfied with the reflexive form “to visit oneself,” and is compelled to form the striking syntagm “to constitute oneself as visiting” or “to show oneself as visiting” (he could also have written “to constitute or show oneself as visited”). Just as in ordinary language, to define someone who takes pleasure in undergoing something (or who is somehow an accomplice to this undergoing) one says that he “gets himself done” something (and not simply that something “is done to him”), so the coincidence of agent and patient in one subject has the form not of an inert identity, but of a complex movement of auto-affection in which the subject constitutes—or shows—itself as passive (or active), such that activity and passivity can never be separated, revealing themselves to be distinct in their impossible coincidence in a *self*. The *self* is what is produced as a remainder in the double movement—active and passive—of auto-affection. This is why subjectivity constitutively has the form of subjectification and desubjectification;

this is why it is, at bottom, shame. Flush is the remainder that, in every subjectification, betrays a desubjectification and that, in every desubjectification, bears witness to a subject.

3.13. There is an exceptional document of desubjectification as a shameful and yet inevitable experience. It is the letter Keats sends to John Woodhouse on October 27, 1818. The “wretched confession” of which the letter speaks concerns the poetic subject himself, the incessant self-loss by which he consists solely in alienation and non-existence. The theses that the letter states in the form of paradoxes are well known:

1) *The poetic “I” is not an “I”; it is not identical to itself*: “As to the poetical Character (I mean that sort of which, if I am any thing, I am a Member . . . ) it is not itself—it has no self—it is every thing and nothing—It has no character” (Keats 1935: 226).

2) *The poet is the most unpoetical of things*, since he is always other than himself; he is always the place of another body: “A Poet is the most unpoetical of any thing in existence; because he has no Identity—he is continually filling in for—and filling some other Body” (ibid.: 227).

3) *The statement “I am a poet” is not a statement*, but rather a contradiction in terms, which implies the impossibility of being a poet: “If then he has no self, and if I am a Poet, where is the Wonder that I should say I would write no more?” (ibid.).

4) *The poetic experience is the shameful experience of desubjectification*, of a full and unrestrained impossibility of responsibility that involves every act of speech and that situates the would-be poet in a position even lower than that of children: “It is a wretched thing to confess; but it is a very fact that not one word I ever utter can be taken for granted as an opinion growing out of my identical nature—how can it, when I have no nature? When I am in a room with People if I ever am free from speculating on creations of my own brain, then not myself goes home to myself: but the identity of every one in the room begins so to press upon me that I am in a very little time annihilated—not only among Men; it would be the same in a Nursury of children” (ibid.).

But the final paradox is that in the letter the confession is immediately followed not only by silence and renunciation, but also by the promise of an absolute and unfailing writing destined to destroy and renew itself day after day. It is almost as if the shame and desubjectification implicit in the act of speech contained a secret beauty that could only bring the poet incessantly to bear witness to his own alienation: “I will assay to reach to as high a summit in Poetry as the

nerve bestowed upon me will suffer . . . I feel assured I should write . . . even if my night's labours should be burnt every morning, and no eye ever shine upon them. But even now I am perhaps not speaking from myself: but from some character in whose soul I now live" (ibid.: 227–28).

3.14. In the Western literary tradition, the act of poetic creation and, indeed, perhaps every act of speech implies something like a desubjectification (poets have named this desubjectification the "Muse"). "An 'I' without guarantees!" writes Ingeborg Bachmann in one of her *Frankfurt Lectures*, "what is the 'I,' what could it be? A star whose position and orbit have never been fully identified and whose nucleus is composed of substances still unknown to us. It could be this: myriads of particles forming an 'I.' But at the same time the 'I' seems to be a Nothing, the hypostasis of a pure form, something like an imagined substance" (Bachmann 1982: 42). Bachmann claims that poets are precisely those who "make the 'I' into the ground of their experiments, or who have made themselves into the experimental ground of the 'I'" (ibid.). This is why they "continually run the risk of going mad" (ibid.) and not knowing what they say.

But the idea of a fully desubjectified experience in the act of speech is also not foreign to the religious tradition. Many centuries before being programmatically taken up by Rimbaud in his letter to P. Demeny ("for 'I' is another. If brass wakes up a trumpet, it's not its fault"), a similar experience appeared as the common practice of a messianic community in Paul's first Letter to the Corinthians. The "speaking in tongues" (*lalein glōssē*) of which Paul writes refers to an event of speech—glossolalia—in which the speaker speaks without knowing what he says ("no man understandeth him; howbeit in the spirit he speaketh mysteries" [1 Corinthians 14:2]). Yet this means that the very principle of speech becomes something alien and "barbaric": "If I know not the meaning of the voice, I shall be unto him that speaketh a barbarian, and he that speaketh shall be a barbarian unto me" (14:11). The literal meaning of the term *barbaros*, a "barbarian," is a being not gifted with *logos*, a foreigner who does not truly know how to understand and speak. Glossolalia thus presents the aporia of an absolute desubjectification and "barbarization" of the event of language, in which the speaking subject gives way to another subject, a child, angel, or barbarian, who speaks "unfruitfully" and "into the air." And it is significant that although he does not altogether exclude the Corinthians' glossolalic practice, Paul alerts them to the puerile regression it implies, enjoining them to interpret what they say: "For if the trumpet give an uncertain sound, who shall prepare himself to the battle? . . .

So likewise ye, except ye utter by the tongue words easy to be understood, how shall it be known what is spoken? For ye shall speak into the air. . . . Wherefore let him that speaketh in an unknown tongue pray that he may not interpret. For if I pray in an unknown tongue, my spirit prayeth, but my understanding is unfruitful. . . . Brethren, be not children in understanding" (14: 8–20).

3.15. The experience of glossolalia merely radicalizes a desubjectifying experience implicit in the simplest act of speech. Modern linguistic theory maintains that language and actual discourse are two absolutely divided orders, between which there can be neither transition nor communication. Saussure already observed that if language (in the sense of *langue*) in itself is constituted by a series of signs (for example, "mud," "lake," "sky," "red," "sad," "five," "to split," "to see"), nevertheless nothing makes it possible to foresee and understand how these signs will be put into action to form discourse. "The series of these words, as rich as it is through the ideas that it evokes, will never show one individual that another individual, in pronouncing them, means something." "The world of signs," Benveniste added a few years later, taking up and developing Saussure's antinomy, "is closed. From the sign to the phrase there is no transition, be it by syntagmatization or by any other means. A hiatus separates them" (Benveniste 1974: 65).

However, every language has at its disposal a series of signs (which linguistics call "shifters" or indicators of enunciation, among which, for example, there are the pronouns "I," "you," "this," and the adverbs "here," "now," etc.) destined to allow the individual to appropriate language in order to use it. Unlike other words, these signs do not possess a lexical meaning that can be defined in real terms; their meaning arises only through reference to the event of discourse in which they are used. "What then," Benveniste asks, "is the reality to which *I* or *you* refers? It is solely to a 'reality of discourse,' and this is a very strange thing. *I* cannot be defined except in terms of 'locution,' not in terms of objects as a nominal sign is. *I* signifies 'the person who is uttering the present instance of the discourse containing *I*'" (Benveniste 1971: 218).

Enunciation thus refers not to the *text* of what is stated, but to its *taking place*; the individual can put language into act only on condition of identifying himself with the very event of saying, and not with what is said in it. But then what does it mean "to appropriate language"? How is it possible to "start to speak" in these conditions?

When one looks closely, the passage from language to discourse appears as a paradoxical act that simultaneously implies both subjectification and desub-

jectification. On the one hand, the psychosomatic individual must fully abolish himself and desubjectify himself as a real individual to become the subject of enunciation and to identify himself with the pure shifter “I,” which is absolutely without any substantiality and content other than its mere reference to the event of discourse. But, once stripped of all extra-linguistic meaning and constituted as a subject of enunciation, the subject discovers that he has gained access not so much to a possibility of speaking as to an impossibility of speaking—or, rather, that he has gained access to being always already anticipated by a glossolalic potentiality over which he has neither control nor mastery. Appropriating the formal instruments of enunciation, he is introduced into a language from which, by definition, nothing will allow him to pass into discourse. And yet, in saying “I,” “you,” “this,” “now . . . ,” he is expropriated of all referential reality, letting himself be defined solely through the pure and empty relation to the event of discourse. *The subject of enunciation is composed of discourse and exists in discourse alone. But, for this very reason, once the subject is in discourse, he can say nothing; he cannot speak.*

“I speak” is therefore just as contradictory a statement as is “I am a poet.” For not only is the “I” always already *other* with respect to the individual who lends it speech; it does not even make sense to say that this *I-other* speaks, for insofar as it is solely sustained in a pure event of language, independent of every meaning, this *I-other* stands in an impossibility of speaking—he has nothing to say. In the absolute present of the event of discourse, subjectification and desubjectification coincide at every point, and both the flesh and blood individual and the subject of enunciation are perfectly silent. This can also be expressed by saying that the one who speaks is not the individual, but language; but this means nothing other than that an impossibility of speaking has, in an unknown way, come to speech.

It is therefore not surprising that in the face of this intimate extraneousness implicit in the act of speech, poets experience something like responsibility and shame. This is why Dante, in his *Vita nuova*, commanded the poet to know how “to open by prose” (*aprire per prosa*) the reasons of his poetry on pain of the “greatest shame.” And it is difficult to forget the words with which Rimbaud evoked his earlier years as a poet: “I could not continue; I would have gone mad and, what is more . . . it was evil.”

3.16. In twentieth-century poetry, Pessoa’s letter on heteronyms constitutes perhaps the most impressive document of desubjectification, the transformation of the poet into a pure “experimentation ground,” and its possible implications for ethics. On January 13, 1935, he responds to his friend Adolfo Casais Monteiro,

who had asked him about the origin of his many heteronyms. He begins by presenting them as “an organic and constant tendency toward depersonalization:”

The origin of my heteronyms is basically an aspect of hysteria that exists within me. I don't know whether I am simply a hysteric or if I am more properly a neurasthenic hysteric. I tend toward the second hypothesis, because there are in me evidences of lassitude that hysteria, properly speaking, doesn't encompass in the list of its symptoms. Be that as it may, the mental origin of heteronyms lies in a persistent and organic tendency of mine to depersonalization and simulation. These phenomena—fortunately for me and others—intellectualize themselves. I mean, they don't show up in my practical life, on the surface and in contact with others; they explode inside, and I live with them alone in me. . . . An urging of spirit came upon me, absolutely foreign, for one reason or another, of that which I am, or which I suppose that I am. I spoke to it, immediately, spontaneously, as if it were a certain friend of mine whose name I invented, whose history I adapted, and whose figure—face, build, clothes, and manner—I immediately saw inside of me. And so I contrived and procreated various friends and acquaintances who never existed but whom still today—nearly thirty years later—I hear, feel, see. I repeat: I hear, feel, see. . . . And get greetings from them. . . . (Pessoa 1988: 7–9)

Next comes the summary of the sudden personalization, on March 8, 1914, of one of his most memorable heteronyms, Alberto Caeiro, who was to become his teacher (or, rather, the teacher of another one of his heteronyms, Alvaro Do Campos):

I went over to a high desk and, taking a piece of paper, began to write, standing up, as I always do when I can. And I wrote some thirty poems, one after another, in a kind of ecstasy, the nature of which I am unable to define. It was the triumphant day of my life, and never will I have another like it. I began with the title, *The Keeper of Sheep*. What followed was the appearance of someone in me whom I named, from then on, Alberto Caeiro. Forgive me the absurdity of the sentence: In me there appeared my master. That was my immediate reaction. So much so that scarcely were those thirty-odd poems written when I snatched more paper and wrote, again without stopping, the six poems constituting “Oblique Rain,” by Fernando Pessoa. Straight away and completely. . . . It was the return of Fernando Pessoa/Alberto Caeiro to Fernando Pessoa himself. Or better, it was the reaction of Fernando Pessoa against his nonexistence as Alberto Caeiro. (Ibid.: 9)

It is worth examining this incomparable phenomenology of heteronymic depersonalization. Not only does each new subjectification (the appearance of Alberto Caeiro) imply a desubjectification (the depersonalization of Fernando Pessoa, who submits himself to his teacher). At the same time, each desubjectification also implies a resubjectification: the return of Fernando Pessoa, who

reacts to his non-existence, that is, to his depersonalization in Alberto Caeiro. It is as if the poetic experience constituted a complex process that involved at least three subjects—or rather, three different subjectifications-desubjectifications, since it is no longer possible to speak of a subject in the strict sense. First of all there is the psychosomatic individual Fernando Pessoa, who approaches his desk on March 8, 1914, to write. With respect to this subject, the poetic act can only imply a radical desubjectification, which coincides with the subjectification of Alberto Caeiro. But a new poetic consciousness, something like a genuine *ēthos* of poetry, begins once Fernando Pessoa, having survived his own depersonalization, returns to a self who both is and is no longer the first subject. Then he understands that he must react to his non-existence as Alberto Caeiro, *that he must respond to his own desubjectification.*

3.17. Let us now reread the phenomenology of testimony in Primo Levi, the impossible dialectic between the survivor and the *Muselmann*, the pseudo-witness and the “complete witness,” the human and the inhuman. Testimony appears here as a process that involves at least two subjects: the first, the survivor, who can speak but who has nothing interesting to say; and the second, who “has seen the Gorgon,” who “has touched bottom,” and therefore has much to say but cannot speak. Which of the two bears witness? *Who is the subject of testimony?*

At first it appears that it is the human, the survivor, who bears witness to the inhuman, the *Muselmann*. But if the survivor bears witness *for* the *Muselmann*—in the technical sense of “on behalf of” or “by proxy” (“we speak in their stead, by proxy”)—then, according to the legal principle by which the acts of the delegated are imputed to the delegant, it is in some way the *Muselmann* who bears witness. But this means that the one who truly bears witness in the human is the inhuman; it means that the human is nothing other than the agent of the inhuman, the one who lends the inhuman a voice. Or, rather, that there is no one who claims the title of “witness” by right. To speak, to bear witness, is thus to enter into a vertiginous movement in which something sinks to the bottom, wholly desubjectified and silenced, and something subjectified speaks without truly having anything to say of its own (“I tell of things . . . that I did not actually experience”). Testimony takes place where the speechless one makes the speaking one speak and where the one who speaks bears the impossibility of speaking in his own speech, such that the silent and the speaking, the inhuman and the human enter into a zone of indistinction in which it is impossible to establish the position of the subject, to identify the “imagined substance” of the “I” and, along with it, the true witness.

This can also be expressed by saying that *the subject of testimony is the one who bears witness to a desubjectification*. But this expression holds only if it is not forgotten that “to bear witness to a desubjectification” can only mean there is no subject of testimony (“I repeat, we are not . . . the true witnesses”) and that every testimony is a field of forces incessantly traversed by currents of subjectification and desubjectification.

Here it is possible to gage the insufficiency of the two opposed theses that divide accounts of Auschwitz: the view of humanist discourse, which states that “all human beings are human” and that of anti-humanist discourse, which holds that “only some human beings are human.” What testimony says is something completely different, which can be formulated in the following theses: “human beings are human insofar as they are not human” or, more precisely, “human beings are human insofar as they bear witness to the inhuman.”

3.18. Let us consider the individual living being, the “infant” in the etymological sense, a being who cannot speak. What happens in him—and for him—in the moment he says “I” and begins to speak? We have seen that the “I,” the subjectivity to which he gains access, is a purely discursive reality that refers neither to a concept nor to a real individual. The “I” that, as a unity transcending the multiple totality of lived experiences, guarantees the permanence of what we call consciousness is nothing other than the appearance in Being of an exclusively linguistic property. As Benveniste writes, “It is in the instance of discourse in which I designates the speaker that the speaker proclaims himself as the ‘subject.’ And so it is literally true that the basis of subjectivity is in the exercise of language” (Benveniste 1971: 226). Linguists have analyzed the consequences of the insertion of subjectivity into language for the structure of languages. The consequences of subjectification for the living individual, however, remain largely to be considered. It is thanks to this unprecedented self-presence as “I,” as speaker in the event of discourse, that there can be in the living being something like a unitary center to which one can refer lived experiences and acts, a firm point outside of the oceans of sensations and psychic states. And Benveniste has shown how human temporality is generated through the self-presence and presence to the world that the act of enunciation makes possible, how human beings in general have no way to experience the “now” other than by constituting it through the insertion of discourse into the world in saying “I” and “now.” But precisely for this reason, precisely because it has no other reality than discourse, the “now”—as shown by every attempt to grasp the present instant—is marked by an irreducible negativity; precisely because consciousness has no other consistency than lan-

guage, everything that philosophy and psychology believed themselves to discern in consciousness is simply a shadow of language, an “imagined substance.” Subjectivity and consciousness, in which our culture believed itself to have found its firmest foundation, rest on what is most precarious and fragile in the world: the event of speech. But this unsteady foundation reaffirms itself—and sinks away once again—every time we put language into action in discourse, in the most frivolous chatter as in speech given once and for all to oneself and to others.

There is more: the living being who has made himself absolutely present to himself in the act of enunciation, in saying “I,” pushes his own lived experiences back into a limitless past and can no longer coincide with them. The event of language in the pure presence of discourse irreparably divides the self-presence of sensations and experiences in the very moment in which it refers them to a unitary center. Whoever enjoys the particular presence achieved in the intimate consciousness of the enunciating voice forever loses the pristine adhesion to the Open that Rilke discerned in the gaze of the animal; he must now turn his eyes inward toward the non-place of language. This is why subjectification, the production of consciousness in the event of discourse, is often a trauma of which human beings are not easily cured; this is why the fragile text of consciousness incessantly crumbles and erases itself, bringing to light the disjunction on which it is erected: the constitutive desubjectification in every subjectification. (It is hardly astonishing that it was precisely from an analysis of the pronoun “I” in Husserl that Derrida was able to draw his idea of an infinite deferral, an originary disjunction—writing—inscribed in the pure self-presence of consciousness.)

It is therefore not surprising that when something like consciousness (*sun-  
eidēsis*, *sunnoia*) makes its appearance in the work of Greek tragedians and poets, it appears as the inscription of a zone of non-consciousness in language and of silence in knowledge, which has an ethical rather than logical connotation from the beginning. Thus in Solon’s *Eunomia*, Dikē has the form of a mute conscience (*sigōsa sunoide*), and for the tragedians consciousness can also be attributed to an inanimate object which, by definition, cannot speak: the sleepless bed in *Electra* and the rocky cavern in *Philoctetus* (cf. Agamben 1991: 91). When a subject appears for the first time as a consciousness, it thus has the form of a disjunction between knowing and saying. For the one who knows, it is felt as an impossibility of speaking; for the one who speaks, it is experienced as an equally bitter impossibility to know.

3.19. In 1928, Ludwig Binswanger published a study bearing the significant title *The Vital Function and Internal History of Life*. Introducing into psychiatric

terminology a phenomenological vocabulary that is still imprecise, Binswanger develops the idea of a fundamental heterogeneity between the plane of the physical and psychical vital functions that take place in an organism and in personal consciousness, in which the lived experiences of an individual are organized into an inner unitary history. In the place of the old distinction between the psychic and the somatic, Binswanger proposes the much more decisive distinction between the “functional modality of the psycho-somatic organism, on the one hand, and the internal history of life on the other.” This allows him to escape the confusion “between the concept of psychic function and the spiritual content of psychic lived experiences,” which is both “inherent in the psychic term and by now scientifically unsound.”

In a later work (which Foucault commented on), Binswanger compares this duality to the opposition between dreaming and waking. “Dreaming, man—to use a distinction I have drawn elsewhere—is ‘life-function; ‘waking, he creates ‘life history.’ . . . It is not possible—no matter how the attempt is made—to reduce both parts of the disjunction between life-function and life-history to a common denominator, because life considered as function is not the same as life considered as history” (Binswanger 1963: 247–48).

Binswanger limits himself to noting this opposition and to suggesting that the psychiatrist ought to take account of both points of view. But he indicates an aporia so radical that the very possibility of identifying a unitary terrain of consciousness is called into question. Consider, on the one hand, the continuous flow of vital functions: respiration, circulation, digestion, homeothermy (but also sensation, muscular movement, irritation, etc.) and, on the other hand, the flow of language and of the conscious “I,” in which lived experiences are organized into an individual history. Is there a point in which these two flows are unified, in which the “dreaming” of the vital functions is joined to the “waking” of personal consciousness? Where, and how, can a subject be introduced into the biological flow? Is it possible to say that at the point in which the speaker, saying “I,” is produced as a subject, there is something like a coincidence between these two series, in which the speaking subject can truly assume his own biological functions as his own, in which the living being can identify himself with the speaking and thinking “I”? In the cyclical development of bodily processes as in the series of consciousness’ intentional acts, nothing seems to consent to such a coincidence. Indeed, “I” signifies precisely the irreducible disjunction between vital functions and inner history, between the living being’s becoming a speaking being and the speaking being’s sensation of itself as living. It is certainly true that the two series flow along-

side one another in what one could call absolute intimacy. But is *intimacy* not precisely the name that we give to a proximity that also remains distant, to a promiscuity that never becomes identity?

3.20. The Japanese psychiatrist Kimura Bin, director of the Psychiatric Hospital of Kyoto and translator of Binswanger, sought to deepen Heidegger's analysis of temporality in *Being and Time* with reference to a classification of the fundamental types of mental illness. To this end he made use of the Latin formula *post festum* (literally, "after the celebration"), which indicates an irreparable past, an arrival at things that are already done. *Post festum* is symmetrically distinguished from *ante festum* ("before the celebration") and *intra festum* ("during the celebration").

*Post festum* temporality is that of the melancholic, who always experiences his own "I" in the form of an "I was," of an irrecoverably accomplished past with respect to which one can only be in debt. This experience of time corresponds in Heidegger to *Dasein's* Being-thrown, its finding itself always already abandoned to a factual situation beyond which it can never venture. There is thus a kind of constitutive "melancholy" of human *Dasein*, which is always late with respect to itself, having always already missed its "celebration."

*Ante festum* temporality corresponds to the experience of the schizophrenic, in which the direction of the melancholic's orientation toward the past is inverted. For the schizophrenic, the "I" is never a certain possession; it is always something to be attained, and the schizophrenic therefore always lives time in the form of anticipation. "The 'I' of the schizophrenic," Kimura Bin writes, "is not the 'I' of the 'already been'; it is not tied to a duty. In other words, it is not the *post festum* 'I' of the melancholic, which can only be spoken of in terms of a past and a debt. . . . Instead, the essential point here is the problem of one's own possibility of being oneself, the problem of the certainty of becoming oneself and, therefore, the risk of possibly being alienated from oneself" (Kimura Bin 1992: 79). In *Being and Time*, the schizophrenic's temporality corresponds to the primacy of the future in the form of projection and anticipation. Precisely because its experience of time originally temporalizes itself on the basis of the future, *Dasein* can be defined by Heidegger as "the being for whom, in its very Being, Being is always at issue" and also as "in its Being always already anticipating itself." But precisely for this reason, *Dasein* is constitutively schizophrenic; it always risks missing itself and not being present at its own "celebration."

One might expect the temporal dimension of *intra festum* to correspond to a point between the melancholic's irreparable self-loss and the schizophrenic's

advance absence at his own ceremony, a point in which human beings would finally gain access to a full self-presence, finding their *dies festus*. But it is not so. The two examples of *intra festum* Kimura Bin provides have nothing celebratory about them. In the first case, obsessive neurosis, the adherence to the present takes the form of an obsessive reiteration of the same act with the intention, so to speak, of procuring proof of being oneself, of not always having missed oneself. In other words, the obsessive type seeks through repetition to document his own presence at a celebration that constantly eludes him. The constitutive self-loss characteristic of *intra festum* temporality is even clearer in Kimura Bin's second example: epilepsy, which he presents as the "original landscape" of insanity—a particular form of self-loss achieved through a kind of ecstatic excess over presence. According to Kimura Bin, the decisive question for epilepsy is: "Why does the epileptic lose consciousness?" His answer is that in the point in which the "I" is about to adhere to itself in the supreme moment of celebration, the epileptic crisis confirms consciousness' incapacity to tolerate presence, to participate at its own celebration. In Dostoevsky's words, which he cites at this point: "There are instants that last no longer than five or six seconds, in which all of a sudden you hear the presence of eternal harmony, and in which you have reached it. It is not earthly. But I do not want to say that it is heavenly either; only that in his earthly form man is incapable of tolerating it. He must either be physically transformed or die" (ibid.: 151).

Kimura Bin does not offer an example of epileptic temporality in *Being and Time*. And yet it is possible to suppose that it concerns the instant of decision, in which anticipation and having been, schizophrenic temporality and melancholic temporality coincide, and the "I" comes to itself in authentically assuming its own irreparable past ("its anticipation of its most extreme and ownmost possibility is a return to its own having been"). The silent and anguished decision that anticipates and assumes its own end would then be something like *Dasein*'s epileptic aura, in which *Dasein* "touches the world of death in the form of an excess, an excess that is both an overflowing and a source of life" (ibid.: 152). In any case, according to Kimura Bin, man seems necessarily to dwell in a disjunction with respect to himself and his own *dies festus*. Almost as if living beings were constitutively divided on account of having become speaking beings, of having said 'I,' and as if time were nothing other than the form of this disjunction. And as if this disjunction could be mastered only in the epileptic excess or the moment of authentic decision, which represent something like the invisible architraves sustaining the ecstatico-horizonal edifice of time, keeping it from caving in on Being-There's spatial situation, its There.

From this perspective, Auschwitz marks the irrecoverable crisis of authentic temporality, of the very possibility of “deciding” on the disjunction. The camp, the absolute situation, is the end of every possibility of an originary temporality, that is, of the temporal foundation of a singular position in space, of a *Da*. In the camp, the irreparability of the past takes the form of an absolute imminence; *post festum* and *ante festum*, anticipation and succession are parodically flattened on each other. Waking is now forever drawn into the inside of the dream: “Soon we will again hear / the foreign command: / *Wstawac!*”

3.21. It is now possible to clarify the sense in which shame is truly something like the hidden structure of all subjectivity and consciousness. Insofar as it consists solely in the event of enunciation, consciousness constitutively has the form of being consigned to something that cannot be assumed. To be conscious means: to be consigned to something that cannot be assumed. (Hence both guilt as the structure of conscience in Heidegger and the necessity of the unconscious in Freud.)

Consider the old philosophical definition of man as *zōon logon echōn*, the living being who has language. The metaphysical tradition has interrogated this definition with regard both to the living being and to *logos*. And yet what has remained unthought in it is the *echōn*, the mode of this having. How can a living being *have* language? What can it mean for a living being to speak?

The preceding analyses have sufficiently shown the sense in which speaking is a paradoxical act that implies both subjectification and desubjectification, in which the living individual appropriates language in a full expropriation alone, becoming a speaking being only on condition of falling into silence. The mode of Being of this “I,” the existential status of the speaking-living-being is thus a kind of ontological glossolalia, an absolutely insubstantial chatter in which the living being and the speaking being, subjectification and desubjectification, can never coincide. This is why metaphysics and the Western reflection on language—if they are two different things—have constantly sought to articulate the relation between the living being and the speaking being, to construct a link securing communication between what seems incommunicable, giving consistency to the “imagined substance” of the subject and its ungraspable glossolalia.

This is not the place to show how this articulation has been generally sought in the site of an “I” or a Voice—as a silent voice of conscience that appears to itself in inner discourse, on the one hand, and on the other, as an articulated voice, *phōnē enarthos*, in which language is securely joined to the living being by being inscribed in its very voice. And yet in the final analysis this Voice is always

a mythologeme or a *theologoumenon*; nowhere, in the living being or in language, can we reach a point in which something like an articulation truly takes place. Outside theology and the incarnation of the Verb, there is no moment in which language is inscribed in the living voice, no place in which the living being is able to render itself linguistic, transforming itself into speech.

It is in this non-place of articulation that deconstruction inscribes its “trace” and its *différance*, in which voice and letter, meaning and presence are infinitely differed. The line that, in Kant, marked the only possible way to represent the auto-affection of time is now the movement of a writing on which “the ‘look’ cannot ‘abide’” (Derrida 1973: 104). But precisely this impossibility of conjoining the living being and language, *phōnē* and *logos*, the inhuman and the human—far from authorizing the infinite deferral of signification—is what allows for testimony. If there is no articulation between the living being and language, if the “I” stands suspended in this disjunction, then there can be testimony. The intimacy that betrays our non-coincidence with ourselves is the place of testimony. *Testimony takes place in the non-place of articulation.* In the non-place of the Voice stands not writing, but the witness. And it is precisely because the relation (or, rather, non-relation) between the living being and the speaking being has the form of shame, of being reciprocally consigned to something that cannot be assumed by a subject, that the *ēthos* of this disjunction can only be testimony—that is, something that cannot be assigned to a subject but that nevertheless constitutes the subject’s only dwelling place, its only possible consistency.

3.22. Giorgio Manganelli has written of a special figure of heteronymy, which he calls “pseudonymy squared” or “homopseudonymy.” It consists in using a pseudonym that is in every respect identical to one’s own name. One day, one of his friends tells him that he has published a book of which he knows nothing, just as other times it had also happened to him that “sober-minded people” let him know they have seen books with his first and last name on display in credible bookstore windows. (*Pseudonymy*)<sup>2</sup> brings the paradox of ontological heteronymy to an extreme point, since here it is not only an “I” that gives way to another; this “other” even claims not to be “other,” but rather fully identical to the “I,” something the “I” cannot but deny. “I had acquired and partially read a book that an honest slanderer, an historicist, a specialist of anagraphs had called ‘mine.’ But if I had written it, if there had been an ‘I’ capable of writing a book, that book, what could explain the absolute, irritating strangeness that divided me from what had been written?” (Manganelli 1996: 13).

With respect to the simple “I,” the homopseudonym is absolutely foreign and perfectly intimate, both unconditionally real and necessarily non-existent, so much so that no language could describe it; no text could guarantee its consistency. “So I had written nothing. But by ‘I’ I meant the person with my name and without pseudonym. Did the pseudonym write? It’s likely, but the pseudonym pseudowrites; it is technically speaking unreadable by the ‘I,’ although it might be readable by the squared pseudonym ‘I,’ who obviously does not exist. But if the reader is non-existent, I know what he can read: what can be written by the degree zero pseudonym, something that cannot be read by anyone who is not the squared pseudonym, the non-existent one. In fact, what is written is nothing. The book means nothing, and in any case I cannot read it without giving up my existence. Maybe it’s all a prank: as will be made clear, I have been dead now for many years, like the friend I met, and the book I’m leafing through is always incomprehensible; I read it, I reread it, I lose it. Maybe one has to die several times” (ibid.: 14).

What this terribly serious joke lays bare is nothing less than the ontological paradox of the living-speaking (or writing)-being, the living being who can say “I.” As a simple “I” with a name but no pseudonym, he can neither write nor say anything. But every proper name, insofar as it names a living being, a non-linguistic thing, is always a pseudonym (a “degree zero pseudonym”). I can only write and speak as the pseudonym “I”; but what I then write and say is nothing, that is something that could be read or heard only by a squared pseudonym, who does not exist in himself, if not by taking the place of the first “I,” who then gives up his existence (that is, dies). At this point, the pseudonym’s elevation to the second power is complete: the “I” with a name but no pseudonym disappears in the non-existent homopseudonym.

But the next question is: Who is speaking in Manganelli’s story, who is its author? Who bears witness to the unease of this intimate strangeness? The “I” without pseudonym, which exists but cannot write? Or the degree zero pseudonym, who writes the unreadable text of the first “I”? Or rather the third, the squared pseudonym who reads, rereads, and loses the empty and incomprehensible book? If it is clear that “I have been dead for many years,” who survives to speak of this death? In the process of vertiginous, heteronymic subjectification, it is as if something always survived, as if a final or residual “I” were generated in the word “I,” such that the pseudonym’s elevation to the second power were never truly completed, as if the squared “I” always fell back onto a new “I,” an “I” both indistinguishable from and irreducible to the first.

3.23. The term “to survive” contains an ambiguity that cannot be eliminated. It implies the reference to something or someone that is survived. The Latin *supervivo*—like the equivalent *superstes sum*—is in this sense constructed with the dative, to indicate the person or thing with respect to which there is survival. But from the beginning, the verb also has a reflexive form when referred to human beings, which designates the striking idea of survival with respect to oneself and one’s own life. In this form, the one who survives and the person to whom something survives thus coincide. If Pliny can therefore say of a public figure that “for thirty years he had survived his glory” (*triginta annis gloriae suae supervixit*), in Apuleius we already find the idea of genuine posthumous existence, a life that lives by surviving itself (*etiam mihi ipse supervivens et postumus*). In the same sense, Christian authors can say that Christ—and every Christian along with him—is both testator and inheritor insofar as he has survived death (*Christus idem testator et haeres, qui morti propriae supervivit*); moreover, they also can write that the sinner survives on earth on account of being in truth spiritually dead (*animam tuam misera perdidisti, spiritualiter mortua supervivere hic tibi*).

This implies that in human beings, life bears with it a caesura that can transform all life into survival and all survival into life. In a sense—the sense we have encountered in Bettelheim—survival designates the pure and simple continuation of bare life with respect to truer and more human life. In another sense, survival has a positive sense and refers—as in Des Pres—to the person who, in fighting against death, has survived the inhuman.

Let us then formulate the thesis that summarizes the lesson of Auschwitz: *The human being is the one who can survive the human being*. In the first sense, it refers to the *Muselmann* (or the gray zone); it therefore signifies the inhuman capacity to survive the human. In the second sense, it refers to the survivor; it designates the human being’s capacity to survive the *Muselmann*, the non-human. When one looks closely, however, the two senses converge in one point, which can be said to constitute their most intimate semantic core, in which the two meanings momentarily seem to coincide. The *Muselmann* stands in this point; and it is in him that we find the third, truest, and most ambiguous sense of the thesis, which Levi proclaims when he writes that “they, the *Muselmänner*, the drowned are the complete witnesses”: *the human being is the inhuman; the one whose humanity is completely destroyed is the one who is truly human*. The paradox here is that if the only one bearing witness to the human is the one whose humanity has been wholly destroyed, this means that the identity between human and inhuman is never perfect and that it is not truly possible to destroy the human, that something always remains. *The witness is this remnant*.

3.24. Concerning Antelme's book, Blanchot once wrote that "man is the indestructible that can be infinitely destroyed" (Blanchot 1993: 130). The word "indestructible" here does not mean something—an essence or human relation—that infinitely resists its own infinite destruction. Blanchot misunderstands his own words when he sees infinite destruction as the place of "the human relation in its primacy," as the relation to the Other (ibid.: 135). The indestructible does not exist, either as essence or as relation; Blanchot's sentence must be read in another sense, one that is both more complicated and simpler. "Man is the indestructible who can be infinitely destroyed"—like "the human being is the one who can survive the human being"—is not a definition which, like all good logical definitions, identifies a human essence in attributing a specific difference to it. The human being can survive the human being, the human being is what remains after the destruction of the human being, not because somewhere there is a human essence to be destroyed or saved, but because the place of the human is divided, because the human being exists in the fracture between the living being and the speaking being, the inhuman and the human. That is: *the human being exists in the human being's non-place, in the missing articulation between the living being and logos*. The human being is the being that is lacking to itself and that consists solely in this lack and in the errancy it opens. When Grete Salus wrote that "man should never have to bear everything that he can bear, nor should he ever have to see how this suffering to the most extreme power no longer has anything human about it," she also meant this much: there is no human essence; the human being is a potential being and, in the moment in which human beings think they have grasped the essence of the human in its infinite destructibility, what then appears is something that "no longer has anything human about it."

The human being is thus always beyond or before the human, the central threshold through which pass currents of the human and the inhuman, subjectification and desubjectification, the living being's becoming speaking and the logos' becoming living. These currents are coextensive, but not coincident; their non-coincidence, the subtle ridge that divides them, is the place of testimony.

## The Archive and Testimony

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**4.1.** One evening in 1969, Emile Benveniste, Professor of Linguistics at the Collège de France, suffered an attack on a street in Paris. Without identification papers, he was not recognized. By the time he was identified, he had already suffered a complete and incurable aphasia that lasted until his death in 1972 and kept him from working in any way. In 1972, the journal *Semiotica* published his essay, “The Semiology of Language.” At the end of this article, Benveniste outlines a research program that moves beyond Saussurian linguistics, one that was never realized. It is not surprising that the basis for this program lies in the theory of enunciation, which may well constitute Benveniste’s most felicitous creation. The overcoming of Saussurian linguistics, he argues, is to be accomplished in two ways: the first, which is perfectly comprehensible, is by a semantics of discourse distinct from the theory of signification founded on the paradigm of the sign; the second, which interests us here, consists instead “in the translinguistic analysis of texts and works through the elaboration of a metasemantics that will be constructed on the basis of a semantics of enunciation” (Benveniste 1974: 65).

It is necessary to linger on the aporia implicit in this formulation. If enunciation, as we know, does not refer to the text of what is uttered but to its taking place, if it is nothing other than language’s pure reference to itself as actual discourse, in what sense is it possible to speak of a “semantics” of enunciation? To be sure, the isolation of the domain of enunciation first makes it possible to distinguish in a statement between what is said and its taking place. But does enunciation not then represent a non-semantic dimension precisely on account of this identification? It is certainly possible to define something like a meaning of the shifters “I,” “you,” “now,” “here” (for example, “‘I’ means the one who utters the present speech in which ‘I’ is contained”); but this meaning is completely foreign to the lexical meaning of other linguistic signs. “I” is neither a notion nor a substance, and enunciation concerns not what is said in discourse but the pure fact that it is said, the event of language as such, which is by definition

ephemeral. Like the philosophers' concept of Being, enunciation is what is most unique and concrete, since it refers to the absolutely singular and unrepeatable event of discourse in act; but at the same time, it is what is most vacuous and generic, since it is always repeated without its ever being possible to assign it any lexical reality.

What, from this perspective, can it mean to speak of a metasemantics founded on a semantics of enunciation? What did Benveniste glimpse before falling into aphasia?

4.2. In 1969, Michel Foucault also publishes *Archaeology of Knowledge*, which formulates the method and program of his research through the foundation of a theory of statements (*énoncés*). Although Benveniste's name does not appear in the book and despite the fact that Foucault could not have known Benveniste's last articles, a secret thread ties Foucault's program to the one the linguist outlined. The incomparable novelty of *The Archaeology of Knowledge* consists in having explicitly taken as its object neither sentences nor propositions but precisely "statements," that is, not the text of discourse but its taking place. Foucault was thus the first to comprehend the novel dimension of Benveniste's theory of enunciation, and he was the first then to make this dimension into an object of study. Foucault certainly recognized that this object is, in a certain sense, undefinable, that archaeology in no way delimits a particular linguistic area comparable to those assigned to the various disciplines of knowledge. Insofar as enunciation refers not to a text but to a pure event of language (in the terms of the Stoics, not to something said but to the sayable that remains unsaid in it), its territory cannot coincide with a definite level of linguistic analysis (the sentence, the proposition, illocutive acts, etc.), or with the specific domains examined by the sciences. Instead, it represents a function vertically present in all sciences and in all acts of speech. As Foucault writes, with lucid awareness of his method's ontological implications: "the statement is not therefore a structure . . . ; it is a function of existence" (Foucault 1972: 86). In other words: enunciation is not a thing determined by real, definite properties; it is, rather, pure existence, the fact that a certain being—language—takes place. Given the system of the sciences and the many knowledges that, inside language, define meaningful sentences and more or less well formed discourses, archaeology claims as its territory the pure taking place of these propositions and discourses, that is, the *outside* of language, the brute fact of its existence.

In this way, Foucault's archaeology perfectly realizes Benveniste's program for a "metasemantics built on a semantics of enunciation." After having used a

semantics of enunciation to distinguish the domain of statements from that of propositions, Foucault establishes a new point of view from which to investigate knowledges and disciplines, an *outside* that makes it possible to reconsider the field of disciplinary discourses through a “metasemantics”: archaeology.

It is certainly possible that Foucault thus merely dressed up old ontology, which had become unacceptable, in the modern garb of a new historical meta-discipline, thereby ironically proposing first philosophy not as a knowledge, but as an “archaeology” of all knowledges. But such an interpretation fails to recognize the novelty of Foucault’s method. What gives his inquiry its incomparable efficiency is its refusal to grasp the taking place of language through an “I,” a transcendental consciousness or, worse, an equally mythological psychosomatic “I.” Instead, Foucault decisively poses the question of how something like a subject, an “I,” or a consciousness can correspond to statements, to the pure taking place of language.

Insofar as the human sciences define themselves by establishing a linguistic stratum that corresponds to a certain level of meaningful discourse and linguistic analysis (the sentence, the proposition, the illocutive act, etc.), their subject is naively identified with the psychosomatic individual presumed to utter discourse. On the other hand, modern philosophy, which strips the transcendental subject of its anthropological and psychological attributes, reducing it to a pure “I speak,” is not fully aware of the transformation this reduction implies with respect to the experience of language; it does not recognize the fact that language is thereby displaced onto an asemantic level that can no longer be that of propositions. In truth, to take seriously the statement “I speak” is no longer to consider language as the communication of a meaning or a truth that originates in a responsible Subject. It is, rather, to conceive of discourse in its pure taking place and of the subject as “a nonexistence in whose emptiness the unending outpouring of language uninterruptedly continues” (Foucault 1998: 148). In language, enunciation marks a threshold between an inside and an outside, its taking place as pure exteriority; and once the principal referent of study becomes statements, the subject is stripped of all substance, becoming a pure function or pure position. The subject, Foucault writes, “is a particular, vacant place that may in fact be filled by different individuals. . . . If a proposition, a sentence, a group of signs can be called ‘statement,’ it is not therefore because, one day, someone happened to speak them or put them into some concrete form of writing; it is because the position of the subject can be assigned. To describe a formulation *qua* statement does not consist in analyzing the relations between the author and what he says (or wanted to say, or said without wanting to); but in determining what position

can and must be occupied by any individual if he is to be the subject of it" (Foucault 1972: 95–6).

In the same year, Foucault undertakes his critique of the notion of the author following these very same principles. His interest is not so much to note the author's eclipse or to certify his death as to define the concept of the author as a simple specification of the subject-function whose necessity is anything but given: "We can easily imagine a culture where discourse would circulate without any need for an author. Discourses, whatever their status, form or value, and regardless of our manner of handling them, would unfold in the anonymity of a murmur" (Foucault 1998: 222, translation emended).

4.3. In his understandable concern to define archeology's terrain with respect to other knowledges and domains, Foucault appears to have neglected—at least to a certain point—to consider the ethical implications of his theory of statements. Only in his last works, after having effaced and depsychologized the author, after having identified something like an ethics immanent to writing already in the bracketing of the question "Who is speaking?," did Foucault begin to reflect on the consequences that his desubjectification and decomposition of the author implied for the subject. It is thus possible to say, in Benveniste's terms, that the metasemantics of disciplinary discourses ended by concealing the semantics of enunciation that had made it possible, and that the constitution of the system of statements as a positivity and historical a priori made it necessary to forget the erasure of the subject that was its presupposition. In this way, the just concern to do away with the false question "Who is speaking?" hindered the formulation of an entirely different and inevitable question: What happens in the living individual when he occupies the 'vacant place' of the subject, when he enters into a process of enunciation and discovers that "our reason is the difference of discourses, our history the difference of times, ourselves the difference of masks?" (Foucault 1972: 131). That is, once again, what does it mean to be subject to desubjectification? How can a subject give an account of its own ruin?

This omission—if it is an omission—obviously does not correspond to a forgetfulness or an incapacity on Foucault's part; it involves a difficulty implicit in the very concept of a semantics of enunciation. Insofar as it inheres not in the text of the statement, but rather in its taking place—insofar as it concerns not something said, but a pure saying—a semantics of enunciation cannot constitute either a text or a discipline. The subject of enunciation, whose dispersion founds the possibility of a metasemantics of knowledges and constitutes statements in a positive system, maintains itself not in a content of meaning but in an event

of language; this is why it cannot take itself as an object, stating itself. There can thus be no archaeology of the subject in the sense in which there is an archaeology of knowledges.

Does this mean that the one who occupies the vacant place of the subject is destined to be forever obscured and that the author must lose himself fully in the anonymous murmur of “What does it matter who is speaking”? In Foucault’s work, there is perhaps only one text in which this difficulty thematically comes to light, in which the darkness of the subject momentarily appears in all its splendor. This text is “The Life of Infamous Men,” which was originally conceived as a preface to an anthology of archival documents, registers of internment or *lettres de cachet*. In the very moment in which it marks them with infamy, the encounter with power reveals human existences that would otherwise have left no traces of themselves. What momentarily shines through these laconic statements are not the biographical events of personal histories, as suggested by the pathos-laden emphasis of a certain oral history, but rather the luminous trail of a different history. What suddenly comes to light is not the memory of an oppressed existence, but the silent flame of an immemorable *ēthos*—not the subject’s face, but rather the disjunction between the living being and the speaking being that marks its empty place. Here life subsists only in the infamy in which it existed; here a name lives solely in the disgrace that covered it. And something in this disgrace bears witness to life beyond all biography.

4.4. Foucault gives the name “archive” to the positive dimension that corresponds to the plane of enunciation, “the general system of the formation and transformation of statements” (Foucault 1972: 130). How are we to conceive of this dimension, if it corresponds neither to the archive in the strict sense—that is, the storehouse that catalogs the traces of what has been said, to consign them to future memory—nor to the Babelic library that gathers the dust of statements and allows for their resurrection under the historian’s gaze?

As the set of rules that define the events of discourse, the archive is situated between *langue*, as the system of construction of possible sentences—that is, of possibilities of speaking—and the *corpus* that unites the set of what has been said, the things actually uttered or written. The archive is thus the mass of the non-semantic inscribed in every meaningful discourse as a function of its enunciation; it is the dark margin encircling and limiting every concrete act of speech. Between the obsessive memory of tradition, which knows only what has been said, and the exaggerated thoughtlessness of oblivion, which cares only for what was never said, the archive is the unsaid or sayable inscribed in everything

said by virtue of being enunciated; it is the fragment of memory that is always forgotten in the act of saying “I.” It is in this “historical a priori,” suspended between *langue* and *parole*, that Foucault establishes his construction site and founds archaeology as “the general theme of a description that questions the already-said at the level of its existence” (ibid.: 131)—that is, as the system of relations between the unsaid and the said in every act of speech, between the enunciative function and the discourse in which it exerts itself, between the outside and the inside of language.

Let us now attempt to repeat Foucault’s operation, sliding it toward language (*langue*), thus displacing the site that he had established between *langue* and the acts of speech, to relocate it in the difference between language (*langue*) and archive: that is, not between discourse and its taking place, between what is said and the enunciation that exerts itself in it, but rather between *langue* and its taking place, between a pure possibility of speaking and its existence as such. If enunciation in some way lies suspended between *langue* and *parole*, it will then be a matter of considering statements not from the point of view of actual discourse, but rather from that of language (*langue*); it will be a question of looking from the site of enunciation not toward an act of speech, but toward *langue* as such: that is, of articulating an inside and an outside not only in the plane of language and actual discourse, but also in the plane of language as potentiality of speech.

In opposition to the *archive*, which designates the system of relations between the unsaid and the said, we give the name *testimony* to the system of relations between the inside and the outside of *langue*, between the sayable and the unsayable in every language—that is, between a potentiality of speech and its existence, between a possibility and an impossibility of speech. To think a potentiality in act *as potentiality*, to think enunciation on the plane of *langue* is to inscribe a caesura in possibility, a caesura that divides it into a possibility and an impossibility, into a potentiality and an impotentiality; and it is to situate a subject in this very caesura. The archive’s constitution presupposed the bracketing of the subject, who was reduced to a simple function or an empty position; it was founded on the subject’s disappearance into the anonymous murmur of statements. In testimony, by contrast, the empty place of the subject becomes the decisive question. It is not a question, of course, of returning to the old problem that Foucault had sought to eliminate, namely, “How can a subject’s freedom be inserted into the rules of a language?” Rather, it is a matter of situating the subject in the disjunction between a possibility and an impossibility of speech, asking, “How can something like a statement exist in the site of *langue*? In what

way can a possibility of speech realize itself as such?" Precisely because testimony is the relation between a possibility of speech and its taking place, it can exist only through a relation to an impossibility of speech—that is, only as *contingency*, as a capacity not to be. This contingency, this occurrence of language in a subject, is different from actual discourse's utterance or non-utterance, its speaking or not speaking, its production or non-production as a statement. It concerns the subject's capacity to have or not to have language. The subject is thus the possibility that language does not exist, does not take place—or, better, that it takes place only through its possibility of not being there, its contingency. The human being is the speaking being, the living being who has language, because the human being is capable of *not having* language, because it is capable of its own in-fancy. Contingency is not one modality among others, alongside possibility, impossibility, and necessity: it is the actual giving of a possibility, the way in which a potentiality exists as such. It is an event (*contingit*) of a potentiality as the giving of a caesura between a capacity to be and a capacity not to be. In language, this giving has the form of subjectivity. Contingency is possibility put to the test of a subject.

In the relation between what is said and its taking place, it was possible to bracket the subject of enunciation, since speech had already taken place. But the relation between language and its existence, between *langue* and the archive, demands subjectivity as that which, in its very possibility of speech, bears witness to an impossibility of speech. This is why subjectivity appears as *witness*; this is why it can speak for those who cannot speak. Testimony is a potentiality that becomes actual through an impotentiality of speech; it is, moreover, an impossibility that gives itself existence through a possibility of speaking. These two movements cannot be identified either with a subject or with a consciousness; yet they cannot be divided into two incommunicable substances. Their inseparable intimacy is testimony.

4.5. It is time to attempt to redefine the categories of modality from the perspective that interests us. The modal categories—possibility, impossibility, contingency, necessity—are not innocuous logical or epistemological categories that concern the structure of propositions or the relation of something to our faculty of knowledge. They are ontological operators, that is, the devastating weapons used in the biopolitical struggle for Being, in which a decision is made each time on the human and the inhuman, on “making live” or “letting die.” The field of this battle is subjectivity. The fact that Being gives itself in modalities means that “for living beings, Being is life” (*to de zēn tois zōsi einai estin*) (Aristotle, *De anima*: 413b13); it implies a living subject. The categories of modality are not

founded on the subject, as Kant maintains, nor are they derived from it; rather, the subject is what is at stake in the processes in which they interact. They divide and separate, in the subject, what is possible and what is impossible, the living being and the speaking being, the *Muselmann* and the witness—and in this way they decide on the subject.

Possibility (to be able to be) and contingency (to be able not to be) are the operators of subjectification, the point in which something possible passes into existence, giving itself through a relation to an impossibility. Impossibility, as negation of possibility (not [to be able]), and necessity, as negation of contingency (not [to be able not to be]) are the operators of desubjectification, of the destruction and destitution of the subject—that is, processes that, in subjectivity, divide potentiality and impotentiality, the possible and the impossible. The first two constitute Being in its subjectivity, that is, in the final analysis as a world that is always *my* world, since it is in my world that impossibility exists and touches (*contingit*) the real. Necessity and possibility, instead, define Being in its wholeness and solidity, pure substantiality without subject—that is, at the limit, a world that is never *my* world since possibility does not exist in it. Yet modal categories, as operators of Being, never stand before the subject as something he can choose or reject; and they do not confront him as a task that he can decide to assume or not to assume in a privileged moment. The subject, rather, is a field of forces always already traversed by the incandescent and historically determined currents of potentiality and impotentiality, of being able not to be and not being able not to be.

From this perspective, Auschwitz represents the historical point in which these processes collapse, the devastating experience in which the impossible is forced into the real. Auschwitz is the existence of the impossible, the most radical negation of contingency; it is, therefore, absolute necessity. The *Muselmann* produced by Auschwitz is the catastrophe of the subject that then follows, the subject's effacement as the place of contingency and its maintenance as existence of the impossible. Here Goebbel's definition of politics—"the art of making what seems impossible possible"—acquires its full weight. It defines a biopolitical experiment on the operators of Being, an experiment that transforms and disarticulates the subject to a limit point in which the link between subjectification and desubjectification seems to break apart.

4.6. The modern meaning of the term "author" appears relatively late. In Latin, *auctor* originally designates the person who intervenes in the case of a minor (or the person who, for whatever reason, does not have the capacity to posit a legally valid act), in order to grant him the valid title that he requires. Thus the

tutor, uttering the formula *auctor ffo*, furnishes the pupil with the “authority” he lacks (one then says that the pupil acts *tutore auctore*). In the same way, *auctoritas patrum* is the ratification that the senators—thus called *patres auctores*—bring to a popular resolution to make it valid and obligatory in all cases.

The oldest meanings of the term also include “vendor” in the act of transferring property, “he who advises or persuades” and, finally, “witness.” In what way can a term that expressed the idea of the completion of an imperfect act also signify seller, adviser, and witness? What is the common character that lies at the root of these apparently heterogeneous meanings?

As to the meanings of “seller” and “adviser,” a quick examination of the relevant texts suffices to confirm their substantial pertinence to the term’s fundamental meaning. The seller is said to be *auctor* insofar as his will, merging with that of the buyer, validates and legitimates the property at issue. The transfer of property thus appears as a convergence of at least two parties in a process in which the right of the acquirer is always founded on that of the seller, who thus becomes the buyer’s *auctor*. When we read in the *Digest* (50, 17, 175, 7) *non debeo melioris conditioni esse, quam auctor meus, a quo ius in me transit*, this simply means the following: “My right to property is, in a necessary and sufficient fashion, founded on that of the buyer, who ‘authorizes’ it.” In any case, what is essential is the idea of a relationship between two subjects in which one acts as *auctor* for the other: *auctor meus* is the name given by the buyer to the current seller, who renders the property legitimate.

“The meaning of ‘he who advises or persuades’ also presupposes an analogous idea. It is the author who grants the uncertain or hesitant will of a subject the impulse or supplement that allows it to be actualized. When we read in Plautus’s *Miles*, “*quid nunc mi auctor es, ut faciam?*,” this does not simply mean, “What do you advise me to do?” It also means, “To what do you ‘authorize’ me, in what way do you complete my will, rendering it capable of making a decision about a certain action?”

From this perspective, the meaning of “witness” also becomes transparent, and the three terms that, in Latin, express the idea of testimony all acquire their characteristic physiognomy. If *testis* designates the witness insofar as he intervenes as a third in a suit between two subjects, and if *superstes* indicates the one who has fully lived through an experience and can therefore relate it to others, *auctor* signifies the witness insofar as his testimony always presupposes something—a fact, a thing or a word—that preexists him and whose reality and force must be validated or certified. In this sense, *auctor* is opposed to *res* (*auctor magis . . . quam res . . . movit*, the witness has greater authority than the witnessed

thing [Liv. 2, 37, 8]) or to *vox* (*voces . . . nullo auctore emissae*, words whose validity no witness guarantees [Cicero, *Coel.* 30]). Testimony is thus always an act of an “author”: it always implies an essential duality in which an insufficiency or incapacity is completed or made valid.

It is thus possible to explain the sense of the term *auctor* in the poets as “founder of a race or a city,” as well as the general meaning of “setting into being” identified by Benveniste as the original meaning of *augere*. As is well known, the classical world is not acquainted with creation *ex nihilo*; for the ancients every act of creation always implies something else, either unformed matter or incomplete Being, which is to be completed or “made to grow.” Every creator is always a co-creator, every author a co-author. The act of the *auctor* completes the act of an incapable person, giving strength of proof to what in itself lacks it and granting life to what could not live alone. It can conversely be said that the imperfect act or incapacity precedes the *auctor*’s act and that the imperfect act completes and gives meaning to the word of the *auctor*-witness. An author’s act that claims to be valid on its own is nonsense, just as the survivor’s testimony has truth and a reason for being only if it is completed by the one who cannot bear witness. The survivor and the *Muselmann*, like the tutor and the incapable person and the creator and his material, are inseparable; their unity-difference alone constitutes testimony.

4.7. Let us return to Levi’s paradox: “the *Muselmann* is the complete witness.” It implies two contradictory propositions: 1) “the *Muselmann* is the non-human, the one who could never bear witness,” and 2) “the one who cannot bear witness is the true witness, the absolute witness.”

The sense and nonsense of this paradox become clear at this point. What is expressed in them is nothing other than the intimate dual structure of testimony as an act of an *auctor*, as the difference and completion of an impossibility and possibility of speaking, of the inhuman and the human, a living being and a speaking being. The subject of testimony is constitutively fractured; it has no other consistency than disjunction and dislocation—and yet it is nevertheless irreducible to them. This is what it means “to be subject to desubjectification,” and this is why the witness, the ethical subject, is the subject who bears witness to desubjectification. And the unassignability of testimony is nothing other than the price of this fracture, of the inseparable intimacy of the *Muselmann* and the witness, of an impotentiality and potentiality of speaking.

Levi’s second paradox, according to which “the human being is the one who can survive the human being,” also finds its true sense here. *Muselmann*

and witness, the inhuman and the human are coextensive and, at the same time, non-coincident; they are divided and nevertheless inseparable. And this indivisible partition, this fractured and yet indissoluble life expresses itself through a double survival: the non-human is the one who can survive the human being and the human being is the one who can survive the non-human. Only because a *Muselmann* could be isolated in a human being, only because human life is essentially destructible and divisible can the witness survive the *Muselmann*. The witness' survival of the inhuman is a function of the *Muselmann's* survival of the human. What can be infinitely destroyed is what can infinitely survive.

4.8. Bichat's central thesis is that life can survive itself and that life is, indeed, constitutively fractured into a plurality of lives and therefore deaths. All the *Recherches physiologiques sur la vie et sur la mort* are founded on Bichat's observation of a fundamental fracture in life, which he presents as the co-presence of two "animals" in every organism. First there is the "animal existing on the inside," whose life—which he calls "organic" and compares to that of a plant—is nothing but a "habitual succession of assimilation and excretion." Then there is "the animal living on the outside," whose life—which is the only one to merit the name "animal"—is defined by its relation to the external world. The fracture between the organic and the animal traverses the entire life of the individual, leaving its mark in the opposition between the continuity of organic functions (blood circulation, respiration, assimilation, excretion, etc.) and the intermittence of animal functions (the most evident of which is that of dreaming-waking); between the asymmetry of organic life (only one stomach, one liver, one heart) and the symmetry of animal life (a symmetrical brain, two eyes, two ears, two arms, etc.); and finally in the non-coincidence of the beginning and end of organic and animal life. Just as in the fetus organic life begins before that of animal life, so in getting old and dying it survives its animal death. Foucault has noted the multiplication of death in Bichat, the emergence of a moving or detailed death, which divides death into a series of partial deaths: brain death, liver death, heart death. . . . But what Bichat cannot accept, what continues to present him with an irreducible enigma is not so much this multiplication of death as organic life's survival of animal life, the inconceivable subsistence of "the animal on the inside" once the "animal on the outside" has ceased to exist. If the precedence of organic life with respect to animal life can be understood as a process of development toward more and more elevated and complex forms, how is it possible to explain the animal on the inside's senseless survival?

The passage in which Bichat describes the gradual and inexorable extinction of animal life in the indifferent survival of organic functions constitutes one of the most intense moments in the *Recherches*:

Natural death is remarkable in that it puts an almost complete end to animal life long before organic life ends. Consider man, who fades away at the end of a long period of old age. He dies in details: one after another, his external functions come to an end; all his senses cease to function; the usual causes of sensation no longer leave any impression on him. His sight grows dim, confused, and ends by not transmitting the image of objects; he suffers from geriatric blindness. Sounds strike his ear in a confused fashion, and soon his ear becomes completely insensitive to them. At this point, the cutaneous layer, hardened, covered with calluses partially deprived of blood vessels, and now inactive, allows for only an obscure and indistinct sense of touch. Habit, in any case, has blunted all sensation. All the organs that depend on the skin grow weak and die; hair and body hair grow thin. Without the fluids that nourished it, most hair falls out. Odors now leave only a light impression on his sense of smell. . . . Isolated in the middle of nature, partially deprived of his sensitive organs, the old man's brain is soon extinguished. He no longer perceives much of anything; his senses are almost incapable of being exercised at all. His imagination fades away and disappears. His memory of present things is destroyed; in a second, the old man forgets what was just said to him, since his external senses, which have grown weak and are, as it were, dead, cannot confirm what his spirit thinks it grasps. Ideas escape him, while the images traced by his senses no longer retain their imprint. (Bichat 1986: 200–201)

An intimate estrangement from the world corresponds to this decline of external senses, an estrangement that closely recalls the descriptions of the *Muselmann* in the camps:

The old man's movements are seldom and slow; he leaves only with great cost the condition in which he finds himself. Seated beside the fire that is heating him, he spends his days concentrating on himself, alienated from what surrounds him, in the absence of desires, passions, sensations—almost without speaking, since nothing pushes him to break his silence. He is happy to feel that he still exists, for almost every other feeling has vanished. . . . It is easy to see, from what we have said, that in the old man external functions are extinguished one after another and organic life continues even after animal life has almost fully come to an end. From this point of view, the condition of the living being about to be annihilated by death resembles the state in which we find ourselves in the maternal womb, or in the state of vegetation, which lives only on the inside and is deaf to nature. (Ibid.: 202–203)

The description culminates in a question that is truly a bitter confession of powerlessness in the face of an enigma:

But why is it that, when we have ceased to exist on the outside, we continue to live on the inside, when senses, locomotion, and so forth are above all designed to place us in relation to bodies that nourish us? Why do these functions grow weaker than internal ones? Why is their cessation not simultaneous? I cannot succeed in fully solving this enigma. (Ibid.: 203–204)

Bichat could not have foretold that the time would come when medical resuscitation technology and, in addition, biopolitics would operate on precisely this disjunction between the organic and the animal, realizing the nightmare of a vegetative life that indefinitely survives the life of relation, a non-human life infinitely separable from human existence. But, almost as if a dark foreboding of this nightmare suddenly crossed his mind, he imagines a symmetrical possibility of a death turned upside down, in which man's animal functions survive while his organic functions perish completely:

If it were possible to imagine a man whose death, affecting only internal functions (such as circulation, digestion, secretions, and so forth), permitted the subsistence of the set of functions of animal life, this man would view the end of his organic life with indifference. For he would feel that the worth of his existence did not depend on organic functions, and that even after their "death" he would be capable of feeling and experiencing everything that until then had made him happy. (Bichat 1986: 205–206)

Whether what survives is the human or the inhuman, the animal or the organic, it seems that life bears within itself the dream—or the nightmare—of survival.

4.9. As we have seen, Foucault defines the difference between modern biopower and the sovereign power of the old territorial State through the crossing of two symmetrical formulae. *To make die and to let live* summarizes the procedure of old sovereign power, which exerts itself above all as the right to kill; *to make live and to let die* is, instead, the insignia of biopower, which has as its primary objective to transform the care of life and the biological as such into the concern of State power.

In the light of the preceding reflections, a third formula can be said to insinuate itself between the other two, a formula that defines the most specific trait of twentieth-century biopolitics: no longer either *to make die* or *to make live*, but *to make survive*. The decisive activity of biopower in our time consists

in the production not of life or death, but rather of a mutable and virtually infinite survival. In every case, it is a matter of dividing animal life from organic life, the human from the inhuman, the witness from the *Muselmann*, conscious life from vegetative life maintained functional through resuscitation techniques, until a threshold is reached: an essentially mobile threshold that, like the borders of geopolitics, moves according to the progress of scientific and political technologies. Biopower's supreme ambition is to produce, in a human body, the absolute separation of the living being and the speaking being, *zoē* and *bios*, the inhuman and the human—survival.

This is why in the camp, the *Muselmann*—like the body of the overcomatose person and the neomort attached to life-support systems today—not only shows the efficacy of biopower, but also reveals its secret cipher, so to speak its *arcanum*. In his *De arcanis rerum publicarum* (1605), Clapmar distinguished in the structure of power between a visible face (*jus imperii*) and a hidden face (*arcanum*, which he claims derives from *area*, jewel casket or coffer). In contemporary biopolitics, survival is the point in which the two faces coincide, in which the *arcanum imperii* comes to light as such. This is why it remains, as it were, invisible in its very exposure, all the more hidden for showing itself as such. In the *Muselmann*, biopower sought to produce its final secret: a survival separated from every possibility of testimony, a kind of absolute biopolitical substance that, in its isolation, allows for the attribution of demographic, ethnic, national, and political identity. If, in the jargon of Nazi bureaucracy, whoever participated in the “Final Solution” was called a *Geheimnisträger*, a keeper of secrets, the *Muselmann* is the absolutely unwitnessable, invisible ark of biopower. Invisible because empty, because the *Muselmann* is nothing other than the *volkloser Raum*, the space empty of people at the center of the camp that, in separating all life from itself, marks the point in which the citizen passes into the *Staatsangehörige* of non-Aryan descent, the non-Aryan into the Jew, the Jew into the deportee and, finally, the deported Jew beyond himself into the *Muselmann*, that is, into a bare, unassignable and unwitnessable life.

This is why those who assert the unsayability of Auschwitz today should be more cautious in their statements. If they mean to say that Auschwitz was a unique event in the face of which the witness must in some way submit his every word to the test of an impossibility of speaking, they are right. But if, joining uniqueness to unsayability, they transform Auschwitz into a reality absolutely separated from language, if they break the tie between an impossibility and a possibility of speaking that, in the *Muselmann*, constitutes testimony, then they unconsciously repeat the Nazis' gesture; they are in secret solidarity with

the *arcanum imperii*. Their silence threatens to repeat the SS's scornful warning to the inhabitants of the camp, which Levi transcribes at the very start of *The Drowned and the Saved*:

However the war may end, we have won the war against you; none of you will be left to bear witness, but even if someone were to survive, the world will not believe him. There will perhaps be suspicions, discussions, research by historians, but there will be no certainties, because we will destroy the evidence together with you. And even if some proof should remain and some of you survive, people will say that the events you describe are too monstrous to be believed. . . . We will be the ones to dictate the history of the Lagers. (Levi 1989: 11–12)

4.10. With its every word, testimony refutes precisely this isolation of survival from life. The witness attests to the fact that there can be testimony because there is an inseparable division and non-coincidence between the inhuman and the human, the living being and the speaking being, the *Muselmann* and the survivor. Precisely insofar as it inheres in language as such, precisely insofar as it bears witness to the taking place of a potentiality of speaking through an impotentiality alone, its authority depends not on a factual truth, a conformity between something said and a fact or between memory and what happened, but rather on the immemorial relation between the unsayable and the sayable, between the outside and the inside of language. *The authority of the witness consists in his capacity to speak solely in the name of an incapacity to speak—that is, in his or her being a subject.* Testimony thus guarantees not the factual truth of the statement safeguarded in the archive, but rather its unarchivability, its exteriority with respect to the archive—that is, the necessity by which, as the existence of language, it escapes both memory and forgetting. It is because there is testimony only where there is an impossibility of speaking, because there is a witness only where there has been desubjectification, that the *Muselmann* is the complete witness and that the survivor and the *Muselmann* cannot be split apart.

It is necessary to reflect on the particular status of the subject from this perspective. The fact that the subject of testimony—indeed, that all subjectivity, if to be a subject and to bear witness are in the final analysis one and the same—is a *remnant* is not to be understood in the sense that the subject, according to one of the meanings of the Greek term *hypostasis*, is a substratum, deposit, or sediment left behind as a kind of background or foundation by historical processes of subjectification and desubjectification, humanization and inhumanization. Such a conception would once again repeat the dialectic of grounding by which one thing—in our case, bare life—must be separated and effaced for human life

to be assigned to subjects as a property (in this sense, the *Muselmann* is the way in which Jewish life must be effaced for something like an Aryan life to be produced). Here the foundation is a function of a telos that is the grounding of the human being, the becoming human of the inhuman. It is this perspective that must be wholly called into question. We must cease to look toward processes of subjectification and desubjectification, of the living being's becoming speaking and the speaking being's becoming living and, more generally, toward historical processes as if they had an apocalyptic or profane telos in which the living being and the speaking being, the inhuman and the human—or any terms of a historical process—are joined in an established, completed humanity and reconciled in a realized identity. This does not mean that, in lacking an end, they are condemned to meaninglessness or the vanity of an infinite, disenchanting drifting. They have not an *end*, but a *remnant*. There is no foundation in or beneath them; rather, at their center lies an irreducible disjunction in which each term, stepping forth in the place of a remnant, can bear witness. What is truly historical is not what redeems time in the direction of the future or even the past; it is, rather, what fulfills time in the excess of a medium. The messianic Kingdom is neither the future (the millennium) nor the past (the golden age): it is, instead, a *remaining time*.

4.II. In an interview in 1964 given on German television, Arendt was asked what remained, for her, of the pre-Hitlerian Europe that she had experienced. "What remains?" Arendt answered, "The mother tongue remains" (*Was bleibt? Die Muttersprache bleibt*). What is language as a remnant? How can a language survive the subjects and even the people that speak it? And what does it mean to speak in a remaining language?

The case of a dead language is exemplary here. Every language can be considered as a field traversed by two opposite tensions, one moving toward innovation and transformation and the other toward stability and preservation. In language, the first movement corresponds to a zone of *anomia*, the second to the grammatical norm. The intersection point between these two opposite currents is the speaking subject, as the *auctor* who always decides what can be said and what cannot be said, the sayable and the unsayable of a language. When the relation between norm and *anomia*, the sayable and the unsayable, is broken in the subject, language dies and a new linguistic identity emerges. A dead language is thus a language in which it is no longer possible to oppose norm and *anomia*, innovation and preservation. We thus say of a dead language that it is no longer spoken, that is, that *in it it is impossible to assign the position of a subject*. Here

the already-said forms a whole that is closed and lacking all exteriority, that can only be transmitted through a *corpus* or evoked through an archive. For Latin, this happened at the time of the definitive collapse of the tension between *sermo urbanus* and *sermo rusticus*, of which speakers are already conscious in the Republican age. As long as the opposition was perceived as an internal polar tension, Latin was a living language and the subject felt that he spoke a single language. Once the opposition breaks down, the normative part becomes a dead language (or the language Dante calls *grammatica*) and the anomic part gives birth to the Romance vernaculars.

Now consider the case of Giovanni Pascoli, the Latin poet of the beginning of the twentieth century, that is, a time when Latin had already been a dead language for many centuries. In his case an individual succeeds in assuming the position of subject in a dead language, thus lending it again the possibility of opposing the sayable and the unsayable, innovation and preservation that it is by definition lacking. At first glance one could say that insofar as he establishes himself in it as a subject, such a poet genuinely resurrects a dead language. This is what happened in cases where people followed the example of an isolated *auctor*, as in the Piedmontese dialect of Forno, when, between 1910 and 1918, one last speaker passed his language on to a group of young people who began to speak it; or in the case of modern Hebrew, in which a whole community placed itself in the position of a subject with respect to a language that had become purely religious. But in this case the situation is more complex. To the degree to which a poet who writes in a dead language remains isolated and continues to speak and write in his mother tongue, it can be said that in some way he makes a language survive the subjects who spoke it, producing it as an undecidable medium—or testimony—that stands between a living language and a dead language. In a kind of philological *nekuia*, he thus offers his voice and blood to the shadow of a dead language, so that it may return—as such—to speech. Such is this curious *auctor*, who authorizes an absolute impossibility of speaking and summons it to speech.

If we now return to testimony, we may say that to bear witness is to place oneself in one's own language in the position of those who have lost it, to establish oneself in a living language as if it were dead, or in a dead language as if it were living—in any case, outside both the archive and the *corpus* of what has already been said. It is not surprising that the witness' gesture is also that of the poet, the *auctor* par excellence. Hölderlin's statement that "what remains is what the poets found" (*Was bleibt, stiften die Dichter*) is not to be understood in the trivial sense that poets' works are things that last and remain throughout time. Rather, it means that the poetic word is the one that is always situated in the

position of a remnant and that can, therefore, bear witness. Poets—witnesses—found language as what remains, as what actually survives the possibility, or impossibility, of speaking.

To what does such a language bear witness? To something—a fact or an event, a memory or a hope, a delight or an agony—that could be registered in the *corpus* of what has already been said? Or to enunciation, which, in the archive, attests to the irreducibility of saying to the said? It bears witness to neither one nor the other. What cannot be stated, what cannot be archived is the language in which the author succeeds in bearing witness to his incapacity to speak. In this language, a language that survives the subjects who spoke it coincides with a speaker who remains beyond it. This is the language of the “dark shadows” that Levi heard growing in Celan’s poetry, like a “background noise”; this is Hurbinek’s non-language (*mass-klo*, *matisklo*) that has no place in the libraries of what has been said or in the archive of statements. Just as in the starry sky that we see at night, the stars shine surrounded by a total darkness that, according to cosmologists, is nothing other than the testimony of a time in which the stars did not yet shine, so the speech of the witness bears witness to a time in which human beings did not yet speak; and so the testimony of human beings attests to a time in which they were not yet human. Or, to take up an analogous hypothesis, just as in the expanding universe, the farthest galaxies move away from us at a speed greater than that of their light, which cannot reach us, such that the darkness we see in the sky is nothing but the invisibility of the light of unknown stars, so the complete witness, according to Levi’s paradox, is the one we cannot see: the *Muselmann*.

4.12. The remnant is a theologico-messianic concept. In the prophetic books of the Old Testament, what is saved is not the whole people of Israel but rather only a remnant, which is indicated in Isaiah as *shear yisrael*, the remnant of Israel, or in Amos as *sherit Yosef*, the remnant of Joseph. The paradox here is that the prophets address all of Israel, so that it may turn to the good, while at the same time announcing to the whole people that only a remnant of it will be saved (thus in Amos 5:15: “Hate the evil, and love the good, and establish judgment in the gate: it may be that the Lord God of hosts will be gracious unto the remnant of Joseph;” and in Isaiah 10: 22: “For although thy people be as the sand of the sea, yet a remnant of them shall be saved”).

What are we to understand here by “remnant”? What is decisive is that, as theologians have observed, “remnant” does not seem simply to refer to a numerical portion of Israel. Rather, *remnant designates the consistency assumed by*

*Israel when placed in relation with an eskhaton, with election or the messianic event.* In its relation to salvation, the whole (the people) thus necessarily posits itself as remnant. This is particularly clear in Paul. In his Letter to the Romans, Paul makes use of a series of Biblical citations to conceive of the messianic event as a series of caesuras dividing the people of Israel and, at the same time, the Gentiles, constituting them each time as remnants: “Even so then at this present time also [literally ‘in the time of now,’ *en to nun kairo*, Paul’s technical expression for messianic time] there is a remnant according to the election of grace” (Romans 11: 5). The caesuras do not, however, merely divide the part from the whole (Romans 9: 6–8: “For they are not all Israel, which are of Israel. Neither, because they are the seed of Abraham, are they all children: but, in Isaac shall thy seed be called. That is, They which are the children of the flesh, these are not the children of God: but the children of the promise are counted for the seed”). The caesuras also divide the non-people from the people, as in Romans 9: 25–6: “As he saith also in Osee, I will call them my people, which were not my people; and her beloved, which was not my beloved. And it shall come to pass, that in the place where it was said unto them, Ye are not my people; there shall they be called the children of the living God.” In the end, the remnant appears as a redemptive machine allowing for the salvation of the very whole whose division and loss it had signified (Romans 11: 26: “And so all Israel shall be saved”).

In the concept of remnant, the aporia of testimony coincides with the aporia of messianism. Just as the remnant of Israel signifies neither the whole people nor a part of the people but, rather, the non-coincidence of the whole and the part, and just as messianic time is neither historical time nor eternity but, rather, the disjunction that divides them, so the remnants of Auschwitz—the witnesses—are neither the dead nor the survivors, neither the drowned nor the saved. They are what remains between them.

4.13. Insofar as it defines testimony solely through the *Muselmann*, Levi’s paradox contains the only possible refutation of every denial of the existence of the extermination camps.

Let us, indeed, posit Auschwitz, that to which it is not possible to bear witness; and let us also posit the *Muselmann* as the absolute impossibility of bearing witness. If the witness bears witness for the *Muselmann*, if he succeeds in bringing to speech an impossibility of speech—if the *Muselmann* is thus constituted as the whole witness—then the denial of Auschwitz is refuted in its very foundation. In the *Muselmann*, the impossibility of bearing witness is no longer a mere privation. Instead, it has become real; it exists as such. If the survivor bears

witness not to the gas chambers or to Auschwitz but to the *Muselmann*, if he speaks only on the basis of an impossibility of speaking, then his testimony cannot be denied. Auschwitz—that to which it is not possible to bear witness—is absolutely and irrefutably proven.

This means that the phrases, “I bear witness for the *Muselmann*” and “the *Muselmann* is the whole witness” are not constative judgments, illocutive acts, or enunciations in Foucault’s sense. Rather, they articulate a possibility of speech solely through an impossibility and, in this way, mark the taking place of a language as the event of a subjectivity.

4.14. In 1987, one year after Primo Levi’s death, Zdzislaw Ryn and Stanslaw Klodzinski published the first study dedicated to the *Muselmann*. The article, published in *Auschwitz-Hefte* bearing the significant title “At the Border Between Life and Death: A Study of the Phenomenon of the *Muselmann* in the Concentration Camp,” contains eighty-nine testimonies, almost all of former Auschwitz prisoners. They had been asked to respond to a questionnaire on the origin of the term, the *Muselmänner’s* physical and psychological traits, the circumstances that produced “Muselmannization,” the behavior of functionaries and other prisoners with respect to *Muselmänner*, and *Muselmänner’s* death and chances of survival. The testimonies collected in the article do not add anything essential to what we already knew, except for one particularly interesting point, which calls into question not simply Levi’s testimony, but even one of his fundamental presuppositions. One section of the monograph (Ryn and Klodzinski 1987: 121–24) is entitled *Ich war ein Muselmann*, “I was a *Muselmann*.” It contains ten testimonies of men who survived the condition of being *Muselmänner* and now seek to tell of it.

In the expression “I was a *Muselmann*,” Levi’s paradox reaches its most extreme formulation. Not only is the *Muselmann* the complete witness; he now speaks and bears witness in the first person. By now it should be clear that this extreme formulation—“I, who speak, was a *Muselmann*, that is, the one who cannot in any sense speak”—not only does not contradict Levi’s paradox but, rather, fully verifies it. This is why we leave them—the *Muselmänner*—the last word.

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*I can't forget the days when I was a Muselmann. I was weak, exhausted, dead tired. I saw something to eat wherever I looked. I dreamt of bread and soup, but as soon as I woke up I was unbearably hungry. The food I'd been given the night before (my portion of bread, fifty grams of margarine, fifty grams of jam, and four potatoes cooked with their skins on) was a thing of the past. The head of the barrack and the other inmates who had positions threw out their potato-skins, sometimes even a whole potato. I used*

*to watch them secretly and look for the skins in the trash so that I could eat them. I would spread jam on them; they were really good. A pig wouldn't have eaten them, but I did. I'd chew on them until I felt sand on my teeth. . . .* (Lucjan Sobieraj)

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*I personally was a Muselmann for a short while. I remember that after the move to the barrack, I completely collapsed as far as my psychological life was concerned. The collapse took the following form: I was overcome by a general apathy; nothing interested me; I no longer reacted to either external or internal stimuli; I stopped washing, even when there was water; I no longer even felt hungry. . . .* (Feliksa Piekarska)

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*I am a Muselmann. Like the other inmates, I tried to protect myself from getting pneumonia by leaning forward, stretching my shoulders as much as I could and, patiently, rhythmically moving my hands over my sternum. This is how I kept myself warm when the Germans weren't watching.*

*From then onward I went back to the camps on the shoulders of my colleagues. But there are always more of us Muselmänner. . . .* (Edward Sokół)

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*I too was a Muselmann, from 1942 to the beginning of 1943. I wasn't conscious of being one. I think that many Muselmänner didn't realize they belonged to that category. But when the inmates were divided up, I was put in the group of Muselmänner. In many cases, whether or not an inmate was considered a Muselmann depended on his appearance. (Jerzy Mostowsky)*

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*Whoever has not himself been a Muselmann for a while cannot imagine the depth of the transformations that men underwent. You became so indifferent to your fate that you no longer wanted anything from anyone. You just waited in peace for death. They no longer had either the strength or the will to fight for daily survival. Today was enough; you were content with what you could find in the trash. . . .* (Karol Talik)

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*In general, one can say that among Muselmänner there were exactly the same differences, I mean physical and psychological differences, as between men living in normal conditions. Camp conditions made these differences more pronounced, and we often witnessed reversals of the roles played by physical and psychological factors. (Adolf Gawalewicz)*

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*I'd already had a presentiment of this state. In the cell, I felt life leaving me. Earthly things no longer mattered; bodily functions faded away. Even hunger tormented me less. I felt a strange sweetness. I just didn't have the strength to get off my cot, and if I did, I had to lean on the walls to make it to the bucket. . . .* (Włodzimierz Borkowski)

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*In my own body, I lived through the most atrocious kind of life in the camp, the horror of being a Muselmann. I was one of the first Muselmänner. I wandered through the camp like a stray dog; I was indifferent to everything. I just wanted to survive another day. I arrived in the camp on June 14, 1940, with the first transport from the Tarnow prison. . . . After some initial hardships, I was put in the farming Kommando, where I worked at harvesting potatoes and hay and threshing until the fall of the same year. Suddenly something happened in the Kommando. They had discovered that civilians outside the camp were giving us food. I ended up among the disciplinary group, and that is where the tragedy of my life in the camp began. I lost my strength and health. After a couple of days of hard work, the Kapo of the old Kommando had me moved from the disciplinary group to the sawmill Kommando. The work wasn't as hard, but I had to stay outside all day, and that year the fall was very cold. The rain was always mixed with snow. It had already begun to freeze over and we were dressed in light fabrics—underwear and shirts, wooden clogs without socks with cloth caps on our heads. In such a situation, without sufficient nourishment, drenched and frozen every day, death left us no way out. . . . This was the beginning of the period in which Muselmannhood [das Muselmanntum] became more and more common in all the teams working outdoors. Everyone despised Muselmänner; even the Muselmann's fellow inmates. . . . His senses are dulled and he becomes completely indifferent to everything around him. He can no longer speak of anything; he can't even pray, since he no longer believes in heaven or hell. He no longer thinks about his home, his family, the other people in the camp.*

*Almost all Muselmänner died in the camp; only a small percentage managed to come out of that state. Thanks to good luck or providence, some were liberated. This is why I can describe how I was able to pull myself out of that condition. . . .*

*You could see Muselmänner everywhere: skinny, dirty figures, their skin and faces blackened, their gaze gone, their eyes hollowed out, their clothes threadbare, filthy and stinking. They moved with slow, hesitating steps poorly suited to the rhythm of the march. . . . They spoke only about their memories and food—how many pieces of potato there were in the soup yesterday, how many mouthfuls of meat, if the soup was thick or only water. . . . The letters that arrived for them from their homes didn't*

*comfort them; they had no illusions about ever going home. Muselmänner anxiously expected packages, thinking of being full at least once. They dreamt of rummaging through the kitchen trash to find pieces of bread or coffee grinds.*

*Muselmänner worked out of inertia or, rather, pretended to work. For example, during my work at the sawmill, we used to look for the blunter saws that were easier to use, without worrying about whether they actually cut or not. We often pretended to work like that for a whole day, without even cutting one block of wood. If we were supposed to straighten nails, we would instead hammer away at the anvil. But we had to make sure that no one saw us, which was also tiring. Muselmänner had no goals. They did their work without thinking; they moved around without thinking, dreaming only of having a place in the line in which they'd be given more soup, more thick soup. Muselmänner paid close attention to the gestures of the food officer to see if, when he ladled out the soup, he drew it from the top or the bottom. They ate quickly and thought only about getting second helpings. But this never happened—the only ones who got second helpings were those who had worked the most and the hardest, who were favored by the food officer. . . .*

*The other inmates avoided Muselmänner. There could be no common subject of conversation between them, since Muselmänner only fantasized and spoke about food. Muselmänner didn't like the "better" prisoners, unless they could get something to eat from them. They preferred the company of those like themselves, since then they could easily exchange bread, cheese, and sausage for a cigarette or other kinds of food. They were afraid of going to the infirmary; they never claimed to be sick. Usually they just suddenly collapsed during work.*

*I can still see the teams coming back from work in lines of five. The first line of five would march according to the rhythm of the orchestra, but the next line would already be incapable of keeping up with them. The five behind them would lean against each other; and in the last lines the four strongest would carry the weakest one by his arms and legs, since he was dying. . . .*

*As I said, in 1940 I drifted through the camp like a stray dog, dreaming of coming across at least a single potato skin. I tried to lower myself into the holes near the sawmill, where they fermented potatoes to make fodder for the pigs and other animals. The inmates would eat slices of raw potatoes smeared with saccharin, which tasted somewhat like pears. My condition grew worse everyday; I developed ulcerations on my legs and I no longer hoped to survive. I hoped only for a miracle, although I didn't have the strength to concentrate and pray faithfully. . . .*

*This was the state I was in when I was noticed by a commission of officers who had entered the barracks after the last roll call. I think they were SS doctors. There were three or four of them and they were particularly interested in Muselmänner. In*

*addition to blisters on my legs, I also had a swelling the size of an egg on my ankle bone. This is why they prescribed an operation and moved me, together with some others, to Barrack 9 (which used to be Barrack 11). We were given the same food as the others, but we didn't go to work and we were allowed to rest all day long. Camp physicians visited us; I was operated on—the scars from the operation are still visible today—and I got better. We didn't have to be present at the roll call; it was warm and we were doing well. Then one day, the SS officers who were responsible for the barrack didn't come. They said that the air was suffocating and ordered all the windows to be opened. It was December, 1940. . . . After a few minutes, we were all shivering from the cold; then they made us run around in the room to heat ourselves up, until we were all covered in sweat. Then they said, "Sit down," and we did as they said. Once our bodies had cooled down, and we were once again cold, it was time for more running—and so it lasted for the whole day.*

*When I understood what was going on, I decided to leave. When it was time for me to be examined, I said that I was all better and that I wanted to work. And this is what happened. I was transferred to Barrack 10 (which had become number 8). They put me in a room in which there were only new arrivals. . . . Since I was an old prisoner, the head of the barrack liked me, and he spoke of me as an example for the other prisoners. . . . As a result I was transferred to the Farming Kommando, in the cowshed. There I also won the trust of the other inmates, and I had extra food, pieces of beetroot, black sugar, soup from the pig's sty, large quantities of milk and, what's more, the heat of the cowshed. This got me back on my feet again; it saved me from Muselmannhood. . . .*

*The period in which I was a Muselmann left a profound impression on my memory. I remember perfectly the accident in the sawmill Kommando of fall 1940; I still see the saw, the heaps of wood blocks, the barracks, Muselmänner keeping each other warm, their gestures. . . . The last moments of the Muselmänner were just as they say in this camp song:*

*What's worse than a Muselmann?  
Does he even have the right to live?  
Isn't he there to be stepped on, struck, beaten?  
He wanders through the camp like a stray dog.  
Everyone chases him away, but the crematorium is his deliverance.  
The camp infirmary does away with him!*

(Bronislaw Goscinski)

(Residua desiderantur)

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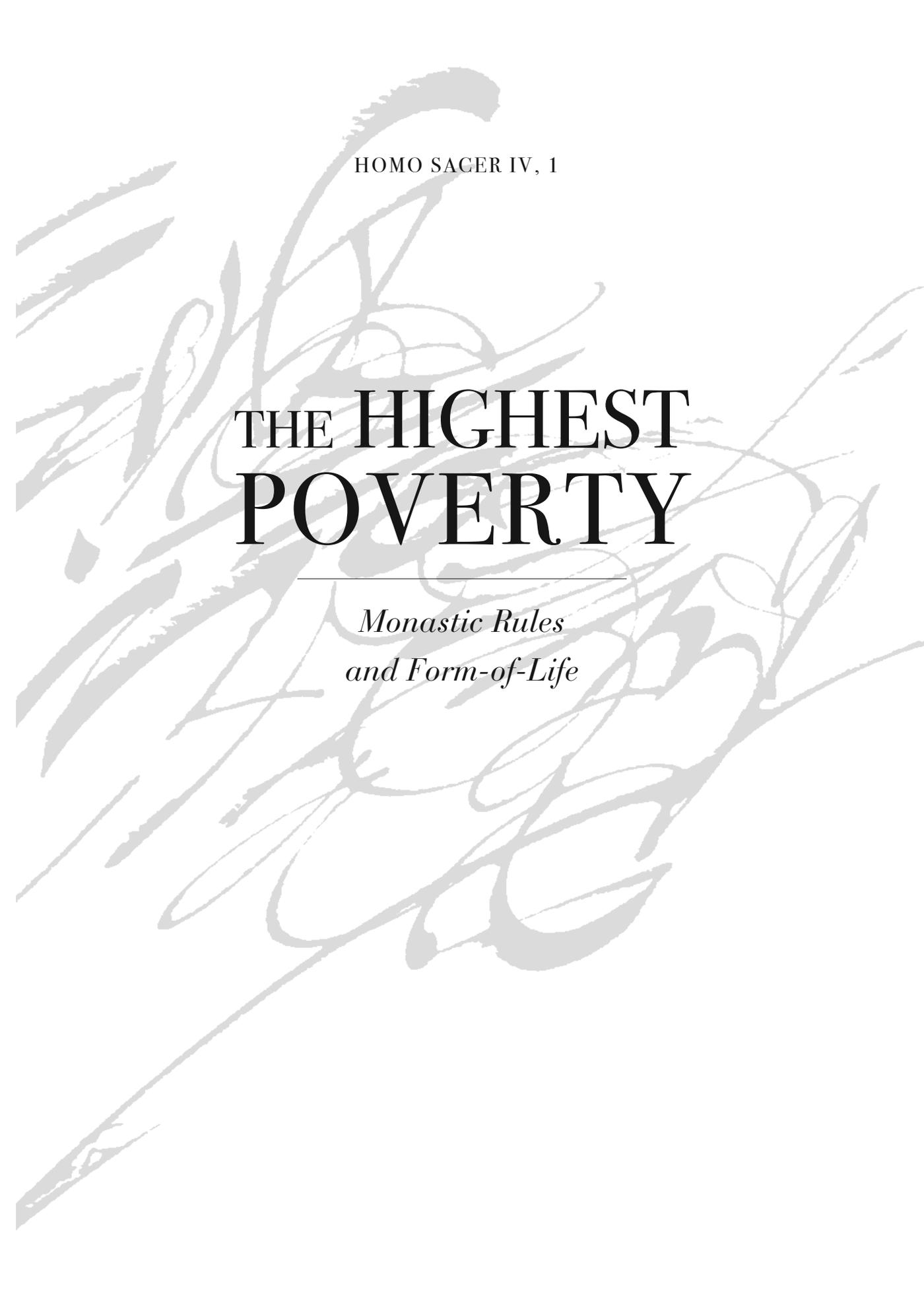
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HOMO SACER IV, 1

# THE HIGHEST POVERTY

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*Monastic Rules  
and Form-of-Life*

TRANSLATED BY ADAM KOTSKO

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## Translator's Note

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Where English translations are available, works are cited according to the page number of the original text, followed by the page number of the translation (where applicable), or else by a standard textual division that is consistent across translations and editions. All translations from the Bible are based on the New Revised Standard Version. Translations have been frequently altered throughout for greater conformity with Agamben's usage. Where no English translation is listed in the bibliography, the translations are my own. Where the main text is a close paraphrase of a Latin quotation or where Agamben's purpose in quoting a Latin text is simply to demonstrate the presence of a particular term or phrase in that text, I have often opted not to provide an English translation in order to avoid redundancy.

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## Preface

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The object of this study is the attempt—by means of an investigation of the exemplary case of monasticism—to construct a form-of-life, that is to say, a life that is linked so closely to its form that it proves to be inseparable from it. It is from this perspective that the study is confronted first of all with the problem of the relationship between rule and life, which defines the apparatus through which the monks attempted to realize their ideal of a communal form of life. What is at stake is not so much—or not only—the task of investigating the imposing mass of punctilious precepts and ascetic techniques, of cloisters and *horologia*, of solitary temptations and choral liturgies, of fraternal exhortations and ferocious punishments through which cenoby constituted itself as a “regular life” in order to achieve salvation from sin and from the world. Rather, it is first of all a matter of understanding the dialectic that thus comes to be established between the two terms *rule* and *life*. This dialectic is indeed so dense and complex that, in the eyes of modern scholars, it seems to resolve itself at times into a perfect identity: *vita vel regula* (“life or rule”), according to the preamble of the *Rule of the Fathers*, or in the words of Francis’s *Regula non bullata, haec est regula et vita fratrum minorum* . . . (“The rule and life of the Friars Minor is this . . .”). Here it is preferable, however, to leave to the *vel* and the *et* all their semantic ambiguity, in order instead to look at the monastery as a field of forces run through by two intensities that are opposed and, at the same time, intertwined. In their reciprocal tension something new and unheard-of, that is, a form-of-life, has persistently approached its very realization and has just as persistently missed it. The great novelty of monasticism is not the confusion of life and norm or a new declension of the relationship between fact and right. Rather, it is the identification of a level of consistency that is unthought and perhaps today unthinkable, which the syntagmas *vita vel regula*, *regula et vita*, *forma vivendi*, *forma vitae* sought laboriously to name, and in which both *rule* and *life* lose their familiar meaning in order to point in the direction of a third thing. Our task is precisely to bring this third thing to light.

In the course of this study, however, what has appeared to present an obstacle to the emergence and comprehension of this third thing is not so much the insistence on apparatuses that can appear to be juridical to modern people, like the vow and the profession. Rather, it is a phenomenon that is absolutely central in the history of the Church and opaque for modern people: the liturgy. The great temptation of the monks was not that which paintings of the Quattrocento have fixed in the seminude female figure and in the shapeless monsters that assail Antony in his hermitage, but the will to construct their life as a total and unceasing liturgy or Divine Office. Hence this study, which proposed initially to define form-of-life by means of the analysis of monasticism, has had to contend with the unforeseen and, at least in appearance, misleading and extraneous task of an archeology of duty [*ufficio*] (the results of which are published in a separate volume with the title *Opus Dei: An Archeology of Duty*).

Only a preliminary definition of this paradigm—which is at once ontological and practical, interwoven with being and acting, with the divine and the human, and which the Church has not stopped modeling and articulating in the course of its history, from the first, uncertain prescriptions of the *Apostolic Constitutions* up to the meticulous architecture of the *Rationale divinatorum officiorum* of William Durand of Mende (thirteenth century) and the calculated sobriety of the encyclical *Mediator Dei* (1947)—could actually allow us to comprehend the experience, at once very near and remote, that was in question in form-of-life.

If the comprehension of the monastic form of life could be achieved only by means of a continuous opposition to the liturgical paradigm, what is perhaps the crucial test of the study could only be found, however, in the analysis of the spiritual movements of the twelfth and thirteenth centuries, which culminate in Franciscanism. Insofar as they situate their central experience no longer on the level of doctrine and law, but on the level of life, they appear from this perspective as the moment that was in every respect decisive in the history of monasticism, in which its strength and its weakness, its successes and its failings reached their greatest tension.

The book closes, therefore, with an interpretation of the message of Francis and of the Franciscan theory of poverty and use. On the one hand, a premature legend and an immense hagiographic literature have covered this theory over with the too-human mask of the *pazzus* and the fool or with the no-longer-human mask of a new Christ. On the other hand, an exegesis more attentive to the facts than to their theoretical implications has enclosed Francis's message in the confines of the history of law and of the Church. In one case as in the

other, what remained untouched was perhaps the most precious legacy of Franciscanism, to which the West must return ever anew to contend with it as its undeferrable task: how to think a form-of-life, a human life entirely removed from the grasp of the law and a use of bodies and of the world that would never be substantiated into an appropriation. That is to say again: to think life as that which is never given as property but only as a common use.

Such a task will demand the elaboration of a theory of use—of which Western philosophy lacks even the most elementary principles—and, moving forward from that, a critique of the operative and governmental ontology that continues, under various disguises, to determine the destiny of the human species. This task remains reserved for the final volume of *Homo sacer*.

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PART ONE

# Rule and Life

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## Birth of the Rule

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**1.1.** The fourth and fifth centuries of the Christian era witnessed the birth of a peculiar literature that, at least at first glance, does not seem to have had precedents in the classical world: monastic rules. The set of texts that the tradition classifies under this rubric is, at least as concerns form and presentation, so diverse that the incipit of the manuscripts can only summarize them under very diverse titles: *vitae*, *vita vel regula*, *regula*, *horoi kata platos*, *peri tēs askēseōs tōn makariōn paterōn*, *instituta coenobiorum*, *praecepta*, *praecepta atque instituta*, *statuta patrum*, *ordo monasterii*, *historiae monachorum*, *askētikai diataxeis* . . . But even if we keep to the very narrow conception of the term that underlies the *Codex regularum*, in which Benedict of Aniane collected around twenty-five ancient rules at the beginning of the ninth century, the diversity of the texts could not be greater. This diversity appears not only as to dimensions (from the approximately three hundred pages of the *Regula magistri* to the few sheets of the rule of Augustine or of the second *Rule of the Fathers*), but as to presentation (questions and answers—*erotapokriseis*—between monks and master in Basil, an impersonal collection of precepts in Pachomius, verbal proceedings of a gathering of Fathers in the *Rule of the Four Fathers*). Above all, they are diverse in terms of content, which ranges from questions regarding the interpretation of Scripture or the spiritual edification of monks to the dry or meticulous enunciation of precepts and prohibitions. These are not, at least at first glance, juridical works, even though they claim to regulate, often in fine detail and through precise sanctions, the life of a group of individuals. They are not historical narratives, even though at times they seem to simply transcribe the way of life and habits of the members of a community. They are not hagiographies, even though they are frequently mixed together with the life of the founding saint or Father to such a degree that they present themselves as recording it in the form of an *exemplum* or *forma vitae* (in this sense, Gregory Nazianzus could state that the life of Anthony written by Athanasius was “legislation [*nomothesia*] for the monastic life in narrative form [*en plasmati diēgēseōs*]”; Gregory Nazianzus, *Oration* 21). Although their ultimate

goal is doubtless the salvation of the soul according to the precepts of the Gospel and the celebration of the Divine Office, the rules do not belong to ecclesiastical literature or practice, from which they distance themselves—not polemically but nonetheless firmly. They are not, finally, *hypomneumata* or ethical exercises, like those that Michel Foucault has analyzed from the late classical world. And yet their central preoccupation is precisely that of governing the life and customs of men, both singularly and collectively.

The present study intends to show how, in these texts that are at once dissimilar and monotonous, the reading of which seems so difficult to the modern reader, a transformation is carried out. This transformation—to an extent probably more decisive than in the juridical, ethical, ecclesiastical, or historical texts of the same era—collides with law as much as with ethics and politics. It also implies a radical reformulation of the very conceptuality that up until that moment articulated the relationship between human action and norm, “life” and “rule,” and without which the political and ethical-juridical rationality of modernity would be unthinkable. In this sense, the syntagmas *vita vel regula*, *regula et vita*, *regula vitae* are not simple hendiadyses. Rather, in the present study they define a field of historical and hermeneutical tensions which demands a rethinking of both concepts. What is a rule, if it seems to be mixed up with life without remainder? And what is a human life, if it can no longer be distinguished from the rule?

1.2. The perfect comprehension of a phenomenon is its parody. In 1534, at the end of the *Vie très horrible du grand Gargantua*, Rabelais recounts how Gargantua, in order to reward the monk with whom he has shared his unedifying undertakings, has an abbey constructed for him which was to be called Thélème. After having described in all the particulars the architectonic structure of the edifice (*en figure exagone, en telle façon que à chascun angle estoit bastie une grosse tour*, “hexagonal in shape in such a way that at each angle was built a stout round tower”; Rabelais, pp. 41/118), the arrangement of the accommodations, the style of the vestments of the Thelemites and their age, Rabelais explains *comment estoient régléz leur manière de vivre*, “how they were regulated in their way of life,” in a form that is, by all evidence, nothing but a parody of monastic rule. As in every parody, it witnesses a point-by-point inversion of the monastic *cursus*, scrupulously articulated by the rhythm of the *horologia* and the Divine Office, in what seems, at least at first glance, to be an absolute lack of rules:

Et parce que ès religions de ce monde, tout est compassé, limité et réglé par heures, feut décrété que là ne seroit horologe ny quadrant aucun, mais selon les occasions et opportunitéz seroient toutes les œuvres dispensées; car (disoit Gar-

gantua) la plus vraye perte du temps qu'il sceust estoit de compter les heures—quel bien en vient-il?—et la plus grande resverie du monde estoit soy gouverner au son d'une cloche, et non au dicté de bon sens et entendement [And because in the monasteries of this world everything is compassed, limited, and regulated by hours, it was decreed that there should never be any clock or sundial whatever, but all works would be dispensed according to the occasions and opportunities; for, Gargantua used to say, the greatest waste of time he knew of was to count the hours—what good comes of that? And the greatest folly in the world was to govern oneself by the ring of a bell and not at the dictation of good sense and understanding]. (Rabelais, pp. 37/116–17)

Toute leur vie estoit employée non par loix ou reigles, mais selon leur vouloir et franc arbitre. Se levoient due lict quand bon leur sembloit, beuvoient, mangeoient, travailloient, dormoient quand le désir leur venoit; nul le esveilleoit, nul ne les parforceoit ny à boire ny à manger ny à faire chose aultre quelconque. Ainsi l'avoid estably Gargantua. En leur reigle n'estoit que ceste clause: *FAY CE QUE VOULDRAS* [All their life was laid out not by laws, statues, or rules but according to their will and free choice. They got up out of bed when they saw fit, drank, ate, worked, slept when they came to feel like doing so; no one woke them up, no one forced them either to drink or to eat or to do anything else whatever. Thus Gargantua had established it. In their rule was only this clause: *DO WHAT YOU WILL*]. (Rabelais, pp. 60/127)

It has been said that Thélème “was the antimonastery” (Febvre, pp. 165/158). And yet if we look more closely, it is not simply a matter of an inversion of order into disorder and of rule into anomia. Even if contracted into only one sentence, a rule exists and has an author (*ainsi l'avoit estably Gargantua*, “thus Gargantua has established it”). And the end that it intends is, despite the point-by-point dismissal of every obligation and the unconditional liberty of each, perfectly homogenous with that of the monastic rule: “cenoby” (*koinos bios*, the common life), the perfection of a common life in all and for all (*unianimes in domo cum iocunditate habitare*, “live harmoniously in a house pleasantly,” as an ancient rule has it):

Par ceste liberté entrèrent en louable émulation de faire tous ce que à un seul voyoient plaie. Si quelqu'un ou quelcune disoit : “beuvons,” tous beuvoient; si disoit: “jouons,” tous jouoient; si disoit: “Allons à l'esbat ès champs,” tous y alloient [By this freedom they were all moved by laudable emulation to do what they saw a single one liked. If some man or woman said: “Let's drink,” they all drank; if one said: “Let's go play in the fields,” they all went]. (Rabelais, pp. 61/126)

The abbreviated formulation of the rule is not, however, an invention of Rabelais, but goes back to the author of one of the first monastic rules, and still fur-

ther, to Augustine, who, in his commentary on the First Epistle of John (7.4.8), had summarized the precept of the Christian life in the genuinely Gargantuan stipulation: *dilige et quod vis fac*, “love and do what you wish.” Moreover, it corresponds precisely with the way of life of those monks who were, according to a tradition inaugurated by Cassian, pejoratively named “Sarabaites” and whose sole rule was caprice and desire (*pro lege eis est desideriorum voluntas*). The Rabelaisian parody, though comical in appearance, is thus so serious that one can compare the episode of Thélème to the Franciscan foundation of a new type of order (Gilson, pp. 265–66): the common life, by identifying itself with the rule without remainder, abolishes and cancels it.

1.3. In 1785, in his cell in the prison of the Bastille, Donatien Alphonse de Sade, filling a roll of paper twelve meters long with a minute calligraphy in only twenty days, wrote what many consider his masterpiece: *Les 120 journées de Sodome* (*The 120 Days of Sodom*). The narrative frame is well known: on November 1 of an unspecified year at the end of the reign of Louis XIV, four powerful and rich libertines—the duke of Blangis, his brother the bishop, the president of Curval, and the financier Durcet—lock themselves away with forty-two victims in the castle of Silling in order to celebrate an orgy that would be without limits and yet perfectly and obsessively regulated. Here as well, the model is unequivocally the monastic rule. Yet while in Rabelais, the paradigm is evoked directly (Thélème is an abbey) in order to be precisely negated and reversed (no clocks, no divisions of time, no compulsory behavior), at Silling, which is a castle and not an abbey, the time is articulated according to a meticulous ritualism that recalls the unfailing *ordo* of the monastic Office. Immediately after having been locked up (indeed walled up) in the castle, the four friends write and promulgate the *règlements* (“statutes”) that must govern their new common life. Not only is every moment of the “cenoby” fixed beforehand as in the monastery—the sanctioned rhythms of waking and sleeping, the rigidly programmed collective meals and “celebrations”—but even the boys’ and girls’ defecation is subject to meticulous regulation. *On se lèvera tous les jours à dix heures du matin*, demands the rule, parodying the scansion of the canonical hours, *à onze heures les amis se rendront dans l’appartement des jeune filles . . . de deux à trois heures on servira les deux premières tables . . . en sortant du souper, on passera dans le salon d’assemblée* (this is the *synaxis* or *collecta* or *conventus fratrum* of monastic terminology) *pour la célébration* (the same term that in the rules designates the Divine Offices) *de ce qu’on appelle les orgies . . .* (“the company shall rise every day at ten o’clock in the morning . . . at eleven o’clock, the friends shall repair to the quarters appointed

for the little girls . . . from two to three the first two tables shall be served . . . the evening meal concluded, Messieurs shall pass into the salon for the celebration of what are to be called orgies”; pp. 41–43/241–46).

Corresponding to the *lectio* of Holy Scripture (or of the text of the rule itself, as in the *Regula magistri*) that accompanied the meals and the daily occupations of the monks in monasteries, one finds here the ritual narration that the four *historiennes*, la Duclos, la Champville, la Martaine, and la Desgranges, make of their depraved life. Corresponding to the unlimited obedience-unto-death of the monks toward the abbot and their superiors (*oboedientia praeceptum est regulae usque ad mortem*; Fructuosus, *Regula monastica communis*, chap. 5, p. 1115B), there is the absolute malleability of the victims to their masters, including extreme torture (*le moindre rire, ou le moindre manque d’attention ou respect ou de soumission dans les parties de débauche sera une des foutes les plus graves et les plus cruellement punies*, “the least display of mirth, or the least evidence given of disrespect or lack of submission during the debauched activities shall be deemed one of the gravest of faults and shall be one of the most cruelly punished”; Sade pp. 44/248—in the same sense, monastic rules punish laughter during gatherings: *Si vero aliquis depraehensus fuerit in risu . . . iubemus . . . omni flagello humilitatis coherceri*, “if someone is caught laughing or using scurrilous language . . . we order that he be chastised in the name of the Lord by every scourge of humility”; Vogüé 1, 1, pp. 202–4/31).

Here also then, as at Thélème, the cenobitic ideal is parodically maintained (indeed, exaggerated). But while life in the abbey, making pleasure their rule, ended by abolishing it, at Silling the laws, in being identified at every point with life, can only destroy it. And while the monastic cenoby is conceived as lasting forever, here, after only five months, the four libertines, who have sacrificed the life of their objects of pleasure, hastily abandon the by now half-empty castle to return to Paris.

1.4. It can appear surprising that the monastic ideal, born as an individual and solitary flight from the world, should have given origin to a model of total communitarian life. Nevertheless, as soon as Pachomius resolutely put aside the anchorite model, the term *monasterium* was equivalent in use to cenoby and the etymology that refers to the solitary life was dismissed to such a point that, in the *Rule of the Master*, *monasteriale* can be put forward as a translation of cenobite, and is glossed as *militans sub regula vel abbate* (“serving under a rule and an abbot”; Vogüé 2, 1, pp. 328/105). The rule of Basil was already on guard against the perils and egotism of the solitary life, which “the doctrine of charity does not permit” (*machomenon tōi tēs agapēs nomōi*; Basil, *Regulae fusius*

*tractatae*, chap. 7). “It is impossible, indeed,” adds Basil, “to rejoice with him who receives an honor or to sympathize with him who suffers when, by reason of their being separated from one another, each person cannot, in all likelihood, be kept informed about the affairs of his neighbor” (ibid.). In the community of life (*en tēi tēs zōēs koinonīai*), by contrast, the gift of each becomes common to those who live together with him (*sympoliteuomenōn*) and the activity (*energeia*) of the Holy Spirit in each is communicated to all the others (ibid.). On the contrary, “he who lives alone . . . and has, perhaps, one gift renders it ineffectual through inoperativity (*dia tēs argias*), since it lies buried within him (*katoryxas en eautōi*)” (ibid.). If to advise against solitude, “the desolation of the desert and the terror of various monsters” are invoked at the beginning of the *Rule of the Four Fathers*, immediately afterward cenoby is founded, through scriptural references, in the joy and unanimity of the common life: *volumus ergo fratres unanimes in domo cum iocunditate habitare* (“therefore we desire that the brothers live harmoniously in a house pleasantly”; Vogüé I, I, pp. 182/17). The temporary suspension of common life (*excommunicatio*; ibid., pp. 202/31) is the punishment par excellence, while leaving the monastery (*ex communione discedere*) is equivalent, in the *Regula Macharii*, to choosing the infernal darkness (*in exteriores ibunt tenebras*; Vogüé I, I, p. 386). Even in Theodore the Studite, cenoby is compared to paradise (*paradeisos tēs koinobiakēs zōēs*), and leaving it is equivalent to the sin of Adam. “My son,” he admonishes a monk who wants to retire to the solitary life, “how has Satan the Evil One driven you out of the paradise of the common life, precisely like Adam who was seduced by the counsel of the serpent?” (*Epistle* I, p. 938).

The theme of the common life had its paradigm in the Book of Acts, where the life of the apostles and of those who “devoted themselves to the apostles’ teaching” (Acts 2:42) is described in terms of “unanimity” and communism: “All who believed were together and had all things in common. . . . Day by day, as they persevered unanimously [*homothymadon*] in the temple, they broke bread at home and ate their food with glad and sincere hearts” (Acts 2:44–46); “the whole group of those who believed were of one heart and one soul, and no one claimed private ownership of any possessions, but everything they owned was held in common” (Acts 4:32). It is in reference to this ideal that Augustine’s rule defines as the first goal of the monastic life “that you dwell in unity in the house, and that you have but one soul and one heart in God” (*primum propter quod in unum estis congregati, ut unanimes habitetis in domo et sit vobis anima una et cor unum in Deo*; Augustine, *Regula ad servos Dei*, pp. 1377/17). And Jerome, who in 404 translated the rule of Pachomius from a Greek version, in an epistle refers explicitly to the Coptic term

that, in the original, defined those who lived in community: *coenobitae, quod illi "sauses" gentili lingua vocant, nos "in commune viventes" possumus appellare* ("There are the cenobites, whom they call in their foreign tongue *sauses*; we may describe them as those who live in a community"; *Epistle 22.34*).

At least up to the monastic renewal of the eleventh century, which with Romuald and Peter Damian saw the rekindling of the "tension between cenoby and hermitage" (Calati, p. 530), the primacy of the communitarian life over that of the hermit is a constant tendency. This culminates in the decision of the Council of Toledo (646), according to which, with a complete inversion of the historical process that had led from the anchorites to the monastery, no one can be admitted to the life of the hermit without having first passed through the cenobitic life. The cenobitic project is literally defined by the *koinos bios*, by the common life from which it draws its name, and without which it cannot be understood at all.

✠ The idea of a "common life" seems to have an obvious political meaning. In the *Politics*, Aristotle defines the city as a "perfect community" (*koinonia teleios*; 1252b29) and makes use of the term *syzēn*, "to live together," to define the political nature of humans ("they desire to live together"; 1278b22). Yet he never speaks of a *koinos bios*. The *polis* is certainly born with view toward living (*tou zēn eneka*; 1252b30), but its reason for existing is "living well" (*to eu zēn*; *ibid.*). In the introduction to the *Cenobitic Institutions*, Cassian mentions as a goal of his book, alongside the "improvement of our behavior," the exposition of the "perfect life" (Cassian 1, pp. 30/13). The monastery, like the *polis*, is a community that intends to realize the "perfection of the cenobial life" (*perfectionem . . . coenobialis vitae*; *ibid.*, pp. 182/82). In the *Conlationes* (or *Conferences*), Cassian therefore distinguishes the monastery from cenoby, because a monastery "is the name of the residence and does not imply more than the place where the monks live. 'House of cenobites' points to the character and the way of life of the profession. The residence of a simple monk can be called a monastery. But a place cannot be termed a house of cenobites unless one means a community of many people living together [*plurimorum cohabitantium . . . unita communio*]" (Cassian 2, pp. 22/191). Cenoby does not name only a place, but first of all a form of life.

1.5. It is starting from this tension between private and common, between hermitage and cenoby, that the curious threefold or fourfold articulation of *genera monachorum* ("types of monks") seems to have been elaborated. These are found in Jerome (*Epistle 22*); in Cassian (*Conferences*, 18.4–8); in the long digression at the beginning of the *Rule of the Master*; in Benedict; and, in varied forms, in Isidore, John Climacus, Peter Damian, and Abelard, up through the texts of the canonists. The sense of this articulation—which, after having distinguished the cenobites, *in commune viventes* ("living in common"), from the anchorites, *qui soli*

*habitant per desertum* (“who live alone in the wilderness”), opposes to these, as a “detestable and filthy” type, the Sarabaites (and, in a fourfold variant, which becomes canonical starting from the *Rule of the Master* and the Benedictine rule, the itinerants)—becomes clear, however, only if one understands that what is in question is not the opposition between solitude and common life, so much as the (so to speak) “political” opposition between order and disorder, governance and anarchy, stability and nomadism. Already in Jerome and Cassian the “third type” (qualified by *teterrimum, deterrimum ac infidele*) is defined by the fact that they live “together by twos or threes, not many more, and live according to their own will and independently [*suo arbitratu ac ditione*]” (Jerome, *Epistle* 22.34) and “do not put up with being governed by the care and power of the abbot” (*abbatis cura atque imperio gubernari*; Cassian 2, pp. 18/186). As the *Rule of the Master* confirms, “they have as their law the willfulness of their own desires” (*pro lege eis est desideriorum voluntas*; Vogüé 2, 1, pp. 330/105), and they live without “having been tested . . . by any rule” (*nulla regula adprobat*; cf. Pricoco, p. 134).

In this “commonplace of monastic homiletics” (Penco, p. 506) that the fourfold division of the *genera monachorum* represents, what is at stake is thus the need to oppose at every point a well-governed community to anomia, a positive political paradigm to a negative one. In this sense, the classification is not, as has been suggested (Capelle, p. 309), entirely devoid of logic. Rather, as is evident in Isidore’s variant in which the types become six, every group has its double or its negative shadow, in such a way that they are organized precisely according to a binary opposition (*tria optima, reliqua vero teterrima*; Isidore, *De ecclesiasticis officiis* 2.16). In an illustration from the *Rule of St. Benedict* preserved in the public library of Mantua, the miniaturist opposes the two paradigms representationally: corresponding to the cenobites (exemplified by four monks who are praying together devoutly) and the anchorites (represented by an austere solitary monk) are the inferior images of the Sarabaites, who walk in opposite directions turning their backs to each other, and the itinerants, who gulp down food and drink without restraint. Once the anchoritic exception is left to one side, the problem of monasticism will always be more that of constructing and affirming itself as an ordered and well-governed community.

1.6. Communal habitation is the necessary foundation of monasticism. Nevertheless, in the earliest rules, the term *habitatio* seems to indicate not so much a simple fact as, rather, a virtue and a spiritual condition. “The virtue that distinguishes the brothers is habitation and obedience,” proclaims a passage of the *Rule of the Four Fathers* (Pricoco, p. 10). In the same sense, the term *habitare*

(frequentative of *habeo*) seems to designate not only a factual situation but a way of life. The *Rule of the Master* can thus establish that the clergy may also stay for a long time as guests (*hospites suscipiantur*) in the monastery, but cannot “inhabit it” (*in monasterio habitare*), that is, assume the monastic condition (Vogüé 2, 2, pp. 342–46).

In the context of the monastic life, the term *habitus*—which originally signified “a way of being or acting” and, among the Stoics, became synonymous with virtue (*habitu appellamus animi aut corporis constantem et absolutam aliqua in re perfectionem*, “By habit we mean a stable and absolute constitution of mind or body”; Cicero, *De inventione* 1.25.36)—seems more and more to designate the way of dressing. It is significant that, when this concrete meaning of the word begins to be affirmed in the post-Augustan age, it is not always easy to distinguish it from the more general sense, all the more so in that *habitus* was closely associated with dress, which was in some way a necessary part of the “way to conduct oneself.” When we read in Cicero *virginali habitu atque vestitu* (“in the shape and attire of maidens”; *Verrine Orations*, 2.4.5), the distinction and, at the same time, the proximity between the two concepts are perfectly clear. Yet it is not as certain that, in the passage of Quintilian in which *habitus* seems to be identified with dress (*Theopompus Lacedaemonis, cum permutato cum uxore habitu e custodia ut mulier evasit . . .*, “when the Spartan Theopompus changed clothes with his wife and escaped from custody disguised as a woman . . .”; Quintilian 2.17.20), the term cannot refer rather to feminine appearance and conduct as a whole.

Let us now open the first book of Cassian’s *Cenobitic Institutions*, whose title declares: *De habitu monachorum* (On the Habit of Monks). Here, beyond any possible doubt, what is in question is a description of the clothing of the monks, which appears as an integral part of the rule: “As we start to speak of the institutes and rules of monasteries [*de institutis ac regulis monasteriorum*], where could we better begin, with God’s help, than with the very garb or habit of the monks [*ex ipso habitu monachorum*]?” (Cassian 1, pp. 39/21). This use of the term is, however, made possible by the fact that the monks’ clothes, which Cassian enumerates and describes in detail, have been submitted to a process of moralization that makes each of them the symbol or allegory of a virtue and a way of life. For this reason, to describe the exterior dress (*exteriorem ornatum*) will be equivalent to revealing an interior way of being (*interiore cultum . . . exponere*; *ibid.*). The habit of the monk does not really bear on the care of the body, but is instead a *morum formula*, “an example of a way of life” (*ibid.*, pp. 42/23). Thus the small hood (*cucullus*) that the monks wear day and night is an admonishment to “hold constantly to the innocence and simplicity of small children” (*ibid.*, pp. 42/23).

The short sleeves of their linen tunic (*colobion*) “suggest that they have cut off the deeds and works of this world” (pp. 44/24; we know from Augustine that long sleeves—*tunicae manicatae*—were sought as a sign of elegance). The thin wool ropes that, passing under the armpits, kept the clothes closely fitted to the monks’ bodies, signify that they are ready for all manual labor (*inpigri ad omnes opus expliciti*; pp. 46/24). The small mantle (*palliulus*) or surcoat (*amictus*) with which they covered the collar and shoulders symbolizes humility. The walking stick (*baculus*) reminds them that “they must never go out unarmed in the midst of the numerous barking dogs of the vices” (pp. 48/25). The sandals (*gallicae*) that they put on their feet signify that “the feet of our soul . . . must always be ready for the spiritual race” (pp. 50/25).

This process of the habit’s moralization reaches its apex in the leather belt (*zona pellicia, cingulus*) that the monk must always wear. This constitutes him as “a soldier of Christ,” ready to fight the devil in every circumstance (*militem Christi in procinctu semper belli positum*), and, in the same moment, inscribes him into a genealogy, already attested in the rule of Basil, that goes back, through the apostles and John the Baptist, all the way to Elijah and Elisha (pp. 37/21). What’s more, the *habitus cinguli* (which obviously cannot mean “clothing of the belt,” but is equivalent to *hexis* and *ethos* and indicates a constant practice) constitutes a kind of *sacramentum*, a sacred sign (perhaps even in the technical sense of an oath: *in ipso habitu cinguli inesse parvum quod a se expetitur sacramentum*; pp. 52/26), which signifies and manifests the “mortification of his members, which contain the seeds of wantonness and lasciviousness” (*ibid.*, pp. 52/26).

Hence the decisive character, in the ancient rules, of the moment when the neophyte takes off his secular clothes to receive the monastic habit. Already Jerome, translating Pachomius, took care to oppose the secular *vestimenta* to the *habitus* of the monk (*tunc nudabunt eum vestimentis saecularibus et induent habitum monachorum*; Bacht, p. 93). In the *Rule of the Master*, the *habitus propositi*, which must not be easily granted to the neophyte (Vogüé 2, 2, pp. 390/264), is certainly much more than an article of clothing: it is the *habitus*—both clothing and way of life—corresponding to the *propositum*, that is to the project to which the neophyte is devoting himself. And when, a little further down, the rule establishes that the convert who decides to abandon the community to return into the world must be *exutus sanctis vestibus vel habitu sacro* (“divested of the holy garments and the sacred habit”; *ibid.*, pp. 394/266), what is at stake here is not, as the editor believes, a “redundancy”—the “sacred habit” is something more than “the holy clothes,” because it expresses the way of life of which they are the symbol.

To inhabit together thus meant for the monks to share, not simply a place or a style of dress, but first of all a *habitus*. The monk is in this sense a man who lives in the mode of “inhabiting,” according to a rule and a form of life. It is certain, nevertheless, that cenoby represents the attempt to make habit and form of life coincide in an absolute and total *habitus*, in which it would not be possible to distinguish between dress and way of life. The distance that separates the two meanings of the term *habitus* will never completely disappear, however, and will durably mark the definition of the monastic condition with its ambiguity.

✠ The noncorrespondence between *habitus* as clothing and *habitus* as the monk’s form of life is already censured by the canonists with respect to the clergy: *Ut clerici, qui se fingunt habitu et nomine monachos esse, et non sunt, omnimode corrigantur atque emendentur, ut vel veri monachi sint vel clerici* (“May clergy who pretend in habit and name to be monks but are not, be in every way corrected and emended, so that they may be either true monks or true clergy”; Ivo of Chartres, *Decretum*, pt. 7, chap. 31, p. 553). The ambiguity will become proverbial in the adage according to which “the habit does not make the monk” (or, on the contrary, in German circles, where *Kleiden machen Leute*, “Clothes make the man”).

1.7. Monastic rules (in particular the first chapter of Cassian’s *Institutions*) are the first texts of Christian culture in which clothes acquire a completely moral meaning. And this is all the more significant, if one considers that this happens in a moment in which the cleric is not yet distinguished by his dress from the other members of the community. We possess a letter of Celestine I of 428, in which the pontiff admonishes the clergy of the Gallo-Roman church not to introduce distinctions in wardrobe, in particular by means of the belt (*lumbos praecinti*, which can make one think of a monastic influence that the pope intends to oppose). Not only is this contrary to the ecclesiastical tradition (*contra ecclesiasticum morem faciunt*), but the pope recalls that the bishops must be distinguished from the people “not by clothing, but by doctrine; not by habit, but by way of life; not by elegance, but by purity of mind” (*discernendi a plebe vel ceteris sumus doctrina, non veste; conversatione, non habitu; mentis puritate, non cultu*; 35.1). It is only after monasticism had transformed clothing into a *habitus*, rendering it indiscernible from a way of life, that the Church (starting from the Council of Macon in 581) began the process that would lead to the clear differentiation between clerical habit and secular habit.

Naturally in every epoch wardrobe has had a moral significance and, in Christian circles, the narrative of Genesis linked the very origin of clothing to the fall of Adam and Eve (at the moment when he expelled them from Eden, God made them put on clothes of skins—*tunicae pelliciae*—a symbol of sin). But it is only

with monasticism that one witnesses a total moralization of every single element of dress. To find an equivalent to the chapter *de habitu monachorum* of Cassian's *Institutes*, it will be necessary to wait for the great liturgical treatises of Amalarius, Innocent III, and William Durand of Mende (and in secular circles, Constantine VI Porfirogenito's *Book of Ceremonies*). Indeed, if we open William's *Rationale divinatorum officiorum*, right after the treatment of the Church and its ministries, we see that the third book is dedicated to an analysis of the "garments and equipment of the priests." Exactly as in Cassian, it explains the symbolic meaning of every single element of priestly dress, of which it is often possible to indicate the equivalent in the monastic sphere. Before meticulously describing each garment, William summarizes the clothing of the priest:

When the bishop is about to celebrate, he discards his daily clothing and puts on clean and sacred garments. And first, he puts on sandals, so that he will be mindful of the Lord's incarnation. Second, he puts on the *amicitus*, so that he might restrain his emotions and thoughts, his throat and his tongue, so that his heart will be clean, and he can receive in his innermost parts, the righteous spirit that renews him. Third, he puts on the long *alba* so that he can be steadfast in preserving purity of the flesh. Fourth, the belt, so that he can curb the impulse towards illicit behavior. Fifth, the stole, as a sign of obedience. Sixth, a hyacinth-colored tunic, which symbolizes the celestial abode. Seventh, he puts the dalmatic on top, which is holy religion and the mortification of the flesh. Eighth, the gloves (*cirotybecae*) so that he will avoid vainglory. Ninth, the ring, so that he will love his spouse [the Church] as he loves himself. Tenth, the chasuble [*casula*], which is charity. Eleventh, the *sudarium*, so that on account of whatever frailty or ignorance through which he sins, penance will cleanse him. Twelfth, he places the pallium on top, so that he might show himself to be an imitator of Christ, who bore our grief. Thirteenth, the miter, so that in doing this, he might merit receiving an eternal crown. Fourteenth, the pastoral staff (*baculus*), which is the authority of his power and teaching. (William Durand, pp. 178/132–33)

In another glimpse, priestly garments are listed, according to the military metaphor that is dear to the monks, as a panoply of arms in the fight against spiritual evil:

First, the priest has the sandals as leg-coverings lest some attachment to the world—that is, a stain or dust—clings to him. Second, the *amictus*, which covers his head like a helmet. Third, the *alba*, which covers the whole body like a breastplate. Fourth, he puts on the belt (*cingulum*), which is like a bow, and the cord [*subcingulum*], which is like a quiver; and this cord hangs down from the belt, and the stole of the pontiff and his belt are held together in it. Fifth, he wraps the stole around his neck, like a lance that he brandishes against the enemy. Sixth, the maniple, which he uses like a mace. Seventh, the chasuble, which he uses

like a shield; his is armed with the Gospel book, as if it were a sword. (William Durand, pp. 179/134)

The prescriptions of the rules on the *habitus monachorum*, in their poverty and sobriety, are the courier announcing the glorious codification of the liturgical vestments. Both are joined by the fact of being signs and sacraments of a spiritual reality: “the priest must studiously apply himself, so that each will not bear a sign without embodying what it signifies; that is, wearing a vestment without its virtue, lest they appear to be a whitened sepulcher on the outside, while filled with filth on the inside” (William Durand, pp. 179/134–35).

1.8. We are accustomed to associate the chronometric scansion of human time with modernity and the division of labor in the factory. Foucault has shown that at the threshold of the industrial revolution, the disciplinary apparatuses (schools, barracks, colleges, the first real factories) had begun to divide periods of time into successive or parallel segments already from the end of the seventeenth century, in order then to obtain a more efficient complex result through the combination of the individual chronological series. Although Foucault mentions monastic precedents, it is rarely noticed that almost fifteen centuries earlier, monasticism had realized, in its cenoby, for exclusively moral and religious ends, a temporal scansion of the existence of the monks. The rigor of this scansion not only had no precedents in the classical world, but in its strict absoluteness it has perhaps never been equaled in any institution of modernity, not even the factory of Taylor.

In the oriental tradition, *horologium* (“clock”) is, significantly, the name that designates the book that contains the order of the canonical Offices according to the hours of the day and night. In its originary form, it goes back to Palestinian and Syriac monastic asceticism between the seventh and eighth century. The Offices of prayer and psalmody were there ordered as a “clock” that marked the rhythm of the prayers for daybreak (*orthros*), the daylight hours (first, third, sixth, and ninth), evening (*lychnikon*), and midnight (which, on certain occasions, lasted all night: *pannychis*). This attention to articulating life according to hours, to constituting the existence of the monk as a *horologium vitae* (“clock of life”), is much more surprising if one considers not only the primitiveness of the instruments they had at their disposal, but also the approximate and variable character of the very division of the hours. The day and night were divided into twelve parts (*horae*), from sunset to dawn. The hours thus did not have, like today, a fixed duration of sixty minutes. Except for the equinoxes, they varied according to the seasons, and these hours were longer in the summer (in

the solstice they reached eighty minutes) and shorter in the winter. The day of prayer and labor was thus twice as long in the summer as in the winter. Furthermore, solar clocks, which were the rule in this era, function only during the day and under clear skies—for the rest of the time the sundial was “blind.” All the more will the monk have to keep unfailingly to the execution of his Office: “On a cloudy day,” one reads in the *Rule of the Master*, “when the sun hides its rays from earth, let the brothers, whether in the monastery or on the road or in the field, estimate elapsed time by careful calculation of the hours (*perpensatione horarum*), and no matter what time it may be, the usual Office is to be said. And whether the regular Hour of the Office is said before or after the exact time, in no case may the Work of God (*opus Dei*) be left out but it is to be performed, because the lack of the light caused by the clouds, with the sundial blind because of the sun’s absence, serves as to excuse those who are performing the Office” (Vogüé 2, 2, pp. 266/222). Cassiodorus (sixth century) informs his monks that he has had a water clock installed in the cenobium, so as to be able to calculate the hours even during the night: “I have not allowed you to be ignorant in any way of the measurement of time (*horarum modulus*) that was invented for the great use of the human race. I have, therefore, provided a clock for you that the light of the sun makes, and another, a water clock (*aquatile*) that continually indicates the number of the hours by day and night” (*De institutione divinarum litterarum*, pp. 1146a–b/165). And four centuries later, Peter Damian invites the monks to transform themselves into living clocks, measuring the hours with the length of their psalmody: “And let him acquire the habit of reciting the Psalter, if he wishes to have a daily method of telling the time; so that when he cannot see the brightness of the sun or the movement of the stars because of a thick cloud, he will act as a sort of clock (*quoddam horologium*), with the regular duration of the Psalms” (Damian, chap. 17).

In any case, certain monks are specially entrusted, under the guidance of the abbot, with providing for the scansion of the rhythm of the hours (Peter Damian calls them *significatores horarum*; Cassian and the *Rule of the Master* simply *compulsores* and *excitantes*). Their importance cannot be exaggerated: “The bell-ringer must realize that no one in the monastery should avoid forgetfulness more surely than he. If any hour of the Divine Office is not said at the proper time, either because it is too early or because it is too late, it is clear that the whole order of the hours to come will be upset” (ibid.).

The two monks who, in the *Rule of the Master*, have the duty of waking up the brothers (and first of all the abbot, by pulling him by the feet—*mox pulsantes pedes*; Vogüé 2, 2, pp. 172/194) carry out a function so essential that, to honor

them, the rule calls them *vigigalli*, roosters who are always awake (“For with the Lord there is great reward for those who do the waking for the Divine Office, and it is to their honor that the Rule has called them vigilant roosters [*vigigallos*]”; *ibid.*, pp. 170/193). They must prepare clocks in such a way as to mark the hours even in the absence of the sun, because the rule informs us that it is their task to watch the clock (*horolegium*, according to the medieval etymology; *quod ibi horas legamus*) at night no less than during the day (*in nocte et in die*; *ibid.*).

1.9. Whatever the instruments for measuring the hours were, it is certain that the whole life of the monk is modeled according to an implacable and incessant temporal articulation. In charge of the Stoudion monastery in Constantinople, Theodore the Studite describes the beginning of the monastic day in these words:

It should be known that after the second or third watch of the night has passed, that is when the signal of the water clock strikes [*piptei tou hydrologiou to syssemon*] at the sixth hour at the point where the seventh hour is beginning, at this signal the waker [*aphygnistes*] is roused. He goes around to the bed chambers with a lantern summoning the brothers to raise up the morning doxology. Immediately, the wooden semantra sound up and down the monastery. While all the brothers assemble in the narthex of the main church and pray silently, the priest takes the censer in his hands and censes first the holy sanctuary . . . (Theodore the Studite, *Descriptio constitutionis monasterii Studi*, pp. 1703/98)

The cenobite is, in this sense, first of all a total hourly scansion of existence, in which every moment has its corresponding Office or duty [*ufficio*], either of prayer and reading or manual labor. Certainly, the early Church had already elaborated a liturgy of hours, and in continuity with the tradition of the synagogue, the *Didache* required the faithful to meet for prayer three times a day. The *Apostolic Tradition*, attributed to Hippolytus (third century), developed and articulated this custom by linking the hours of prayer to the episodes of the life of Christ. To the prayer of the third hour (“at that hour Christ was displayed nailed to the tree”; Hippolytus, pp. 90/165), the sixth, and the ninth (“at that hour Christ, pierced in the side, poured forth water and blood”), Hippolytus adds the prayer of midnight (“if you have a wife . . . [and] if she is not yet among the faithful,” specifies the text, “take yourself into another room and pray”; pp. 92/165), and at the cry of the rooster (“And likewise pray, getting up around cock-crow. For at the hour when the cock crew the sons of Israel denied Christ”; pp. 96/166).

The novelty of cenoby is that, by taking literally the Pauline prescription of unceasing prayer (*adialeiptōs proseuchesthe*; 1 Thess. 5:17), it transforms the whole of life into an Office by way of temporal scansion. Confronted with this apostolic

precept, the patristic tradition had drawn the consequence from it that Origen sums up in his *De oratione*, namely, that the only possible way to understand this precept is that “the entire life of the saint taken as a whole is a single great prayer, [and] prayer in the ordinary sense ought to be made no less than three times each day” (Origen, *De oratione* 12.1). The monastic interpretation is entirely different. Cassian, describing the institutions of the Egyptian Fathers, writes:

The Offices that we are obliged to render to the Lord at different hours and at intervals of time [*per distinctiones horarum et temporis intervalla*], at the call of the summoner, are celebrated continuously [*iugiter*] and spontaneously throughout the course of the whole day. For they are constantly doing manual labor [*operatio manuum*] alone in their cells in such a way that they almost never omit meditating on the psalms and on other parts of Scripture, and to this they add entreaties and prayers at every moment, taking up the whole day in Offices that we celebrate at fixed times [*statuto tempore celebramus*]. (Cassian 1, pp. 92/59)

Even clearer is the dictation of the “conference” that he dedicates to prayer, in which the continuity of prayer defines the monastic condition itself: “the whole purpose of the monk and indeed the perfection of his heart amount to this—total and uninterrupted dedication to prayer” (Cassian 2, pp. 40/101), and the “sublime discipline” of the cenobite is that which “teaches us to cling to God without interruption [*Deo iugiter inhaerere*]” (ibid., pp. 83/130–31). In the *Rule of the Master*, the “holy art” that the monk learns must be exercised “continuously day and night” (*die noctuque incessanter adinpleta*; Vogüé 2, 1, pp. 372/117).

One could not more clearly express the fact that the monastic ideal is that of a total mobilization of existence through time. While the ecclesiastical liturgy divides the celebration of the Divine Office from labor and rest, the monastic rule, as is evident in the passage cited from Cassian’s *Institutions*, considers the work of the hands as an indiscernible part of the *opus Dei*. Already Basil interprets the phrase of the apostle (“whether you eat or drink, or whatever you do, do everything for the glory of God”; 1 Cor. 10:31) as implying a spiritualization of the monk’s every activity. Not only is the whole life of the monk in this way presented as the execution of a “divine work,” but Basil takes care to multiply examples drawn from manual labor: like the blacksmith, while he is hammering the metal, has in mind the will of the customer, so the monk carries out “his every action, great or small” (*pasan energeian kai mikran kai meizona*) with care, because he is conscious in every instant of doing the will of God (921–23/244). Even in the passage of the *Rule of the Master* in which the Divine Offices are clearly distinguished from manual labor (*opera corporalis*; Vogüé 2, 2, pp. 224/209), this latter must nevertheless be carried out with the same attention with which one

carries out the former: while the brother carries out manual labor, he must fix his attention on the work and occupy his mind (*dum oculis in laboris opere figit, inde sensum occupat*, “he fixes his eyes on his work and thereby occupies his attention with what he is doing”; *ibid.*, pp. 222/209). It is not surprising, then, that the *exercitia actuum*, which alternate with the Divine Office, are defined a little further down as a “spiritual labor” (*spirituale opus*; pp. 224/209). The spiritualization of the work of the hands that is accomplished in this way can be seen as a significant precursor of the Protestant ascesis of labor, of which capitalism, according to Max Weber, represents the secularization. And if the Christian liturgy, which culminates in the creation of the liturgical year and the *cursus horarum*, has been effectively defined as a “sanctification of time,” in which every day and every hour is constituted as a “memorial of the works of God and the mysteries of Christ” (Righetti, p. 1), the cenobitic project can on the contrary be defined more precisely as a sanctification of life by means of time.

The continuation of the temporal scansion, interiorized in the form of a *perpensatio horarum*, a mental articulation of the passing of the hours, here becomes the element that permits it to act on the life of the individual and the community with an incomparably greater efficacy than the Stoic and Epicurean care of the self could achieve. And if we are perfectly accustomed to articulate our existence according to times and hours and to consider even our interior life as a linear and homogeneous course of time and not as an alternation of discrete and heterogeneous unities to be measured according to ethical criteria and rites of passage, we must not forget that it is in the cenobitic *horologium vitae* that time and life were for the first time intimately superimposed to the point of nearly coinciding.

1.10. In the monastic literature, the technical term for this mixture and near hybridization between manual labor and prayer, between life and time, is *meditatio*. Bacht has demonstrated that this term does not signify meditation in the modern sense, but rather designates originally the (solitary or communal) recitation by memory of the Scriptures, as distinct from reading (*lectio*). In the life of Pachomius, the abbot Palamon, to whom the future founder of cenobly had turned himself over in order to be initiated into monasticism, mentions constant meditation as a fundamental duty, like fasting: “I spend half the night in prayer and in meditation on the word of God” (Bacht, p. 250). In the rules of Pachomius’s successor, Horsiesius, meditation is defined as “a rich store of memorized texts” (*ibid.*, p. 249) and, if one has not meditated sufficiently during the night, the “meditation” of at least ten psalms is prescribed (*ibid.*).

It is well known how, beginning from the fourth century, the practice of silent reading was spread, which Augustine observes with amazement in his master Ambrose: “When he read,” writes Augustine (*Confessions*, 6.3), “his eyes scanned the page and his heart explored the meaning, but his voice was silent and his tongue was still.” *Meditatio* is the continuation of this practice without any further need for *lectio*, because by this point the text is available in the memory for an uninterrupted and in any case solitary recitation, which can thus accompany and temporally articulate from the inside the entire day of the monk and become inseparable from his every gesture and his every activity. “While they work [*operantes*],” reads the rule of Pachomius, “may they say nothing profane, but meditate on the holy words and keep silent” (Bacht, p. 98). “As soon as the signal of the trumpet that calls them to the *collecta* sounds, he immediately comes out of his cell, meditating on some passage of Scripture [*de scripturis aliquid meditans*] until he reaches the door of the meeting room” (ibid., p. 82). In the above-cited passage of Cassian, manual labor is never separated from “*meditatio* on the Psalms and the other Scriptures” (Cassian 1, pp. 92/59). In the same sense, the rules of Horsiesius specify that “when the monk leaves the *collecta*, he must meditate while he walks to his habitation, even if he is doing something that concerns the convent,” and adds that only in this way will “the vital precepts” be observed (Bacht, p. 249).

The *perpensatio horarum* and the *meditatio* are the two apparatuses through which—well before the Kantian discovery—time in fact became the form of the internal sense: corresponding to the meticulous chronological regulation of every exterior act is a temporal scansion of the interior discourse that is just as punctilious.

1.11. The expression “vital precepts,” which is found for the first time in Jerome’s translation of the rule of Pachomius (*haec sunt praecepta vitalia nobis a maioribus tradita*, “these are the vital precepts passed down to us by our superiors”; ibid., p. 83), acquires its most pregnant sense only if it is understood that it refers to the rule insofar as—through the practice of meditation, temporal scansion, and incessant prayer—it can coincide, not only with the observance of individual precepts, but with the monk’s entire life (in this sense, it is tacitly opposed to the *praecepta legalia* of Judaism). Meditation, which can accompany any activity, is in this sense perhaps the apparatus that permits the accomplishment of the totalitarian demands of the monastic institution.

It is decisive, however, that the rule enters in this way into a zone of undecidability with respect to life. A norm that does not refer to single acts and events,

but to the entire existence of an individual, to his *forma vivendi*, is no longer easily recognizable as a law, just as a life that is founded in its totality in the form of a rule is no longer truly life. About eight centuries later, Stephen of Tournay can thus again take up and in some way paraphrase the Pachomian formula *praecepta vitalia*. He writes that from the moment that the “little book” (*libellus*) that contains Granmontani’s constitution “is not called by them a rule, but a life [*non regula appellatur ab eis, sed vita*],” the monks would therefore have to be called “vital” (*vitales*) to differentiate themselves from those who, insofar as they observe the rule, call themselves “regular” (*Epistle* 71, p. 368). Just as precepts that are no longer separable from the monk’s life cease to be “legal,” so the monks themselves are no longer “regular,” but “vital.”

✠ In the *Scala claustralium* of Bernard, the ladder “by which [monks] are lifted up from earth to heaven” involves four steps: reading (*lectio*), which “as it were puts whole food into the mouth”; meditation, which “chews it and breaks it up” (*masticat et frangit*); prayer (*oratio*), which “extracts its flavor”; and contemplation, which “is the sweetness itself which gladdens and refreshes” (chap. 1, pp. 475/208–9).

Günter Bader has shown how, at the beginnings of monasticism, reading appears as the remedy par excellence for a terrible sickness that afflicts monks and anchorites: *acedia*. With a curious circularity, this sort of anthropological catastrophe that menaced the *homines religiosi* at every instant was nevertheless also presented as that which rendered reading impossible. “When he reads,” declares the *De octo spiritibus malitiae* of St. Niles (*Acedia* §15), “the one afflicted with *acedia* yawns a lot and readily drifts off into sleep; he rubs his eyes and stretches his arms; turning his eyes away from the book, he stares at the wall and again goes back to reading for awhile; leafing through the pages, he looks curiously for the end of the texts, he counts the folios and calculates the number of gatherings. Later, he closes the book and puts it under his head and falls asleep, but not a very deep sleep.”

In the anecdote of Antony reported by Evagrius, the overcoming of sloth is presented as a stage in which nature itself appears as a book and the life of the monk as a condition of absolute and uninterrupted legibility: “A sage came to visit Antony and said, ‘Father, how can you do without the comfort of books?’ He answered, ‘My book, O philosopher, is the nature of things, and this is available to me whenever I want to read the words of God’ (qtd. in Bader, pp. 14–15). The perfect life coincides with the legibility of the world, sin with the impossibility of reading (with its becoming illegible).

## Rule and Law

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**2.1.** It is even more urgent, at this point, to pose the problem of the more or less juridical nature of the monastic rules. Already the jurists and canonists, who would also seem to take account of the precepts of the monastic life in their collections, had asked themselves, in certain cases, if the law could be applied to such a peculiar phenomenon. Thus, in his *Liber minoritarum*, Bartolo, referring to the Franciscans—in the same gesture in which he recognizes that the *sacri canones* have taken an interest in them (*circa eos multa senserunt*, but the Venetian edition of 1575 has *sanxerunt*, “sanctioned, legitimated”)—states without reserve that “so great is the novelty of their life [*cuius vitae tanta est novitas*] that the *corpus iuris civilis* does not seem capable of being applied to it [*quod de ea in corpore iuris civilis non reperitur auctoritas*]” (Bartolo, p. 190 verso). In the same sense, the *Summa aurea* of Hostiensis evokes the difficulty that the law has in including the monks’ *status vitae* in its own circle of application (*non posset de facili status vitae ipsorum a iure comprehendendi*). Even if the reasons for discomfort are different in the two cases—for Bartolo, it is the Franciscan refusal of every right to property, for Hostiensis, the multiplicity and variety of rules (*diversas habent institutiones*)—the embarrassment of the jurists betrays a difficulty that concerns the peculiarity of the monastic life in its vocation to confuse itself with the rule.

Yan Thomas has shown that, in the tradition of Roman law, the juridical norm never refers immediately to life as a complex biographical reality, but always to the juridical person as an abstract center of imputation of individual acts and events. The juridical personality “serves to mask concrete individuality beyond an abstract identity, two modalities of the subject whose moments cannot be confused, since the first is biographical and the second is statutory” (Thomas, p. 136). The blossoming of monastic rules beginning from the fifth century, with their meticulous regulation of every detail of existence, which tends toward an undecidability of *regula* and *vita*, constitutes, according to Thomas, a phenomenon that is substantially alien to the Roman juridical tradition and to law tout court: “*Vita vel*

*regula*,’ life or rule, that is to say, life as rule. Such is the register—and assuredly it is not that of law—where the legality of life as incorporated law can be thought” (ibid.). Developing Thomas’s intuition in the opposite direction, others have believed they saw in the monastic rules the elaboration of a normative technique that permitted the constitution of life as such as a juridical object (Coccia, p. 110).

2.2. An examination of the text of the rules shows that they present a no less contradictory attitude toward the sphere of law. On the one hand, they not only firmly enunciate genuine precepts of behavior, but often also contain a detailed list of penalties incurred by the monks who transgress them. On the other hand, they urge the monks not to consider the rules as a legal apparatus. “The Lord grant,” reads the conclusion of the rule of Augustine, “that you observe all these things with joy . . . not as slaves under the law, but as those who have been set free by grace [*ut observetis haec omnia cum dilectione . . . non sicut servi sub lege, sed sicut liberi sub gratia constituti*]” (*Regula ad servos Dei*, pp. 1377/32). To a monk who asked him how he should behave with his disciples, Palamon, the legendary master of Pachomius, responds: “be their example [*typos*], not their legislator [*nomothetēs*]” (*Apophthegmata patrum*, pp. 563/191). In the same sense, Mar Abraham, upon laying out the rule of his monastery, recalls that we must not consider ourselves “legislators, neither for ourselves nor for others” (*non enim legislatores sumus, neque nobis neque aliis*; cf. Mazon, p. 174).

The ambiguity is evident in the Pachomian *Praecepta atque iudicia*, which begins with the resolutely antilegalistic statement *plenitudo legis caritas* (“love is the fulfillment of the law”), only to enunciate immediately afterward a series of matters of an exclusively penal character (Bacht, p. 255). Casuistic surveys of this type are encountered very often in the rules, either in the same context as the precepts or collected in sections internal to the rule (chaps. 13 and 14 of the *Rule of the Master*, or 23–30 in the *Rule of St. Benedict*) or else separately (as in the above-cited *Praecepta atque iudicia* or in the *Poenae monasteriales* of Theodore the Studite).

A vision of the whole of what can be defined as the monastic penal system can be inferred from chapters 30–37 of the *Concordia regularum*, in which Benedict of Aniane organized the ancient rules by topic. The penalty par excellence is *excommunicatio*, the total or partial exclusion from the common life for a period that is longer or shorter according to the gravity of the sin. “If a brother is found guilty of lighter faults,” reads the Benedictine rule, “let him be excluded from the common table [*a mensae participatione privetur*]. . . . In the oratory he shall intone neither Psalm nor antiphon nor shall he recite a lesson until he has made satisfaction; in the refectory he shall take his food alone after the

community meal . . . until by suitable satisfaction he obtains pardon” (chap. 24; Pricoco, p. 188). To graver sins there would correspond the exclusion of all contact with the brothers, who would ignore his presence: “He shall not be blessed by anyone passing by, nor shall the food that is given him be blessed. . . . If a brother presumes without an order from the abbot to associate in any way with an excommunicated brother, or to speak with him, or to send him a message, let him incur a similar punishment of excommunication” (chaps. 25–26; Pricoco, p. 191). In the case of recidivism, one would proceed to the application of corporal punishments and, in the extreme case, to expulsion from the monastery: “But if the excommunicated brothers show themselves so arrogant that they persist in the pride of their heart and refuse to make satisfaction to the abbot by the ninth hour of the third day, they are to be confined and whipped with rods to the point of death and, if the abbot so please, be expelled from the monastery” (Vogüé 2, 2, pp. 47/153). In some monasteries, a place even seems to have been provided to be used as a prison (*carcer*), in which those who had incurred the gravest sins were isolated: “The monk who molests children or adolescents,” reads the rule of Fructuosus, “constrained by iron chains, shall be punished with six months in prison [*carcerali sex mensibus angustia maceretur*]” (Ohm, p. 149).

And yet not only is punishment not a sufficient proof of the juridical character of the precept, but the rules themselves, in an epoch when punishments had an essentially afflictive character, seem to suggest that the punishment of the monks had an essentially moral and amendatory meaning, comparable to therapy prescribed by a doctor. When establishing the penalty of excommunication, the *Rule of St. Benedict* specifies that the abbot must have a particular care for excommunicated brothers:

Let the Abbot be most solicitous in his concern for delinquent brethren, for “it is not the healthy but the sick who need a physician.” And therefore he ought to use every means that a wise physician would use. Let him send “senpectae,” that is, brethren of mature years and wisdom, who may as it were secretly console the wavering brother and induce him to make humble satisfaction; comforting him that he may not “be overwhelmed by excessive grief.” (chap. 27; Pricoco, p. 193)

The counterpart of this medical metaphor in Basil is the inscription of the obligation of obedience, not within the prospect of a legal system, but within the more neutral one of the rules of an *ars* or technique. “Even in the case of the arts,” we read in chapter 41 of the rule, dedicated to “authority and obedience,”

the individual ought not be permitted to follow the one he is skilled in or the one he wishes to learn, but that for which he may be judged suited. He who

denies himself and completely sets aside his own wishes does not do what he wills but what he is directed to do. . . . One who is master of an art that is in no way objectionable to the community ought not abandon it, however, for to deem of no account that which is at one's immediate disposal is the sign of a fickle mind and an unstable will. And if a man is unskilled, he should not of himself take up a trade, but should accept the one approved by his superiors, so as to safeguard obedience in all things." (Basil, *Regulae fusius tractatae*, chap. 41)

In the *Rule of the Master*, what in Basil was an analogy referring above all to the manual labor of the monks becomes the metaphor that defines the whole monastic life and discipline, conceived, surprisingly enough, as the learning and exercise of an *ars sancta*. After having listed all the spiritual precepts that the abbot must teach, the rule concludes: "Behold, this is the holy art which we must exercise with spiritual instruments" (*ecce haec est ars sancta, quam ferramentis debemus spiritualibus operari*; Vogüé 2, 1, pp. 372/117). All the terminology of the rule is in this technical register, which recalls the vocabulary of the schools and workshops of late antiquity and the Middle Ages. The monastery is defined as *officina divinae artis*: "The workshop is the monastery, where the instruments of the heart are kept in the enclosure of the body, and the work of the divine art can be accomplished" (*ibid.*, pp. 380/119). The abbot is the *artifex* of an art, "not attributing the performance of it to himself but to the Lord" (pp. 362/114). The very term *magister*, which designates the one who speaks in the text, is likely meant to refer to the master of an *ars*. It could not be more clearly said that the precepts that the monk must observe are to be assimilated to the rules of an art rather than to a legal apparatus.

✠ The paradigm of the *ars* exercised an influence that is not to be overlooked on the world in which the monks conceived not only their rules, assimilated to the rules of an *ars*, but also their activity. Cassian, in the *Conlationes*, analogizes the profession of the monastic life to learning an art: "My sons, when a man wishes to acquire the skills of a particular art," he writes of those who want to embrace the monastic life, "he needs to devote all his possible care and attention to the activities characteristic of his chosen profession. He must observe the precepts and, indeed, the advice of the most successful practitioners of this work or of this way of knowledge. Otherwise he is dealing in empty dreams. One does not come to resemble those whose hard work and whose zeal one declines to imitate" (Cassian 2, pp. 12/184).

We have shown elsewhere that an analogous comparison with the model of the arts (with both the *artes in effectu*, which are realized in a work, and the *artes actuosae*, like dance and theater, that have their end in themselves) was important in theology for determining the status of the liturgical action (cf. Agamben 1, chap. 2, §8).

In this sense, the monastery is perhaps the first place in which life itself—and not only the ascetic techniques that form and regulate it—was presented as an art. This anal-

ogy must not be understood, however, in the sense of an aestheticization of existence, but rather in the sense that Michel Foucault seemed to have in mind in his last writings, namely a definition of life itself in relation to a never-ending practice.

2.3. The entirely peculiar character of the monastic precepts and their transgression emerges forcefully in an anecdote from the life of Pachomius, contained in the manuscript *Vaticanus Graecus 2091*. Vogüé, who has drawn attention to this text, contends that it goes back to a more ancient version of the biography of Pachomius, evidence of the beginnings of eastern cenoby. The anecdote relates that, in the course of a quarrel, a brother struck another, who responded to the violence with an equal blow. Pachomius summoned the two monks into the presence of the whole community and, after having interrogated them and obtained their confession, expelled the one who had struck first and excommunicated the other for a week. “While the first monk was being led out of the monastery,” the anecdote relates,

a venerable old man named Gnositheos, eighty years of age—and in fact, as his name indicated, he had knowledge of God—came forward and cried out from among the monks: “I, too, am a sinner and I am leaving with him. If anyone is without sin, let him remain here.” And the whole crowd of brothers, as though they were one man, followed the old man, saying, “We are also sinners and we are going with him.” Seeing them all leaving, the blessed Pachomius ran out in front of them, threw himself on the ground with his face in the dirt, covered his head with earth, and asked forgiveness of them all.

After the return of all the brothers, including the guilty one, Pachomius, returning into himself, thought: “If murderers, magicians, adulterers, and those who are guilty of whatever other sin take refuge in the monastery to work out their salvation there by penance, who am I to drive a brother from the monastery?” (Vogüé 3, pp. 93–94). And not only is an analogous episode attributed in the *Apophthegmata patrum* to the abbot Bessarion (141b), but the *Rule of Isidore* (*Regula monachorum*, chap. 15) confirms that the delinquent monk must not be expelled from the monastery, “because the one who could be amended through a diligent penance, once expelled, should not be devoured by the devil.”

The analogy between the judgment of the abbot and a penal process, though plausible at first glance, loses all credibility.

2.4. Cándido Mazon has dedicated a monograph to the problem of the juridical nature of monastic rules. The conclusion that he reaches after a full examination of the text of both Eastern and Western rules is that they “are not truly laws or precepts in the strict sense of the term,” and that, nevertheless, neither

are they reducible to “mere advice that leaves the monks at liberty to follow it or not” (Mazon, p. 171). It was a matter, according to Mazon, of norms of an “eminently directive character,” whose goal was not so much to “impose” obligations as to “declare and show to the monks the obligations they had agreed to, given the kind of life they had professed” (ibid.).

The solution is so unsatisfying that the author, not taking the risk of taking sides between those who maintain the juridical nature of the rules and those who reduce them to simple advice, ends by considering them as a kind of hybrid, “something that goes beyond advice, but does not reach the point of being law in the proper sense” (ibid., p. 312).

In stating this thesis, which is certainly not clear, the author is doing nothing but trying to find a compromise solution to a question that had divided the scholastics between the twelfth and fifteenth century. This is not the place to reconstruct the history of this debate, which involved, among others, Bernard of Clairvaux, Humbert of Romanis, Henry of Ghent, Thomas Aquinas, and Suárez, and in which what was at stake was the problem of the obligatory character of the rules. We will linger over three moments in which the problem emerged into the light according to different modalities and found each time a solution that focused on a significant aspect of the problem.

The first moment is Humbert Romanis’s commentary on the *Rule of St. Augustine*, and specifically on the phrase *haec igitur sunt quae ut observetis praecipimus in monasterio constituti* (“these are the things which we command you who are assembled in the monastery to observe”), with which Augustine introduces his prescriptions. The problem, which Humbert initially lays out in the traditional form of a *quaestio*, is “if everything that is contained in the rule is *in praecepto*” (that is to say, is obligatory; Romanis, p. 10). The problem is thus one of the relation between *regula* and *praeceptum*. If this relation is conceived as total identity, then everything that is in the rule is a precept: this is the position of those who, in Humbert’s words, hold that in Augustine’s phrase, the demonstrative pronoun *haec* “indicates everything that is in the rule” (*demonstrat omnia quae sunt in regula*; ibid.). To this rigorist thesis—which will find its champion in Henry of Ghent—Humbert opposes the position of those who maintain the noncoincidence of rule and precept, either in the sense that the obligation refers to the observance of the rule in general and not to the individual precepts (*observantia regulae est in praecepto, sed non singula quas continentur in regula*) or—and this is the thesis that he professes—that the intention of the saint was to make obligatory the observance of the three essential precepts of obedience, chastity, and humility, and not of everything that pertains to the monk’s perfection. Indeed, in the Gospel one must distinguish among

precepts that have both the form and intention of a precept (*modum et intentionem praecepti*), like the commandment of reciprocal love; others that are precepts in intention, but not in form (like the precept not to steal); and others, finally, that are such in form but not in intention. So also one must think that a wise man like Augustine, “even if he has spoken in the mode of a precept, did not intend to put everything under the precept, providing in this way an occasion of damnation to those who had come to the rule to find salvation” (p. 13). In another text, Humbert refers to the three obligatory precepts (obedience, chastity, humility) as the *tria substantialia*, and in this abbreviated formula his thesis imposed itself on the majority of theologians and canonists. In his commentary on the third book of the *Decretals*, Hostiensis formulates it in this way: “The rule is in precept, but that which talks about the observance of the rule must be understood as referring indistinctly to the three substantialia. Everything else that is contained in the rule we do not keep as if it were in precept; otherwise scarcely one monk in four could be saved” (Mazon, p. 198).

2.5. Another way of putting the problem of the obligatoriness of the rule does not concern the relation between rule and precept, but the very nature of obligation, which can be *ad culpam*, in the sense that transgression produces a mortal sin, or only *ad poenam*, in the sense that transgression implies a penalty but not a mortal sin. It is in this context that the problem assumes the technical form of the juridical or nonjuridical (or more exactly: legal) form of the rules.

The first to thematically formulate the problem of the existence of purely penal laws is Henry of Ghent. He does it in the canonical form of a *quaestio* that asks “if it is possible to transgress penal precepts without committing a sin, provided that one pays the penalty established for his transgression” (Mazon, p. 247). The example evoked is that of a monastic rule that prohibits speaking after compline. The formulation of the duty can occur in two ways: either first establishing the legal duty (*nullus loquatur post Completorium*, “no one may speak after compline”), then causing it to be followed by a penal sanction (*si aliquis post Completorium loquatur, dicat septem Psalmos poenitentiales*, “if anyone speaks after compline, let him say seven penitential psalms”); or formulating the observance and the penalty together (*quicumque loquatur post Completorium dicet septem Psalmos poenitentiales*, “whoever speaks after compline says seven penitential psalms”). Only in the second case—and if it is ascertained that the intention of the legislator was not to exclude every possibility of transgressions, but only to make sure that the transgression did not occur without a rational motive—can one speak of a transgression without fault and, consequently, of a merely penal law.

It is significant that only in later scholasticism, starting from the sixteenth, is this problem, which is merely evoked in Henry of Ghent, transformed into that of the legal nature of religious rules. The field was divided between those who, like Peter of Aragon, state that since a law must obligate both *ad culpam* and *ad poenam*, the rules of the religious are not truly laws, but rather admonitions or advice (*proprie loquendo non sunt leges, sed potius quaedam decreta hominum prudentum, habentia vim magis consilii quam legis*; *ibid.*, p. 269), and those who, like Suárez, maintain that, since laws can also obligate only as to penalty, rules are not advice, but actually laws (*item quia sunt actus iurisdictionis et superioris imponenti necessitatem aliquam sic operandi, ergo excedunt rationem consilii*; p. 282).

2.6. The problem of the relationship between the rules and the law is complicated by the fact that beginning at a certain point, the profession of the monastic life was associated with the pledge of a vow. The vow is an institution that, like the oath, most likely belongs to that more archaic sphere in which it is impossible to distinguish between law and religion, which Gernet improperly called “pre-law.” Their essential characteristics are known to us through Roman testimonies, in the context of which it appears as a form of consecration to the gods (*sacratio*), whose prototype is in the *devotio* through which the consul Decio Mure, on the eve of battle, decided to consecrate his life to the infernal gods to obtain victory. An object of consecration can also be a sacrificial victim, which is immolated on condition of obtaining the fulfillment of a desire. As Benveniste writes:

in Roman religious law the “vow” was the subject of strict rules. First there had to be a *nuncupatio*, the solemn enunciation of the vows for the “devotion” to be accepted by the representatives of the State and religion in the proper set terms. Then the vow had to be formulated,  *votum concipere*, which meant conforming to a given model. This formula, in which the priest took the initiative, had to be repeated exactly by the person making the vow. Finally, it was necessary for the authorities to receive this vow, and to sanction it by an official authorization: this was  *votum suscipere*. Once the vow was accepted, the moment came when the interested party had to put his promise into execution in return for what he had asked for:  *votum solvere*. Finally, as with every operation of this kind, sanctions were provided in case that the obligation was not carried out. The man who did not fulfill what he had promised was  *voti reus* and prosecuted as such and condemned:  *voti damnatus*. (Benveniste, pp. 237/492–93)

More exactly, the one who pronounces the vow, more than being obligated or condemned to execution, becomes, at least in the extreme case of the *devotio* of the consul, a  *homo sacer*. His life, insofar as it belongs to the infernal gods, is no

longer such, but rather he dwells in the threshold between life and death and can therefore be killed by anyone with impunity.

One would search in vain for a similar formalism and a similar radicality in the monastic rules of the early centuries. The monograph that Catherine Capelle dedicated to the vow, in 1959, shows that precisely on the question of the meaning, nature, and very existence of the monastic vows, both in the most ancient sources and in modern authors, the greatest possible confusion reigns. This confusion is first of all terminological, whether through the multiplicity of vocabulary (*professio*, *votum*, *propositum*, *sacramentum*, *homologia*, *synthēkē*), through the inconsistency of their meaning, which varies from “conduct” to “solemn declaration,” from “prayer” and “oath” to “desire” (Capelle, pp. 26–32). Neither Basil nor Pachomius nor Augustine seem to want to link the monastic condition to a formal act of a character that is in any way juridical. “*Homologia* means, in Basil, now the proclamation of faith, now a sort of promise, an obligation or the adhesion to a mode of life. There is an obligation, certainly, but indirectly and only because there is a consecration. We are here on the cultic level, not the moral or even less the juridical level” (ibid., 43–44). As to obedience, “its function is first of all ascetic; it is a matter of reproducing the model that Christ was. . . . It is neither the object of a religious obligation, nor the consequence of a determinate juridical situation” (p. 47). Analogously in Pachomius, even if the necessity of obedience to the abbot is emphasized, it remains one virtue among others. “It seems that what is in question here is only the ascetic aspect of obedience, and not a juridical form consequent to the bond of the vow. If the Latin translation seems to suggest, if not in Pachomius then at least in his successors, the existence of a profession . . . the context shows clearly that it is not a matter of a juridical obligation, but simply of the resolution to serve God through the perfection of the action itself” (p. 35).

A reading of chapters 1–10 of book 4 of Cassian’s *Institutes*, dedicated to the admonition of the postulants in the monastery, shows that even here there is no trace of vows or juridical obligations. The one who asks to be admitted into the monastery is subjected to humiliations and insults for ten days to put the seriousness and constancy of their intention to the test: “Embracing the knees of all the brothers passing by, he has been purposely rebuked and disdained by everyone, as if he wished to enter the monastery not out of devotion but out of necessity” (Cassian 1, pp. 124/79). Once they have put up with these tests with patience and humility, particular emphasis is placed on the removal of the old clothes and the assumption of the monastic habit. But even this is not sufficient to admit him to full status among the brothers, and for an entire year he must

dwell near the entrance of the monastery under the guidance of an older monk. Admission to the status of monk depends on the tenacity of the novice and his capacity to observe the *regula oboedientiae* (“rule of obedience”; *ibid.*, pp. 132/83), and not on the pronouncement of a vow. “Vows do not exist in Cassian, because he transmits Egyptian monasticism, which is ignorant of them, to the West: no commitment can obligate one for his entire life, nor bind one to a specific monastery” (Capelle, p. 54).

As for Augustine, none of the three texts that hand down his rule to us (whether or not they are his works) makes the least allusion to anything like a ceremony of initiation or the pronouncement of a vow.

2.7. One may assert that the situation begins to change with the *Rule of the Master* and the Benedictine rule, which seem to presuppose a true and proper juridical promise on the part of the novice. Let us read, however, chapter 88 of the *Rule of the Master*, which bears the significant title *Quomodo debeat frater novus in monasterio suum firmare introitum* (“How a new brother must confirm his entry into the monastery”). After a testing period of two months, at the end of which the future monk generically promises resoluteness in the observance of the rule that he has read several times (*repromissa lectae regulae firmitate*; Vogüé 2, 2, pp. 370–72/258), a sort of ceremonial dialogue unfolds between the abbot and the novice, which the novice, humbly tugging at the hem of the abbot’s clothing (*humiliter adpraehenso eius vestimento*), is to request urgently with this singular formula: “I have something to propose [*est quod suggeram*], first to God and this holy oratory, then to you and the community” (*ibid.*, pp. 372/258). Asked to say what is the matter, the novice declares: “I wish to serve God in your monastery through the discipline of the Rule read to me [*volo Deo servire per disciplinam regulae mihi lectae in monasterio tuo*].” “And this is your pleasure?” asks the abbot. “First it is God’s,” responds the novice, “so then also mine.” At this point, the abbot enunciates, with a precautionary formula, which has at times been interpreted as a genuine vow:

Mark well, brother, you are not promising anything to me, but to God and to this oratory and to this holy altar. If in all things you obey the divine precepts and my admonitions, on the day of judgment you will receive the crown of your good deeds, and I myself shall gain some remission of my sins for having encouraged you to conquer the devil along with the world. But if you refuse to obey me in anything at all, see, I am calling the Lord to witness, and this community will also give testimony in my favor on the day of judgment that, as I said before, if you do not obey me in anything at all, I shall go free in the judgment of God and you will have to answer for your soul and for your contempt. (pp. 372–74/258–59)

Not only is it not the novice who pronounces the promise of obedience, but the formula that he “proposes” (“I want to serve God . . .”) is by all indications a generic ascetic profession and not a legal commitment. A definitely juridical act happens soon after: the irrevocable donation of the novice’s goods to the monastery (or, rather, its confirmation, because the donation had already taken place at the moment of the request for admission). But in the monastic tradition, this donation is consistently interpreted as the proof of the seriousness of the future monk’s ascetic intention.

The situation in the Benedictine rule seems to be different. Here not only is the testing period lengthened to ten months, punctuated by repeated readings of the rule, which is by now only a written document, but at the moment of the profession, the novice “shall make a promise before all in the oratory of his stability and of the reformation of his life and of obedience. This promise shall he make before God and his Saints” (*coram omnibus promittat de stabilitate sua et conversatione morum suorum et oboedientiam coram deo et sanctis eius*; chap. 58; Pricoco, p. 242). The promise is afterward reinforced by the drawing up of a document called a *petitio* (by hand, if he knows how to write, but in any case signed by him), which the novice places on the altar (*de qua promissione faciat petitionem ad nomen sanctorum . . . quam petitionem manu sua scribat . . . et manu sua eam super altare ponat*; *ibid.*, p. 244).

According to some scholars, the Benedictine profession must be interpreted as a veritable contract, modeled on the paradigm of the Roman *stipulatio* (Zeiger, p. 168). And since the *stipulatio*, as oral contract, unfolded through a question-and-answer format (of the type: *Spondesne? Spondeo*), the same scholars have privileged those documents (like a manuscript from Alba from the ninth century) in which the novice’s promise has precisely the form of a dialogue (“*Promittis de stabilitate tua et conversatione morum tuorum et oboedientia coram Deo et sanctis eius?*” “*Iuxta Dei auditium et meam intelligentiam et possibilitatem promitto*,” “Do you promise your stability and the conversion of your morals and obedience before God and his saints?” “In the hearing of God I promise to the extent of my intelligence and possibility”; *ibid.*, p. 169). Older documents show, however, that the most common form of the profession was that of a unilateral declaration, and not of a contract. The same *petitio* appears, in the surviving documents, as a simple confirmation (*roboratio*) of the promise, whose content does not, as in a *stipulatio*, concern specific acts, but the monk’s very form of life. The formulary of a *petitio monachorum* from Flavigny (seventh or eighth century) reads as follows:

Domino venerabili in Christo patre illo abate de monasterio illo. . . . Petivimus ergo beatitudinem caritatis, ut nos in ordine congregacionis vestrae digni sitis

recipere, ut ibidem diebus vitae nostrae sub regula beati Benedicti vivere et conversare deberemus. . . . Habrenunciamus ergo omnes voluntates nostrae pravas, ut dei sola voluntas fiat in nobis, et omnis rebus quae possideums, sicut evangelica et regularis tradicio edocit . . . obeodientiam vobis, in quantum vires nostrae subpetunt et Dominus adderit nobis adiutorium, conservare promittimus. . . . Manu nostrae subscripcionis ad honorem Domni et patronis nostri sancti hanc petitionem volumus roborare [O venerable Lord in Christ, father and abbot of this monastery. . . . We therefore beg the blessing of charity, that you may receive us into the order of your worthy congregation, so that here on this day we will have to live and conduct our lives under the rule of blessed Benedict. . . . We therefore renounce all our depraved wills, so that God’s will alone may be done in us, and everything that we own, as evangelical and regular tradition teaches. . . . We promise to observe obedience to you, as far as our strength extends and God gives us help. . . . With the signature of our hand to the honor of God we wish to make firm this petition to our holy patron]. (Cappele, p. 235)

The monk does not obligate himself here so much to individual acts, but rather to cause the will of God to live in him. Moreover, the obedience is promised in proportion to his own strength and under the condition of God’s help.

Smaragdus’s commentary on the Benedictine rule (ninth century) suggests considerations that are perhaps most instructive from this perspective. Not only does it transmit to us the text of a *petitio* that seems to lack every juridical characteristic, but it contains a definition of the *professio* that situates it in its proper context: *Ista ergo regularis professio si usque ad calcem vitae in monasterio operibus impleatur, recte servitium sanctus vocatur, quia per istam sanctus effectus monachus, sancto Domino sociatur* (“And so if this regular profession is fulfilled in deeds in the monastery up to the end of one’s life, it is rightly called a holy service, because having become holy through it, the monk is joined to the holy Lord”; chap. 5, pp. 796/250). The term *servitium*, exactly like *officium*, indicates the very life and activity of the monk and the priest, insofar as it is modeled on the life and “service” performed by Christ as high priest and “*leitourgos* of the sanctuary and the true tabernacle” (Heb. 8:2). What is clearly expressed here is the tendency to consider the monk’s life as an uninterrupted Office and liturgy, which we have already mentioned and to which we will have occasion to return.

✠ How should the *petitio* in the Benedictine rule be understood? In Roman law one speaks of a *petitio* in the trial (*actio de iure petendi*) and for candidacy for public office (*petitio facta pro candidato*). In religious law, it indicated a request directed toward the gods in the form of a prayer. This last meaning, in which one can make out a precursor of the vow, is common in the Christian authors of the early centuries (as in Tertullian,

*Oration 1, 6: orationis officia . . . vel venerationem Dei aut hominum petitionem*, “the offices or our prayer are either the veneration of God or the petitions of human beings”). However, we possess documents (like the formulary of Flavigny cited above) that show unequivocally that the meaning of the term in Benedictine monastic practice was neither that of Roman law nor that of a vow, but was understood as a simple written confirmation of the request for admission to the monastic life.

2.8. In the course of time and particularly starting from the Carolingian age, the Benedictine rule, supported by the bishops and the Roman Curia, is progressively imposed on cenobites, until it becomes between the ninth and the eleventh centuries the rule par excellence that new orders must adopt or to whose model their own organization must conform. It is probable, in this sense, that it is precisely the tendential juridicization of the monastic profession that we see occurring in the rule that had contributed to its primacy and its diffusion in an epoch in which the Church (and, with it, the emperor) were seeking to establish a discrete but firm control over the monastic communities. A series of decrees from the *serenissimus et christianissimus imperator*, which culminated in the 802 edict *Capitula canonum et regula*, thus prescribed the Benedictine rule—in which the chapters on obedience and the profession were expressly highlighted—to the monks.

In the era that followed the Benedictine rule and up to the formation of the first collections of canon law, both the term *votum* and the verb *voveo* (or *devoceo*—*se Deo vovere, voventes*) appear with increasing frequency in the sources. And yet even at this time a definite theory of the monastic vow, as will be developed in the scholasticism of Thomas and Suárez, seems to be lacking in the canonists.

Let us open book 7 of the *Decretal* of Ivo of Chartres, the theme of which is declared to be *De monachorum et monacharum singularitate et quiete, et de revocatione et poenitentia eorum qui continentiae propositum transgrediuntur* (“On the singularity and peace of monks and nuns, and the withdrawal and penance of those who transgress the promise of continence”), or the section *De vita clericorum* (“On the life of clergy”) of the same author’s *Panormia*. Although the text essentially consists of a heterogeneous collage of passages from Augustine, Ambrose, Jerome, and extracts from conciliar canons or letters of the popes or imperial constitutions, the approach to the problem essentially has the form of a casuistry. A slave cannot become a monk without the knowledge of his master (*praeter scientiam domini sui*; *Decretum*, chap. 45, p. 555), and consequently, the early testing period for the novice’s acceptance is viewed from the perspective of verifying his juridical condition as free man or slave, in order to permit the

master to recover his fugitive slave within three years (*ibid.*, chap. 153, 582). If children who have taken the vow of chastity without being compelled by their parents later get married, they are culpable even if they had not yet been consecrated (chap. 20, p. 549). Virgins who get married after consecration are impure (*incestae; Panormia*, p. 1175). If a monk leaves the monastery after his profession, his goods remain the property of the monastery—indeed, “the monk’s *propositum*, freely undertaken, cannot be abandoned without sin” (p. 1173).

The same holds for Gratian. If a child has received the tonsure and the habit without his consent, his profession cannot be definitive and can in any case be annulled (*Decretum*, q. 2–3); if the monk wants to pronounce a vow, he must be authorized by the abbot (*Decretum*, q. 4). The question of whether the *voventes* can enter into matrimony receives, in the same sense, a full treatment. In question each time are the precise juridical implications of the profession, not a theory of the profession insofar as it is normatively constitutive of the monastic life as such.

2.9. The considerations developed up to now must have rendered obvious the sense in which it is almost impossible to pose the problem of the juridical or nonjuridical nature of the monastic rules without falling into anachronism. Even granting that something like our term *juridical* has always existed (which is no less dubious), it is certain, in any case, that it means one thing in Roman law, another in the early centuries of Christianity, another still starting from the Carolingian age, and another, finally, in the modern age, when the State begins to assume the monopoly over law. Furthermore, the debates that we have analyzed over the “legal” or “advisory” character of the rules, which seem to approach the terms of our problem, become intelligible only if one does not forget that they are superimposed over the theological problem of the relation between the two *diathēkai*, the Mosaic law and the New Testament.

In this sense, the problem ceases to be anachronistic only if it is restored to its proper theological context, which is that of the relationship between *evangelium* and *lex* (that is, first of all, the Hebraic law). The theory of this relationship was elaborated in the Pauline letters and culminates in the declaration that Christ as messiah is *telos nomou*, end and fulfillment of the law (Rom. 10:4). Even if in the same letter this radical messianic thesis—and the opposition that it implies between *pistis* and *nomos*—is complicated to the point of giving rise to a series of aporias (as in 3:31: “Do we then render the law inoperative by this faith? By no means! On the contrary, we uphold the law”), it is nonetheless certain that the Christian life is no longer “under the law” and cannot in any case be conceived in juridical terms. The Christian, like Paul, is “dead to the law” (*nomōi*

*apethanon*; Gal. 2:19), and lives in the freedom of the spirit. Even when the Gospel is counterposed to the Mosaic law as a “law of faith” (Rom. 3:27), or later as a *nova lex* to the *vetus*, it remains the case that neither its form nor its content are homogeneous to those of the *nomos*. “The difference between the law and the Gospel,” one reads in Isidore’s *Liber differentiarum* (chap. 31), “is this: in the law there is the letter, in the Gospel grace . . . the first was given for transgression, the second for justification; the law shows sin to the one who does not know it, grace helps him to avoid it . . . in the law the commandments are observed, in the fullness of the Gospel the promises are consummated.”

It is in this theological context that one must situate the monastic rules. Basil and Pachomius, to whom we owe, so to speak, the archetypes of the rules, are perfectly conscious of the irreducibility of the Christian form of life to the law. Basil, in his treatise on baptism, explicitly confirms the Pauline principle according to which the Christian dies to the law (*apothanein tōi nomōi*), and as we have seen, Pachomius’s *Praecepta atque iudicia* opens with the statement that love is the fulfillment of the law (*plenitudo legis caritas*). The rule, whose model is the Gospel, cannot therefore have the form of law, and it is probable that the very choice of the term *regula* implied an opposition to the sphere of the legal commandment. It is in this sense that a passage from Tertullian seems to oppose the term *rule* to the “form of the [Mosaic] law”: “Once the form of the old law was dissolved [*veteris legis forma soluta*], this is the first rule which the apostles, on the authority of the Holy Spirit, sent out to those who were already beginning to be gathered to their side out of the nations” (Tertullian 3, 12). The *nova lex* cannot have the form of law, but as *regula*, it approaches the very form of life, which it guides and orients (*regula dicta quod recte ducit*, recalls an etymology from Isidore, *Etymologiarum* 6.16).

The problem of the juridical nature of the monastic rules here finds both its specific context and its proper limits. Certainly the Church will progressively construct a system of norms that will culminate in the twelfth century in the system of canon law that Gratian compiles in his *Decretum*. But if Christian life doubtless can readily encounter the sphere of law, it is just as certain that the Christian *forma vivendi* itself—which is what the rule has in view—cannot be exhausted in the observance of a precept, which is to say that it cannot have a legal nature.

## Flight from the World and Constitution

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**3.1.** There is, however, an aspect of the rules according to which they can be considered as juridical acts; it does not concern civil or penal law, but public law. It is possible, that is to say, to consider the rules as constituent acts, which bear on the formation of those “political” communities that cenobies and convents undoubtedly are, even if in a peculiar sense. At the foundation of this jurispublic nature of the rules stands the doctrine of the *fuga saeculi* as a so-to-speak constituent process of the community of believers, which was elaborated by Philo and picked up and developed by Ambrose.

Let us first consider Philo’s *De fuga et inventione* (On Flight and Finding). Here the flight of Jacob is motivated first of all by the fact that Laban has abandoned all care for the law, in such a way that the “ascetic powers” that drive Jacob to flee act in order to reclaim an inheritance that has been unjustly taken from them. And the places of refuge and exile (*phygadeutēria*; *phygē*, in Greek, means in the first place exile) are here—on the basis of a midrash on Numbers 35:11–14, with regard to the places where those guilty of involuntary homicide could find refuge—genuine cities that each symbolize, however, a divine power. There are six of them: the first, the mother-city (*mētropolis*), is the divine word (*logos*), the first place in which it is useful to seek refuge. The other five, which are “colonies” (*apoikiai*) with respect to the first, are described as follows:

their leader being creative [*poietikē*] power, in the exercise of which the Creator produced the universe by a word; second in order is the royal [*basilikē*] power, in virtue of which he that has made it governs [*archēi*] that which has come into being; third stands the gracious [*hileōs*] power, in the exercise of which the Great Artificer takes pity and compassion on his own work; fourth is the legislative power, by which he prescribes duties incumbent on us; and fifth that division of legislation, by which he prohibits those things which should not be done. (17, 95)

Flight is thus conceived as a process that carries the fugitive or the exile through six cities that are so many constitutive “political” powers: the divine word

(identified with the great/high priest), creation, kingdom, governance, positive and negative legislation.

The cities are, moreover, Levitical cities, because the Levites are themselves in a certain way also fugitives and exiles (*phygades*), who have abandoned parents, children, and brothers in order to please God. To the Levites and priests are entrusted the care of the temple and the *leitourgia* (that is, the public function of the cult). In the same way, even the fugitives who have been rendered guilty of an involuntary fault “are also engaged in a service [*leitourgousi*]” (17, 93). In this dense midrash, which was to have a long posterity in Christianity, exile is seen paradoxically as a “liturgy,” a public service by which the exiled are assimilated to priests.

It is well known that Ambrose’s *De fuga saeculi* (Flight from the World) depends heavily on Philo’s text and that, in this sense, it certainly does not sparkle with originality. Yet the very fact that he had decided to insert Philo’s midrash into one of the foundational works of Christian asceticism inscribes the theme of the flight from the world within a peculiar perspective, in which renunciation and asceticism are linked closely to the exercise of the priesthood, that is to a public practice. Not only does chapter 2 take up once again, almost literally, Philo’s exegesis of the cities of refuge, but with a development that is pregnant with significance, the high priest, whom Philo already assimilated to the divine *logos*, is identified without reserve with the Son.

Who is this chief priest but the Son of God, the Word of God? We enjoy his advocacy in our behalf before the Father, for he is free from every offense, both willed and unintentional, and in him subsist all things which are on earth and which are in heaven. For all things have been bound by the bond of the Word and are held together by his power and subsist in him, because in him they have been created and in him all God’s fullness dwells. And so all things endure, because he does not allow what things he has bound to be loosened, since they subsist by his will. Indeed, as long as he wills, he keeps all things in check by his command and rules and binds them by a harmony of nature. (Ambrose, pp. 85/291)

At the suggestion of Philo and the Pauline letter to the Hebrews, the Word is immediately associated with the great priest of Psalm 109:4:

Be satisfied now that he is the great high priest. The Father swore an oath in his regard, saying, “You are a priest forever.” . . . This is the Word of God, in whom there inheres the high priesthood. In the account of the clothing of the high priest, Moses describes the garments symbolically, because the Word put on the world by his own power and is resplendent among all men as if he were clothed with it. . . . Christ is the head of all, and from him the whole body extends and is

joined by a mutual joining of its parts to one another, while receiving its increase in the building up of itself in love. (Ibid., pp. 88–90/293–94)

Here the theme of the flight from the world, so constitutive of monasticism, is united with the exercise of an ecclesial practice in which the fugitive appears as a true minister of the community: “the minister of God’s holy altar is one who is in flight from his own” (*fugitans igitur est suorum sacri altaris eius minister*; pp. 78/285). And it is on this basis that monastic exile from the world could be conceived as the foundation of a new community and a new public sphere.

✠ By making exile a constitutive political principle, Philo was in reality referring to a tradition established in Greek philosophy, which made use of exile as a metaphor of the perfect life of the philosopher. In the celebrated passage of the *Theatatus* (176a–b), in which assimilation to God appears as a *phygē* (*phygēē de homoiōsis theōi kata ton dynaton*), it is necessary to restore to *phygē* its originary meaning of exile (“assimilation to God is virtually an exile”). And it is in perfect analogy with the Platonic metaphor that in the *Politics* (1324a 15–16) Aristotle can define the form of the philosopher’s life as “alien” (*xenikos bios*). And centuries later, when Plotinus at the end of the *Enneads* will define the life of “divine and happy” men (that is, of philosophers) as a *phygē monou pros monon*, the passage becomes fully intelligible only if the political character of the image is not lost: “exile in solitude to the solitary” (*Ennead* 6.9.11). “Exile from the world” is first of all a political gesture that in Philo and Ambrose is equivalent to the constitution of a new community.

3.2. In 1907 Ildefons Herwegen, the initiator of the liturgical movement in the Benedictine abbey of Maria Laach, called attention to an exceptional document that casts new light on the rules and monastic professions and, in particular, allows one to situate them in a jurispublic perspective. The text in question is the so-called *Pactum*, which is found at the end of St. Fructuosus of Braga’s *Regula communis*. The interest of this document, from a little before 670, is that it is presented as an accord or contract between two parties, the group of monks on the one hand (designated with the generic term *nos omnes*) and the abbot on the other (defined as *tu dominus*), in which they found and regulate the community through decreeing reciprocal obligations:

Thus, fired with divine ardor, lo, all of us whose names are subscribed below entrust our souls to God and to you, our master and our father, that we may live in one monastery under Christ’s guidance and your teaching according to the edict of the apostles and the Rule, and as sanctioned by the authority of the fathers in the past. Whatever you desire for the safety of our souls to pronounce, teach, perform, reprimand, excommunicate, or correct in accordance with the Rule [*annuntiare, docere, agere, increpare, imperare, excommunicare, secundum regulam emendare*], we shall completely carry out with humble heart, all arrogance aside,

with mind intent, with burning zeal, with the aid of divine grace, without making excuses [*inexcusabiliter*], and with the Lord's favor. If any of us shall be complaining, obstinate, disobedient, or slandering against the Rule and against your command [*contra regulam et tuum praeceptum murmurans, contumax, inobediens vel calumniator*], then, you may have the power to bring all into an assembly and to read the Rule in the presence of all and to correct our guilt publicly, and each one who is guilty shall receive his due, the lash or ban of excommunication, with due consideration for his misconduct. If anyone shall secretly intrigue with his parents, brothers, sons, relatives, or neighbors, or especially with a fellow brother in the absence of the above-mentioned father, you may have the power over each one who has attempted such a crime to have him put under ban of excommunication and confined to a dark cell for six months on bread and water alone, wearing a penitential tunic or sackcloth, without cincture and without shoes. If a monk is unwilling to undertake such a penance with full consent, he is to be stretched out naked and given 72 blows with a lash and to be deprived of the clothing of the monastery and to be expelled from the institution in conspicuous disgrace. (Fructuosus, "Pact," p. 208; cf. Herwegen, pp. 2–3)

Opposite this subjection of the monks to the sovereignty of the abbot stands, however, the obligation of the abbot to govern with justice and equity:

We remind you, our master, that if you should treat any of us unjustly—which it is unreasonable to believe and which may God not allow to happen—if you should treat any of us with pride or anger, or should love one and show hatred and rancor for another, or should dominate one but revere another, as people often do, then we shall have the right also granted to us by God to take our complaint without pride and without anger through the dean to the prior, and the prior shall humbly kiss the foot of you our lord and lay before you the details of our complaint, and you must be willing to listen patiently and to bend your neck humbly to the common rule and correct and reform yourself. If you are not willing to correct yourself, then we may also have the power of consulting another monastery, or else a bishop who lives under the Rule, or a Catholic count who is a defender of the Church, and of inviting them to meet with us, that, in their presence, you may correct yourself and fulfill the tenets of the Rule. (Fructuosus, "Pact," p. 209; cf. Herwegen, pp. 3–4)

Herwegen, who lingers on the juridical meaning of the document, renders an account of the constitutional character of the pact with respect to the convent community, but without drawing all its consequences. "This formula," he writes, "is the expression of a juridical negotiation through which a multiplicity is united for a common cloistered life. A superior power, under the reservation of certain rules, is conferred on an abbot defined as 'lord and father,' in the form of

a monastic profession. The agreement is presented here as the foundation of a convent, connected with the subjection of the monks to the abbot” (Herwegen, p. 4). From this perspective, he seeks to demonstrate the possible influence on the *pactum*, on the one hand, of the oaths of subjection between subjects and sovereign contained in the *lex Visigothorum* and, on the other, of the Roman legionnaire’s oath of obedience. It is all the more surprising, then, that Herwegen, exclusively preoccupied with relating the *pactum* to its Visigothic context and distinguishing it from the monastic profession in the strict sense, does not notice that the *pactum* constitutes, perhaps, the first and only example of a social contract in which human beings in a group subject themselves unconditionally to the authority of a *dominus*, attributing to him the power to direct the life of the community that is thus founded in all its aspects. With respect to the Hobbesian covenant or Rousseau’s social contract, in which the authority of the sovereign knows no limits, to the monks’ obligation of subjection there corresponds the obligation to govern with justice on the part of the abbot. In any case, however, what is decisive is that the *pactum* is not in any way assimilable to a private contract and that by abstracting the question from the discussion—which is, all things considered, sterile—of the contractual or votive character of the monastic profession, it allows us in some way to consider the rules in their integrity as true and proper constituting documents (*constitutiones*, as they are after all often designated) of the cloistered community.

3.3. In reality, what is decisive here is not so much the problem of the more or less juridical nature of the rules, which cannot be proposed for the earliest rules, but more generally that of the peculiar relation between life and norm that comes to be established in the rule. What is in question is thus not what in the rule is precept and what is advice, nor the degree of obligation that it implies, but rather a new way of conceiving the relation between life and law, which again calls into question the very concepts of observance and application, of transgression and fulfillment.

Already in the earliest rules, the penal apparatuses often refer not to individual actions, but to something like a vice or a spiritual condition of the monk. *Qui facilis est ad detrahendum, si in hoc peccato fuerit deprehensus . . . iracundus et furiosus si frequenter irascitur* (“The one who is quick to slander, if he is caught in this sin . . . if an irascible and raging person frequently becomes angry”), one reads in Pachomius’s *Praecepta atque iudicia. Si quis frater contumax aut superbus aut murmurans aut inoboediens . . .* (“If any brother is stubborn or proud or given to complaining or disobedient . . .”), begins the chapter *De excommunicatione*

*culparum* (About Excommunication for Faults) in the *Rule of the Master* (Vogüé 2, 2, pp. 33/149). And in the rule of Isidore, the index that enumerates the most serious offences is more similar to a catalog of vices than to the outline of culpable offences: *si temulentus quisquam sit, si discors, si turpiloquus, si feminarum familiaris, si seminans discordias, si iracundus . . .* (“if anyone is drunk, disagreeable, foul-speaking, friendly with women, a sower of discord, irascible . . .”; *Regula monachorum*, p. 886).

This holds even more so for the monk’s positive obligations. A passage from Bernard of Clairvaux’s *De praecepto et dispensatione* (On Precept and Dispensation) is particularly significant from this perspective. Responding in an imaginary dialogue to a monk who, having professed the rule, laments not being able to fulfill his vow in the monastery where he is, Bernard writes:

But truly, I say, neither of these complaints is just. He who thinks it perjury not to observe the rule in its purity [*ad purum*], has I think paid scant attention to what he actually promised. No one at profession [*cum profitetur*] really promises “the Rule” [*spondet regulam*], but specifically, that he will act “according to the rule” [*secundum regulam*] from the moment of his conversion and in his form-of-life [*conversionem suamque . . . conversationem dirigere*]. This sort of profession formula has, in our day, been adopted by almost all monks. However, God is served in many diverse ways in the various monasteries. So long as one carefully observes the good customs of his house he is beyond any doubt living according to the rule, for the rule admits of variations in local customs. (Bernard of Clairvaux, *De praecepto et dispensatione*, pp. 250–52/140–41)

As the opposition between a technical legal term (*spondere*, to obligate oneself personally to something) and an expression drawn from ascetic language (to lead the proper form of life) shows clearly, the passage testifies to a transformation that affects the way we understand the relationship between norm and life. The one who promises does not obligate himself, as happens in the law, to the fulfillment of the individual acts expected in the rule, but puts into question his way of living, which is not identified with a series of actions or exhausted in them. As Bernard adds immediately after, “those who undertake to live according to the Rule [*secundum regulam vivere*], even if they do not keep it completely in every detail [*ad unguem*], and even if they change or omit certain details according to the customs of their house, as long as they are faithful to what is locally accepted as a ‘sober, just, and pious life’ [*sobrie et iuste et pie vivere*], they are truly living the Rule” (ibid., pp. 286/141).

It is most likely in reference to this passage that Thomas can write that “he who professes a rule does not vow to observe all the things contained in the rule

[*non votet observare omnia quae sunt in regula*], but he vows the regular life [*votet regularam vitam*] which consists essentially in the three aforesaid things [poverty, continence, and humility]. Hence in certain religious orders precaution is taken to profess, not the rule, but to live according to the rule [*profitentur non quidem regulam, sed vivere secundum regulam*]” (*Summa theologica*, 2a 2ae, q. 186, art. 9). Even if Thomas seems to reduce the problem to that of the difference between precept and rule, the decisive point, which the authors have difficulty putting in focus, is the transformation that is in question in the passage from “promising the rule” to “promising to live according to the rule” (promising life). The object of the promise is here no longer a legal text to observe or a certain action or a series of determinate behaviors, but the subject’s very *forma vivendi*.

3.4. In Suárez, this special character of the monastic profession assumes the paradoxical form of an obligation that doesn’t have a certain human act as its object, but the obligation itself. He begins first of all by distinguishing two meanings of the term *votum*: in the first, the word designates “the obligation and the bond that remains in one who has pronounced the vow” (*pro obligatione et vinculo quod manet in homine habente votum*), in the second, “the act by which the obligation immediately comes about” (*pro actu illo a quo immediate nascitur obligatio*; Suárez, p. 804). “I say,” he continues, “that the vow properly so-called, insofar as it signifies that act by means of which a person obliges himself with respect to God, cannot have for its object any human act other than the obligation itself, that is the bond that is realized through the act of vowing oneself” (*non habere pro obiecto alium actum humanum sed obligationem ipsam, seu vinculum efficiendum per actum vovendi*; *ibid.*).

The vow, insofar as it “is nothing other than the obligation, by which someone is bound spontaneously to God [*se spontanee obligat deo*],” does not obligate one, like the law, simply to fulfill determinate acts and keep away from others, but produces in the will a “permanent and, as it were, habitual bond” (*vinculum permanens et quasi in habitu*; *ibid.*). Here the vow is a “vow of the vow” (*habet pro obiecto votum*), in the sense that it does not refer immediately to a certain action or a certain series of acts, but first of all to the bond that is itself to be produced in the will:

And this will, through which the human being obliges himself with respect to God, has for its object the very obligation to God and thus has for its object the vow or the promise, to the extent to which this signifies the bond itself that is to be realized through the vow, and not to the extent in which it signifies the acts to be vowed or promised [*habet pro obiecto votum vel promissionem, quatenus haec*

*significat vinculum ipsum efficiendum per votum, non quatenus significat actum  
vovendi aut promittendi*. (Ibid.)

What Suárez here tries laboriously to conceptualize by multiplying his distinctions is the paradox of an obligation whose primary content is not a certain behavior, but the very form of the will of the one who, by promising the vow, has been bound to God. The vow has, that is, the form of law, but not its content, and like the Kantian imperative, it has no immediate object except the very will of the one vowing. For this reason, in the next chapter, Suárez takes care to distinguish the *votum* in the proper sense, which is realized only through the promise (*per solam promissionem*), from the *traditio*, which is added to it in the case of the solemn vow of chastity, in which the one vowing “consigns and consecrates his body to God as chaste in perpetuity” (ibid., p. 805). In distinction from the pagan *devotio*, in which the *devotus* consigned to the gods his body and his biological life, the Christian vow is, so to speak, objectively vowed and has no other content than the production of a *habitus* in the will, whose ultimate result will be a certain form of common life (or, from the liturgical perspective, the realization of a certain *officium* or a certain *religio*).

Once more, the decisive core of the monastic condition is not a substance or content, but a *habitus* or a form. Understanding that condition will require us to turn toward the task of confronting of the problem of “habit” and form of life.

✠ In our archeology of duty (Agamben 1, §4, chap. 8), we showed that *religio* is the name that theologians give to that singular relation between norm and life, which configures a sort of juridical duty in the form of a virtue or a *habitus*.

In order to understand the new figure of the relation between norm and life that here starts to be delineated, it is necessary to refer to juridical situations which find their technical form only later in administrative law—that is, in that branch of modern law that had its gestation in the sphere of the practices of Church administration. It is here that one encounters norms (called instrumental) that provide veritable outlines of behavior, linked to the definition of a “competence-duty,” that is, to an obligation or a legitimation to act that derives from a determinate situation (for example, the assumption of an office). The “duties of office” that result from it configure a type or a normative outline of a practice that is not exhausted in an individual action, but defines a definite conduct of life, whose objective element and subjective element tend to coincide and which recalls, in this sense, the monk’s *vivere secundum regulam* and *religio*.

3.5. What is decisive in any case is that the form of life that is in question in the rules is a *koinos bios*, a common life. Every interpretation of the monastic rules must first of all situate them in this context, from which they cannot be separated. When we ask ourselves about the relation between monks and rules, it

is necessary not to forget Wittgenstein's observation according to which it is not possible to follow a rule privately, because referring to a rule necessarily implies a community and a set of habits. Even for the monk the principle holds according to which "it is not possible that there should have been only one occasion on which only one person followed a rule. . . . To follow a rule, to make a report, to give an order, to play a game of chess, are *customs* (usages, institutions)" and "following a rule' is a practice. And to *think* one is following a rule is not to follow a rule. And that's why it's not possible to follow a rule 'privately'" (Wittgenstein I, pp. 381–82/87–88).

It is important to specify, therefore, that the common life is not the object that the rule must constitute and govern. On the contrary—as both the claim of a "power conceded to us by God" in the "Pact" of St. Fructuosus and the insistence on the distinction between "promising the rule" and "promising life" in Bernard and Thomas testify—it is the rule that seems to be born from "cenoby," that (to use the language of modern public law) seems to be placed with respect to cenoby like constituent power with respect to the text of the constitution. If the ideal of a "common life" obviously has a political character, cenoby is perhaps the place in which the community of life as such is claimed without reserve as the element that is in every sense constitutive. What is in question, in the life of cenoby, is thus a transformation of the very canon of human practice, which has been so determinate for the ethics and politics of Western society that perhaps still today we cannot fully grasp its nature and implications.

## Threshold

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As we will see, it is only with the Franciscans that this transformation reaches full consciousness, and consequently can be claimed as such, calling into question the very substance of the rule as a set of norms separate from life.

In Hugh of Digne's commentary on the Franciscan rule, the difference between *promittere regulam* and *promittere vivere secundum regulam* is taken up—not to distinguish between precepts and advice or, as in Humbert of Romanis, between the three substantial vows (obedience, poverty, and chastity) and the rest of the rule, but to leave room for an absolute undecidability between *forma regulae* and *forma vivendi*. The one who promises to observe the life and the rule of the blessed Francis, writes Hugh, promises according to the formula of the rule (*secundum formam regulae profitetur*) and therefore is not obligated to observe either the individual norms or the three principle vows, but all of them indistinctly (*omnia indistincte*), in such a way that the monk's very form of life (*forma vivendi*) falls *sub voti efficacia* ("under the efficacy of the vow"; Hugh of Digne, I, p. 178). Not unlike how Suárez will try to think this through three centuries later in his treatise on the vow, what is promised solely according to the form of the law is the monk's very form of life. Through the concept of "form," rule (*forma regulae*) and life (*forma vivendi*) enter into a threshold of indistinction in the monk's practice.

For this reason the Franciscan promise is neither a promising of the rule nor a promising to life according to the rule, but an unconditional and indivisible promise of the rule and of life (*regulae vitaeque*): *Promittere quidem non regulam, sed vivere secundum regulam, minus ad singula regulae dicitur obligare; sed hic plena regulae vitaeque promissio ponitur, nec additur "vivendo in oebedientia, sine proprio et castitate"* ("To promise not this rule, but to live according to the rule, is said to obligate one less to individual rules, but this lays down a full promise of the rule and life, nor is there added 'living in obedience, without property, and in chastity'"; *ibid.*, p. 177).

Commenting on this expression from the rule (“living in obedience”), Peter John Olivi writes: “Note that it makes more sense to say ‘living in obedience’ than to say ‘observing obedience’ or ‘obeying’: one says, in fact, that someone lives in a certain state or in a certain work only if his whole life has been applied to it [*cum tota sua vita est sic applicatus ad illud*], in which case he is rightly said to be and live and dwell [*esse et vivere et conversari*] in it” (Olivi I, p. 119). The traditional juridical idea of the observance of a precept is here reversed. Not only is it the case that the Friar Minor does not obey the rule, but live it—with an even more extreme reversal, it is life that is to be applied to the norm and not the norm to life.

What is in question in the monastic rules is thus a transformation that seems to bear on the very way in which human action is conceived, so that one shifts from the level of practice and acting to that of form of life and living. This dis-location of ethics and politics from the sphere of action to that of form of life represents the most demanding legacy of monasticism, which modernity has failed to recognize. How should one understand this figure of a living and a life that—while affirming itself as “form-of-life”—cannot be brought back to either law or morals, to a precept or advice, to labor or contemplation, and that nonetheless appears explicitly as the canon of a perfect community? Whatever answer is given to this question, it is certain that the paradigm of human action that is at stake in it has progressively extended its efficacy beyond monasticism and Church liturgy in the strict sense, penetrating into the profane sphere and enduringly influencing both the ethics and the politics of the West. If it is defined, as we have seen, as a tendential threshold of indistinction between rule and life, it is this threshold that we must investigate if we wish to comprehend its nature.

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PART TWO

# Liturgy and Rule

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# Regula Vitae

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**1.1.** Historians and theologians who have worked on monastic rules usually refer in a perfunctory way to the semantic history of the term *regula* and normally limit themselves to providing its meanings within the *corpus* in question. Naturally they all know (or should know) that beginning from the second century AD, the Fathers often made use of the syntagmas *regula fidei* (as Rufinus translates *kanon pisteōs* in the text of Origen), *regula veritatis*, *regula traditionis*, *regula scripturarum*, *regula pietatis*. Nonetheless, their relation with the syntagma *regula vitae* (or *regula vivendi*), which is found in the text of monastic rules, has not been analyzed in an exhaustive way. On the other hand, outside the theological context, the importance of the *regula iuris* in the tradition of Roman jurisprudence is well known. What is less known, however, is that this tradition must have been familiar to the Fathers, if Rufinus can refer to the monastic rules and constitutions themselves as jurisprudential responses (*sancti cuiusdam iuris responsa*; Frank, p. 67).

Peter Stein, to whom we owe a thorough study of the *regulae iuris*, has shown that the term derives from the debate over analogy (that is, regularity) and anomaly (namely, custom and use) that divided Greek and Roman grammarians starting already in the second century AD (Stein, pp. 53ff.). This means that even grammatical expressions like *regula loquendi* or *regula artis grammaticae* could not have been foreign to the redactors of the monastic rules, who as we have already seen often made use of the metaphor of the *ars*. A passage from Varro on the relation between rule and use (which he extends, significantly, even beyond the linguistic sphere) indeed shows beyond any doubt how grammatical questions can be valuable for understanding the same problem in the monastic sphere. “But if we must follow regularity [*si analogia sequenda est nobis*],” Varro writes (8.33), “either we must observe that regularity which is present in ordinary usage, or we must observe also that which is not found there. If we must follow that which is present, there is no need of rules,

because when we follow usage, regularity attends us [*praeceptis nihil opus est, quod, cum consuetudinem sequemur, ea nos sequetur*].”

If it is true, as Spitzer’s studies on the semantic history of the European lexicon have shown, that it is not possible to understand the meaning of a term if one ignores its relations with its linguistic context as a whole, an investigation of the semantics of the term *regula* in the theological sphere as well as in law and grammar (and in the *artes* in general) still remains to be done. We will limit ourselves here to some preliminary considerations of a general hermeneutical character.

First of all, as we have seen, the term *regula* tends to be put together in a syntagma with another term in the genitive (*regula fidei, regula iuris, regula loquendi*, etc.). Is this a matter of a subjective genitive (in which *ius* is the subject) or an objective genitive (in which *ius* is the object)? In the case of the syntagma *regula iuris*, we can provide a reliable answer to the question. The digest notably attributes to Paul this concise definition: *Regula est quae rem quae est breviter enarrat. Non ex regula ius sumatur, sed ex iure quod est regula fiat* (“A rule is a statement, in a few words, of the course to be followed in the matter under discussion. The law, however, is not derived from the rule, but the rule is established by the law”; *Digest*, 50, 17, 1). It is a subjective genitive, then, even if in a special sense: the rule is produced (or must be produced: *fiat*) out of the existent law (*ex iure quod est*).

1.2. An initial survey of the patristic texts of the early centuries shows that what is in question in the syntagmas *regula fidei* and *regula veritatis* is precisely a subjective genitive of this type. Tertullian, who is among the first to make use of it in a technical sense, uses a juridical metaphor when in the *De virginibus velandis* (*On the Veiling of Virgins*) he affirms the primacy of truth, which no statute can invalidate (*cui nemo praescribere potest*), over custom. If truth cannot, as on the contrary happens for the law, be proscribed or altered by custom, this is because in the case of faith, the truth is Christ himself (*Christus veritatem se, non consuetudinem, cognominavit*; “Christ has surnamed himself Truth, not Custom”; Tertullian 1, 1.1). Only at this point can he enunciate the *regula fidei, sola immobilis et irreformabilis, credendi scilicet in unicum deum omnipotentem, mundi creatorem, et Filium eius, natum ex virgine Maria, crucifixum sub Pontio Pilato, tertia die resuscitatum a mortuis, receptum i caelis, venturum iudicare vivos et mortuos per carnis etiam resurrectionis* (“The rule of faith, indeed, is altogether one, alone immoveable and irreformable; the rule, to wit, of believing in one only God omnipotent, the Creator of

the universe, and His Son Jesus Christ, born of the Virgin Mary, crucified under Pontius Pilate, raised again the third day from the dead, received in the heavens, destined to come to judge the living and the dead through the resurrection of the flesh"; *ibid.* 1.4). The creed—or rather the *regula fidei*—that we see here in the process of its progressive elaboration, has not yet assumed the dogmatic form that it will receive in the councils. As Augustine pointedly observes, commenting on the Pauline and Gospel formula *credere in Christum*, it is not yet an external norm that gives faith and truth its content, as it will be in dogma. Rather it is faith *in* Christ that is to furnish the *regula* with its only truth, which is essentially of a pragmatic order and implies the immediate and total adhesion to the presence and action of Christ ("*ut credatis in eum,*" *non ut credatis ei . . . quid est ergo "credere in eum"? Credendo amare, credendo diligere, credendo in eum ire, et eius membris incorporari*, "That ye believe in him,' not, that you believe him . . . What then is 'to believe in him'? By believing to love him, by believing to esteem highly, by believing to go into him and to be incorporated in His members"; Augustine, *In Evangelium Johannis*, 29.6; *hoc est credere in Deum, quod utique plus est quam credere Deo . . . credendo adhaerere ad bene cooperandum bona operanti Deo*; "For this is to believe in God: which is surely more than to believe God. . . . To believe in God therefore is this, in believing to cleave unto God who works good works, in order to work with Him well"; Augustine, *Enarrationes in Psalmos*, 78.8).

This is evident in Rufinus's *Commentarius in Symbolum Apostolorum* (*Commentary on the Apostles' Creed*): what the Fathers formulate (*componunt*, put together) as *regula* is drawn from the experience of faith and from the truth of each of them (*conferendo in unum quod sentiebat unusquisque*). The *symbolon* that results from it is however only an *indicium*, a common sign and testimony of their faith (*symbolon enim Graece et indicium dici potest et conlatio, hoc est quod plures in unum conferunt*; §2). To paraphrase the definition of the *Digest*, he can also say here that *non ex regula fides sumatur, sed ex fide quae est regula fiat* ("faith, however, is not derived from the rule, but the rule is established by faith").

In Augustine's *De doctrina christiana* (*On Christian Doctrine*), *regula fidei* and *regula veritatis* often refer to the interpretation of Scripture, whose reading they have a share in guiding. But even here, the rule that will be used to clarify the obscurities of the Scripture derives first of all from Scripture itself ("if, . . . it shall appear to be uncertain in what way it ought to be punctuated or pronounced, let the reader consult the *regula fidei* which he has gathered

from the plainer passages of Scripture [*consulat regulam fidei, quam de scripturam planioribus locis . . . percepit*]; 3.2.2). Augustine's model here is Tyconius, to whose *Book of Rules*, which can be considered in a certain way the archetype of treatises on textual hermeneutics, he dedicates a good portion of the third book of the work. At the beginning of his treatise, Tyconius specifies that the "mystical rules" that he intends to prepare as "keys and lights" for the sacred Scripture are found in the text itself, of which they occupy the most internal and hidden part (*quae universae legis recessus obtinent*). It is only after their *ratio* has been revealed that "whatever is closed will be opened and whatever is dark will be illumined" (Tyconius, p. 3). Once more the criteria for the interpretation of the text (*regulae scripturarum*) are not exterior to it, but derive from it: the genitive is not objective, but subjective.

1.3. If we now turn to the syntagma *regula vitae*—which we encounter, for example, in the prologue of the *Rule of the Four Fathers* (*qualiter conversationem vel regulam vitae ordinare possimus*)—it is appropriate to ask if even here, as in the texts we have just examined, it is not precisely a matter of a subjective genitive. Just as in the syntagmas *regula iuris* and *regula fidei*, law and faith are not directed by the rule or derived from it, but vice versa, in the same way it is possible that in the syntagma *regula vitae* it is not so much the form of life that is to be derived from the rule as the rule from the form of life. Or perhaps it should rather be said that the movement goes in both directions and that, in the incessant tension toward the realization of a threshold of indifference, the rule is made life to the same extent that life is made rule.

In his treatise *On the "Prescription" of the Heretics*, Tertullian explains the expression *regula fidei* with an instructive formula: the rule of faith is that "by means of which our belief is affirmed" (*Regula est autem fidei . . . illa scilicet qua creditur*; Tertullian 2, 13). In the same sense, it could thus be said that the *regula vitae* is that *by means of which* one lives, which corresponds perfectly to the expression *regula vivificans* that will define the Franciscan rule in Angelo Clareno. The rule is not applied to life, but produces it and at the same time is produced in it. What type of texts are the rules, then, if they seem to performatively realize the life that they must regulate? And what is a life that can no longer be distinguished from the rule?

✠ The impossibility of easily distinguishing between rule and life appears clearly in the lives of the Fathers of the monasteries of Jura, the incipit of which reads *Vita vel regula sanctorum patrum Romani, Lupicini et Eugendi, monasteriorum iuensium abbatum*. The editor of the most recent edition (*Jura*, p. 240) supposes there is an

important gap in the third life, where immediately after the biographical narration we should, according to him, have found the enunciation of the rule. The supposition has no material foundation in the manuscript, but derives solely from the fact that, according to the editor, the author had promised in a passage of Romano's biography to explain the rule in the third book, that is in the life of Eugendo. When we arrive at the end of the third biography, however, instead of enunciating the rule, it concludes with the narration of the abbot's death. Hence the hypothesis of a gap, whose length must, according to the editor, be equal to that of the biography itself.

In reality we are presented here with an exemplary case of an emendation (a negative one, in this case) introduced into the manuscript only because the editor has not understood the text. If the author had promised to explain the rule, he argues, he cannot limit himself to a biographical narration. This means he has not understood the peculiar relationship of indetermination that in the text and with particular clarity in the incipit (*vita vel regula*, life or rule) links the two terms *life* and *rule*. At the beginning of the first biography, the author declares in fact that he wants to "reproduce faithfully [*fideliter replicare*] in the name of Christ—according to what I saw there with my own eyes or received from the tradition of the elders—the deeds, the way of life, and the Rule [*actus vitamque ac regulam*] of the esteemed fathers of the Jura Mountains" (ibid., pp. 242/101). *Actus vitamque ac regulam* (as underlined by the enclitic—*que* and the conjunction *ac*, which coordinate the words more closely than *et*) is one sole concept in three words, and it refers to something (the Fathers' form of life) that can be expressed adequately only by means of three indivisible terms.

If the author does not transcribe a separate rule, it is because the rule is already perfectly contained in the narration of Eugendo's life. In announcing the exposition of the rule, he had indeed written of reserving it for the third book, *quia rectius hoc in vita beatissimi Eugendi depromitur*. The phrase does not mean, as the editor imprecisely translated, *il est plus normal en effet de vous le donner la vie de st. Oyend*, but rather, according to the proper meaning of the verb *depromi* (which means "to extract, to deduce"), "because it may be expressed in the most fitting way in the life of the most blessed Eugendo." An attentive reading of the biography shows, however, that this contains, in particular in paragraphs 170–73, an accurate description of the way in which the abbot has organized the life of the monks. What is in any case essential, however, is that in the text the exposition of the rule is inseparable from that of the life.

1.4. Starting with Wittgenstein, contemporary thought and more recently philosophers of law have sought to define a peculiar type of norms, the norms called constitutive, which do not prescribe a certain act or regulate a preexisting state of things, but themselves bring into being the action or state of things. The examples Wittgenstein uses are chess pieces, which do not exist before the game, but are constituted by the rules of the game ("The pawn *is* the sum of the rules for its moves"; Wittgenstein 2, pp. 325–26/327). It is obvious that the execution

of a rule of this type, which does not limit itself to prescribing to an agent a certain conduct but produces this conduct, becomes extremely problematic.

Paraphrasing the scholastic saying *forma dat esse rei* ("form gives being to the thing"), one could state here that *norma dat esse rei* ("norm gives being to the thing"; Conte, p. 526). A form of life would thus be the collection of constitutive rules that define it. But can one say in this sense that the monk, like the pawn in chess, is defined by the sum of the prescriptions according to which he lives? Could one not rather say with greater truth exactly the opposite, that it is the monk's form of life that creates his rules? Perhaps both theses are true, on the condition that we specify that rules and life enter here into a zone of indifference, in which—as there is no longer the very possibility of distinguishing them—they allow a third thing to appear, which the Franciscans, albeit without succeeding in defining it with precision, will call "use," as we will see.

In reality, as Wittgenstein seems to suggest, the very idea of a constitutive rule implies that the common representation according to which the problem of the rule would consist simply in the application of a general principle to an individual case—that is, according to the Kantian model of determinate judgment, in a merely logical operation—is neutralized. The cenobitic project, by shifting the ethical problem from the level of the relation between norm and action to that of form of life, seems to call into question the very dichotomy of rule and life, universal and particular, necessity and liberty, through which we are used to comprehending ethics.

## Orality and Writing

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**2.1.** It is from this perspective that we will now seek to interrogate the nature of the rules starting from their textual structure, as it appears in the earliest rules and in particular the *Rule of the Master*, a text which has received special attention from scholars due to its influence on the Benedictine rule. It has been observed that in the earliest monastic literature, the often anonymous authors seem to more or less consciously introduce a complex relationship and almost a tension between orality and writing, in light of which one has been able to speak of a “fictitious orality” (Frank, p. 55). Already in the archetype of Basil, the introduction of the *Regulae fusius tractatae* opens by referring to a “gathering” (*synelēlythamen*, “we gathered together”), whose participants, intending to “live according to piety” (*tou biou tou kat’ eusebeian*), propose getting to know what can guide them toward salvation (*mathein ta ton pros sōtērian*; Basil, *Regulae fusius tractatae*, preface). That it is a matter of a veritable staging is proven by the fact that the text proceeds to evoke an indeterminate but opportune place and time, in which it must be supposed that they pronounced (and later put in writing) the questions and answers that make up the rule (“the present is the most opportune time and this place provides quiet and complete freedom from external disturbances”; *ibid.*).

The opening of the *Rule of the Four Fathers* refers in an analogous way to an encounter and conversation among the four protagonists in order to “determine the manner and the rule of the life of the brothers” (*Sedentibus nobis in unum*—“While we were sitting together”—*qualiter fratrum conversationem vel regulam vitae ordinare possimus*; Vogüé 1, pp. 180/17). And in the second discourse, that of Macarius, the father refers explicitly to the fact that the rule was put into writing while the conversation was unfolding: *quoniam fratrum insignia virtutum . . . superius conscripta praevenērunt* (“since the marks of the brothers’ virtues . . . have already been written down”; *ibid.*, pp. 180/19). With singular artifice and through an expert staging of orality, the text refers to its own writing.

In the *Second Rule of the Fathers*, if the staging seems to be the same (*Residentibus nobis in unum . . .*), the tension between orality and writing changes, since it is now expressly a matter of *conscribere vel ordinare regulam, quae in monasterio teneatur ad profectum fratrum*, “putting in writing and setting in order a rule that might be kept in the monastery for the progress of the brothers” (pp. 274/33). Once the goal of the session is explicitly that of writing down the rule, the possibility is opened of a semantic oscillation that allows us to read the term *regula*, not only in the sense of “way of life” (as it was in the incipit of the *Rule of the Four Fathers*), but also in that of a “written text.”

In the *Third Rule of the Fathers* (which according to Vogüé is the work of a bishop), the passage from orality to writing has already taken place and it is thus a matter not so much of writing the rule but of reading it: “When we convened together with our brothers in the name of the Lord, it seemed good that at the very first the rule and institutes of the Fathers be read in order [*regula et instituta patrum per ordinem legerenter*]” (pp. 532/53). The rule is already a written text that therefore can and must be read, above all to the convert who asks to enter into the monastery (“it seemed appropriate that when someone wants to be converted from the world to the monastery, the rule be read to him when he enters”; *ibid.*).

With the Benedictine rule we arrive at the end of the tension between orality and writing that had animated the rules of the Fathers, from which it perhaps derives. The rule is already solely a text, which the last chapter designates as *regula descripta* (*regulam hanc descripsimus . . . hanc minimam regulam descriptam . . . perficere*; chap. 73; Pricoco, pp. 270–72). While the *conscribere* of the early rules evoked a text dictated from the living voice of the Fathers and extracted and transcribed from the monks’ very life, *describere* is the technical term for the scribe who copies from another text. According to a custom that, as we have seen, first becomes obligatory in the Carolingian era, the rule is always *regula descripta*, in which the tension between orality and writing as much as that between the subjective and objective meanings of the syntagma *regula vitae* is already stifled.

2.2. What is the meaning of this dialectic that, at least up to St. Benedict, the text of the rules establishes between orality and writing? Why do the rules stage their writing as obstinately as their reading? It is not simply a matter of the rhetorical construction of a fictitious orality, nor only of showing (as is almost certainly the case), through the interplay between orality and writing, the rule in the act of being constructed as a text and acquiring its authority by passing from the rule-form of life to the rule-text. What is in question here seems to be

the constitution of the special status of the text of the rule, which is not only a written text or simply an oral discourse and whose basis does not coincide with the transcription of a vital practice or, conversely, with the practical execution of a written rule. The rule, that is to say, stages something that is not exhausted in either of these dimensions, but finds its truth precisely and solely in the tension that it installs between them. Neither written word nor living voice, the rule constantly moves between these polarities, in search of an ideal of the perfect common life that is precisely meant to define.

From this perspective, the *Rule of the Master* offers some exemplary cues. Already the prologue, pushing the paradigm of fictitious orality to the point of paroxysm, erases and renders almost indiscernible the boundaries between orality and writing. It opens with an apostrophe, whose structure is perhaps so grammatically complicated that the interpreters, while also pointing out its peculiarity, have preferred to ignore it:

O homo, primo tibi qui legis, deinde et tibi qui me auscultas discentem, dimitte alia modo quae cogitas et me tibi loquentem et per os meum deum te convenientem cognosce [O man, (I say) first of all to you (the dative *tibi* seems to imply *dico*) who read (me), and then you who are listening to me as I speak, dismiss now other thoughts and realize that I am speaking to you and that through my words God is instructing you].” (Vogüé 2, 1, pp. 288/92)

Who is speaking here? Whether it is a matter, as seems most likely, of the rule itself or, as Vogüé seems to think, of its author, in any case the relation between orality and writing here is truly inextricable. On the one hand, the primordiality of writing is beyond question from the moment the text speaks to a reader (*tibi qui legis*) and in the following lines refers deictically to itself as a written document: “You, therefore, who hear me speaking, listen through what is written here [*per hanc scripturam*] to what is being said to you not by my mouth but by God.” On the other hand, however, the written text, which is put in some way *en abîme* within itself, speaks and refers, curiously enough, not only to a reader but also to an auditor (*deinde et tibi qui me auscultas dicentem*). And a little earlier, the one who in speaking had nevertheless presupposed a reader presents himself as the one who will read aloud “what is here written” (*hanc scripturam quam tibi lecturus sum*; *ibid.*, pp. 292/93, evidently referring to the text of the rule).

If the identity of the apostrophizer, divided as it is between writing and speaking, is truly indiscernible, no less problematic is that of the one who is apostrophized as *homo*. He too is split, in fact, into a reader and a listener, apparently

finding his unity only as an addressee of “this writing” and “this rule” (*haec regula; ibid.*), which he must faithfully observe.

2.3. There is, nonetheless, in the text of the rule, a passage that seems to contain the key to all these enigmas and that, in addition, permits us to define the proper basis and nature of the rule. I am referring to chapter 24, whose title reads *De ebdomadario lectore ad mensas* (The Weekly Reader in the Refectory). The rule says that in every season, in summer as in winter, “whether the meal is at the sixth or the ninth hour, each of the deans of all the deaneries will do the reading at table for a week at a time” from the text of the rule (*ibid.*, 2, pp. 122/177). As the text specifies further down, it is a matter of a *lectio continua*, that is of a reading that is taken up again every day from the point where it was interrupted: “Every day he [the reader] reads this rule [*regulam hanc*], marking the place to which he reads day after day, so that it is read in daily sequence [*sequenter cottidie*] yet in its entirety, and thus in successive weeks the reading of it can be finished and started over again” (pp. 126/178–79). The rule specifies the way in which the reader will assume his function (“this brother who is to read presents himself by saying aloud: ‘Please, my lords, pray for me because I am entering upon my week of reading at table’”; pp. 124/178), and how he must read, without hurrying (*non urguendo*) and in such a way that the listeners can understand clearly what the rule commands them to do.

One must thus imagine that there will necessarily be a moment when the reader, having reached chapter 24, will read the passage that enjoins him to read the rule every day. What will happen at that moment? In reading the other passages of the rule, the reader executes the precept of the reading, but does not actualize what the text enjoins him to do in that moment. In this case, however, the reading and putting into action of the rule coincide without remainder. By reading the rule that prescribes to him the reading of the rule, the reader performatively executes the rule ipso facto. His *lectio* realizes, that is to say, the exemplary instance of an enunciation of the rule that coincides with its execution, of an observance that is rendered indiscernible from the command that it obeys.

The dialectic between orality and writing is perfected here: there is a written text, but in reality it only lives through the reading that is made of it. And the rule suggests as much further down, when it defines, in a significant interpolation, the daily reading of the rule as an *in usu mittere (nam cum cottidie in usu ipsa regula mittitur, ex notitia melius observatur*, “even though the Rule itself is daily put into use, knowledge of it leads to better observance”; pp. 130/180). The

rule presupposes a precedence of writing, but what is at stake is a writing that is inert in itself, which must be “put into use” by its reading. This is confirmed some pages later, where it recommends that the traveling monk do the reading and, if he cannot, have recourse to *meditatio*, to recitation from memory, “in order to give the rule its due each day” (*ut cottidie regulae reddat quod suum est*; pp. 268/223). *Lectio* and *meditatio* belong constitutively to the rule and define its status.

## The Rule as a Liturgical Text

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**3.1.** *Lectio* has been an essential part of the Christian liturgy since its origins. Today it is generally acknowledged that it derives from the practice of the (most likely sung) reading of the Torah (*qeri'at Torah*) in the synagogue. Two of the earliest testimonies to this reading, whose origin the tradition traces back to Moses (Deut. 31:10–11: “Every seventh year, in the scheduled year of remission, during the festival of booths, when all Israel comes to appear before the LORD your God at the place that he will choose, you shall read this law before all Israel in their hearing”), are in the New Testament. The first (Acts 13:15) shows Paul attending the reading of the law (*anagnosis tou nomou*) with his companions in the synagogue of Antioch, where he is later invited to comment on the passage read (“After the reading of the law and the prophets, the officials of the synagogue sent them a message, saying, ‘Brothers, if you have any word of exhortation for the people, give it’”). In the second (Luke 4:16–21), it is Jesus himself who is to perform the reading in the synagogue of Nazareth and comment on it:

He went to the synagogue on the Sabbath day, as was his custom. He stood up to read, and the scroll of the prophet Isaiah was given to him. He unrolled the scroll and found the place where it was written: “The Spirit of the Lord is upon me, because he has anointed me to bring good news to the poor. He has sent me to proclaim release to the captives and recovery of sight to the blind, to let the oppressed go free, to proclaim the year of the Lord’s favor.” And he rolled up the scroll, gave it back to the attendant, and sat down. The eyes of all in the synagogue were fixed on him. Then he began to say to them, “Today this scripture has been fulfilled in your hearing.”

These two testimonies show that the text of the Torah was read in the synagogue already at the time of Jesus, perhaps already divided (as we know from later sources) into *parachot* (pericopes); that beyond the Pentateuch, passages from the prophets (called *haftarot*) were also read; and that the reading was followed by a homiletical commentary (*derashah*), of which Paul and Jesus offer us an example.

The reading of the Torah gradually assumes the form of a *lectio continua*, which in Palestine was articulated according to a triennial cycle that began the first or second Sabbath of the month of Nisan. In Babylon, the length was one year, with a beginning after the Feast of Tabernacles (Werner, p. 89). The reading of the prophets was not continual, however, but consisted each time of an isolated passage chosen to correspond to the passage from the Torah that was read that day.

The Church followed the example of the synagogue by instituting readings of the Old Testament (at first most likely weekly) to which was added, at least starting from the end of the second century, the *lectio* of New Testament texts. Even if we do not know the origin and basis of the readings, the Ambrosian, Mozarabic, and earliest French liturgies preserve a succession of three *lectiones*, one from the Old Testament and two from the New. The dominant principle at the beginning was that of *lectio continua*, but it is probable that in the course of the first three centuries, the bishop was responsible for indicating each time to the deacon and the *lector* the passages to be read. From the end of the fifth century, instead of *lectio continua*, one sees the selection and fixing of a series of pericopes in relationship with the constitution of the liturgical year. This system results in the production of books (called *lectionarii*, *comites*, or *epistolaria*), which assemble the pericopes to be read on each day. One of the oldest lectionaries, the Mozarabic *Liber comicus de toto circuli anni*, thus presents the pericopes ordered according to the feasts of the liturgical calendar, in the form: *legendum in 1<sup>o</sup> dominico de adventu Domini ad missam*, followed by the texts to be read (in this case, two passages from Isaiah and one from the letter to the Romans). The canticle and the psalmody were integral parts of the *lectio*, in the form of the *lectio solemnis*.

3.2. If the liturgical year is, as we have seen, a sort of memorial of the works of God scanned according to the calendar, the reading of the Holy Scriptures is the most noteworthy way that every day and, at the limit, every hour is put in an anamnestic relationship with an event of sacred history. Moreover, according to the deepest intention that defines the Christian liturgy, the reading is not limited to recalling or commemorating past events, but in some way renders present the “word of the Lord,” as if it were newly pronounced in that moment by the living divine voice. *Cum sacrae scripturae in Ecclesia leguntur*, reads the Roman Missal, *Deus ipse ad populum suum loquitur et Christus, praesens in verbo suo, Evangelium annuntiat* (“When the Scriptures are read in the Church, God himself is speaking to his people, and Christ, present in his own word, is proclaiming the Gos-

pel”). Anamnesis is contained in a *lectio* that is “represented” in the etymological sense, that is, it renders performatively present the reality of that which is read.

This performative *character* of the liturgical reading is expressed clearly by Nicholas Cabasilas in his *Commentary on the Divine Liturgy*. In the words read or sung, he reads, “we see [*horōmen*] Christ and the deeds he accomplished and the sufferings he endured for our sakes. Indeed, it is the whole economy of redemption which is signified in the psalms and readings, as in all the actions of the priest throughout the liturgy” (Cabasilas, pp. 60/26). And if “the whole celebration is like an icon of a single body, which is the life of the savior,” the songs and the readings signify and “place before our eyes [*hyp’opsin agousa*]” the various moments of the economy of Christ (ibid., pp. 62/27). The special efficacy of the *lectio* coincides with its twofold action: the readings at once “sanctify [*hagiazein*] the faithful and symbolize the economy of salvation. . . . Since they are extracts from the Holy Scriptures and other inspired writings, the chants and lessons sanctify those who read and sing them; and because of the selection which has been made and the order in which the passages are arranged they have another power [*dynamis*]: they actualize the signification [*sēmasian*] of the presence [*parousias*] and life of Christ” (pp. 130/53).

Cabasilas clarifies beyond any doubt that the term *sēmasia* here designates much more than a simple linguistic “signification,” specifying that the readings “reveal the manifestation of the Lord [*tēn phanerōsin tou Kyriou delousin*]” (pp. 156/62). According to the messianic intention implied in Jesus’ words in the episode of the reading in the synagogue of Nazareth, Scripture is fulfilled in the one who listens to its reading (“Today this scripture has been fulfilled [*peplērōtai*] in your hearing”). And it is on the basis of this peculiar performative efficacy of the words of the *lectio* that, as had already happened in the synagogue, they could acquire a sacramental status and be presented in the canons of the mass as *oblatio rationabilis* and *logikē thysia*, a sacrifice of words.

3.3. If we turn now to the problem of the nature of monastic rules, it is possible then to advance the hypothesis that the *Rule of the Master*, by making the rule the object of a *lectio continua*, in reality decisively affirms its liturgical status. The text of the rule is thus not only a text in which the distinction between writing and reading tends to become blurred, but also one in which writing and life, being and living become properly indiscernible in the form of a total liturgization of life and a vivification of liturgy that is just as entire. For this reason it does not make sense to isolate in the corpus of a rule, as Vogüé does, a “liturgical section,” emphasizing its thoroughness and meticulousness, which

is “unsurpassed . . . by any liturgical document of antiquity prior to the first *Ordines Romani*” (Vogüé 2, 1, pp. 65/34). In the rule, there cannot be a liturgical section, because as we have seen, the whole life of the monk has been transformed into an Office and the very harshness of the prescriptions concerning prayer and reading articulate just as meticulously every other aspect of life in cenoby. As *meditatio* renders *lectio* potentially continuous, so every gesture of the monk, all the most humble manual activities become a spiritual work and acquire the liturgical status of an *opus Dei*. And precisely this continuous liturgy is the challenge and novelty of monasticism, which the Church was not slow to pick up on, seeking to introduce, albeit within certain limits, the totalitarian demand proper to the monastic cult into cathedral worship as well.

Hence the singular resemblance between the deep structure of the rules and that of liturgical texts in the strict sense: corresponding to the monastic attention to the forms and meanings of the habit there are the ample sections in liturgical texts *de indumentis sacerdotum* (“on the clothing of the priests”); to the prescriptions on the cenobitic profession, the chapters *de ministris* (“on ministry”) and on priestly ordination; to the obsessive and punctilious descriptions of the monks’ daily and nightly Offices, the grandiose articulation of the liturgical year. But hence also the differences and the tensions that remain present in some way in the whole history of the Church. Yet if the Church had extracted a liturgy from life, this had nonetheless been constituted into a separate sphere, whose proprietor was the priest, personifying the priesthood of Christ. The monks do away with the separation and, by making their form of life a liturgy and the liturgy a form of life, institute between the two a threshold of indiscernibility charged with tensions. Hence the predominance of the Office of prayer, reading, and psalmody in the rules over that which is sacramental in the proper sense. The *Rule of the Master*, so meticulous in its description of the former, hardly mentions the mass in connection with the psalmody of feast days (Vogüé 2, 1, p. 208) and, curiously, discusses communion in the section dedicated to the weekly service of the monks in the kitchen (p. 104). Hence also the firm distinction between the monk and the priest, who can be hosted in the convent under the title of a pilgrim (*peregrinorum loco*), but cannot live there permanently or pretend to any form of power within it (*nihil praesumant aut eis liceat vel aliquid ordinationis aut dominationis aut dispensationis Dei vindicent*; p. 343).

If the liturgy is totally transformed into life, then the fundamental principle of the *opus operatum*—which already, beginning with Augustine, sanctioned the indifference of the priest’s moral qualities with regard to the efficacy of his office—cannot hold. While the unworthy priest remains in any case a priest, and

the sacramental acts he carries out do not lose their validity, an unworthy monk is simply not a monk.

Despite the progressive extension of the Church's control over the monasteries, which as we have seen were put under the supervision of the bishop from at least the Carolingian era, the tension between the "two liturgies" will never disappear completely, and precisely when the Church seems to have integrated cenoby into its order, the tension returns with Franciscanism and the religious movements between the twelfth and thirteenth century, becoming reactivated to the point of open conflict.

✠ From this perspective, the Protestant Reformation can be seen legitimately as the implacable claim, promoted by Luther (an Augustinian monk), of the monastic liturgy against the Church liturgy. And it is not an accident if from the strictly liturgical point of view, it is defined by the preeminence of prayer, reading, and psalmody (forms proper to the monastic liturgy) and the minimalization of the eucharistic and sacramental Office.

✠ The Greek term *leitourgia* derives from *laos* ("people") and *ergon* ("work") and means "public tribute, service for the people." The term belongs originally to the political lexicon and designates the services that well-to-do citizens owe to the *polis* (organizing public games, arming a trireme, staging a chorus for the city's festivals). Aristotle, in the *Politics* (1309a17), thus cautions against the custom in democracies of "costly but useless liturgies like equipping choruses and torch-races and all other similar services."

It is significant that the Alexandrian rabbis who were to carry out the translation of the Bible into Greek known as the Septuagint would choose precisely the verb *leitourgeō* (often combined with *leitourgia*) to translate the Hebrew *sheret* every time this term, which means generically "to serve," is used in a cultic sense. Just as significant is the fact that in the Letter to the Hebrews, Christ himself is defined as "*leitourgos* of the holy things" (8:2), and it is said of him that he "has obtained a better *leitourgia*" (8:6). In both cases, the originary political meaning of the term (service done for the people) is still present. As Peterson was to recall in his *Book on Angels*, "the Church's earthly liturgy has an original relationship to the political world" (Peterson, pp. 202/112).

# Threshold

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MONASTICISM has clearly been perhaps the most extreme and rigorous attempt to achieve the Christian's *forma vitae* and define the figure of the practice in which it is worked out. Just as certain, however, is the fact that this attempt proceeds progressively, even if not exclusively, through assuming the form of a liturgy, if indeed in a sense that does not coincide perfectly with that according to which the Church worked to elaborate the canon of its Divine Office. For this reason, the validity and identity of monasticism depend on the extent to which it succeeds in maintaining its own specificity with respect to Church liturgy, which for its part was being systematized on the model of sacramental effectiveness and of an articulation as well as a disjunction between the subjectivity of the priest and the efficacy *ex opere operato* of his practice.

In this problematic context, cenoby appears as a field of forces run through by two opposing tendencies—at once to resolve life into a liturgy and, pulling in the other direction, to transform liturgy into life. On the one hand, everything is made rule and Office to the point that life seems to disappear. On the other, everything is made life, “legal precepts” are transformed into “vital precepts,” in such a way that the law and even the liturgy itself seem to be abolished. A law that is indeterminated into life has as its counterpart, with a symmetrically inverted gesture, a life that is totally transformed into law.

What is at stake, when we look closely, is two aspects of one same process, in which what is in question is the unheard-of and aporetic figure that human existence assumes upon the fading of the classical world and the beginning of the Christian era, when the categories of ontology and ethics enter into a lasting crisis and trinitary economy and liturgical effectiveness define the new paradigm for both divine and human action. What is in question in both cases, that is to say, is a progressive and symmetrical cancellation of the difference between being and acting and between law (writing) and life, as if the indetermination of being into acting and of life into writing that the Church liturgy operatively

achieves functions in the monastic liturgy in an inverted sense, moving from writing (from the law) toward life and from being toward acting.

Naturally, as must happen in these cases, the novelty of the phenomenon cohabits perfectly well with subterranean continuities and abrupt convergences, so that in unforeseen ways Christianity is seen to unite with Stoic ethics and late Platonism, Jewish traditions with pagan cults. Moreover, the monk does not live and act, like the Stoic philosopher, to observe a moral law that is also a cosmic order; nor, like the Roman patricians, to scrupulously follow a juridical prescription and a ritual formalism. He does not fulfill, like the Hebrew, his *mitzwot* by virtue of the fiduciary pact that binds him to his God; and neither does he, like an Athenian citizen, exercise his liberty because he wants to “seek beauty [*philokalein*] without extravagance and wisdom [*philosophein*] without effeminacy” (Thucydides 2.40.1).

It is in this field of historical tension that, close to the liturgy and almost in competition with it, something like a new level of consistency of the human experience slowly begins to clear a path for itself. It is as if the form-of-life into which liturgy has been transformed sought progressively to emancipate itself from liturgy and—while unceasingly collapsing back into it and just as obstinately liberating itself from it—allows us to glimpse another, uncertain dimension of acting and being.

Form-of-life is, in this sense, what must unceasingly be torn away from the separation in which liturgy keeps it. The novelty of monasticism was not only the coincidence of life and norm in a liturgy, but even and above all in its greatest success, the investigation and identification of something that the syntagmas *vita vel regula*, *regula et vita*, *forma vivendi*, *forma vitae* attempt laboriously to name and that we must now attempt to define.

PART THREE

# Form-of-Life

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## The Discovery of Life

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**1.1.** Between the eleventh and twelfth centuries complex phenomena arose and spread in Europe—in France and Italy and later in Flanders and Germany—that historians, who have not succeeded in classifying them otherwise, have classified as “religious movements.” From the point of view of Church history, they gave rise to the foundation of monastic orders or to heretical sects, which were persecuted harshly by the Church hierarchy. In 1935 Herbert Grundmann dedicated a now classic monograph to this phenomenon, under the title *Religiöse Bewegungen im Mittelalter (Religious Movements in the Middle Ages)*. Grundmann proposed, against the tendency of confessional historiography to consider only the monastic orders and the heretical sects that had resulted from them, to restore to them precisely their nature as “movements.” On the other hand, against the opposite tendency of some historians to privilege only the socioeconomic aspects of the phenomena in question, what was at stake for Grundmann was to consider their “original peculiarity” and “religious goals,” above all by posing the problem of which profound events, pressures, and crises had “determined the development of religious movements into the various orders and sects” (Grundmann, pp. 9/3).

If one examines, moreover, the ample material Grundmann takes into consideration, one notices immediately that the sources, both direct and indirect, situate the claims of the movements on a level which is clearly religious. However, these claims put forward innovations that are not indifferent with respect to the way in which the Church tradition and monasticism had defined and delimited the sphere and the practice of religion. It is possible, nonetheless, to try to consider them in themselves, before or beyond the religious or socioeconomic meaning that undoubtedly belongs to them. Whether one considers Robert of Arbrissel, Waldo, Norbert of Xanten, Bernard Prim, or Francis, and whether their followers define themselves as “Humiliati,” “poor in Christ,” “good men,” “minor brothers,” or “idiots,” in any case what they state and claim does not actually concern theological or dogmatic questions, articles of faith, or prob-

lems of scriptural interpretation. Instead, what is at stake is life and the way of living, a *novum vitae genus*, a life that they call “apostolic” (*haeretici qui se dicunt vitam apostolicam ducere . . . ; nos formam apostolicae vitae servamus*) or “evangelical” (*pure evangelica et apostolica vita . . . vivere; vita Vangelii Jesu Christi; vivere secundum formam Sancti Evangelii*). The claim of poverty, which is present in all the movements and which in itself is clearly not new, is only one aspect of this way or form of life, which strikes observers in a special way (*nudipedes incedebant; pecunias non recipiunt; neque peram neque calciamenta neque duas tunicas portabant*, “they walked barefoot, they did not accept money, nor did they carry a wallet or shoes or two tunics”; *ibid.*, p. 74). Moreover, it does not represent an ascetic or mortifying practice to obtain salvation as it did in the monastic tradition, but it is now an inseparable and constitutive part of the “apostolic” or “holy” life, which they profess to practice in perfect joy. It is significant in this sense that Olivi, in a polemic with Thomas’s opinion according to which poverty is only one of the ways of reaching perfection and not perfection itself (*quod paupertas non est perfectio, sed instrumentum perfectionis*), could by contrast state that it coincides essentially and totally with evangelical perfection (*usum pauperum esse de integritate et substantia perfectionis evangelicae*; Ehrle, p. 522).

It goes without saying that from its origins monasticism was inseparable from a certain way of life. But the problem in cenoby and hermitage was not life as such so much as the ways, norms, and techniques by means of which one succeeded in regulating it in all its aspects. To use the terminology of a Cistercian text, the life of the monk was traditionally conceived as “penitential,” while now it reclaims its “apostolic” character, which is to say “angelic” and “perfect” character (*vita monachorum est apostolica et habitus eorum est angelicus et corona quam habent est perfectionis signum et clericale . . . monachorum vita non sit penitentialis, sed apostolica*; *Thesaurus*, pp. 1644–49). It is just as obvious that a form of life practiced with rigor by a group of individuals will necessarily have consequences on the doctrinal level, which can bring forth—as they in fact did bring forth—clashes and disagreements with the Church hierarchy. But it is precisely on these disagreements that the attention of historians has mainly been focused, leaving in shadows the fact that perhaps for the first time, what was in question in the movements was not the *rule*, but the *life*, not the ability to profess this or that article of faith, but the ability to live in a certain way, to practice joyfully and openly a certain form of life.

It is well known, for example, that the claim of poverty and *usus pauper* on the part of the Franciscans led, to some degree, to doctrinal clashes without quarter with the Roman Curia, fought by both parties with a wealth of argu-

ments that were not only theological but also juridical. Moreover, as Bartolo had intuited from the beginning, the point was not a dogmatic or exegetical contrast so much as the *novitas* of a form of life, to which civil law appeared applicable only with difficulty. For this reason, when confronted with this “novelty,” the Church’s strategy consisted on the one hand in seeking to order it, regulate it, and conform it so as to divert the movements into a new monastic order or insert them into an already existing one. On the other hand, when this appeared impossible, the Church shifted the conflict from the level of life to that of doctrine, condemning them as heretical. In both cases, what remained unthought was precisely the originary aspiration that had led the movements to reclaim a *life* and not a *rule*, a *forma vitae* and not a more or less coherent system of ideas and doctrines—or more precisely, to propose not some new exegesis of the holy text, but its pure and simple identification with life, as if they did not want to read and interpret the Gospel, but only live it.

In the pages that follow we will therefore seek to understand in the exemplary case of Franciscanism not so much or not only the doctrinal, theological, or juridical implications of the form of life claimed by the movements, but rather to interrogate the meaning of the very fact that these claims were put forth essentially on the level of life. We will ask ourselves, therefore, first of all if by these terms *life*, *form of life* (*forma vitae*), *form of living* (*forma vivendi*) they were attempting to name something the sense and novelty of which still remain to be deciphered and which, precisely for this reason, has never ceased to intimately concern us.

1.2. The syntagma *form of life* not only is not, as some scholars seem to maintain, a Franciscan invention, but it is even earlier than the very origin of monasticism and late-ancient biography, from which, according to others (Coccia, p. 135), medieval hagiography had received it. An examination of the *Thesaurus* shows clearly that the expression is found already in Cicero (*nostrae quidem rationis ac vitae quasi quandam formam . . . vides*) and after him, among others, in Seneca (*hanc . . . sanam ac salubrem formam vitae tenete*), and Quintilian (in the variant *certa forma ad quam viveremus*). The semantic value of *forma* that the compilers of the *Thesaurus* note for this case is *imago, exemplar, exemplum, norma rerum*, and as the passage from Quintilian shows, it is likely that precisely the meaning of “example, model” had carried over to the coinage of the syntagma *forma vitae*.

Thus in the *Vetus Latina* (Titus 2:7) and in the Vulgate, *forma* translates *typos* (at times rendered with *exemplum* by the Vulgate): *ut nosmet ipsos formam*

*daremus vobis ad imitandum* (“in order to give you an example to imitate”; 2 Thess. 3:9); *forma esto fidelis* (“set the believers an example”; 1 Tim. 4:12; the Vulgate has: *exemplum esto fidelium*).

It is in this sense that the expression appears in Rufinus (*emendationis vitae formam modumque*, “emending their form and way of life”; *Historia monachorum* 6.410a); in Hilary of Poitiers (*Christus formam se ipsum universis agendi sentiendique constituens*, “Christ contains in himself the form of all acting and thinking”; *In Evangelium Matthaei Commentarius*, 12.24); in Sulpicius Severus (*esto . . . omnibus vivendi forma, esto exemplum*, “be a form of living for all, be an example”; *Epistle* 2.19); in Ambrose (*cognitio verbi et ad imaginem eius forma vivendi*, “knowledge of the Word and a model of living according to his image”; *De fuga saeculi*, 2.9); and in Augustine, whether in reference to the life of the Christian (*Nam Christianis haec data est forma vivendi, ut diligamus Dominum Deum nostrum ex toto corde*, “to Christians this rule of life is given, that we should love the Lord Our God with all the heart”; *De moribus Ecclesiae* 30.62), or as typological key (*in his . . . valet forma mortis ex Adam, in aeternum autem valebit vitae forma per Christum*, “the pattern of death coming from Adam has power for a time . . . but the pattern of life through Christ will have power over them for eternity”; *Epistle* 157.20—with almost the same words, Ambrosiaster says in his commentary on the first letter to the Corinthians: *Adam enim forma mortis est, causa peccati; Christus vero forma vitae proper iustitiam*, “Adam is the image of death because of his sin, but Christ is the image of life because of his righteousness”; pp. 292/222).

The sense of *forma* here is “example, paradigm,” but the logic of the example is anything but simple and does not coincide with the application of a general law (Agamben 2, pp. 20–24/18–21). *Forma vitae* designates in this sense a way of life that, insofar as it strictly adheres to a form or model from which it cannot be separated, is thus constituted as an example (as in Bernard of Clairvaux, *Contra quaedam capitula errorum Abelardi*, chap. 17: *[Christus] ut traderet hominibus formam vitae vivendo*, “that [Christ] might hand down a form of life to humans by living”).

It is strange that the expression’s penetration into the monastic literature is relatively late. It does not appear in the *Rule of the Fathers*, the *Rule of the Master* (where the term *forma* by itself is found many times in the sense of example), or the Benedictine rule. When spiritual movements forcefully took up this syntagma starting from the eleventh century, the accent fell in equal measure on the two terms that composed it, to mean a perfect coincidence of life and form, example and follower. But it is only with the Franciscans that the syntagma *forma*

*vitae* assumes the character of a genuine technical term of monastic literature, and life as such becomes the question that is in every sense decisive.

1.3. In 1312, more than eighty years after the death of Francis, Clement V intervened in the dispute between the Spirituals and the Conventuals with the bull *Exivi de Paradiso*. After having compared the order of the Friars Minor to a garden *in quo quieties ac securius vacaretur contemplantis servandisque huiusmodi operibus exemplaris* (“in which one might more quietly and securely be freed from beholding and observing labors of this kind”), the pope evokes the Franciscans’ way of life with these words: *haec est illa coelestis vitae forma et regula, quam descripsit ille confessor Christi eximius sanctus Franciscus* (“that is the heavenly form of life and rule, which that excellent Confessor of Christ Saint Francis wrote down”; §1). The pairing of the syntagma *form of life* with the term *rule* is not new, and one encounters it many times in the Franciscan literature itself. But precisely for this reason it will be useful to ask ourselves first of all if what is at stake is a hendiadys in which the two expressions emerge as synonymous, or if instead their semantic values may be different—and in this case, in what this difference may consist and what the strategic sense of their conjunction might be.

Close scrutiny of the occurrences of the syntagma *form of life* in the Franciscan sources show that it does not appear as such in the writings attributed to Francis. The *Regula non bullata*—after having opened, as we have seen, with the drastic declaration *Haec est vita Evangelii Iesu Christi, quam frater Franciscus petiit a Domino Papa concedi et confirmari sibi* (“This is the life of the Gospel of Christ which Brother Francis asked the Lord Pope to be granted and confirmed for him”)—pairs the two terms *regula* and *vita* (*regula et vita istorum fratrum haec est, scilicet vivere in oboedientia, in castitate et sin proprio*, “The rule and life of these brothers is this: to live in obedience, in chastity, and without anything of their own”; Francis 1, 1, pp. 6/108–9). The pairing is repeated in the *Regula bullata* of 1223 (*regula et vita minorum fratrum haec est*, “The rule and life of the Friars Minor is this”; *ibid.*, pp. 108/137). In the Testament, moreover, the term *forma* appears, and it is paired not with *vita* but with *vivere* in the passage in which Francis writes that Christ himself revealed to him *quod deberem vivere secundum formam sancti Vangelii* (“that I must live according to the form of the Holy Gospel”). Since a little earlier Francis defines priests as those “who live according to the form of the holy Roman Church” (*qui vivunt secundum formam sanctae Ecclesiae Romanae*; *ibid.*, pp. 220/154), it is clear that the Testament distinguishes explicitly and firmly between the two forms of life. On the one hand Francis declares that the Lord has given him “such faith” in the priests who live

“according to the form of the Roman Church” that even if they were to persecute him (it is significant that this possibility would be contemplated), he would fear, love, and honor them as his lords. On the other hand, he takes care to specify that “after the Lord gave me brothers, no one showed me what I should do [*quid deberem facere*], but the Most High Himself revealed to me that I should live [*quod deberem vivere*] according to the form of the Holy Gospel,” and he immediately adds: “And I had this written down simply and in a few words and the Lord Pope confirmed it for me” (*Et ego paucis verbis et simpliciter feci scribi et dominus papa confirmavit mihi*; *ibid.*, pp. 222/154–55).

The technical opposition between the substantial and content-oriented *quid* (*what* I must do) and the existential and factual *quod* (*that* I must live) shows that Francis cannot be concerned with a rule in the proper sense, which establishes precepts and duties (*quid deberem facere*). And the opposition is not only between “what” and “that,” but also between “doing” and “living,” the observation of precepts and norms and the simple fact of living according to a form (we have seen that Hugh of Digne will draw a distinction in this sense between *promittere regulam* and *promittere vivere secundum regulam*). As opponents and followers immediately understood, the “form of the holy Gospel” is not in any way reducible to a normative code.

But what does Francis mean, then, when he says that he had that way of life written down simply and with few words? This “writing” (the so-called short Rule of 1210) coincides, according to scholars, with the text of the prologue and the first chapter of the *Regula bullata*, in which the *regula et vita* of the brothers is summarized in “a few words”: *vivere in oboedientia, in castitate et sine proprio*, “to live in obedience, in chastity, and without anything of their own,” followed by four citations from the Gospels (Francis I, pp. 6/109). The two following rules start from this nucleus—which is essential, generic, and moreover apparently considered exhaustive (the proclamations *haec est vita* and *regula et vita . . . haec est* are peremptory and allow for no doubt in this case)—and only add prescriptions that concern the acceptance of new brothers, the relationship between ministers and the other brothers, corrections, illnesses, special cases like going on horseback, relationships with women, receiving alms, traveling through the world, preaching, and various other questions, with regard to which he limits himself to suggesting indications in homage to the tradition of the monastic rules, without touching on the meaning of “living according to the form of the holy Gospel,” already summarized on a small scale in the introduction.

The original nucleus of the rule consisted, then, in attributing a “normative status to the New Testament narrative” as such (Tarello, p. 318): with respect to

this nucleus, the prescriptions and duties that follow (in the modern edition of the *Regula non bullata*, chapters 2–23—the chapter divisions are obviously lacking in the manuscript) only represent glosses in view of a survey that is obviously not exhaustive. By mixing together the Gospel with the rule in this way, the archetypal rule or *Urregel* implied unacceptable consequences for the Curia, which already in the 1230 bull *Quo elongati* introduced a distinction between evangelical example and rule, deciding that the monk was obligated only to those evangelical counsels that had been incorporated into the rule.

✠ The Franciscan principle according to which the rule was the very life of Christ is found already enunciated in a text—the *Askētikai diataxeis* or *Ascetic Constitution*—that the tradition attributes to Basil and that must have been very familiar to the Spiritual Franciscans, in particular to Clarence, the Latin translator of the Cappadocian monk. “Every action . . . and every word [*pasa praxis . . . kai pas logos*] of our Savior Jesus Christ,” one reads in this text (chap. 1, *PG*, 31, 1326a–b), “is a rule [*kanon*] of piety and virtue.” A little later we even find articulated the idea of the life of Christ as model and image of life: “The Savior proposes to all those who want to live fully a form and a model of virtue [*typon aretēs kai programma*] . . . and gave to those who want to follow him his own life as image of the best way of life [*eikona politeias aristēs*]” (chap. 4, §4, *ibid.*, 1351d). The Benedictine rule itself opens by asking rhetorically, “What page or what utterance of the divinely inspired books of the Old and New Testaments is not a *rectissima norma vitae humanae*?” (*Rule of St. Benedict*, p. 155). However, as has been noted (Tarello, p. 403), attributing normative value to the Gospel text was not in itself a new thing (Gratian’s *Concordantia* defines natural law as *quod in Lege et Evangelio continetur*). What was new, however, was drawing from the complete and total equation of rule and life of Christ a radical transformation in the way of conceiving both life and rule.

1.4. The fact is, as Francis never tired of mentioning, what is in question in the “rule and life” is not so much a formal teaching, but even and above all a sequence or following (*Domini nostri Iesu Christi . . . vestigia sequi*, “our Lord Jesus Christ, whose footprints we must follow”; Francis 1, pp. 6/127; or, even more forcefully, in the so-called “last will” of St. Clare: *volo sequi vitam et paupertatem altissimi Domini*, “I . . . wish to follow the life and poverty of our most high Lord Jesus Christ”; *ibid.*, pp. 228/46). It is not a matter so much of applying a form (or norm) to life, but of *living* according to that form, that is of a life that, in its sequence, makes itself that very form, coincides with it.

For this reason, tying back to the initial declaration (*haec est vita*), the conclusion of the *Regula non bullata* can refer to things *quae in ista vita scripta sunt*: precisely because what was written here was a life and not a rule, a form of life and not a code of norms and precepts, the text itself can be defined as “life.”

And it is in this sense that one must understand the punctilious repetition of the term *vita* paired with *regula* (even granting that this second term had not been added, as some scholars maintain, at a later time): the evangelical form of life, the *coelestis vitae formae* evoked by Clement V, is never only *regula*, but at the same time *regula et vita* or simply *vita*. For this reason, the *Regula non bullata* can use *vita* where we would expect *regula* (*si quis volens accipere hanc vitam . . . si fuerit firmus accipere vitam nostram*, “If anyone, desiring . . . to accept this life . . . and if he is determined to accept our life”; *ibid.*, pp. 8/110), and, likewise, can refer indifferently to life with terms that usually refer to the rule (*promittentes vitam istam semper et regulam observare*, “promising to observe always our life and rule”; pp. 110/213).

It is clear that Francis has in mind here something that he cannot simply call “life,” but neither can he let it be classified solely as “rule.” Hence the scholars’ difficulty in the face of what seems to be an indistinct use of the two terms (Tabarroni, p. 81, cf. Coccia, p. 112). But it is, in truth, the exact opposite of a useless redundancy: the two words are put in a reciprocal tension, to name something that cannot be named otherwise. If life is indeterminated into rule in the same measure in which the rule is indeterminated into life, this is possible only because what is in question in both is the *novitas* that Francis calls *vivere secundum formam* (*Sancti Evangelii*) and that we must now try to define.

✠ One encounters an indetermination of life and rule, as we have seen, already in the monastic tradition in the formula *vita vel regula* at the beginning of the *Lives of the Fathers* of Jura (cf. also, in the *Rule of the Four Fathers: qualiter vitam fratrum, vel regulam tenere possit*; Vogüé 1, p. 190). Moreover, the Franciscan *et* does not have the disjunctive value of the *vel* in the formula of the abbey at Lerins. While this implies that life is blurred together with the rule (*la vie ou la règle, c’est-à-dire la vie comme règle*, “life or rule, that is to say, life as rule”; Thomas, p. 136), the *et* is to be understood instead in the sense of a juxtaposition which is at the same time a separation (significant here is the sequence in the *Regula non bullata: haec est vita Evangelii . . . and regula et vita istorum fratrum haec est*—first life by itself, then the juxtaposition of life and rule). Substituting an *et* for the *vel*, Francis conjoins and at the same time disjoins the two terms, as if the form of life that he has in mind could be situated only in the space of the *et*, in the reciprocal tension between rule and life.

In the Franciscan literature, the proximity and at the same time the distinction between *vita* (*modus vivendi*) and *regula* are always maintained. Thus in Bonaventure: *Ex quibus patenter elucet, quod Fratrum minorum regula non discordat a vita, nec communis ipsorum modus vivendi discordat a regula* (“From this it appears clearly that the Rule of the Friars Minor is not in disharmony with their way of life, nor their way of common life with the Rule”; Bonaventure, *Apologia paupertum*, pp. 376/250). In an even more ob-

vicious way, Ubertino of Casale distinguishes *modus vivendi* and *status regularis*, the *forma evangelica in vivendo* given by Christ to the apostles and the *regula*:

[Franciscus] in auditu illius verbi in quo Christus, ut dictum est, formam tribuit apostolis evangelicam in vivendo . . . statum regularem et modum vivendi accepit, predictae norme apostolice per omnia se coactans, et in hoc ordinem suum incepit; et ideo dicitur in principio regule: “Regula et vita minorum fratrum hec est, scilicet Domini nostri Ihesu Christi sanctum evangelium observare,” quasi summarie omnia que sunt in regula reducens ad formam evangelicam in vivendo [(Francis), on hearing that word in which Christ, as it is said, shows to the apostles the evangelical form in the way he lived . . . accepted a regular state and mode of living, constraining himself in all things by the apostolic norm that was preached, and in this way he began his order; and indeed it is said at the beginning of the rule: “This is the rule and life of the Friars Minor, that is, to observe the Holy Gospel of our Lord Jesus Christ,” as if to serve as a summary leading everything that is in the rule back to the evangelical form in their way of living]. (Ubertino, p. 130)

A little afterward, Ubertino, citing the passage from the rule in which it is said that the brothers “promise to observe this life and the rule” (*promittentes istam vitam et regulam observare*), he puts it in correspondence with the *forma vite et norma quam Christus servavit*, “the form and norm of life that Christ observed; *ibid.*, p. 131). As in Francis, the two paired terms are not identified, but rather put in reciprocal tension.

✠ It is significant that when a companion asks him why he did not intervene to correct the decadence of his order, whose members had abandoned “simplicity and poverty, which are the principle and foundation of our order,” Francis reproached him firmly for wanting to implicate him in questions that did not concern his duty (*vis . . . me implicare in his que non pertinent ad officium meum*). “If I cannot convince them and correct their vices with preaching and example, I do not want to become a persecutor to pursue and frustrate them, like the power of this world [*nolo carnifex fieri ad percutiendum et flagellandum, sicut potestas huius seculi*]” (Francis 1, 2, pp. 472–74). In the tension that Franciscanism installed between rule and life, there is no place for anything like an application of the law to life, according to the paradigm of worldly powers (among whom, in the vocabulary of that era, the Church could also be included more or less directly).

1.5. The other Franciscan sources, which make use of the syntagma *forma vite* many times, confirm this special character of the “rule” dictated by the founder. The rule of St. Clare, definitively approved by Innocent IV in 1253, imitates in its introduction the definition of the *Regula non bullata*, but substitutes the syntagma *form of life* for the *rule and life* of Francis’s text (“The form of life of the Order of Poor Sisters, which the Blessed Francis established, is this”; Francis 1, 1, pp. 304/211). A little afterward, Clare, reporting the words of Francis, says that

“the Blessed Father . . . wrote for us the form for living in this way [*scripsit nobis formam vivendi in hunc modum*]” (ibid., pp. 316/218). The brief text that follows does not, however, contain either precepts or rules. Instead, after having merely indicated that the sisters have chosen to “live according to the perfection of the holy Gospel,” it simply formulates a promise (“I resolve and promise for myself and for my sisters always to have that same loving care and special solicitude for you as I have for them”; ibid.). Clare thus calls “form of life” not a code of norms, but something that seems to correspond to what Francis calls “life,” “rule and life,” or in the Testament, “living according to the form of the holy Gospel.”

Scholars have wondered (Marini, pp. 184–85) if a more complete redaction of the *forma vivendi* written by Francis might exist. It is significant, however, that in the *Angelis gaudium*, in which Gregory IX denies authorization to Agnes of Prague to follow the Franciscan model, the pope defines the text of Francis in a diminutive way as *formula vitae* and opposes to it the constitutions of Ugolino, designated as a “rule” (*ipsae*—the Poor Clares—*formula predicta postposita, eadem regulam . . . observarunt . . . te ac sorores tuas ab observantia predictae formulae de indultae nobis a Domino potestatis plenitudine absolventes volumus et mandamus quatenus eadem regulam tibi sub bull nostra transmissa reverentia filiali suscipias*, “Setting aside their above-mentioned formula, they have observed the same rule. . . . Absolving you and your sisters from observance of the aforementioned formula out of the plenitude of the power granted to us by the Lord, we desire and command that you uphold the same rule transmitted to you under our bull with filial reverence”; cf. Marini, p. 189). Gregory IX explicitly denies to the *formula* of Francis—compared to the *potum lactis* (“milk”) of the newborn and opposed to the *cibum solidum* (“solid food”) of the constitutions—the character of a rule, a sign that *forma vitae* and *regula* were not perceived as synonymous. “To choose to live according to the perfection of the holy Gospel” is a *formula vitae*, not a rule.

A passage from the *Life of St. Francis* (or *Greater Legend*), composed by Bonaventure of Bagnoregio in 1266, contains in this sense a decisive indication. Under the guidance of Francis, writes Bonaventure, “the Church was to be renewed . . . in three ways: by the form of life, the rule, and the doctrine of Christ which he would provide [*secundum datam ab eo formam, regulam et doctrinam Christi triformiter renovanda erat Ecclesia*]” (2.8, pp. 21–22). The tripartition articulated by Bonaventure (who follows a passage from the *Life of Thomas of Celano*: *ad cuius formam, regulam et doctrinam*, “after whose pattern, rule, and teaching . . .”; Francis 2, 2, pp. 90/37) corresponds to the three levels or modes into which the activity of the Church is structured. But it is

decisive that the form of life corresponds here neither with a normative system (for the Church, canon law) nor with a corpus of doctrine (the collection of dogmas in which the Church articulates the Catholic faith). It is a third thing between doctrine and law, between rule and dogma, and it is only from the awareness of this specificity that its definition can become possible.

1.6. Thomas of Celano, who often places life and rule side by side in his biography, shows that he is distinguishing the first term as much from rule as from life in a generic sense. At the point when he narrates the episode of the redaction of the first rule, he puts it in these terms: *scripsit sibi et fratribus suis . . . simpliciter et paucis verbis vitae formam et regulam* (“Blessed Francis . . . wrote down simply and in a few words for himself and his brethren . . . a pattern and rule of life”; Francis 2, pp. 78/31). Since Thomas is obviously paraphrasing and citing here the words of Francis in the Testament, one should suspect that the expression *vitae forma et regula* corresponds to the text’s *vivere secundum formam sancti Evangelii*. Therefore this hendiadys that will return so often in the Franciscan literature is an attempt to explain the *vivere secundum formam* of Francis, juxtaposing the syntagma *form of life* with the term *rule*, as if thus to underline the fact that it could not be established in a series of normative precepts.

Later, after having narrated the miracles of the saint, Thomas writes: “However, since we have not determined to set forth miracles (which do not make holiness but show it), but rather the excellence of St. Francis’s life and the flawless pattern of his conduct [*sed potius excellentiam vitae ac sincerissimam conversationis ipsius formam*]” (pp. 140/120). *Conversatio* means “conduct,” “way of life”: by juxtaposing the term with *forma*, in a sense more or less equivalent to *forma vitae*, Thomas shows that he has in mind not a simple way of life, but an exemplary, qualified way of life that cannot, however, be understood as a rule. In a preceding passage, the level of life (*qualiter denique vita et mores ipsorum . . . forent proximis ad exemplum*, “how their life and behavior might . . . be an example to their neighbors”) is distinct in this sense both from that of observance of a rule (*qualiter regulam quam susceperant possent sincere servare*, “how they might sincerely observe and unflinching guard the Rule they had received”) and from direct relation to God (*qualiter in omni sanctitate et religione coram Altissimo ambularent*, “how they should walk in all holiness and religion before the Most High”; pp. 82–84/34). Living according to a form undoubtedly implies, according to a frequent meaning of the term *forma* in medieval Latin, an exemplary relation with others and is moreover not simply synonymous with *exemplum*.

In Bonaventure, the syntagma *forma* (or formula) *vitae*—or even simply *forma* (*Forma igitur praescripta apostolis . . . ; De perfectione evangelica*, p. 157)—appears frequently, both in reference to the rule (*scripsit sibi et fratribus suis simplicis verbis formulam vitae; Life of St. Francis* 3.8) and in the meaning of way of life (for example, in the *General Constitutions*, under 4, 1, *de forma interius conversandi*, to which there corresponds, immediately after, the rubric *de modo exterius exeundi*; and in the *Apologia pauperum* [11, 17], *forma vivendi* refers to the way of life of *Virgo et Mater Domini nostri Iesu Christi*).

In any case, the syntagma *form of life* seems to acquire in Franciscanism a technical meaning, and it is important not to let it elude us. As we have already seen for the expression *regula vitae*, the genitive is not only objective, but also subjective. The form is not a norm imposed on life, but a living that in following the life of Christ gives itself and makes itself a form.

1.7. In commentaries on the rule, the specificity of the Franciscan concept of “life,” briefly expressed in the syntagma *forma vitae*, is often confirmed. In Angelo Clareno’s *Expositio regulae*, the text’s incipit thus gives rise to a thorough terminological commentary, in which on the one hand, the term *regula* is abstracted from the juridical sphere in the strict sense and on the other, *vita* is opposed to merely vegetative life and becomes synonymous with a “holy” and “perfect” form of life. Let us read this passage, in which Clareno’s familiarity with the Greek language and monastic tradition and at the same time his perplexity in the face of Francis’s text are evident:

Regula, id est evangelicus canon, sanctificans decretum et lex gratiae et iustitiae Christi humilitatis et forma vivendi secundum exemplar Christi Iesu paupertatis et crucis. [Rule, that is, an evangelical canon, sanctifying decree, and law of the grace and justice of Christ’s humility and form of living according to the example of Christ Jesus’ poverty and cross.]

Regula, quia recte ducit, et modum recte vivendi sine omni errore docet. Quos enim nostri grammatici declinare in partibus declinabilis orationis dicunt, hoc Graeci regulare et canonizare nuncupant. [Rule, which rightly guides and teaches a mode of living rightly without any error. What our grammarians call declining into the declinable parts of speech, the Greeks call regulating and canonizing.]

Vita vero apud Graecos dicitur zoi et pro vita vegetativa et animali imponitur, vios vero apud eos pro virtuosa sanctorum conversatione tantum scribitur. Ita et nunc in regula et in omnibus sanctorum historiis hoc nomen vita pro sancta conversatione et perfecta virtutum operatione accipitur. [Life is called among the Greeks *zoē* and this is used for both vegetative and animal life, while among them *bios* is written for the virtuous behavior of the saints. Always and everywhere in

the rule and in the histories of all the saints this word life is used to mean holy behavior and the perfect carrying out of the virtues.] (Clareno, p. 140)

Not only is the rule as *evangelicus canon* defined as a “form of living” according to the model of the Gospel, but it is compared to a grammatical rule rather than to a law in the proper sense (“The Greeks call ‘regulating’ and ‘canonizing’ what our grammarians call ‘declining’”). On the other hand, in the opposition—thanks to the Greek distinction between *zoē* and *bios*—of the two meanings of the term “life,” *bios* is considered equivalent to *sancta conversatio*, that is to the perfect form of life. In reality the whole passage testifies to Clareno’s difficulty before the linguistic use of Francis, who holds together in the syntagma *regula et vita* something—the “form of living”—that the commentator cannot succeed in understanding except by distinguishing, on the one hand, between *zoē* and *bios*, and on the other hand, by juxtaposing contradictory terms (*sanctificans decretum, lex gratiae*).

The two terms *rule* and *life* thus brought together are, however, so far from being identified that their duality even remains within the Christological model: Francis, writes Clareno, who “had accepted the Gospel as rule” (*Evangelium pro regula acciperet*), said for this reason that he had “promised to observe as rule the Gospel of Christ and his life” (*pro regula Evangelium Christi et vitam eius promississe servare*; *ibid.*, p. 186).

Olivi, who is Clareno’s constant model and reference point, also lingers in his commentary over the Franciscan syntagma *regula et vita*: Francis, he writes, “calling [the rule] not only rule, but also life, intended to clarify the sense of the rule, which is a right law and form of life and a life-giving rule that leads to the life of Christ” (*vocans eam non solum regulam sed et vitam, ut sit sensus quod est regula, id est recta lex et forma vivendi et regula vivifica ad Christi vitam inducens*; Olivi I, p. 117). Such a rule, he immediately adds, does not consist in a written text (*in charta vel litterae*), but “in the act and the operation of life” (*in actu et opere vitae*) and does not dissolve “into an obligation and profession of vows [*insola obligatione et professione votorum*], but rather consists essentially in an operation of word and life and in the actual exercise . . . of the virtues [*in verbali et vitali opere et in actuali applicatione . . . virtutum*]” (*ibid.*).

One could not say more clearly that if a life (the life of Christ) is to furnish the paradigm of the rule, then the rule is transformed into life, becomes *forma vivendi et regula vivifica*. The Franciscan syntagma *regula et vita* does not signify a confusion of rule and life, but the neutralization and transformation of both into a “form-of-life.”

It is in the oldest commentary on the rule, the *Expositio quatuor magistrorum*, that the difference between rule and form of life is stated with greatest clarity. With regard to the problem of the possibility of departing in case of necessity from the rule that required the brothers to walk in bare feet, the text, after having distinguished the various forms of necessity (according to state, place, time, and office) according to a typically juridical casuistry, states: *Calciari vero dispensationis est regulae in necessitate, non calciari est forma vitae* (“Wearing shoes depends on a dispensation from the rule in case of necessity; not wearing shoes is the form of life”; *Quatuor mag.*, p. 135). The principle, enunciated in such a lapidary form, opposes the sphere of the rule (with respect to which the state of necessity implies an exception to the norm) and that of the form of life like two planes that are tangential to each other, but do not anywhere coincide. Where what is in question is an evaluation of a juridical character (the possibility of a *dispensatio*), one has a rule. In the face of this, walking barefoot does not involve the observance of a rule (in which case the text would had to say: *non calciari est regula*), but realizes a *forma vitae*.

✠ The fact that the maxim pronounced by the four masters had the value of a veritable principle in the Franciscan tradition is proven by the fact that it is cited textually with particular emphasis in successive commentaries, in particular by Hugh of Digne and Ubertino of Casale. It is interesting to note that while prevalent juridical doctrine conceived the state of necessity as the motive for an exception to the norm, here, in the state of necessity, rule and life separate: the normal state appears not as application of the rule, but as “form of life,” while the exception appears as *dispensatio regulae*.

## Renouncing Law

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**2.1.** What is decisive at this point is to define the relationship between “rule and life” and the Franciscan *forma vivendi* on the one hand and the sphere of law on the other. This is not only because it is this relation that will provide the kindling for the conflict with the Curia, but also and above all because only a clear comprehension will render it possible to fully evaluate both the novelty and the inadequacy of the Franciscan movement—its extraordinary success and its foreseeable failure, which seems to cloud the final years of its founder’s life with such a desperate bitterness.

It will thus be necessary first of all to examine the entire question of poverty in this light. The *altissima paupertas* (“highest poverty”), with which the founder had intended to define the life of the Friars Minor, is in actuality the place where the fate of Franciscanism is decided, both within the order (with the conflict between the Conventuals and Spirituals) and in its relationships with the secular clergy and the Curia, which reached the point of rupture under the pontificate of John XXII. Historians have reconstructed the events of this controversy in its particulars, from the 1279 bull *Exiit qui seminat*—with which Nicholas III, accepting the theses of Bonaventure, sanctioned the principle that the Franciscans, having abdicated every right of both ownership and of use (*quod proprietatem usus et rei cuiusque dominium a se abdicasse videtur*), maintain however the simple de facto use over things (*simplex facti usus*; Mäkinen, p. 97)—to the 1322 bull *Ad conditorem canonum*, in which John XXII, abrogating the decision of his predecessor, affirms the inseparability of use from ownership and attributes to the order the common ownership of the goods of which they make use (*nec ius utendi, nec usus facti, separata a rei proprietate seu dominio, possunt constitui vel haberi*; *ibid.*, p. 165).

The attention of the scholars has nevertheless been focused to such a degree on the history of the order and its tormented relationship with the Curia that they rarely attempt to analyze what was at stake in these conflicts at the level of theory. Beyond the diversity of the positions and the subtlety of the theological

and juridical arguments of the Franciscans who intervene in the controversy (in addition to Bonaventure, it is necessary to cite at least Olivi, Michael of Cesena, Bonagratia of Bergamo, Richard of Conington, Francis of Ascoli, William of Ockham, and John Peckham), the principle that remains immutable and nonnegotiable for them from beginning to end can be summarized in these terms: what is in question, for the order as for its founder, is the *abdicatio omnis iuris* (“abdication of every right”), that is, the possibility of a human existence beyond the law. What the Franciscans never tire of confirming—a point on which even the minister general of the order, Michael of Cesena, who had just collaborated with John XXII in the condemnation of the Spirituals, is not prepared to compromise—is the lawfulness for the brothers of making use of goods without having any right to them (neither of property nor of use). In the words of Bonagratia, *sicut equus habet usus facti*, “as the horse has de facto use but not property rights over the oats that it eats, so the religious who has abdicated all property has the simple de facto use [*usum simplicem facti*] of bread, wine, and clothes” (Bonagratia, p. 511). From the perspective that is of interest to us here, Franciscanism can be defined—and in this consists its novelty, even today unthought, and in the present conditions of society, totally unthinkable—as *the attempt to realize a human life and practice absolutely outside the determinations of the law*. If we call this life that is unattainable by law “form of life,” then we can say that the syntagma *forma vitae* expresses the most proper intention of Franciscanism.

✠ The assimilation of the Franciscan form of life to an animal life in Bonagratia and Richard of Conington corresponds faithfully to the special importance that animals had in the biography of Francis (preaching to animals, the liberation of the sheep and the two lambs, his love for worms: *circa vermiculos nimio flagrabat amore*, “Even toward little worms he glowed with exceeding love”; Francis 2, 2, pp. 156/78). If on the one hand animals are humanized and become “brothers” (“he called all creatures by the name of brother”; pp. 156/79), conversely, the brothers are equated with animals from the point of view of the law.

2.2. It is worth analyzing the modalities and the arguments through which the Franciscans actualize this neutralization of law with respect to life. First of all, the very term “Friars *Minor*” had properly juridical implications, which modern scholars, while duly noting them, have curiously left in the shadows in favor of the moral implications, that is, humility and spiritual subjection. Hugh of Digne, in his commentary on the rule, shows himself to be perfectly conscious of this: *fratris autem minoris est iuxta nomen suum, quod minor est, semper attendere* (“it is in keeping with his name always to attend to the minor

brother, because he is a minor"; Hugh of Digne 1, pp. 162–63). As "minors," the Franciscans are, from the juridical point of view, technically *alieni iuris*, equated with the *filiusfamilias* and the *pupillus* subjected to the tutelage of an adult *sui iuris*. In the *Apologia pauperum* (*Defense of the Mendicants*), Bonaventure develops this argument with precision by making reference to Roman law. If all Christians, he argues, are according to common law children of the supreme pontiff, and as such submitted to his authority, but as emancipated children, capable of disposing of ecclesiastical goods, the Franciscans are on the contrary "like little children and sons-in-power entirely subject to the rule of the Supreme Pontiff" (*tamquam parvuli et filii familias totaliter ipsius regimini deputati*). They are like those, moreover, who are according to the Digest juridically incapable of possessing anything, because property belongs solely to the father and they can only use things (*propterea, sicut lege cavetur, quod "filiusfamilias nec retinere nec recuperare posse possessionem rei peculiaris videtur"* [Digest 50.17, *De regulis iuris*], *sed patri per eum quaeritur; sic et in his pauperibus intelligendum est, quod rerum eisdem collatarum et sustentationem ipsorum patri pauperum deputetur dominium, illis vero usus*; "As the law cautions: 'It seems that a son-in-power cannot retain or obtain possession of a particular thing.' Rather it is sought through the son-in-power for his father. So also in the case of these poor it should be understood that the dominion over things they receive for their sustenance is delegated to the Father of the Poor, while their use is conceded to them"; Bonaventure, *Apologia pauperum*, pp. 368/309–10). For the same reason (and the insistence with which Francis qualifies himself not only as *parvulus*, but even as *pazzus* is to be considered from this perspective), they can be compared to the *furiosus*, who cannot acquire by usurpation the ownership of any good, even if it is found in their possession: *Propter quod et iurisconsultus Paulus ait: "furiosus et pupillus sine tutoris auctoritate non possunt incipere possidere, quia affectionem tenendi non habent, licet res suo corpore contingant, sicut si dormienti aliquid in manu ponatur"* ("For this reason Judge Paul states: 'A madman and a minor cannot begin to own without the authorization of a tutor, for they lack the disposition to possess, even though they may be in physical contact with the object as would be the case if something were placed in the hand of a sleeping man'; *ibid.*, pp. 370/311–12).

2.3. In an important study, Tarello has shown how the premise of the Franciscan strategy on the question of poverty is to be sought in the patristic and canonistic reception of the doctrine of the originary communion of goods (Tarello, p. 428). According to this doctrine, approved in Gratian's *Decretum*, in the state of innocence "for natural law all things are everyone's" (*iure naturali*

*sunt omnia omnibus*); property and all human law begin with the Fall and the construction of a city on the part of Cain. It is on this basis that Bonagratia, developing the theses of Bonaventure, can state that just as in the state of innocence human beings had the use of things but not ownership, so also the Franciscans, following the example of Christ and the apostles, can renounce all property rights while maintaining, however, the de facto use of things (*apostoli et fratres minores potuerunt a se abdicare dominium et proprietatem omnium rerum . . . et sibi in omnibus rebus tantumodo usum facti retinere*, “the apostles and Friars Minor could abdicate from themselves dominion and ownership over all things . . . and retain to themselves at the same time the de facto use of all things”; Bonagratia, p. 505). In the same sense, Hugh of Digne’s treatise *De finibus paupertatis* (On the Ends of Poverty), which defines poverty as *spontanea propter Dominum abdicatio proprietatis* (“the free abdication of ownership for God’s sake”), founds the lawfulness of this abjuration and of the separation between property and use that results from it in natural law, which demands that each can conserve his or her own nature (Hugh of Digne 2, pp. 288–89).

The *abdicatio iuris* (with the return that it implies to the state of nature preceding the Fall) and the separation of ownership from use constitute the essential apparatus that the Franciscans use to technically define the peculiar condition that they call “poverty.”

✠ It is significant that the Franciscan theorists obstinately aspire to configure the renunciation of the law in juridical terms. Thus Hugh of Digne, who had written in the treatise *De finibus paupertatis* that the Friars Minor “have only this to call their own, not having anything of their own in transient things” (Hugh of Digne 2, p. 289), again takes up the same formulation in his commentary on the rule, adding however that they “have only this right, not to have any rights” (*Hoc autem est fratrum minorum proprium: nihil sub coelo proprium possidere. Hoc ius: nullum in his que transeunt ius habere*; Hugh of Digne 1, p. 161).

2.4. Along with the *abdicatio iuris*, the other argument the Franciscans used in the polemic with the Curia is an ingenious generalization and at the same time inversion of the paradigm of the state of necessity. Let us follow the argumentation of Ockham in the work that he declares that he has “completed in ninety days, although hastily and in a completely undecorated style, yet with much labor” (*hoc opus nonaginta dierum, quamvis cursim et sermone nullatenus falerato, multo tamen complevi labore*; Ockham, 2, pp. 857/848) and that, despite its apparent impartiality, is in reality a punctilious and savage critique of the bull *Quia vir reprobus*, with which John XXII had responded in 1329 to the *Appellatio* and Michael of Cesena’s retreat.

Ockham, as Bonagratia had already done, begins from the principle already present in Roman law (the *lex Rodia de iactu*), according to which in case of extreme necessity (*pro tempore necessitatis extremae*), each has by natural right the faculty of using the things of others. Against the pope, who states that there is no difference between *ius* and *licentia* (“right” and “permission”) and that therefore there cannot be for the Franciscans a *licentia utendi* separate from the *ius utendi*, Ockham begins by distinguishing between the *ius utendi naturale*, which concerns all human beings and holds only in case of necessity, and the *ius utendi positivum* (“positive right of use”), which derives *ex constitutione aliqua vel humana pactione* (“from a certain human constitution or pact”). The Friars Minor, Ockham states, though having no positive right to the things they use, nevertheless have over them a natural right limited to the case of extreme necessity (Ockham, I, pp. 561/419). “From these points it is clear that a permission to use is not a right of using [*quod licentia utendi non est ius utendi*].” For the Brothers have permission to use things for a time other than a time of extreme necessity [*pro alio tempore quam pro tempore necessitatis extremae*], but they do not have any right of using at all except for the time of extreme necessity; therefore a permission to use is not a right of using” (ibid.). They have renounced all property and every faculty of appropriating, but not the natural right of use, which is, insofar as it is a natural right, unrenounceable (*proprietary et potestati appropriandi licet renuntiare, sed iuri utendi naturali nulli renuntiare licet*; ibid., pp. 562/419).

It is necessary not to allow the subtlety of Ockham’s strategy with respect to the law to escape us: it is a matter, so to speak, of holding oneself both outside and before the law, of forcefully reaffirming the principle of the *abdicatio iuris* sanctioned by *Exit qui seminat*. At the same time, against John XXII, he must not deprive the Franciscans of recourse to natural law, but limit it to the case of extreme necessity. On closer view, this means that the Friars Minor work a reversal and at the same time an absolutization of the state of exception. In the normal state, in which positive law applies to human beings, they have no right, but only a license to use. In the state of extreme necessity, they recover a relationship with the law (natural, not positive).

It also becomes clearer, from this perspective, what the meaning of the maxim cited from the *Expositio quattuor magistrum* is, according to which *calciari vero dispensationis est regulae in necessitate, non calciari est forma vitae* (“Wearing shoes depends on a dispensation from the rule in case of necessity; not wearing shoes is the form of life”). Necessity, which gives the Friars Minor a dispensation from the rule, restores (natural) law to them; outside the state of necessity, they have no relationship with the law. What for others is normal

thus becomes the exception for them; what for others is an exception becomes for them a form of life.

2.5. Emanuele Coccia, in an exemplary study dedicated to the analysis of the monastic rules from the legal point of view, defined the novelty and, at the same time, the aporia of Franciscanism in the form of a “juridical paradox.” If what is proper to monasticism in general is the attempt to constitute as an object of law not so much the relationships among subjects or between subjects and things, but rather life itself in its relation to its own form, the specificity of Franciscanism would consist in making out of a juridical apparatus, which the rule is according to Coccia, the operator of a “juridical void” (Coccia, p. 140), of a radical subtraction of life from the sphere of law.

We have seen how the Franciscans operate in their unreserved claim of a life outside the law. It is not the rule so much as the state of necessity that is the apparatus through which they seek to neutralize law and at the same time to assure themselves an extreme relationship with it (in the form of *ius naturale*). But just as the rule is not a juridical apparatus, neither can the state of exception be properly defined as such. It is instead the threshold in which the Franciscan form of life touches on the law. At the end of his commentary, Olivi compares the Franciscan rule to a sphere, which has Christ as its center and which touches the level of earthly goods only at the “point of simple and necessary use” (*haec regula tanquam vere sphaerica non tangit planitiem terrenorum nisi in puncto simplicis et necessari usus*; Olivi I, p. 194). The state of necessity is the other tangent point, in which the Franciscan form of life (the rule-life) touches on (natural, not positive) law. It is between these two tangent points, the *punctum usus* and the *tempus necessitatis*, that we must situate the sphere of the Minors’ rule-life that, in the words that immediately follow, “is entirely reflected in a circle around Christ and his Gospel as its own center and, in accordance with the form of a circle, it ends where it begins (*totaque se reflectit circa Christum circulariter et Evangelium eius tanquam circa suum intimum centrum, sicut instar circuli, unde exordium sumpsit, in idipsum fnit*; *ibid.*). Use and the state of necessity are the two extremes that define the Franciscan form of life.

2.6. The moment has perhaps come, then, to again take up our analysis of the monastic rules from where we interrupted it in order to examine their relation with liturgy. Cenoby had appeared from this perspective as a field of forces charged by two opposed tensions, one bent on transforming life into liturgy and the other tending toward making a life out of liturgy. It is not possible, however, to fully understand the sense of these tensions if one does not consider

them in their relation—at once antithetical and tightly entangled—with the paradigm of the priestly Office which the Church had been progressively elaborating. If the life of the priest is here presented as an *officium*, and if the *officium* institutes, as we have seen, a threshold of indifference between life and norm and between being and practice, the Church at the same time decisively affirms the sharp distinction between life and liturgy, between individual and function, that will culminate in the doctrine of the *opus operatum* and the sacramental effectiveness of the *opus Dei*. Not only is the sacramental practice of the priest valid and efficacious *ex opere operato* (“from the work done”) independently of the unworthiness of his life, but as is implied in the doctrine of the *character indelebile*, the unworthy priest remains a priest despite his unworthiness.

To a life that receives its sense and its standing from the Office, monasticism opposes the idea of an *officium* that has sense only if it becomes life. *To the liturgicization of life, there corresponds here a total vivification of liturgy.* The monk is in this sense a being who is defined solely by his form of life, so that at the limit, the idea of an unworthy monk seems to imply a contradiction in terms.

If the monastic condition is thus defined through its specific differences with respect to the priestly Office (that is, with respect to a practice whose efficacy is independent of form of life), it is thus clear that it is precisely in the articulation of the dialectic between these two figures of the relation life-*officium* that the historical fate of monasticism must be decided. The softening of this difference will correspond to the progressive clericalization of monks and their increasing integration into the Church, while its accentuation will correspond to tensions and conflicts between the orders and the Curia.

The explosion of religious movements between the twelfth and the thirteenth century is the moment when these tensions reach their critical point. It is significant that it is precisely the principle of the separation between *opus operans* and *opus operatum* that the movements intended above all to call into question. Thus the Waldensians’ objection to the Church is not only the inefficacy of sacraments administered by an unworthy priest, but even more radically, the principle according to which the law of binding and loosing, of consecrating and blessing and or administering the sacraments do not derive from *ordo* and *officium* but from merit. It is, that is to say, a question not of right and hierarchical succession, but of imitation of the apostolic life. In the words of Alan of Lille:

Aiunt predicti heretici, quod magis operantur meritum ad consecrandum vel benedicendum, ligandum et solvendum quam ordo et officium. . . . Dicunt etiam se posse consacrare, ligare et solvere, quia meritum dat potestatem, non

officium et ideo qui se dicunt apostolorum vicarios, per merita debent habere eorum officia [The heretics say in their preaching that merit works more toward consecrating and blessing, binding and loosing than order and office. . . . They also say they can consecrate, bind, and loose themselves, since merit gives them that power, not office, and indeed those who call themselves vicars of the apostles must have their offices through merit.]; *De fide contra hereticos*, *PL*, 210, 358; qtd. in Grundmann, pp. 93/42)

The principle according to which it is not office that is to confer priestly power, but the *meritum vitae*, is stated also by the jurist Hugh of Speroni, to which the *magister* Vacarius objects in the name of the Church that “the priesthood is a matter of law” (*Sacerdotium res juris est*) and that office has nothing in common with religion and love (*quid enim commune habet officium administrationis, qui est in rebus ipsis, ad meritum religionis et caritatis, quae est in mente ipsius hominis*; Grundmann, p. 515).

What in both cases is stigmatized as heresy is not, in truth, a doctrinal principle, but only the necessary consequence of a spiritual attitude that makes form of life and not office the decisive question.

✠ Grundmann recalls that it is precisely to confront this heresy that Innocent III makes reference to the principle of the distinction between *opus operans* and *opus operatum*: *In sacramento corporis Christi nihil a bono maius, nihil a malo minus perficitur sacerdote . . . quia non in mente sacerdotis, sed in verbo conficitur creatoris. . . . Quamvis igitur opus operans aliquando sit immundum, semper tamen opus operatum est mundum* (“In the sacrament of the body of Christ nothing more is accomplished by a good priest, and nothing less by a bad priest . . . because it is confectioned not through the merit of the priest, but through the word of the Creator. . . . Therefore, although the one doing the work is sometimes unclean, nevertheless the work done is always clean”; *De sacro altaris mysterio*, *PL*, 217, 844; qtd. in Grundmann, pp. 519). The separation between life and office could not be expressed in clearer terms.

2.7. Franciscanism represents the moment when the tension between *forma vitae* and *officium* is released, not because life is absorbed into liturgy, but on the contrary, because life and Divine Office reach their maximum disjunction. In Francis, there cannot be any claim of *meritum vitae* against *ordo* as in the religious movements contemporary with him, nor as in the origins of monasticism, a transformation of life into liturgy and incessant prayer, because the life of the Friars Minor is not defined by *officium* but solely by poverty. Naturally both the Rule and the Testament and letters mention the Office, but it is evidently only the point in which “living according to the form of the holy Gospel” intersects with “living according to the form of the holy Roman Church.” It is significant

that the Testament, after having distinguished the two forms of life and defined poverty, recalls without any emphasis and almost fleetingly that *officium dicebamus clerici sicut alios clericos, laici dicebant pater noster* (“the clergy say the Office like other clergy, and the lay brothers say the Our Father”). And the *Regula bullata* can soberly pronounce: “The clerical brothers shall celebrate the Divine Office according to the rite of the holy Roman Church. . . . The lay brothers, however, shall pray twenty-four Our Fathers . . .” (Francis 1, 1, p. 139). For the clerics, “who live rightly according to the form of the Roman Church [*qui vivunt recte secundum formam Ecclesiae Romanae*]” (Francis 1, 1, pp. 100/35), it is a matter of observing an ecclesiastical precept, for lay people of reciting the prayer that Francis preferred above all others—but in no case does the Divine Office define Franciscan identity (supposing that it would make sense to speak of identity for a life that refuses any property). For this reason, Francis’s gesture knows none of the “anticlericalism” that is so characteristic of many spiritual movements that are contemporary with him. He can always give to the Church what is the Church’s without polemic, namely the administration of the *officium* that belongs to it. “No one is to judge [the priests] even if they are sinners” (Francis 1, 100/35), reads one admonition; and even if Francis, faithful in this respect to the monastic tradition, can remind the clerics in the *Letter to the Whole Order* that they should say the Office with devotion, “so that the voice may blend with the mind” (*ibid.*, pp. 208/60), both the Testament and the admonitions confirm that the ministry of the “most holy Body and Blood of our Lord Jesus Christ” belongs solely to priests (pp. 222/53).

The distinction between the two forms of life which come into contact in the Office was, however, so sharp that in the first “form of life or rule,” written *paucis verbis et simpliciter* (“simply and in a few words”), the Office was not mentioned at all. The first life of Thomas Celano relates, in the same sense, that the brothers who assembled around Francis at Rivortorto “did not yet know the Office” and he “insistently told them for this reason that he was teaching them to pray” (Francis 2, 78/44).

✠ The importance of the clear distinction between the two forms of life in the Testament of Francis (“living according to the form of the holy Roman Church” and “living according to the form of the holy Gospel”) has escaped scholars and commentators, and yet it is only starting from this distinction that Francis’s strategy with respect to the Church becomes fully understandable.

Even if Francis affirms many times the unconditional subjection of the Friars Minor to the clergy, this is possible and acquires its sense only on the basis of the radical hetero-

geneity of the two forms of life. And it is significant that when Francis composes for the brothers an Office for the passion, he chooses to begin with the verse of the Psalms (55:8) that rings out: *Deus vitam meam annuntiavi tibi*, "I have declared to you my life" (Francis I, 1, pp. 130/81).

2.8. An analogous disjunction occurs, as we have seen, between life and law. Franciscanism, more radically than other contemporary religious movements and more than any other monastic order, can be defined as the invention of a "form of life," that is, of a life that remains inseparable from its form. This is not because it is constituted as an *officium* and a liturgy, nor because the law has for its object the relation between a life and its form, but precisely by virtue of its radical extraneousness to law and liturgy. Certainly monasticism is from the beginning the invention of a way of life, but this was essentially a *regula vitae*, an unprecedented intensification of prayer and *officium*, which (in having become coextensive with life) was to exercise a decisive influence on the elaboration of Church liturgy. Precisely for this reason, however, it was to fatally clash with the problem of a growing integration into the sphere of the Church, which made of liturgy and the Divine Office its practice par excellence. The religious movements contemporary with Franciscanism, on the other hand, certainly decisively placed their claims, including their claims to poverty, on the level of life, but precisely insofar as they did not succeed in identifying in form of life an element that was radically heterogeneous to institutions and law, they were to end by putting themselves forward as the true Church and entering into conflict with the Church hierarchy.

If Franciscanism succeeded in avoiding the decisive conflict with the Church for almost a century after the death of its founder, this is due to the foresight of Francis, who in distinguishing *forma vitae* and *officium*, "living according to the form of the holy Gospel" and "living according to the form of the holy Roman Church," had succeeded in making of the Minors' life not an unceasing liturgy, but an element whose *novitas* seemed completely extraneous to both civil and canon law. Life according to the form of the holy Gospel is situated on a level that is so distinct from that of the life according to the form of the holy Roman Church that it cannot enter into conflict with it. *Altissima paupertas*, "highest poverty," is the name that the *Regula bullata* gives to this extraneousness to the law (Francis I, 2, pp. 114/182), but the technical term that defines the practice in which it is actualized in the Franciscan literature is *usus* (*simplex usus, usus facti, usus pauper*).

## Highest Poverty and Use

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**3.1.** The introduction of the concept of *usus* to characterize the Franciscan life comes from Hugh of Digne and Bonaventure. Hugh of Digne's *De finibus paupertatis* (On the Ends of Poverty) appears to be a brief treatise that is, at least in appearance, juridical, which aims to define poverty with respect to ownership. The definition of poverty is purely negative: it is *spontanea propter Dominum abdicatio proprietatis* ("the voluntary abdication of ownership for the Lord's sake"), while property is defined technically as *ius domini, quo quis rei dominus dicitur esse, quo iure res ipsa dicitur esse sua, id est domini propria* ("the right of dominion, by which someone is said to be lord of some thing, by which right the thing itself is said to be his, that is proper to the lord"; Hugh of Digne 2, p. 283). There follow the definitions of the two ways in which property is acquired according to Roman law: occupation (distinguished according as it refers to someone's goods of property or to things *que in nullis sunt bonis*) and obligation (which can be *mutata* or *non mutata*).

The concept of use is introduced a few pages later, in response to the objection that since natural law prescribes that every person should preserve his or her own nature, one cannot renounce those goods without which this conservation would be impossible. Natural law, Hugh responds, prescribes that everyone have use of the things necessary to their conservation, but does not obligate them in any way to ownership (*Haec siquidem, ut earum habeatur usus, sine quibus non conservatur esse nature, sed ut proprietates habeatur, nullatenus compellit*; *ibid.*, pp. 288–89). "Conserving one's nature does not in fact represent ownership of food and clothing, but use; moreover it is possible always and everywhere to renounce ownership, but to renounce use never and nowhere [*proprietati ubique et semper renunciari potest, usui vero nunquam et nusquam*]. The use of things is, therefore, not only lawful, but also necessary" (*ibid.*).

Use, being opposed in this way to the right of ownership, is not, however, in any way defined. It is not surprising, moreover, that as we have seen, Hugh can

present the Franciscan condition, even if perhaps ironically, in juridical terms, as the right to have no rights.

In the *Apologia pauperum* (*Defense of the Mendicants*), written in 1269 in response to the attack of the secular masters in Paris against the mendicant orders, Bonaventure distinguishes four possible relations to temporal things: ownership, possession, usufruct, and simple use (*cum circa res temporales quatuor sit considerare, scilicet proprietatem, possessionem, usumfructum et simplicem usum*, “four matters must be considered in dealing with temporal goods, namely, ownership, possession, usufruct, and simple use”; Bonaventure, *Apologia pauperum*, pp. 366/307–8). Of these, only use is absolutely necessary to human life and, as such, unrenounceable (*et primis quidem tribus vita mortalium possit carere, ultimo vero tanquam necessario egeat: nulla prorsus potest esse professio omnino temporalium rerum abdicans usum*; *ibid.*). The Friars Minor, who have devoted themselves to following Christ in extreme poverty, had consequently renounced any right of ownership, while preserving, however, the use of things that others concede to them. The treatment of use that follows is always developed in strict relationship to law. Bonaventure knows (this was one of the secular masters’ objections) that in consumable things ownership cannot be separated from use, but finds in Gregory IX’s bull *Quo elongati* the juridical basis for their separation. Establishing that “property may be possessed neither individually nor in common” by the Friars Minor, but that “the brotherhood may have use [*usum habeat*] of equipment or books and such other moveable property as it is permitted, and that individual brothers may use these things [*his utantur*],” the pope, whose *auctoritas* is superior to any other, “distinguishes between ownership and use [*proprietatem separavit ab usu*], retaining the former for himself and the Church, while conceding the latter for the needs of the friars” (*ibid.*, pp. 368/308). Even more than in Hugh of Digne, the argumentation here is essentially juridical: just as in Roman law the *filiusfamilias* can receive from his father a *peculium*, of which he has use but not ownership, so the Friars Minor are *parvuli et filiifamilias* of the pope, to whom the ownership of the things that they use is due (*ibid.*). And as one cannot acquire the ownership of a good if one does not have the *animus acquirendi* or *possidendi* (“will to acquire” or “possess”), in the same way the Friars Minor, who by definition lack such *animus* and indeed have the contrary will, “cannot retain or obtain possession of a particular thing” (pp. 370/310).

The claim of use against the right of ownership is taken to such a point, at least in appearance, on the level of law that scholars have been able to ask themselves if *simplex usus* is not something like a royal law for Bonaventure (Tarello, p. 354), or if it is not the law itself that is to produce a juridical void within itself

(Coccia, p. 140). If it is nevertheless certain that the juridical argumentation is here bent on opening a space outside the law, it is just as certain that the deactivation of law is carried out not by law itself but through a practice—the *abdication iuris* and use—that law does not produce but recognizes as external to itself.

3.2. The bull *Exiit qui seminat* (He Who Sows Went Forth), promulgated by Nicholas III in 1279 to put an end to the dispute between secular masters and mendicant orders, accomplishes a further step in the definition of use, but always in relation to law. As has been noted (Mäkinen, p. 96), the pope, who seems to know and approve the theses of Bonaventure (at times almost literally), nonetheless introduces two important variations into Bonaventure's series of four possible relations to *res temporales* ("temporal things"). On the one hand, along with ownership, possession, and usufruct, a fourth juridical figure is introduced, the *ius utendi* ("right of use"). On the other, Bonaventure's *simplex usus* ("simple use") appears here as *simplex facti usus* ("simple de facto use"). The meaning of this specification is defined a little later: it is a matter of a use that is "not the *usus iuris* but the *usus facti* inasmuch as having the name of 'facti' it offers however in the using no right to those so using" (*usus non iuris sed facti tantummodo nomen habens, quod facti est tantum, in utendo praebet utentibus nihil iuris*; *Exiit*, §9).

The specification is important not only because, in this way, the conceptual opposition no longer runs between *dominium* and *usus*, but within use itself, between *ius utendi* ("the right of using") and *simplex usus facti* ("simple de facto use"; Lambertini, p. 176). What is decisive is, rather, the opposition between law and fact, *quid iuris* and *quid facti*, which as such was well known to jurists, not only in a general way but precisely with respect to use. In this sense, Azzo's *Summa institutionum* distinguished, precisely with respect to consumable things, a use that is right (*ius*) or servitude (*servitus*) from a "use that is a fact or consists in a fact, like drinking and eating [*qui est factum vel in facto consistit, ut bibendo et comedendo*]" (qtd. in Mäkinen, p. 98). It is interesting to note that here the distinction *quid iuris*–*quid facti* does not serve, as in the juridical tradition, to identify the situation of fact corresponding to a certain juridical case. Instead, as we will see later in the Franciscans' arguments against John XXII, drinking and eating are presented as paradigms of purely factual human practice lacking any juridical implication.

The apparatus on which the bull is founded is, as already in Bonaventure, the separation of ownership and use. It is, however, with perfect consistency that Nicholas III can declare that the ownership of all the goods of which the

Franciscans have use pertains to the pope and the Church (*proprietatem et dominum . . . in Nos et Romanam Ecclesiam apostolica auctoritate recepimus*; *ibid.*, §11).

3.3. The dispute between Conventuals and Spirituals, which caught fire after the proclamation of *Exiit qui seminat*, even if it did not yield a new definition of use, fixes some of its characteristics and formulates demands that it is useful to register. From the perspective that interests us here, the stakes in the dispute can be gathered adequately from the objections of Ubertino of Casale to the *Declaratio communitatis*, in which the Conventuals had laid out their theses. According to the *Declaratio*, the *usus facti* in which Franciscan poverty is manifested is identified without remainder with the renunciation of ownership and not, as the Spirituals wished, with an intrinsic characteristic of use itself, the *usus pauper* (poor use): “The perfection of the rule consists in the renunciation of ownership and not in the scarcity of use” (*abdicio autem dominii et non usus paritas est illa in qua consistit perfectio regulae*; Ubertino, p. 119). To get around the purely negative character of this definition, the declaration specifies that, like any *preceptum negativum*, this prescribes in truth two positive acts: “wanting to have nothing of one’s own as the interior act, and using the thing as not one’s own as the exterior act” (*velle non habere proprium quantum ad actum interiorem et uti re ut non sua quantum ad actum exteriorem*; *ibid.*, pp. 119–20). Once more, the exterior aspect of the *abdicio proprietatis* is defined with a simple reversal of the formula that, in Roman law, defined the *animus possidendi*: to use the thing as one’s own (*ut re ut sua*). And precisely insofar as the Friars Minor always use the thing as not their own, continues the *Declaratio*, “one and the same act can be both poor and rich use [*potest esse aliquando idem actus vel usus pauperis et divitis*], as is evident in the case when the poor person eats in the house of a rich person the same food as the latter” (p. 119).

It is this purely negative and indeterminate definition that Ubertino intends to refute:

The act and its object are correlative and the reason for one is included in that of the other. . . . Since then negative precepts imply that there is not only an interior positive act, but also an external one . . . when one says that the exterior act of poverty is to use the thing as not one’s own, I object: the expression “as not one’s own” does not designate the act or the formal reason of an exterior act, but is identified with the very renunciation of ownership on one’s own part; it is necessary, however, that just as those who pronounce the vow of obedience also vow an extrinsic act determined according to the time and place, even if in obeying they use their own will as not their own, so also those who vow themselves to poverty vow the poor use [*usum pauperem*] as well, even if in any case they use things as not their own. (p. 166)

The demand of the Spirituals here is that use not be defined only negatively with respect to the law (*uti re ut non sua*), but that it would have its own formal justification and be worked out in an objectively determined operation. For this reason, mobilizing philosophical conceptuality, Ubertino defines the relationship of poor use and renunciation to poverty in terms of the relation between form and material (*abdicationem enim propietatis omnium se habet ad pauperem seu moderatum usum, sicut perfectibile ad suam perfectionem et quasi sicut materia ad suam formam*; p. 147), or, invoking the authority of Aristotle, as a relation of operation and habit (*sicut operatio ad habitum comparatur*; p. 148). Olivi had already gone down this road, writing that “poor use is to the renunciation of every right as form is to material” (*sicut forma se habet ad materiam, sic usus pauper se habet ad abdicationem omnis iuris*), and that, however, without *usus pauper*, the renunciation of the right of ownership remains “void and vain” (*unde sicut materia sine forma est informis et confusa, instabilis, fluxibilis et vacua seu vana et infructuosa, sic abdicationem omnis iuris sine paupere usu se habet*, “hence just as material without form is formless and confused, unstable, fluctuating, vacant or void, and fruitless, so is the abdication of every right without poor use”; Ehrle, p. 508).

In truth, more than in the pauperistic arguments of the Spirituals, it is in the Conventuals’ apparently more indeterminate arguments that it is possible to gather the elements of a definition of use with respect to ownership, which does not insist only on their juridical aspects, but also and above all on their subjective aspects. In one of the treatises published by Delorme, the *uti re ut sua* (using the thing as one’s own) as defining characteristic of ownership is radicalized in psychological terms, to the point of rendering ownership and use incompatible in the exemplary case of the miser and *amator divitiarum*:

The goal of riches is twofold: one intrinsic and primary, which is the use of things as one’s own, and another extrinsic and less primary, by means of which each one uses things either for his own pleasure, as the intemperate one does, or for the welfare and perfect sustenance of nature, as the temperate one does, or for the necessary sustenance of life, as the evangelically poor does, as is appropriate to their condition. That using something for one’s own pleasure [*ad delectationem*] does not constitute, in itself, the goal of the one who loves riches is evident in the case of the miser, who loves riches above all, yet does not use them for his own pleasure and in fact almost doesn’t dare to eat, and the more the love of riches grows in him the more the use he makes of them diminishes, because he does not want to use them, but to keep them and amass them as his own [*quia eis non vult uti, sed conservare ut proprias et congregare*]. . . . Using things for pleasure thus is not the goal toward which ownership is oriented in itself and, consequently,

the one who renounces ownership does not necessarily also renounce this second use. (Delorme, p. 48)

Even if the argumentation here is directed against Ubertino's thesis according to which "one seeks riches in view of use and the one who refuses the first must therefore refuse the second as well to the degree in which it is superfluous," use (in particular insofar as it concerns the pleasure that it brings along with it) is here restored to a concreteness that is generally lacking in Franciscan treatises on poverty.

3.4. The critical moment in the history of Franciscanism is when John XXII's bull *Ad conditorem canonum* once again calls into question the possibility of separating ownership and use and in this way cancels the very presupposition on which Minorite *paupertas* was founded.

The argument of the pope, who had an undoubted competence in both canon and civil law, rests on the identification of a sphere (consumable things such food, drink, clothes, and the like, essential to the life of the Friars Minor) in which the separation of ownership from use is impossible. Already according to Roman law, usufruct referred only to those goods that could be used without destroying their substance (*salva rerum substantia*). Consumable things, however, with respect to which one speaks not of usufruct but of quasi-usufruct, become property of the one to whom they are left in use. Even Thomas, whose canonization John XXII prepared, had stated that in things "the use of which consists in their consumption . . . the use of the thing must not be reckoned apart from the thing itself, and whoever is granted the use of the thing, is granted the thing itself [*cuiumque conceditur usus, ex hoc ipso conceditur res*]" (*Summa theologica*, 2a, 2ae, q. 78, art. 1).

Founding itself on this tradition, the bull *Ad conditorem canonum* confirms that in consumable things it is impossible to constitute or have a *ius utendi* or a *usus facti*, if one claims to separate them from ownership of the thing (*nec ius utendi nec usus facti separata a rei proprietate seu dominio possunt constitui vel haberi*; qtd. in Mäkinen, p. 165). The difference between *ius utendi* and *usus facti*, on which the theses of Bonaventure and Nicholas III rested, is thus neutralized. And to exclude the very possibility of claiming a de facto use or an *actus utendi sine iure aliquo*, the bull denies that such a use, insofar as it coincides with the destruction of the thing (*abusus*), can be possessed (*haberi*) or even exist as such *in rerum natura*.

Here the bull's argument shows all its subtlety, not only juridical but also philosophical. The purely ontological problem is whether a use that consists only in abuse (that is, in destruction) can exist and be possessed other than as

a right of ownership (common law defined ownership precisely as *ius utendi et abutendi*). In use, argues the pope, one must distinguish three elements, a personal servitude devoted to the usuary, a *ius personale*, and the *actus utendi*, which is neither servitude nor right but only a certain practice and use (*tantum actus quidam et usus*). “For if such a use can be had,” continues the pope, “it would be had either before the act itself, or in the act itself, or after the completed act of this sort. But that this cannot happen appears from this: what does not exist cannot be had. Now it is clear that the act itself, before it is performed, or even while it is being performed, or after it has been finished, is not in reality; from this it follows that it cannot at all be had [*actus ipse, antequam exercetur, aut etiam dum exercetur, aut postquam perfectus est, in rerum natura non est: ex quo sequitur, quod haberi minime potest*]” (§6). An act in becoming (*in fieri*), insofar as a part of it has already passed and another is still to come, does not exist properly in nature, but only in memory or expectation (*non est in rerum natura, sed in memoria vel apprehensione tantum*): it is an instantaneous being, which as such can be thought, but not possessed (*quod autem fit instantaneum est, quod magis intellectu quam sensu perpendi potest; ibid.*).

✠ By radically opposing use and consumption, John XXII, in an unconscious prophecy, furnishes the paradigm of an impossibility of using that was to find its full realization many centuries later in consumer society. A use that it is never possible to have and an abuse that always implies a right of ownership and is moreover always one’s own indeed define the very canon of mass consumption. In this way, however, perhaps without taking account of it, the pope also lays bare the very nature of ownership, which is affirmed with the maximum intensity precisely at the point where it coincides with the consumption of the thing.

3.5. The responses of the Franciscan theorists assembled around Minister General Michael of Cesena to the decretal of John XXII insist obstinately on the possibility and legitimacy of the separation of *usus facti* from ownership. It is in the attempt to prove this separability that they moreover reach the point of affirming a genuine primordiality and heterogeneity of use with respect to dominion. Already the *declaratio* of the Franciscans, which had provoked the papal decretal, maintained that in the life of the apostles, what was common was not ownership, but only use (“the air and the sunlight are common to all in the sense that they are common only according to common use [*solum secundum usum communem*]”; Mäkinen, p. 160). In his *Tractatus de paupertate*, Bonagratia develops this thesis by stating that in the state of paradise, the divine commandment to eat from the trees of the garden (save one) implied not only that their use was unrenounceable but that, according to natural and divine

law, what was originally common was not ownership but use (*de iure nature et divino communis usus omnium rerum que sunt in hoc mundo omnibus hominibus esse debuit. . . . ergo usus rerum que per usu consumuntur non habet necessarium annexum meum et tuum*; Bonagratia, p. 504). The common use of things also genealogically precedes common or divided ownership of things, which derives only from human law.

Particularly interesting from a philosophical point of view are Francis of Ascoli's objections to John XXII's argument, according to which the de facto use of consumable goods does not exist in nature and thus cannot belong to anyone. To justify in this case as well the possibility of use, Francis elaborates a true and proper ontology of use, in which being and becoming, existence and time seem to coincide.

The use of consumable goods (which, with a significant term, he also calls *usus corporeus*) belongs to the "successive" kind of things, which one cannot have in a simultaneous and permanent way (*simul et permanenter*). As consumable goods exist in becoming (*in fieri*), so also is their use in becoming and successive (Francis of Ascoli, p. 118). "In that whose being coincides with becoming [*cuius esse est euis fieri*]," he argues with extraordinary philosophical subtlety,

being signifies becoming; but the being of a successive thing is its becoming and, conversely, its becoming is its being [*suum fieri est suum esse*]: so the being of actual use signifies its becoming and, conversely, its becoming signifies its use. It is thus false that actual de facto use [*usus actualis facti*] never exists in nature, otherwise for the same reason one would have to say that a de facto use never happens [*fieri*] in nature, since its being is its becoming, and that which is its becoming, if it never is in nature, never happens in nature [*si numquam est in rerum natura, numquam fit in rerum natura*], which is absurd and erroneous.

Use appears here as a being that is made of time, whose thinkability and existence coincide with that of time: "If use, because it is not, can never be possessed, for the same reason therefore neither can time, which no longer is insofar as it is de facto use, be possessed. But then what is written in Ecclesiastes (3:1) would be false: 'For everything there is a time'" (ibid.). In a different way than in Bonagratia, the heterogeneity and priority of use with respect to law is defined by Ockham in terms of the essential difference between the simple act of using (*actus utendi*) and the right to use (*ius utendi*). At the beginning of the *Opus nonaginta dierum* (*Work of Ninety Days*), after having distinguished four meanings of the term *usus* (use as opposed to *fructio*, use in the sense of custom, use as the act of using an external thing—*actus utendi re aliqua exteriore*—and use in the juridical sense, namely the right to use someone else's things, save their substance), he res-

olutely identifies the Franciscan *usus facti* with the simple act of using something: “they (the Franciscans) say that de facto use is the act of using some external thing—for example, an act of living in, eating, drinking, riding, wearing clothes, and the like” (*actus utendi re aliqua exteriori, sicut inhabitare, comedere, bibere, equitare, vestem induere et huiusmodi*; Ockham, 1, pp. 300/58). In the same sense, Richard of Conington distinguishes from law the *applicatio actio utendi ad rem*, which in itself is “a purely natural thing” and, as such, is neither just nor unjust: “In fact the horse applies the *actus utendi* to the thing, and thus its act is neither just nor unjust” (Richard of Conington, p. 361).

The difference between *usus facti* and *usus iuris* coincides in Ockham with that between the pure factual exercise of a vital practice and the right to use, which is instead always “a certain determinate positive right, established by human ordinance, by which one has the licit power and authority to use things belonging to another, preserving their substance” (*quoddam ius positivum determinatum, institutum ex ordinatione humana, quo quis habet licitam potestatem et auctoritatem uti rebus alienis, salva rerum substantia*; Ockham, 1, pp. 301/60). There is, in this sense, a radical heterogeneity between right and act: “In whatever way *usus iuris* is taken, therefore, it is always a right and not an act of using. Thus anyone who rents a house to live in has *usus iuris* in the house even while he is outside the house and not currently living in it. *Iuris* is added to distinguish it from *usus facti*, which is a certain act performed in relation to an external thing” (ibid., pp. 302/60–61).

✠ It is from this sharp separation of ownership and use that scholars like Michel Villey and Paolo Grossi have been able to locate the foundations of a modern theory of subjective law and a pure theory of ownership understood as *actus voluntatis* precisely in the Franciscan masters. It is necessary, however, not to forget that the definition of the right of ownership as *potestas* in Ockham and that of ownership as *uti re ut sua* and will for dominion in both the treatises published by Delorme and in Richard of Conington and Bonagratia were formulated only to found the separability and autonomy of use and to legitimate poverty and the renunciation of any right. The theory of subjective law and *dominium* was elaborated by the Franciscans in order to deny or rather to limit the power of positive law, and not, as Villey and Grossi seem to think, to found its absoluteness and sovereignty. Moreover, precisely for this reason, it is just as certain that they had to define its proper characteristics and its autonomy.

3.6. Perhaps nowhere does the ambiguity of the Franciscan gesture with respect to law appear with greater evidence than in Olivi’s question: *Quid ponat ius vel dominium?* Since what is at stake for Olivi is the need to respond to the question of whether ownership or royal or priestly jurisdiction add something

real (*aliquid realiter addant*) to the person who exercises them or to the things or persons over whom they are exercised, and furthermore whether signification in act adds something real to the substance of signs or the things signified, one can say that the *quaestio* contains nothing less than an ontology of right and of signs (including those peculiar efficacious signs that the sacraments are).

The connection of the sphere of law and that of signs is not fortuitous, because it shows that what is in question is the mode of existence and the proper efficacy of those beings (law, command, signs) on which the powers that regulate and rule human society are founded (including those special societies that the monastic orders are). The treatment of the problem unfolds by opposing seven positive arguments (which prove that rights and signs *aliquid realiter addant*, add something real) and the same number of negative arguments (which argue that they *nihil realiter addant*, add nothing real).

Grossi has read this text as the first work in the history of law in which “being proprietary, *proprietas*, was the object of a theoretical construction that raised it to the status of a genuinely distinct sociological type, a type constructed on solid theological presuppositions” (Grossi, p. 335). If it is true that Olivi proposes in the *quaestio*, as we have seen, an ontology of law and of signs, one nonetheless risks allowing the essential thing to escape if one does not specify the modality in which this ontology is articulated. Let us consider Olivi’s conclusion with respect to the opposing arguments: “Regarding the understanding of these arguments and without prejudice to a better opinion, it seems that one can affirm with probability that the above-mentioned customs (ownership, royal jurisdiction, etc.) truly set down something real, but do not, however, add any different essence that really informs the subjects of which and in which they are said” (*vere ponunt aliquid reale, non tamen addunt aliquam diversam essentiam realiter informantem illa subiecta, quorum et in quibus dicuntur*; Olivi 2, p. 323). In the terms of medieval philosophy, this means that the realities in question are not situated on the level of *essence* or of the *quid est*, but only in that of *existence* or of the *quod est*; they are thus, as Heidegger will write many centuries later, purely *existential* and not *essential*.

The importance of this *quaestio* from the point of view of the history of philosophy is, thus, that in it we see articulated, according to an intention that undoubtedly characterized Franciscan thought, an ontology that is so to speak existentialist and not essentialist. This means that in the very moment in which one admits a real efficacy to right and signs (*ponunt aliquid reale*), they are demoted from the level of essences and made to hold as pure effectualities that depend solely on a command of the human or divine will.

This is particularly evident in the case of signs: “Insofar as you can consider them with subtlety and clarity,” writes Olivi,

you will find that signification does not add to the real essence of the thing that is used as a sign anything other than the mental intention of those who have instituted it and accepted its validity and of those who accept it in action in order to signify and of those who hear it or receive it as a sign. But in the voice or gesture that are produced by the command of this intention [*ab imperio talis intentionis*], signification adds to the intention of the one signifying and to the essence of the thing that functions as a sign the habit of commanded effect [*habitudinem effectus imperati*] and the command produced by the intention of the one who signifies. (Ibid., p. 324)

In the case of those special signs that the sacraments are and in the case of royal authority, the foundation of their efficacy is to be sought in the last analysis in the divine will, yet this does not take anything away from the fact that even here we have to do with a pure and absolutely inessential command. The sphere of human practice, with its rights and its signs, is real and efficacious, but it produces nothing essential, nor does it generate any new essence beyond its own effects. The ontology that is in question here is thus purely operative and effectual. The conflict with law—or rather, the attempt to deactivate it and render it inoperative through use—is situated on the same purely existential level on which the operativity of law and liturgy acts. Form of life is the purely existential reality that must be liberated from the signature of law and office or duty (*ufficio*).

3.7. We will attempt to pull together, albeit only provisionally, the conclusions of our analysis of poverty as use in the Franciscan theorists. It is necessary first of all not to forget that this doctrine was elaborated within a defensive strategy against attacks first from the secular masters of Paris and then from the Avignon Curia, which called into question the Franciscan refusal of any form of ownership. The concept of *usus facti* and the idea of a separability of use from ownership undoubtedly represented an effective instrument from this perspective, which permitted them to give consistency and legitimacy to the generic *vivere sine proprio* (“living without property”) of the Franciscan rule, and even secured, at least early on with the bull *Exiit qui seminat*, a perhaps unexpected victory against the secular masters. However, as often tends to happen, this doctrine, precisely insofar as it essentially proposed to define poverty with respect to the law, revealed itself to be a double-edged sword, which had opened the path to the decisive attack carried out by John XXII precisely in the name of the law. Once the status of

poverty was defined with purely negative arguments with respect to the law and according to modalities that presupposed the collaboration of the Curia, which reserved for itself the ownership of the goods of which the Franciscans had the use, it was clear that the doctrine of the *usus facti* represented for the Friars Minor a very fragile shield against the heavy artillery of the Curial jurists. It is possible, in fact, that in accepting Bonaventure's doctrine on the separability of use from ownership in *Exiit qui seminat*, Nicholas III was conscious of the usefulness of defining a form of life that presented itself as otherwise unassimilable for the ecclesiastical order in juridical terms in this way, even if purely negative ones.

One can say that from this point of view, Francis was more prescient than his successors, in that he refused to articulate his *vivere sine proprio* in a juridical conceptuality and left it completely indeterminate. But it is also true that the *novitas vitae* that could be tolerated in a small group of young monks (since such were the Franciscans at first) could hardly be accepted for a large and powerful religious order.

One can say that the arguments of the Franciscan theorists are the fruit simultaneously of an overvaluation and an undervaluation of law. On the one hand, they use its conceptuality and never call into question its validity or foundations, while on the other, they think they can secure with juridical arguments the possibility, through abdicating the law, of pursuing an existence outside the law.

Thus the doctrine of *usus facti*: it is obviously founded on the possibility of distinguishing de facto and de jure use and, more generally, *quid iuris* and *quid facti* (what pertains to law and what pertains to fact). The force of the argument is in laying bare the nature of ownership, which is thus revealed to have a reality that is only psychological (*uti re ut sua*, intention to possess the thing as one's own) and procedural (power to claim in court). However, instead of insisting on these aspects, which would have called into question the very ground of property law (which, as we have seen in Olivi, loses all essentiality, presenting itself as a mere signature, even if an effective one), the Franciscans prefer to take refuge in the doctrine of the juridical validity of the separation of de facto use and right.

However, this amounts to disregarding the very structure of law, which is constitutively articulated on the possibility of distinguishing *factum* and *ius* by instituting between them a threshold of indifference, by means of which the fact is included in the law. Thus, with respect to ownership, Roman law knew figures, like the *detentio* or *possessio*, which are solely states of fact (having a thing factually in one's own possession, independently of a juridical title, as happened precisely in the Franciscans' de facto use), but that as such could have juridical consequences.

Dedicating an already classic work to this theme, Savigny thus wrote that “possession in itself, according to the original notion of it, is a simple fact [*ein blosses Factum ist*]; it is just as certain that legal consequences are bound up with it. Therefore, it is at the same time both a right and a fact [*Factum und Recht zugleich*], namely, fact according to its nature, and equivalent to a right in respect of the consequences by which it is followed” (Savigny, pp. 43/17). Accordingly, Savigny could define possession as “the condition of fact [*factische Zustand*], corresponding to property as the condition of law [*rechtlichen Zustand*]” (ibid., pp. 27/3). The *factum* of possession forms a system, in this sense, with the right of ownership.

In the same way, in Roman law things that are not the property of anyone, like shells abandoned on the seashore or wild animals, are called *res nullius*. But since the first one who collects or captures them becomes ipso facto their owner, they are only the presupposition of the act of appropriation that sanctions their ownership. The factual character of use is not in itself sufficient to guarantee an exteriority with respect to the law, because any fact can be transformed into a right, just as any right can imply a factual aspect.

For this reason, the Franciscans must insist on the “expropriative” character of poverty (*paupertas altissima . . . est expropriativa, ita quod nichil nec in communi nec in speciali possint sibi appropriare, nec aliquis frater nec totus ordo*, “highest poverty . . . is expropriative, because it can appropriate nothing either in common or individually, neither to any brother nor to the whole order”; Ehrle, p. 522), and on the refusal of any *animus possidendi* on the part of the Friars Minor, who make use of things *ut non suae* (as not their own) but in this way entangle themselves more and more in a juridical conceptuality by which they will finally be overwhelmed and defeated.

3.8. What is lacking in the Franciscan literature is a definition of use in itself and not only in opposition to law. The preoccupation with constructing a justification of use in juridical terms prevented them from collecting the hints of a theory of use present in the Pauline letters, in particular in 1 Corinthians 7:20–31, in which using the world as not using it or not abusing it (*et qui utuntur hoc mundo, tamquam non utantur*; the original Greek *hōs mē katachromenoi* means “as not abusing”) defined the Christian’s form of life. This could have furnished a useful argument against John XXII’s theses on the use of consumable things as *abusus*. In the same sense, the conception of poverty as “expropriative” on the part of the Spirituales could have been generalized beyond law to the whole existence of the Friars Minor, connecting it to an important passage from the *Admonitiones*, in which Francis identified original sin with the appropriation of

the will (*ille enim comedit de ligno scientiae boni, qui sibi suam voluntatem appropriat*; Francis I, I, p. 83). Precisely at the point in the elaboration of scholastic theology when the will had become the apparatus that permitted the definition of liberty and the responsibility of the human being as *dominus sui actus*, in the words of Francis the *forma vivendi* of the Friars Minor is, by contrast, that life which maintains itself in relation, not only to things, but even to itself in the mode of inappropriability and of the refusal of the very idea of a will of one's own (which radically gives the lie to the theses of historians of law who, as we have seen, perceive in Franciscanism the foundation of subjective law).

The exclusive concentration on attacks (first of the secular masters and then of the Curia), which imprisoned use within a defensive strategy, prevented the Franciscan theologians from putting it in relation with the form of life of the Friars Minor in all its aspects. And yet the conception of *usus facti* as a successive being that is always *in fieri* in Francis of Assisi and its consequent connection with time could have furnished the hint for a development of the concept of use in the sense of *habitus* and *habitudo*. This is exactly the contrary of that put forth by Ockham and Richard of Conington, who in defining *usus facti* once again by opposing it to law, as *actus utendi*, break with the monastic tradition that privileged the establishment of *habitus* and (with an obvious reference to the Aristotelian doctrine of use as *energeia*) seem to conceive the life of the Friars Minor as a series of acts that are never constituted in a habit or custom—that is, in a form of life.

Holding firm to this conception of use as act and *energeia* ended up blocking the Franciscan doctrine of use within the totally sterile conflict between the Conventuals, who underlined its nature as an *actus intrinsecus*, and the Spirituals, who demanded that this be translated into an *actus extrinsecus*. Instead of confining use on the level of a pure practice, as a fictitious series of acts of renouncing the law, it would have been more fruitful to try to think its relation with the form of life of the Friars Minor, asking how these acts could be constituted in a *vivere secundum formam* and in a habit.

Use, from this perspective, could have been configured as a *tertium* with respect to law and life, potential and act, and could have defined—not only negatively—the monks' vital practice itself, their form-of-life.

✠ Beginning in the twelfth century, we see alongside the rule in Augustinian, Benedictine, and Cistercian convents the birth of texts called *consuetudines* and at times *usus* (*usus conversorum*), which reach their greatest development later in the *devotio moderna*. The interpretation of these texts—which on the surface simply describe the monk's habitual restrictions, often in the first person (*Suscitatus statim volo surgere et incipere cogitare de materia preparando me studendo et habere sensus meos apud me in unum collectos . . . facto*

*prandio et hymno dicto sub silentio, calefacio me si frigus est*, “Having arisen I immediately wish to get up and begin to think about the materials to be prepared while studying myself and have my feelings before me collected into one. . . . Having eaten and said a hymn silently, I warm myself, if it is cold”; *Consuetudines*, pp. 1–2)—as complements or completions of the rules is misleading. In reality it is a matter of a restoration of the rules to their originary nature as transcriptions of the monks’ *conversatio* or way of life. The rule that, while arising out of habit and custom, had been progressively constituted as a Divine Office and liturgy returns now to presenting itself in the humble garb of use and life. The *Consuetudines*, that is to say, are to be read in the context of the process that, beginning in the thirteenth century, shifts the center of gravity of spirituality from the level of rule and doctrine to that of life and *forma vivendi*. But it is significant that form of life is attested in these writings only in the form of *consuetudo*, as if the actions of the monk acquired their own sense only by being constituted as use.

3.9. From this perspective, Olivi’s statement according to which *usus pauper* is to *abdicatio iuris* as form is to material acquires a new and decisive significance. *Abdicatio iuris* and life outside the law are here only the material that, being determined by means of *usus pauper*, must be made a form of life: *Sicut autem forma ad sui existentiam preexigit materiam tanquam sue existentie fundamentum, sic professio pauperis usus preexigit abdicationem omnis iuris tanquam sue grandissime existentie et ambitus capacissimam materiam*, “Just as form requires for its existence material as a foundation by which it has existence, so the profession of poor use requires the abdication of every right as the most capacious material by which it will have the greatest existence and scope” (Ehrle, p. 508). *Usus* here no longer means the pure and simple renunciation of the law, but that which establishes this renunciation as a form and as a way of life.

And it is precisely in a text of Olivi that this decisive relevance of the level of form of life reaches full theoretical consciousness and therefore also and for the first time an explicit justification in eschatological terms. In the eighth question *De perfectione evangelica*, Olivi accepts Joachim of Flora’s theses on the six ages of the world, divided according to three *status*: the Father (the Old Testament), the Son (the New Testament), the Spirit (end and fulfillment of the law), to which he adds eternity as the seventh period. However, according to Olivi, what defines the excellence of the sixth and seventh periods is the appearance not simply of the “person” of Christ, but of his “life”:

The sixth and seventh period could not constitute the end of the preceding periods, if in them the life of Christ did not appear in a special and unique way [*nisi in eis vita Christi singulariter appareret*] and if, through the spirit of Christ, there was not given to the world the special peace of the love of Christ and of his

contemplation. As indeed the person of Christ is the end of the Old Testament and of all persons, so the life of Christ is the end of the New Testament and, so to speak, of all lives [*sic vita Christi finis est Novi Testamenti et, ut ita dicam, omnium vitarum*]. (Olivi 3, p. 150)

Let us reflect on the theology of history that is implied in these theses. The advent of the age of the Spirit coincides, that is to say, not with the advent of the *persona* of Christ (which defined the second stage), but with that of his *vita*, which constitutes the end and fulfillment not only of the new law, but even of all lives (the “so to speak”—*ut ita dicam*—shows that Olivi is perfectly conscious of the novelty of his statement). Certainly the life of Christ had also appeared in the preceding epoch, according to a principle of epochal dispensation of “modes of life” in the history of the Church (“it is certain that the life of Christ is one and better than any other, but in the five preceding stages of the Church there have appeared successively many lives and many ways of life [*multae vitae et multi modi vivendi successive apparuerunt*]; *ibid.*, p. 157). Nevertheless it is only at the end of times (*in fine temporum*) that it can be manifested “according to full conformity to its unicity and its form” (*secundum plenam conformitatem suae unitati et specie*; *ibid.*). And just as at the moment of Christ’s first advent, John the Baptist had been elected “as a prophet and more than a prophet,” so also in the last time, Francis was chosen “to introduce and renew the life of Christ in the world” (*ad introducendam et renovandam Christi vitam in mundo*; *ibid.*).

The specific eschatological character of the Franciscan message is not expressed in a new doctrine, but in a form of life through which the very life of Christ is made newly present in the world to bring to completion, not the historical meaning of the “person” in the economy of salvation, so much as his life as such. The Franciscan form of life is, in this sense, the end of all lives (*finis omnium vitarum*), the final *modus*, after which the manifold historical dispensation of *modi vivendi* is no longer possible. The “highest poverty,” with its use of things, is the form-of-life that begins when all the West’s forms of life have reached their historical consummation.

# Threshold

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WHAT was lacking in the Franciscan doctrine of use is precisely the connection with the idea of form of life that Olivi's text seems to implicitly demand. It is as if the *altissima paupertas*, which according to the founder was to define the Franciscan form of life as a perfect life (and that in other texts, like the *Sacrum commercium Sancti Francisci cum Domina Paupertate*, effectively has this function), lost its centrality once it was linked to the concept of *usus facti* and ended up being characterized only negatively with respect to the law. Certainly, thanks to the doctrine of use, the Franciscan life could be affirmed unreservedly as that existence which is situated outside the law, which must abdicate the law in order to exist—and this is certainly the legacy that modernity has shown itself to be incapable of facing and that our time does not seem to be at all in a position to think. But what is a life outside the law, if it is defined as that form of life which makes use of things without ever appropriating them? And what is use, if one ceases to define it solely negatively with respect to ownership?

It is the problem of the essential connection between use and form of life that is becoming undeferrable at this point. How can use—that is, a relation to the world insofar as it is inappropriable—be translated into an ethos and a form of life? And what ontology and which ethics would correspond to a life that, in use, is constituted as inseparable from its form? The attempt to respond to these questions will necessarily demand a confrontation with the operative ontological paradigm into whose mold liturgy, by means of a secular process, has ended up forcing the ethics and politics of the West. Use and form of life are the two apparatuses through which the Franciscans tried, certainly in an insufficient way, to break this mold and confront that paradigm. But it is clear that only by taking up the confrontation again from a new perspective will we perhaps be able to decide whether and to what extent that which appears in Olivi as the extreme form of life of the Christian West has any meaning for it—or whether, on the contrary, the planetary dominion of the paradigm of operativity demands that the decisive confrontation be shifted to another terrain.

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PL Jacques-Paul Migne (ed.), *Patrologiae cursus completus*. Series latina.

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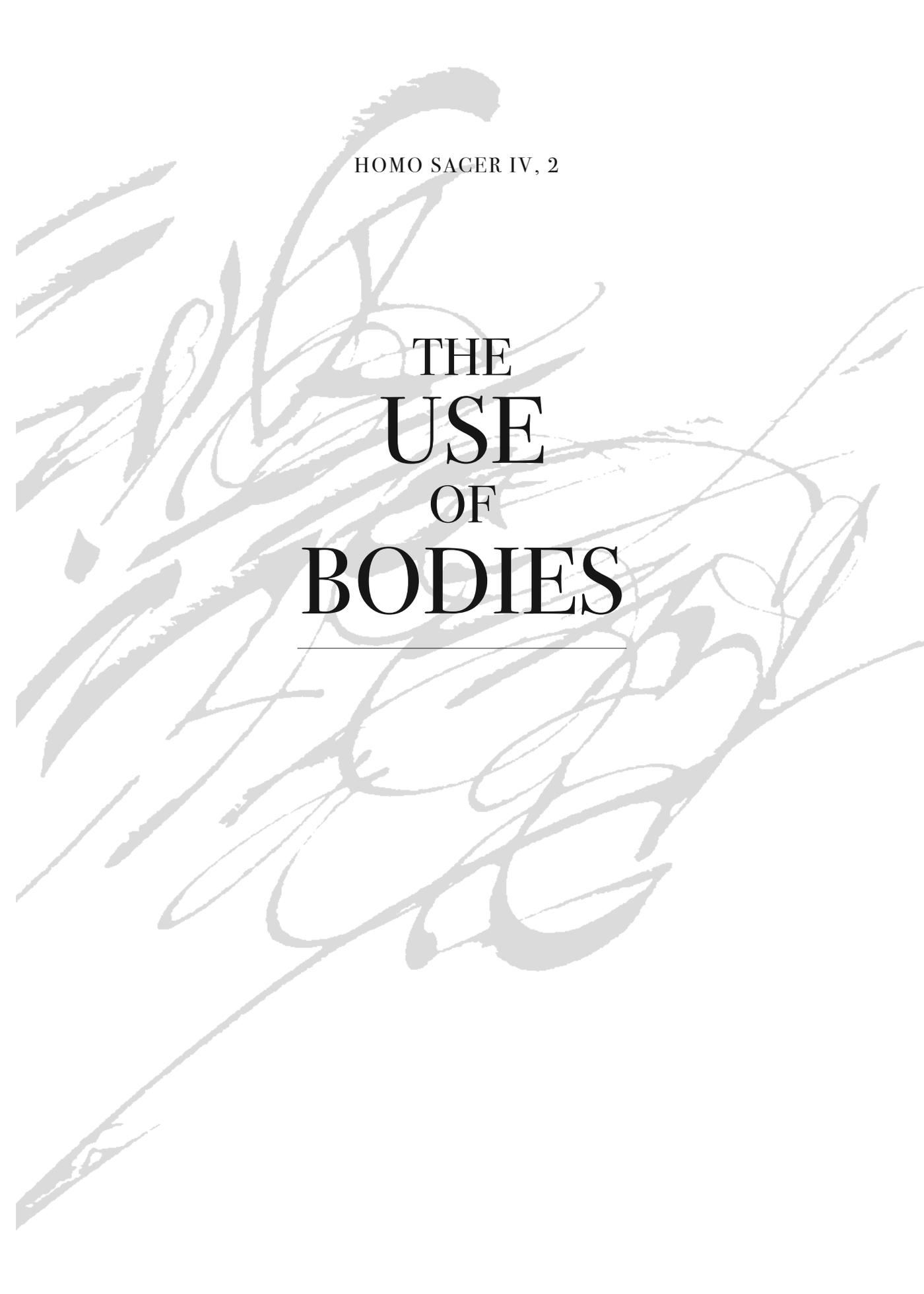
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HOMO SACER IV, 2

THE  
USE  
OF  
BODIES

---

TRANSLATED BY ADAM KOTSKO

A boy from Sparta stole a fox and hid it under his cloak, and because his people, in their foolishness, were more ashamed of a botched robbery than we fear punishment, he let it gnaw through his belly rather than be discovered.

—Montaigne, *Essais*, I, XIV

. . . it's the fox that boy stole  
and it hid in his clothes and it ripped his thigh . . .

—V. Sereni, "Appointment at an Unusual Hour"

The free use of the proper is the most difficult thing.

—F. Hölderlin

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## Translator's Note

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To the extent possible, I have used consistent renderings for technical terms. This is above all the case for the by-now classical distinction between *potere* and *potenza*, which I have translated as “power” and “potential,” respectively, even in cases where the latter is somewhat awkward and unidiomatic. The most notable example is in the epilogue’s discussion of “destituent potential,” which previous translators have sometimes rendered as “destituent power.” I have rendered the verb *destituire* sometimes as “to render destitute” and sometimes as “to depose,” as the latter often seemed unavoidable. With regard to the two terms that can be translated as “law,” *legge* and *diritto*, the latter is always translated as “juridical order” unless it clearly means “right” in context.

*Uso* is almost always translated as “use,” except where the context of linguistics demands the more technical “usage.” The verb *esigere* and the noun *esigenza* have been rendered as “to demand” and “demand,” respectively, despite the fact that the latter has sometimes been translated as “exigency.” It seemed to me that there was no clear benefit to using the Latinate form, especially at the cost of obscuring the connection between the noun and verb. (Relatedly, the term *domanda* is always translated as “question,” except in a brief discussion of Marx where the economic context requires the translation “demand.”)

A variety of reflexive constructions modeled on Spinoza’s use of the Ladino term *pasearse* have been rendered “[verb]-oneself” or “[noun]-of-oneself.” My model here was David Heller-Roazen’s elegant solution of this translation problem in *Potentialities*. I follow Agamben in translating the Heideggerian *Eigentlich* and *Uneigentlich*, customarily translated as “authentic” and “inauthentic,” as “proper” and “improper,” and I have altered quotations from the English translation accordingly. The term *presupposto* is translated sometimes as “presupposed” and sometimes as “presupposition,” depending on which is most idiomatic. Neither English term represents any other Italian term. *Vincolo* is always rendered as “bond” and is the only term so rendered. Finally, in the prologue on Debord, the term *clandestino* is variously translated as “clandestine,” “secret,” or “stowaway.”

I owe a debt of gratitude to many people for their help and support. Above all, I must thank Carlo Salzani for carefully comparing my entire manuscript to the original Italian text and offering invaluable corrections and clarifications. I would also like to extend my gratitude to Agatha Slupek, Philippe Theophanidis, and Mark Westmoreland for their bibliographical assistance, and to Emily-Jane Cohen, Tim Roberts, Friederike Sundaram, and the entire staff at Stanford University Press.

## Prefatory Note

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Those who have read and understood the preceding parts of this work know that they should not expect a new beginning, much less a conclusion. In fact, we must decisively call into question the commonplace according to which is it a good rule that an inquiry commence with a *pars destruens* and conclude with a *pars construens* and, moreover, that the two parts be substantially and formally distinct. In a philosophical inquiry, not only can the *pars destruens* not be separated from the *pars construens*, but the latter coincides, at every point and without remainder, with the former. A theory that, to the extent possible, has cleared the field of all errors has, with that, exhausted its *raison d'être* and cannot presume to subsist as separate from practice. The *archè* that archeology brings to light is not homogeneous to the presuppositions that it has neutralized; it is given entirely and only in their collapse. Its work is their inoperativity.

The reader will thus find here reflections on some concepts—use, demand, mode, form-of-life, inoperativity, destituent potential—that have from the very beginning oriented an investigation that, like every work of poetry and of thought, cannot be concluded but only abandoned (and perhaps continued by others).

Some of the texts published here were written at the beginning of the investigation, which is to say, almost twenty years ago; others—the greater part—were written in the course of the last five years. The reader will understand that, in a writing process so prolonged in time, it is difficult to avoid repetitions and, at times, discordances.

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# Prologue

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1. It is curious how in Guy Debord a lucid awareness of the insufficiency of private life was accompanied by a more or less conscious conviction that there was, in his own existence or in that of his friends, something unique and exemplary, which demanded to be recorded and communicated. Already in *Critique de la séparation*, he thus evokes at a certain point as intransmissible “cette clandestinité de la vie privée sur laquelle on ne possède jamais que des documents dérisoires” (“that clandestinity of private life regarding which we possess nothing but pitiful documents”; Debord I, p. 49/33); and nevertheless, in his first films and again in *Panegyrique*, he never stopped parading one after the other the faces of his friends, of Asger Jorn, of Maurice Wyckaert, of Ivan Chtcheglov, and his own face, alongside that of the women he loved. And not only that, but in *Panegyrique* there also appear the houses he inhabited, 28 via delle Caldaie in Florence, the country house at Champot, the square des Missions étrangères at Paris (actually 109 rue du Bac, his final Parisian address, in the drawing room of which a photograph from 1984 shows him seated on the English leather sofa that he seemed to like).

Here there is something like a central contradiction, which the Situationists never succeeded in working out, and at the same time something precious that demands to be taken up again and developed—perhaps the obscure, unavowed awareness that the genuinely political element consists precisely in this incommunicable, almost ridiculous clandestinity of private life. Since clearly it—the clandestine, our form-of-life—is so intimate and close at hand, if we attempt to grasp it, only impenetrable, tedious everydayness is left in our hands. And nonetheless, perhaps precisely this homonymous, promiscuous, shadowy presence preserves the stowaway of the political, the other face of the *arcanum imperii*, on which every biography and every revolution makes shipwreck. And Guy, who was so shrewd and cunning when he had to analyze and describe the alienated forms of existence in the society of the spectacle, is equally innocent and helpless when he tries to communicate the form of his life, to look in the face and dissolve the stowaway with which he had shared his journey up to the end.

2. *In girum imus nocte et consumimur igni* (1978) opens with a declaration of war against its time and continues with a relentless analysis of the conditions of life that the market society at the last stage of its development had established over all the earth. Unexpectedly, however, around the middle of the film, the detailed and merciless description stops and is replaced by the melancholic, almost mournful evocation of personal memories and events, which anticipate the declared autobiographical intention of *Panegyrique*. Guy recalls the Paris of his youth, which no longer exists, in whose streets and cafés he had set out with his friends on the stubborn investigation of that “Gaal néfaste, dont personne n’avait voulu” (“sinister Grail, which no one else had ever sought”). Although the Grail in question, “glimpsed fleetingly” but not “encountered,” must unquestionably have had a political meaning, since those who sought it “found themselves capable of understanding false life in light of true life” (Debord 1, p. 252/172), the tone of the commemoration, punctuated by citations from Ecclesiastes, Omar Khayyam, Shakespeare, and Bossuet, is at the same time indisputably nostalgic and gloomy: “À la moitié du chemin de la vraie vie, nous étions environnés d’une sombre mélancolie, qu’ont exprimée tant des mots railleurs et tristes, dans le café de la jeunesse perdue” (“Midway on the journey of real life we found ourselves surrounded by a somber melancholy, reflected by so much sad banter in the cafés of lost youth,” Debord 1, p. 240/164). From this lost youth, Guy recalls the confusion, the friends and lovers (“comment ne me serais-je pas souvenu des charmants voyous et des filles orgueilleuses avec qui j’ai habité ces bas-fonds . . . [I couldn’t help remembering the charming hooligans and proud young women I hung out with in those shady dives . . .]”; p. 237/162), while on the screen there appear the images of Gil J. Wolman, Ghislain de Marbaix, Pinot-Gallizio, Attila Kotanyi, and Donald Nicholson-Smith. But it is toward the end of the film that the autobiographical impulse reappears more forcefully and the vision of Florence *quand elle était libre* (“when it was free”) is interwoven with images of the private life of Guy and of the women with whom he had lived in that city in the seventies. One then sees pass by rapidly the houses in which Guy lived, the impasse de Clairvaux, the rue St. Jacques, the rue St. Martin, a parish church in Chianti, Champot, and, once more, the faces of friends, while one hears the words from Gilles’ song in *Les visiteurs du soir*: “Tristes enfants perdus, nous errions dans la nuit. . .” And, a few sequences before the end, pictures of Guy at 19, 25, 27, 31, and 45 years of age. The sinister Grail, which the Situationists had set out to investigate, has to do not only with the political, but in some way also with the clandestinity of private life, of which the film does not hesitate to exhibit, apparently without shame, the “pitiful documents.”

3. The autobiographical intention was, however, already present in the palindrome that gives the film its title. Immediately after having evoked his lost youth, Guy adds that nothing expresses its dissipation better than that “ancient phrase that turns completely back on itself, being constructed letter by letter like an inescapable labyrinth, thus perfectly uniting the form and content of loss: *In girum imus nocte et consumimur igni*. ‘We turn in the night, consumed by fire’” (Debord I, p. 242/165–166).

The phrase, at times defined as the “devil’s verse,” actually comes, according to a short article by Heckscher, from emblematic literature and refers to moths inexorably drawn by the flame of the candle that will consume them. An emblem consists of an *impresa*—which is to say, a phrase or motto—and an image; in the books that I have been able to consult, the image of moths devoured by flame appears often, yet it is never associated with the palindrome in question but rather with phrases that refer to amorous passion (“thus living pleasure leads to death,” “thus to love well brings torment”) or, in some rare cases, to imprudence in politics or war (“non temere est cuiquam temptanda potentia regis,” “temere ac periculose”). In Otto van Veen’s *Amorum emblemata* (1608) a winged love contemplates the moths who hurl themselves toward the flame of the candle, and the *impresa* reads: *brevis et damnosa voluptas*.

It is thus probable that Guy, in choosing the palindrome as a title, was comparing himself and his companions to moths who, amorously and rashly attracted by the light, are destined to lose themselves and be consumed in the flame. In *The German Ideology*—a work that Guy knew perfectly well—Marx evokes this image critically: “and it is thus that nocturnal moths, when the sun of the universal has set, seek the light of the lamp of the particular.” It is thus all the more striking that, despite this warning, Guy had continued to pursue this light, to stubbornly peer into the flame of singular and private existence.

4. Toward the end of the nineties, on the shelves of a Parisian bookstore, the second volume of *Panegyrique*, containing iconography—by chance or out of an ironic intention of the bookseller—was next to the autobiography of Paul Ricoeur. Nothing is more instructive than to compare the use of images in the two cases. While the photographs in Ricoeur’s book depicted the philosopher solely in the course of academic conferences, almost as though he had had no life outside them, the images of *Panegyrique* aspired to a state of biographical truth that concerned the existence of the author in all his aspects. “L’illustration authentique,” the brief preamble informs us, “éclaire le discours vrai . . . on saura donc enfin quelle était mon apparence à différentes âges; et quel genre de visages

m'a toujours entouré; et quels lieux j'ai habités. . . ." ("An authentic illustration sheds light on a true discourse. . . . People will at last be able to see what I looked like at various stages of my life, the kinds of faces that have always surrounded me, and what kind of places I have lived in. . . ."; Debord 2, p. 1691/73–74). Once again, notwithstanding the obvious insufficiency and banality of its documents, life—the clandestine—is in the foreground.

5. One evening in Paris, when I told her that many young people in Italy continued to be interested in Guy's writings and were hoping for a word from him, Alice responded: "on existe, cela devrait leur suffire" ("we exist, this should be sufficient for them"). What did she mean by: *on existe*? Certainly, in those years, they were living in seclusion and without a telephone between Paris and Champot, in a certain sense with eyes turned to the past, and their "existence" was, so to speak, entirely hidden in the "clandestinity of private life."

And again, shortly before his suicide in November 1994, the title of the last film prepared for Canal Plus: *Guy Debord, son art, son temps* does not seem—despite the truly unexpected phrase *son art*—completely ironic in its biographical intention, and before concentrating with an extraordinary vehemence on the horrors of "his time," this (sort of) spiritual last will and testament reiterates, with the same candor and the same old photographs, the nostalgic evocation of his past life.

What does it mean, then: *on existe*? Existence—that concept that is in every sense fundamental for the first philosophy of the West—perhaps has to do constitutively with life. "To be," writes Aristotle, "for the living means to live." And centuries later, Nietzsche specifies: "To be: we have no other representation than to live." To bring to light—beyond every vitalism—the intimate interweaving of being and living: this is today certainly the task of thought (and of politics).

6. *The Society of the Spectacle* opens with the word "life" ("Toute la vie des sociétés dans lesquelles règnent les conditions modernes de production s'annonce comme une immense accumulation de spectacles"; "In societies where modern conditions of production prevail, all of life presents itself as an immense accumulation of spectacles"; Debord 3, §1), and up to the end the book's analysis never stops making reference to life. The spectacle, in which "everything that was directly lived has moved away into a representation" (§1), is defined as a "concrete inversion of life" (§2). "The more his life is now his product, the more he is separated from his life" (§33). Life under spectacular conditions is a "counterfeit life" (§48) or a "survival" (§154) or a "pseudo-use of life" (§49). Against this alienated and separated life, what is asserted is something that Guy calls "historical life" (§139), which appears already in the Renaissance as a "joyous rupture with eternity": "in

the exuberant life of Italian cities . . . life is experienced as enjoyment of the passage of time.” Already years previously, in *Sur le passage de quelques personnes* and *Critique de la séparation*, Guy says of himself and his companions that “they wanted to reinvent everything every day, to become masters and possessors of their own life” (Debord 1, p. 22/14), that their meetings were like “signals emanating from a more intense life, a life that has not truly been found” (p. 47/32).

What this “more intense” life was, what was inverted and falsified in the spectacle, or even what one should understand by “life of society” is nowhere clarified; and yet it would be too easy to reproach the author for incoherence or terminological imprecision. Guy is doing nothing here but repeating a constant attitude in our culture, in which life is never defined as such but is time after time articulated and divided into *bios* and *zoè*, politically qualified life and bare life, public life and private life, vegetative life and a life of relation, so that each of the partitions is determinable only in its relation to the others. And perhaps it is in the last analysis precisely the undecidability of life that makes it so that it must each time be decided politically and singularly. And Guy’s indecision between the secrecy of his private life—which, with the passing of time, had to appear to him as ever more fleeting and undocumentable—and historical life, between his individual biography and the obscure and unrenounceable epoch in which it was inscribed, betrays a difficulty that, at least under present conditions, no one can be under the illusion of having resolved once and for all. In any case, the stubbornly sought-after Grail, the life that is uselessly consumed in the flame, was not reducible to either of the opposed terms, neither to the idiocy of private life nor to the uncertain prestige of public life, and it indeed calls into question the very possibility of distinguishing them.

7. Ivan Illich has observed that the conventional notion of life (not “a life,” but “life” in general) is perceived as a “scientific fact,” which has no relationship with the experience of the singular living person. It is something anonymous and generic, which can designate at times a spermatozoon, a person, a bee, a cell, a bear, an embryo. It is this “scientific fact,” so generic that science has given up on defining it, that the Church has made the ultimate receptacle of the sacred and bioethics the key term of its impotent foolishness. In any case, “life” today has more to do with survival than with the vitality or form of life of the individual.

Insofar as a sacral remainder has crept into it in this way, the secret that Guy pursued has become even more elusive. The Situationist attempt to bring life back to the political runs up against a further difficulty, but it is not for this reason less urgent.

8. What does it mean that private life accompanies us as a secret or a stow-away? First of all, that it is separated from us as clandestine and is, at the same time, inseparable from us to the extent that, as a stowaway, it furtively shares existence with us. This split and this inseparability constantly define the status of life in our culture. It is something that can be divided—and yet always articulated and held together in a machine, whether it be medical or philosophico-theological or biopolitical. Thus, not only is private life to accompany us as a stowaway in our long or short voyage, but corporeal life itself and all that is traditionally inscribed in the sphere of so-called intimacy: nutrition, digestion, urination, defecation, sleep, sexuality. . . . And the weight of this faceless companion is so strong that each seeks to share it with someone else—and nevertheless, alienation and secrecy never completely disappear and remain irresolvable even in the most loving life together. Here life is truly like the stolen fox that the boy hid under his clothes and that he cannot confess to even though it is savagely tearing at his flesh.

It is as if each of us obscurely felt that precisely the opacity of our clandestine life held within it a genuinely political element, as such shareable par excellence—and yet, if one attempts to share it, it stubbornly eludes capture and leaves behind it only a ridiculous and incommunicable remainder. The castle of Silling, in which political power has no object other than the vegetative life of bodies, is in this sense the cipher of the truth and, at the same time, of the failure of modern politics—which is, in reality, a biopolitics. We must change our life, carry the political into the everyday—and nevertheless, in the everyday, the political can only make shipwreck.

And when, as it today happens, the eclipse of the political and of the public sphere allows only private and bare life to subsist, the clandestine, left as sole master of the field, must, insofar as it is private, publicize itself and attempt to communicate its own no longer risible documents (though they remain such), which at this point correspond immediately with it, with its identical days recorded live and transmitted on screens to others, one after another.

And yet, only if thought is able to find the political element that has been hidden in the secrecy of singular existence, only if, beyond the split between public and private, political and biographical, *zoè* and *bios*, it is possible to delineate the contours of a form-of-life and of a common use of bodies, will politics be able to escape from its muteness and individual biography from its idiocy.

PART ONE

# The Use of Bodies

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## The Human Being without Work

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**1.1.** The expression “the use of the body” (*he tou somatos chresis*) is found at the beginning of Aristotle’s *Politics* (1254b 18), at the point where it is a question of defining the nature of the slave. Aristotle has just affirmed that the city is composed of families or households (*oikiai*) and that the family, in its perfect form, is composed of slaves and free people (*ek doulon kai eleutheron*—the slaves are mentioned before the free; 1253b 3–5). Three types of relations define the family: the despotic (*despotikè*) relation between the master (*despotes*) and the slaves, the matrimonial (*gamikè*) relation between the husband and wife, and the parental (*technopoietikè*) relation between the father and the children (7–11). That the master/slave relation is in some way, if not the most important, at least the most evident is suggested—aside from its being named first—by the fact that Aristotle specifies that the latter two relations are “nameless,” lacking a proper name (which seems to imply that the adjectives *gamikè* and *technopoietikè* are only improper denominations devised by Aristotle, while everyone knows what a “despotic” relation is).

In any case, the analysis of the first relation, which immediately follows, in some way constitutes the introductory threshold of the treatise, almost as if only a correct preliminary understanding of the despotic relation would allow access to the properly political dimension. Aristotle begins by defining the slave as a being that, “while being human, is by its nature of another and not of itself,” asking himself immediately after “if a similar being exists by nature or if, by contrast, slavery is always contrary to nature” (1254a 15–18).

The answer proceeds by means of a justification of the command (“to command and be commanded are not only necessary parts of things but also expedient”; 21–22), which in living beings are distinguished into despotic commands (*archè despotikè*) and political commands (*archè politikè*), exemplified respectively in the command of the soul over the body and that of the intelligence over the appetite. And just as in the preceding paragraph he had affirmed in general the necessity and natural (*physei*) character of command not only among animate

beings but also in inanimate things (in Greek, the musical mode is the *archè* of the harmony), now he seeks to justify the command of some men over others:

The soul commands the body with a despotic command, whereas the intellect commands the appetites with a political and royal command. And it is clear that the command of the soul over the body, and of the mind and the rational element over the passionate, is natural and expedient; whereas the equality of the two or the command of the inferior is always hurtful. . . . The same must therefore also happen among human beings. . . . (1254b 5–16)

✠ The idea that the soul makes use of the body as an instrument and at the same time commands it was formulated by Plato in a passage of the *Alcibiades* (130a 1) that Aristotle very likely must have in mind when he is seeking to found the dominion of the master over the slave through that of the soul over the body.

What is decisive, however, is the genuinely Aristotelian specification, according to which the command that the soul exercises over the body is not of a political nature (the “despotic” relation between master and slave is after all, as we have seen, one of the three relations that, according to Aristotle, define the *oikia*, the household). This means—according to the clear distinction that separates the household (*oikia*) from the city (*polis*) in Aristotle’s thought—that the relationship soul/body (like master/slave) is an economic-domestic relationship and not a political one, as is, by contrast, that between intellect and appetite. But this also means that the relation between master and slave and that between soul and body are defined by one another and even that we must attend to the first if we want to understand the second. The soul is to the body as the master is to the slave. The caesura that divides the household from the city persists in the same threshold that separates and at the same time unites body and soul, master and slave. And it is only by interrogating this threshold that the relationship between economy and politics among the Greeks can become truly intelligible.

1.2. It is at this point that there appears, almost in the form of a parenthesis, the definition of the slave as “the being whose work is the use of the body”:

These human beings differ among themselves like the soul from the body or the human from the animal—as in the case of those whose work is the use of the body [*oson esti ergon he tou somatos chresis*], and this is the best [that can come] from them [*ap’auton beltiston*]<sup>1</sup>—the lower sort are by nature slaves, for whom it is better to be commanded with this command, as said above. (1254b 17–20)

The problem of what is the *ergon*, the work and proper function of the human being, had been posed by Aristotle in the *Nicomachean Ethics*. To the question of whether there was something like a work of the human being as such (and not simply of the carpenter, the tanner, or the shoemaker), or whether the human being was not instead born without work (*argos*), Aristotle had there responded by

affirming that “the work of the human being is the being-at-work of the soul according to the *logos*” (*ergon anthropou psyches energeia kata logon*; 1098a 7). All the more striking, then, is the definition of the slave as the human being whose work consists only in the use of the body. That the slave is and remains a human being is, for Aristotle, beyond question (*anthropos on*, “while being a human being”; 1254a 16). This means, however, that there are some human beings whose *ergon* is not properly human or is different from that of other human beings.

Already Plato had written that the work of each being (whether it is a matter of a human being, a horse, or of whatever other living thing) is “what it alone does or what it does better than anything else” (*monon ti e kallista ton allon apergazetai*; *Republic*, 353a 10). Slaves represent the emergence of a dimension of human beings in which the best work (“the best for them”—the *beltiston* of the *Politics* probably refers to the *kallista* of the *Republic*) is not the being-at-work (*energeia*) of the soul according to the *logos* but something for which Aristotle can find no other denomination than “the use of the body.”

In the two symmetrical formulas—

*ergon anthropou psyches energeia kata logon*  
*ergon (doulou) he tou somatos chresis*

the work of the human being is the being-in-action of the soul  
 according to the *logos*  
 the work of the slave is the use of the body

—*energeia* and *chresis*, being-at-work and use, seem to be juxtaposed precisely as are *psychè* and *soma*, soul and body.

1.3. The correspondence is all the more significant since we know that in Aristotle’s thought there is a strict and complex relation between the two terms *energeia* and *chresis*. In an important study, Strycker (pp. 159–160) has shown that the classical Aristotelian opposition of potential (*dynamis*) and act (*energeia*, literally “being-at-work”) originally had the form of an opposition between *dynamis* and *chresis* (being in potential and being in use). The paradigm of the opposition is found in Plato’s *Euthydemus* (280d), which distinguishes between possession (*ktesis*) of a technique and the appropriate instruments without making use of them and their active employment (*chresis*). According to Strycker, Aristotle had begun, based on his master’s example, by distinguishing (for example, in *Topics*, 130a 19–24) between possessing a science (*epistemen echein*) and using it (*epistemei chresthai*) and had later technicalized the opposition by substituting for the common *chresis* a word of his own invention, unknown to Plato: *energeia*, being-at-work.

In effect, in his early works, Aristotle made use of *chresis* and *chresthai* in a sense similar to that of the later *energeia*. Thus, in the *Protrepticus*, where philosophy is defined as *ktesis kai chresis sophias*, “possession and use of wisdom” (Düring, fragment B8), Aristotle carefully distinguishes between those who possess wisdom while keeping their eyes closed and those who effectively use it and, in the same way, between those who make use of science and those who simply possess it (ibid., fragment B79). That use here has an ethical connotation and not only an ontological one in a technical sense is obvious in the passage in which the philosopher seeks to specify the meaning of the verb *chresthai*:

To use [*chresthai*] anything, then, is this: if the capacity [*dynamis*] is for a single thing, then it is doing just that thing; if it is for several things, then it is doing whichever is best of these, as happens in the use of flutes, when someone uses the flute in the only and best way. . . . One must say, therefore, that the one who uses correctly, since for the one who uses correctly uses for the natural end and in the natural way. (fragment B84)

In the later works, Aristotle continues to make use of the term *chresis* in a sense similar to that of *energeia*, and yet the two terms are not simply synonymous but are often placed side by side as if to include and complete one another. Thus, in the *Magna Moralia*, after having affirmed that “use is more desirable than habit” (*hexis*, which indicates the possession of a *dynamis* or of a *techne*) and that “no one would care to have sight, if he were destined never to see but always to have his eyes shut,” Aristotle writes that “happiness consists in a certain use and in *energeia*” (*en chresei tini kai energeiai*; 1184b 13–32). The formula, which is also found in the *Politics* (*estin eudaimonia aretes energeia kai chresis tis teleios*, “happiness is a being-at-work and a certain perfect use of virtue”; 1328a 38), shows that for Aristotle, the two terms are at once similar and distinct. In the definition of happiness, being-at-work and being-in-use, an ontological perspective and an ethical perspective, include and condition one another.

Since Aristotle does not define the term *energeia* except in a negative way with respect to potential (*esti d' he energeia to hyparchein to pragma me outos hosper legomen dynamei*, “*energeia* is the existing of a thing, but not in the sense in which we say that it is in potential”; *Metaphysics*, 1048a 31), it is all the more urgent to try to understand the meaning of the term *chresis* (and of the corresponding verb *chresthai*) in this context. It is certain, in any case, that Aristotle's abandonment of the term *chresis* in favor of *energeia* as key term of ontology has determined to some extent the way in which Western philosophy has thought being as actuality.

✠ Like keeping one's eyes closed, so also is sleep the paradigm par excellence of potential and *hexis* for Aristotle, and in this sense, it is counterposed and subordinated to use, which by contrast is assimilated to wakefulness: "for both sleeping and waking presuppose the existence of the soul, but waking corresponds to knowing in act, sleeping to a having without exercising" (*echein kai me energein*; *On the Soul*, 412a 25). The inferiority of sleep, as figure of potential, with respect to *energeia* is affirmed even more decisively in the ethical works: "That happiness is an *energeia* can be seen also from the following consideration. For supposing someone to be asleep all his life, we should hardly consent to call such a person happy. Life indeed he has, but life according to virtue he has not" (*Magna Moralia*, 1185a 9–14).

1.4. In modern studies of slavery in the ancient world, the problem—with a striking anachronism, seeing that the ancients lacked even the corresponding term—is considered solely from the point of view of "labor" and production. That the Greeks and Romans saw in it a phenomenon of another order, which called for a conceptualization completely different from ours, seems irrelevant. It thus appears all the more scandalous to moderns that ancient philosophers not only did not problematize slavery but seemed to accept it as obvious and natural. Hence it is unsurprising to read, in the preamble of a recent exposition of Aristotle's theory of slavery, that this presents frankly "despicable" aspects, while the most elementary methodological caution would have suggested, in place of outrage, a preliminary analysis of the problematic context in which the philosopher inscribes the question and the conceptuality through which he seeks to define its nature.

There fortunately exists an exemplary reading of Aristotle's theory of slavery, which focuses on the entirely special character of the treatment that the philosopher makes of the problem. In a 1973 study, Victor Goldschmidt shows that Aristotle here reverses his habitual methodology, according to which, when confronted with a phenomenon, it is first necessary to ask oneself if it exists and only subsequently to attempt to define its essence. With respect to slavery, he does exactly the opposite: first he defines—in truth, much too hastily—its essence (the slave is a human being who is not of himself but of another) in order to then pass over into interrogating its existence, but also does this latter in a completely peculiar way. The question does not in fact concern the existence and legitimacy of slavery as such but the "physical problem" of slavery (Goldschmidt, p. 75): that is to say, it is a matter of establishing *whether there exists in nature a body corresponding to the definition of the slave*. Thus, the inquiry is not dialectical but physical, in the sense in which Aristotle distinguishes in *On the Soul* (403a 29) the method of the dialectic, which defines, for example, anger as

a desire for vengeance, from that of physics, which will see in it only a boiling of blood in the heart.

Taking up and developing Goldschmidt's suggestion, we can thus affirm that the novelty and specificity of Aristotle's thesis is that the foundation of slavery is of a strictly "physical" and non-dialectical order, that is to say, that it can consist only in a bodily difference with respect to the body of the free person. The question becomes at this point: "does there exist something like a body (of the) slave?" The response is affirmative, but with such restriction that it has legitimately been asked whether the doctrine of Aristotle, which the moderns have always understood as a justification of slavery, would not have had to appear to his contemporaries as an attack (Barker, p. 369). "Nature," writes Aristotle,

would like [*bouletai*] to distinguish between the bodies of freemen and slaves, making the one strong for the necessary use [*pros ten anankaian chresin*], the other upright, and though useless for such services, useful for political life. . . . But the opposite often happens—that some have the souls and others the bodies of freemen. And doubtless if human beings differed from one another in the mere forms of their bodies as much as the statues of the gods do from human beings, all would acknowledge that the inferior class should be slaves of the superior. And if this is true of the body, how much more just that a similar distinction should exist in the soul? But the beauty of the soul is not as easy to see as that of the body. (*Politics*, 1254b 28ff.)

The conclusion that Aristotle immediately draws from it is therefore uncertain and partial: "It is clear, then [*phaneron*, which here in no way indicates a logical conclusion, but means rather: 'it is a fact'], that there are some [*tines*] who are free by nature and others who are slaves, and for these latter to serve is both expedient and just [*sympherei to douleuein kai dikaion estin*]" (1255a 1–2). As he repeats a few lines later: "nature wants [*bouletai*] to do this [*scil.* that from a noble and good father comes a son similar to him], but it often cannot [*dynamtai*]" (1255b 4).

Far from securing a certain foundation for it, the "physical" treatment of slavery leaves unanswered the only question that could have founded it: "does a bodily difference between the slave and the master exist or not?" This question implies at least in principle the idea that another body is possible for the human being, that the human body is constitutively divided. Seeking to understand what "use of the body" means will also mean thinking this other possible body of the human being.

✠ The idea of a “physical” foundation of slavery is taken up unreservedly many centuries later by Sade, who puts in the mouth of the libertine Saint-Fond this peremptory argumentation:

Glance at the works of nature and judge for yourself whether she has not, in forming the two classes of men [masters and slaves], made them vastly unlike; I ask you to put aside partiality, and to decide: have they the same voice, the same skin, the same limbs, the same gait, the same tastes, have they—I venture to inquire—the same needs? It will be to no purpose if someone attempts to persuade me that circumstances or education have made for these differences and that the slave and the master, in a state of nature, as infants, will be indistinguishable. I deny the fact; and it is after having pondered the matter and sifted much personal observation, after having examined the findings of clever anatomists, that I affirm there is no similarity between the conformations of these several infants. . . . Therefore, Juliette, cease to doubt these inequalities; and admitting their existence, let’s not hesitate to take full advantage of them, and to persuade ourselves that if it so suited nature to have us born into the upper of these two classes, we have but to extract profit and pleasure from our situation by worsening that or our inferiors, and despotically to press them into the service of all our passions and our every need. (Sade, pp. 322–323)

Aristotle’s reserve has disappeared here, and nature unflinchingly accomplishes what it wants: the bodily difference between masters and slaves.

1.5. It is thus all the more surprising that Goldschmidt, after having noted with such precision the “physical” character of Aristotle’s argumentation, does not in any way put it in relation with the definition of the slave in terms of the “use of the body” that immediately precedes it, nor does he draw from this latter any consequence as to the very conception of slavery. It is possible, rather, that comprehension of the strategy that drives Aristotle to conceive the slave in a purely “physical” way will be revealed only if one seeks in a preliminary way to understand the meaning of the formula “the human being whose work is the use of the body.” If Aristotle reduces the problem of the existence of the slave to that of the existence of his body, this is perhaps because slavery defines a quite singular dimension of the human being (that the slave is a human being is, for him, beyond any doubt), which the syntagma “use of the body” seeks to name.

To understand what Aristotle means by this expression, it will be necessary to read the passage, a little earlier, in which the definition of slavery intersects with the question of its being just or violent, according to nature (*phusei*) or convention (*nomoi*) and with the problem of the administration of the household (1253b 20–1254a 1). After having recalled that according to some, the power

of the head of the family over slaves (*to despozein*) is contrary to nature and thus unjust and violent (*biaion*), Aristotle introduces a comparison between the slave and *ktemata*, household equipment (tools, in the broad sense that this term originally had) and the instruments (*organa*) that are parts of the administration of a household:

Household equipment [*ktesis*] is part of the household, and the art of using household equipment [*ktetikè*] is part of the economy (for no one can live well, or indeed live at all, without necessary things). And as in the arts that have a definite sphere the workers must have their own proper instruments [*oikeiai organa*], so it is for those who manage the household [*oikonomikoi*]. Now instruments are of various sorts; some are living, others lifeless (for the one who commands a ship, the rudder is inanimate, the lookout person, a living instrument; for in the arts the servant [*hyperetes*] exists in the form of an instrument). Thus, too, equipment [*ktema*] is an instrument for life [*pros zoen*], and the ensemble of household equipment [*ktesis*] is a multitude of instruments, and the slave is in a certain sense animate equipment [*ktema ti empsychon*]; and the servant is like an instrument for instruments [*organon pro organon*, or an instrument that comes before the other instruments]. For if every instrument could accomplish its own work, obeying or anticipating the will of others, like the statues of Daedalus or the tripods of Hephaestus, which, says the poet, “of their own accord [*automatous*] entered the assembly of the gods,” if, in like manner, the shuttle would weave and the plectrum touch the lyre, then architects would not want servants, nor masters slaves.

The slave is here compared to equipment or to an animate instrument, which, like the legendary automatons constructed by Daedalus and Hephaestus, can move itself on command. We will be returning to this definition of the slave as “automaton” or animate instrument; for now, let us note that for a Greek, the slave plays, in modern terms, more the part of the machinery or fixed capital than of the worker. But as we will see, it is a matter of a special machine, which is not directed to production but only to use.

✠ The term *ktema*, which we have rendered as “equipment,” is often translated as “object of property.” This translation is misleading, because it suggests a characterization in juridical terms that is lacking in the Greek term. Perhaps the most exact definition of the term is that of Xenophon, who explains *ktema* as “what is advantageous for the life of all,” specifying that what is advantageous is “everything of which one can make use” (*Oeconomicus*, 6.4). The word, as is in any case obvious in the subsequent passages of Aristotle’s text, refers to the sphere of use and not to that of ownership. In his treatment of the problem of slavery, that is to say, Aristotle seems to intentionally avoid the definition of slavery in the juridical terms that we would expect as the most obvious in order

to displace his argumentation onto the level of the “use of the body.” The fact that even in the definition of the slave as “the human being who is not of himself but of another,” the opposition *autou/allou* is not necessarily understood in terms of ownership is also proven—beyond the fact that “being owner of oneself” would be meaningless—by the analogous formula that Aristotle uses in the *Metaphysics*, where it refers to the sphere of autonomy and not to that of ownership: “Just as we call free the person who exists for himself and not another [*ho autou heneka kai me allou on*], in the same way we say that wisdom is the only free science” (982b 25).

1.6. Immediately after, Aristotle, in a decisive development, links the theme of the instrument to that of use:

The instruments just mentioned [shuttles and plectra] are productive organs [*poiëtika organa*], while equipment is by contrast a practical [*praktikon*] instrument. From a shuttle, we get something else besides the use of it [*heteron ti genetai para ten chresin autes*], whereas of a garment or of a bed there is only the use [*he chresis monon*]. Further, as production [*poiesis*] and praxis [*praxis*] are different in kind, and both require instruments, the instruments that they employ must likewise differ in kind. The mode of life [*bios*] is a praxis and not a production, and therefore the slave is an assistant for things of praxis. Now “equipment” has the same meaning as “part” [*morion*, “piece,” what belongs to an ensemble]; for the part is not only a part of something else [*allou*] but totally belongs to it [*holos*—some manuscripts have *haplos*, “absolutely,” or with a still stronger expression, *haplos holos*, “absolutely and totally”]. This same can be said for equipment. The master is only the master of the slave and is not [part] of him; the slave is not only slave of the master but is totally [part] of him.

Hence we see what is the nature [*physis*] and the potential [*dynamis*] of the slave: the one who, while being human [*anthropos on*], is by nature of another, is a slave by nature; and the one who is of another who, while being human, is equipment, that is, a practical and separate instrument [*organon praktikon kai choriston*]. (1254a 1–17)

The assimilation of the slave to equipment or to an instrument is here developed by first of all distinguishing instruments into productive instruments and instruments of use (which produce nothing, except their use). In the expression “use of the body,” use must therefore be understood not in a productive sense but in a practical one: *the use of the slave’s body is similar to that of a bed or clothing, and not to that of a spool or plectrum.*

We are so accustomed to thinking of use and instrumentality as a function of an external goal that it is not easy for us to understand a dimension of use entirely independent of an end, such as that suggested by Aristotle: for us the bed serves for rest and clothing to protect us from the cold. In the same way, we

are accustomed to consider the labor of the slave to be just like the eminently productive labor of the modern worker. A first, necessary precaution is therefore that of abstracting the slave's "use of the body" from the sphere of *poiesis* and production, in order to restore it to the sphere—according to Aristotle by definition unproductive—of *praxis* and mode of life.

✠ The distinction between the operation that produces something external and that from which there results only a use was to be so important for Aristotle that he develops it from a properly ontological perspective in book Theta of the *Metaphysics*, dedicated to the problem of potential and act. "The work [*ergon*]," he writes,

is the end, and the being-at-work [*energeia*] is the work. Therefore even the term "being-at-work" derives from "work," which means also possessing-oneself-in-the-end [*entelecheia*]. And while in some cases the use [*chresis*] is the ultimate thing (e.g., in sight [*opseos*] the ultimate thing is seeing [*horasis*], and no other product besides this results from sight), but from some things a product follows (e.g., from the art of building there results a house as well as the act of building [*oikodomesin*]). . . . Where, then, the result is something apart from the use, the being-at-work is in the thing produced, e.g., the act of building is in the thing that is being built and the act of weaving in the thing woven . . . ; but when there is no product apart from the being-at-work, the being-at-work resides in them, in the sense that the act of seeing is in the one seeing and contemplation [*theoria*] in the one who contemplates and life in the soul. (*Metaphysics*, 1050a 21–1050b 1)

Aristotle seems here to theorize an excess of *energeia* over the *ergon*, of being-at-work over the work, which in some way implies a primacy of operations in which nothing is produced other than use over poietic operations, whose *energeia* resides in an external work and which the Greeks tended to hold in low regard. It is certain, in any case, that the slave, whose *ergon* consists only in the "use of the body," is to be inscribed, from this point of view, in the same class in which vision, contemplation, and life figure.

1.7. For Aristotle, the assimilation of the slave to a *ktema* implies that he is a part (*morion*) of the master, and part in an integral and constitutive sense. The term *ktema*, which, as we have seen, is not a technical term of law but of *oikonomia*, does not mean "property" in a juridical sense, and in this context, it designates things insofar as they are part of a functional whole and not insofar as they belong to an individual in ownership (for this latter sense, a Greek would say not *ta ktemata* but *ta idia*). For this reason, as we have seen, Aristotle can consider *ktema* as synonymous with *morion* and takes care to specify that the slave "is not only slave of the master but is totally part of him" (1254a 13). In the same sense, it is necessary to restore to the Greek term *organon* its ambiguity: it indicates both

the instrument and the organ as a part of the body (in writing that the slave is an *organon praktikon kai choriston*, Aristotle is obviously playing on the double sense of the term).

The slave is a part (of the body) of the master, in the “organic” and not simply instrumental sense of the term, to such an extent that Aristotle can speak of a “community of life” between slave and master (*koinonos zoes*; 1260a 40). But then how are we to understand the “use of the body” that defines the work and condition of the slave? And how are we to think the “community of life” that unites him to the master?

In the syntagma *tou somatos chresis*, the genitive “of the body” is not to be understood only in an objective sense but also (analogously to the expression *ergon anthropou psyches energeia* in the *Nicomachean Ethics*) in a subjective sense: in the enslaved human being, the body is in use just as, in the free human being, the soul is at work in accordance with reason.

The strategy that leads Aristotle to define the slave as an integral part of the master shows its subtlety at this point. By putting in use his own body, the slave is, for that very reason, used by the master, and in using the body of the slave, the master is in reality using his own body. The syntagma “use of the body” represents a point of indifference not only between subjective genitive and objective genitive but also between one’s own body and that of another.

✂ It is helpful to read the theory of slavery that we have delineated up to this point in light of Sohn-Rethel’s idea according to which in the exploitation of one human being on the part of another there occurs a rupture and a transformation in the immediate relationship of organic exchange between the living being and nature. For the relationship of the human body with nature, there is substituted a relation of human beings among themselves. The exploiters live, that is to say, from the products of the exploited’s labor, and the productive relationship between human beings and nature becomes the object of a relationship between human beings, in which the relation itself is reified and appropriated. “The productive relationship humans-nature becomes the object of a human-human relationship, is subjected to its order and to its laws and therefore ‘denatured’ with respect to the ‘natural’ state, by being subsequently realized solely according to the laws of the forms of mediation that represent its affirmative negation” (Adorno and Sohn-Rethel, p. 32).

In Sohn-Rethel’s terms, one could say that what happens in slavery is that the relationship of the master with nature, as Hegel had intuited in his dialectic of self-recognition, is now mediated by the relationship of the slave with nature. The slave’s body in its relationship of organic exchange with nature is thus used as a medium of the relationship of the master’s body with nature. One can ask, however, whether mediating one’s own relation with nature through the relation with another human being is not from the very

beginning what is properly human and whether slavery does not contain a memory of this original anthropogenetic operation. The perversion begins only when the reciprocal relation of use is appropriated and reified in juridical terms through the constitution of slavery as a social institution.

Benjamin once defined the just relation with nature not as “dominion of the human being over nature” but as “dominion of the relationship between the human being and nature.” One can say, from this perspective, that while the attempt to master the dominion of humanity over nature gives rise to contradictions that ecology does not manage to work out, a dominion of the relation between the human being and nature is rendered possible precisely by the fact that the relation of the human being with nature is not immediate but mediated by his or her relation with other human beings. I can constitute myself as ethical subject of my relationship with nature solely because this relationship is mediated by the relationship with other human beings. However, if I seek, through what Sohn-Rethel calls “functional socialization,” to appropriate mediation for myself by means of the other, then the relation of use decays into exploitation, and, as the history of capitalism sufficiently shows, exploitation is defined by the impossibility of being mastered (for this reason, the idea of a sustainable development in a “humanized” capitalism is contradictory).

1.8. Let us reflect on the singular condition of the human being whose *ergon* is the use of the body and, at the same time, on the peculiar nature of this “use.” Unlike the cobbler, the carpenter, the flute player, or the sculptor, the slave, even if he carries out these activities—and Aristotle knows perfectly well that this can happen in the *oikonomia* of the household—is and remains essentially without work, in the sense that, in contrast to what happens with an artisan, his praxis is not defined by the work that he produces but only by the use of the body.

This is all the more surprising in that—as Jean-Paul Vernant has shown in an exemplary study (Vernant and Vidal-Naquet, pp. 28–33)—the classical world never considered human activity and its products from the point of view of the labor process that they entailed but solely from that of their result. Yan Thomas has thus observed that work contracts never determine the value of the commissioned object according to the amount of labor that it requires but solely according to the characteristics proper to the object produced. Historians of law and economy are, for this reason, accustomed to affirming that the classical world does not know the concept of labor. (It would be more exact to say that they do not distinguish it from the work it produces.) The first time—this is Yan Thomas’s discovery—that, in Roman law, something like labor appears as an autonomous juridical reality is in contracts for the *locatio operarum* of the slave by someone who had ownership or—in the case that is exemplary according to Thomas—the usufruct of that slave.

It is significant that the isolation of something like a “labor” of the slave could happen only by conceptually separating the use (*usus*)—which could not be alienated by the *usuarius* and coincided with the personal use of the slave’s body—from the *fructus*, which the *fructuarius* could alienate on the market:

The labor to which the *usuarius* has a right is mixed together with the personal or domestic use that he has of the slave—a use that excludes mercantile profit. The labor to which the *fructuarius* has a right can, on the contrary, be alienated on the market in exchange for a price: it can be rented out. In both cases, that is to say, whether it is a matter of use or usufruct of the slave, the slave concretely labors. But his activity, which common language would call his labor, does not have the same value for the law. In one case, the slave remains at the disposal of the usuary in person: it is a matter, then, of a service so to speak in nature, which we could call a labor of use, in the sense in which one speaks of use value. In the other case, his *operae*, separated from him, represent a “thing” alienable to third parties, in the juridical form of a contract. For the usufructuary, it will then only be a matter of a monetary income. To the labor of use there is added in this way a labor that can be defined as merchandise, in the sense in which one speaks of market value. (Thomas 1, p. 222; cf. Thomas 2, p. 227)

The use of the slave, even when the owner has ceded it to others, always remains inseparable from the use of his body. “If anyone,” writes Ulpian, “has received in inheritance the use of service personnel, he can use them for himself or for his children or for his relatives . . . but he cannot lease the work of the slave of whom he has use, nor concede the use of him to others” (Thomas 1, pp. 217–218). This is even more clear in the case of slaves from whom there was no possible work, like infants, the use of whom coincided with the delight (*delicia, voluptas*) that is derived from them. When we read in the *Digest* “if only the use of an infant slave should be bequeathed . . .” (*Digest*, 7, 1, *de usuf.*, 55), it is clear that here the juridical term *usus* is confounded with the use of the body without remainder.

It is necessary to reflect on this inseparable and personal character of the use of the slave. As we have seen, even when Roman jurists, using the notion of *fructus*, distinguished the labor (*operae* does not indicate the product but the activity in itself) of the slave from use in the strict sense, the latter is and remains personal and inseparable from the body itself. The separation of something like a labor activity is here possible only by separating the body as object of use from its activity as alienable and remunerable: “the worker is divided between two zones of law that correspond respectively to what he is as body and what he is as merchandise, as incorporeal good” (Thomas 2, p. 233). At this point, the slave enters into the centuries-long process that will be able to transform him into a worker.

From the perspective that interests us here, we can hypothesize that the late appearance of the dimension of labor happened in the case of the slave before that of the artisan precisely because the activity of the slave is by definition deprived of a proper work and therefore cannot be valued on the basis of his *ergon*, as would happen for the artisan. Precisely because his *ergon* is the use of the body, the slave is essentially *argos*, deprived of work (at least in the poetic sense of the term).

1.9. The peculiar nature of the use of the slave's body appears clearly in a sphere that has curiously escaped the attention of historians. Already in 1980, in his study on *Ancient Slavery and Modern Ideology*, Moses Finley, taking up an observation of Joseph Vogt, lamented the lack of any study on the relation between slavery and sexual relationships. Unfortunately, Kyle Harper's recent study (*Slavery in the Late Roman World*, 2011), which dedicates a lengthy chapter to this problem, concerns only late Roman antiquity and must therefore make use of Christian sources that are not always objective. His study, however, shows beyond any doubt that sexual relationships between the master and his slaves were considered totally normal. The sources examined by Harper suggest, in fact, that they functioned in some way as a counterpart to the institution of marriage and that it was even thanks to them that this latter institution was able to maintain its strength in Roman society (Harper, pp. 290–291).

What interests us here, rather, is that the sexual relationship made up an integral part of the use of the slave's body and was not in any way perceived as an abuse. Nothing is more significant, from this perspective, than the fact that the testimony of Artemidorus's *Interpretation of Dreams* lists sexual relationships with slaves among those that are "natural, legal, and customary" (*kata physin kai nomon kai ethos*; Artemidorus, 1.78). In perfect coherence with the Aristotelian doctrine of the slave as equipment, sexual use of the slave in dreams is here the symbol of the best possible relationship with one's own objects of use: "to dream of having sex with one's slave, whether male or female, is good; for slaves are equipment [*ktemata*] of the dreamer, so that uniting oneself with them will mean, quite naturally, that the dreamer will derive pleasure from his equipment, which will grow greater and more valuable." As proof of its completely normal character, the sexual relationship with the slave can also appear as a key for the interpretation of a dream: "If one dreams of masturbating with one's hands, it means that one will have sexual relations with a male or female slave, insofar as the hands that approach the genitals are serviceable [*hyperetikas*]." Naturally, a slave can also be the one to dream: "I know of a slave who dreamt that he mastur-

bated his master, and he became the companion and attendant of his children, for in his hands he held his master's penis, which is the symbol of his children"; the prediction can, however, also be unfavorable: "I know another who, by contrast, dreamed of being masturbated by his master; he was tied to a pillar and received many lashes" (Artemidorus, 1.78).

What Artemidorus's oneirocritical acumen seems to suggest here is that not only does the use of the slave's body include the use of his sexual parts, but also that, in the indetermination of the two bodies, the "serviceable" hand of the master is equivalent to the service of the slave. Hence the striking promiscuity that always defines relationships with servants, whom masters (or mistresses) have bathe them, clothe them, and comb their hair without this corresponding to any real necessity.

However, precisely for this reason and in confirmation of the personal and non-mercantile character of the use of the slave's body, the master who prostitutes a slave dishonors himself and his household.

1.10. The slave's activity has often been identified with that which moderns have called "labor." As is well known, this is the more or less explicit thesis of Arendt: the victory of *homo laborans* in modernity and the primacy of labor over all other forms of human activity (producing, *Herstellen*, which corresponds to the Aristotelian *poiesis* and acting, *Handeln*, which corresponds to *praxis*) in actuality implies that the condition of the slave, that is to say, of the one who is entirely occupied with the reproduction of bodily life, has, with the end of the ancien régime, been extended to all human beings. That the modern worker is more comparable to the slave than to the creator of objects (with whom modernity tends, according to Arendt, to confound the worker) or the political man is unquestionable, and already Cicero affirmed that for those who sell their labor, the compensation is "a pledge of their slavery" (*auctoramentum servitutis*; Cicero I, 1, 42, 150). However, one must not forget that the Greeks were ignorant of the concept of labor and, as we have seen, conceived the activity of the slave not as an *ergon* but as a "use of the body."

If in Greece there can be no general notion of labor comparable to our own, this is because, as Vernant has shown, productive activities are not conceived in relation to the unitary referent that the market is for us, but with respect to the use value of the object produced.

By means of the market, all labors effectuated in a society in their totality are put in relation with one another, compared among themselves, and equalized. . . . This universal equalization of the products of labor on the market, in

the same instant that it transforms diverse labors, completely diverse from the point of view of their use, into merchandise comparable from the point of view of their value, also transmutes all human labors, entirely diverse and particular, into one same general and abstract labor activity. By contrast, in the sphere of ancient technique and economy, labor appears only in its concrete aspect. Every task is defined as a function of the product that it proposes to fabricate: the cobbler with respect to the shoe, the potter with respect to the pot. Labor is not considered in the perspective of the producer, as an expression of one same human effort that creates a social value. For this reason, in classical Greece there does not exist a single great human function, called labor, which includes all trades, but rather a plurality of diverse trades, each of which defines a particular type of activity that produces its own work. (Vernant and Vidal-Naquet, p. 28)

It is in this context that one must situate Aristotle's reflection on *poiesis* in the above-cited passage from the *Metaphysics* (1050a 21–1050b 1): while the one who acts or uses without producing possesses *energeia* in his very action, the artisan who produces an object does not possess in himself the *energeia* of his activity, which instead resides outside him in the work. For this reason his activity, constitutively submitted to an external end, is presented as inferior to praxis. Vernant can thus rightly affirm that

in a similar social and mental system, the human being “acts” when he uses things and not when he makes them. The ideal of the free and active human being is to be always and universally a “user” and never a producer. The true problem of action, at least insofar as it concerns the relationship of the human being with nature, is that of the “good use” of things and not of their transformation through labor. (Vernant and Vidal-Naquet, p. 33)

In this perspective, the interpretation of the slave's activity in terms of labor appears, even aside from the anachronism, extremely problematic. Insofar as it seems to dissolve into an unproductive use of the body, it seems almost to constitute the other face of the good use of things on the part of the free person. That is to say, it is possible that the “use of the body” and the absence of work of the slave are something more or, at any rate, different from a labor activity and that they instead preserve the memory or evoke the paradigm of a human activity that is reducible neither to labor, nor to production, nor to praxis.

1.11. Hannah Arendt has recalled the difference that separates the ancient concept of slavery from that of the moderns: while for the latter the slave is a means of procuring labor-power at a good price with the goal of profits, for the ancient it was a matter of eliminating labor from the properly human life, which

was incompatible with it and which slaves, by taking it upon themselves, rendered possible. “Since human beings are subjected to the necessities of life, they can be free only if they subject others, forcefully constraining them to endure those necessities for them” (Arendt, p. 78).

It is necessary to add, however, that the special status of slaves—at once excluded from and included in humanity, as those not properly human beings who make it possible for others to be human—has as its consequence a cancellation and confounding of the limits that separate *physis* from *nomos*. Both artificial instrument and human being, the slave properly belongs neither to the sphere of nature nor to that of convention, neither to the sphere of justice nor to that of violence. Hence the apparent ambiguity of Aristotle’s theory of slavery, which, like ancient philosophy in general, seems constrained to justify what it can only condemn and to condemn that of which it cannot deny the necessity. The fact is that the slave, although excluded from political life, has an entirely special relation with it. The slave in fact represents a not properly human life that renders possible for others the *bios politikos*, that is to say, the truly human life. And if the human being is defined for the Greeks through a dialectic between *physis* and *nomos*, *zoè* and *bios*, then the slave, like bare life, stands at the threshold that separates and joins them.

✠ The anthropology that we have inherited from classical philosophy is modeled on the free man. Aristotle developed his idea of the human being starting from the paradigm of the free man, even if this latter implies the slave as his condition of possibility. One can imagine that he could have developed an entirely other anthropology if he had taken account of the slave (whose “humanity” he never intended to negate). This means that, in Western culture, the slave is something like the repressed. The reemergence of the figure of the slave in the modern worker thus appears, according to the Freudian scheme, as a return of the repressed in a pathological form.

1.12. How are we to understand the peculiar sphere of human acting that Aristotle calls “use of the body”? What does “using” mean here? Is it really a matter, as Aristotle seems to suggest, possibly through distinguishing it from production, of a sort of praxis (the slave is a “practical instrument”)?

In the *Nicomachean Ethics*, Aristotle had distinguished *poiesis* and *praxis* on the basis of the presence or absence of an external end (*poiesis* is defined by an external *telos* that is the object produced, while in praxis “acting well [*eupraxia*] is in itself the end”; 1140b 6). Aristotle unreservedly affirms many times that the use of the body does not belong to the productive sphere of *poiesis*; nor does it seem possible to simply inscribe it in the ambit of praxis. The slave is indeed assimilated to an instrument and defined as an “instrument for life [*zoè*]” and

“assistant for praxis”: but precisely for this reason, it is impossible to say of his actions that, as happens in praxis, acting well is in itself the end.

This is so true that Aristotle explicitly limits the possibility of applying to the action of the slave the concept of virtue (*aretè*) that defines the acting of the free man: insofar as the slave is useful for the necessities of life, “it is clear that he needs some small virtue, such as will prevent him from abandoning his work through cowardice or lack of self-control” (*Politics* 1260a 35–36). There is not an *aretè* of the slave’s use of the body, just as (according to the *Magna Moralia*, 1185a 26–35) there cannot be an *aretè* of nutritive life, which is for this reason excluded from happiness.

And just as it seems to escape the opposition between *physis* and *nomos*, *oikos* and *polis*, neither is the activity of the slave classifiable according to the dichotomies *poiesis/praxis*, acting well/acting badly that would seem, according to Aristotle, to define human operations.

✠ In the above-cited passage from the *Magna Moralia* (1185a 26–35), Aristotle asks if a virtue of nutritive life is possible (that is to say, that part of human life that human beings have in common with plants and that, beginning with late-ancient commentators, will be defined as “vegetative”): “What happens if we ask if there is a virtue for that part of the soul? For if it does, it is clear that there will be here also a being-at-work [*energeia*] and happiness is the being-at-work of a perfect virtue. Now whether there is or is not a virtue of this part is another question; but, if there is, it has no being-at-work.”

It is interesting to reflect on the analogy between a human activity deprived of *ergon* and virtue, which that of the slave is, and vegetative life, as human life excluded from virtue. And just as Aristotle seems to suggest for this latter the possibility of a virtue without being-at-work (“if it even exists, there is no being-at-work of it”), in the same way one could think for the body of the slave an *aretè* that knows neither *ergon* nor *energeia* and nevertheless is always in use. Perhaps one of the limits of Western ethics has been precisely the incapacity to think an *aretè* of life in all its aspects.

The reason why Aristotle cannot admit an *energeia* and a virtue in an act of vegetative life is that it is, according to him, deprived of *hormè*, of impulse or *conatus*. “For those things that have no *hormè*,” continues the cited passage, “will not have any *energeia* either; and there does not seem to be any impulse in this part, but it seems to be on par with fire. For that also will consume whatever you throw in it, but if you do not throw anything in, it has no impulse to get it. So it is also with this part of the soul, for if you give it food, it nourishes, but if you fail to throw in food, it has no impulse to nourish. There is no being-at-work of that which has no impulse. So that this part in no way contributes to happiness.”

By all indications, it is the will to exclude nutritive life from ethics (to say that something does not contribute to happiness means, for a Greek, to exclude it from ethics) that leads Aristotle to deny to it anything like a *conatus*. An ethics that does not want

to exclude a part of life will have to be in a position not only to define a *conatus* and an *aretè* of life as such but also to rethink from the very beginning the very concepts of “impulse” and “virtue.”

1.13. Let us attempt to fix in a series of theses the characteristics of the activity that Aristotle defines as “use of the body.”

1. It is a matter of an unproductive activity (*argos*, “inoperative,” “without work” in the terminology of the *Nicomachean Ethics*), comparable to the use of a bed or a garment.
2. The use of the body defines a zone of indifference between one’s own body and the body of another. The master, in using the body of the slave, uses his own body, and the slave, in using his own body, is used by the master.
3. The body of the slave is situated in a zone of indifference between the artificial instrument and the living body (it is an *empsychon organon*, an animate organ) and, therefore, between *physis* and *nomos*.
4. The use of the body is, in Aristotelian terms, neither *poiesis* nor *praxis*, neither a production nor a praxis, but neither is it assimilable to the labor of moderns.
5. The slave, who is defined by means of this “use of the body,” is the human being without work who renders possible the realization of the work of the human being, that living being who, though being human, is excluded—and through this exclusion, included—in humanity, so that human beings can have a human life, which is to say a political life.

Yet precisely insofar as the use of the body is situated at the undecidable threshold between *zoè* and *bios*, between the household and the city, between *physis* and *nomos*, it is possible that the slave represents the capture within law of a figure of human acting that still remains for us to recognize.

✠ From Aristotle on, the tradition of Western philosophy has always put at the foundation of the political the concept of action. Still in Hannah Arendt, the public sphere coincides with that of acting, and the decadence of the political is shown by the progressive substitution, in the course of the modern era, of making for acting, of *homo faber* and, later, of *homo laborans* for the political actor.

The term *actio*, however, from which the word “action” derives and which, beginning with the Stoics, translates the Greek *praxis*, originally belongs to the juridical and religious sphere and not to the political. *Actio* designates in Rome first of all a trial. The Justinian *Institutes* thus begin by dividing the sphere of law into three great categories: the *personae*

(personal laws), the *res* (property law), and the *actiones* (trial law). *Actionem constituere* therefore means “to start proceedings,” just as *agere litem* or *causam* means “to conduct a trial.” On the other hand, the verb *ago* originally means “to celebrate a sacrifice,” and, according to some, it is for this reason that in the most ancient sacramentaries the mass is defined as *actio* and the Eucharist as *actio sacrificii* (Casel, p. 39; Baumstark, pp. 38–39).

It is a term that comes from the juridico-religious sphere that has furnished to the political its fundamental concept. One of the hypotheses of the current study is, by calling into question the centrality of action and making for the political, that of attempting to think use as a fundamental political category.

## Chresis

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**2.1.** In March 1950, Georges Redard discussed before the *École pratique de hautes études a mémoire* on the meaning of the Greek words *chre*, *chresthai*. The committee was presided over by Émile Benveniste, who was also the supervisor for this research. The *mémoire*, which the subtitle defines as “a study of semantics,” was conceived as a chapter of a fuller study on mantic terminology (the words in question, which we normally refer to the sphere of use, belong originally in Greek, according to Redard, to the family of “oracular words”).

What is most surprising when one first examines the ample lexical material collected by Redard is that the verb *chresthai* does not seem to have a proper meaning but acquires ever different meanings according to the context. Redard thus lists twenty-three meanings of the term, from “to consult an oracle” to “have sexual relations,” from “to speak” to “be unhappy,” from “to punch someone” to “feel nostalgia.” The common strategy in our dictionaries, which consists in distinguishing the “different” meanings of a term, in order then to defer to the etymology the attempt to lead them back to a unity, here shows its insufficiency. The fact is that the verb in question seems to draw its meaning from that of the term that accompanies it, which is not normally, as we moderns would expect, in the accusative but in the dative or, at times, the genitive. Let us consider the following list, gathered in large part from examples mentioned by Redard:

*chresthai theoi*, lit. “to make use of the god” = to consult an oracle

*chresthai nostou*, lit. “to use return” = to feel nostalgia

*chresthai logoi*, lit. “to use language” = to speak

*chresthai symphorai*, lit. “to use misfortune” = to be unhappy

*chresthai gynaikì*, lit. “to use a woman” = to have sexual relations with a woman

*chresthai te polei*, lit. “to make use of the city” = to participate in political life

*chresthai keiri*, lit. “to use one’s hands” = to punch someone  
*chresthai niphetoi*, lit. “to use snow” = to be caught in a snowstorm  
*chresthai alethei logoi*, lit. “to use a true discourse” = to tell the truth  
*chresthai lotoi*, lit. “to use the lotus” = to eat lotus  
*chresthai orgei*, lit. “to use anger” = to be angry  
*chresthai eugeneiai*, lit. “to use good birth” = to be of noble stock  
*chresthai Platoni*, lit. “to use Plato” = to be friends with Plato

The situation is completely analogous for the corresponding Latin verb *uti*:

*uti honore*, lit. “to use an office” = to hold a position  
*uti lingua*, lit. “to use the tongue” = to speak  
*uti stultitia*, lit. “to use foolishness” = to be foolish (or give proof of foolishness)  
*uti arrogancia*, lit. “to use arrogance” = to be arrogant (or give proof of arrogance)  
*uti misericordia*, lit. “to use mercy” = to be merciful (or give proof of mercy)  
*uti aura*, lit. “to use the breeze” = to have a favorable wind  
*uti aliquo*, lit. “to make use of someone” = to be on familiar terms with someone  
*uti patre diligente*, lit. “to use a hardworking father” = to have a hard-working father

2.2. What these examples render immediately evident is that the verb in question cannot mean, according to the modern meaning of the verb *to use*, “to make use of, to utilize something.” Each time it is a matter of a relationship with something, but the nature of this relationship is, at least in appearance, so indeterminate that it seems impossible to define a unitary sense of the term. This is so much the case that Redard, in his attempt to identify this meaning, must content himself with a generic and, in the last analysis, tautological definition, because it is limited to displacing the problem onto the French term *utilisation*: *chresthai* would mean *rechercher l’utilisation de quelque chose* (even if one cannot see how “to be caught in a snowstorm” could mean “to seek the utilization of snow” or in what way “to be unhappy” could be equivalent to “to seek the utilization of misfortune”).

It is likely that a more or less conscious projection of the modern meaning of the verb *to use* onto that of *chresthai* has kept the scholar from grasping the

meaning of the Greek term. This is evident in the way in which he characterizes the relation between the subject and object of the process expressed by the verb.

If we now seek to define the process expressed by the verb, we can state that it is carried out within the sphere of the subject. . . . The construction of *chresthai* is intransitive: the object is in the dative or the genitive. . . . Whether we are dealing with a person or a thing, the object each time affirms its independence with respect to the subject. . . . The god who is consulted, the jewel with which one adorns oneself, the lotus that one eats, the javelin that one utilizes, the name of which one makes use, the language that one speaks, the clothes that one wears, the eulogy to which one makes recourse, the activity that one carries out, the opinion that one follows, the customs that one observes, the cold of which one is a victim, the chance to which one is submitted, the anger that seizes one, the author with whom one associates, the return to which one aspires, the nobility from which one descends, all these notions are realities independent of the one who makes recourse to them: the object exists outside the subject and never modifies it. (Redard, p. 42)

It is truly striking that Redard can speak of “exteriority,” of intransitivity and absence of modification between subject and object, precisely when he has just evoked the “return to which one aspires,” the “anger that seizes one,” the “cold of which one is a victim,” and the “nobility from which one descends,” examples among many others of a relation so close between subject and object that not only is the subject intimately modified, but the boundaries between the two terms of the relationship even seem to be indeterminated.

It is perhaps because of his awareness of this intimacy between subject and object of use that Redard seems at a certain point to nuance his definition of the meaning of the verb *chresthai*, adding that it expresses an attempt at accommodation and appropriation on the part of the subject:

The appropriation can be actualized as in *arpagei iemasi chresthai* (to be greedy) or virtual, as in the case of *nostou chresthai*. . . . In any case, the appropriation is always occasional, and this is its specificity. Whether one consults an oracle, whether one feels a need, rents out a plow, or catches rabies, it is always as a function of an event. An expression like *symphorai chresthai* (to be unhappy) is not an exception to the rule: “to be unhappy” means more precisely “to attract misfortune upon oneself.” . . . The subject-object relationship is defined as a relationship of occasional appropriation, of the lightning-lightning rod type, to take up Mr. Benveniste’s lovely image. (Ibid., p. 44)

Once again, the examples belie the thesis point by point: “to be unhappy” cannot mean to occasionally appropriate misfortune to oneself, nor “to feel nostalgic” to appropriate return to oneself.

2.3. It is probable that precisely the subject/object relationship—so marked in the modern conception of the utilization of something on the part of someone—emerges as inadequate to grasp the meaning of the Greek verb. And yet an indication of this inadequacy is present precisely in the very form of the verb, which is neither active nor passive but in the diathesis that ancient grammarians called “middle” (*mesotes*). Redard, noting this fact, refers to an article of Benveniste’s that appeared the same year in which his *mémoire* was discussed (“Actif et moyen dans le verbe,” 1950). Benveniste’s thesis is clear: whereas in the active, verbs denote a process that is realized starting from the subject and beyond him, “in the middle . . . the verb indicates a process that takes place in the subject: the subject is internal to the process” (Benveniste, p. 172/148). The examples of verbs that have a middle diathesis (*media tantum*) illustrate well this peculiar situation of the subject inside the process of which he is an agent: *gignomai*, Latin *nascor*, “to be born”; *morior*, “to die”; *penomai*, Latin *patior*, “to suffer”; *keimai*, “to lie”; *phato*, Latin *loquor*, “to speak”; *fungor, fruor*, “to enjoy,” etc. In all these cases, “here the subject is the seat of the process, even if this process, as is the case for the Latin *fruor* or Sanskrit *manyate*, demands an object; the subject is the center as well as the agent of the process; he achieves something that is being achieved in him” (p. 172/149).

The opposition with the active is obvious in those middle-voice verbs that also allow an active diathesis: *koimatai*, “he sleeps,” in which the subject is internal to the process, thus becomes *koima*, “he causes to sleep, puts to sleep,” in which the process, no longer having its place in the subject, is transitively transferred into another term that becomes its object. Here the subject, “placed outside the process, governs it thenceforth as an agent,” and the action must consequently take as its end an external object. Almost immediately after, Benveniste further specifies with respect to the active the peculiar relation that the middle voice presupposes between the subject and the process of which he is both the agent and the place: “they always finally come down to situating positions of the subject with respect to the process, according to whether it is exterior or interior to it, and to qualifying it as an agent, depending on whether it effects, in the active, or whether it effects while being affected [*il effectue en s’affectant*], in the middle” (ibid., p. 173/149–50).

2.4. Let us reflect on the striking formula by which Benveniste seeks to express the meaning of the middle diathesis: *il effectue en s’affectant*. On the one hand, the subject who achieves the action, by the very fact of achieving it, does not act transitively on an object but first of all implies and affects himself in the process; on the other hand, precisely for this reason, the process presupposes

a singular topology, in which the subject does not stand over the action but is himself the place of its occurring. As is implicit in the name *mesotes*, the middle voice is situated in a zone of indetermination between subject and object (the agent is in some way also object and place of action) and between active and passive (the agent receives an affection from his own action). One can understand, then, why Redard, in insisting on the subject/object relation and on the modern meaning of “utilization,” does not manage to lead the unaccountable polysemy of the verb *chresthai* back to a unity. Thus, it is all the more urgent to investigate, in the case that interests us here, the singular threshold that the middle voice establishes between subject and object and between agent and patient.

It also becomes clear, from this “middle-voice” perspective, why the object of the verb *chresthai* cannot be in the accusative but is always in the dative or genitive. The process does not pass from an active subject toward the object separated from his action but involves in itself the subject, to the same degree that this latter is implied in the object and “gives himself” to it.

We can therefore attempt to define the meaning of *chresthai*: *it expresses the relation that one has with oneself, the affection that one receives insofar as one is in relation with a determinate being*. The one who *synphorai chretai* has an experience of himself as unhappy, constitutes and shows himself as unhappy; the one who *utitur honore* puts himself to the test and defines himself insofar as he holds an office; the one who *nosthoi chretai* has an experience of himself insofar as he is affected by the desire for a return. *Somatos chresthai*, “to use the body,” will then mean *the affection that one receives insofar as one is in relation with one or more bodies*. Ethical—and political—is the subject who is constituted in this use, the subject who testifies of the affection that he receives insofar as he is in relation with a body.

2.5. Perhaps nowhere has this singular status of the agent been described with greater precision than in Spinoza. In the twentieth chapter of the *Compendium grammatices linguae hebraeae*, he introduced an ontological meditation in the form of an analysis of the meaning of a Hebrew verbal form, the reflexive active verb, which is formed by adding a prefix to the intensive form. This verbal form expresses an action in which agent and patient, active and passive are identified. To clarify its meaning, the first Latin equivalent that comes to his mind is *se visitare*, “to visit-oneself,” but this seems to him so insufficient that he later specifies it in the form: *se visitantem constituere*, “to constitute-oneself as visiting.” A second example, *se ambulationi dare*, “to give oneself over to a walk,” also inadequate, is clarified with an equivalent drawn from the mother

tongue of his people. “To walk” is said in Ladino (that is, in the Spanish that the Sephardic Jews spoke at the time of their expulsion from Spain) as *pasearse*, to “walk-oneself.” As an expression of an action of the self on the self, in which agent and patient enter into a threshold of absolute indistinction, the Ladino term is particularly appropriate.

A few pages earlier, in speaking of the corresponding form of the infinitive noun, Spinoza defines its semantic sphere by means of the idea of an immanent cause: “It was therefore necessary to invent another kind of infinitive, which expressed an action referred to the agent as immanent cause . . . , which means to visit-oneself, or to constitute-oneself as visiting or, finally, to manifest-oneself as visiting” (Spinoza I, p. 342). Here the sphere of the action of the self on the self corresponds to the ontology of immanence, to the movement of autoconstitution and of autopresentation of being, in which not only is it not possible to distinguish between agent and patient but also subject and object, constituent and constituted are indeterminated.

It is according to this paradigm that one must understand the singular nature of the process that we call “use.” Just as, in the experience of making a visit expressed by the Hebrew verb, the subject constitutes himself as visiting and, in the experience of walking, the subject first of all walks himself, has an experience of himself as walking, in the same way every use is first of all use of self: to enter into a relation of use with something, I must be affected by it, constitute myself as one who makes use of it. Human being and world are, in use, in a relationship of absolute and reciprocal immanence; in the using of something, it is the very being of the one using that is first of all at stake.

It may be helpful to reflect on the peculiar conception of the subject and of action implicit in use. While in the act of visiting what is essential, according to the meaning of the active diathesis, is the action of the agent outside himself, in use (in constituting-oneself as visiting) what is in the foreground is not the *energeia* of the visitor but the affection that the agent-user (who thus becomes patient) receives from it. The same can be said of the term that, in the passive diathesis, is object of the action: in use, it constitutes-itself as visited, is active in its being passive. To the affection that the agent receives from his action there corresponds the affection that the patient receives from his passion. Subject and object are thus deactivated and rendered inoperative, and, in their place, there follows use as a new figure of human praxis.

✠ It is from this perspective that one can understand the striking proximity between use and love that Dante institutes in the *Convivio* (Dante I, IV, 22). After having affirmed that the natural appetite (which he also calls, using a Greek word, *hormen*) first of all loves

itself and, through this love of self, also other things (“and thus, loving itself primarily and other things for its own sake, and loving the better part of itself better, it is clear that it loves the mind better than the body or aught else”), he writes: “wherefore if the mind always delights in the use of the thing it loves (which is the fruition of love), use in that thing which it loves most is the most delightful.” Love is here, in some way, the affection that is received by use (which is always also use of self) and remains in some way indiscernible from it. In the syntagma “use of the loved thing,” the genitive is at once subjective and objective. The subject-object of use is love.

## Use and Care

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**3.1.** In the course on *L'herméneutique du sujet*, Foucault had come up against the problem of the meaning of the verb *chresthai* while interpreting the passage from Plato's *Alcibiades* in which Socrates, in order to identify the "self" of which one must take care, seeks to demonstrate that "the one who uses" (*ho chromenos*) and "that which one uses" (*hoi chretai*) are not the same thing. To this end, he has recourse to the example of the cobbler and the lyre player, who make use of a cobbler's knife and a plectrum as well as their hands and eyes as instruments to cut leather or to play the cithara. If the one who uses and that of which one makes use are not the same thing, this then means that the human being (who "uses his whole body," *panti toi somati chretai anthropos*; 129e) does not coincide with his body and therefore, in taking care of it, he is taking care of "a thing that is his own" (*ta heautou*) but "not of himself" (*ouk hauton*). What uses the body and that of which one must take care, Socrates concludes at this point, is the soul (*psychè*).

It is in the course of commenting on this passage from Plato that Foucault seeks to define the meaning of *chresthai*, with considerations not very different from what we have already seen in connection with Redard's *mémoire*.

Of course, *chraomai* means: I use, I utilize (an instrument, a tool). But equally *chraomai* may designate my behavior or my attitude. For example, in the expression *ubrikhos chresthai*, the meaning is: behaving violently (as when we say, "using violence," when "using" does not mean utilizing, but rather behaving violently). So *chraomai* is also a certain attitude. *Chresthai* also designates a certain type of relationship with other people. When one says, for example, *theois chresthai* (using the gods), this does not mean that one utilizes the gods for any end whatever. It means having appropriate and legitimate relationships with the gods. . . . *Chraomai*, *chresthai* also designate a certain attitude towards oneself. In the expression *epithumiais chresthai*, the meaning is not "to use one's passions for something" but quite simply "to give way to one's passions." (Foucault I, pp. 55–56/56)

The insistence on the specification of the semantic sphere of *chresthai* is not by chance. According to Foucault, in fact, this verb develops a strategic function in Plato's argumentation, insofar as Socrates makes use of it to respond to the question of what this "oneself" is that is the object of care-of-oneself ("in what way will it be possible to find the self itself"—*auto tauto*, a technical formula for the expression of the idea: the "itself in itself"; 129b). By concentrating his examples on the verb *chresthai*, that is to say, Plato intends to suggest that taking care of the self means, in reality, to concern oneself with the subject of a series of "uses." And here the attempt to define the meaning of *chresthai* shows its full pertinence. When Plato—Foucault suggests—makes use of the notion of *chresthai/chresis* to identify the *heauton* in the expression "to take care of oneself," in reality he intends to designate "not an instrumental relationship of the soul to the rest of the world or to the body, but rather the subject's singular, transcendent position, as it were, with regard to what surrounds him, to the objects available to him, but also to other people with whom he has a relationship, to his body itself, and finally to himself" (Foucault 1, p. 56/56–57). What Plato discovers in this way is not, that is to say, "the soul-substance" but "the soul-subject":

Taking care of oneself will be to take care of the self insofar as it is the "subject of" a certain number of things: the subject of instrumental action, of relationships with other people, of behavior and attitudes in general, and the subject also of relationships to oneself. It is insofar as one is this subject who uses, who has certain attitudes, and who has certain relationships, etc., that one must take care of oneself. It is a question of taking care of oneself as subject of *chresis* (with all that word's polysemy: subject of actions, behavior, relationships, attitudes). (Ibid., p. 56/57)

3.2. Anyone who has any familiarity with the investigations of the late Foucault will have recognized in this passage one of the essential characteristics of the ethical subjectivity that they seek to define. If Foucault returns so insistently in his courses to Plato's *Alcibiades*, it is not only because one of the central themes of the dialogue is care-of-oneself, with which he was very concerned in those years. In the Foucauldian laboratory, the *Alcibiades* above all furnishes the occasion to articulate in all its complexity and in all its aporias that notion of the subject with which, according to his testimony, he had never ceased to concern himself.

Just as the subject is not a substance for Foucault but a process, so also does the ethical dimension—care-of-oneself—not have an autonomous substance: it has no other place and no other consistency than the relation of use between the human being and the world. Care-of-oneself presupposes *chresis*, and the self

that names the ethical subject is not something other with respect to the subject of use but remains immanent to it. For this reason Foucault, in his reading of the *Alcibiades*, insists on the distinction between soul-substance and soul-subject, and for this reason he can write, in the notes published by Frédéric Gros at the end of the course, that “the self with which one has the relationship is nothing other than the relationship itself . . . it is in short the immanence, or better, the ontology adequation of the self to the relationship” (ibid., p. 514/533).

The difficulty with which these feverish remarks seek to settle accounts is decisive: if that of which one takes care is the very subject of relations of use with others, the risk here is that the active subject of care will be configured in its turn in a transcendent position as subject with respect to an object or that, in any case, ethical subjectivity will be drawn into a *regressio ad infinitum* (the one that takes care of the subject of use will demand in its turn another subject that takes care of it, etc.).

The question is all the more urgent and delicate insofar as it is precisely here that we see the reappearance of that problem of governmentality that constitutes the privileged object of Foucault’s courses beginning from the mid-1970s. The theme of care-of-oneself in this way risks resolving itself entirely into that of the governance of the self and of others, just as, in the passage from the *Alcibiades*, the theme of the use of the body on the part of the soul is resolved at a certain point into that of the command (*archè*) of the soul over the body (130a).

What is crucial here is the way in which one thinks the relationship between care and use, between care-of-oneself and use-of-oneself. As we have seen, in connection with use, Foucault evokes the relationship with oneself, but while the concept of care-of-oneself remains at the center of his analyses, that of “use-of-oneself” is almost never thematized as such. The relation of use, which constitutes precisely the primary dimension in which subjectivity is constituted, thus remains in the shadows and gives way to a primacy of care over use that seems to repeat the Platonic gesture in which *chresis* was resolved into care (*epimeleia*) and command (*archè*). This is all the more fraught with consequences insofar as the separation between care-of-oneself and use-of-oneself is at the root of that between ethics and politics, which is as alien to classical thought at least up to Aristotle as it is to the preoccupations of the late Foucault.

3.3. The relation between care and use seems to entail something like a circle. The formula “to concern oneself with oneself as subject of *chresis*” suggests, in fact, a genetical-chronological primacy of the relations of use over care-of-oneself. It is only insofar as a human being is introduced as subject into a series of relations

of use that a care-of-oneself may perhaps become possible. On the other hand, if “the self with which one has a relationship is nothing other than the relationship itself,” the subject of *chresis* and that of care are the same subject. It is this coincidence that the enigmatic expression “the immanence or ontological adequation of the self to the relationship” seems to want to express (Foucault 1, p. 514/533). The subject of use must take care of itself insofar as it is in a relationship of use with things or persons: that is to say, it must put itself into relationship with the self insofar as it is in a relationship of use with another. But a relationship with the self—or an affection of the self—is already implicit, as we have seen, in the middle-voice meaning of the verb *chresthai*, and this seems to call into question the very possibility of distinguishing between care-of-oneself and use. If “to use” means “to enter into a relationship with the self insofar as one is in relationship with another,” in what way could something like a care-of-oneself legitimately claim to define a dimension other than use? That is to say, how would ethics distinguish itself from use and obtain a primacy over it? And why and how has use been transformed into care? This is all the more the case given that, as Foucault suggests many times, the subject of *chresis* can enter into a relationship of use also with itself, can constitute a “use-of-oneself.”

It is perhaps out of awareness of these aporias that, alongside the theme of care-of-oneself, we see the appearance in the late Foucault of the at least apparently contrary motif that he designates with the formula: *se déprendre de soi-même*. Care-of-oneself here gives place to a dispossession and abandonment of the self, where it again becomes mixed up with use.

3.4. It is from this perspective that Foucault’s interest in sadomasochistic practices can be properly situated. It is not only a matter of the fact that here, as Foucault emphasizes many times, the slave can in the end find himself in the position of the master, and vice versa: rather, what defines sadomasochism is the very structure of subjectivation, its *ethos*, insofar as the one whose body is (or seems to be) used is actually constituted to the same extent as subject of its being used, assumes it and experiences pleasure in it (even here what is in question, in the terms of the course on *L’herméneutique du sujet*, is the relationship that one has with the self as subject of one’s own sexual relations). Vice versa, the one who seems to use the body of the other can in some way be used by the other for his own pleasure. Master and slave, sadist and masochist here are not two incommunicable substances, but in being taken up into the reciprocal use of their bodies, they pass into one another and are incessantly indeterminated. As the language expresses so well, the masochist “causes to be done to him” what he suffers, is

active in his very passivity. That is to say, *sadomasochism exhibits the truth of use, which does not know subject and object, agent and patient*. And in being taken up in this indetermination, pleasure is also made non-despotic and common.

It is striking that the analyses of sadomasochism from the Freudian perspective, despite noting the inversion of roles between the two subjects, do not mention the master/slave relation. Thus, in the by-now classic monograph that he dedicated to masochism, Theodor Reik notes many times the reciprocal transformation of the active element into the passive element and the reversal toward the ego of what is originally a sadistic tendency; but the terms “master” and “slave” never appear. By contrast, Foucault not only makes use of these terms but seems to suggest that it is precisely the assumption of these two roles that allows for a new and more enjoyable relation to the body. “I think it’s a kind of creation,” he writes in connection with his experience in California bathhouses, “a creative enterprise, which has as one of its main features what I call the desexualization of pleasure. . . .” (Foucault 2, p. 738/Rabinow, p. 165); “. . . wouldn’t it be marvelous . . . to encounter bodies that are both present and fleeting? Places where you desubjectivize and desexualize yourself . . . ?” (Foucault and Le Bitoux, p. 399).

It is possible, then, that what is in question in sadomasochism is a ritualized re-creation of the master/slave relation, insofar as this relation paradoxically seems to allow access to a freer and fuller use of bodies. By means of this, the subject pursues the traces of a “use of the body” beyond the subject/object and active/passive scissions: in the words of Foucault, he has an experience of his own desubjectivation.

And if it is true, as Deleuze observed, that masochism always entails a neutralization of the juridical order by means of its parodic exaggeration, then one can form the hypothesis that the master/slave relation as we know it represents the capture in the juridical order of the use of bodies as an originary prejuridical relation, on whose exclusive inclusion the juridical order finds its proper foundation. In use, the subjects whom we call master and slave are in such a “community of life” that the juridical definition of their relationship in terms of property is rendered necessary, almost as if otherwise they would slide into a confusion and a *konomia tes zoes* that the juridical order cannot admit except in the striking and despotic intimacy between master and slave. And what seems so scandalous to us moderns—namely, property rights over persons—could in fact be the originary form of property, the capture (the *ex-ceptio*) of the use of bodies in the juridical order.

✠ The ancient world knew of festivals in which the originary indetermination that defines the use of bodies reemerged into the light by means of the role reversal between master and slave. Thus, during the Saturnalia, which was celebrated on December 17, not only did masters serve the slaves, but the entire order of social life was transformed and subverted. It is possible to see in these anomic festivals not only a state of suspension of the law that characterizes certain archaic juridical institutions but also, by means of this suspension, the reemergence of a sphere of human action in which not only master and slave but also subject and object, agent and patient are indeterminated.

3.5. One can therefore understand why in the *Phenomenology of Spirit*, the dialectic between master and slave and the recognition that is in question in it has a constitutive anthropological function. What is decisive here is not only, as Hegel never stops reminding us, that the recognition of self-consciousness can happen only by means of another self-consciousness but also that, in the relationship between master and slave, what is at stake is what Hegel unreservedly calls enjoyment (*der Genuss*):

The master relates himself mediately to the thing through the slave; the slave, *qua* self-consciousness in general, also relates himself negatively to the thing and abolishes it [*hebt es auf*]; but at the same time the thing is independent vis-à-vis the slave, whose negating of it, therefore, cannot go to the length of being altogether done with it to the point of annihilation; in other words, he only works on it. For the master, on the other hand, the immediate relation becomes through this mediation the sheer negation of the thing, or the enjoyment of it. What desire failed to achieve, he succeeds in doing, viz., to have done with the thing altogether, and to achieve satisfaction in the enjoyment of it. Desire failed to do this because of the thing's independence; but the master, who has interposed the slave between it and himself, takes to himself only the dependent aspect of the thing and has the pure enjoyment of it. . . .

In both of these moments [*scil.* the slave's labor and the enjoyment that it renders possible] the master achieves his recognition through another consciousness. . . . (Hegel, pp. 115–116)

Hegel sees the intimate relation between master and slave that we have sought to define as use of the body; however, while in the *koinonia tes zoes* that is here in question, the body of the master and that of the slave, distinct in the juridical order, tend to become undecidable. Hegel dwells upon precisely what makes it possible to separate and recognize the two positions: the distinction between the labor of the slave and the enjoyment of the master. Naturally, as in sado-masochism according to Foucault, the two roles tend to be reversed, and, in the end, since “the truth of the master's consciousness is servile consciousness”

(Hegel, p. 117), the labor of the servant, as “desire held in check and fleetingness staved off” (p. 118), acquires its independence with respect to the fleeting enjoyment of the master.

Even in this dialectical reversal, what is nonetheless lost is the possibility of another figure of human praxis, in which enjoyment and labor (which is restrained desire) are in the last analysis unassignable. From this perspective, sadomasochism appears as an insufficient attempt to render inoperative the dialectic between master and slave by parodically finding in it the traces of that use of bodies to which modernity seems to have lost all access.

## The Use of the World

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**4.1.** Despite his *boutade* on not reading *Being and Time*, it is difficult to imagine that Foucault was not familiar with the chapter that bears the significant title “Dasein’s Being as Care [*die Sorge*],” which concludes and almost summarizes the first division of the work and where what is in question is an analogous—and equally aporetic—primacy of care over use. Here care is not understood simply as preoccupation (*Besorgnis*, as opposed to carelessness, *Sorglosigkeit*; Heidegger I, p. 192/237) but in an ontological sense as the fundamental structure of Dasein, as “the originary totality of Dasein’s structural whole” (*die ursprüngliche Ganzheit des Strukturganzen des Daseins*; *ibid.*, p. 180/225). The “primacy” (*Vorrang*) that belongs to care as “originary totality” implies that it comes before “every factual ‘attitude’ [*Verhaltung*] and ‘situation’ [*Lage*] of Dasein” (p. 193/238) and that it is “ontologically ‘earlier’ [*früher*]” than phenomena like “willing and wishing or urge and addiction” (p. 194/238).

However, if we seek to understand how this ontological priority of care is articulated, we realize that it is neither chronological nor genetic but on the contrary has the striking form of a finding oneself always already in something else. The phrase that we just cited in an incomplete form reads in its entirety: “Care, as a primordial structural totality, lies ‘before’ every factual ‘attitude’ and ‘situation’ of Dasein, and it does so existentially *a priori* [*existential-apriorisch*]” (p. 193/238). The existential *a priori* of care, like every *a priori*, always already inheres in something other than care itself. This character of “being-in” is, however, implied in the definition of the structure of care that immediately precedes it: “the Being of Dasein means ahead-of-itself-Being-already-in-(the-world) as Being-alongside” (*Sich-vorweg-schon-Sein-in (der Welt) als Sein-bei*; p. 192/236).

Dasein, which has the structure of care, finds itself always already factually thrown into the world and inserted into that series of references and relations that according to Heidegger define the “worldhood of the world.” And immediately afterward, he specifies what the “where” of this being-alongside is:

“Ahead-of-itself-Being-already-in-a-world essentially includes one’s falling and one’s *Being-alongside* those things ready-to-hand within-the-world with which one concerns oneself” (*besorgten innerweltlichen Zuhanden*; p. 192/237).

Heidegger dedicates paragraphs 15 and 22 of *Being and Time* in particular to the definition of “handiness,” being-ready-to-hand (*Zuhandenheit*); but the entire analysis of being-in, starting from paragraph 12 up to the end of the third chapter of the book, attempts to define the “familiarity that uses and handles” (*der gebrauchende-hantierende Umgang*) that constitutes the originary relation of Dasein to its world.

4.2. In his book entitled *Umgang mit Göttlichem*, Kerényi dwelled on the untranslatability of the German term *Umgang*, with which he expresses the originary relationship of the human being with the divine. The English word “intercourse” seems to him to be insufficient, because “it is limited to the total exchangeability of subject and object, to a running back and forth of the event” between the two terms of the relationship; in French and Italian one would have to choose between *commerce* and *commercio*, on the one hand, and *familiarité* and *dimestichezza*, on the other, while the German term unites both meanings in itself. The peculiarity of the term *Umgang* is that it entails both exchangeability between subject and object (“the object of familiarity must be able to change itself at any moment into the subject of that same familiarity; and we, who cultivate familiarity with it, must be able to become its object”; Kerényi, p. 5) and immediacy (“the relationship between subject and object that stands at the basis of familiarity excludes every mediation on the part of a third”; p. 8).

It is in this semantic perspective that one must situate the “familiarity that uses and handles” in *Being and Time*. Like Kerényi’s *Umgang*, it is immediate, because nothing separates it from the world, and at the same time it is a place of indetermination between subject and object, because Dasein, which is always ahead of itself, finds itself always already in the power of the things of which it takes care. Analogous considerations could be made for the other two terms by means of which Heidegger characterizes the immediate and originary relation of being-in between Dasein and the world: “handiness” and relevance (*das Bewandtnis*, the being satisfactory or sufficient of something with respect to something else). In every case, it is a matter of something so immediate and constitutive for Dasein that this latter cannot at all be conceived as a subject “which sometimes has the inclination to take up a ‘relation’ with the world” (Heidegger I, p. 57/84); familiarity, handiness, and relevance name the very structure of Dasein in its originary relation to the world.

4.3. That this relation has to do with the sphere of use, that what is in question in it is something like a “use of the world” is implied in the fact that the paradigm of handiness is equipment (*das Zeug*, something like Aristotle’s *organon* or *ktema*), exemplified par excellence in the hammer:

Straightforward familiarity with equipment can genuinely show itself only in dealings cut to its own measure (hammering with a hammer, for example); but in such dealings an entity of this kind is not *grasped* thematically as an occurring thing, nor is the equipment-structure known as such even in the using [*das Gebrauchen*]. The hammering does not simply have knowledge about the hammer’s character as equipment, but it has appropriated this equipment in a way that could not possibly be more suitable. In this familiarity that makes use [*gebrauchenden Umgang*], our concern [*das Besorgen*] subordinates itself to the end-oriented characteristic [*Um-zu*, “in-order-to”] which is constitutive for the equipment we are employing at the time; the less we just stare at the hammer-thing, and the more we seize hold of it and use it [*gebraucht*], the more originary does our relationship to it become, and the more unveiledly is it encountered as that which it is—as equipment. The hammering itself uncovers the specific “manipulability” [*Handlichkeit*] of the hammer. The mode of Being which equipment possesses—in which it manifests itself in its own right—we call “handiness” [*Zuhandenheit*]. (Heidegger I, p. 69/98)

This originary and immediate relation with the world—which Heidegger, to emphasize its inescapable character, also calls “facticity” (*Faktizität*)—is so involved and absolute that, to express it, it is necessary to make recourse to the same term that, in juridical language, designates the state of arrest: “the concept of ‘facticity’ implies that an entity ‘within-the-world’ has Being-in-the-world in such a way that it can understand itself as captured [*verhaftet*] in its ‘destiny’ with the Being of those entities which it encounters within its own world” (p. 56/82). And it is due to this unheard-of involvement of Dasein that Heidegger can speak of an originary “intimacy” (*Vertrautheit*, “confident familiarity”) between Dasein and the world: “Any concern [*das Besorgen*] is always already as it is, because of some intimacy with the world. In this intimacy Dasein can lose itself in what it encounters in the world and be fascinated [*benommen*] by it” (p. 76/107).

In familiarity with the world we again find the plurality of senses and forms, of “ways of being-in” (*Weisen des In-Seins*), that we had seen to define the polysemy of the Greek *chresis*: “having to do with something [*zutunhaben mit etwas*], producing [*herstellen*] something, attending to something and looking after it, making use of [*verwenden*] something, giving something up and letting it go, undertaking, accomplishing, evincing, interrogating, considering, discussing,

determining . . .” (p. 56/83). And all these modalities of being-in are included in that “familiarity with the world and with entities within-the-world” that Heidegger expressly defines as “those entities which we encounter first of all” (*nächstebegegnenden Seienden*; p. 66/95). These first and immediate entities are pre-thematic, because they “are not objects for knowing the world theoretically, they are rather what gets used [*das Gebrauchte*], what gets produced, and so forth. As entities so encountered, they become the preliminary theme for the purview of a ‘knowing’ which, as phenomenological, looks primarily toward Being, and which, in thus taking Being as its theme, takes these entities as its accompanying theme” (p. 67/95). And Dasein has no need to transpose itself (*sich versetzen*) into this familiarity: it “is always already in this mode of Being: when I open the door, for instance, I use the latch” (p. 67/96). The use of the world is, once again, the first and immediate relationship (*die nächste Art des Umganges*; *ibid.*) of Dasein.

✠ The relation between use and care can be compared with that between use value and exchange value, which Marx deduces from the economists. The privilege that Marx seems to grant to use value is founded on the fact that, for him, the process of production is in itself oriented to use value and not to exchange value, and only the surplus of use values over demand allows them to be transformed into means of exchange and commodities. However, Marx did not clearly show what one is to understand by a surplus of use values and seems, on the other hand, to conceive use value only as utilizability of an object. Now it is obvious that at the moment when an object is brought to market to sell it one cannot use it, which implies that use value in some way constitutively exceeds effective utilization. Exchange value is founded on a possibility or surplus contained in use value itself, which can be suspended and maintained in the potential state, just as, according to Heidegger, the suspension of handiness allows care to appear. From the perspective that interests us, it will be a question of thinking a surplus—or an alterity—of use with respect to utilizability that is intrinsic to use itself, independently of its surplus with respect to demand.

4.4. It is over this “familiarity that uses and handles” that care must affirm its primacy. It is a matter, on the one hand, even before confronting it thematically in the analysis of paragraphs 39–43, of presupposing and inscribing care into the very structure of being-in that defines the originary relation of Dasein with its world. In paragraph 12, at a point where he is characterizing the essential spatiality of Dasein and the ways of its being-in-the-world, Heidegger anticipates with these words the theme of care:

All these ways of Being-in have concern [*Besorgen*] as their mode of Being—a mode of Being which we have yet to characterize in detail. . . . This term has been chosen not because Dasein happens to be proximally and to a large extent

“practical” and economic, but because the Being of Dasein itself must [*soll*] be made visible as *care*. This term must be understood [*istzu fassen*] as an ontological structural concept. (p. 57/83–84)

Even though neither handiness nor relevance nor any of the other characteristics that define familiarity with the world seem to imply anything like a “taking care” (indeed, in their immediacy and their “nearness” they would seem to presuppose the contrary; cf. §22), here care is inserted as a necessity that does not need to be argued for and whose explanation is postponed to a later time.

It is another apparatus, however, that proves to be decisive in the strategy directed toward establishing the primacy of care. I am speaking of anxiety. Already in paragraph 16, familiarity had displayed points of fracture: a tool can be damaged and unusable and, precisely for this reason, can surprise us; it can be missing and, precisely for this reason, become intrusive; finally, it can be out of place or in the way, almost as though it was rebelling against every possibility of use. In all these cases, familiarity gives way to a simple availability (*Vorhandenheit*) but does not for this reason disappear. Since it appears to be a matter of accessory or subsequent phenomena, which do not call into question the primary characteristic of handiness, Heidegger can write that “handiness does not vanish simply, but takes its farewell, as it were, in the conspicuousness of the unusable. Handiness still shows itself, and it is precisely here that the worldly character of the handy shows itself too” (p. 74/104).

In anxiety, by contrast, the first and immediate relationship with the world proper to familiarity is called radically into question. “Here the totality of relevance of the handy and the available discovered within-the-world, is, as such, of no consequence; it collapses into itself; the world has the character of completely lacking significance” (p. 186/231). It is not simply a matter, as in the preceding cases, of an occasional unutilizability. The specific power of anxiety is rather that of annihilating handiness, of producing a “nothing of handiness” (*Nichts von Zubandenheit*; p. 187/232). In annihilating handiness, anxiety does not withdraw from the world but unveils a relation with the world more originary than any familiarity:

That in the face of which anxiety is anxious is nothing handy within-the-world. . . . The “nothing” of handiness is grounded in the most primordial “something”—in the *world*. . . . *Being-in-the-world itself is that in the face of which anxiety is anxious*. Being-anxious discloses, originally and directly, the world as world. (p. 187/231–232)

It is with this neutralization of handiness that, with a radical subversion of the rank (up until then primary) of the “familiarity that uses and handles,” he

can propose the striking thesis according to which intimacy with the world “is a mode of Dasein’s uncanniness [*Unheimlichkeit*], not the reverse. *From an existential-ontological point of view, the ‘not-at-home’ [das Un-zu-hause] must be conceived as the more primordial phenomenon*” (p. 189/234).

And it is only after the apparent primacy of familiarity has been swept aside thanks to anxiety that care can appear, in the paragraph immediately following, as the original structure of Dasein. That is to say, the primacy of care has been rendered possible only by means of an operation of annulling and neutralizing familiarity. The originary place of care is situated in the non-place of handiness, its primacy in making the primacy of use disappear.

✂ To the primacy of care over use there corresponds, in the second division of the book, the primacy of temporality over spatiality. In paragraphs 22–24 of *Being and Time*, the sphere of the “familiarity that uses and handles” defined the “spatiality” of Dasein, its constitutive character as “being-in.” The concepts Heidegger uses here are all of a spatial order: “de-removal” (*die Ent-fernung*), “proximity” (*dis Nähe*), “region” (*die Gegend*), “making room” (*Einräumen*). And spatiality is not something in which Dasein finds itself or that at a certain point happens to it: “Dasein is originarily spatial,” and “in every encounter with the handy” of which it takes care “the encounter with space as region” is already inherent (p. 111/145).

Starting from paragraph 65, by contrast, not only is it temporality and not spatiality that constitutes the ontological meaning of care, but the very structure of this latter (being-already-ahead-of-oneself in a world as being-alongside the beings that one encounters in the world) acquires its proper sense from the three “ecstasies” of temporality: future, past, and present. It is not an accident that while “being-already” and “being-ahead-of-oneself” refer immediately to the past and the future, Heidegger observes that “we lack such an indication” (p. 328/376) proper to that third constitutive moment of care—the being-alongside that defines the sphere of handiness. The attempt to return being-alongside as well to temporality in the form of a “making-present” (*Gegenwärtigen*, p. 328/376) appears necessarily forced since in paragraphs 22–23, being-alongside defines Dasein’s spatiality, a spatial nearness (*Nähe*) and not a temporal present. It is for this reason that in paragraphs 69 and 70, Heidegger persistently seeks to lead spatiality back to temporality (“Only on the basis of its ecstasico-horizonal temporality is it possible for Dasein to break into space”; p. 369/421). But it is significant that many years later, in the seminar on *Time and Being*, we read the laconic admission that “the attempt in *Being and Time*, §70, to derive human spatiality from temporality is untenable” (Heidegger 2, p. 24/23).

4.5. The primacy of care over use can be inscribed without difficulty in the peculiar dialectic that defines the analytic of Dasein: that between the improper (*Uneigentlich*) and the proper (*Eigentlich*). What appears as primary, the dimen-

sion in which Dasein is “already and for the most part,” can only “fall” always already into impropriety and inauthenticity; but precisely for this reason, the proper does not have another place and substance with respect to the improper: it is “existentially only a modified way in which the latter is seized upon” (*nur ein modifiziertes Ergreifen dieser*; Heidegger 1, p. 179/224). This means that the primacy of the proper over the improper (like that of care over handiness, of temporality over spatiality) rests on a singular structure of being, in which something exists and is given reality solely by grasping a being that precedes and, nevertheless, disperses and removes itself. That something like a dialectical process is in question here is suggested by the analogy with the dialectic that opens the *Phenomenology of Spirit*, in which sense certainty, which “is primary and our immediate object,” is later revealed to be the experience that is most abstract and lacking in truth, which may become true only through a process of mediation and negation, which nevertheless has need of it as the beginning that must be removed in order, only at the end, to be understood. Just as, for Hegel, perception (*Wahrnehmung*, taking as true) is possible only by grasping the untruth of sense certainty, so also in *Being and Time*, the proper is only a modified grasp of the improper, and care a grasping of the impropriety of use. But why, in our philosophical tradition, does not only consciousness but the very Dasein, the very being-there of the human being, need to presuppose a false beginning, which must be abandoned and removed to give place to the true and the most proper? Why can the human being find itself only by presupposing the not-truly-human; why can it only find free political action and the work of the human being by excluding—and at the same time including—the use of the body and the inoperativity of the slave? And what does it mean that the most proper possibility can be seized upon only by recovering itself from lostness and the fall into the improper?

✠ Heidegger cautions many times against the temptation to interpret the “falling” (*das Verfallen*) of Dasein into the improper in theological terms, as if it referred to the doctrine of the *status corruptionis* of human nature (“Ontically, we have not decided whether man is ‘drunk with sin’ and in the *status corruptionis*, whether he walks in the *status integritatis*, or whether he finds himself in an intermediate stage, the *status gratiae*”; *ibid.*, p. 180/224). It is difficult to believe, however, that he was not aware (as Hegel, on the other hand, had been in his own way with respect to the doctrine of redemption) of having secularized in the analytic of Dasein the theological doctrine of the fall and original sin. But once again, it would probably have been a matter—for him as for Hegel—of “properly” grasping on the ontological plane what had been “improperly” theorized on the ontic level. The shift in level worked out by secularization often coincides not with a weakening but with an absolutization of the secularized paradigm.

4.6. In his 1946 essay *Der Spruch des Anaximander*, Heidegger seems to want to restore to use the centrality that, in *Being and Time*, he had taken away from it in the name of care. The occasion is provided by the translation of a Greek term closely related to *chre* and *chresthai*: *to chreon*, often translated as “necessity,” but which Heidegger unreservedly renders with *der Brauch*, “use.” First of all, by adopting the etymology proposed by Bréal and rejected by the majority of linguists, Heidegger inscribes this term into the semantic context of the hand and of handling (and, in this way, puts it implicitly into relation with the dimension of *Zuhandenheit* in *Being and Time*):

*Chreon* is derived from *chrao*, *chraomai*. This suggests *he cheir*, the hand. *Chrao* means: *ich be-handle etwas*, I handle something, reach for it, extend my hand to it [*gehe es an und gebe ihm an die Hand*]. Thus, at the same time, *chrao* means: to place in someone’s hands, to hand over and deliver [*in die Hand geben, einhändigen*], to let something belong to someone. Such a giving into the hand [*Aushändigen*, “delivery”] is, however, of a kind which keeps the transfer in hand [*in der Hand behält*], and with it what is transferred. (Heidegger 3, p. 337/276)

What is decisive here, however, is that a fundamental ontological function belongs to use, thus carried into the sphere of the hand, because it names the very difference between being and beings, between presence (*Anwesen*) and the present (*Anwesendes*) of which Heidegger never stops reminding us:

The term [*to chreon*] can only name the essentification in the presence of the present [*das Wesende im Anwesen des Anwesenden*], together with the relation which is announced—obscurely enough—in the genitive. *To chreon* is thus the handing over [*das Einhändigen*] of presencing, a handing over which hands out [*aushändig*] presencing to what is present, and therefore keeps in hand, in other words, preserves in presencing, what is present as such. (Ibid.)

By translating *chreon* with *Brauch*, Heidegger situates use in an ontological dimension. The relation of use now runs between being and beings, between presence and what comes to presence. This implies, naturally, that “use” and “to use,” *Brauch* and *brauchen*, are abstracted from the sphere of meaning of utilization and, as we have seen for *chresis* and *chresthai*, restored to their originary semantic complexity:

Generally, we understand “to use” to mean to utilize and need within the area of that to the use of which we enjoy rights. That of which one has need in the act of a utilization then becomes the usual [*üblich*]. The used is in use [*das Gebrauchte ist im Brauch*]. As the translation of *to chreon*, “use” is not to be understood in these customary but secondary meanings. Rather, we attend to the root meaning:

*brauchen*, to use, is *bruchen*, to brook, in Latin *frui*, in German *fruchten*, *Frucht* [to bear fruit, fruit]. We translate this freely as “to enjoy [*geniessen*],” which in its original form [*niessen*] means to take joy in something and so to have it in use. Only in its secondary meaning does “to enjoy” come to mean to consume and gobble up. We encounter what we have called the root meaning of “to use” as *frui* when Augustine says, “*Quid enim est aliud quod dicimus frui, nisi praesto habere, quod diligis?*” (“For what else do we mean when we say *frui* if not to have at hand something especially prized?”). *Frui* contains: *praesto habere*. *Praesto, praesitum* means in Greek *hypokeimenon*, that which already lies before us in unconcealment, the *ousia*, that which presences awhile. Accordingly, “to use” says: to let something that is present come to presence as such. *Frui, bruchen* [to brook], *brauchen* [to use], *Brauch* [use], means: to hand something over to its own essence and, as so present, to keep it in the protecting hand. In the translation of *to chreon*, use is thought of as the essentification in being itself. *Bruchen* [to brook], *frui*, is now no longer predicated of enjoyment as human behavior; nor is it said in relation to any entity whatever, even the highest (*fruitio dei* as *beatitudo hominis*). Rather, “use” now designates the way in which being itself presences as the relationship to what is present which is concerned and handles it as what is present: *to chreon*. (Ibid., pp. 338–339/277)

4.7. What relation is there between this “use” understood as a fundamental ontological dimension in which being maintains beings in presence and the “familiarity that uses and handles” that in *Being and Time* named the mode of being of the beings that Dasein first encounters in the world?

There is certainly more than an analogy between the affirmation “to use means: to let something present be present as such” and the one in paragraph 18 of *Being and Time*, according to which “‘letting something be relevant’ signifies ontically: letting something handy be so-and-so *as* it is already and *in order that* it be such” (and the text immediately specifies that “the way we take this ontical sense of ‘letting be’ is in a fundamentally ontological way”; Heidegger 1, pp. 84–85/117). However, with respect to the “familiarity that uses and handles,” the shift of use from the level of the analytic of Dasein to that of the ontological difference seems to deprive it of any concreteness and distinctness. What does it in fact mean that being uses beings, that the originary ontological relation has the form of a use?

At a certain point, Heidegger assimilates use to *energeia*. The present being, he writes, is brought into presence and into unlatency “insofar as, surging into presence, it is brought into being by itself,” and, at the same time, “it is brought into being, insofar as it is pro-duced by the human being.” From this perspective, what comes into presence has the character of an *ergon*, that is, “thought

in a Greek way, of a pro-duct, something brought forth" (*Hervor-gebrachtes*); for this reason, the presence of what is present, the being of beings is called in Greek: *energeia* (Heidegger 3, p. 342/279). In accordance with the proximity between *chresis* and *energeia* that we have already encountered in Aristotle, use (*chreon*) and being-at-work (*energeia*) "name the same thing" (ibid., p. 342/280).

The specificity of the term *chreon*, understood as "use" (*Brauch*) here seems to fade away. But what if use instead implied, with respect to potential, a relationship other than *energeia*? What if we had to think a use of potential that did not simply mean its being put-into-work, its passage to the act? *What if use in fact implied an ontology irreducible to the Aristotelian duality of potential and act that, through its historical translations, still governs Western culture?*

## Use-of-Oneself

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**5.1.** In Stoic thought, the terms “use” and “to use” develop a function so central that it has been affirmed that in the last analysis Stoicism comes down to a doctrine of the use of life. In his study dedicated to this argument, Thomas Bénatouïl (pp. 21–22) has shown that the theme of use—in particular of the use of its own body parts by the animal—intersects with that of *oikeiosis*, of the appropriation or familiarization of the self to the self, whose fundamental importance in Stoic ethics has long been known to scholars (it is “the beginning and the foundation of Stoic ethics”; Pohlenz, p. 11).

The hypothesis that we intend to suggest is that, well beyond a simple intersection, the doctrine of *oikeiosis* becomes intelligible only if one understands it as a doctrine of use-of-oneself.

This is the passage in which Diogenes Laertius (VII, 85 = SVF, III, 178) has transmitted to us the essentials of what we know about the doctrine of *oikeiosis*:

A living thing’s first impulse [*hormè*] is to self-preservation, because nature from the outset has rendered it familiar [*oikeios* comes from *oikos*, the household or family] to itself [*oiekiouses autoi tes physeos ap’arches*], as Chrysippus affirms in the first book of his work *On Ends*, affirming that for every living thing the first familiar thing [*proton oikeion*] is its own constitution [*systasin*] and the awareness [*syneidesin*, but in the text of Chrysippus it should probably be read as *synaisthesin*, “con-sensation” or “con-sentiment”; cf. Pohlenz, p. 7] of itself. For it was not likely that nature should estrange the living thing from itself [*alotriosai*] or that the nature which has generated it could render it extraneous and not familiar to itself. We are forced then to conclude that nature in constituting the living thing has rendered it familiar to itself [*oikeiosai pros heauto*]; for so it comes to repel all that is injurious and to give free access to all that is familiar [*ta oikeia*].

According to this passage, the *proton oikeion*, that which is from the very beginning familiar to each living thing, is its own constitution and the sensation it has of it. In the same sense, Hierocles expresses it in his *Foundations of Ethics*: “From birth the living thing has sensation of itself and familiarity with itself

and with its constitution” (*aisthanesthai te hautou kai oikeiousthai heautoi kai tei heautou systasei*; 7, 48; qtd. in Pohlenz, p. 1). *Oikeiosis*, familiarity with the self, is thinkable, in this sense, only on the basis of a *synaisthesis*, a con-sentiment of the self and of one’s own constitution. And it is on this last notion, therefore, that the attention of the Stoics is concentrated, in order to seek to secure its reality at any cost.

It is at this point that the concept of use appears with a decisive function. The proof that animals possess sensation of their own body parts is, Hierocles suggests, the fact that they are familiar with their function, know what their function is, and make use of them: thus, “the winged animals perceived that their wings are adapted in advance to flight and for each of the parts of their bodies they perceive that they have them and, at the same time, what their use is” (*chreia*, proper functionality; Bénatouïl, p. 28). That we in some way perceive our eyes, our ears, and the other parts of our body is proven, Hierocles continues, by the fact that “if we want to look at something, we direct our eyes and not our ears at it, and when we want to listen, we incline our ears and not our eyes, and if we want to walk, we do not use [*chrometha*] our hands for this but our feet and legs” (ibid., p. 29). And in a subsequent passage, a further proof of self-perception is the fact that animals that are endowed with hooves, teeth, tusks, or venom do not hesitate “to make use of them to defend themselves in combat with other animals” (p. 34).

A passage from Galen’s treatise traditionally entitled *De usu partium* insists on the decisive character of use for understanding the function of each part of the body: “When I first saw this,” he writes concerning the elephant’s proboscis,

I thought it superfluous and useless, but when I saw the animal using it like a hand, it no longer seemed so. . . . If the animal did not make use of this part, it would be superfluous and nature, who formed it, would not be perfectly skillful, but now, since the animal performs most useful actions with it, the part itself is shown to be useful and nature to be skillful. . . . When I also learned that in crossing a river or lake so deep that its entire body is submerged, the animal raises its proboscis high and breathes through it, I perceived that nature is provident not only because she constructed excellently all parts of the body but also because she taught the animal to use them. (Galen I, pp. 438–439/725)

In all these texts—whether it is a matter, as for the physician Galen, of affirming the providential character of nature or, as for the philosopher Hierocles, of proving the familiarity of each animal with itself—the decisive element every time is in fact use. Only because the animal makes use of its body parts can something like a self-awareness and therefore a familiarity with itself be attributed to it.

The familiarity, the *oikeiosis* of the living being with itself is dissolved without remainder into its self-perception, and this latter coincides in turn with the capacity of the living being to make use of its own body parts and its own constitution. It is this constitutive connection between *oikeiosis* and use-of-oneself that it will therefore be necessary to clarify.

✠ It is in Lucretius, much more radically than in the Stoics, that use seems to be completely emancipated from every relation to a predetermined end, in order to affirm itself as the simple relation of the living thing with its own body, beyond every teleology. Pushing to the extreme the Epicurean critique of every teleologism, Lucretius thus affirms that no organ was created in view of an end, neither the eyes for vision, nor the ears for hearing, nor the tongue for speech: “Whatever thing is born generates its own use [*quod natum est id procreat usum*]. There was no seeing before eyes were born, no verbal pleading before the tongue was created. The origin of the tongue was far anterior to speech. The ears were created long before a sound was heard. All the limbs, I am well assured, existed before their use” (IV, 835–841).

The reversal of the relation between organ and function amounts to liberating use from every established teleology. The meaning of the verb *chresthai* here shows its pertinence: the living being does not make use of its body parts (Lucretius does not speak of organs) for some one predetermined function, but by entering into relation with them, it so to speak gropingly finds and invents their use. The body parts precede their use, and use precedes and creates their function.

It is what is produced in the very act of exercise as a delight internal to the act, as if by gesticulating again and again the hand found in the end its pleasure and its “use,” the eyes by looking again and again fell in love with vision, the legs and thighs by bending rhythmically invented walking.

✠ The testimony of Cicero agrees with that of Diogenes Laertius: “[The Stoics] maintain that immediately upon birth (for that is the proper point to start from) a living creature is rendered familiar and given in care to itself [*sibi conciliari et commendari*, with which Cicero renders *oikeiousthai*] in order to preserve itself and to feel affection for its own constitution [*status*, which translates *stasis*] and for those things which tend to preserve that constitution and is rendered foreign [*alienari*, corresponding to *allotriosai*] to its own death and that which appears to threaten it” (Cicero 2, III, 16). The theme of self-consciousness appears immediately afterward: “it would not be possible that they should feel desire at all unless they possessed self-sensation and loved themselves” (*nisi sensum haberent sui eoque se diligerent*).

5.2. We possess a brief treatise whose theme is precisely the relation between familiarity, sensation, and use of self: Seneca’s Letter 121 to Lucilius. The question to which the letter intends to respond is “whether all living beings have sensation of their constitution” (*an esset omnibus animalibus constitutionis suae*

*sensus*). Seneca's response refers to the innate capacity that each living being has of "use-of-oneself":

That this is the case is proved particularly by their moving their members with fitness and nimbleness, as though they were trained for the purpose. There is none that does not show agility with respect to his own members. The skilled workman handles his tools with an ease born of experience; the pilot knows how to steer his ship skillfully; the painter can quickly lay on the colors which he has prepared in great variety for the purpose of rendering the likeness, and passes with ready eye and hand from palette to canvas. In the same way the animal is agile in all that pertains to the use of its body [*sic animale in omnem usum sui mobilest*]. We are apt to wonder at skilled dancers because their gestures are perfectly adapted to the meaning of the piece and its accompanying emotions, and their movements match the speed of the dialogue. But that which art gives to the craftsman, is given to the animal by nature. No animal handles its members with difficulty, no animal is at a loss how to use itself [*in usu sui haesitat*]. (Seneca, vol. 3, pp. 399–401)

To the objection that what drives the animal to move is fear of pain, Seneca responds that animals incline toward their natural movement despite the impediment of pain:

Thus the child who is trying to stand and is becoming used to carrying his own weight, on beginning to test his strength, falls and rises again and again with tears until through painful effort he has trained himself to the demands of nature. . . . The tortoise on his back feels no suffering; but he is restless because he misses his natural condition [*naturalis status*], and does not cease to shake himself about until he stands once more upon his feet. So all living things have a sensation of their own constitution [*constitutionis suae sensus*], and for that reason can manage their limbs as readily as they do [*membrorum tam expedita tractatio*]; nor have we any better proof that they come into being equipped with this knowledge [*notitia*] than the fact that no animal is clumsy in use-of-itself [*nullum animal ad usum sui rude est*]. (Ibid., p. 401)

After having thus confirmed the constitutive connection between use of self and self-consciousness, *usus sui* and *constitutionis suae sensus*, Seneca tackles the closely intertwined theme of *oikeiosis* (which, following Cicero's example, he renders with *conciliatio* and *conciliari*):

"You maintain, do you," says the objector, "that every living thing is at the start familiarized with its constitution [*constitutioni suae conciliari*], and that the human constitution is a reasoning one, and hence the human being is familiarized with itself not as animal, but as rational. For the human being loves himself in respect of that wherein he is human. How, then, can a child, not yet having

reason, be familiarized with its rational constitution?" But each age has its own constitution, different in the case of the child, the body, and the old man. The child is toothless, and he is familiarized with this constitution. Then his teeth grow, and he is familiarized with that constitution. Vegetation also, which will develop into grain and fruits, has a special constitution when young and scarcely peeping over the tops of the furrows, another when it is strengthened and stands upon a stalk which is soft but strong enough to bear its weight, and still another when the color changes to yellow, prophesies threshing time, and hardens in the ear—no matter what may be the constitution into which the plant comes, it keeps it, and conforms to it. The periods of infancy, boyhood, youth, and old age, are different; but I, who have been infant, boy, and youth, am still the same. Thus, although each has at different times a different constitution, the familiarization with its own constitution is always the same [*conciliatio constitutioni suae eadem est*]. For nature does not render dear to me [*commendat*, the other verb with which Cicero translated *oikeiosai*] boyhood or youth or old age, but myself. Therefore, the child is familiarized with its present constitution, not with that which will be his in youth. For even if there is in store for him any higher phase into which he must be changed, the state in which he is born is also according to nature. It is with itself that the animal is first of all familiarized [*primum sibi ipsum conciliatur animal*], for there must be a pattern to which all other things may be referred. I seek pleasure: for whom? For myself. I am therefore taking care of myself [*mei curam ago*]. I shrink from pain; on behalf of whom? Myself. Therefore, I am taking care of myself. Since I do everything for care of myself, therefore care of myself is anterior to all [*ante omnia est mei cura*]. This quality inheres in all living beings and is not added to them at a second time, but is innate. (Ibid., pp. 405–407)

Let us reflect on the extraordinary intertwining of familiarity and selfhood, of consciousness and use-of-oneself that Seneca, though of course not without some contradictions, develops in these very dense pages. *Oikeiosis* or *conciliatio* does not have as its ultimate object the constitution of the individual, which can change over time, but, by means of it, its very self (*non enim puerum mihi aut iuvenem aut senem, sed me natura commendat*). This self—despite the fact that the Stoics seem at times to preconstitute it in a nature or an innate knowledge—is therefore not something substantial or a preestablished end but coincides entirely with the use that the living being makes of it (*usus sui*—which Seneca also declines as care-of-oneself, *cura mei*).

If one accepts this relational and non-substantial interpretation of the Stoic self, then—whether it is a matter of self-sensation, of *sibi conciliatio*, or of use-of-oneself—the self coincides each time with the relation itself and not with a predetermined telos. And if use, in the sense that we have seen, means being

affected, constituting-oneself insofar as one is in relation with something, then use-of-oneself coincides with *oikeiosis*, insofar as this term names the very mode of being of the living being. The living being uses-itself, in the sense that in its life and in its entering into relationship with what is other than the self, it has to do each time with its very self, feels the self and familiarizes itself with itself. *The self is nothing other than use-of-oneself.*

✠ In the *De anima libri mantissa*, Alexander of Aphrodisias refers to the Stoic doctrine of *oikeiosis* in these terms: “The Stoics . . . affirm that the animal is for itself the first familiar thing [*to proton oikeion einai to zoon hautoi*] and that each animal—and also the human being—upon being born is familiarized with itself [*pros hauto oikeiousthai*]” (Alexander, p. 150/151); a similar doctrine is attributed in almost the same terms to Aristotle (“Some say that, according to Aristotle, we ourselves are the first thing familiar to ourselves”—*einai proton oikeion emin emas autous*; p. 150/152).

It is significant that Alexander resolutely identifies familiarity and seity. Familiarity and relation with oneself are the same thing.

✠ The familiarity and self-sensation of which the Stoics speak do not entail a rational consciousness but seem to be obscurely immanent to the very use-of-oneself. The living being, Seneca writes in the above-cited letter, “does not know what a constitution is, but knows its own constitution, does not know what a living creature is, but feels that it is a living being. . . . Everyone of us understands that there is something that stirs his impulses, but he does not know what it is and where it comes from” (*quid sit constitutio non novit, constitutionem suam novit . . . quid sit animal nescit, animal esse se sentitconatum sibi esse scit, quid sit aut unde sit nescit*; Seneca, vol. 3, p. 403). The self becomes aware of itself by means of the articulation of a zone of non-awareness.

5.3. It is perhaps in a passage from the *Enneads* (VI, 8, 10) that the specificity of use-of-oneself finds, so to speak, its ontological formulation. Seeking a provisional expression for the mode of being of the One, here Plotinus, after having denied that it could accidentally be what it is, definitively opposes use to substance, *chresthai* to *ousia*:

Well then, suppose he did not come to be, but is as he is and is not of his own substance. And if he is not master of his substance [*ouk on tes autou ousias kyrios*], but is who he is, not hypostatizing himself but using-himself as what he is [*ouk hypostasas heaouton, chromenos de heautoi hoios estin*], then he is what he is of necessity, and could not be otherwise.

What is decisive for us in this passage is not the strategy of Plotinus, who is looking to exclude from the One both accidentality and necessity, so much as the striking opposition that he establishes between use and hypostasis. Dörrie

has shown that beginning with Neoplatonism the term *hypostais* acquires the meaning of “realization”: *hyphistamai* thus means “to be realized in an existence” (Dörrie, p. 45). Using-oneself means not pre-supposing oneself, not appropriating being to oneself in order to subjectivate oneself in a separate substance. The self of which use makes use is expressed, for this reason, only by the anaphora *hoios*, “some such,” which always recovers being from its hypostatization into a subject. And precisely because it maintains itself in use-of-itself, the One is abstracted not only from the categories of modality (it is neither contingent nor necessary: “Neither his being such nor any way of being happen to him by accident: he is such and not otherwise. . . . Now he is not as he is because he cannot be otherwise, but because being what he is is best”; Plotinus, VI, 8, 9–10), but also from those of being and its fundamental divisions (“beyond being means . . . that he is not a slave to being or to himself”; VI, 8, 19).

Let us attempt to develop the idea of a non-hypostatic, non-substantializing use-of-oneself, which Plotinus seems to let to the side immediately after having formulated it. Use-of-oneself, in this sense, precedes being (or is beyond it and, therefore, also beyond the division between essence and existence), is—as Plotinus writes a little after of the One with a willfully paradoxical expression—“a primary *energeia* without being,” in which the self itself takes the place of hypostasis (“it itself is, as it were, its hypostasis,” *autò touto ton hoion hypostasin*; VI, 8, 20). Or—one can also say, reversing the argument—*being, in its originary form, is not substance (ousia), but use-of-oneself; is not realized in a hypostasis, but dwells in use.* And “to use” is, in this sense, the archimodal verb, which defines being before or, in any case, outside its articulation in the ontological difference existence/essence and in the modalities: possibility, impossibility, contingency, necessity. It is necessary that the self first be constituted in use outside any substantiality in order that something like a subject—a hypostasis—can say: I am, I can, I cannot, I must . . .

5.4. It is from this perspective that we can read the messianic theory of use that Paul elaborates in the First Letter to the Corinthians. “Were you called in the condition of a slave?” he writes. “Do not be concerned about it. Even if you can gain your freedom, rather make use” (*mallon chresai*—that is, of your condition as a slave; 1 Corinthians 7:21). That is to say, the factual and juridico-political conditions in which each one finds himself must be neither hypostatized nor simply changed. The messianic call does not confer a new substantial identity but consists first of all in the capacity to “use” the factual condition in which each one finds himself. And the way this new capacity of use must be understood is stated a little further down: “I mean, brothers and sisters, time has

grown short; what remains is so that those who have wives may be as not [*hos me*] having, and those who mourn as not mourning, and those who rejoice as not rejoicing, and those who buy as not possessing, and those who use the world as not abusing. For the present form of this world is passing away. I want you to be without care" (7:29–32). The Pauline "as not," by putting each factual condition in tension with itself, revokes and deactivates it without altering its form (weeping *as not* weeping, having a wife *as not* having a wife, slaves *as not* slaves). That is to say, the messianic calling consists in the deactivation and disappropriation of the factual condition, which is therefore opened to a new possible use. The "new creature" is only the capacity to render the old inoperative and use it in a new way: "if one is in the messiah, a new creature [*kaine ktisis*]: the old things have passed away, behold they have become new" (2 Corinthians 5:17).

From this perspective, we can better understand the sense of the antitheses of verses 30–31: "those who buy as not possessing, and those who use the world as not abusing." What is in question is an explicit reference to the definition of ownership according to Roman law as *ius utendi et abutendi*. That is to say, Paul counterposes *usus* to *dominium*: to dwell in the call in the form of the "as not" signifies never making of the world an object of ownership but only of use.

## Habitual Use

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**6.1.** The tradition of Aristotelianism that culminates in Scholasticism understands use as synonymous with *energeia* and therefore seeks to keep it separate from potential and habit. “Use,” Aquinas writes, “denotes the being-in-act of some habit or other [*usus significat actum cuiuslibet habitus*]. The act of any habit and the use of potential belong to the one (or the thing) to which the act belongs. Hence the term ‘use’ means the act and in no way the potential or the habit” (Aquinas I, q. 17, a. 1). Against this tradition, it is necessary to think being-in-use as distinct from being-in-act and, at the same time, to restore it to the dimension of habit, but of a habit that, insofar as it happens as habitual use and is therefore always already in use, does not presuppose a potential that must at a certain point pass into the act or be put into work.

Galen had to think a dimension of this kind when, in his *De usu partium*, he decisively opposes use to *energeia*, just as a state or a habit is opposed to a movement and an operation: “Now the use of a part differs from its *energeia*, from its being-in-act, because *energeia* is an active motion (*kinesis drastike*), and use is what is commonly called *euchrestia*” (Galen I, p. 437/724). *Euchrestia* means the adequacy of a part to develop a certain function, good functionality, which is to say, not an operation and passage from potential to act but something like a habitual condition. It is in this sense that we intend to think here a “habitual use,” a *chresis-chreia*, a being-always-already-in-use of habit and potential: that is, a potential that is never separate from act, which never needs to be put to work, because it is always already in use, is always already *euchrestia*.

This means, however, entirely rethinking and correcting, starting from habit and use, the Aristotelian doctrine of *dynamis* and *energeia*, of potential and act. Aristotle—one could say—has divided what we are here seeking to think as use and has called *dynamis* and *energeia* that which results from the division. The concept of habit (*hexis*) was thought by Aristotle precisely to eliminate the aporias implicit in this doctrine and to assure to potential some reality. If being (use) is divided into potential and act, something that articulates and renders possible

the passage from one to the other will indeed be necessary. If potential were always and only generic potential, such as the purely chimerical potential that belongs to a baby, of whom we say that he could become a writer or carpenter, an architect or a flute player, then the concept of potential would dissolve and its being put to work would be unthinkable. Habit is what renders possible the passage of potential from mere genericity to the effective potential of the one who writes or plays the flute, builds tables or houses. Habit is the form in which potential exists and is given reality as such.

The aporias of generic potential, which are neutralized in this way, are, however, immediately reproduced in the new reality that it has been given. In order that a distinction between habit and being-at-work be maintained, in order that *hexis* not always already blindly cross over into *energeia*, it is in fact necessary that the one who has the habit of a technique or of a knowledge be able not to exercise it, be able not to pass to the act. For this reason, in book nine of the *Metaphysics*, the decisive thesis on potential-habit reads: “every potential is impotential of the same and according to the same” (*tou autou kai kata to auto pasa dynamis adynamia*; *Metaphysics* 1046a 30). Impotential, *adynamia*, here means to be able not to pass to the act and, in accordance with the philosopher’s intense antipathy for sleep that we have already noted, habit is in this sense compared to sleep and the act to wakefulness: “waking corresponds to knowing in act, sleeping to a having without exercising” (*echein kai me energein*; *On the Soul*, 412a 25). The ambiguity of the notion of “potential not to” here appears clearly: it is what permits habit to be given existence as such, and at the same time it is constitutively inferior to the act to which it is irrevocably destined. As Aristotle never stops repeating against the Megarians, the one who truly has a potential is the one who can both put it and not put it into action; but *energeia*, being-at-work, remains the end of potential. In this way, however, the aporia that was thought to be eliminated reappears in an even more acute form: if in every potential-habit there irreducibly inheres a potential not to pass to the act, how will it be possible to lead it to this passage; how will it be possible to stir it from its sleep?

By assimilating use to *energeia* and being-at-work and by separating it from habit as wakefulness from sleep, Aristotle set thought durably off course. Only if we think habit not only in a negative mode, beginning from impotential and from the possibility of not passing into act, but rather as habitual use, is the aporia, against which Aristotelian thought on potentiality has made shipwreck, dissolved. Use is the form in which habit is given existence, beyond the simple opposition between potential and being-at-work. And if habit is, in this sense, always already use-of-oneself and if this latter, as we have seen, implies a neutralization of the

subject/object opposition, then there is no place here for a proprietary subject of habit, which can decide to put it to work or not. The self, which is constituted in the relation of use, is not a subject, is nothing other than this relation.

6.2. In the concept of *hexis-habitus* (*hexis* is the nominalization of *echein*, “to have”), philosophy has thought the constitutive connection that unites being to having, which remains a still uninvestigated chapter in the history of ontology. In an exemplary study, Benveniste sought to define the linguistic function and relation of “being” and “having” in Indo-European languages. They are both verbs that indicate a state: “*To be* is the state of being, of that which is something; *to have* is the state of having, of that to which something is. The difference thus emerges. *To be* establishes an intrinsic relationship of equivalence between the two terms which it joins: it is the consubstantial state. In contrast, the two terms joined by *to have* remain distinct; the relationship between them is extrinsic and establishes a belonging” (Benveniste, p. 198/172). According to Benveniste, moreover, *to have* is nothing but an inverted “being to (or of)”: *habeo aliquid*, “I have something,” is only a secondary and derivative variant of *mihi est aliquid*, “something is to me, belongs to me.”

One must pursue Benveniste’s analysis beyond the limits of linguistics. In reality, the relation between “being” and “having” is more intimate and complex. *Hexis*, potential insofar as it is a habit, is according to Aristotle one of the ways in which being is said. Namely, it indicates the state of being, insofar as it is attributed to a subject. What is had in *hexis* is a certain mode of being, a *diathesis*, a being disposed in a certain way (being knowledgeable, being an architect, being a flute player . . .). Aristotle calls this being that one has *dynamis*, “potential,” and the one who has this certain state and this certain being is *dynatos*, “potent.” In any case, having (*echein*) is here always “having a being.”

This means that the doctrine of *habitus* delimits the logical place in which a doctrine of subjectivity would have been possible. For this reason, in the philosophical dictionary in book Delta of the *Metaphysics* (1022b 4–6), Aristotle can write, in an apparent contradiction, that *hexis* means both “a certain being-at-work [*energeia*] of the one having and the thing had” and “the disposition [*diathesis*] according to which what is disposed is disposed well or badly”: it is both a mode of being and the state or disposition of a subject. And for this reason, apropos of the rational potentials, which are capable of a thing as much as of its contrary, he can say that it is necessary that there be a sovereign (*kyrion*) element that is in a position to decide the potential in one direction or the other and that it must be “something else” (*heteron ti*) with respect to potential (*Metaphysics* 1048a 11).

Habit is the point at which a subjectivity seeks to make itself master of being, the place in which, with a perfect circularity, having, which derives from being, appropriates the latter to itself. Having is nothing but the appropriation of a being.

6.3. There is a text of Aristotle in which a different conception of habit could perhaps have been founded. In the above-cited passage from book Delta of the *Metaphysics*, one reads that if habit is defined as the relation between the one who has and that which is had, then “it is impossible to have a habit, because if it were possible to have the habit that one has, there would be infinite regress” (1022b 7–10). It is in this elusive, fugitive place that modern thought will situate its subject, which is posited as master of what cannot be had.

In Aristotle’s warning there comes to light the aporia inherent in the interweaving of being and having that has its place in habit. Against the scholastic doctrine according to which “the use of potential belongs to the one to whom habit belongs,” it is necessary to affirm that use does not belong to any subject, that it is situated beyond both being and having. That is to say, use breaks the ambiguous implication of being and having that defines Aristotelian ontology. Glenn Gould, to whom we attribute the habit of playing the piano, does nothing but make use-of-himself insofar as he plays and knows habitually how to play the piano. He is not the title holder and master of the potential to play, which he can put to work or not, but constitutes-himself as having use of the piano, independently of his playing it or not playing it in actuality. *Use, as habit, is a form-of-life and not the knowledge or faculty of a subject.*

This implies that we must completely redraw the map of the space in which modernity has situated the subject and its faculties.

A poet is not someone who has the potential or faculty to create that, one fine day, by an act of will (the will is, in Western culture, the apparatus that allows one to attribute the ownership of actions and techniques to a subject), he decides—who knows how and why—like the God of the theologians, to put to work. And just like the poet, so also are the carpenter, the cobbler, the flute player, and those who, with a term of theological origin, we call professionals—and, in the end, every human being—not transcendent title holders of a capacity to act or make: rather, they are living beings that, in the use and only in the use of their body parts as of the world that surrounds them, have self-experience and constitute-themselves as using (themselves and the world).

✠ The thesis that potential is in some way always in use, even if it does not pass over into action, is affirmed by Pelagius in his impassioned defense of the human possibility not to sin, which Augustine vainly seeks to refute in his anti-Pelagian writings (in particular,

in *De natura et gratia*). Potential, writes Pelagius, “inheres in me even if I do not will it and it never contains in itself any idleness” (qtd. in Augustine 1, 57, 49). Nevertheless, insofar as it is given to us by God, to whom it essentially belongs, it is not in our power (*in nostra potestate*).

6.4. But what is habitual use, and how is a habit used without causing it to pass over into action, without putting it to work? It is clear that this does not mean inertia or simple absence of works but a totally other relation to them. The work is not the result or achievement of a potential, which is realized and consumed in it: the work is that in which potential and habit are still present, still in use; it is the dwelling of habit, which does not stop appearing and, as it were, dancing in it, ceaselessly reopening it to a new, possible use.

In book IV of the *Ethics*, Spinoza has provided the key to understanding the special relation with potential that is in question here and that he calls *acquiescentia in se ipso*. “Acquiescence in oneself,” he writes, “is the pleasure arising from a person’s contemplation of himself and his potential for acting” (Spinoza 2, p. 183). What does it mean for a human being to contemplate himself and his potential for acting? Acquiescence is certainly a figure of inoperativity—but what is an inoperativity that consists in contemplating the very potential to act?

Contemplation is the paradigm of use. Like use, contemplation does not have a subject, because in it the contemplator is completely lost and dissolved; like use, contemplation does not have an object, because in the work it contemplates only its (own) potential. Life, which contemplates in the work its (own) potential of acting or making, is rendered inoperative in all its works and lives only in use-of-itself, lives only (its) livability. We write “own” and “its” in parentheses because only through the contemplation of potential, which renders inoperative every *energeia* and every work, does something like the experience of an “own” and a “self” become possible. The self—whose place the modern subject will usurp—is what is opened up as a central inoperativity in every operation, as the “livability” and “usability” in every work. And if the architect and the carpenter remain such even when they are not building, that is not because they are title holders of a potential of building, which they can also not put to work, but because they habitually live in use-of-themselves as architect or carpenter: habitual use is a contemplation and contemplation is a form of life.

6.5. At the end of *What Is Philosophy?* Deleuze defines life in its immediacy as “contemplation without consciousness” (Deleuze and Guattari, p. 213). Of this “passive creation” that “is but does not act,” he furnishes the examples of sensation and habitual praxis (p. 212). In the same sense, in his *Mémoire sur la*

*décomposition de la pensée*, Maine de Biran indefatigably seeks to grasp, beyond the ego and the will, a “mode of existence that is so to speak impersonal,” which he calls “affectability” and defines as the simple organic capacity to be affected without consciousness or personality, which, like Condillac’s statue, becomes all its modifications and all its sensations and yet constitutes “a positive and complete manner of existing in its kind” (Maine de Biran, p. 370).

What is decisive here is the separation between contemplation and consciousness and between affectability and personality. Contrary to the prestige of consciousness in our culture, it is always necessary to recall anew that sensation and habitual praxis, as use-of-oneself, articulate a zone of non-consciousness, which is not something like a mystical fog in which the subject loses itself but the habitual dwelling in which the living being, before every subjectivation, is perfectly at ease. If the gestures and acts of the animal are agile and graceful (“no animal is at a loss in use-of-itself”), this is because for it no act, no gesture constitutes a “work” of which it is posited as responsible author and conscious creator.

It is in this way that we must think contemplation as use-of-oneself. Every use is the articulation of a zone of non-consciousness. And this is not the fruit of a removal, like the unconscious of psychoanalysis, nor is it deprived of relation to the living thing that dwells in it: on the contrary, using-oneself means maintaining oneself in relation with a zone of non-consciousness, keeping it intimate and close just as habit is intimate to use. This relation is not inert but is preserved and constituted through a patient, tenacious deactivation of the *energeiai* and the works that ceaselessly surface in it, by means of the quiet cancellation of every attribution and every property: *vivere sine proprio*. And it is not important that cancellation and disappropriation are continually lost in the tradition, that contemplation and use-of-oneself never cease to make shipwreck in the history of works and subjects. Contemplation, the zone of non-consciousness, is the nucleus—unforgettable and at the same time immemorial—inscribed in every tradition and in every memory, which signs it with a mark of infamy or glory. The user, always unauthorized, is only the *auctor*—in the Latin sense of witness—who bears testimony of the work in the very gesture in which, in contemplation, he revokes it and constantly puts it back into use.

6.6. The most proper characteristic of habit as *ethos* and use-of-oneself was covered and rendered inaccessible by the medieval theory of virtue. According to this doctrine, which takes up and develops the Aristotelian definition of *aretè* as habit (*hexis*), virtue is an “operative habit,” which causes potential or habit to pass into act in the best way. Human potential—thus the scholastics argue,

who formulated and transmitted to Western ethics the doctrine of virtue—in contrast to natural potentials is constitutively undecided, insofar as it can indifferently want this or that object, the good as well as the bad. For this reason, it is necessary that there be produced in potential a habit that is essentially ordained to good action: this habit is virtue as *habitus operativus*. The Aristotelian primacy of *energeia* over habit is here confirmed: virtue is that by means of which habit, which in Aristotle is a category of ontology, is transformed into acting and crosses over into ethics (Aristotle had divided being into potential and act in order to insert movement and action into it). And yet precisely this indetermination of being and praxis, habit and *energeia*, marks the status of virtue with its ambiguity: it is the mode of being of a subject (the virtuous human being) and at the same time a quality of his action. The human being acts well insofar as he is virtuous, but he is virtuous insofar as he acts well.

In breaking the vicious circle of virtue, it is necessary to think the virtuous (or the virtual) as use, that is, as something that stands beyond the dichotomy of being and praxis, of substance and action. The virtuous (or the virtual) is not opposed to the real: on the contrary, it exists and is in use in the mode of habituality; however, it is not immaterial, but, insofar as it never ceases to cancel and deactivate being-at-work, it continually restores *energeia* to potential and to materiality. Use, insofar as it neutralizes the opposition of potential and act, being and acting, material and form, being-at-work and habit, wakefulness and sleep, is always virtuous and does not need anything to be added to it in order to render it operative. Virtue does not suddenly develop into habit: it is the being always in use of habit; it is habit as form of life. Like purity, virtue is not a characteristic that belongs to someone or something on its own. For this reason, virtuous actions do not exist, just as a virtuous being does not exist: what is virtuous is only use, beyond—which is to say, in the middle of—being and acting.

## The Animate Instrument and Technology

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**7.1.** In *Being and Time*, familiarity and handiness define the place of the originary and immediate relation of Dasein with the world. This relation, however, is intrinsically determined by an irreducible instrumental character, which constitutes it as a relation of use: “when I open the door, I make use [ *mache ich Gebrauch*] of the latch” (Heidegger 1, p. 67/96). What the human being primarily encounters in the world is, as we have seen, “equipment” (*Zeug*), but in the proper sense equipment “is” not but exists solely in the form of an “in-order-to” (*um-zu*), is always inserted into a multiplicity of instrumental relations (*Zeugganzes*; *ibid.*, p. 68/97). The first of these relations is utility (*Dienlichkeit*, a term in which one must perceive proximity to service—*Dienst*—and servant—*Diener*). In this sense, familiarity with the world always necessarily has to do with a “serviceability,” must “subordinate itself to the ‘serves-for’ [*um-zu*] which is always constitutive for the instrumentality of the equipment” (p. 69/98).

Years later, in the essay on *The Origin of the Work of Art*, Heidegger returns to the theme of equipment. And he does so by means of the analysis of the most common and ordinary equipment possible: a pair of peasant shoes (*ein paar Bauernschuhe*—evidently something of the kind still existed, even if he must exemplify it with a Van Gogh painting). The equipment chosen belongs to the class that Aristotle defined as *ktema praktikon*, “practical equipment,” from which one obtains nothing other than its use. But even more than to the handle, the hammer, and the other equipment mentioned in *Being and Time*, to the peasant shoes there belongs the magical power, for the person—or to the woman, since it is a question of a peasant woman—who uses them, of disclosing her world, conferring meaning and security on it. Certainly, “the being equipment of the equipment consists in its utility” (*Dienlichkeit*, “serviceability”), but this is not exhausted in simple instrumentality:

The equipment vibrates with the silent call of the earth, its silent gift of the ripening grain, its unexplained self-refusal in the wintry field. This equipment is pervaded by uncomplaining worry as to the certainty of bread, wordless joy at

having once more withstood want, trembling before the impending birth, and shivering at the surrounding menace of death. (Heidegger 3, p. 23/14)

That is to say, the essence of equipment, its “fullness,” rests in something more than instrumentality, which Heidegger calls “reliability” (*Verlässlichkeit*).

Thanks to this, the peasant woman is admitted into the silent call of the earth; in virtue of the reliability of the equipment she is certain of her world. World and earth exist for her and those who share her mode of being only here—in the equipment. We say “only” but this is a mistake; for it is the reliability of the equipment which first gives the simple world its security and assures the earth the freedom of its steady pressure. The equipmental being of the equipment, its reliability, keeps all things gathered within itself. . . . (Ibid., p. 23/14–15)

Here Heidegger refers to the conceptuality that he had developed in the 1929–30 winter semester course on *The Fundamental Concepts of Metaphysics*, in which the stone, the animal, and the human being were defined according to their having or not having a world. It is in virtue of equipment that the peasant woman, in contrast with the plant and the animal who remain imprisoned in their environment, has a world, “stays in the openness of being” (p. 34/23). Equipment, in its reliability, gives to the world its necessity and its proximity and to things their time and their proper measure. And yet it still remains in some way imprisoned in the sphere of utility. This essential limit of equipment appears clearly if one compares it to the work of art. While the work of art exposes beings in their truth (for example, the Van Gogh painting, which shows what the peasant shoes really are), the being equipment of the equipment always already dissipates into its “serviceability.”

The individual piece of equipment becomes worn out and used up. But also, use itself falls into disuse, becomes ground down and merely habitual. In this way equipmental being withers away, sinks to the level of mere equipment. Such dwindling of equipmental being is the disappearance of its reliability. . . . Now nothing but sheer serviceability remains visible. (p. 24/15)

Equipment, which opens to the human being its world, nevertheless always risks falling back into instrumentality and service. And yet this decadence of equipment, “to which the objects of use owe their boringly oppressive usualness,” is still “a testament to their originary essence” (ibid.).

7.2. The human beings whom Heidegger describes are at the mercy of equipment, they rely on its “serviceability,” and only by means of it do they enter into their world. In this sense, the relation with equipment defines the human dimension. And yet one could say that Heidegger seeks in every way to liberate

the human being from the narrow limits of this sphere, which coincides with that of use. And he does it in *Being and Time* by substituting care for use and in the essay on *The Origin of the Work of Art*, first by means of reliability and then by subordinating equipment to the work of art, which puts to work that truth of being, which equipment always ends up losing in serviceability.

It should not be surprising, then, that instrumentality appears once again in the 1950 essay on *The Question Concerning Technology*, that is, precisely in the context of the central problem of the late Heidegger's thought. Against Spengler, who in his 1931 book on *Man and Technology* had affirmed that technology cannot be understood starting from the instrument, the essay opens by affirming an essential connection between technology and instrumentality. Technology is in fact nothing other than a human action directed at a goal.

For to posit ends [*Zwecke*] and procure and utilize the means [*Mittel*] to them is a human activity. The manufacture and utilization of equipment, tools, and machines, the manufactured and used things themselves, and the needs and ends that they serve, all belong to what technology is. The whole complex of these apparatuses [*Einrichtungen*] is technology. Technology is itself an apparatus—in Latin, an *instrumentum*. . . . This instrumental definition of technology is indeed so uncannily correct that it even holds for modern technology, of which, in other respects, we maintain with some justification that it is, in contrast to the older handicraft technology, something completely different and therefore new. Even the power plant with its turbines and generators is a man-made means to an end established by man. Even the jet aircraft and the high-frequency apparatus are means to ends. (Heidegger 4, p. 10/312)

In the rest of the essay, however, this instrumental determination of technology is left aside as insufficient. Instrumentality is in fact only a form of causality, and only a correct understanding of this latter can allow access to the true nature of technology. But to cause means to carry something from non-being to being, which is to say, it is a form of what the Greeks called *poiesis*. This is explained in turn as a producing, a leading-forth from latency to illatency, from untruth to truth, in the Greek sense of *a-letheia*, “unveiledness, unconcealment.” Technology is therefore an eminent mode of this unveiledness and, as such, belongs to the historical destiny of the West, from time immemorial held in the dialectic of latency and illatency, truth and untruth. For this reason, as long as we limit ourselves to viewing technology from the perspective of instrumentality, we will not understand its true nature and will remain held in the illusion of mastering it. Only if we instead understand the instrument as a mode of causality will technology then be revealed for what it is, which is to say, as a “destining of revealing” (*ibid.*, p. 36/337).

Only at this point, when instrumentality has once again set aside and technology has been restored to its epochal rank in the historical destiny of Being, can Heidegger reconcile himself with it and perceive in it, according to one of his preferred citations from Hölderlin, both danger and salvation:

If the essence of technology, the apparatus [*das Ge-stell*], is the extreme danger, if there is truth in Hölderlin's words, then the rule of technology cannot exhaust itself solely in blocking all lighting-up of every revealing, all splendor of truth. Rather, precisely the essence of technology must harbor in itself the growth of the saving power. (p. 32/333–334)

7.3. Let us attempt to go against the Heideggerian current and interrogate anew the idea of instrumentality as an essential characteristic of technology. As he is tracing instrumentality back to causality (and thus to ontology), Heidegger evokes Aristotle's doctrine of the four causes:

the *causa materialis*, the material, the matter out of which, for example, a silver chalice is made; the *causa formalis*, the form, the shape into which the material enters; the *causa finalis*, the end, for example, the sacrificial rite in relation to which the required chalice is determined as to its form and matter; the *causa efficiens*, which brings about the effect that is the finished, actual chalice, in this instance, the silversmith. What technology is, when represented as a means, discloses itself when we trace instrumentality back to fourfold causality. (pp. 11–12/313–314)

The project of bringing instrumentality into the sphere of Aristotle's doctrine of causality, however, is not easily realizable. In the *Metaphysics*, where the problem of the four causes is fully treated, Aristotle never mentions an instrument among the examples of causes. In the *Physics*, where the term "instrument" (*organa*) appears, it is referred not to the efficient cause (which Aristotle calls "principle of movement," *archè tes kyneseos*) but to the final cause; within this cause, instruments do not figure, as Heidegger seems to imply, as examples of causes but, obviously, as examples of what is caused: health is the final cause of walking, as much as it is of purification (*katharsis*), of medicine (*pharmaka*), and of instruments (*organa*, here understood, like the rest of the other terms, only in the originary medical sense of "surgical instruments"; 194b 36–195a 1). The classical world, which, as we have seen in Aristotle's conception of productive instruments like the spool and the plectrum, certainly did think the connection between the instrument and its product, seems to conceive this connection in such a narrow and immediate way that the instrument could not appear as an autonomous form of causality.

Heidegger could have recalled that, as he certainly knew, an attempt to insert the instrument within the category of causality had instead been achieved

by medieval theologians. Beginning from the thirteenth century, alongside the efficient cause, they define a fifth cause, which they call *instrumentalis*. With a daring reversal, the instrument, which Aristotle could never have classified among the causes, is now considered as a special type of efficient cause. What defines the instrumental cause—for example, the axe in the hands of a carpenter who is making a bed—is the particularity of its action. On the one hand, it acts not in virtue of itself but in virtue of the principal agent (namely, the carpenter), but on the other hand, it works according to its own nature, which is that of cutting. That is to say, it serves the end of another, only to the degree that it realizes its own end. The concept of instrumental cause is thus born as a splitting of the efficient cause, which is divided into instrumental cause and principal cause, thus securing an autonomous status for instrumentality.

7.4. The place where Scholastic theology developed the theory of the instrumental cause is the doctrine of the sacraments. Thus, in the *Summa Theologica*, it is treated in question 62 of the third part, the title of which reads: *De principali effectu sacramentorum, qui est gratia* (“On the principal effect of the sacraments, which is grace”). The function of the sacrament is to confer grace, and this can proceed only from God, who is its principal cause: what is proper to the sacrament, however, is that it produces its effect by means of an element that acts as instrumental cause (for example, water in baptism). More than the distinction between *agens* (or *causa*) *principalis* and *agens* (or *causa*) *instrumentalis*, Aquinas’s specific achievement consists in the definition of the double action of the instrument: “An instrument,” he writes,

has a twofold action; one is instrumental, in respect of which it works not by its own power but by the power of the principal agent: the other is its proper action, which belongs to it in respect of its proper form: thus it belongs to an axe to cut asunder by reason of its sharpness, but to make a couch, insofar as it is the instrument of an art. But it does not accomplish the instrumental action save by exercising its proper action: for it is by cutting that it makes a couch. In like manner the corporeal sacraments by their operation, which they exercise on the body that they touch, accomplish through the Divine institution an instrumental operation on the soul; for example, the water of baptism, in respect of its proper power, cleanses the body, and thereby, inasmuch as it is the instrument of the Divine power, cleanses the soul: since from soul and body one thing is made. (Aquinas 2, III, q. 62, art. 1, sol. 2)

Let us reflect on the peculiar nature of this action, which, by acting according to its own law or form, seems to realize the operation of another and has

been for this reason defined as “contradictory” and “difficult to understand” (Roguet, p. 330). In the first part of the *Summa*, Aquinas defines it, with a term that has often been misunderstood, as “dispositive operation”: “The secondary instrumental cause,” he writes, “does not participate in the action of the principal cause, except inasmuch as by something proper to itself [*per aliquid sibi proprium*] it acts dispositively [*dispositive operatur*, acts as an apparatus (It., *dispositivo*)] to the effect of the principal agent” (Aquinas 2, I, q. 45, art. 4). *Dispositio* is the Latin translation of the Greek term *oikonomia*, which indicates the way in which God, by means of his own trinitarian articulation, governs the world for the salvation of humanity. From this perspective, which implies an immediate theological meaning, a dispositive operation (or, we could say without forcing, an apparatus [It., *dispositivo*]) is an operation that, according to its own internal law, realizes a level that seems to transcend it but is in reality immanent to it, just as, in the economy of salvation, Christ works *dispositive*—that is, according to an “economy”—the redemption of humanity. As Aquinas specifies in no uncertain terms: “Christ’s passion, which belongs to him in respect of his human nature, is the cause of justification, both meritoriously and efficiently, not as the principal cause thereof, or by his own authority, but as an instrument” (q. 64, art. 3). Insofar as he has been incarnated in a human body, Christ, who acts in the sacraments as a principal cause, is an instrumental and not principal cause of redemption. There exists a theological paradigm of instrumentality, and the trinitarian economy and the doctrine of the sacraments are its eminent *loci*.

✠ The novelty and strategic importance of the concept of instrumental cause did not escape Dante, who made use of it in a decisive passage of the *Convivio* to found the legitimacy of imperial power. To those who split hairs and affirm that the authority of the Roman emperor was actually founded not on reason but on force, he responds that “force then was not the moving cause, as the caviler supposed, but was the instrumental cause, even as the blows of the hammer are the cause of the knife, whereas the mind of the smith is the efficient and moving cause. And thus not force but reason, and moreover divine reason, was the beginning of the Roman empire” (Dante 1, IV, 4).

7.5. Ivan Illich has drawn attention to the novelty implicit in the doctrine of the instrumental cause (Illich 1, pp. 72–73). By theorizing for the first time the sphere of the instrument as such and conferring on it a metaphysical standing, the theologians are responding in their way to the extraordinary technological change that characterizes the twelfth century, with the new horse harnesses that allow the full utilization of animal power and the multiplication of mechanisms that use water energy not only to cause mills to turn but to drive hammers that break rock and hooks that prepare wool for spinning. Listing in detail the

instruments of the seven principal technologies of his time (the production of wool, the construction of weapons, mercantile navigation, agriculture, hunting, medicine, and—curiously—spectacles) in his *Didascalicon*, Hugh of St. Victor praises the human being who “by inventing these instruments, rather than possessing them as gifts of nature, has more brilliantly revealed his greatness” (I, 9).

Following up on the considerations of Illich, we can thus say that the discovery of the instrumental cause is the first attempt to give a conceptual figure to technology. While for antiquity the instrument is annulled in the *ergon* that it produces, just as labor disappears in its result, now the operation of equipment is divided into a proper end and an extrinsic finality, and in this way it allows the sphere of an instrumentality that can be directed toward any end whatsoever to emerge. The space of technology is opened at this point as the dimension of a mediality and of an availability that is properly unlimited, because while remaining in relationship with its own action, the instrument has here been rendered autonomous with respect to it and can be referred to any extrinsic finality whatsoever.

It is possible, in fact, that in the technical instrument, there is something other than simple “serviceability” but that this “other” does not coincide, as Heidegger maintained, with a new and decisive epochal unveiling-veiling of Being so much as with a transformation in the use of bodies and objects, of which originary paradigm is to be found in the “animate instrument” who is the slave, which is to say, the human being who in using his body is actually used by others.

7.6. In the *Questiones disputatae de veritate*, while treating the problem “whether the sacraments of the new law are the cause of grace,” Aquinas insists on the division of the operation implicit in the idea of an instrumental cause: “Now although,” he writes, “the saw has an action which attaches to it in accordance with its own form, that is, to divide, nevertheless it has an effect which does not attach to it except insofar as it is moved by a craftsman, namely, to make a straight cut agreeing with the pattern. Thus an instrument has two operations, one which belongs to it according to its own form, and another which belongs to it insofar as it is moved by the principal agent and which rises above the ability of its own form” (Aquinas 3, q. 27, art. 4).

It is significant that the principal operation is here defined by means of the concept of *ars*. In reality, the instrumental cause acquires its proper sense insofar as it is used in the context of a technology. What seems to define the instrumental cause is its indifference with respect to the end that the principal cause puts forward. If the end of the carpenter is to make a bed, the axe, which acts as instrumental cause, is used, on the one hand, simply according to its own

function, which is that of cutting wood, but, on the other hand, according to the operation of the artisan. The axe knows nothing of the bed, and yet this latter cannot be made without it. *Technology is the dimension that is opened when the operation of the instrument has been rendered autonomous and at the same time is divided into two distinct and related operations.* This implies that not only the concept of instrument but also that of “art” now meet with a transformation with respect to their status in the ancient world.

The instrumental cause is not, therefore, only a specification of the efficient cause: it is also and to the same extent a transformation of the final cause and of the function proper to a certain being—the instrument—which are constitutively and necessarily subsumed by an external final cause, which in its turn depends just as much on them to be realized. The appearance of the apparatus [It., *dispositivo*] of the instrumental cause (which defines, as we have seen, the very nature of every “dispositive” action) coincides in this sense with a radical transformation in the mode of conceiving use. This is no longer a relation of twofold or reciprocal affection, in which subject and object are indeterminated, but a hierarchical relation between two causes, defined no longer by use but by instrumentality. The instrumental cause (in which the instrument—which in the ancient world seems to be no different from the hand that makes use of it—reaches its full autonomy) is the first appearance in the sphere of human action of those concepts of utility and instrumentality that determine the way in which modern human beings will understand their doing and making [It., *il suo fare*] in modernity.

7.7. In the sacraments, the character of an instrumental cause does not only belong to the material element (water, consecrated oil, etc.): it first of all concerns the celebrant himself. The minister is in fact fully an instrument (“the definition of the minister,” one reads in Aquinas 2, III, q. 64, art. 1, “is identical to that of the instrument”); in contrast, however, to the material elements that, as inanimate instruments, are always and only moved by the principal agent, the minister is an “animate instrument” (*instrumentum animatum*), who “is not only moved, but in a sense moves itself, insofar as by his will he moves his bodily members to act” (q. 64, art. 8).

As we know, the term “animate instrument” comes from Aristotle’s *Politics*, where it defined the nature of the slave. For that matter, the term *minister* originally means “servant.” Aquinas is perfectly aware of this when he writes: “the minister comports himself in the mode of an instrument [*habet se ad modum instrumenti*], as the Philosopher says in the first book of the *Politics*” (q. 63, art. 2). (In his *Commentary on Aristotle’s Politics*, probably following the Latin transla-

tion that he had before him, he uses the expression *organum animatum*, “animate equipment,” immediately specifying: “such as the assistants of a craftsman and slaves in a household”; Aquinas 4, p. 23).

The assimilation of the celebrant to a slave—who does not have legal personhood and whose acts are imputed to the “person” of his master—is therefore perfectly conscious, and it is in virtue of this awareness that Aquinas can write that “the minister of the sacrament acts *in persona* of the whole Church, whose minister he is” (Aquinas 2, q. 64, art. 8). This means that, by means of the paradigm of the “animate instrument,” the sacramental priesthood is genealogically and not only terminologically connected to slavery.

The connection between the instrumental cause and the figure of the slave is, however, still more essential. It is implied in the very formula “the human being whose *ergon* is the use of the body” and in the definition (which we have seen to have an ontological and not a juridical character) of the slave as the one who, “while being human, is by nature of another and not of himself.” The slave constitutes in this sense the first appearance of a pure instrumentality, which is to say, of a being that, while living according to its own end, is precisely for that reason and to the same extent used for another’s end.

7.8. The peculiar “dispositive” efficacy that belongs to the sacraments thanks to the double nature of the instrumental cause is developed by theologians by means of a new scission, which in the sacrament divides the one working the work (*opus operans*, the action of the instrumental agent, in particular the celebrant) and the work worked (*opus operatum*, the sacramental effect in itself, which is unfailingly realized, whatever the condition of the celebrant may be). Insofar as the minister is the animate instrument of an operation whose principal agent is Christ, not only is it not necessary that he have faith and love, but even a perverse intention (baptizing a woman with the intention of abusing her) does not remove validity from the sacrament, because this latter acts *ex opere operato* and not *ex opere operante* (or *operantis*).

The distinction between the two works, which was devised in order to secure the validity of the sacrament, in fact transforms it into a perfect mechanism, a special apparatus, which unfailingly produces its effects. The “instrumental” character of the sacraments, which they have in common with technologies and *artes*—Aquinas defines them as *instrumenta Dei* (Aquinas 5, IV, 56)—allows one to consider them as the paradigm of a superior technology, a *technologia sacra*, at whose center stands the most specialized action of the instrumental cause and the inexorable efficacy of the *opus operatum*.

They are in this sense a sort of prophecy of mechanization, which was only achieved five centuries later. Just as the machine, materializing the dream of the animate instrument, functions on its own and its maneuvers in reality do nothing but obey the possibilities of command prescribed by the machine itself, so also does the sacrament produce its effect *ex opere operato*, and the celebrant, of whom Aquinas says that “he is not merely a cause but also in a measure an effect insofar as it is moved by the principal agent” (Aquinas 2, III, q. 62, art. 1), does nothing but execute, more or less mechanically, the will of the principal agent. The analogy can be extended: if the advent of the machine, as Marx had already noted, had as a consequence the devaluation of the labor of the artisan, who in losing his traditional ability is transformed into an instrument of the machine, this corresponds point by point with the doctrine of the *opus operatum*, which by transforming the celebrant into an animate instrument in fact separates him from personal commitment and moral responsibility, which are no longer necessary to the efficacy of sacramental practices and remain confined to his interiority.

7.9. It is not surprising that a few centuries later, at the end of Scholasticism, the paradigm of the instrumental cause can be driven to the extreme, to the point of the rupture of the necessary connection between the instrument’s own operation and that of the principal agent, and to the consequent affirmation of an unlimited “obediential” availability of the instrument to the intention of the principal agent. In his treatise on the sacraments, Suárez can thus write that

in the divine instruments, the action connatural to the instrument precedent to the action and to the effect of the principal agent is not necessary. The reason is that . . . the divine instruments do not add a natural but an obediential [*obediencialem*] potential and moreover work beyond the limits of natural perfection, so that we do not expect a natural connection between their action and that of the principal agent. . . . Thus, while the diverse natural or artificial instruments are directed to diverse effects, because the condition of the instrument is adapted to this action and not to another, the divine instruments do not have this determination, because they are assumed only according to an obediential potential, which is indifferent to all that does not imply contradiction, because of the unlimitedness of the divine virtue. (Suárez 1, p. 149)

It is legitimate to suppose that the absolute instrumentality that is thought here constitutes in some way the paradigm of modern technologies, which tend to produce apparatuses that have incorporated in themselves the operation of the principal agent and can thus “obey” its commands (even if these are actually inscribed into the functioning of the apparatus, in such a way that the one

using them, in pushing the “controls,” obeys in turn a predetermined program). Modern technology does not derive only from the dream of the alchemists and magicians but also and more probably from that peculiar “magical” operation that is the absolute, perfect instrumental efficacy of the sacramental liturgy.

7.10. The constitutive connection that unites the slave and technology is implicit in Aristotle’s ironic affirmation, according to which if instruments, like the legendary statues of Daedalus, could achieve their work by themselves, the architect would have no need of assistants nor the master of slaves.

The relation between technology and slavery has often been evoked by historians of the ancient world. According to the current opinion, in fact, the striking lack of technological development in the Greek world was due to the ease with which the Greeks, thanks to slavery, could procure manual labor. If Greek material civilization remained at the stage of the *organon*, that is, of the utilization of human or animal power by means of a variety of instruments and did not have access to machines, this happened, one reads in a classic work on this argument, “because there was no need to economize on manual labor, since one had access to living machines that were abundant and inexpensive, different from both human and animal: slaves” (Schuhl, pp. 13–14). It does not interest us here to verify the correctness of this explanation, whose limits have been demonstrated by Koyré (pp. 291ff.) and which, like every explanation of that kind, could be easily reversed (one could say just as reasonably, as Aristotle does in the end, that the lack of machines rendered slavery necessary).

What is decisive, rather, from the perspective of our study, is to ask ourselves if between modern technology and slavery there is not a connection more essential than the common productive end. Indeed, if it is clear that the machine is presented from its first appearance as the realization of the paradigm of the animate instrument of which the slave had furnished the originary model, it is all the more true that what both intend is not so much, or not only, an increase and simplification of productive labor but also, by liberating human beings from necessity, to secure them access to their most proper dimension—for the Greeks the political life, for the moderns the possibility of mastering the nature’s forces and thus their own.

The symmetry between the slave and the machine thus goes beyond the analogy between two figures of the “living instrument”: it concerns the ultimate achievement of anthropogenesis, the becoming fully human of the living human being. But this implies a further symmetry, this time with respect to the bare life that, being situated on the threshold between *zoè* and *bios*, between *physis*

and *nomos*, enables, through its inclusive exclusion, political life. In this sense, slavery is to ancient humanity what technology is to modern humanity: both, as bare life, watch over the threshold that allows access to the truly human condition (and both have shown themselves to be inadequate to the task, the modern way revealing itself in the end to be no less dehumanizing than the ancient).

On the other hand, this study has shown that in Aristotle's definition of the slave, the dominant idea is that of a human life that unfolds entirely within the sphere of use (and not in that of production). What was in question in the animate instrument was, that is to say, not only liberation from labor but rather the paradigm of another human activity and another relation with the living body, for which we lack names and which for now we can only evoke by means of the syntagma "use of the body." Slavery (as a juridical institution) and the machine represent in a certain sense the capture and parodic realization within social institutions of this "use of the body," of which we have sought to delineate the essential characteristics. Every attempt to think use must necessarily engage with them, because perhaps only an archeology of slavery and, *at the same time*, of technology will be able to free the archaic nucleus that has remained imprisoned in them.

It is necessary, at this point, to restore to the slave the decisive meaning that belongs to him in the process of anthropogenesis. The slave is, on the one hand, a human animal (or an animal-human) and, on the other hand and to the same extent, a living instrument (or an instrument-human). That is to say, the slave constitutes in the history of anthropogenesis a double threshold, in which animal life crosses over to the human just as the living (the human) crosses over into the inorganic (into the instrument), and vice versa. The invention of slavery as a juridical institution allowed the capture of living beings and of the use of the body into productive systems, temporarily blocking the development of the technological instrument; its abolition in modernity freed up the possibility of technology, that is, of the living instrument. At the same time, insofar as their relationship with nature is no longer mediated by another human being but by an apparatus, human beings have estranged themselves from the animal and from the organic in order to draw near to the instrument and the inorganic to the point of almost identifying with it (the human-machine). For this reason—insofar as they have lost, together with the use of bodies, their immediate relation to their own animality—modern human beings have not truly been able to appropriate to themselves the liberation from labor that machines should have procured for them. And if the hypothesis of a constitutive connection between slavery and technology is correct, it is not surprising that the hypertrophy of technological apparatuses has ended up producing a new and unheard-of form of slavery.

## The Inappropriable

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**8.1.** In *The Highest Poverty* (*Homo Sacer* IV.1), we have shown how the concept of use was at the center of the Franciscan strategy and how, precisely with respect to its definition and to the possibility of separating it from ownership, it had produced the decisive conflict between the order and the curia. Preoccupied solely with assuring the lawfulness of the refusal of every form of ownership, the Franciscan theorists therefore ended up enclosing themselves in a solely juridical polemic, without managing to furnish another definition of use that would not be put in purely negative terms with respect to the juridical order. Perhaps nowhere does the ambiguity of their argumentation appear more clearly than in the willfully paradoxical thesis of Hugh of Digne, according to whom the Franciscans “have only this right, not to have any rights” (*hoc ius nullum ius habere*; Hugh of Digne, p. 161).

The Franciscan vindication of poverty is thus founded on the possibility for a subject to renounce the right of ownership (*abdicatio iuris*). What they call “use” (and at times, as in Francis of Ascoli, “bodily use,” *usus corporeus*) is the dimension that opens out from this renunciation. From the perspective that interests us here, the problem is not whether the Franciscan thesis, which ended up succumbing to the curia’s attacks, could have been more or less rigorously argued: instead, what would have been decisive was a conception of use that was not founded on an act of renunciation—that is, in the last analysis, on the will of a subject—but, so to speak, on the very nature of things (as the frequent reference to the state of nature seems, after all, to imply).

8.2. In 1916, Benjamin jotted down in one of his *Notizblöcke* a brief text with the title “Notes toward a Work on the Category of Justice,” which establishes a close connection between the concept of justice and that of inappropriability: “To every good,” he writes,

limited as it is by the spatio-temporal order, there accrues a possession-character.  
But the possession, as something caught in the same finitude, is always unjust.

No order of possession, however articulated, can therefore lead to justice. Rather, this lies in the condition of a good that cannot be a possession [*das nicht Besitz sein kann*]. This alone is the good through which goods become possessionless [*besitzlos*]. (Benjamin I, p. 41/257)

Justice, Benjamin continues, has nothing to do with the allotment of goods according to the needs of individuals, because the subject's claim to the good is not founded on needs but on justice, and as such it is directed not "toward the possession-right of the person but possibly toward the good-right of the good" (*ein Gutes-Recht des Gutes*; *ibid.*).

At this point, with a striking contraction of ethics and ontology, justice is presented not as a virtue but as a "state of the world," as the ethical category that corresponds not to having-to-be but to existence as such:

Justice does not appear to refer to the good will of the subject, but, instead, constitutes a state of the world [*einen Zustand der Welt*]. Justice designates the ethical category of the existent, virtue the ethical category of the demanded. Virtue can be demanded; justice in the final analysis can only be as a state of the world or as a state of God.

And it is in this sense that it can be defined as "the striving to make the world into the highest good" (*ibid.*).

If we recall that justice, in the immediately preceding passage, coincided with the condition of a good that cannot be appropriated, to make of the world the supreme good can only mean: to experience it as absolutely inappropriable. In this fragment, which is radically Franciscan in a certain way, poverty is not found on a decision of the subject but corresponds to a "state of the world." And if, in the Franciscan theorists, use appeared as the dimension that is opened when one renounces ownership, here the perspective is necessarily reversed and use appears as *the relation to an inappropriable*, as the only possible relation to that supreme state of the world in which it, as just, can be in no way appropriated.

8.3. The testimony of experience, which daily offers us examples of inappropriable things with which we are nevertheless intimately in relation, testifies that a similar conception of use as relation to an inappropriable is not completely strange. Here I propose we examine three of these inappropriables: the body, language, and landscape.

A correct posing of the problem of the body was put durably off course by the phenomenological doctrine of the body proper. According to this doctrine—which finds its topical place in the polemic of Husserl and Edith Stein against Lipps's theory of empathy—the experience of the body would be, together with

the I, what is most proper and originary. “The originary donation of the body,” Husserl writes,

can only be the donation of my body and no one else’s [*meines und keines andern Leibes*]. The apperception “my body” is in any originally essential way [*urwesentlich*] the first and only one that can be fully originary. Only if I have constituted my body can I apperceive every other body as such, and this apperception principally has a mediated character. (Husserl I, p. 7)

And yet precisely this apodictic pronouncement of the originary character as “mine” of the donation of a body never stops giving rise to aporias and difficulties.

The first is the perception of the body of the other. This latter is not actually perceived as an inert body (*Körper*) but as a living body (*Leib*), endowed like mine with sensibility and perception. In the notes and fragmentary drafts that make up volumes XIII and XIV of the *Husserliana*, pages and pages are dedicated to the problem of the perception of the hand of the other. How is it possible to perceive a hand as alive, that is, not simply as a thing, a marble, or painted hand but as a hand “of flesh and blood”—and yet not mine? If to the perception of the body there originally belongs the character of being mine, what is the difference between the hand of another, which I see in this moment and which touches me, and mine? It cannot be a question of a logical inference or an analogy, because I “feel” the hand of the other, I identify with it, and its sensibility is given to me in a sort of immediate presentification (*Vergegenwärtigung*; Husserl 2, pp. 40–41). Then what keeps us from thinking that the hand of the other and mine are given co-originally and that only in a second moment is the distinction produced?

The problem is particularly pressing because at the time when Husserl wrote his notes, the debate around the problem of empathy (*Einfühlung*) was still very much alive. In a book published some years before (*Leitfaden der Psychologie*, 1903), Theodor Lipps had excluded the idea that empathetic experiences, in which the subject finds himself suddenly transferred into another’s lived experience, could be explained by means of imitation, association, or analogy. When I observe with full participation the acrobats who are walking suspended in the void and cry out in terror when it looks like they will fall, I am in some way “with” them and feel their body as if it were my own and my own as if it were theirs. “It is therefore not the case,” writes Husserl, “that I first solipsistically constitute my things and my world, and then empathetically grasp the other I, as solipsistically constituting his world for himself, and that only then is the one identified with the other; but rather my sensible unity, insofar as the external multiplicity is not separate from mine, is *eo ipso* empathetically perceived as

the same as mine” (Husserl 1, p. 10). In this way, the axiom of the originarity of the body proper is seriously called into question. As Husserl could not fail to admit, empathetic experience introduces into the solipsistic constitution of the body proper a “transcendence,” in which consciousness seems to go beyond itself and distinguishing one’s own lived experience from another’s becomes problematic (ibid., p. 8). This is especially the case since Max Scheler, who had sought to apply to ethics the methods of Husserlian phenomenology, had postulated unreservedly—with a thesis that Edith Stein had designated as “fascinating” even if erroneous—an originary, undifferentiated current of lived experience, in which the I and the body of the other are perceived in the same way as one’s own.

None of the repeated attempts of Husserl and his student to restore the primacy and originarity of the body proper is finally convincing. As happens every time we persist in maintaining a certainty that experience has revealed to be fallacious, they come to a contradiction, which in this case takes the form of an oxymoron, of a “non-originary originarity.” “Neither the external body nor external subjectivity,” writes Husserl, “is given to me *originally*; and yet that human being is given to me originarily in my surrounding world” (Husserl 1, p. 234). And in an even more contradictory way, Edith Stein says:

While I am living in the other’s joy, I do not feel originary joy. It does not issue live from my “I.” Neither does it have the character of having-once-been-lived like remembered joy. . . . This other subject is originary although I do not live it as originary; the joy that arises in him is originary even though I do not live it as originary. In my non-originary lived experience I feel, as it were, accompanied by an originary lived experience not lived by me but still there, manifesting itself in my non-originary lived experience. (Stein, p. 11)

In this “non-originary living an originarity,” the originarity of the body proper is maintained so to speak in bad faith, only on condition of dividing empathetic experience into two contradictory moments. Immediate participation in external lived experience, which Lipps expressed as my being fully and distressingly transported “alongside” the acrobat who walks on the tightrope, is thus hastily set aside. In any case, what empathy—but, alongside it, it would be necessary to mention hypnosis, magnetism, and suggestion, which in those years seem to have obsessively captured the attention of psychologists and sociologists—shows is that however much one affirms the originary character of the “propriety” of the body and of lived experience, the intrusiveness of an “impropriety” shows itself to be all the more originary and strong in it, as if the body proper always cast a shadow, which can in no case be separated from it.

8.4. In the 1935 essay *De l'évasion (On Escape)*, Emmanuel Levinas subjects to a merciless examination bodily experiences as familiar as they are disagreeable: shame, nausea, need. According to his characteristic gesture, Levinas exaggerates and drives to the extreme the analytic of Dasein of his teacher Heidegger so as to exhibit, so to speak, its dark side. If in *Being and Time* Dasein is irreparably thrown into a facticity that is improper to it and that it has not chosen, such that he always has to assume and grasp impropriety itself, this ontological structure now finds its parodic formulation in the analysis of bodily need, nausea, and shame. In fact, what defines the experiences is not a lack or defect of being, which we seek to fill up or from which we take our distance: on the contrary, they are founded on a double movement, in which the subject finds himself, on the one hand, irremissibly consigned to his body and, on the other, just as inexorably incapable of assuming it.

Let us imagine an exemplary case of shame: shame due to nudity. If in nudity we experience shame, it is because in it we find ourselves consigned to something that we cannot at any cost retract.

Shame arises each time we are unable to make others forget our basic nudity. It is related to everything we would like to hide and that we cannot bury or cover up. . . . What appears in shame is thus precisely the fact of being riveted to oneself, the radical impossibility of fleeing oneself to hide from oneself, the unalterably binding presence of the I to itself. Nakedness is shameful when it is the sheer visibility of our being, of its ultimate intimacy. . . . It is therefore our intimacy, that is, our presence to ourselves, that is shameful. (Levinas I, pp. 86–87/64–67)

This means that, at the instant in which what is most intimate and proper to us—our body—is irreparably laid bare, it appears to us as the most foreign thing, which we cannot in any way assume and which we want, for that reason, to hide.

This double, paradoxical movement is even more evident in nausea and bodily need. Indeed, nausea is “the revolting presence of ourselves to ourselves” that, in the instant in which it is lived, “appears insurmountable” (ibid., p. 89/66). The more the nauseating state, with its vomiting, consigns me to my stomach, as to my sole and irrefutable reality, so much more does it seem to me to be foreign and inappropriable: I am nothing but nausea and vomiting, and yet I can neither accept it nor come out of it. “There is in nausea a refusal to remain there, an effort to get out. Yet this effort is always already characterized as desperate. . . . In nausea—which amounts to an impossibility of being what one is—we are at the same time riveted to ourselves, enclosed in a tight circle that smothers” (p. 90/66).

The contradictory nature of the relation to the body reaches its critical mass in need. At the moment that I experience an uncontestable urge to urinate, it is

as if all my reality and all my presence are concentrated in the part of my body from which the need is coming. It is absolutely and implacably proper to me, and yet just for this reason, precisely because I am nailed down to it without escape, it becomes the most external and inappropriable thing. The instant of need, that is to say, lays bare the truth of the body proper: it is a field of polar tensions whose extremes are defined by a “being consigned to” and a “not being able to assume.” My body is given to me originally as the most proper thing, only to the extent to which it reveals itself to be absolutely inappropriable.

✎ The characteristics of inappropriability and externality that inhere ineliminably in the body proper emerge with particular obviousness in all those disturbances of gesturality and speech that, from the name of the French psychiatrist Gilles de la Tourette, are commonly defined with the term “Tourette’s syndrome.” The “tics,” the compulsive utterances (generally of an obscene character), the impossibility of completing a movement, the tremors of the musculature (*chorea*), and all the vast symptomatology that defines this syndrome delimit a sphere of relationship to the body proper that eludes any possibility for the patient to clearly distinguish between the voluntary and the involuntary, the proper and the external, the conscious and the unconscious.

8.5. There exists, from this perspective, a structural analogy between the body and language. Indeed, language also—in particular in the figure of the mother tongue—appears for each speaker as what is the most intimate and proper; and yet, speaking of an “ownership” and of an “intimacy” of language is certainly misleading, since language happens to the human being from the outside, through a process of transmission and learning that can be arduous and painful and is imposed on the infant rather than being willed by it. And while the body seems particular to each individual, language is by definition shared by others and as such an object of common use. Like the bodily constitution according to the Stoics, that is to say, language is something with which the living being must be familiarized in a more or less drawn-out *oikeiosis*, which seems natural and almost inborn; and yet—as *lapsus*, stuttering, unexpected forgetfulness, and aphasia testify—it has always remained to some degree external to the speaker.

This is all the more evident in those—the poets—whose trade is precisely that of mastering language and making it proper. They must for this reason first of all abandon conventions and common use and, so to speak, render foreign the language that they must dominate, inscribing it in a system of rules as arbitrary as they are inexorable—foreign to such a point that according to a firm tradition, it is not they who speak but another, divine principle (the muse) who utters the poem for which the poet is limited to providing the voice. The appropriation of language that they pursue, that is to say, is to the same extent an expropriation,

in such a way that the poetic act appears as a bipolar gesture, which each time renders external what it must unfailingly appropriate.

We can call the ways in which this double gesture is signed in language style and manner. Here it is necessary to abandon the customary hierarchical representations, for which manner would be a perversion and a decline of style, which for them remains superior by definition. Style and manner instead name the two irreducible poles of the poetic gesture: if style marks its most proper trait, manner registers an inverse demand for expropriation and non-belonging. Appropriation and disappropriation are to be taken literally here, as a process that invests and transforms language in all its aspects. And not only in literature, as in the last dialogues of Plato, in the late Goethe, and the final Caproni, but also in the arts (the exemplary case is Titian) one witnesses this tension of the field of language, which elaborates and transforms it to the point of rendering it new and almost unrecognizable.

8.6. If mannerism, in the history of art and in psychiatry, designates excessive adherence to a usage or a model (stereotype, repetition) and, at the same time, the impossibility of truly identifying oneself with it (extravagance and artifice), analogous considerations can be made for the relation of speakers to their inappropriate language: it defines a field of polar forces, held between idiosyncrasy and stereotype, the excessively proper and the most complete externality. And only in this context does the opposition between style and manner acquire its true sense. They are the two poles in the tension of which the gesture of the poet lives: style is disappropriating appropriation (a sublime negligence, a forgetting oneself in the proper), manner an appropriating disappropriation (a presenting oneself or remembering oneself in the improper).

We can therefore call “use” the field of tension whose poles are style and manner, appropriation and expropriation. And not only in the poet but in every speaking human being with respect to their language and in every living thing with respect to its body there is always, in use, a manner that takes its distance from style and a style that is disappropriated in manner. In this sense, every use is a polar gesture: on the one hand, appropriation and habit; on the other, loss and expropriation. To use—hence the semantic breadth of the term, which indicates both use in the strict sense and habitual praxis—means to oscillate unceasingly between a homeland and an exile: to inhabit.

✠ Gregory the Great (*The Life of St. Benedict*, II, 3, 37) writes of St. Benedict that at a certain point in his life, “he returned to his beloved place of solitude and before the eyes of the supreme spectator alone *habitavit secum*, he inhabited with himself.” What

can it mean to “inhabit with oneself”? *Habitare* is an intensive form of *habere*. Use, as relation to an inappropriable, appears as a field of forces held between a propriety and an impropriety, a having and a not having. In this sense, if one recalls the proximity between use and habit and between use and use-of-oneself that we have evoked above, to inhabit means to be in a relation of use, thus understood, with something to the point of being able to lose and forget oneself in it, of constituting it as inappropriable.

To inhabit with oneself, to inhabit-oneself, therefore names the fundamental trait of human existence: the form of life of the human being is, in the words of Hölderlin, an “inhabiting life” (*Wenn in die Ferne geht der Menschen wohnend Leben . . .*; Hölderlin, p. 314). But precisely for this reason, in the letter to Böhlendorff of December 4, 1801, in which Hölderlin formulated his supreme thought, use appears as always already divided into “proper” and “foreign,” and the decisive thesis reads: “the free use of the proper [*der freie Gebrauch des Eigenes*] is the most difficult thing.”

8.7. A definition of the third example of the inappropriable, landscape, must begin from the exposition of its relationship with the environment and with the world. And this is not because the problem of landscape as it has been dealt with by art historians, anthropologists, and historians of culture is irrelevant. Rather, what is decisive is the observation of the aporias to which these disciplines remain prisoner whenever they seek to define landscape. Not only is it unclear whether it is a natural reality or a human phenomenon, a geographical place or a place in the soul; but in this second case, neither is it clear whether it should be considered as consubstantial to the human being or is instead a modern invention. It has often been repeated that the first appearance of a sensibility to landscape is the letter of Petrarch that describes the ascension of Mount Ventoux as motivated *sola videndi insignem loci altitudinem cupiditate ductus* (“by nothing but the desire to see its conspicuous height”; Petrarch, p. 36). In the same sense, it has been affirmed that landscape painting, unknown to antiquity, was the invention of the Dutch painters of the Quattrocento. Both affirmations are false. Not only are the place and the date of composition of the letter probably fictitious, but the citation of Augustine that Petrarch introduces there to stigmatize his *cupiditas videndi* implies that already in the fourth century human beings loved to contemplate landscape: *et eunt homines mirari alta montium et ingentes fluctus maris et latissimos lapsus fluminum*. Numerous passages testify, in fact, to a true and proper passion of the ancients for contemplation from the heights (*magnam capies voluptatem*, writes Pliny, *si hunc regionis situm ex monte prospexeris* [“You would be most agreeably entertained by taking a view of the face of this country from the mountains”]; Pliny I, V, vi, 13), which ethology has unexpectedly found in the animal kingdom, where one sees goats, vicuñas, felines, and primates climbing up to an elevated place to then contemplate, for no apparent reason, the surrounding landscape (Fehling, pp. 44–48).

As for painting, not only the Pompeian frescos but the sources as well show that the Greeks and Romans were familiar with landscape painting, which they called *topiographia* or “scenography” (*skenographia*), and they have preserved for us the names of landscape painters like Ludius, *qui primus instituit amoenissimam parietum picturam* (“who first introduced the attractive fashion of painting walls with pictures of country houses”; Pliny 2, XXXV, 116–17), and Serapion, of whom we know that he could paint scenographies of landscapes but not human figures (*hic scaenas optime pinxit, sed hominem pingere non potuit*; *ibid.*, XXXV, 113). And those who have observed the petrified, dreamy landscapes painted on the walls of Campanian villas, which Rostovsky called idyllic-sacral (*sakral-idyllisch*), know that they find themselves before something extremely difficult to understand but that they recognize unequivocally as landscapes. The landscape is therefore a phenomenon that concerns the human being—and perhaps the living being as such—in an essential way, and yet it seems to elude every definition. Only to a philosophical consideration will it perhaps be able to disclose its truth.

8.8. In the course of the winter semester of 1929–30 at Freiburg (published with the title *The Fundamental Concepts of Metaphysics: World, Finitude, Solitude*), Heidegger seeks to define the fundamental structure of the human being as a passage from the “poverty in world” of the animal to the being-in-the-world that defines Dasein. On the basis of the work of Uexküll and other zoologists, extremely perceptive pages are dedicated to the description and analysis of the relationship of the animal with its environment (*Umwelt*). The animal is poor in world (*weltarm*), because it remains a prisoner of the immediate relationship with a series of elements (Heidegger calls “disinhibitors” what Uexküll defined as “bearers of significance”) that their receptive organs have selected in the environment. The relationship with these disinhibitors is so strict and totalizing that the animal is literally “stunned” and “captured” in them. As a representative example of this stunning, Heidegger refers to the experiment in which a bee is placed in a laboratory in front of a glass full of honey. If, after it has begun to suck, one removes the bee’s abdomen, it tranquilly continues to suck, while one sees honey flowing out where the abdomen has been cut off. The bee is so absorbed in its disinhibitor that it can never place itself before it to perceive it as something that exists objectively in and for itself. Certainly, with respect to the rock, which is absolutely deprived of world, the animal is in some way open to its disinhibitors and yet can never see them as such. “The animal,” writes Heidegger, “can never apprehend something *as* something” (Heidegger 5, p. 360/248). For this reason the animal remains enclosed in the circle of its environment and can never open itself into a world.

The philosophical problem of the course is that of the boundary—that is to say, of the extreme separation and vertiginous proximity—between the animal and the human. In what way is something like a world opened for the human being? The passage from the environment to the world is not, in reality, simply the passage from a closure to an opening. The animal in fact not only does not see the open, beings in their unveiled being, but nor does it perceive its own non-openness, its own being captured and stunned in its own disinhibitors. The skylark that soars in the air “does not see the open,” but neither is it in a position to relate to its own closure. “The animal,” writes Heidegger, “is excluded from the essential domain of the conflict between unconcealedness and concealedness” (Heidegger 6, pp. 237–238/159–160). The openness of the world begins in the human being precisely from the perception of a non-openness.

This means, therefore, that the world does not open up onto a new or ulterior space, fuller and more luminous, conquered beyond the limits of the animal environment and without relation with it. On the contrary, it has been opened only through a suspension and deactivation of the animal relationship with the disinhibitor. The open, the free space of being do not name something radically other with respect to the non-open of the animal: they are only a grasping of a dis-unveiling, the suspension and the capture of the skylark-not-seeing-the-open. The openness that is in question in the world is essentially the openness to a closure, and the one who looks into the open sees only a closing up, sees only a non-seeing.

For this reason—that is to say, insofar as the world has been opened only through the interruption and nullification of the relationship of the living being with its disinhibitor—being is from the very beginning traversed by the nothing, and the world is constitutively marked by negativity and disorientation.

8.9. One can comprehend what landscape is only if one understands that it represents, with respect to the animal environment and the human world, an ulterior stage. When we look at a landscape, we certainly see the open and contemplate the world, with all the elements that make it up (the ancient sources list among these the woods, the hills, the lakes, the villas, the headlands, springs, streams, canals, flocks and shepherds, people on foot or in a boat, those hunting or harvesting . . .); but these things, which are already no longer parts of an animal environment, are now, so to speak, deactivated one by one on the level of being and perceived as a whole in a new dimension. We see them as perfectly and clearly as ever, and yet we already do not see them, lost—happily, immemorially lost—in the landscape. Being, *en état de paysage*, is suspended and rendered inoperative, and the world, having become perfectly inappropriable, goes, so

to speak, beyond being and nothing. No longer animal nor human, to the one who contemplates the landscape is only landscape. That person no longer seeks to comprehend, only look. If the world is the inoperativity of the animal environment, landscape is, so to speak, inoperativity of inoperativity, deactivated being. And negativity, which inhered in the world in the form of the nothing and non-openness—because it comes from the animal closure, of which it was only a suspension—is now dismissed.

Insofar as it has in this sense gone beyond being, landscape is the outstanding form of use. In it, use-of-oneself and use of the world correspond without remainder. Justice, as a state of the world as inappropriable, is here the decisive experience. Landscape is a dwelling in the inappropriable as form-of-life, as justice. For this reason, if in the world the human being was necessarily thrown and disoriented, in landscape he is finally at home. *Pays! paese!* (“country,” from *pagus*, “village”) is according to the etymologists originally the greeting that is exchanged by those who recognize each other as being from the same village.

8.10. We can call “intimacy” use-of-oneself as relation with an inappropriable. Whether it is a matter of bodily life in all its aspects (understood as those elementary *ethe* that we have seen urinating, sleeping, defecating, sexual pleasure, nudity, etc., to be) or of the special presence-absence to ourselves that we live in moments of solitude, that of which we have an experience in intimacy is our being held in relation with an inappropriable zone of non-consciousness. Here familiarity with self reaches an intensity all the more extreme and jealous insofar as it is in no way translated into anything that we could master.

It is precisely this opaque sphere of non-awareness that in modernity becomes the most exclusive and precious content of “privacy” [*translator’s note*: English in original here and throughout this passage]. The modern individual is defined first of all by means of his faculty (which can take the form of a true and proper right) to regulate access to his intimacy. According to the laconic definition of an English-speaking scholar, “privacy will be defined as: *selective control of access to the self* . . . It is an interpersonal boundary process, whereby the openness-closedness from others shifts with the circumstances” (Altman, p. 8ff.). But what is at stake in this selective sharing of use-of-oneself is in reality the very constitution of the self. That is to say, intimacy is a circular apparatus, by means of which, by selectively regulating access to the self, the individual constitutes himself as the pre-supposition and proprietor of his own “privacy.” As the same author suggests, albeit beyond his own intentions, what is vital for the definition of the self is not the inclusion or exclusion of others so much as the capacity to

regulate contact when one desires to: “the privacy mechanisms serve to define the limits and boundaries of the self” (ibid., p. 26). The dominion of privacy therefore replaces, as a constitution of subjectivity, the use of bodies, in which subject and object were indeterminated.

One can therefore understand how, in a society formed from individuals, the transformation of use-of-oneself and of the relation to the inappropriable into a jealous possession in reality has a political significance that is all the more decisive insofar as it remains stubbornly hidden. It is in the work of Sade—that is to say, precisely at the moment when singular living beings as such became the bearers of the new national sovereignty—that this political meaning comes forcefully to light. In the manifesto “Français encore un effort si vous voulez être républicains” that the libertine Dolmancé reads in *Philosophie dans le boudoir*, the political locus par excellence becomes the *maisons* in which every citizen has a right to summon any other person to freely use his or her body. Intimacy becomes here what is at stake in politics; the *boudoir* is totally substituted for the *cité*. If the sovereign subject is first of all sovereign over his or her own body, if intimacy—which is to say, use-of-oneself as inappropriable—becomes something like the fundamental biopolitical substance, then one can understand that in Sade it can appear as the object of the first and unconfessed right of the citizen: each individual has the right to share his or her liking of the other’s inappropriable. Common above all is the use of bodies.

What in Dolmancé’s pamphlet was a juridical constitutional contract, founded on republican reciprocity, in the *120 Days of Sodom* instead appears as a pure object of dominion and of unconditioned violence (it is certainly not an accident that the loss of all control over one’s own intimacy was, according to the testimonies of the deportees, an integral part of the atrocities of the *Lager*). The criminal pact that rules the castle of Silling, in which the four wicked potentates enclose themselves with their forty victims, establishes the absolute control on the part of the masters of the intimacy of their slaves—even their physiological functions are minutely regulated—the total and unlimited use of their bodies. The relation with the inappropriable, which constitutes the biopolitical substance of each individual, is thus violently appropriated by those who constitute themselves in this way as lords of intimacy, of that free use of the proper that, in the words of Hölderlin, appeared as “the most difficult thing.”

Against this attempt to appropriate the inappropriable to oneself, by means of right or force, in order to constitute it as an *arcanum* of sovereignty, it is necessary to remember that intimacy can preserve its political meaning only on condition that it remains inappropriable. *What is common is never a property but*

*only the inappropriable.* The sharing of this inappropriable is love, that “use of the loved object” of which the Sadean universe constitutes the most serious and instructive parody.

✂ In the course of this study of the use of bodies, a term has never stopped appearing: inoperativity. The elements of a theory of inoperativity had been elaborated in a previous volume (Agamben 2, *passim* and in particular §§8.22–8.24; but cf. also Agamben 3, §9); the concept of use that we have attempted to define can be correctly understood only if it is situated in the context of this theory. Use is constitutively an inoperative praxis, which can happen only on the basis of a deactivation of the Aristotelian apparatus potential/act, which assigns to *energeia*, to being-at-work, primacy over potential. Use is, in this sense, a principle internal to potential, which prevents it from being simply consumed in the act and drives it to turn once more to itself, to make itself a potential of potential, to be capable of its own potential (and therefore its own impotential).

The inoperative work, which results from this suspension of potential, exposes in the act the potential that has brought it into being: if it is a poem, it will expose in the poem the potential of language; if it is a painting, it will expose on the canvas the potential of painting (of looking); if it is an action, it will expose in the act the potential of acting. Only in this sense can one say that inoperativity is a poem of poetry, a painting of painting, a praxis of praxis. Rendering inoperative the works of language, the arts, politics, and economy, it shows what a human body can do, opens it to a new possible use.

Inoperativity as a specifically human praxis also allows us to understand in what way the concept of use here proposed (like that of form-of-life) relates to the Marxian concept of “form of production.” It is certainly true that, as Marx has suggested, the forms of production of an epoch contribute in a decisive way to determine its social relationships and culture; but in relation to every form of production, it is possible to individuate a “form of inoperativity” that, while being held in close relationship with it, is not determined by it but on the contrary renders its works inoperative and permits a new use of them. One-sidedly focused on the analysis of forms of production, Marx neglected the analysis of the forms of inoperativity, and this lack is certainly at the bottom of some of the aporias of his thought, in particular as concerns the definition of human activity in the classless society. From this perspective, a phenomenology of forms of life and of inoperativity that proceeded in step with an analysis of the corresponding forms of production would be essential. In inoperativity, the classless society is already present in capitalist society, just as, according to Benjamin, shards of messianic time are present in history in possibly infamous and risible forms.

## Intermezzo I

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**1** • In a brief work published four years after the death of Michel Foucault, Pierre Hadot, who had been acquainted with him and episodically associated with him since 1980, takes care to specify the “convergences” and “divergences” between his thought and his friend’s, in the course of a dialogue that was interrupted all too soon. If, on the one hand, he claims to find in Foucault the same themes and interests, which converge in a conception of ancient philosophy—and of philosophy in general—as an “exercise” or “style of life,” on the other hand, he firmly distances himself from his friend’s theses:

In this labor of the self on the self, in this exercise of the self I also recognize, for my part, an essential aspect of the philosophical life: philosophy is an art of living, a style of life that touches on all of existence. I would, however, hesitate to speak, as Foucault does, of an “aesthetics of existence,” both in connection with Antiquity and, in general, as the task of the philosopher. Michel Foucault understands . . . this expression in the sense that our own life is the work of art that we must make. The term “aesthetics” indeed evokes, for us moderns, resonances very different from those that the word “beauty” (*kalon, kalos*) had in Antiquity. Moderns have the tendency to represent the beautiful as an autonomous reality independent of good and evil, while for the Greeks, by contrast, when the term referred to a human being, it normally implied a moral value. . . . For this reason, instead of speaking of a “cultivation of the self,” it would be better to speak of transformation, of transfiguration, of “overcoming the self.” To describe this state, one cannot avoid the term “wisdom,” which, it seems to me, in Foucault appears rarely, if ever. . . . Curiously Foucault, who does do justice to the conception of philosophy as therapeutics, does not seem to notice that this therapeutics is above all intended to procure peace of the soul. . . . In Platonism, but also in Epicureanism and Stoicism, liberation from anxiety is obtained by means of a movement that causes us to pass from individual and impassioned subjectivity to the objectivity of a universal perspective. It is not a matter of the construction of a self, but on the contrary, of an overcoming of the I, or at least of an exercise by means of which the I is situated in the totality and has an experience of the self as part of this totality. (Hadot I, pp. 231–232)

2. At first glance, the opposition appears to be clear and seems to reflect a real divergence. As Hadot himself observes, what is in question is the “aesthetics of existence” that was Foucault’s final conception of philosophy and that corresponded, moreover, in all probability with “the philosophy that he concretely practiced throughout his life” (Hadot 1, p. 230). In an article that Hadot cites a little earlier in support of his diagnosis, Paul Veyne, a historian of antiquity to whom Foucault felt particularly close, seems, at least apparently, to move in the same direction:

The idea of styles of existence played a major role in Foucault’s conversations and doubtless in his inner life during the final months of a life that only he knew to be threatened. *Style* does not mean distinction here; the word is to be taken in the sense of the Greeks, for whom an artist was first of all an artisan and a work of art was first of all a work. . . . The self, taking itself as a work to be accomplished, could sustain an ethics that is no longer supported by either tradition or reason; as an artist of itself, the self would enjoy that autonomy that modernity can no longer do without. (Veyne, p. 939/7)

3. The biography published in English by James Miller in 1993, with the meaningful title *The Passion of Michel Foucault*, contains ample sections on the private life of Foucault, in particular on his homosexuality and his regular visits to bathhouses and sadomasochistic gay bars (like the Hothouse in San Francisco) during his stays in the United States. But already a few years after Foucault’s death, a young writer who had been close to him in his final years, Hervé Guibert, had related in two books (*Les secrets d’un homme* in 1988 and *À l’ami qui ne m’a pas sauvé la vie* in 1990) the childhood memories and secret traumas that Foucault is supposed to have communicated to him on his death-bed. Even earlier, during his first decisive stay in California, Simeon Wade, a young scholar who had accompanied the philosopher in a memorable excursion to Death Valley, had carefully taken down in handwritten notebooks his reactions during an experiment with LSD, as though these were just as precious and important for the understanding of Foucault’s thought as his works.

Certainly Foucault himself, who at a certain point had joined FHAR (Front homosexuel d’action révolutionnaire) and openly declared his homosexuality, despite being a reserved and discreet person according to his friends’ testimony, never seems to draw sharp divisions between his public life and private life. In numerous interviews, he thus refers to sadomasochism as a practice of the invention of new pleasures and new styles of existence and, more generally, to the homosexual circles of San Francisco and New York as a “laboratory” in which one “tries to explore all the internal possibilities of sexual conduct from the per-

spective of the creation of new forms of life” (Foucault 2, p. 331/Rabinow, p. 151; cf. also p. 737/Rabinow, p. 164). It is therefore possible that precisely the Foucauldian idea of an art of existence, already clearly formulated at the beginning of the eighties, and his growing attention to practices through which human beings seek to modify themselves and to make their own life something like a work of art, may have authorized our interest in aspects of existence that usually are not considered pertinent for the understanding of an author’s thought.

4. Hadot first of all understands the aesthetics of existence, which he attributes to Foucault as “his final conception of philosophy,” according to its modern resonance, in which, as an “autonomous reality independent of good and evil,” it is opposed to the ethical dimension. In this way, he in a certain way attributes to Foucault the project of an aestheticization of existence, in which the subject, beyond good and evil, more similar to Huysmans’s *Des Esseintes* than to the Platonic Socrates, shapes his life as a work of art. A survey of the places where Foucault makes use of the expression “aesthetics of existence” instead shows beyond any doubt that Foucault resolutely and constantly situates the experience in question in the ethical sphere. Already in the first lecture of the 1981–82 course *The Hermeneutics of the Subject*, almost as though he had foreseen Hadot’s objection in advance, he warns against the modern temptation to read expressions like “care of the self” or “concern with oneself” in an aesthetic and non-moral sense. “Now you are well aware,” he writes, “that there is a certain tradition (or rather, several traditions) that dissuades us (us, now, today) from giving any positive value to all these expressions . . . and above all from making them the basis of a morality. They . . . sound to our ears . . . like a sort of challenge and defiance, a desire for radical ethical change, a sort of moral dandyism, the assertion-challenge of a fixed aesthetic and individual stage” (Foucault 1, p. 14/12). Against this (so to speak) aestheticizing interpretation of the care of the self, Foucault instead underlines that it is precisely “this injunction to ‘take care of oneself’ that is the basis for the constitution of what have without doubt been the most severe, strict, and restrictive moralities known in the West” (*ibid.*, p. 14/13).

5. The expression “aesthetics of existence”—and the theme of life as work of art that is joined with it—is always used by Foucault in the context of an ethical problematization. Hence in the 1983 interview with Dreyfus and Rabinow (to which Hadot also makes reference), he declares that “the idea of *bios* as material for an aesthetic piece of art is something that fascinates me”; but he adds immediately, to specify that what he has in mind is a non-normative form of ethics: “The idea also that ethics can be a very strong structure of existence, without

any relation with the juridical per se, with an authoritarian system, with a disciplinary structure” (Foucault 2, p. 390/Rabinow, p. 260). In another interview, published in May 1984 with the editorial title “An Aesthetics of Existence,” the expression is preceded by an analogous specification: “This elaboration of one’s own life as a personal work of art, even if it obeyed collective canons, was at the center, it seems to me, of moral experience, of the moral will, in Antiquity; whereas in Christianity, with the religion of the text, the idea of God’s will, and the principle of obedience, morality took much more the form of a code of rules” (Foucault 2, p. 731/Lotringer, p. 451). But it is above all in the introduction to the second volume of *The History of Sexuality* that the pertinence of the “aesthetics of existence” to the ethical sphere is clarified beyond any doubt. If Foucault here proposes to show how sexual pleasure was problematized in antiquity “through practices of the self that brought into play the criteria of an aesthetics of existence” (Foucault 3, p. 17/12), this takes place in order to respond to the genuinely ethical question: “why is sexual conduct, why are the activities and pleasures that attach to it, an object of moral solicitude?” (ibid., p. 15/10). The “arts of existence” with which the book is concerned and the techniques of the self through which human beings sought to make of their life “an *oeuvre* that carries certain aesthetic values and meets certain stylistic criteria” are in reality “intentional and voluntary actions” through which human beings fix canons of behavior that serve a function that Foucault defines as “etho-poetic” (pp. 15–17/10–13). What is in question is not an improbable genealogy of aesthetics but a “new genealogy of morals” (Foucault 2, p. 731/Lotringer, p. 451). It is a matter of reintroducing into ethics “the problem of the subject that I had more or less left aside in my first studies . . . to show how the problem of the subject has not ceased to exist throughout this question of sexuality” (ibid., p. 705/Lotringer, p. 472). In fact, the care of the self for the Greeks is not an aesthetic problem; it “is ethical in itself” (p. 714/Rabinow, p. 287).

6. Hadot did not hide his belated acquaintance with the work of Foucault (“I must confess, with great shame, that, too absorbed in my own research, I had very poor knowledge of his work then [1980],” Hadot 1, p. 230). This can in part explain why the other “divergences” denounced by Hadot also seem to rest on imprecise data. When he writes that “instead of speaking of a ‘cultivation of the self,’ it would be better to speak of transformation, of transfiguration, of ‘overcoming the self’” and that, to describe this state, “one cannot avoid the term ‘wisdom,’ which, it seems to me, in Foucault appears rarely, if ever”; and when he notes, finally, that “Foucault, who does do justice to the conception of

philosophy as therapeutic, does not seem to notice that this therapeutic is above all intended to procure peace of the soul,” each time and point by point it is a matter of factual inexactitude. The index of the course on *The Hermeneutics of the Subject*, which constituted, so to speak, the laboratory for the investigations on the care of the self, in fact shows that the term “wisdom” appears at least eighteen times, and the term “wise man” almost as many times. In the same course, one reads that, in the ambit of the spirituality that Foucault intends to reconstruct, “the truth enlightens the subject; the truth gives beatitude to the subject; the truth gives the subject tranquility of the soul. In short, in the truth and in access to the truth, there is something that fulfills the subject himself, which fulfills or transfigures his very being” (Foucault 1, p. 18/16). And just a little earlier, Foucault writes that spirituality “postulates that for the subject to have right of access to the truth he must be changed, transformed, shifted, and become, to some extent and up to a certain point, other than himself” (ibid., p. 17/15).

7. The divergences do not concern the displacement of the aesthetic sphere into the ethical or a simple difference in vocabulary so much as the very conception of ethics and the subject. Hadot does not succeed in detaching himself from a conception of the subject as transcendent with respect to its life and actions, and for this reason, he conceives the Foucauldian paradigm of life as work of art according to the common representation of a subject-author who shapes his work as an object external to him. And yet in a celebrated piece from 1969, Foucault had intended to put precisely this conception into question. Reducing the author to a juridical-social fiction, he suggested that we see in the work not the expression of a subject anterior and external to it, but rather the opening of a space into which the subject never stops vanishing, and identified indifference with respect to the author as “one of the fundamental ethical principles of contemporary writing” (Foucault 4, p. 820/116). In this he was once again faithful to the teaching of Nietzsche, who in an aphorism of 1885–86 (to which Heidegger did not fail to call attention; qtd. in Heidegger 3, p. 222/180) had written: “The artwork, where it appears *without* an artist, e.g., as body [*Leib*], as organization (the Prussian officer corps [*preussisches Offizierkorps*], the Jesuit order). To what extent the artist is only a preliminary stage. The world as an artwork that gives birth to itself.” In the same sense, in the interview with Dreyfus and Rabinow, Foucault specifies that speaking of life as a work of art implies precisely calling into question the paradigm of the exclusive artist-creator of a work-object: “What strikes me is the fact that, in our society, art has become something that is related only to objects and not to individuals or to life. That art is something

which is specialized or done by experts who are artists. But couldn't everyone's life become a work of art? Why should the lamp or the house be an art object but not our life?" (Foucault 2, p. 392/Rabinow, p. 261).

8. How, then, are we to understand this creation of one's own life as a work of art? The problem, for Foucault, is inseparable from his problematization of the subject. The very idea of life as work of art derives from his conception of a subject that can no longer be separated out into an originary constituent position. "I think," he writes in the interview cited above, "that there is only one practical consequence of the idea that the subject is not given in advance: we have to create ourselves as a work of art. . . . [W]e should not have to refer the creative activity of somebody to the kind of relation he has to himself, but should relate the kind of relation one has to oneself to a creative activity" (Foucault 2, pp. 392–393/Rabinow, p. 262). The relation with oneself, that is to say, constitutively has the form of a creation of self, and there is no subject other than in this process. For this reason Foucault breaks with the conception of the subject as foundation or condition of possibility of experience. On the contrary: "experience is the rationalization of a process, itself provisional, which results in a subject, or rather in subjects" (Foucault 2, p. 706/Lotringer, p. 472). This means that properly there is not a subject but only a process of subjectivization: "I would call subjectivization the process through which results the constitution of a subject" (ibid.). And again: "I don't think there is actually a sovereign, founding subject, a universal form of subject that one could find everywhere. . . . I think on the contrary that the subject is constituted through practices of subjection, or, in a more anonymous way, through practices of liberation, of freedom . . ." (p. 733/Lotringer, p. 452).

9. It is clear that it is not possible here to distinguish between a constituent subject and a constituted subject. There is only a subject that is never given in advance, and the work to be constructed is the constructing subject itself. This is the paradox of the care of the self that Hadot does not manage to understand when he writes that "it is not a matter of the construction of a self, but on the contrary, of an overcoming of the I." "Self" for Foucault is not a substance nor the objectifiable result of an operation (the relation with itself): it is the operation itself, the relation itself. That is to say, there is not a subject before the relationship with itself and the use of the self: the subject is that relationship and not one of its terms (cf. part I, §3.2 above). In accordance with its essential pertinence to first philosophy, the subject implies an ontology, which, however, is not, for Foucault, that of the Aristotelian *hypokeimenon* nor that of the Cartesian

subject. It is above all from this latter, probably following a suggestion from Heidegger, that Foucault takes his distance. The specific achievement of Descartes is, in fact, that “he succeeded in substituting a subject as founder of practices of knowledge for a subject constituted through practices of the self” (Foucault 2, p. 410/Rabinow, p. 278).

10. The idea that ethics coincides not with the relation to a norm but first of all with a “relationship with oneself” is constantly present in Foucault. It is this and nothing else that he uncovered in his studies on the *souci de soi* in the classical world: “Pour les Grecs, ce n’est pas parce qu’il est souci des autres qu’il est éthique. Le souci de soi est éthique en lui-même” (“What makes it ethical for the Greeks is not that it is care for others. The care of the self is ethical in itself”; Foucault 2, p. 714/Rabinow, p. 287). Certainly every moral action entails “a relation to the reality in which one is inscribed or to a code to which one refers”; but it cannot be reduced to an act or to a series of acts in conformity to a rule, because it implies in every case “a certain relationship with oneself” (Foucault 2, p. 558). And this relationship, Foucault specifies, must not be understood simply as an “awareness of oneself” but rather as the “constitution of the self as moral subject” (ibid.). “It is the kind of relationship you ought to have with yourself . . . which determines how the individual is supposed to constitute himself as a moral subject of his own actions” (Foucault 2, p. 618/Rabinow, p. 263). Ethics is, for Foucault, the relationship that one has with oneself when one acts or enters into relation with others, constituting oneself each time as subject of one’s own acts, whether these belong to the sexual sphere, the economic, the political, the scientific, etc. Thus, what is in question in *The History of Sexuality* is in no way a social or psychological history of sexual behaviors but the way in which the human being comes to the point of constituting himself or herself as a moral subject of his or her own sexual behaviors. And, in the same way, what was able to interest him in the experiments of the homosexual communities of San Francisco or New York was, once again, the relation with oneself that their novelty entailed and the consequent constitution of a new ethical subject.

11. In the last course at the Collège de France, *Le courage de la vérité* (*The Courage of Truth*), concluded a few months before his death, Foucault evokes, in connection with the Cynics, the theme of the philosophical life as true life (*alethes bios*).

In the résumé of the 1981–82 course *L’herméneutique du sujet*, in which the theme of the care of the self had been developed through a reading of Plato’s *Alcibiades*, Foucault had written that “s’occuper de soi n’est pas une simple

préparation momentanée à la vie; c'est une forme de vie" ("attending to the self is not therefore just a brief preparation for life; it is a form of life"; Foucault 1, p. 476/494). Now, in the paradigm of the philosophical life, he closely links the themes of truth and of mode of life. Cynicism, he writes, had raised an important question, which restores the radicality of the theme of the philosophical life: "la vie, pour être vraiment la vie de la vérité, ne doit-elle pas être une vie autre, une vie radicalement et paradoxalement autre?" ("for life truly to be the life of truth, must it not be an *other* life, a life which is radically and paradoxically other?"; Foucault 5, p. 226/245). That is to say, there are in the tradition of classical philosophy two different modalities of linking the practice of the self to the courage of truth: the Platonic one, which privileges *mathemata* and knowledge, and the cynical one, which instead gives to the practices of the self the form of a test (*épreuve*) and seeks the truth of being human not in a doctrine but in a certain form of life, which by subverting the current models of society makes of the *bios philosophikos* a challenge and a scandal (ibid., p. 243/265).

In the lineage of this Cynical model, Foucault also inscribes "militancy as bearing witness by one's life in the form of a style of existence" (Foucault 5, p. 170/184) in the tradition of revolutionary movements up through *gauchisme*, certainly very familiar to his generation. "La résurgence du gauchisme," he writes, using terms perhaps best fit to characterize Situationism, which is curiously never mentioned in his writings, "comme tendance permanente à l'intérieur de la pensée et du projet révolutionnaire européens, s'est toujours faite en prenant appui non pas sur la dimension de l'organisation, mais sur cette dimension du militantisme qui est la socialité secrète se manifestant et se rendant visible par des formes de vie scandaleuses" ("the resurgence of leftism as a permanent tendency within European revolutionary thought and projects has always taken place not by basing itself on the organizational dimension but on the dimension of militantism comprising a secret sociality or style of life . . . which manifests itself and makes itself visible in scandalous forms of life"; p. 171/185). Alongside this is the paradigm of the artist in modernity, whose life, "in the very form it takes, should constitute some kind of testimony of what art is in its truth" (p. 173/187).

In the analysis of the "theme of the life of the artist, so important throughout the nineteenth century" (ibid.), Foucault again finds the proximity between art and life and the idea of "an aesthetics of existence" that he had formulated in *L'usage des plaisirs*. If, on the one hand, art confers to life the form of truth, on the other hand, the true life is the guarantee that the work that is rooted in it is truly a work of art. In this way, life and art become indeterminate and art is presented as form of life at the very point where form of life appears as a work of art.

In any case, in the *bios* of the philosopher as much as in that of the artist, the practice of the self as constitution of an other form of life is the true theme of the course, which in the manuscript closes with the affirmation, which can perhaps be considered as a sort of last will and testament: “il ne peut y avoir de vérité que dans la forme de l’autre monde et de la vie autre” (“there can be truth only in the form of the other world and the other life”; p. 311/340).

12. To understand the peculiar ontological status of this subject that is constituted through the practice of the self, it may be useful to draw an analogy with a pair of categories drawn from the sphere of public law: constituent power and constituted power. Here also the aporia, which has paralyzed the theory of public law, arises from the separation of the two terms. The traditional conception places at the origin a constituent power, which creates and separates off from itself, in a ceaseless circularity, a constituted power. True constituent power is not that which produces a constituted power separated from itself, which refers back to constituent power as its unreachable foundation, which, however, has no other legitimacy than that which derives from having produced a constituted power. Constituent is, in truth, only that power—that subject—that is capable of constituting itself as constituent. The practice of the self is that operation in which the subject adequates itself to its own constitutive relation and remains immanent to it: “the subject puts itself into play in taking care of itself” (Foucault 1, p. 504/523). The subject, that is to say, is what is at stake in the care of the self, and this care is nothing but the process through which the subject constitutes itself. And ethics is not the experience in which a subject holds itself behind, above, or beneath its own life but that whose subject constitutes and transforms itself in indissoluble immanent relation to its life, by living its life.

13. But what does it mean to “constitute-oneself”? Here one has something like the “self-constituting as visiting” or the “walking-oneself” with which Spinoza (cf. above, part I, §2.5) exemplifies the immanent cause. The identity of active and passive corresponds to the ontology of immanence, to the movement of autoconstitution and autopresentation of being, in which not only does there fail every possibility of distinguishing between agent and patient, subject and object, constituent and constituted, but in which even means and end, potential and act, work and inoperativity are indeterminated. The practice of the self, the Foucauldian ethical subject, is this immanence: being subject as self-walking. The being that is constituted in the practice of the self never remains—or should never remain—beneath or before itself, never separates—or should

never separate—off from itself a subject or a “substance,” but remains immanent to itself, is its constitution, and never stops self-constituting, self-exhibiting, and self-using as acting, visiting, walking, loving. Hence difficulties and aporias of every kind. The problem of the Foucauldian subject is the problem of the autoconstitution of being, and a correct understanding of ethics here necessarily entails a definition of its ontological status. When was something like a “subject” separated off and hypostatized in being in a constituent position? Western ontology is from the very beginning articulated and run through by scissions and caesurae, which divide and coordinate in being subject (*hypokeimenon*) and essence (*ousia*), primary substances and secondary substances, essence and existence, potential and act, and only a preliminary interrogation of these caesurae can allow for the comprehension of the problem that we call “subject.”

14. Precisely because the theory of the subject entails an ontological problem, we find here the aporias that have marked from the very beginning its status in first philosophy. The relation with the self determines, as we have seen, the way in which the individual is constituted as subject of its own moral actions. The self, however, according to Foucault does not have any substantial consistency but coincides with the relationship itself, is absolutely immanent in it. But then how can this self, which is nothing but a relation, be constituted as subject of its own actions in order to govern them and define a style of life and a “true life”? The self, insofar as it coincides with the relationship with the self, can never be posited as subject of the relationship nor be identified with the subject that has been constituted in it. It can only constitute itself as constituent but never identify itself with what it has constituted. And yet, as constituted subject, it is, so to speak, the Gnostic or Neoplatonic hypostasis that the practice of the self allows to subsist outside itself as an ineliminable remainder.

What happens in the relationship between the self and the moral subject is something like what Sartre described in the relationship between consciousness and the ego: the self, which has constituted the subject, allows itself to be hypnotized and reabsorbed in it and by it. Or again, it is like what, according to Rudolf Boehm, happens in the Aristotelian scission between essence and existence: this pair, which was supposed to define the unity of being, in the last analysis splits it up into an inexistent essence and an inessential existence, which ceaselessly refer to one another and endlessly fall outside one another. That is to say that self and subject are circularly linked in a constituent relation, and at the same time, precisely for this reason they find themselves in an absolute impossibility of coinciding once and for all. The subject, which must govern and direct its actions

in a form of life, has been constituted in a practice of the self that is nothing other than this very constitution and this form of life.

15. The ontological aporia is found in Foucault, as one could have foreseen, on the level of practice, in the theory of power relations and of the governance of human beings that is actualized in it. Power relations, unlike states of domination, necessarily entail a free subject, which it is a matter of “conducting” and governing and which, as free, stubbornly resists power. And yet, precisely insofar as the subject “freely” conducts and governs itself, it will inevitably enter into power relations, which consist in conducting the conduct of others (or allowing one’s own to be conducted by others). The one who, by “conducting” his life, has been constituted as subject of his own actions, will thus be “conducted” by other subjects or will seek to conduct others: subjectivation into a certain form of life is, to the same extent, subjection to a power relation. The aporia of democracy and its governance of human beings—the identity of the governors and the governed, absolutely separated and yet to the same degree indissolubly united in an indivisible relation—is an ontological aporia, which concerns the constitution of the subject as such. As constituent power and constituted power, the relation with the self and the subject are simultaneously transcendent and immanent to one another. And yet it is precisely the immanence between self and subject in a form of life that Foucault persistently sought to think up to the end, tangling himself in ever more difficult aporias and, at the same time, forcefully pointing in the only direction in which something like an ethics could become possible for him.

16. In the interview given to *Les nouvelles littéraires* less than a month before his death and posthumously published on June 28, 1984, Foucault turns to the question of the subject and, in defining his final investigations, writes that in these latter for him it was a matter “of reintroducing the problem of the subject that I had more or less left aside in my first studies . . . to show how the problem of the subject has not ceased to exist throughout this question of sexuality” (Foucault 2, p. 705/Lotringer, p. 472). Immediately after, however, he specifies that in classical antiquity, the problem of the care of the self was forcefully posed, while a theory of the subject was entirely lacking:

This doesn’t mean that the Greeks didn’t strive to define the conditions of an experience, but it wasn’t an experience of the subject; rather, it was of the individual, insofar as he sought to constitute himself through self-mastery. Classical antiquity never problematized the constitution of the self as subject; inversely,

beginning with Christianity, there is an appropriation of morality through the theory of the subject. Yet a moral experience centered essentially on the subject no longer seems to me satisfactory today. (Ibid., p. 706/Lotringer, p. 473)

If antiquity offers the example of a care and of a constitution of the self without the subject and Christianity that of a morality that entirely absorbs the ethical relation with the self into the subject, Foucault's wager is thus to keep hold of the reciprocal co-belonging of the two elements.

17. From this perspective, one can understand the interest that the sadomasochistic experience could take on in his eyes. Sadomasochism for Foucault is first of all an experiment in fluidifying power relations. "One can say," he declares in a 1982 interview,

that S&M is the eroticization of power, the eroticization of strategic relations. What strikes me with regard to S&M is how it differs from social power. What characterizes power is the fact that it is a strategic relationship which has been stabilized through institutions. So the mobility in power relations is limited . . . the strategic relations of people are made rigid. At this point, the S&M game is very interesting because it is a strategic relation, but it is always fluid. Of course, there are roles, but everyone knows very well that those roles can be reversed. Sometimes the scene begins with the master and slave, and at the end the slave has become the master. Or, even when the roles are stabilized, you know very well that it is always a game. Either the rules are transgressed, or there is an agreement, either explicit or tacit, that makes them aware of certain boundaries. (Foucault 2, pp. 742–743/Rabinow, p. 169)

The sadomasochistic relation is, in this sense, entirely immanent to a power relation ("S&M is not the relationship between one who suffers and the one who inflicts suffering, but between a master and the one over whom the master exercises mastery"; *ibid.*, p. 331/Rabinow, p. 151), which uses and transforms it into a function of power. "S&M is the utilization of a strategic relationship as a source of pleasure (physical pleasure)" (p. 743/Rabinow, p. 170).

If sadomasochism interests Foucault, this is because it shows that it is possible to act on these relations, whether in order to fluidify them and invert their roles or to displace them from the social level to the sexual or corporeal level, using them for the invention of new pleasures. But in any case, the power relation remains, even if it is opened in this way to a new dialectic, different from that between power and resistance whose structure Foucault had defined. The horizon of power relations and governmentality remains not only unsurpassable but also, in some way, inseparable from ethics ("la notion de gouvernementalité,"

he wrote in a long interview from January 1984, “permet de faire valoir la liberté du sujet et le rapport aux autres, c’est-à-dire ce qui constitue la matière même de l’éthique [the concept of governmentality makes it possible to bring out the freedom of the subject and its relationship to others—which constitutes the very stuff of ethics],” p. 729/Rabinow, p. 300).

Nevertheless, the transformation of power relations that occurs in sadomasochism cannot fail to entail a transformation on the level of ontology. The S&M relation, with its two poles in mutual exchange, is an ontological relation, for which the Foucauldian thesis according to which “the self with which one has the relationship is nothing but the relationship itself” holds in a paradigmatic way. Foucault did not unfold all the implications of the “ontological adequation of the self to the relationship,” which he nonetheless caught a glimpse of. Certainly the subject, the self of which he speaks, cannot be inscribed into the tradition of the Aristotelian *hypokeimenon*, and yet Foucault—likely for good reasons—constantly avoided the direct confrontation with the history of ontology that Heidegger had laid out as a preliminary task.

What Foucault does not seem to see, despite the fact that antiquity would seem to offer an example in some way, is the possibility of a relation with the self and of a form of life that never assumes the figure of a free subject—which is to say, if power relations necessarily refer to a subject, of a zone of ethics entirely subtracted from strategic relationships, of an Ungovernable that is situated beyond states of domination and power relations.

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## PART TWO

# An Archeology of Ontology

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IN the pages that follow we propose to ascertain whether access to a first philosophy, that is, to an ontology, is today still—or once again—possible. For reasons that we will seek to clarify, at least since Kant, this access has become so problematic that it is not thinkable except in the form of an archeology. First philosophy is not, in fact, an ensemble of conceptual formulations that, however complex and refined, do not escape from the limits of a doctrine: it opens and defines each time the space of human acting and knowing, of what the human being can do and of what it can know and say. Ontology is laden with the historical destiny of the West not because an inexplicable and metahistorical magical power belongs to being but just the contrary, because ontology is the originary place of the historical articulation between language and world, which preserves in itself the memory of anthropogenesis, of the moment when that articulation was produced. To every change in ontology there corresponds, therefore, not a change in the “destiny” but in the complex of possibilities that the articulation between language and world has disclosed as “history” to the living beings of the species *Homo sapiens*.

Anthropogenesis, the becoming human of the human being, is not in fact an event that was completed once and for all in the past: rather, it is the event that never stops happening, a process still under way in which the human being is always in the act of becoming human and of remaining (or becoming) inhuman. First philosophy is the memory and repetition of this event: in this sense, it watches over the historical *a priori* of *Homo sapiens*, and it is to this historical *a priori* that archeological research always seeks to reach back.

✠ In the preface to *Les mots et les choses* (1966), Foucault uses the term “historical *a priori*” to define that which, in a determinate historical epoch, conditions the possibilities of the formation and development of knowledges. The expression is problematic, because it brings together two elements that are at least apparently contradictory: the *a priori*, which entails a paradigmatic and transcendental dimension, and history, which refers to an eminently factual reality. It is probable that Foucault had drawn the term from Husserl’s

*Origin of Geometry*, which Derrida had translated into French in 1962, but certainly not the concept, because while in Husserl the *historisches Apriori* designates a sort of universal *a priori* of history, it instead always refers in Foucault to a determinate knowledge and to a determinate time. And yet, if it does not in any way refer back to an archetypal dimension beyond history but remains immanent to it, its contradictory formulation brings to expression the fact that every historical study inevitably runs up against a constitutive dishomogeneity: that between the ensemble of facts and documents on which it labors and a level that we can define as archeological, which though not transcending it, remains irreducible to it and permits its comprehension. Overbeck has expressed this heterogeneity by means of the distinction, in every study, between prehistory (*Urgeschichte*) and history (*Geschichte*), where prehistory does not designate what we usually understand by this term—that is, something chronologically archaic (*uralt*)—but rather the history of the point of emergence (*Entstehungsgeschichte*), in which the researcher must settle accounts with an originary phenomenon (an *Urphänomen* in Goethe's sense) and at the same time with the tradition that, while it seems to transmit the past to us, ceaselessly covers up the fact of its emergence (It., *sorgività*) and renders it inaccessible.

One can define philosophical archeology as the attempt to bring to light the various historical *a prioris* that condition the history of humanity and define its epochs. It is possible, in this sense, to construct a hierarchy of the various historical *a prioris*, which ascends in time toward more and more general forms. Ontology or first philosophy has constituted for centuries the fundamental historical *a priori* of Western thought.

The archeology that attempts to reopen access to a first philosophy must nevertheless first of all settle accounts with the striking fact that, beginning from a moment for which the name of Kant can serve as a signpost, it is precisely the impossibility of a first philosophy that has become the historical *a priori* of the time in which we still in some way live. The true Copernican turn of Kantian critique does not concern the position of the subject so much as the impossibility of a first philosophy, which Kant calls *metaphysics*. As Foucault had intuited early on, “it is probable that we belong to an age of critique whose lack of a first philosophy reminds us at every moment of its reign and its fatality” (Foucault 6, pp. xi–xii/xv). Certainly Kant, at the very moment when he sanctioned the impossibility of metaphysics, sought to secure its survival by giving it refuge in the stronghold of the transcendental. But the transcendental—which in medieval logic designated what is always already said and known when one says “being”—necessarily entails a displacement of the historical *a priori* from the anthropogenetic event (the articulation between language and world) to knowledge, from a being that is no longer animal but not yet human to a knowing subject. Ontology is thus transformed into gnoseology and first philosophy becomes philosophy of knowledge.

Up to Heidegger, all or almost all post-Kantian professional philosophers had kept to the transcendental dimension as if it went without saying, and in this way, believing themselves to be saving the prestige of philosophy, they in fact enslaved it to those sciences and knowledges of which they thought they could define the conditions of possibility, precisely when these latter, projected toward a technological development without limits, demonstrated that they did not actually have any need of it. It fell to non-professional philosophers, like Nietzsche, Benjamin, and Foucault, and in a different sense a linguist like Émile Benveniste, to seek a way out of the transcendental. And they have done this by shifting the historical *a priori* back from knowledge to language: and in this, by not attending to the level of meaningful propositions but by isolating each time a dimension that called into question the pure fact of language, the pure being given of the enunciated, before or beyond their semantic content. The speaking being or enunciator has thus been substituted for Kant's transcendental subject, and language has taken the place of being as historical *a priori*.

This linguistic declension of ontology seems today to have reached its completion. Certainly language has never been so omnipresent and pervasive, superimposing itself in every sphere—not only in politics and communication but also and above all in the sciences of nature—over being, apparently without leaving any remainder. What has changed, however, is that language no longer functions as a historical *a priori*, which while remaining unthought, determines and conditions the historical possibilities of speaking human beings. In being totally identified with being, it is now put forward as a neutral ahistorical or post-historical effectuality, which no longer conditions any recognizable sense of historical becoming or any epochal articulation of time. This means that we live in a time that is not—or at least pretends not to be—determined by any historical *a priori*, which is to say, a post-historical time (or rather, a time determined by the absence or impossibility of such an *a priori*).

It is from this perspective that we are seeking to trace out—even if purely in the form of a summary sketch—an archeology of ontology, or more precisely, a genealogy of the ontological apparatus that has functioned for two millennia as a historical *a priori* of the West. If ontology is first of all a hodology, which is to say, the way that being always historically opens toward itself, it is the existence today of something like a *hodos* or a way that we seek to interrogate, by asking ourselves whether the track that seems to have been interrupted or lost can be taken up again or instead must be definitively abandoned.

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# Ontological Apparatus

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**1.1.** An archeology of first philosophy must begin from the apparatus of being's division that defines Aristotelian ontology. This apparatus—which divides and at the same time articulates being and is, in the last instance, at the origin of every ontological difference—has its locus in the *Categories*. Here Aristotle distinguishes an *ousia*, an entity or essence, “which is said most strictly, primarily, and first of all” (*kyriotata te kai protos kai malista legomene*) from the secondary essences (*ousiai dueterai*). The former is defined as “that which is not said of a subject [*hypokeimenon*, that which lies under, *sub-iectum*] nor in a subject” and is exemplified by the singularity, the proper name, and deixis (“this certain man, Socrates; this certain horse”); the latter are “those in whose species the essences called primary are present, as are the genera of these species—for example, ‘this certain man’ belongs to the species ‘man’ and the genus of this species is ‘animal’” (*Categories*, 2a 10–15).

Whatever may be the terms in which the division is articulated in the course of its history (primary essence/secondary essence, existence/essence, *quod est/quid est, anitas/quidditas*, common nature/supposition, *Dass sein/Was sein*, being/beings), what is decisive is that in the tradition of Western philosophy, being, like life, is always interrogated beginning with the division that traverses it.

✠ We translate *hypokeimenon* with “subject” (*sub-iectum*). Etymologically the term means “that which lies under or at the base.” This is not the place to show the turns and vicissitudes by means of which the Aristotelian *hypokeimenon* became the subject of modern philosophy. It is certain in any case that, by means of Latin translations, this passage of the *Categories* has decisively determined the vocabulary of Western philosophy. In the terminology of Aquinas, the Aristotelian articulation of being thus appears in this way:

According to the Philosopher, substance is said in two ways. In a primary sense it means the *quidditas* of the thing, signified by its definition, and thus we say that the definition means the substance of a thing, which the Greeks call *ousia* and we call *essentia*. In a second sense, it is the subject [*subiectum*] or *suppositum* [“what is put under”] which subsists [*subsistit*] in the genus of substance. This can be

expressed with a term that means intention and this is called *suppositum*. It is also called by three names signifying the thing: that is, a thing of a nature [*res naturae*], subsistence [*subsistentia*], and hypostasis [*hypostasis*]. For insofar as it exists in itself and not in another, it is called *subsistentia*, and insofar as it underlies some common nature, it is called a thing of a nature; as, for instance, “this man” is a thing of human nature. Finally, insofar as it is pre-supposed by the accidents [*supponitur accidentibus*], it is called hypostasis or substance. (Aquinas 2, I, q. 29, art. 2, Resp.)

Whatever may be the terms in which it is expressed at various times, this division of being is at the base of the “ontological difference” that, according to Heidegger, defines Western metaphysics.

1.2. The treatise on *Categories* or predications (though the Greek term *katēgoriai* means “imputations, accusations” in juridical language) is traditionally classified among Aristotle’s logical works. However, it contains, for example, in the passage in question, theses of an undoubtedly ontological character. Ancient commentators therefore debated over what was the object (*skopos*, end) of the treatise: words (*phōnai*), things (*pragmata*), or concepts (*noemata*). In the prologue to his commentary, Philoponus writes that according to some (among them Alexander of Aphrodisias) the object of the treatise is only words, according to others (like Eustatius) only things, and according to others, finally (like Porphyry), only concepts. More correct, according to Philoponus, is the thesis of Iamblichus (which he accepts with some clarifications) according to which the *skopos* of the treatise is words insofar as they signify things by means of concepts (*phōnon semainouson pragmata dia meson noematon*; Philoponus, pp. 8–9).

Hence the impossibility, in the *Categories*, of distinguishing logic and ontology. Aristotle treats here of things, of beings, insofar as they are signified by language, and of language insofar as it refers to things. His ontology presupposes the fact that, as he never stops repeating, being is said (*to on legetai . . .*), is always already in language. The ambiguity between logic and ontology is so consubstantial to the treatise that, in the history of Western philosophy, the categories appear both as classes of predication and as classes of being.

1.3. At the beginning of the treatise, immediately after having defined homonyms, synonyms, and paronyms (that is, things insofar as they are named), Aristotle specifies this onto-logical implication between being and language in the form of a classification of beings according to the structure of subjectivation or pre-supposition.

Of beings, some are said of a subject [*kath’ hypocheimenou*, lit.: “on the presupposition of a lying under”] but are not in any subject [*en hypocheimenoi oudeni*].

For example, “human” is said on the presupposition [subjectivation] of a certain human being but is not in any subject. . . . Others are in a subject but are not said of any subject. . . . For example, a certain grammatical knowing is in a subject, the soul, but is not said of any subject. . . . Still others are both said of a subject and in a subject. For example, knowledge is said of a subject, grammar, and is in a subject, the soul. Yet others are neither in a subject nor said of a subject: for example, a certain man or a certain horse. (*Categories*, 1a 20–1b 5)

The distinction between *saying* (to say of a subject) and *being* (to be in a subject) does not correspond to the opposition between language and being, linguistic and non-linguistic, so much as to the promiscuity between the two meanings of the verb “to be” (*einai*), the existentive and the predicative. The structure of subjectivation/presupposition remains the same in both cases: the articulation worked by language always pre-sup-poses a relation of predication (general/particular) or of inherence (substance/accident) with respect to a subject, an existent that lies-under-and-at-the-base. *Legein*, “to say,” means in Greek “to gather and articulate *beings* by means of *words*”: onto-logy. But in this way, the distinction between *saying* and *being* remains uninterrogated, and it is the opacity of their relation that will be transmitted by Aristotle to Western philosophy, which will take it in without the benefit of an inventory.

✠ It is well known that in Indo-European languages the verb “to be” generally has a double meaning: the first meaning corresponds to a lexical function, which expresses the existence and reality of something (“God is,” that is, exists), while the second—the copula—has a purely logico-grammatical function and expresses the identity between two terms (“God is good”). In many languages (as in Hebrew and Arabic), or in the same language in different epochs (as in Greek, in which originally the copulative function is expressed by a nominal phrase with no verb: *ariston hydor*, “the best thing is water”), the two meanings are, by contrast, lexically distinct. As Émile Benveniste writes,

What matters is to see clearly that there is no connection, either by nature or by necessity, between the verbal notion of “to exist, to be really there” and the function of the “copula.” One need not ask how it happens that the verb “to be” can be lacking or omitted. This is to reason in reverse. The real question should be the opposite; how is it that there is a verb “to be” which gives verbal expression and lexical consistency to a logical relationship in an assertive utterance? (Benveniste, p. 189/164)

Precisely the promiscuity between the two meanings is at the base of the many aporias and difficulties in the history of Western ontology, which has been constituted, so to speak, as a double machine, set on distinguishing and, at the same time, articulating together the two notions into a hierarchy or into a coincidence.

1.4. A little further down, apropos of the relation between secondary substances and primary substances, Aristotle writes:

It is clear from what has been said that if something is said of a subject [*kath'hypokeimenou*, “on the pre-sup-position of a lying-under”], both its name and its definition are necessarily predicated [*katagoreisthai*] of the subject. For example, “man” is said on the subjectivation [on the pre-sup-position] of this certain man, and the name is of course predicated (since you will be predicating “man” of this certain man), and also the definition of “man” will be predicated of this certain man (since this certain man is also a man). Thus, both the name and the definition will be predicated of the subject. (*Categories*, 2a 19–25)

The subjectivation of being, the presupposition of the lying-under is therefore inseparable from linguistic predication, is part of the very structure of language and of the world that it articulates and interprets. Insofar as, in the *Categories*, being is considered from the point of view of linguistic predication, of its being “accused” (*katagorein* first of all means “to accuse” in Greek) by language, it appears “most properly, in the first place, and above all” in the form of subjectivation. The accusation, the summons to trial that language directs toward being subjectivates it, presupposes it in the form of a *hypokeimenon*, of a singular existent that lies-under-and-at-the-base.

*The primary ousia is what is said neither on the presupposition of a subject nor in a subject, because it is itself the subject that is pre-sup-posed—as purely existent—as what lies under every predication.*

1.5. The pre-supposing relation is, in this sense, the specific potential of human language. As soon as there is language, the thing named is presupposed as the non-linguistic or non-relational with which language has established its relation. This presuppositional power is so strong that we imagine the non-linguistic as something unsayable and non-relational that we seek in some way to grasp as such, without noticing that what we seek to grasp in this way is only the shadow of language. The non-linguistic, the unsayable is, as should be obvious, a genuinely linguistic category: it is in fact the “category” par excellence—the accusation, the summons worked by human language, which no non-speaking living being could ever conceive. That is to say, the onto-logical relation runs between the beings presupposed by language and their being in language. What is non-relational is, as such, above all the linguistic relation itself.

It is in the structure of presupposition that the interweaving of being and language, ontology and logic that constitutes Western metaphysics is articulated. Called into question from the point of view of language, being is from the very

beginning divided into an existitive being (existence, the primary *ousia*) and a predicative being (the secondary *ousia*, what is said of it): the task of thought will then be that of reassembling into a unity what thought—language—has presupposed and divided. The term “presupposition” indicates, that is to say, the subject in its original meaning: that which, lying before and at the base, constitutes the “on-which” (on the presupposition of which) one says and which cannot, in its turn, be said about anything. The term “presupposition” is etymologically pertinent: *hypokeisthai* is used, in fact, as passive perfect of *hypotithenai*, and *hypokeimenon* thus means “that which, having been pre-sup-posed, lies under.” In this sense Plato—who is perhaps the first to thematize the presuppositional power of language that is expressed in language in the opposition between names (*onomata*) and discourse (*logos*)—can write, “The primary names, by which in some way other names are presupposed [*hypokeitai*], in what way do they manifest beings to us?” (*Cratylus*, 422d), or again: “by each of these names is presupposed [*hypokeitai*] a particular essence [*ousia*]” (*Protagoras*, 349b). Being is that which is a presupposition to the language that manifests it, that on presupposition of which what is said is said.

(It is this presuppositional structure of language that Hegel—hence his success and his limits—will seek at the same time to capture and to liquidate by means of the dialectic; Schelling, for his part, will instead attempt to grasp it by suspending thought, in astonishment and stupor. But even in this case, what the mind *as if astonished* contemplates without managing to neutralize it is the very structure of presupposition.)

✠ Aristotle frequently expresses with perfect awareness the onto-logical interweaving of being and saying: “Those things are said in their own right to be that are indicated by the figures of the categories; according to the way in which it is said, such is the meaning of being” (*kath’ autà de einai legetai osaper semanei ta schemata tes kategorias: osachos gar legetai, tosautachos to einai semanei; Metaphysics*, 1017a 22ff.). The ambiguity is after all implied in the celebrated formulation of *Metaphysics*, 1028a 10ff.: “Being is said in many ways . . . for in one sense it means that a thing is or is a ‘this,’ and in another sense it means that a thing is of a certain quality or quantity and each of the other things that are predicated in this way.” Being is constitutively something that “is said” and “means.”

1.6. Aristotle therefore founds the priority of the subjective determination of *ousia* in these terms:

All the other things are either said on the pre-sup-position [*kath’ hypokeimenou*, on subjectivation] of the primary *ousiai* or they are in the presupposition of these. . . . For example, “animal” is predicated of the human being, and therefore also of this certain human being; for were it predicated of none of the individual

human beings, it would not be predicated of the human being at all. . . . So if the primary substances [*ousiai*] did not exist, it would be impossible for any of the other things to exist. Thus, all the other things are either said on the presupposition of their standing-under or presupposed in the latter. (*Categories* 2a 34–2b6)

This priority of the primary substance—expressed in language by a proper name or an ostensive pronoun—is confirmed a few lines after: “The primary *ousiai*, insofar as they are supposed [*hypokesthai*] by all the other things and all the others are predicated of them and are in them, are for this reason called *ousiai* par excellence” (*Categories*, 2a 15–17).

The primary essence is “most properly, in the first place, and above all” *ousia*, because it is the limit point of subjectivation, of being in language, that beyond which one can no longer name, predicate, or signify but only indicate. Thus, if “every substance seems to signify a certain ‘this’” (*tode ti*), this is true in the proper sense only of primary substances, which always manifest “what is individual and one” (*atomon kai hen arithmoi*); secondary substances, for example, “man” or “animal,” “by contrast signify a certain quality: the subject [the lying-at-the-base] is not in fact one, as in the primary substance, but ‘man’ is predicated of many things and also ‘animal’” (3b 10–16).

1.7. It is because of the priority of this subjective determination of being as primary *hypokeimenon*, as the impredicable singularity that stands-under-and-at-the-base of linguistic predication, that in the tradition of Western philosophy the term *ousia* is translated into Latin with *substantia*. Beginning with Neoplatonism, in fact, the treatise on the *Categories* acquired a privileged place in the *corpus* of Aristotle’s works and, in its Latin translation, it exercised a determinative influence on medieval culture. Boethius, in whose version the Middle Ages knew the *Categories*, despite perceiving that the more correct translation would have been *essentia* (*ousia* is a deverbal formed from the participle of the verb *einai*, and in his theological treatise against Eutyches and Nestorius, Boethius therefore has the term *essentia* correspond to *ousia* and reserves *substantia* for the Greek *hypostasis*), instead made use of the term *substantia* and thus in a decisive way oriented the vocabulary and the understanding of Western ontology. Being can appear as that which lies-under-and-at-the-base only from the point of view of linguistic predication, that is, starting from the priority of the subjective determination of *ousia* as primary *hypokeimonon* that stands at the center of Aristotle’s *Categories*. The entire lexicon of Western ontology (*substantia*, *subiectum*, *hypostasis*, *subsistentia*) is the result of this priority of the primary substance as *hypokeimenon*, as lying-at-the-base of every predication.

1.8. In book VII of the *Metaphysics*, when he has asked the question “what is *ousia*?” and after he has distinguished four senses of the term, Aristotle refers explicitly to the subjective determination of being elaborated in the *Categories*.

The *hypokeimenon*, the subject [that which lies-under-and-at-the-base] is that on the basis of which other things are said, while it is not said of others; for this reason it must be defined as primary, because the primary subject seems to be above all [*malista*] *ousia*. (1028b 35–1029a 1)

At this point, however, he seems to call into question the priority of the subject and in fact to affirm its insufficiency:

We have now said in general [*typoi*, “as in a sketch”] what *ousia* is, namely, what is not (nor is said) on the basis of a subject, but is that on the basis of which all (is and is said). But one must not define it only in this way, because it is not sufficient [*hikanon*]: not only is it obscure [*adelon*], but in this way material would be *ousia*. . . . (1029a 9–12)

From this moment, the priority of the subjective determination of being cedes its place to the other determination of *ousia* that Aristotle will call *ti en einai* (*quod quid erat esse* in the medieval translations). To understand Aristotelian ontology means to correctly situate the relation between these two determinations of *ousia*.

1.9. A student of Heidegger, Rudolf Boehm, dedicated a penetrating analysis to the problem of this apparent contradiction in Aristotle’s thought, which seems at the same time to affirm and to negate the priority of the subject. He critiques the traditional interpretation that, beginning in the Middle Ages, maintains the priority of the “lying-at-the-base” (*das Zugrundeliegende*) and shows that Aristotle introduces the *ti en einai* precisely to respond to the aporias implicit in that priority. The subjective determination of essence in fact thinks *ousia* not in itself but insofar as something else requires and demands it as that which stands-under-and-at-the-base of itself. That is to say, the priority of the subject in Aristotle is in agreement with the thesis according to which the question of *ousia* has a sense only if it is articulated as a relation to another, that is, in the form “by means of what is something predicated as something?” This determination, however, introduces into being a fundamental division, through which it is divided into an in-existent essence and an existent without essence. Put differently, if one thinks being from the “lying-at-the-base,” one will have, on the one hand, an in-essential existent (a “that it is” without being, a *quod est* without *quidditas*) and, on the other, an in-existent essence: “Essence [*Wesen*] and being [*Sein*] fall outside one another and, in this way, break with one another, in

the twofold sense of the term: they each break with the other and fall to pieces” (Boehm, R., p. 169).

By means of the concept *ti en einai*, then, Aristotle seeks to think the unity and identity of existence and essence, of the existentive being of the primary substance and the predicative being of the secondary substance, but does it in such a way that, in the last analysis, the subject lying-at-the-base turns out to be inaccessible and essence appears as something non-existent. That is to say, the *ti en einai* expresses the irreducible reciprocal counterposition (*Widerspiel*) of being and existing, which Boehm, from the perspective of his master Heidegger, in the last analysis refers back to the “wonder that the existing being is,” whose sole adequate expression is the question: “why is there being rather than nothing?” (pp. 202–203).

1.10. A preliminary condition of every interpretation of the *ti en einai* is an analysis of its grammatical structure, which Boehm curiously leaves aside. This is so true that the same expression is translated in different ways by Boehm (*das Sein-was-es-war*, “being-what-it-was”), by Natorp (*das was es war sein*, “what it was to be”), by Aquinas and the medieval Scholastics (*quod quid erat esse*), by Ross and others (simply as “essence”). As long as the unusual grammatical structure of the expression—and the still more unusual presence of the past *en* (“was”) in place of the present *esti*—has not been clarified, the passage to its philosophical interpretation is in no way possible.

In 1938, a young philologist who was to die in the war in 1942, Curt Arpe, devoted an exemplary study to an analysis of the *ti en einai* that is also grammatical. He shows that, to understand the sense of the *ti en einai*, it is necessary to mentally complete the formula with two datives, one pure and one predicative. In fact, Aristotle commonly expresses the essential predication with a predicative dative—thus, precisely in the passage in which one seeks the definition of the *ti en einai* (1029b 12–20): *toi soi einai*, “being yourself” (literally, “being to oneself”), *toi mousikoi einai*, “being cultured” (lit., “being to the cultured”), *toi epiphaneiai einai*, “being the surface,” and elsewhere, *toi anthropoi einai*, “being human”—or “to the human.” However, since Aristotle does not speak here only of being human in general but of the being human of this certain human being, it is necessary to insert into the formula a pure or concrete dative. “With this,” writes Arpe, “one clarifies the grammatical form of the question *ti en einai*; to be understood, it requires completion by means of a pure dative and a predicative dative produced by assimilation. By putting the article *to* first, the formula takes on the meaning of a response to the question” (Arpe, p. 18).

That is to say, *to ti en einai* means (in the case of a human being): “what it was for X (for Socrates, for Emma) to be (Socrates, Emma).” The formula expresses the *ousia* of a certain entity by transforming the question “what is it for this certain being to be?” into the response “what it was for that certain being to be.”

✠ That Arpe’s suggestion is correct is also proven by the fact that in *Categories*, Ia 5, Aristotle writes: “if one is to say what it is for each [*ekateroi*, pure dative] of them [*scil.* the human being and the ox] to be an animal [*zooi*, predicative dative] . . .” Yet note that in the *Categories* the verb is still in the present (*ti esti*).

As we have seen, the formula *to ti en einai* allows two translations: “what it was to be” and “being what it was.” Both are in a certain way to be maintained, because the formula expresses precisely the movement from the one to the other, without their ever being able to coincide. As has been noted, “with the two terms *hypokeimenon* and *ti en einai* are named the two meanings in which Aristotle uses the ambivalent term *ousia*” (Tugendhat, qtd. in Boehm, R., p. 25). And yet, “what it was to be for X” can never truly “be” what it was.

I.II. If in this way the grammatical structure and the sense of the formula are clarified, there remains the problem of the imperfect “was” (*en*): why must Aristotle introduce into the definition of essence a past tense, why “what it *was*” instead of “what it is”? This turns out to be the decisive problem that defines the ontological apparatus that Aristotle has left as an inheritance to Western philosophy.

Scholars have proposed explanations that, while correct in certain aspects, do not catch hold of the problem in its complexity. Arpe is thus in a favorable position when he rejects as Platonic the solution of Trendelenburg, according to whom the imperfect derives from the priority of the model in the mind of the artisan with respect to the work (Arpe, p. 15). But even Natorp’s solution, which Arpe seems to share, however correct it is, does not exhaust the problem. According to Natorp, the *ti en einai* means “what from time to time for a certain subject ‘was’ or signified in every case the same thing, if one brings it alongside this or that predicate. It is possible that in the past tense ‘was’ there is hidden something more profound, but in the first place it means nothing more profound than the fact that the term, of which the definition must be given, is presupposed as already known through use and that even its denotation is presupposed as factually identical and that now this identity must be particularly put in relief and brought to one’s awareness” (Arpe, p. 17). As for Boehm, he sees in the imperfect the expression of the unity and identity of being and essence, in the sense that the identity of being of an existing being with what it is necessarily

entails “the identity of its being with what it already was”: that is to say, it is a matter of securing the continuity of a certain being with itself. “The essential identity of being and essence is at the same time the ceaselessly reaffirmed identity of an autonomous being in general” (p. 171).

If Aristotle had wanted to express only the banal fact that the presupposed subject is necessarily already known or to affirm the identity with itself of every essential entity (and both things certainly correspond to his thought), he could have had recourse to more precise formulas than the simple imperfect *en*. What is in question here is, rather, the very structure of the Aristotelian ontological apparatus, which always divides being into existence and essence, into a presupposed subject on the basis of which something is said and a predication that is said of it. Once this division is posited, the problem becomes: how is it possible to say the primary substance, the *sub-iectum*? How can one grasp what *has been* presupposed in the form of the *hypokeimenon*, namely, the being Socrates of Socrates, the being Emma of Emma? If it is true, as Boehm’s investigations have shown, that being has been divided into an inessential existent and an inessential essence, how will it be possible to overcome this division, to cause the simple wonder “that something is” to correspond with “what it is to be this”?

The “what it *was* for this being to be” is the attempt to respond to this question. If, insofar as it has been presupposed, the individual can be grasped only as something past, the only way to catch hold of the singularity in its truth is in time. The past tense “was” in the formula *ti en einai* certainly expresses the identity and continuity of being, but its fundamental achievement, whether or not Aristotle was fully aware of it, is the introduction of time into being. The “something more profound” that “is hidden” in the past tense “was” is time: the *identity* of the being that language has divided, if one attempts to think it, necessarily entails *time*. In the very gesture with which it divides being, language produces time.

1.12. The question to which “what it was to be” must give a response is: given the scission between a *sub-iectum*, an inessential existent lying-at-the-base and an inessential essence, how is it possible to grasp singular existence? The problem here is similar to the one Plato had posed in the *Theatatus*, when he has Socrates say that the primary, simple elements do not have a definition (*logos*) but can only be named (*onomasai monon*, 201a iff.). In the *Metaphysics* (1043b 24), Aristotle attributes this “*aporia*” to the followers of Antisthenes, who affirmed that one could only give a definition of composite substances and not of simple ones.

The problem is all the more important, insofar as the logical apparatus that, according to Aristotle, should orient every study is formulated as follows: “The

‘why’ is always sought in this form: ‘why something is [or belongs to, *hyparchei*] something else’ (1041a 11ff.). That is to say, it is a matter of eliminating every question of the type: “why something is something” by articulating it in the form “why something is (belongs to) something else” (thus, not “why is an educated man an educated man” but “by means of what is a human being a living being of this or that type”; not “why is a house a house” but “by means of what are these materials, bricks and roofing-tiles, a house”).

The apparatus runs up against a peculiar difficulty when a thing is not predicated of something else, as when one asks, “what is a human being?” In this case, in fact, we find ourselves before a simple expression (*haplos legesthai*; 1041b 2), which is not analyzable into subject and predicates. The solution that Aristotle gives to this problem shows that the *ti en einai* is precisely what serves to grasp the being of a simple or primary substance. In this case as well, he suggests, the question—for example, “what is a house?”—must be articulated in the form: “why are these things a house?,” and this is possible “because there is present [or belongs to them] what *was* the being of the house” (*hoti hyparchei ho en oikiai einai*; 1041b 5–6). In the formula *ho en oikiai einai*, which explicitly recalls that of the *ti en einai*, the past tense “was” certainly refers to the existence of the house as something already known and evident (a little before, Aristotle had written: *hoti hyparchei, dei delon einai*, “what exists must be evident”; 1041a 22); but one does not understand the functioning of the apparatus if one does not comprehend that the mode of this existence is essentially temporal and entails a past.

1.13. If we now ask what type of temporality is in question, it is evident that it cannot be a question of a chronological temporality (as if the preexistence of the subject could be measured in hours or days) but of something like an operative time, which refers to the time that the mind takes to realize the articulation between the presupposed subject and its essence. For this reason, the two possible translations of the formula *to ti en einai* are both to be maintained: “what it was for X to be” refers to the presupposed *hypokeimenon*, and “being what it was” to the attempt to catch hold of it, to make subject and essence coincide. The movement of this coincidence is time: “being what it was for X to be.” The division of being worked by this apparatus serves to put being in motion, to give it time. The ontological apparatus is a temporalizing apparatus.

In the tradition of Western philosophy, this temporality internal to the subject will be thought, beginning with Kant, in the form of autoaffection. When Heidegger writes: “time as pure self-affection forms the essential structure of subjectivity” (Heidegger 7, §34), one must not forget that, through the implied

dative and the past tense “was” of the *ti en einai*, Aristotle had already marked out in the *hypokeimenon*, in the *subiectum*, the logical place of what was to become modern subjectivity, indissolubly linked to time.

1.14. Aristotle does not explicitly thematize the introduction of time into being implied in the *ti en einai*. However, when he explains (*Metaphysics*, 1028a 30ff.) in what sense *ousia* is *protos*, primary and first of all, he distinguishes three aspects of this priority: according to the concept (*logoi*), according to knowledge (*gnosei*), and according to time (*chronoi*). According to the concept, insofar as in the concept of each thing is necessarily present that of *ousia*; according to knowledge, because we know something better when we know what it is. The explication of the third aspect of priority, the temporal, seems to be lacking. In place of this, Aristotle formulates the task of thought in these terms: *kai de kai to palai te kai nyn kai aei zetoumenon kai aei aporoumenon, ti to on, touto esti tis he ousia* (“and indeed the question that, both now and of old, has always been raised, and always been the subject of doubt, is what *ousia* is”). If, according to the logical sequence, this sentence should be read as a clarification of the temporal sense of the *protos*, then it cannot refer solely to a chronological time. Here Aristotle implicitly cites a passage from Plato’s *Sophist*, which Heidegger was to use as the epigraph of *Being and Time*: “you have long known what you meant when you said ‘being’; we, by contrast, at one time [*pro tou*] knew it, but now we have fallen into an aporia [*eporekamen*]” (Plato, *Sophist* 244a). Being is that which, if one seeks to catch hold of it, divides itself into a “before” (*palai*), in which one believed one could comprehend it, and a “now” (*nyn*) in which it becomes problematic. The comprehension of being, that is to say, always entails time. (Heidegger’s posing again of the problem of being is a revival of Aristotelian ontology and will remain up to the very end in solidarity with its aporias.)

1.15. In the ontological apparatus that Aristotle leaves as an inheritance to Western philosophy, the scission of being into essence and existence and the introduction of time into being are the work of language. It is the subjectivation of being as *hypokeimenon*, as that-on-the-basis-of-which-one-says, that puts the apparatus in motion. On the other hand, as we have seen, the *hypokeimenon* is always already named by means of a proper name (Socrates, Emma) or indicated by means of a deictic “this.” The *ti en einai*, the “what it was for Emma to be Emma,” expresses a relation that runs between the entity and its being in language.

By abstracting itself from predication, the singular being recedes into a past like the *sub-iectum* on the presupposition of which every discourse is founded. The being on-the-basis-of-which-one-says and that cannot be said is always al-

ready pre-supposed, always has the form of a “what it *was*.” In being presupposed in this way, the subject maintains at one and the same time its priority and its inaccessibility. In the words of Boehm, it is inaccessible due to—and at the same time, despite—its priority and has its priority despite—and at the same time due to—its inaccessibility (Boehm, R., pp. 210–211). But as Hegel comprehends in the dialectic of sense certainty that opens the *Phenomenology*, this past is precisely what allows one to grasp in language the immediate “here” and “now” as time, as “a history.” The impossibility of saying—other than by naming it—singular being produces time and dissolves into it. (That Hegel thought the absolute as subject and not as substance means precisely this: that the presupposition, the “subject” as *hypokeimenon* has been liquidated, pushed into the background as presupposition, and at the same time captured, by means of the dialectic and time, as subject in a modern sense. The presuppositional structure of language is thus revealed and transformed into the internal motor of the dialectic. Schelling will instead seek, without success, to arrest and neutralize linguistic presupposition.)

1.16. Now one can understand what we meant when we affirmed that ontology constitutively has to do with anthropogenesis and, at the same time, what is at stake in the Aristotelian ontological apparatus—and more generally, in every historical transformation of ontology. What is in question, in the apparatus as in its every new historical declination, is the articulation between language and world that anthropogenesis has disclosed as “history” to the living beings of the species *Homo sapiens*. Severing the pure existent (the *that it is*) from the essence (the *what it is*) and inserting time and movement between them, the ontological apparatus reactualizes and repeats the anthropogenetic event, opens and defines each time the horizon of acting as well as knowing, by conditioning, in the sense that has been seen as a historical *a priori*, what human beings can do and what they can know and say.

According to the peculiar presuppositional structure of language (“language,” according to Mallarmé’s precise formulation, “is a principle that develops itself through the negation of every principle”—that is, by transforming every *archè* into a presupposition), in anthropogenesis the event of language pre-supposes as not (yet) linguistic and not (yet) human what precedes it. That is to say, the apparatus must capture in the form of subjectivation the living being, presupposing it as that on the basis of which one says, as what language, in happening, presupposes and renders its ground. In Aristotelian ontology, the *hypokeimenon*, the pure “that it is,” names this presupposition, the singular and impredicable existence that must be at once excluded and captured in the apparatus. The “it

was” (*en*) of the *ti en einai* is, in this sense, a more archaic past than every verbal past tense, because it refers to the originary structure of the event of language. In the name (in particular in the proper name, and every name is originally a proper name), being is always already presupposed by language to language. As Hegel was to understand perfectly, the precedence that is in question here is not chronological but is an effect of linguistic presupposition.

Hence the ambiguity of the status of the subject-*hypokeimenon*: on the one hand, it is excluded insofar as it cannot be said but only named and indicated; on the other hand, it is the foundation on the basis of which everything is said. And this is the sense of the scission between “that it is” and “what it is,” *quod est* and *quid est*: the *ti en einai* is the attempt to overcome the scission, by including it in order to overcome it (in the medieval formula *quod quid erat esse*, this attempt to hold together the *quod est* and the *quid est* is obvious).

✠ According to the axiom formulated by Aristotle in the *De anima* 415b 13 (“Being for the living is to live,” *to de zen tois zosi to einai estin*), what holds on the level of being is transposed in a completely analogous way onto the level of living. Like being, so also “living is said in many ways” (*pleonachos de legomenou tou zen*; *ibid.*, 413a 24), and here as well one of these senses—nutritive or vegetative life—is separated from the others and becomes a presupposition to them. As we have shown elsewhere, nutritive life thus becomes what must be excluded from the city—and at the same time included in it—as simple living from politically qualified living. Ontology and politics correspond perfectly.

1.17. The ontological paradigm in Plato is completely different. He is the first to discover the presuppositional structure of language and to make this discovery the foundation of philosophical thought. This is the passage—as celebrated as it is misunderstood—from the *Republic* (511b) in which Plato describes the dialectical method:

Then also understand the other subsection of the intelligible, I mean that which language itself [*autos ho logos*] touches on [*haptetai*] with the potential of dialoguing [*tei tou dialegesthai dynamei*]. It does not consider these presuppositions [*hypotheseis*, etymologically, “that which is placed under, at the foundation”] as first principles [*archai*] but truly as presuppositions—as stepping-stones to take off from, enabling it to reach the non-presupposed [*anypotheton*] toward the principle of everything and, having touched on it [*hapsamenos autes*], it reverses itself and, keeping hold of what follows from it, comes down to a conclusion without making use of anything visible at all but only of ideas themselves, moving on from ideas to ideas and ending in ideas.

The power of language is that of transforming the principle (the *archè*) into a presupposition (“hypothesis,” what the word presupposes as its referent). It is

what we do in every non-philosophical discourse, in which we take it for granted that the name refers to something non-linguistic that we therefore treat as a given, as a principle from which we can start in order to acquire knowledge. The philosopher, by contrast, is someone who, conscious of this presuppositional power of language, does not treat hypotheses as principles but rather as presuppositions, which are to be used only as footholds to reach the non-presupposed principle. Contrary to a recurrent equivocation, it is important to understand that the method that Plato describes has nothing to do with a mystical practice but is situated rigorously within language (as he says beyond all possible doubt, what is in question is what “language itself touches on with the potential of dialoguing”). That is to say, it is a matter, once we have recognized the presuppositional power of the *logos*—which transforms the reality that thought must reach into the given referent of a name or a definition—of recognizing and eliminating the presupposed hypotheses (Plato also calls them “shadows”—*skiai*—and “images”—*eikones*; *Republic* 510e) by making use of language in a non-presuppositional, which is to say non-referential, way (for this reason, when it is a question of confronting decisive problems, Plato prefers to have recourse to myth and joking).

This is to say that the philosopher frees language from its shadow and, instead of taking hypotheses for granted, seeks to ascend from these latter—namely, from denotative words—toward the non-presupposed principle. The idea is this word freed from its shadow, which does not presuppose the *archè* as given but seeks to reach it as what is not a presupposition to name and discourse. Philosophical discourse always and only moves by means of these non-presuppositional words, emancipated from their sensible referent, which Plato calls ideas and which, significantly, he always expresses by means of the name in question preceded by the adjective *autos* (“itself”): the circle itself (*autos ho kyklos*; *Epistle* VII, 342a–b), the thing itself. The thing itself, which is in question here, is not an obscure non-linguistic presupposition of language but what appears when, once we have taken note of its presuppositional power, language is liberated from its shadow. The “circle itself” is the word “circle” insofar as it signifies not simply the sensible circle but itself insofar as it signifies it. Only by extinguishing the presuppositional power of language is it possible for it to let the mute thing appear: the thing itself and language itself (*autos ho logos*) are in contact at this point—united only by a void of signification and representation. (A word can signify itself only by means of a representative void—hence the metaphor of “touching”: the idea is a word that does not denote but “touches.” That is to say, as happens in contact, it manifests the thing

and at the same time also itself—recall, in *De anima* 423b 15, the definition of touching as that which perceives not “through a medium” [*metaxy*] but “at the same time [*ama*] as the medium.”)

In this sense, Kojève is right to say that philosophy is the discourse that, in speaking of something, also speaks of the fact that it is speaking about it. It goes without saying, however, that this awareness does not exhaust the philosophical task, because with this starting point, different and even opposed perspectives are possible. While according to Plato thought must seek to reach the non-presupposed principle by eliminating the presuppositional power of language, Aristotle—and Hegel after him—by contrast put at the basis of their dialectic precisely the presuppositional power of the *logos*.

1.18. Ontology thinks being insofar as it is said and called into question in language, which is to say that it is constitutively *onto-logy*. In the Aristotelian apparatus, this is manifested in the scission of being into a *hypokeimenon*, something lying-at-the-base (the being named or indicated of a singular existent, insofar as it is not said of a subject but is a presupposition for every discourse) and that which is said on the presupposition of it. In the *ti en einai* Aristotle seeks to think their identity, to articulate together what had been divided: being is what *was* always presupposed in language and by language. That is to say: existence and identity coincide—or can coincide by means of time.

In this way, the task that the apparatus, as historical *a priori*, opens up for the history of the West is both speculative and political: if being is divided in the *logos* and nevertheless not irreducibly split, if it is possible to think the identity of the singular existent, then upon this divided and articulated identity it will also be possible to found a political order, a city and not simply a pasture for animals.

But is there really such an articulation of being—at once divided and unitary? Or is there not rather in the being so conceived an unbridgeable hiatus? The fact that unity entails a past and demands time in order to be realized renders it no less problematic. In the *ti en einai*, it has the form: “what it *was* each time for this existent to be (or live).” The past measures the time that necessarily insinuates itself between the existentive determination of being as *hypokeimenon* (this existent, the *tode ti*, the first subject) and its persevering in being, its being identical to itself. Existence is identified with essence by means of time. That is to say, *the identity of being and existence is a historical-political task*. And at the same time, it is an archeological task, because what must be grasped is a past (a “was”). History, insofar as it seeks to gain access to presence, is always already archeology. The ontological apparatus, insofar as it is chronogenic, is also “historicogenic”; it

produces history and preserves it in motion, and only in this way can it be preserved. Politics and ontology, ontological apparatuses and political apparatuses are in solidarity, because they have need of one another to actualize themselves.

✎ In this sense, being and history are in solidarity and inseparable. Here the Benjaminian axiom holds according to which there is a history of everything of which there is a nature (which is to say, being). Taking up once more the Aristotelian thesis according to which “nature is on its way toward itself,” one can say that history is the way that nature takes toward itself (and not, as in the ordinary conception, something separate from it).

1.19. At the end of *Homo Sacer I*, the analogy between the epochal situation of politics and that of ontology had been defined on the basis of a radical crisis, which assails the very possibility of distinguishing and articulating the terms of the ontologico-political apparatus:

Today *bios* lies in *zoè* exactly as essence, in the Heideggerian definition of Dasein, lies (*liegt*) in existence. Schelling expressed the outermost figure of his thought in the idea of a being that is only what is purely existent. Yet how can a *bios* be only its own *zoè*, how can a form of life seize hold of the very *haplos* that constitutes both the task and the enigma of Western metaphysics? (Agamben 4, pp. 210–211/188)

Existence and essence, existitive being and copulative being, *zoè* and *bios* are today completely pulled apart or have just as completely collapsed into one another, and the historical task of their articulation seems impossible to carry out. The bare life of the *homo sacer* is the irreducible hypostasis that appears between them to testify to the impossibility of their identity as much as their distinction: “what it was for X to be or live” is now only bare life. In the same way, the time—at once chronological and operative—in which their articulation was achieved, is no longer graspable as the *medium* of a historical task, in which being could realize its own identity with itself and human beings could secure the conditions of their human, which is to say, political, existence. The Aristotelian ontological apparatus, which has for almost two millennia guaranteed the life and politics of the West, can no longer function as a historical *a priori*, to the extent to which anthropogenesis, which it sought to fix in terms of an articulation between language and being, is no longer reflected in it. Having arrived at the outermost point of its secularization, the projection of ontology (or theology) onto history seems to have become impossible.

✎ For this reason, Heidegger’s attempt to grasp—in perfect coherence with precisely his Aristotelian model—being as time could not but fail. In his interpretation of Kant, Heidegger affirms that time, as form of internal sense and pure autoaffection, is identified with the I. But precisely for this reason, the I cannot grasp itself in time. The time that,

with space, was to render experience possible is itself inexperienceable; it only measures the impossibility of self-experience. Every attempt to grasp the I and time therefore entails a discrepancy. This discrepancy is bare life, which can never coincide with itself, is always in a certain sense missed and never truly lived. Or, if one prefers, to live is precisely this impossibility of self-experience, this impossibility of making one's existing and one's being coincide. (This is the secret of James's novels: we can live only because we have missed our life.)

The precept "become what you are," in which one could express the intention of the Aristotelian apparatus (with the slight correction: "become what you were"), insofar as it entrusts to time a task that it can never bring to an end, is contradictory. According to Kojève's suggestion, it should rather be reformulated in this way: "become what you can never be" (or "be what you can never become"). It is only at the price of madness that Nietzsche, at the end of the history of metaphysics, believed he was able to show in *Ecce Homo* "*wie man wird, was man ist*," "how one becomes what one is."

## Theory of Hypostases

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**2.1.** An epochal change in the ontology of the West happens between the second and third century of the common era and coincides with the entry into the vocabulary of first philosophy of a term almost completely unknown to classical thought (completely absent in Plato, in Aristotle it appears only in the originary sense of “sediment, remainder”): *hypostasis*. In a study devoted to the semantic history of the term, Dörrie has shown how this word, which appears for the first time in Stoic ontology, beginning with Neoplatonism progressively spread as a true and proper *Modewort* (Dörrie, p. 14) in the most diverse philosophical schools to designate existence, in place of the classical *ousia*. In its character as a “fashionable term,” it constitutes a striking antecedent of the analogous diffusion of the term “existence” in twentieth-century philosophies. At the end of the ancient world, there is a proliferation of hypostasis in the philosophico-theological vocabulary just as, in the philosophical discourse of the twentieth century, there will be a proliferation of existence. But while in twentieth-century existentialism a priority of rank of existence over essence corresponds to the lexical priority, in late-ancient thought the situation of hypostasis is more ambiguous: indeed, the presupposition of the term’s diffusion is an inverse process through which being persistently tends to transcend existence. To the displacement of the One beyond being there thus corresponds an equal heightening of its being given existence and manifesting itself in hypostases. And to this change of the historical *a priori* there corresponds, in every sphere of culture, an epochal transformation whose importance—insofar as we perhaps still live under its sign—we are still not in a position to measure. Being (as is obvious today) tends to exhaust itself and disappear, but in disappearing, it leaves in its place the residual pure effectiveness of hypostasis, bare existence as such. Heidegger’s thesis according to which “essence lies [*liegt*] in existence” is, in this sense, the final—almost sepulchral—act of hypostatic ontology.

2.2. The originary meaning of the term *hypostasis*—alongside that of “base, foundation”—is “sediment” and refers to the solid remainder of a liquid. Thus,

in Hippocrates *hyphistamai* and *hypostasis* designate, respectively, the depositing of urine and the sediment itself. In Aristotle the term appears only in this sense, to signify the sediment of a physiological process (*On the Parts of Animals*, 677a 15) and excrement as the remainder of nourishment (ibid., 647b 28, 671b 20, 677a 15). We must reflect on the fact that it is precisely a term that originally meant “sediment” or “remainder” that became the key term or *Modewort* to express a fundamental ontological concept: existence. In an exemplary article, Benveniste has suggested that in the presence of identical morphemes provided with completely different meanings, one must seek out above all whether there exists a use of the term able to lead back to unity the apparent diversity of the meanings (in this way, as we will see, he was able to explain the two apparently irreconcilable meanings of *trepho*: “to nourish” and “to curdle”; Benveniste, pp. 290–293/249–253).

It will thus be opportune to ask ourselves from this perspective which meaning of *hyphistamai* and *hypostasis* allows one to make sense of an apparently incomprehensible semantic development of the term. In reality, the diversity of meanings is easily explained. Once one considers that, if the verb originally means “to produce a solid remainder”—and thus, “to reach the solid state, to be given a real consistency”—the development toward the meaning of “existence” is perfectly natural. Existence here appears—with a radical transformation of classical ontology—as the result of a process by means of which being is reified and given consistency. Not only does the ordinary meaning not disappear in the new one, but it allows us to understand how a school of thought, namely, Neoplatonism, which persistently sought to displace the One beyond being, could never conceive existence except as “hypostasis,” that is, as the material remainder and sediment of that transcendent process.

2.3. While the *hypokeimenon*, the simple existent, was for Aristotle the first and immediate form of being, which had no need for a foundation because it was itself the first (or ultimate) subject, on the presupposition of which every comprehension and every predication becomes possible, already the Stoics had instead made use of the terms *hyphistasthai* and *hypostasis* to define the passage from being in itself to existence. Thus, they designated with the verb *hyphistasthai* the mode of being of incorporeals, like the “sayable,” time, and the event, while they made use of the verb *hyparchein* in reference to the presence of bodies. There is an incorporeal dimension of being, which has the nature of a process and an event, and not of a substance. Further developing this tendency, hypostasis now becomes something like an operation—conceptually if

not genetically second—by means of which being is actualized in existence. For this reason Dio of Prusa can write: “every being has a hypostasis” (*pan to on hypostasin echei*; Dörrie, p. 43). Being is distinct from existence, but this latter is at the same time something (once again the image of sediment is illuminating) that being produces and that moreover necessarily belongs to it. There is no other foundation of existence than an operation, an emanation, or an effectuation of being.

✠ That the new hypostatic terminology, which takes form beginning with the Stoics, was initially hardly comprehensible, is clearly shown in a passage from Galen, in which he defines as “pedantry” the distinction that some philosophers make between being and hypostasis: “I say that it is pedantry [*mikrologia*] to distinguish according to category being and hypostasis [*to on te kai to hyphestos*]” (Galen 2, II, 7). But that this “pedantry” instead corresponds to a real change in the way of conceiving being appears just as clearly if one compares two occurrences—distant from one another and, moreover, symmetrically inverse—of the new terminology. Philo, who as always anticipates tendencies that will be confirmed only with Neoplatonism and Christian theology, thus writes that “only God exists [or subsists] in being” (*en toi einai hyphesteken*); Alexander of Aphrodisias by contrast, to define the mode of existence of single beings as opposed to categories and ideas, makes frequent use of the expression “to be in hypostasis [in existence]” (*einai en hypostasei*; Dörrie, p. 37). Beings are in the mode of hypostasis, of existence, but there is also a non-hypostatic being. On the one hand, there is the God of Philo, in whom it is not possible to distinguish being and existing (or, to paraphrase a modern expression, whose existence lies in his essence); on the other hand, there are the multiple beings in which being lies and remains in existence. “To exist in being” and “to be in existence”: here begins the process that will lead to an ever greater pulling apart of being from existence and of the divine from the human.

2.4. If it is true that Plotinus is the creator of the Neoplatonic doctrine of hypostases (Dörrie, p. 45), it was Porphyry who technicalized the term “hypostasis” in his teacher’s thought, already in the titles that he gives to essays 1 (“On the Three Principal Hypostases”) and 3 (“On the Cognitive Hypostases”) of the fifth *Ennead*.

Neoplatonic ontology seeks to combine the Aristotelian apparatus of scission and articulation of being with the genuinely Platonic impulse toward a beyond of being. The result is that being becomes a field of forces held in tension between a principle beyond being and its realizations (or emanations) in existence, called precisely hypostases. For the horizontality of Aristotelian ontology there is substituted a decisively vertical conception (high/low, transcendence/hypostasis). In Plotinus and his disciples, the term “hypostasis” thus designates the intellect, the soul, and all things that gradually proceed from the One and

the hypostases that it has produced: “So it goes from the beginning to the last and lowest, each remaining behind in its own place, and that which is generated taking another, lower rank with respect to its generator” (V, 2, 2).

The use of the expressions “to have a hypostasis” (*hypostasin echein*, eighteen occurrences) or “to take a hypostasis” (*hypostasin lambanein*, at least six occurrences) in the *Enneads* is significant. Existence is not the originary given but something that is “taken” or produced (“Hypostases are generated [*hai hypostaseis ginontain*] while remaining immobile and invariant principles”; III, 4, 1). But it is precisely the relationship between the principle beyond being and the multiplicity of hypostases that emanate from it that constitutes the problem that Plotinian ontology never manages to unravel.

In essay 4 of the fifth *Ennead*, which bears the title “How Things That Are from the First Are after It, or on the One,” the problem displays its most aporetic formulation. On the one hand, there is an immobile and immutable principle, and, on the other, there are the “existences” that proceed from it by means of an enigmatic *proodos*, a “going out” that is not yet a creation and that therefore does not correspond in any way to an act or movement of the One:

If, then, something comes into being while the One abides in itself, it comes into being from it when it is most of all what it is. When, therefore, the One abides in its own proper way of life [*en toi oiekeioi ethei*], that which comes into being does come into being from it, but from it as it abides unchanged. . . . But how, when the One remains unchanged, is something generated in act [*ginetai energeia*]? There is, on the one hand, the being in act of being [*ousias*] and, on the other, the being in act [which derives] from the essence of each thing. The first is each being insofar as it is in act, and the second derives from the first and must in everything be a consequence of it and be different from it. As in fire there is a heat which is the fullness of its essence and a heat that is generated from it when the fire exercises the activity that is native to its essence in abiding unchanged as fire. So it is also for the principle, abiding in its own proper way of life, a being in action [*energeia*] that is generated by its perfection, having taken a hypostasis [*hypostasin laboua*] from a great power, indeed the greatest of all, adds to the being and the essence [*eis to einai kai ousian elthen*]. For that principle is beyond being [*epekeina ousias*]. (V, 4, 2, 21–39)

2.5. Perhaps never as in this passage does the impossibility of expressing the new hypostatic paradigm with the vocabulary of Aristotelian ontology appear so obvious. The Aristotelian apparatus of the division of being (being/existence, potential/act) is still standing, but the relation between the two counterposed terms changes completely. While in Aristotle essence was what resulted from a

question turned toward grasping existence (what it was for X to be), existence (hypostasis) is now in some way a performance of the essence.

The *hypokeimenon*, the subject lying at the base in the Aristotelian apparatus, which had to be taken up by means of the *ti en einai* as the being that it *was*, is now separated and enters into an infinite process of flight: on the one hand, an ungraspable and unsayable principle, which tends to proceed or regress beyond being; on the other hand, its hypostatic emanations into existence. Aristotelian ontology has been irrevocably damaged: between the presuppositional subject in flight beyond being and language and the hypostatic multiplicities there does not seem to be any passage.

It is this contradictory tension—which is also that between Platonic eternity and Aristotelian time—that Plotinus and Porphyry’s theory of hypostases tries in vain to unravel. The introduction of time into being, implicit in the Aristotelian apparatus, thus takes the form of a circular movement of hypostases that come out of being (*proodos*) in order to make a return to it (*epistrophè*).

✠ In the *Elements of Theology*, Proclus systematizes the Plotinian hypostatic ontology. On the one hand (Proclus I, prop. 27), he forcefully emphasizes that the productive principle does not produce the hypostases because of a lack or by means of a movement (it is significant that Proclus here uses the expression “to confer a hypostasis”—*ten hypostasin parechetai*—but *parecho* means etymologically “to have alongside”) but only due to its fullness and superabundance. On the other hand, he seeks to find a *medium* or a common element between the producer and the hypostases by means of the concepts of similarity (*homoiotès*; prop. 28–29), participation (*metexis*; prop. 23–24, 68–69), and irradiation (*ellampsis*; prop. 81). “For if the participant is separate [from the participated], how can it be participated by that which contains neither it nor anything from it? Accordingly a potential or irradiation, proceeding from the participated to the participant, must link the two” (ibid.). Here one clearly sees how the Neoplatonic attempt to reconcile a genuinely Platonic conceptuality (participation, similarity) with the categories of Aristotelian ontology necessarily produces aporias, which the concepts of irradiation and procession vainly seek to resolve.

✠ The concept of hypostasis has a particular importance in Gnosticism. Plotinus reproved the Gnostics for multiplying hypostases (*Ennead* II, 9, 2 and 6). In effect, in the testimonies that have been preserved, according to the Gnostics, from preexisting principles, also called “Abyss” or “Protofather,” there gush forth a multiplicity of “existences” or hypostases, which seem to parody or disseminate the three Plotinian hypostases. What defines the Gnostic hypostases is that they are in some way incarnate in a personal entity, which is inscribed in a genealogy and of which something like a myth is recounted. Thus, one of the hypostases, Sophia (which corresponds to the soul, according to some; Hadot 2, p. 214) suffers a “passion” and falls, departing from the Father. According to what

Hippolytus recounts, from the passion of Sophia are produced “hypostatic substances” (*ousias hypostatas*; “from fear, the psychical substance, from pain the material, from aporia the demonic, from conversion and supplication the return”). Here we can obviously see that the hypostases are the place of a subjectivization, in which an ontological process that goes from the preexistent to existences finds something like a personal figure. In the Gnostic hypostases, the Aristotelian “subject” (the *hypokeimenon*) enters into a process that will lead to its being transformed into the modern subject.

2.6. The Neoplatonic doctrine of the hypostases attains its decisive development in trinitarian theology. Although the term *hypostasis* had been used by the Arians to emphasize the difference between the Son and the Father, it prevailed—in a definitive way only from the time of Athanasius—as a way to express the ontological relation implicit in the doctrine of the Trinity: “one God in three hypostases” (*heis theos en trisin hypostasesin*). In this context, the term *hypostasis*, up until then often confused with *ousia*, is clearly distinguished from the latter: the three hypostases or existences refer to one sole substance.

From this moment, the history of the concept of hypostasis is entangled with that of the burning conflicts in which a terminological divergence was transformed into heresy, a lexical scruple into an anathema. Through an alternating succession of disputes and councils, secessions and condemnations, the formula that emerged in the end to designate the Trinity against Arians and Sabellians, Nestorians and Monophysites is: *mia ousia, treis hypostaseis*.

The problem was complicated because the Latin West (which had used the term *substantia* to translate *ousia*) preferred to speak of “persons” rather than hypostases—in the decisive formulation of Tertullian: *tres personae, una substantia*. Thanks also to the patient mediating work of the Chalcedonian fathers, the contrast between the Latin Church and Greek Church was resolved with the First Council of Constantinople. The distinction between hypostasis and person was recognized as purely terminological. “We Greeks,” writes Gregory of Nazianzus,

piously say one *ousia* in three hypostases, the first word expressing the nature of divinity and the second the triplicity of the individuated properties. The Latins think the same, but due to the restrictions of their language and the poverty of their vocabulary, they cannot distinguish the hypostasis from the substance and hence make use of the term “person.” . . . This slight difference of sound was taken to indicate a difference of faith . . . they had the same sense, and were in no way different in doctrine. (Gregory Nazianzen, Oration 21, 35)

✠ That the trinitarian hypostases must not be understood simply as potentials or habits in the single divine substance but as hypostatic existences is clearly affirmed by Gregory of Nyssa. In the trinitarian economy, he writes, what are in question are not

simply faculties or potentials of God (his word—*logos*—or his wisdom), but “a potential that has been given hypostatic existence according to the essence” (*kat’ ousianyphestosa dynamis*; Gregory of Nyssa, p. 273). The Neoplatonic word is here transferred immediately to the trinitarian hypostases, something of which the Eastern fathers like Cyril were perfectly aware: “When the Platonists acknowledge three principal hypostases and affirm that the divine substance extends to three hypostases or when at times they use the same term ‘trinity,’ they are in agreement with the Christian faith and nothing would be amiss for them if they wanted to apply the term ‘consubstantiality’ to the three hypostases to conceive the unity of God” (Picavet, p. 45).

2.7. Dörrie has observed that in Athanasius the term *hypostasis* does not mean simply “reality” but rather “realization” (*Realisierung*): “it expresses an act, not a state” (Dörrie, p. 60). God is one unique being, one sole *substantia*—in itself unknowable, like the One of Plotinus—which gives itself reality and existence in three singularly determinate hypostases, three aspects (*prosopa*) or manifestations (which, as we have seen, will become three “persons” in the Latin West).

In the West, starting with Boethius’s definition, which was to meet with enormous success, the concept of person was defined as *naturae rationalis individua substantia*, “individual subsistence of a rational nature” (*natura*, on the other hand, was *unamquemque rem informans differentia specifica*, “the specific difference that informs any singular thing whatsoever,” according to Boethius). In this way, the problem of the trinitarian persons or hypostases was conjoined with the philosophical problem of individuation, of the way in which the divine nature as much as the creaturely become an *individua substantia*, individuate or “personify.” (The “personal” character of the modern subject, this concept that has proven so determinative in the ontology of modernity, has its origin in trinitarian theology and, by means of the latter, in the doctrine of the hypostasis, and it has never truly emancipated itself from it.)

In this way, hypostasis—which in Neoplatonism seemed to imply, even if only apparently, a priority of essence over existence—enters into a slow process of transformation that in modernity will ultimately lead to a priority of existence. In the Latin formula *tres personae, una substantia*, person (*prosopon*, mask and at the same time face) entails, as we have seen, that the divine substance manifests itself, gives itself form and effective reality in an individuated existence. In the foreground here is the *oikonomia*, the activity by means of which the divine nature is revealed in this way to itself and to creatures. That Christian ontology—and thus modern ontology, which derives from it—is a hypostatic ontology means that it is eminently effectual or operative: as Dörrie reminds us, *hypostasis* means not so much reality as realization.

While in the Aristotelian apparatus singular existence was the presupposed given, in hypostatic ontology it is now something that must be achieved or effectuated. In the *Isagoge*, Porphyry had systematized the Aristotelian doctrine of the categories from the logical point of view in the form of a tree or scale (*klimax*) that descended from the highest genus—substance—through generic and specific differences down to the individual. It has been suitably observed that, while the Eastern Fathers entered into the tree from the bottom, that is, by starting from the concrete existent individual to ascend toward species and genus and finally to substance, the Latin Fathers entered into the tree from above and then proceeded *per descensum* from the general to the individual, from substance to genus to species to finally touch upon singular existence. By starting from the universal, they are for that reason drawn to then seek the formal reason or the principle that is added to essence to determine its individuation. The suggestion—certainly useful to understand the two different mental attitudes with regard to the problem of existence—is inexact to the extent that the relation between essence and existence (at least in the theological model) entails or should always imply both movements. But what is essential is that ontology now becomes a field of forces held in tension between essence and existence, in which the two concepts, in themselves theoretically inseparable, tend nevertheless to pull apart and draw back together according to a rhythm that corresponds to the growing opacity of their relation. The problem of individuation—which is the problem of singular existence—is the place where these tensions reach their greatest point of stretching apart.

2.8. In Augustine's reflections, the problem of the relation between essence and existence appears as the problem of the relation between the Trinity in itself and the singular divine persons. In book VII of the *De Trinitate* he thus asks whether the name God and the attributes like "good," "wise," or "omnipotent" should be referred to the Trinity in itself (*per se ipsam*) or rather to each singular divine person (*singula quaeque persona*; Augustine 2, VII.1). As has been observed (Beckmann, p. 200), the true problem here is how it is possible to reconcile the unity of the essence with the plurality of the three persons. It is in order to respond to this difficulty that Augustine pronounces a thesis that has determined for centuries the way in which we have thought relation: "Every essence that is called something by way of relationship is also something besides the relationship" (*Omnis essentia quae relative dicitur est etiam aliquid excepto relativo*). To prove this thesis, he has recourse to the example—also decisive for the history of philosophy—of the relationship between master and slave. If a man is defined as "master," this entails that he is in relation with a slave (and vice versa). But

the essence of this man is not exhausted in any way in his being-master but presupposes first of all his essence as a man. Only insofar as the master is a man can he enter into the master/slave relation and be said in a relative mode. As being-human is the substantial presupposition of being-master, so being-God, the Trinity in itself—such seems to be the implication—is the essential presupposition of the singular divine persons.

The analogy is imperfect, however, because the trinity of the persons inheres originally in the Christian God and it is therefore not possible, as in the case of the man with respect to the master, to think a God who was not always triune. Hence the decisive importance of the formula *excepto relativo*: it is to be read according to the logic of the exception that we have defined in *Homo Sacer I* (Agamben 4, pp. 21–22/17–19): the relative is at once included and excluded in the absolute, in the sense that—according to the etymology of the term *ex-ceptio*—it has been “captured outside,” which is to say, included by means of its exclusion. The relativity and the singularity of the persons have been captured in the unitary essence-potential of God, in such a way that they are both excluded and included in it. Hence the disputes, contradictions, and aporias that have so profoundly marked the history of the Church and that trinitarian theology has never managed to resolve. In order to achieve this, it would have to abandon the conceptuality of Aristotelian and Neoplatonic ontology with an eye toward another ontology.

✠ In Heidegger the difference between essence and existence, thematized as the “ontological difference” between Being and beings, becomes the crucial problem of philosophy. The ninth section of *Being and Time*, to which we owe the characterization of Heidegger’s thought as an “existentialism,” claims: “The essence of Dasein lies in its existence” (Heidegger 1, p. 42/67). Even if Heidegger insistently emphasizes that the concept of existence that is in question here is not that of traditional ontology, he himself speaks, with regard to Dasein, of a “priority of existence” (*ibid.*, p. 43/68).

In later works, metaphysics is defined by means of the forgetting of the ontological difference and the priority of beings over Being. In the outline of the history of metaphysics contained in §259 of the *Beiträge zur Philosophie* (published in 1989 but composed between 1936 and 1938), metaphysics is defined by means of the priority of beings: it is “the thinking that thinks Being as the Being of beings, departing *from beings* and returning *back to them*” (Heidegger 9, p. 426/336). The final phase of the history of metaphysics is characterized by the retreat from and abandonment by being (*Seinsverlassenheit*):

Beings then appear in that way, namely as objects and as things objectively present, as if Being were not . . . the abandonment of beings by being means that Being conceals itself in the manifestness of beings. And Being itself is essentially

determined as this self-withdrawing concealment. . . . Abandonment by Being: the fact that being is abandoning beings, is leaving them to themselves, and thus is allowing them to become objects of machination. (Ibid., pp. 112–115/88–91)

Here Aristotelian ontology is declined toward a hypostatic ontology. Beings, abandoned by Being, are something like a Neoplatonic or Gnostic hypostasis that, incapable of *epistrophe* toward the One that has produced it, now occupies the stage of the world alone.

We owe to Levinas a coherent and explicit development of Heideggerian ontology in a hypostatic direction. In *De l'existence à l'existant*, forcing the concept of Dasein, he defines as a hypostasis the passage from the impersonality of the “there is” (*il y a*) to the emergence of a simple individual existence, which is not yet a subject or a consciousness (Levinas 2, p. 75/65).

Here, in a decidedly hypostatic ontology, the connection that unites essence to existence and Being to beings seems, as in Gnosticism, to break. Heidegger's thought starting from the *Beiträge zur Philosophie* is the attempt—grandiose but certainly unsuccessful—to reconstruct a possible unity and, at the same time, to think beyond it. But the only way to resolve the aporias of hypostatic ontology would have been the passage to a modal ontology. It is an ontology of this type that we will seek to develop in the pages that follow.

## Toward a Modal Ontology

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**3.1.** Perhaps never as in the correspondence between Leibniz and Des Bosses did the inadequacy of the Aristotelian apparatus in accounting for singularity emerge with such clarity. What is in question in the correspondence is the problem of how one can conceive the unity of composite substances, in such a way that this or that body does not seem to be only an aggregate of monads but can be perceived as a substantial unity.

“If a corporeal substance,” writes Leibniz in response to the announcement of a dissertation *De substantia corporea* that Des Bosses is about to send him, “is something real over and above monads, as a line is taken to be something over and above points, we shall have to say that corporeal substance consists in a certain union, or rather in a real unifier superadded to monads by God [*uniente reali a Deo superaddito monadibus*].” Leibniz calls this absolute principle (*absolutum aliquid*) that confers its “unitive reality” on monads, and without which bodies would be mere appearances and only the monads would be real, a “substantial bond” (*vinculum substantiale*). “If that substantial bond of monads were absent, then all bodies with their qualities would be only well-founded phenomena, like a rainbow or an image in a mirror—in a word, continuous dreams that agree perfectly with one another” (Leibniz I, pp. 435–436/225–227; letter of February 15, 1712).

In the text attached to the letter, Leibniz seeks to specify the nature of the substantial bond, defining it as a “more perfect relationship” that transforms a plurality of simple substances or monads into a new substance:

God not only considers single monads and the modifications of any monad whatsoever, but he also sees their relations, and the reality of relations and truths consists in this. Foremost among these relations are duration (or the order of successive things), situation (or the order of co-existing), and intercourse (or reciprocal action). . . . But over and above these real relations, a more perfect relation can be conceived through which a single new substance arises from many substances. And this will not be a simple result, that is, it will not consist

in true or real relations alone; but, moreover, it will add some new substantiality, or substantial bond [*aliquam novam substantialitatem seu vinculum substantiale*], and this will be an effect not only of the divine intellect but also of the divine will. This addition to monads does not occur in just any way; otherwise any scattered things at all would be united in a new substance, and nothing determinate would arise in contiguous bodies. But it suffices that it unites those monads that are under the domination of one monad, that is, that make one organic body or one machine of nature [*unum corpus organicum seu unam Machinam naturae*]. (Ibid., pp. 438–439/233)

3.2. What is in question in the substantial bond is the problem of what allows one to consider as one sole substance such and such a “natural machine,” this “horse” or that “dog” (p. 457/269), this or that human body, independently of the union of the body with the soul. The problem becomes more complicated, moreover, since the Jesuit theologian Des Bosses is interested above all in understanding how one can understand the unity of the body of Christ that is in question in eucharistic transubstantiation (*hoc est corpus meum*). The idea of the natural bond allows Leibniz to propose an elegant solution of the problem.

If what defines the singular existence of the body is the substantial bond, it will not be necessary for transubstantiation to destroy the monads of the bread and wine. It will be sufficient that the bond of the body of Christ eliminates and substitutes for the prior bond that defined the aggregate of those substances. The phrase “this is my body” therefore does not designate the monads but the bond that actualizes their unity:

I think that your transubstantiation can be explained by retaining monads (which seems to agree better with the reason and order of the universe), but with the substantial bond of the body of Christ added by God to unite the monads of the bread and wine substantially, while the former substantial bond is destroyed, and with it its modifications or accidents. Thus there will remain only the phenomena of the monads of the bread and wine, which would have been there, if no substantial bond had been added to their monads by God. (p. 459/273)

Against Des Bosses, who persists in conceiving what makes up the unity of the singular substance as a special form of accident, which he calls “absolute accident” or “substantial mode,” Leibniz affirms that the singularity of the composite substance does not result from a modification of the monads nor can it be something like a mode or accident that would exist in them as in a subject. The bond, though not a preexisting form, constitutes the unity of the body as a substantial reality.

3.3. It is certainly not by chance that Leibniz has recourse to the term “bond” to express what the ontological vocabulary called the unity of substance. The Franciscans, who from the start had affirmed that the living body is already given in the embryo in its unity and perfection, even before the soul is united to it, had called this principle *forma corporeitatis*. With respect to the term *forma*, so closely linked to Aristotelian ontology, the term *vinculum* emphasizes the fact that Leibniz was seeking to think something different, even if (or perhaps precisely for this reason) he is constrained to add the adjective “substantial.” It has been observed that Leibniz uses the term “bond” in his minor mathematical work to designate a sign that combines numerical or algebraic symbols into a unity. If in certain cases the union is contingent and the bond can be dissolved, in others, like the square root of two, it is indissoluble from the quantities that it modifies, which therefore exist solely by means of the bond. But the term *vinculum* had behind it other traditions well known to Leibniz as well, like those of law and magic, in which the bond is an active potential, which indissolubly joins what in nature is divided.

In every case it is certain that the terminological choice, just like the tenacity with which Des Bosses opposes it, corresponds to the attempt, which as we will see is not always successful, to think in a new way the categories of the Aristotelian ontology.

3.4. What is at stake in the debate is at this point clear: how to think the unitary nature of corporeal singularity not as an appearance but as something real. For Des Bosses, the unity of the body (such and such a horse, such and such a boy: the primary substance in Aristotle) is nothing but a mode or an accident emanating from the substantial form. For Leibniz, it is by contrast a question of a new principle that is still of the order of substance but that obliges us to rethink substance in unheard-of terms, even at the risk of contradicting its traditional definition.

Just as in the *Monadology* the relation of the monads among themselves was expressed with the metaphor of a “living mirror” (every monad is *un miroir vivant* of the whole universe), the image that progressively clears a path for Leibniz to define the peculiar nature of the bond is the acoustico-musical one of an echo. The letter that closes the exchange is, in this sense, a sort of miniature treatise that seeks to define, not without difficulties and contradictions, a new vocabulary for ontology.

Des Bosses insisted on conceiving the substantial bond as a mode. Leibniz affirms that it cannot be a mode, because it neither alters nor modifies the monads

(“sive ponas, sive tollas, nihil in monadibus mutatur”; p. 516/367). Furthermore, even though both the substantial form and the material of the composite are contained in the bond, this latter does not link the monads in an essential way (*essentialiter*) but solely in a natural way (*naturaliter*). In Leibnizian vocabulary, this means that the bond “demands [*exigit*] the monads, but does not essentially imply [*involvit*] them, because it can exist without the monads and vice versa.” Hence the appropriateness of the metaphor of the echo: just as the soul is the echo of external things and is nonetheless *independent* of them, so also “it is an echo of monads, according to its constitution, with the result that once posited it demands monads, but does not depend on them [*exigit monades, sed non ab iis pendet*]” (p. 517/369).

What the image of the echo seeks to express is this curious intimacy and, at the same time, exteriority between the bond and the monads. If the body were something other than an exterior echo of the monads, it would be a different substance and not their bond; if it were something inherent to them, it would be one of their accidents or a modification. And yet the idea of an echo as something substantial is certainly paradoxical. Indeed, if it is possible to conceive of sounds (monads) without an echo, we cannot see how it is possible to think an echo without the sounds that precede it. For this reason Leibniz is constrained to hypothesize something like an “originary echo” (*echo originaria*; p. 519/375), or an echo that is a “source of modifications” (*fons modificationum*; p. 504/351). And to the objection that an echo cannot be a principle of action, he responds that “a body returning an echo is a principle of action” (p. 503/349).

And when Des Bosses suggests that in saying “this body,” as Christ does in the Eucharist, the demonstrative pronoun does not necessarily refer to the individuality of the substance (*individualitatem substantiae*) but to that of appearances (p. 454/261), Leibniz responds that “when it is said, ‘this is my body’. . . we do not designate monads by either ‘this’ or ‘body’. . . but the substance arising or composed through substantial bonds” (p. 459/273). What constitutes the unmistakable singularity of such and such a body is not appearance but reality; it is not only a mode but a substance—and yet a substance that does not have any consistency other than the purely acoustical one of an echo. But it is an echo that is, so to speak, active, which demands the monads but does not depend on them and in fact acts on them as something originary that harmonizes and constitutes them into a unity.

3.5. Many times in the dispute the two interlocutors give the impression that their divergence is more terminological than real (“Whether one can call beings modes or accidents is a question of words,” p. 453/259; “You are free to

call the bond that gives reality to the composite a substantial mode,” p. 515/363). But in truth, what is at stake concerns precisely the way in which one must understand the fundamental concepts of scholastic ontology. For the Jesuit, who firmly holds to the traditional concept, what Leibniz understands as the unity of the singular body can only be a mode or an accident, even if of a special type (for this reason defined, through forcing the concept, as “substantial”); for Leibniz, bodies are neither modes nor accidents but substances (Boehm, A., p. 32); it is, however, a matter of forcing the traditional concept of substance in an unforeseen direction. On the one hand, what he wants to grasp is still the Aristotelian prime substance, “what it was for X to be.” On the other hand, this no longer appears to him as a presupposition but as an active force, which results almost *a posteriori* from the monads as an echo and therefore cannot be easily subsumed under the concept of substance, of something that lies beneath and at the base.

It has been proposed that we interpret the novelty of Leibniz’s conception by means of a primacy of relation over being (Fremont, p. 69). This means, however, on the one hand, diminishing the novelty, because Scholastic theology had already unreservedly affirmed the priority of the trinitarian relation (the “economy”) over substance in God. On the other hand, it contradicts what Leibniz actually says, which, in the letter that concludes the correspondence, seems to distinguish the bond from the relations that run between the monads: “The orderings,” he writes, “or relations that join two monads are not in one monad or the other, but in both equally and at the same time; that is, really in neither, or only in the mind thinking this relation, unless you add a real bond, or something substantial, which is the subject of the common predicates and modifications, that is, those joining them together” (Leibniz I, p. 517/371). If the bond is a relation, however, it does not, like a mode, have a subject in which it inheres: it is “something absolute, and therefore substantial” (*absolutum aliquid adeoque substantiale*; *ibid.*, p. 433/227).

3.6. In the stubbornness with which the Jesuit holds to his “substantial mode” and the philosopher to his “bond,” what was really going on was a difficulty concerning the historical situation of ontology. The philosophy that in the background for Leibniz was late Scholasticism, which had found perhaps its most complete expression in Francisco Suárez’s *Disputationes metaphysicae* (it has been rightly said that Suárez is the “manual” in which Leibniz reads the *Schola Peripatetica*). Here the tradition that identified the object of metaphysics in the *ens qua ens* had reached a point at which the relation between essence and existence, which Aristotle believed he had resolved in the *ti en einai*, had

become the central problem of ontology. If in God essence and existence coincided, in creatures—and markedly in bodies and composite substances—it was rather a matter of thinking their relation, which was anything but taken for granted. While in his investigation of *ousia* Aristotle began with a primacy of the *hypokeimenon*, which is to say, of the singular existent, Scholasticism by contrast, developing a Neoplatonic gesture, began with a primacy of essence, from which it was a matter of deducing existence. But once the being of creatures was defined starting from essence, the principle that worked out its determination in singular existence became extremely problematic. Singular existence remains the *experimentum crucis* of philosophy, which it cannot avoid and in which it unceasingly threatens to make shipwreck.

3.7. It is in the attempt to define the relation between essence and existence that philosophers and theologians run aground in a series of distinctions as subtle as they are inconclusive. These reach their critical mass in the problem of the principle of individuation. In the Scholastic tradition from Aquinas and Scotus up to Cajetan and Suárez, everyone conceded that individual existence added something to essence: the divergences concerned how to define their difference and their relation. Two positions here seem to be definitively opposed: the first, represented by Henry of Ghent, denies every real difference between essence and existence (or, as it is also expressed in Scholastic theology with regard to individuation, between common nature and the supposition). The other, exemplified by Thomas Aquinas, affirms that in material creatures essence and existence, nature and supposition differ *realiter*.

Between these two positions, a third progressively imposed itself, which, developing one of Scotus's theses, found perhaps its most complete formulation in Suárez. According to this doctrine, in created things the individual adds to the common nature something really distinct from it, and yet singular existence is not distinct from essence like one thing is distinct from another (*ut res a re*). Already Aquinas, despite affirming that existence really differs from essence, specified that "just as we cannot say that running itself runs, so we cannot say that existence exists" (Aquinas 6, *lectio* 2). If singular existence cannot be simply reduced to essence, it can never be separated from this latter like one thing from another, one essence from another essence. It is to define this peculiar status of singular existence that the concepts of "mode" and "modal difference" arise.

3.8. The theory of modes finds its first thematic elaboration in Giles of Viterbo. Already in his early treatise on *The Degrees of the Forms*, Giles observed that in extended matter, extension (which admittedly belongs to the category of

quantity) is not some other thing with respect to the matter (which belongs to the category of substance) but only its mode of being (*modus se habendi*):

Others believe that the extension of matter differs from extension as quantity and is a certain different thing from matter, in such a way that matter and its extension would be two really [*realiter*] different things. . . . It is, however, preferable to say that the passive extension of which they speak is not a category in itself but falls into the essence of the matter and is a certain mode of being [*quendam modum se habendi*], which belongs to the matter insofar as it is conjoined to quantity. (Trapp, pp. 14–15)

The same concept of mode is used by Giles to explain eucharistic transubstantiation, in which the accidents of the bread and wine that remain as such after transubstantiation, deprived of substance, acquire the mode of a substance, while the human nature of Christ, insofar as it is united to the divine Word, despite being a substance, acquires the mode of an accident:

In the sacrament of the Eucharist, since the accidents are here without substance . . . what here according to the thing is an accident, has a certain mode of substance [*habet quendam modum substantiae*], insofar as it belongs to them to exist for themselves; and in the human nature of Christ, the nature, although according to the thing it is a substance, nevertheless insofar as it inheres to the Word in its entirety, acquires the mode of an accident [*habet quendam modum accidentis*]. (Trapp, p. 17)

According to Giles, “being for itself” (*per se esse*) and “inhering” (*inesse*) do not express the essence of substance and accident but only a mode of their being (“Inhering does not mean the very being of the accident but a certain mode of its being [*modus essendi eius*], just as being for itself does not mean the very being of substance but a certain mode of being of substance”; p. 18). “Being for itself” and “being in another” (*esse in alio*), these two fundamental terms of Aristotelian ontology, differ modally (*modaliter*) and not essentially. The Spinozan definition of substance as “what is in itself” (*quod in se est*) and of mode as “what is in another” (*quod in alio est*) becomes more comprehensible if one places it against the background of Giles’s conception of modal difference.

It is in the treatise *On the Composition of the Angels* that the concept of mode finds its proper place in the context of the problem of individuation as a means of defining the relationship between common nature (essence) and supposition (singular existence). Against Henry of Ghent, Giles maintains that nature and supposition really differ (otherwise *homo* and *humanitas* would be the same thing) but that this difference has a modal and not essential character (*suppositum non*

*dicit essentiam aliam a natura*); otherwise we could not predicate, as we in fact do, the humanity of the human being. The common nature (humanity) differs from the supposition (the singular human) like potential from act, like a *res* not yet modified differs from the same *res* once modified (pp. 24–25).

In accordance with an ambiguity that will durably mark the concept of mode, the difficulty here concerns the very status of mode, which is both logical and ontological. Nothing is more instructive, from this perspective, than the tenacious polemic concerning Giles's concept of mode that takes place between Godfrey of Fontaines and Thomas of Argentina. According to the former, that something really differs from another and is nonetheless not another thing is logically contradictory. "If mode," writes Godfrey,

is a nothing [*nihil*] or absolutely non-existent [*absolute non ens*], then by means of it one thing cannot differ from another, not only really but not even according to reason. If it is instead something, it will be a certain being. If it is a being, or is such only in the mind, then it cannot constitute any real difference with respect to the thing outside the mind. Or else it is a true being for itself outside the mind, and in this case, either it is perfectly identified with the nature and then, since the nature is that mode, it is not possible that it constitutes a difference; or else it is a being different from the nature, absolutely, and then it can only be really or relatively composed with it, and then the relation between substance and its accidents will be something real, which is false. . . . (p. 36)

Thomas of Argentina's response constitutes perhaps the most subtle attempt to define the peculiar place of mode between being and nothing, between the logical and the ontological:

The mode is nothing, but it is something that expresses the nature itself: and thus a thing, which is to say a nature. And moreover, mode and nature do not mean the nature AND something [*natura et aliquid*] but the nature itself diversified BY MEANS OF something [*per aliquid*], which is a real mode, because it really follows on a variation made in the nature itself. (Ibid.)

✠ Eucharistic transubstantiation produces the paradox of accidents without substance (the bread and wine under transubstantiation are accidents without substance) and of a substance without accidents (the body of Christ). It is a matter of a problem that radically calls into question the categories of ontology and, by obligating him to rethink the traditional definition of accident, suggests to Giles his recourse to the notion of mode.

3.9. Between real distinction—which is in things—and that of reason—which is in the mind—Scotus had introduced the formal distinction, which was something less than a real distinction and more than a distinction of reason.

Scotus's disciples had inscribed in this category the distinction between essence and existence, nature and supposition, quantity and substance. Picking up on a tradition that had been in the process of consolidating from Giles to Cajetan, Suárez calls this distinction modal and constructs upon it a true and proper theory of modes:

I maintain that there is, in created things, a distinction—which is actual and corresponds to the nature of things before any operation of the mind—that is not as great as that which intervenes between two things or completely distinct essences. It can be called real, because it derives from things and not from an extrinsic intellectual denomination; yet to better distinguish it from the real distinction, we can call it . . . more properly a modal distinction, because it always runs between a thing and its mode. (Suárez 2, p. 255)

The modal distinction entails that the reality of created things is defined not only by the entity, which Suárez calls substantial or radical, but also by “real modes, which are something positive and grasp entities by themselves, conferring on them something that is outside essence in its totality, insofar as it is individual and existent in nature” (ibid.). Among these real modes, Suárez lists the inherence to substance of a quantity or quality, the union of substantial form with matter (this is Leibniz's problem in the correspondence with Des Bosses) and “existence or personhood with respect to the common nature” (p. 256).

Mode is therefore an affection of the thing, “which determines its ultimate state and its reason for existing, without, however, adding to it a new essence but only by modifying it” (ibid.). Once again, it is a question of defining a paradoxical state of being, insofar as it is totally deprived of an essence of its own and yet is really distinct from that to which it adheres as a mode, namely, by modifying it.

Thus this mode as we have defined it is really distinguished from the thing of which it is a mode . . . but is not properly distinguished from that of which it is a mode like one thing from another thing [*ut res a re*]; it is distinguished by a lesser distinction, which is more properly called modal. Lesser, both because mode, considered in itself, is not properly a thing or entity and therefore cannot be distinguished as one thing from another; and also because this mode is thus intimately [*intimite*] joined to the thing of which it is a mode, which no power could ever make to exist without the latter, as if its conjunction implied an identity. . . . (p. 257)

The idea of mode was invented to render thinkable the relation between essence and existence. These are distinct and at the same time absolutely inseparable. Their relation is, however, asymmetrical, because, as Suárez specifies a little later,

in the modal distinction, “the separation of one element from the other is not reciprocal, which means that one extreme can remain without the other, but not vice versa . . . and this defines modal being, which cannot subsist by itself nor be separated from that of which it is a mode” (p. 263). That is to say, in the distinction a hierarchy is implied that, if one conceives existence as a mode, entails a reversal of the Aristotelian priority of the *hypokeimenon* in favor of essence. Precisely this priority of essence, however, renders individuation, which is to say, the passage from essence to existence, incomprehensible. If one conceives singular existence as the mode of a preexistent essence—which Suárez avoids doing—individuation becomes incomprehensible. If existence is in fact absolutely inessential and adds to essence nothing but a modification, if essence can be without its mode, why and by virtue of what is essence to be brought into existence or be modified?

3.10. The elegance with which Scotus resolves the problem of individuation found its legendary form in the concept of haecceity. Scotus conceives individuation as the addition to common nature or form not of another form or essence but of an *ultima realitas*, an ultimacy of the form itself. Singular existence does not, that is to say, add anything to the common form other than a haecceity (or ecceity [It., *eccoità*])—as one, thinking of the Christological *ecce homo*, could translate Scotus’s ingenious term *haecceitas*). “Ecceity” is not something other than the essence but only its ultimate reality, in which it can be offered up for display (for this reason Suárez will see in it a mode). In form or mode there is not a principle *by virtue* of which it is individuated: here one has only an ultimacy *of* form, the extreme modification that allows one to say: behold the man, or else: this is my body. But for this reason it is necessary, according to Scotus, that the common form or nature be in itself indifferent to any singularity whatsoever or, as Scholastics will repeat after him, that “it is not repugnant to it to be supposed with any singularity.”

Here one clearly sees that once essence and existence have been divided (or, as happens in Christian theology, their coincidence is admitted only in God), it is then necessary to seek in essence what permits—or at least does not prevent—its individuation. This is the meaning of the indifference or non-repugnance of which Scotus speaks. As Avicenna had already said, *equinitas est equinitas tantum*, horsehood is only horsehood; it is indifferent to both generality and singularity and has in itself nothing that is opposed to being individuated in haecceity.

Radicalizing and at the same time critiquing Scotus’s position, Suárez affirms that essence does not need any ulterior principle to be individuated. Certainly it is possible to distinguish individual existence from common essence, but this

difference is not modal, as for Scotus, but purely a difference of reason, and it does not have a foundation in the thing distinct from its essence. For this reason, to the question whether “being this or that being (that is, singular existence) adds some mode . . . distinct from the being itself, so that this certain being, or substance, according to the nature of the thing is formally distinguished, insofar as the substance adds a mode, which is not included in the concept of being” (p. 82), Suárez responds negatively. The essence of a singular being already contains its possible individuation and does not have need of any real supplement, not even the inessential adjunct that is mode.

3.II. Even if one thinks the relation between essence and singular existence on the model of the Aristotelian relation between potential and act, possible and actual, individuation remains problematic. What drives the possible to produce itself in actuality, to actually realize itself in act in this or that singularity?

In a famous passage from Book Theta of the *Metaphysics* (1047a 24–25), Aristotle laid out (but not resolved) the problem in the enigmatic formulation according to which: “That is potential for which, if the act of which it is said to have potential is verified, nothing will be potential not to be.” If essence and existence have been divided like potential and act, nothing is more problematic than their relation.

For this reason, just as Scotus had to suppose in essence an indifference or non-repugnance to singularity, so also Suárez must postulate in essence or common nature an *aptitudo* to being produced in a certain singular existence. “The intrinsic principle from which the individual difference of a substantial form derives is the very essence of the form, to the extent to which it has a certain aptitude to inform matter” (p. 185). In the same sense, insofar as it is possible, essence “has a certain aptitude, or non-repugnance, to being produced in a certain being” (Courtine, p. 302). “The aptitude of possible things to exist is nothing other than a certain non-repugnance on their part and, on the part of the cause, signifies a potential to produce them” (ibid., p. 319).

Aptitude is certainly more than indifference or non-repugnance; but what it can consist in, what inclines or disposes an essence to individuation, is not easy to explain once one thinks, as does Suárez, that it already contains all it needs and that the difference between essence and existence is only one of reason. When Leibniz, several decades later, defines existence as a “demand” of essence and, in the correspondence with Des Bosses, writes that the bond that defines the existence of composite substances “demands the monads, but does not essentially entail them,” it is with this same problem that he is seeking to contend.

It is not surprising, then, that in another passage of the *Disputations*, Suárez must have recourse to the concept of expression to somehow account for the conceptual difference between essence and existence. The determination of being in singular existence, he affirms, must not be understood according to the mode of a composition but only as a more expressive mode of conceiving the entity (*per modum expressioris conceptionis*). Essence and singular existence are not, that is to say, two really separate concepts, but they differ only “insofar as one is more determinate than the other [*unus est magis determinatus quam alio*] . . . insofar as in one the thing is conceived more expressively [*per unum expressius concipitur res*]” (Suárez, p. 101).

What this supplement of expressivity is with respect to Scotus’s haecceity or Giles’s mode, Suárez does not specify. But it is certain that this passage is like a passing of the baton that announces the decisive gesture with which Spinoza will write that particular things “are nothing but modes wherein the attributes of God find expression in a definite and determinate way” (Spinoza 2, 1, prop. 25, cor.).

3.12. At this point we can better understand what is at stake in the correspondence between Leibniz and Des Bosses with which we began. The stakes are genuinely ontological. It is a matter of thinking the singular existence of a body, that is, of something that the development of ontology had rendered problematic. Des Bosses takes up the position, for him more reassuring, of the modal tradition: existence is not an entity but a mode of being, which does not add to the essence anything but a modification. He agrees with Leibniz that the monads on their own can only constitute an aggregate and that they are therefore in need of a bond: but this bond is only a mode of the dominant monad (that which gives form to the body, the essence), and not, as Leibniz maintains, something absolute and substantial. Against this modalistic conception of the unity of an existent body, another tradition had reacted, which objected to the *modistae* that “it is absurd that there should be any formally distinct entity by means of which form is united to matter; therefore, it is absurd that there should be a modal union” (Boehm, A., p. 51).

Leibniz—who had made his debut in 1663 with a dissertation *On the Principle of Individuation*, in which he had made his own the thesis of Suárez according to which “every individual is individualized by means of the totality of its essence”—now introduces, in order to explain the unity of composite substance, something more substantial than a mode or a difference of reason, which, taking up again a concept already widely used by the Scholastics, he calls *vinculum substantiale*, substantial bond. But what is in question here is not whether the

principle of individuation is a mode or a substantial bond so much as a transformation of the fundamental concepts of ontology. What is decisive, from this perspective, is the concept of demand, which Leibniz had already elaborated at the end of the 1680s in his text *De veritatis primis*. The bond is an active principle, which “demands the monads,” just as, in the text on the first truths, existence is defined as “a demand of essence.” The “non-repugnance” of Scotus and the “aptitude” of Suárez have now become a demand. Existence is not a mode of essence or a difference of reason alone: it is a demand.

It is this transformation of ontology that we will seek to follow and to develop from a new perspective.

3.13. Some decades before the years in which the correspondence unfolded, the model of a modal ontology had been elaborated by a philosopher with whom Leibniz maintained a relation that has rightly been defined as “a mixture of admiration and repugnance” (Friedmann, p. 277): Spinoza. And it is certain that this aspect of Spinoza’s thought seemed to the majority of his contemporaries just as unacceptable as his supposed atheism, if Bayle, subjecting him to ridicule, could write that “in Spinoza’s system, those who say that the Germans killed ten thousand Turks express themselves badly, unless they mean: God, modified in the Germans, killed God modified in ten thousand Turks” (ibid., p. 187). In any case, whether Bayle was right or wrong, the problem of the relation between substance and the modes is one of the cruxes of Spinozan hermeneutics.

Spinoza’s radical ontological thesis is well known: “Nothing exists except substance and modes” (*praeter substantias et modos nihil existit*; Spinoza 2, 1, prop. XV, proof.). It has been stated that Spinoza’s novelty does not consist in the definition of substance but in that of modes; and nevertheless, even though in the *Cogitata* (1, 1) he had distinguished modes from accidents (“The accident is only a mode of thought and exists solely with respect to thought, while the mode is something real”; Spinoza 3, p. 120), the definition of the modes closely follows the traditional definition of accidents: the modes are “affections of substance; that is, that which is in something else and is conceived through something else” (*in alio est, per quod etiam concipitur*; Spinoza 2, 1, def. 5). (With a significant variation, the corollary of proposition XXV defines particular things as “affections of the attributes of God; that is, modes wherein the attributes of God find expression in a definite and determinate way.”)

One of the problems with which Spinoza’s interpreters must always contend is the fact that substantially new thoughts are expressed in the terminology of the philosophy of his time. As we have seen, the latter, which derived from

the Scholastic tradition, distinguished between essence and existence and between common nature and individual supposition and made use of the concept of mode to think these differences. It has quite appropriately been noted that in Spinoza the problem of the principle of individuation is never mentioned (Wolfson, p. 392). This means that the substance/modes relationship is posed for him in an entirely different way from the way that Scholasticism had thought the passage from common nature to the individual supposition or from potential to act. He most likely chose the term “mode” because, without simply signifying a difference of reason, it implied the least possible difference with respect to substance. Modes are in the substance, are in God (*quod omnia in Deo sint*; Spinoza 2, 1, app.), and yet the relation, at once of identity and of difference, between the multiple, particular, finite things and the unique substance remains problematic, at least as long as we are constrained to think it in terms of the concepts of traditional ontology.

In point of fact, in what sense is one to understand the affirmation that modes “are in another,” if they are only affections and modifications of substance? Is it here a question of a real difference or of a logical difference? The human being (Spinoza 2, 2, prop. X and cor.) is a mode, and as such it is in God and expresses God’s nature. The human being’s nature “is constituted by definite modifications of the attributes of God,” and yet “the being of substance does not pertain to the essence of the human being.” The interweaving of reality and mode of thinking, of ontological and logical, which Spinoza proposed to clarify, here reaches its greatest density. Are the modes affections of God or of God’s attributes (the attributes are—as per definition 4, part 1—“that which the intellect perceives of substance as constituting its essence”)? Precisely with respect to the substance/modes relationship, one could say that Spinoza did not manage to resolve the ambiguity between ontological and logical that the Aristotelian apparatus had left as a legacy to Western philosophy.

✠ The concept of mode—insofar as it seeks to think the coincidence or indifference of essence and existence, potential and act—carries with it an ambiguity, so that in the history of philosophy, it is presented now as a logical concept (one prefers to speak then of “modality” or modal logic), now as an ontological concept. The ambiguity is still evident in Kant, according to whom the categories of modality express the relation of an object with our faculty of knowing and yet “do not have only a logical meaning . . . but are to pertain to things and their possibility, actuality, or necessity” (*Critique of Pure Reason*, A219, B627). It is possible to see in this dual nature of modalities something more than an echo of the peculiar nature of the formal distinction according to Scotus (which is more than a distinction of reason and yet less than a real distinction) and of mode according to

Suárez, which is real, but not like a thing (the modes *non sunt formaliter entia*). The undecidability of logic and ontology is, in this sense, consubstantial with the concept of mode and must be brought back to the constitutive undecidability of Aristotelian ontology, inasmuch as the latter thinks being insofar as it is said. This means that the ambiguity of the concept of mode cannot be simply eliminated but must rather be thought as such.

It is possible that the dispute between philosophy inappropriately defined as continental and analytic philosophy has its root in this ambiguity and can therefore be resolved only on the terrain of a rethinking of the theory of modes and of the categories of modality.

3.14. A possible paradigm to explain the relationship between substance and modes, between *natura naturans* and *natura naturata*, is the emanationist paradigm. Scholars have shown the analogies between the Spinozan model and that which the Neoplatonic tradition had transmitted to philosophers and Jewish Kabbalists. God is cause of the modes not through an act of creation but through the very necessity according to which, in the emanationist model, the intellects and hypostases emanate from the first cause. The analogy is misleading, however. In the emanationist paradigm, that things proceed from God means that they really go out from God and become separated from God. In Spinoza, by contrast, the modes remain in God:

There is no such thing as the procession of the finite from the infinite in Spinoza. God or substance is to him an infinite logical crust which holds together the crumbs of the infinite number of the finite modes, and that crust is never broken through to allow the crumbs to escape or to emanate. Infinite substance by its very nature contains within itself immediate infinite modes, and the immediate infinite modes contain within themselves mediate infinite modes, and the mediate infinite modes contain within themselves the infinite number of finite modes. . . . (Wolfson, p. 398)

Bayle's ironic observation that God modified in the Germans kills God modified in ten thousand Turks, with the pantheistic implication that it suggests, was perhaps not so impertinent.

3.15. The problem of the ontological meaning of the difference between being and modes emerges with particular clarity in the relationship between *En-sof* and *sefiroth* in the Kabbalah. Scholem has brought to light the connections and divergences between Plotinus's One and the Kabbalists' *En-sof* (the "without end" or "Infinitely," given the originary adverbial character of the expression). But he saw with just as much clarity that the crucial question here is that of the identity or difference between the *En-sof* and the *sefiroth* (which correspond to Plotinus's hypostases). Like Plotinus's One, so also the *En-sof* is absolutely deprived

of determinations or attributes (as such, it is called *belimah*, literally “without which,” by the Kabbalists). What happens, then, in the passage from this “infinitely without which” to the *sefiroth*, each of which represents, like the hypostases in Plotinus, a property and a determination? The problem is made more pressing—the decisive leap or fracture is in fact situated here—in the relation between the *En-sof* and the first *sefirah* (which according to some is thought and according to others is will). If the *En-sof* and the first *sefirah* (or, more generally, the ensemble of the ten *sefiroth*) are essentially different, then between God and his emanations or words (as the Kabbalists also call them) an abyss is thrown open; if they are identical, the risk is the fall into pantheism.

Hence the strategic meaning of the nothing in the Jewish (and Christian) conception of creation *ex nihilo*: between the *En-sof* and the *sefiroth* there is the nothing (*‘ayin*) and, in the words of the Kabbalist Azriel, in producing being from the nothing, God “has made his Nothing into his Being” (Scholem 1, p. 424). The problem reproduces itself, however, at this point as the problem of the relation (of identity or difference) between the *En-sof* and the nothing.

One could say that the early Kabbalists, who wanted to establish between the *En-sof* and the *‘ayin* a difference that would be in name but not in nature, thereby in fact struck the first act out of the drama of the universe, which contains the dialectical exposition of the Whole. Hence the theory of the identity between the two terms gave rise to a pantheistic reversal: the creation out of nothing is only a cipher of the essential unity of all things with God. (Scholem 2, pp. 78–79)

The relation between the *En-sof* and the *sefiroth* seems always on the point of making shipwreck in an absolute identity or of shattering into a difference every bit as absolute.

✠ Herrera, in his treatise *The Gate of Heaven*, expresses this difficulty by saying that it is just as contradictory to affirm that the *En-sof*, as first cause, produces what it already is and contains in itself, as to affirm that it produces what it is not and does not possess:

But if the First Cause contains everything in itself, because it is infinitely perfect, I wonder if, in the universal production of all things, it has given and communicated that which it is and has in itself, or that which it is not and does not have. If they should answer me claiming that it gave that which it is and has, I would argue that this cannot be, because that which it is and has is infinite and most simple, but everything that it gave is limited and somehow composite, and also because that which it is and has, because it is unproduced and unproducible, cannot be produced, and because nothing can or does produce the being and existence that it already has, because production is a passage from non-being to being. . . . But if they should say that it gave that which it is not and does not

have, it would appear that there is something that the supremely and infinitely perfect one is not or does not have in itself, which is against what reason properly shows us. . . . It is left for us, then, to conclude, fitting together and in effect reconciling these two extremes and mediating between them like the prince of the Peripatetics who introduced potential between nothing and being in act, that the First Cause in a particular fashion produces what it is and has, and somehow produced what it is not and does not have. . . . (Herrera, p. 292)

It clearly results that the problem cannot be resolved from within the categories of traditional ontology and demands instead the passage to a different conceptuality.

3.16. What is in question here is nothing less than the metaphysical problem of the ontological difference between Being and beings. In the relationship between the *En-sof* and the *sefiroth*, between the One and the hypostases, it is a question of the ontological difference that, according to Heidegger, defines the metaphysics of the West. As sometimes happens, the cruciality and the difficulty of the decision is attested in Heidegger in an easily overlooked textual detail: the correction of one word in a sentence of the *Nachwort* added in 1943 to the fourth edition of *What Is Metaphysics?* Where in the 1943 text we read: “It belongs to the truth of Being that Being certainly [*wohl*] is without beings, and that by contrast beings are never without Being,” the fifth edition (1949) corrects the “certainly” into “never”: “It belongs to the truth of Being that Being is never without beings and that beings are never without Being” (Heidegger 10, p. 102/233). While in the first version the connection between Being and beings is broken from the side of Being, which consequently appears as nothing, the second edition affirms that Being can never be separated from beings and is in some way identified with them, as the manifestation and unveiling of something is not essentially other with respect to what it manifests. Does the ontological difference mean a separation and a hiatus between Being and beings, or is what is in question here instead the unveiling and veiling of one and the same thing? What are beings for Being and Being for beings, if they can never be separated? The correction, left without a motivation, seems to indicate an oscillation and an uncertainty.

The problem is resolved—here as for the relationship between the *En-sof* and the *sefiroth* and between the One and its hypostases—if one poses it in terms of a modal ontology (assuming that one can still speak of an ontology in that case). Between being and modes the relationship is neither of identity nor of difference, because the mode is at once identical and different—or, rather, it entails the coincidence, which is to say the falling together, of the two terms. In this sense, the problem of the pantheistic risk is poorly posed. The Spinozan syntagma *Deus sive nature* does not mean “God = nature”: the *sive* (whether it derives from the

conditional and concessive *si* or the anaphoric *sic*) expresses the modalization, which is to say, the neutralization and disappearance of identity as much as difference. What is divine is not being in itself but its *sive*, its always already modifying itself and “naturing itself”—being born [It. *nascere*—]in the modes.

At this point, the problem is that of finding the concepts that allow us to correctly think modality. We are accustomed to think in a *substantival* mode, while mode has a constitutively *adverbial* nature, it expresses not “what” but “how” being is.

3.17. In Spinoza, there is a concept that furnishes the key for understanding the substance/modes relation beyond the contradictions of traditional ontology. It is that of the immanent cause, over which we have already had occasion to linger. Proposition XVIII of the first part states it in this way: “God is the immanent, not the transitive, cause of all things,” which the demonstration states precisely by specifying that “there can be no substance external to God, that is, a thing which is in itself external to God. . . . Therefore God is the immanent, not the transitive, cause of all things.” The reference to the Aristotelian concept of internal cause (*enyparchon*) as opposed to external (*ektos*; *Metaphysics*, 1070b 22) is pertinent, but it adds nothing to what seems to be a tautological explanation (God is internal or immanent cause, because there is nothing outside God).

We have shown (cf. above, part I, §2.5) how Spinoza furnished a decisive indication on how one should understand this concept in the *Compendium grammatices linguae hebraeae*, in connection with a special form of the infinitive noun (the infinitive in Hebrew is declined like a noun), which expresses an action referred at once to the agent and the patient (which he exemplifies with the expressions “to constitute-oneself as visiting” or “to walk-oneself”). This form of the Hebrew verb corresponds exactly to the middle voice of the Greek or Latin verb, which we have evoked in connection with use (cf. above, part I, §2.3).

The immanent cause is therefore an action in which agent and patient coincide, which is to say, fall together. This means that, in the modes, substance, to paraphrase Spinoza’s example, “constitutes itself as existing” (or living, if, as is written in the *Cogitata*, ch. 6, God is life), “walking-itself” into existence. But this also means that, in order to think the substance/modes relationship, it is necessary to have at our disposal an ontology in the middle voice, in which the agent (God, or substance) in effectuating the modes in reality affects and modifies only itself. Modal ontology can be understood only as a medial ontology, and Spinozan pantheism, if it is a question of pantheism, is not an inert identity (substance = mode) but a process in which God affects, modifies, and expresses Godself.

In the first part of this book, we have called “use” a medial process of this kind. In a modal ontology, being uses-itself, that is to say, it constitutes, expresses, and loves itself in the affection that it receives from its own modifications.

✠ The relation of immanent cause entails that the active element not cause the second but rather “express” itself in it. The concept of expression, to which Gilles Deleuze quite fittingly drew attention and which we have seen to appear already in Suárez and Thomas of Argentina, runs through the whole of Spinoza’s *Ethics*, and it refers both to the relationship between attributes and substance (every attribute “expresses eternal and infinite essence”; Spinoza 2, 1, def. 6) and to that between the modes and God (“Whatever exists expresses God’s nature or essence in a definite and determinate mode”; prop. XXXVI, proof.). From the perspective that interests us here, the expression acts as a principle of transformation and neutralization of the concept of cause that, by abandoning all hierarchy between cause and effect, affirms the immanence of the expressed in the one expressing and of the passive in the active.

3.18. A correct understanding of the being/modes relationship allows us to resolve, or rather to transform into euporias, the aporias of the Aristotelian apparatus, above all that of the fundamental relation between being and language. What is at stake in the *ti en einai* was the identity-relation of a thing with itself, the relation between Emma and her being Emma (“what it was for Emma to be Emma”). But this relation is thinkable only because the entity has been named, only because Emma has a name, has been called Emma (cf. above, part 2, §1.15). That is to say, the ontological relationship runs between the entity and its being named, between Emma and her being-called Emma, between Emma and her “sayability” (this is what the Stoics called *lekton*, “sayable,” and conceived as an attribute that is neither mental nor linguistic but ontological).

It is this relation that is also in question—without his being able to become aware of it, nor even less to resolve it—in Scotus’s formal distinction. What he calls formal being or *formalitas*—distinguishing it from both real being and mental being—is, in truth, being-said. Such a being-said is not to be in any way conceived as a being in the mind, dependent on the knowing relation of a subject: it is instead the quality or character that the entity receives insofar as it is said, insofar as it has always already received a name and, as such, has always already been pre-supposed. Here the name is an ontological attribute of the thing and not an exterior label.

In developing in a new direction the Augustinian thesis according to which the relation exists in itself independently of the relative, Scotus defines the being of the relation as a form and the ontological status of this form as an *ens debilissimum*. The relation is something existent, but it is among all beings the weakest, because

it consists solely in the mode of being of two entities (“*relatio inter omnia entia est ens debilissimum, cum sit sola habitudo duorum*”; *Sup. Praed.*, q. 25, 10; qtd. in Beckmann, p. 45). Precisely for this reason it is difficult to know (“*et ita minimum cognoscibile in se*”; *ibid.*): if we seek to grasp it—if we seek to grasp the being-said—it slips away between our hands. The *ens debilissimum* is being-said, is the name.

The error that Scotus repeats in Augustine’s trail is that of conceiving essence in itself as something that must be a presupposition to its being said relatively and that can, as such, be considered and enjoyed independently of the relative. In the case of God’s trinitarian essence, it is thus possible, according to Scotus, to desire and enjoy it without reference to one of the divine persons: “I affirm that it is possible for the human being in this world to enjoy the divine essence without enjoying the person [*frui essentia divina non fruendo persona*] and the proof is that, according to Augustine, if the essence is said in a relative way, it is not an essence, because every essence that is said in a relative way is something excluding the relative” (*Ox.*, 1, d. 1, p. 1, q 2., 31; qtd. in Beckmann, p. 205).

This would mean—and the error is in this way immediately refuted—that it is possible to love God without loving Christ or—if we translate it into the terms that interest us here—that it is possible to love Emma’s identity with herself (her essence) without loving the singularity that is called Emma (her existence).

The whole problem of the relation between essence and existence, between being and relative being appears in a new light if it is placed in the context of a modal ontology. Essence cannot be without the relative nor being without the entity, because the modal relation—granted that one can speak here of a relation—passes between the entity and its identity with itself, between the singularity that has the name Emma and her being-called Emma. Modal ontology has its place in the primordial fact—which Aristotle merely presupposed without thematizing it—that being is always already said: *to on legetai* . . . Emma is not the particular individuation of a universal human essence, but insofar as she is a mode, she is that being for whom it is a matter, in her existence, of her having a name, of her being in language.

✠ It is from this perspective that it is necessary to consider Benjamin’s intuition that, in an aphorism of *Short Shadows*, defines Platonic love as the love that “preserves and guards the name of the beloved” and for which “the existence of the loved one proceeds from her name like rays from a glowing nucleus” (Benjamin 2, p. 369/268). In this sense, love is a category of ontology: it is the care of that *ens debilissimum* that is the relation between a thing and its name, the assumption without reserve of the relation between the entity and its being in language.

3.19. Our goal here is not the interpretation of Spinoza or Leibniz's thought but the elaboration of categories that escape from the aporias of the ontological apparatus. Alongside the immanent cause, another precious concept from this perspective is that of demand, which we have already encountered in Leibniz. A rethinking of the categories of modality is not possible without a definition of the concept of demand. Not only existence but also possibility and contingency are transformed and modified through demand. That is to say, a definition of demand implies as a preliminary task a redefinition of the fundamental ontological categories, above all those of modality.

Leibniz thought demand as an attribute of possibility: *omne possibile exigit existere* ("everything possible demands to exist"; Leibniz 2, p. 176). What the possible demands is to become real, the potential—or essence—demands existence. For this reason Leibniz defines existence as a demand of essence: "Si existentia esset aliud quiddam quam essentiae exigentia, sequeretur ipsam habere quandam essentiam, seu aliquid novum superadditum rebus, de quo rursus quaeri potest, an haec essentia existat, et cur ista potius quam alia" (ibid.). Existence is not a *quid*, a something other with respect to essence or possibility; it is only a demand contained in essence. But how should we understand this demand? In a fragment from 1689, Leibniz calls this demand *existiturientia* (a term formed from the future infinitive of *existere*), and it is by means of it that he sees to render comprehensible the principle of reason. The reason why something exists rather than nothing "consists in the prevalence of reasons to exist [*ad existendum*] over those not to exist, that is, if it is permissible to say it with one word, of the demand to exist of essence [*in existiturientia essentiae*]" (Leibniz 3, pp. 1634–1635). The ultimate root of this demand is God ("for the demand of essences to exist [*existuritionis essentiarum*] it is necessary that there be a root *a parte rei* and this root can be nothing but the necessary entity, foundation [*fundus*] of essences and source [*fons*] of existences, namely God . . . if not in God and through God, essences could never find a way to existence [*ad existendum*]" ; ibid.).

3.20. Demand is therefore a category of ontology. But this must entail a redefinition of the ontological categories that Leibniz refrained from undertaking. Thus, he attributes the demand to essence (or potential) and makes existence the object of the demand. That is to say, his thought still remains a tributary of the ontological apparatus, which divides essence and existence, potential and act in being, and sees in God their point of indifference, the "existifying" (*existificans*) principle, in which essence is made always already existent. But what is a possibility that contains a demand? And how are we to

think existence, if it is nothing other than a demand? And what if demand is more original than the very distinction between essence and existence, potential and act? If being itself is to be thought starting from a demand, of which the categories of modality (possibility, contingency, necessity) are only the inadequate specifications, what must be decisively called into question?

3.21. According to Leibniz, the nature of demand is defined by the fact that it does not logically entail its object. That is to say, one says that a thing demands another, when if the first is, the other will also be, however, without the first logically implying it or containing it in its own concept and without it obliging the other to be. Demand is not a logical category. Thus, Leibniz can write in the correspondence with Des Bosses that “the substantial bond demands [*exigit*] the monads, but does not essentially entail [*involvit*] them, since it can exist without the monads and they can exist without it.” To demand (*exigere*) is not to entail (*involvere*). (In the same sense Benjamin can write that the life of Prince Myshkin demands to remain unforgettable even when no one remembers it.) But what does it mean to demand that something be, without it necessarily being? Hence the peculiar ontological status of demand: it is not of the order of essence (it is not a logical implication contained in the essence), but neither does it coincide with actual reality. In the onto-logical, it consists of the threshold—the hyphen—that unites and at the same time separates the ontic and the logical, existence and essence.

Thus, demand is the most adequate category to think the ambiguity of logic and ontology that the Aristotelian apparatus has left as an inheritance to Western philosophy. It corresponds neither to language nor to the world, neither to thought nor to the real, but to their articulation. If ontology thinks being insofar as it is said, demand corresponds to the *insofar* that at once separates and unites the two terms.

The problem, however, is precisely that of how one is to think this articulation. It cannot be something like a substantial connection. For this reason it is at the same time real and not factual, neither simply logical nor completely real. If language and world stand opposite one another without any articulation, what happens between them is a pure demand—namely, a pure *sayability*. *Being is a pure demand held in tension between language and world*. The thing demands its own sayability, and this sayability is the meaning of the word. But in reality there is only the sayability: the word and the thing are only its two fragments.

3.22. An essence that becomes a demand is no longer a simple possibility or potential but something else. One could say that demand, in the sense that we have in mind, is a mode of potential. One would nevertheless therefore repeat

the error of the Scholastics, who sought to reconcile mode with a conceptuality that is, in the last analysis, alien to it. Not only are possibility and essence transformed by demand; act and essence as well, invested with demand, lose their fixity and, contracting themselves on potential, demand to be possible, demand their own potential. *If existence becomes a demand for possibility, then possibility becomes a demand for existence.* Leibniz's posing of the problem of demand is here reversed: the possible does not demand to exist, but rather, it is the real that demands its own possibility. Being itself, declined in the middle voice, is a demand, which neutralizes and renders inoperative both essence and existence, both potential and act. These latter are only the figures that demand assumes if considered from the point of view of traditional ontology.

3.23. The problem of the *vinculum substantiale* must at this point be completely rethought. Being does not preexist the modes but constitutes itself in being modified, is nothing other than its modifications. One can then understand why Leibniz could write, in his still contradictory vocabulary, that the bond is something like an echo, "which once posited demands the monads." This proposition becomes intelligible only if one restores to the concept of demand its full ontological meaning. If demand and not substance is the central concept of ontology, one can then say that being is a demand of the modes just as the modes are a demand of being, on condition that we specify that demand here is neither a logical entailment nor a moral imperative. And this is also the only sense of the doctrine of the transcendentals: the being that is always already its modifications; it demands to be *unum, verum, bonum seu perfectum*, demands truth, justice, and perfection in the same sense in which Benjamin affirmed that justice is not a virtue but a state of the world.

3.24. It is here that the concept of *conatus* finds its proper place. When Spinoza defines essence as *conatus*, as "the force by which it endeavors to persist in its own being" (Spinoza 2, III, prop. 7: *Conatus, quo unaquaeque res in suo esse perseverare conatur, nihil est praeter ipsius rei actualis essentia*), he thinks something like a demand (in the scholium it says: *potentia sive conatus*—*conatus* is potential insofar as it is, in truth, a demand). The oxymoron "actual essence" shows the inadequacy of the categories of traditional ontology with respect to what is to be thought here.

The fact that the verb *conor* is in the middle voice shows once again its pertinence to the ontology that we are seeking to delineate here. If we propose to translate *conor* with "to demand" and *conatus* with "demand" ("The demand by means of which each thing demands to persevere in its being"), it is on the

condition of not forgetting the medial nature of the process that is here in question: the being that desires and demands, in demanding, modifies, desires, and constitutes itself. “To persevere in its being” means this and nothing else.

✠ In Plotinus’s footsteps, in his treatise, Herrera identifies being (*ser*) and desiring (*querer*): “And as Plotinus learnedly proves, [the first Cause] is in itself no less what it wants than it wants what it is in itself” (Herrera, p. 264). On the other hand, to show how in the *En-sof* something like an impulse toward creation can be produced, he thinks this first movement as a delight, which he calls *sha’ashu’a*, “delectable alteración”: “And this emergence from itself, which is infinite, toward another which is finite, as it should be, is the *sha’ashu’a* or virtual movement by which (although in itself and entirely the same as the Cause) it appears to differ from itself and in effect be directed and inclined toward another. . . .” (ibid., p. 294). *Conatus* is in its most intimate nature desire and pleasure.

3.25. An adequate category for thinking *conatus* is that of *ductus*, which is defined as *tenor sub aliqua figura servatus*, “a tension preserved under a certain figure.” This concept, which in some sense recalls the Stoic notions of *plege* and *tonos* (Cleanthes had spoken of a “*tonos* in the substance of all things”; *SVF*, fr. 497), which designate the internal tension of being, found an early application in the vocabulary of graphology, in which it designates the tension that guides the hand’s gesture in the formation of letters.

It is according to this graphological paradigm that we can represent to ourselves the relationship between the demand—or tension—of substance and its modes. The modes are the figures in which substance preserves its demand (its *ductus*). Just as, in a line of writing, the hand’s *ductus* passes continually from the common form of the letters to the particular traits that identify their singular presence, without it being possible at any point to draw a real boundary between the two, so also, in a mode—for example, a certain human face—human nature crosses over into existence in a continuous way and precisely this incessant emergence constitutes its expressivity. Common nature and singularity, essence and existence are only the two appearances generated by the incessant *ductus* of substance. And singular existence—the mode—is neither a substance nor a precise fact but an infinite series of modal oscillations, by means of which substance always constitutes and expresses itself.

3.26. In the formula that expresses the theme of ontology: *on he on, ens qua ens*, “being as being,” thought has lingered on the first *ens* (existence, that something is) and on the second (essence, what something is) and has left unthought the middle term, the *qua*, the “as.” The proper place of mode is in this “as.” The

being that is here in question is neither the *quod est* nor the *quid est*, neither a “that it is” nor a “what” but an *as*. This originary “as” is the source of modifications (the Italian *come*, “as,” derives etymologically from *quo-modo*). Restoring being to its *as* means restoring it to its *com-moditas*, namely, to its just measure, to its rhythm and its ease (*commodus*, which in Latin is both an adjective and a proper noun, has precisely these meanings, and *commoditas membrorum* designates the harmonic proportion of the parts of the body). One of the fundamental meanings of “mode” is in fact the musical one of rhythm, just modulation (*modificare* means, in Latin, to modulate harmonically: it is in this sense that we have said that the “as” of being is the source of modifications).

Benveniste has shown that “rhythm” (*rhythmos*) is a technical term of pre-Socratic philosophy that designates form, not in its fixity (for this, Greek prefers to use the term *schema*) but in the moment in which it is assumed by what is moving, what is mobile and fluid (Benveniste, p. 33/286). Plato applies this term to the ordered movements of the body: “Order in movement is called ‘rhythm,’ and order in the vocal sounds—the combination of high and low notes—is called ‘harmony’; and the union of the two is called ‘a performance by a chorus’” (*Laws*, 665a). In this sense, the term is also used, particularly by lyric poets, to define the proper form and character of each individual: “know what rhythm governs human beings” (*gignoske d’ oios rhythmos anthropous echei*; Archilocus), “do not praise a man before knowing his sentiment, his rhythm, and his character” (*orgen kai rithmon kai tropon*; Theognides).

Mode expresses this “rhythmic” and not “schematic” nature of being: being is a flux, and substance “modulates” itself and beats out its rhythm—it does not fix and schematize itself—in the modes. Not the individuating of itself but the beating out of the rhythm of substance defines the ontology that we are here seeking to define.

Hence the peculiar temporality of mode, on which it is appropriate to reflect. The adverb *modo* means in Latin “a short time ago, just now, recently.” This indicates, in the “now,” a small temporal gap, which is not a chronological past so much as a non-coincidence of the moment with itself, which obligates it to stop and take itself up again. We could say, then, that the temporal form of mode is neither the past nor the present nor even less the future: it is the *modern*, on condition of restoring to this discredited word its etymological meaning from *modo* and *modus* (present to some extent even in the related Italian term *moda*, “fashion”).

Since its first appearance in a letter of Gelasius I, which distinguishes the *admonitiones modernae* from *antiquae regulae*, the term *modernus* always implies a tension with regard to the past, as if the present could grasp and define itself

only in a gap with respect to itself. That is to say, the modern is intimately historical and archaic, because it has need of the ancient to refer and, at the same time, to oppose to itself. Analogously, the temporality of mode is not actuality: it is, in present existence or in the actual, the gap that impedes their coinciding with themselves—the operative time in which the flux of being pulsates and stops, takes itself up and repeats itself and, in this way, modulates itself in a rhythm. Insofar as it demands to preserve itself in its being, substance disseminates itself in the modes and can thus take form in time. The “being that it was” and its resumption in thought, existence and essence, substance and modes, past and present are only the moments or the figures of this rhythm, of this music of being: *ductus sub aliqua figura servatus*.

The person who is properly modern, in this sense, is not the one who opposes the ancient so much as the one who understands that only when something “has done its time” does it become truly urgent and actual. Only at this point can the rhythm of being be known and grasped as such. Today we are in this extreme epochal situation, and yet it seems that human beings do not manage to become aware of it and continue to be cut and divided between the old and the new, the past and the present. Art, philosophy, religion, politics have done their time, but only now do they appear to us in their fullness, only now can we draw from them a new life.

✠ Developing the Neoplatonic idea of emanation, Avicenna conceives of being as a flux (*fayd*). The first principle acts neither by will nor by choice but simply exists and, from its existence, accomplishes and “flows into” the world. The fact that in the image of flux what is in question is a tendential neutralization of the concept of cause, in the sense of the reciprocal immanence between causing and caused, is implicit in the way in which Albert the Great takes up this idea: “Only that can flow in which flowing and that from which it flows are of the same form, as the river has the same form as the source from which it flows. . . .” (Lizzini, pp. 10–11). If one maintains the image of flux, then the most adequate form for thinking mode is that of conceiving it as a vortex in the flux of being. It has no substance other than that of the one being, but, with respect to the latter, it has a figure, a manner, and a movement that belong to it on its own. The modes are eddies in the boundless field of the substance that, by sinking and whirling into itself, disseminates and expresses itself in singularities.

3.27. In order to correctly think the concept of mode, it is necessary to conceive it as a threshold of indifference between ontology and ethics. Just as in ethics character (*ethos*) expresses the irreducible being-thus of an individual, so also in ontology, what is in question in mode is the “as” of being, the mode in which substance is its modifications. Being demands its modifications; they are

its *ethos*: its being irreparably consigned to its own modes of being, to its “thus.” The mode in which something is, the being-thus of an entity is a category that belongs irreducibly to ontology and to ethics (which can also be expressed by saying that in mode they coincide). In this sense, the claim of a modal ontology should be terminologically integrated in the sense that, understood correctly, a modal ontology is no longer an ontology but an ethics (on the condition that we add that the ethics of modes is no longer an ethics but an ontology).

Only at this point does a confrontation with Heideggerian ontology become possible. If the difference between essence and existence becomes a crucial problem in *Being and Time*, in the sense that “the essence of Dasein lies in its existence” (Heidegger I, p. 42/67), the characteristics of this entity are not, however, to be conceived according to the model of traditional ontology as “properties” or accidents of an essence but “always and only as possible modes [*Weisen*] of being.” Therefore, “when we designate this entity with the term ‘Dasein,’ we are expressing not its ‘what’ (as if it were a table, house, or tree) but its being” (ibid.).

Heidegger emphatically emphasizes that the concept of existence that is in question here is not that of traditional ontology, which is founded on the clear distinction of essence and existence. The reference to the “modes of being” and the specification “every being-thus [*Sosein*] of this entity is primarily being” (ibid.) should have made us understand that the ontology of Dasein, even if Heidegger does not pronounce it explicitly, is a radical form of modal ontology, even if not a clearly thematized one. The lectures of the summer semester of 1928 at Marburg, which contain such precious comments on passages from *Being and Time*, suggest this unreservedly: Dasein “designates the being for which its own proper mode of being [*seine eigene Weise zu sein*] in a definite sense is not indifferent” (Heidegger 8, p. 171/136). Dasein is not an essence that, as in Scotus and the scholastics, is indifferent to its modifications: it is always and only its mode of being, which is to say, it is always radically mode (paraphrasing the Scholastic motto according to which “horseness is only horseness,” Dasein is mode and nothing more). Dasein is the mode of a being that coincides completely with mode.

It is not possible here to specify the reasons that drove Heidegger not to make the modal character of his ontology explicit. It is probable that it was precisely his prolonged adherence to the Aristotelian apparatus that did not allow him to understand that the ontological difference must be completely resolved into the being-modes relation. In any case, it is a matter of the same difficulty that constrained him to avoid up to the end a confrontation with the philosophy of Spinoza.

## Intermezzo II

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1. In the latter half of the thirties, while he was writing and compiling the remarks that come together in the notebook *Beiträge zur Philosophie* (*Contributions to Philosophy*, inappropriately designated by the editors of the *Gesamtausgabe* as one of his *Hauptwerke*), Heidegger insistently returns to his concept of Dasein (which he now always writes as Da-sein), and in revisiting the existential analytic that he had sketched in *Being and Time*, he newly defines the relationship between the human being and what that term was to designate. In *Being and Time*, he suggests, the concept was still thought in too anthropological a way, which could allow for equivocations. The term does not mean the human being or a characteristic or structural property of the human being (precisely this is what still seems to him to lend itself to “easy misunderstandings” in *Being and Time*): it is, rather, something that one must assume and “take up” (*übernehmen*; Heidegger 9, p. 297/235) and in which one must “be steadfast” (*ibid.*, p. 319/252–253). As such, it indicates “a possibility of the human being to come,” the “ground of a determinate future being of the human being, not the ground of ‘the’ human being as such” (p. 300/237), that is, of the human being who “endures being the *Da*, the ‘there’” and conceives himself as the “steward of the truth of being” (p. 297/235). Dasein does not mean “presence in some place or another” or simply “turning up” (*Vorkommen*) but rather “steadfast enduring [*inständige Ertragsamkeit*] as grounding the ‘there’” (p. 298/235), “persistence [*Beständnis*; *bestehen* means “to tenaciously overcome a test”] in the truth of Being [*Seyns*]” (p. 311/246). In the 1929–30 course *Fundamental Concepts of Metaphysics*, Dasein is defined still more figuratively as a “burden” that the human being must take upon himself.

Let us reflect on the terminology with which Heidegger seeks to define Da-sein: “taking up” (*übernehmen*), “possibility,” “steadfast endurance,” “persistence.” That is to say, we are dealing not with something that is always already present in the human being and which the human can have at its disposal but instead with a task

or a test that the human being must take up and endure—and it is an arduous task, if it is true that, as the title for §5 reads, it remains reserved for the “few and rare” (*Für die Wenigen—Für die Seltenen*).

Da-sein here seems to be not a substance but something like an activity or a mode of existing that the human being must assume in order to approach the truth (his own and that of being)—something that he therefore can also possibly miss. But how can that in which the very truth of being is in question remain entrusted solely to the uncertainty and contingency of a “test” or a “task”?

2. Here Heidegger is coming up against a difficulty that was already present in *Being and Time*. There the circular ontological constitution of Dasein, that is, of the entity for which being itself is at issue in its being, entails a “priority” (*Vorrang*; Heidegger 1, p. 13/34) and a “distinctiveness” (*Auszeichnung*; p. 11/32) of Dasein, which in its very structure—insofar as it “has a relation of being with its being”—is “in itself ontological” (p. 13/34). In this sense, Dasein is the “ontico-ontological condition for the possibility of any ontology” (p. 13/34). At the beginning of §4, the relation between Dasein and the human being had, however, been defined by Heidegger, at least in a hurried way, in these words: “As ways in which the human being behaves, sciences have the manner of being [*Seinsart*] this entity—the human being itself—possesses. This entity we grasp terminologically [*fassen wir terminologisch*] as ‘Dasein’” (p. 11/32).

What is thematically confronted in the *Beiträge zur Philosophie* is precisely the problem of this “terminological grasp.” Is it the human being who, in assuming its *Da*, is the “projector of Being” (*Entwerfer des Seins*; p. 299/236), who opens its clearing and safeguards its truth, or is it, rather, Being that “uses” (p. 318/251) the human being to this end? That is to say, is Being, the open, a performance of the human being as Dasein, or is Dasein (and the human being it entails) a performance of Being?

3. In the *Beiträge*, these questions never stop resonating, and it can be said that *Ereignis* (understood etymologically as “appropriation”) is the apparatus through which Heidegger seeks to resolve the aporia that is expressed in them. This is clearly confirmed in the explanation of the title that opens the book: what is in question here is “to let oneself be appropriated in appropriation [*Er-eignis*], which is equivalent to a transformation of the human being: from ‘rational animal’ (*animal rationale*) to Da-sein. The fitting rubric is therefore *Of [von] Ereignis*” (Heidegger 9, p. 3/5).

The paragraphs of section V, which bear the title “The Grounding,” return constantly to the problem of the relation between Dasein and the human:

Who is the human being? The one used [*gebraucht*] by Being for the sake of withstanding the essence [*Wesung*] of the truth of Being.

As so used, however, humans “are” humans only inasmuch as they are grounded in Da-sein, i.e., inasmuch as they themselves, by creating, become the ones who ground Da-sein.

Yet Being is also grasped here as appropriation [*Er-eignis*]. Both belong together: the grounding back [*Rückgründung*] into Da-sein and the truth of Being as appropriation-event [*Ereignis*].

We grasp nothing of the direction of the questioning that is opened up here if we casually base ourselves on arbitrary ideas of the human being and of “beings as such” instead of putting into question at one stroke both the “human being” and Being (not simply the being of the human being) and keeping them in question. (Ibid., p. 318/252)

*Ereignis* is what allows one to think the co-belonging and reciprocal foundation of human being and Dasein and of Dasein and Being. If the relation of co-belonging between Being and Dasein (the *Da*, the “there” as opening of Being) is already in *Being and Time* and even more in the *Beiträge* in some way analyzed and defined, that of the human being and Dasein and the transformation of the living human being, of the *animal rationale* into Da-sein that is in question in it remain, by contrast, problematic to the end. Being is “grounded back” into Dasein, but whether Dasein in turn needs a foundation or a place (a *Da*) in the human being is left vague. In what way does Dasein entail the human being in itself, so that Being, in appropriating Dasein to itself, can also appropriate to itself the human being? And what happens, in the event of appropriation, to the living human being as such?

4. Benjamin once defined Heidegger’s style as “angular,” in the sense that it betrayed the philosopher’s fear of running up against a corner, that is, problems that he had not been able to get to the bottom of. That Heidegger does not manage to get to the bottom of the co-belonging of the human being and Da-sein, that the problem of the living human being remains in some way unresolved, is obvious in the obscurity and vagueness that characterize the style of the *Beiträge* every time Heidegger comes up against this theme. Paragraph 175 is among those in which the question is precisely invoked. The question here is that of exceeding “the first reference to Da-sein as the grounding of the truth of Being” that in *Being and Time* had been achieved by means of asking about the human being, conceived as “the projector of Being [*der Entwerfer des Seins*] and

thus as detached from all ‘anthropology’” (p. 299/236). And yet what is equivocal here is that it seems that Dasein can be understood only with reference to the human being. Instead, when thought starting from the truth of Being, “Da-sein moves . . . away from the relation to the human being and reveals itself as the ‘between’ which is developed by Being itself so as to become the open domain for the beings that protrude into it, a domain in which beings are at the same time set back on themselves. The ‘there’ is appropriated and made to happen [*ereignet*] by Being itself. The human being, as steward of the truth of Being, is subsequently appropriated and thus belongs to Being in a preeminent and unique way [*in einer ausgezeichneten einzigen Weise*]” (ibid.). How this “preeminent and unique” appropriation of the human being on the part of Being can happen is not in any way explained, unless it is with the word “subsequently,” which remains all the more problematic insofar as Dasein has just been moved away from any reference to the human being.

At this point it is not surprising that the paragraph concludes with a sentence in which the angular stylistics are neutralized and leave the problem entirely unresolved: “The question of what the human being is possesses now for the first time the openness of a path which nevertheless runs amid the uncovered and upon which the storm of Being is thus allowed to rage” (p. 300/237).

5. The central problem of the *Beiträge* and, in a certain sense, of the whole of Heidegger’s thought is therefore precisely the one that every first-year philosophy student immediately sees and just as immediately lets drop: the relation between the living human being and Da-sein. If Dasein—as Heidegger never stops repeating—consists solely in being-the-there, in offering the clearing and opening for the truth of Being, where does the “there” come from and where is it situated, this “there” that Dasein is and has to be? Only a rereading of §28 and §29 of *Being and Time*, devoted to the analysis of being-there as mood or state-of-mind, allows one to single out the starting point from which a response becomes possible.

Mood or state-of-mind “reveals Dasein in its being consigned [*Überantwortetsein*] to the ‘there’” (p. 134/173). That is to say, Dasein is “always already disclosed as that entity to which it is consigned in its Being; and in this way it has been consigned to the Being which, in existing, it has to be”; and yet precisely the “whence and whither” (*das Woher und das Wo*) of this “there” remain obstinately in darkness (*im Dunkel*; ibid.). It is this characteristic of Dasein, of being veiled in its whence and its where and, nevertheless and precisely for this reason, “disclosed all the more unveiledly,” that Heidegger calls the being-thrown of

Dasein in “its ‘there’” (*in sein Da*; p. 135). A few lines later, the foreignness and obscurity of the “there” are affirmed even more forcefully: “mood or attunement brings Dasein before the ‘that-it-is’ of its ‘there,’ which as such stares it in the face with the inexorability of an enigma” (p. 136/175).

And yet, in the same context, the “there” is defined, with respect to Dasein, as “its own,” and a little before, we read that “Dasein from the very beginning [*von Hause aus*] brings its ‘there’ along with it” (p. 133/171). It is this original belonging, this character of “itsness” that must here be interrogated and called into question. Why is Dasein “consigned” to its “there” like an inexorable enigma, and why, in being its own “there,” is it always already disposed to a certain mood or attunement? Where does this character of veiling and foreignness of the “there” come from? Why does the “there” remain so impenetrable for Dasein?

The only possible response is that the “there” is foreign, veiled, and emotionally disposed because it does not originally belong to Dasein but to the human being, to the living being who offers to Dasein the place that this latter needs in order to find “its” “there.” The involvement of the human being and Dasein takes place in the “there”; the “there” is the place of an originary conflict, of an expropriation and an appropriation, in which the living human being is abolished and suspended so that Dasein may have a place. The “gigantomachy concerning Being” that *Being and Time* proposes to renew presupposes a preliminary gigantomachy over the “there,” which unfolds between the living human being and Dasein.

The “there” of Dasein takes place in the non-place of the living human being. And nevertheless, this conflict—or this reciprocal being-opened—that in *Being and Time* is not thematized as such and in the *Beiträge* appears only as a demand for a “transformation of the human being into Dasein,” remains covered over and absorbed by the relation between Dasein and Being. In this way, the “there” is the object of a game of dialectical sleight of hand between Dasein and the human being, in which the “there,” which can only come from the human being, is made proper to Dasein as if it were always already “its own” and is then appropriated by Being as its own clearing.

6. The presupposition of the living being as the anthropophoric element that functions, so to speak, as a substrate for the human being is a constant trait in modern philosophy. What is in question here is the problem—a strictly archeological one—of all the definitions—like that of the human being as *animal rationale*—that consist in adding a qualificative determination to an element that functions as foundation. If the human being is truly such only when a

simply living being becomes rational, then one would have to presuppose an animal-human that is not yet truly human. In the same way, if the human being is truly such only when, in becoming Dasein, it is opened to Being, if the human being is essentially such only when “it is the clearing of Being,” this means that there is before or beneath it a non-human human being that can or must be transformed into Dasein.

In the *Letter on Humanism*, Heidegger seems somehow aware of this dilemma. Metaphysics, he writes, “thinks the human being on the basis of its *animalitas* and does not think in the direction of his *humanitas*” (Heidegger 10, p. 155/246–247). What one must ask above all is “whether the essence of the human being primordially and most decisively lies in the dimension of *animalitas* at all,” whether we can grasp this essence, as long as we define the human being as one living being (*Lebewesen*) among others. The error of biologism is not yet overcome insofar as one adds to the corporeity of the human being the soul, and to the soul the spirit. The human being dwells in its essence only insofar as it is claimed by Being, it ek-sists ecstatically “in the clearing of Being” (*in der Lichtung des Seins*), and this ek-sistence “can also never be thought as one specific modality of living creature among others.” From this perspective, “even what we attribute to the human being as *animalitas* on the basis of the comparison with ‘beasts’” must be thought starting from its ek-sistence (ibid.).

“The human body,” Heidegger writes at this point, “is something essentially other than an animal organism” (ibid., p. 155/247). This enigmatic thesis, advanced hurriedly and yet unreservedly, could perhaps have constituted the germ of a different conception of the relationship not only between *animalitas* and *humanitas* but also between the human being and Dasein. What is in question here, as with the body of the slave in Aristotle, is nothing less than the possibility of another body of the human being. Nevertheless, in the text of the *Letter*, it is not taken up again or further developed. On the contrary, a few pages later, the relation between the human being and Dasein is evoked in terms that, despite the attempt to take a distance from them, seem to fall back into the aporia of a living being who becomes truly human only by accepting the claim of Being:

But the essence of the human being consists in his being more than merely human [*mehr als der blosse Mensch*], if this is represented as “being a rational creature.” “More” must not be understood here additively, as if the traditional definition of the human being were indeed to remain basic, only to be elaborated by means of an existentiell postscript. The “more” means: more originally and therefore more essentially in terms of his essence. But here something enigmatic manifests itself: the human being is in thrownness. This means that the human being, as

the ek-sisting counterthrow [*Gegenwurf*] of being, is more than *animale rationale* precisely to the extent that he is less bound up with the human being conceived from subjectivity. The human being is not the lord of beings. The human being is the shepherd of Being. Human beings lose nothing in this “less”; rather, they gain in that they attain to the truth of Being. They gain the essential poverty of the shepherd, whose dignity consists in being called by Being itself into the preservation of being’s truth. The call comes as the throw [*Wurf*], from which the thrownness of Da-sein derives. (pp. 172–173/260–261)

Here we see how first philosophy is always above all the thought of anthropogenesis, of becoming human. But what is thrown here? If Dasein is what is generated as a repercussion of the call of Being, something like an animality or non-humanity is still a presupposition to the truly human, to the Dasein that, projected into its “there,” arrives in the truth of Being. Certainly the repercussion, according to a dialectical scheme that Hegel has rendered familiar to us, is more originary than the presupposition, namely, the *animal rationale*. But the presupposition here conceals the fact that the dialectical operation leaves a remainder that is still uninterrogated. The anthropogenetic event of appropriation on the part of Being can be produced only in a living being, whose destiny cannot fail to be in question in Dasein. Only a conception of the human that not only does not add anything to animality but does not supervene upon anything at all will be truly emancipated from the metaphysical definition of the human being. Such a humanity nonetheless could never be thought as a task to be “taken on” or as the response to a call.

7. In §10 and §12 of *Being and Time*, the relation between Dasein and life had been briefly treated and resolved in the direction of an ontic and ontological priority of Dasein over the simply living. “Life,” we read,

is a particular mode of Being; but essentially it is accessible only in Dasein. The ontology of life is accomplished by way of a privative interpretation; it determines what must be the case if there can be anything like still-only-life [*Nur-noch-leben*]. Life is not a mere being-available, nor is it Dasein. In turn, Dasein is never to be defined ontologically by regarding it as life (in an ontologically indefinite manner) plus something else. (p. 50/75)

Clearly any definition of what precedes thought and language—the understanding of Being proper to Dasein—can only be presupposed by them and a presupposition to them. The event, the appropriation of the human being on the part of Being by means of Dasein, is something that presupposes the living being to which and in which the event has produced itself. Heidegger knows perfectly

well that what contemporary language and the natural sciences call life is, like sense certainty in Hegel, a presupposition that, as such, is obtained only in a privative way starting from Dasein, to return to which it is then necessary to add back in what has been taken away. But what is in question is precisely the status of this presupposition—in this case, the “still-only-life”—and it cannot be simply set aside. Heidegger suggests that life is not a “simple being-available” (*pires Vorhandensein*; *ibid.*), but neither does it have the structure of Dasein. Nevertheless, the modality of being of life is not subsequently interrogated in *Being in Time*, and Heidegger limits himself to confirming that the ontological constitution of life can be determined (for example, by biology) by way of privation only starting from the ontological structure of Dasein: “Ontically as well as ontologically, the priority belongs to Being-in-the-world as taking care” (p. 58/85). But being-in-the-world (*In-der-Welt-sein*) as originary structure of Dasein is not the same thing as the animal environment (*Umwelt*).

8. In the winter semester of 1929–30, two years after the publication of *Being and Time*, Heidegger devoted an entire course to the animal and the human, the text of which, published in 1983 under the title *Fundamental Concepts of Metaphysics*, is certainly one of his major works (cf. above, Part I, §8.8). Here the relationship between the human being and the animal (and, even if Heidegger does not mention it explicitly, between the living human being and Dasein) is posed in the much more radical way than the critique of the dialectic of privation and addition that is implicit in the metaphysical definition of the *animal rationale*. The animal’s mode of Being here appears, with respect to that of the human being, as closer and at the same time more difficult to think. The course opens by opposing the “world-forming” (*weltbildend*) human being and the ontological status of the animal with its “poverty of world” (*Weltarmut*), the open of human being-in-the-world and the non-open of the animal’s relation with its environment (which is only the sum of its disinhibitors).

As soon as the analysis is developed and deepened, however, things become more complicated and the opposition loses its clarity. For the animal, who is captured by its disinhibitors and remains captivated (*benommen*) in them, the environment is not simply closed. On the contrary, it is open (*offen*), and perhaps more forcefully than the world can ever be open for the human being; and yet it is not revealed (*offenbar*) in its Being:

In its captivity [*Benommenheit*], beings are not manifest, are not disclosed, but neither are they closed off. Captivation stands outside this possibility. As far as the animal is concerned we cannot say that beings are closed off from it. . . . But

the captivation of the animal places the animal essentially outside the possibility that beings could be disclosed to it or closed off from it. To say that captivation is the essence of animality means: the animal as such does not stand within a revealedness [*Offenbarkeit*] of beings. (Heidegger 5, p. 361/248)

That is to say, if we attempt to define the ontological status of the animal's relation to its environment as it follows from the course, we must say that the animal is at the same time open and not open—or better, that it is neither one nor the other: it is open in a non-unveiling that, in one respect, captivates and captures it with unheard-of vehemence in its disinhibitor and, in another respect, never reveals as a being what holds it so fascinated and enchanted. Heidegger here seems to oscillate between two opposed poles, which in a way recall the paradoxes of mystical unknowing. On the one hand, animal captivation is a more intense opening than any human awareness (Heidegger can thus write that “life is a domain which possesses a wealth of openness with which the human world may have nothing to compare”; *ibid.*, p. 371/255). On the other hand, insofar as it is not in a position to unveil and perceive its own disinhibitor as such, it is enclosed in a total opacity. Like human ek-sistence, captivation is in this sense also a form of ecstasy, in which “the animal in its captivation finds itself essentially exposed to something other than itself, something that can indeed never be manifest to the animal either as a being or as a non-being, but that . . . brings an essential disruption [*wesenhafte Erschütterung*] to the essence of the animal” (p. 396/273). It is not surprising, however, that, perhaps with a tacit illusion to the dark night of mysticism, Heidegger feels the need to evoke, in connection with the captivation of the living being with its disinhibitor, one of the most ancient symbols of the *unio mystica*, the moth that, out of love, lets itself be consumed by the flames, to which Debord was to compare his life many years later.

9. In the course, what corresponds to animal captivation in the human being and brings the open of the world into “the closest proximity” (p. 409/282) to the neither-open-nor-closed of the environment is profound boredom. The lengthy section that Heidegger devotes to the analysis of this “fundamental mood or attunement” has the strategic function of defining the metaphysical operator in which the passage from animal to human, from poverty of world to world, is carried out. In profound boredom, in fact, just as in animal captivation, the human being is stunned and consigned to “beings as a whole,” which now stand before it in absolute opacity. “Beings as a whole,” writes Heidegger,

do not disappear, however, but show themselves precisely as such in their indifference. . . . This means that through this boredom Dasein finds itself set in

place precisely before beings as a whole, to the extent that in this boredom the beings that surround us offer us no further possibility of acting and no further possibility of our doing anything. . . . Dasein thus finds itself delivered over to beings' telling refusal of themselves as a whole. (pp. 208–210/138–139)

In profound boredom, Dasein regresses, so to speak, to an animal condition: it is consigned to something that refuses itself to it, exactly as the animal in its captivity is captured and exposed in a non-unveiling. For this reason Heidegger can write that profound boredom is the human phenomenon to which “captivation, as precisely the essence of animality, apparently belongs in the closest proximity” (p. 409/282). But it is precisely in this “being-held-in-suspense” (*Hingehaltenheit*) of the human being with respect to the things that encircle it, in this self-refusal of beings as a whole, that something like a possibility—the possibility of Dasein—is produced in the human being. And this is precisely what the animal, captivated in its disinhibitor, cannot do, because its relation to the environment is constituted in such a way that a suspension and a possibility can never manifest themselves.

The human being thus appears as a living being that, in suspending its relations to things, grasps beings in their self-refusal as possibility. It is an animal that, in becoming bored, has awoken from and to its own captivation and can now grasp it as such, a moth that, while the flame is consuming it, notices the flame and itself for the first time. This means that Dasein is an animal that has grasped its animality and has made of this the possibility of the human being. But the human being is void, because it is only a suspension of animality.

10. Nowhere does Heidegger clearly pronounce a similar thesis, and it is in fact possible that at a certain point he retreated before it. And yet perhaps only such a thesis could allow us to understand why the clearing of Dasein is a burden that it is necessary to take up, why mood or attunement reveals Dasein in its being consigned and thrown into the “there.” The “there” that the human being is and has to be and that stands before it as an implacable enigma has no concrete content, because what is grasped in it through its suspension is only animal captivation. This latter, which is something like an *Ur-Stimmung* and the ultimate source of every human mood or attunement, is the dark jewel set in the clearing of being, the black sun shining in the open.

For this reason, in the *Beiträge*, the fundamental attunement of the human being to come is defined as “die Verhaltenheit,” re-strait, which is to say the “readiness for the refusal as gift” (Heidegger 9, p. 15/14), and “das Erschrecken,” the dismay that withdraws before something that is veiled and, at the same time, holds Dasein enchanted with itself. And in the 1934–35 course on Hölderlin, it

is the same factual situation, the same being irrevocably thrown into a given condition that presents itself as a task: “the historical vocation is always that of transforming the already-given [*das Mitgegebene*] into what is given-as-task [*das Aufgegebene*]” (Heidegger II, p. 292/264). And if one wanted to name something like the fundamental attunement or mood, the *Grundstimmung* that dominates all of Heidegger’s thought, one would have to define it as being obstinately consigned to something that just as tenaciously refuses itself, or being consigned to something unassumable. But this unassumable is nothing other than animal captivation, the “essential shock” that arises out of the living being from its being exposed and captured in a non-revelation. The living being is not simply a pre-supposition, which can be dialectically overcome and conserved, but something unassumable and obscure that remains in suspense in the very heart of Being.

II. This feeling of being implacably consigned to something that nevertheless must be taken up—being-thrown as task—was perhaps at the root of the “petty-bourgeois radicalism” and “will to destruction” in Heidegger that so irritated Löwith and Leo Strauss, and by which they partly explained his support of National Socialism. And perhaps this also explains why, at the end of the eighties in Paris, when Levinas, knowing of my participation in the seminars of Le Thor, had asked about my impressions of Heidegger, he was so surprised that I had found him “gentle.” Like Löwith, Levinas, who had known him in the thirties, remembered him as strong and decisive, as someone who sought precisely to assume a task that he did not manage to carry through.

I remember the moment of his arrival at Le Thor in September 1966. I met him in the garden of the small hotel—it was called “Le chasselas,” named after a vintage of the region—where he was also going to stay and suddenly his eyes struck me, so lively, bright, and penetrating, with nothing at all downcast about them, as in Löwith’s recollection. The expression on his face was at once severe and gentle, of the kind of gentle severity that I had seen on the face of Tuscan peasants. He was, or so it seemed to me, self-conscious and yet seemed to suddenly forget himself to abandon himself to a smile, as when I showed him the photograph that I had just taken of him with a Polaroid (in those years it was still a novelty) and he exclaimed with surprise: “Sie sind ein Zauberer!” (“You are a magician!”). But he had impulses of anger that were just as sudden, as when, toward the end of the seminar on Heraclitus, he said, staring at Jean Beaufret: “You have constantly kept me from bringing the seminar to a conclusion.”

He stopped for a long time to watch bocce players in the village, commenting on their moves with a sort of participatory, cheerful skill. And in the com-

pany of René Char or in Madame Mathieu's house, he showed a comfortable familiarity with the quality of the grape or wine. But when, near Aix, after a long hike in the woods we reached the point where Cézanne placed his easel to paint, he remained motionless for almost an hour, silent and as though struck dead before the stupendous vision of Ste. Victoire. Perhaps, even if the history of Being had now reached an end and the fundamental mood or attunement was by this time *Gelassenheit*, he still sought to assume the "there," to remain in the clearing of Being, in suspended animality.

12. If the interpretation of the genesis of the human being from animality that we have delineated here is correct, then possibility is not one modal category among others but is the fundamental ontological dimension, in which Being and the world are disclosed by the suspension of the animal environment. And it is because Being reveals itself above all in the form of the possible that Heidegger can write that "the human being, which as existent transcendence is thrown before in possibility, is a being of distance" (Heidegger 10, p. 131/135). The human being is a being of distance because it is a being of possibility, but insofar as the possibility to which it is assigned is only the suspension of the immediate relation of the animal with its environment, it contains the nothing and non-being as its essential traits. And precisely because being-human is given to it only as possibility, the human being is continually in the act of falling back into animality. The privilege of possibility in Heideggerian ontology is indissoluble from the aporia that assigns humanity to the human being as a task that, as such, can always be mistaken for a political task.

13. In 1929 at Davos, during the encounter—or clash—between Cassirer and Heidegger, the young Emmanuel Levinas, who was attending with other companions among whom was Franz Rosenzweig, resolutely took the side of Heidegger. It is recounted that that evening, while they were discussing and celebrating together the victory of the new thought against the old academic philosophy, Levinas, putting a white wig on his head, had caricatured the neo-Kantian philosopher, with his imposing, premature white hair. All the more striking, then, is the fact that some of the central categories of the early Levinas can be read, without forcing, as caricatures (in the etymological sense of an "affected [It., *caricata*] figure," whose traits have, that is to say, been exaggerated) of Heideggerian notions, particularly of being-thrown.

In the essay *De l'évasion* (cf. above, part I, §8.4), Levinas pushes the opacity of *Geworfenheit* to the extreme, to the point of making of the brute fact of the "there is" (*il y a*), to which the human being is always consigned and "nailed

down” (*rivé*), the fundamental characteristic of his ontology. In the experience of the “there is,” which is revealed in insomnia, “when there is nothing to watch and despite the absence of any reason for remaining watchful,” we are delivered over to an anonymous and oppressive presence, from which we cannot flee: “one is held by being, held to be” (Levinas 2, p. 75/65).

That what is in question here every time is nothing other than a heightening of the Heideggerian being-thrown is not doubtful; but while in Heidegger it is a matter precisely of assuming the “there” that *Dasein* is and has to be, by contrast, for Levinas, by means of a caricatured exaggeration of the emotive situation, of which he has highlighted the dreadful and shameful traits, it is a question of running away from the experience of “being consigned,” from which—Levinas seems to suggest—Heidegger never seems to have managed to liberate himself. And the fact that the parodic intention here had a decisively critical function is confirmed beyond any doubt by the brief text *On the Philosophy of Hitlerism* written a year before, in which the same category of “being nailed down” serves to define the Nazi conception of corporeity.

14. Oskar Becker, one of the most gifted of Heidegger’s early students, had also sought to find a way out of the master’s thought by means of an exaggeration of the category of being-thrown. But while in Levinas it was a matter of a caricature of excess, Becker seems to practice a sort of caricature of defect or antiphrasis. To the Heideggerian pathos of being consigned, there corresponds here the adventurousness and lightness of a mode of existing from which every weight and every having-to-be seem to have disappeared.

The parodic intent is so little concealed that Becker, in opposition to the Heideggerian *ek-sistence*, can call the “hyperontological” experience that he seeks to analyze “paraexistence,” and in the same sense, he can place a *Dawesen* precisely alongside *Dasein*.

One of the spheres in which Becker seeks to put what can be defined as his “counter- or para-analytic of *Dasein*” to the test is the existence of the artist. Heideggerian being-thrown, he argues in a 1929 essay, is not sufficient to account for the peculiar *Dasein* of the genius in all its aspects. Here the “character of weight” that defines *Dasein* in its being consigned and thrown into the “there” disappears. The artist’s mode of existence, which is not simply historical but “adventurous and eventful,” needs a new ontological category to be grasped, which can be approximately designated as “quasi-existential or para-existential.” The “paraexistential” that is in question appears as something symmetrically inverse with respect to the existentials that Heidegger calls

“being-thrown” and “projected.” For this reason Becker calls it “being carried” (*Getragensein*; Becker, *passim*).

Taken literally, Becker argues, the expression could be misunderstood, as if one still had to do with a weight that must be supported. “With being-carried (*vehi, pheresthai*), one must rather think the peculiar weightless mobility of the firmament in the ancient conception (not Newtonian mechanics, according to which, by contrast, gravitation and centrifugal force uninterruptedly drag the stars along in the heavens).”

That is to say, we are dealing with a being carried without there being anything that supports us, with a condition in which what carries us is not—as in Heideggerian being-thrown or persuasion in Michelstaedter—the weight to which we are consigned but precisely the opposite, our absolute lack of weight and lack of a task. This does not mean that the artist lives in complete unconsciousness or outside history: instead, the peculiar “adventurousness” of his existence is situated “at the midpoint between the extreme insecurity of the projected-thrown and the absolute security of being-carried, between the extreme problematicity of everything historical and the absolute ‘no problem’ of every natural being” (*ibid.*, pp. 31–32).

In this sense, being-thrown and being-carried define the two poles between which the various grades and modalities of existence are deployed and articulated. And as the form par excellence of being-carried, the inspiration of artistic existence—“heedless and not menaced by guilt and death” (p. 36)—is the opposite of the anguished and decisive being consigned to a task. And yet it is, at the same time, exposed in a fragility and caducity that being-thrown does not know.

15. Nothing compares to the condition described by Becker like the amorous experience, and the best testimony of being-carried is not found in the writings and working notes of artists but in the diary of a woman in love: Helen Grund Hessel.

Even though the events narrated in this diary are known from other sources and inspired a very celebrated film in the sixties, the edition published in 1991, almost ten years after the author’s death, constitutes an exceptional document, in which, beyond the extraordinary amorous events that are narrated there, a form of life testifies of itself with an absolutely incomparable intensity and immediacy.

The diary covers three months, from August to October 1920. The existence that is described there in all its particulars, including intimate details, is never exhausted in a series of deeds and episodes, and thus it does not in any way constitute anything like a biography. Helen’s life is “carried” to such a point

that nothing can be isolated in it and acquire a factual consistency: everything flows and passes ceaselessly into vision (the diary is strewn with such moments in which the account breaks into a vision). And her being-carried is not something individual but drags along with itself the existence of the persons who surround her, from her lover Henri-Pierre Roché to her husband Franz Hessel, from her sons Uli and Stéphane to her sister Bobann and her friends Thankmar von Münchhausen, Herbert Koch, and Fanny Remak. The life that Helen lives and the life through which she lives are identified without remainder, and what appears in this coincidence is no longer a presupposed life but something that, in life, ceaselessly surpasses and overtakes it: a form-of-life.

PART THREE

# Form-of-Life

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## Life Divided

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**1.1.** A genealogy of the concept of *zoè* must begin from the recognition—not initially to be taken for granted—that in Western culture “life” is not a medical-scientific notion but a philosophico-political concept. The fifty-seven treatises of the *Corpus Hippocraticum*, which gather the most ancient texts of Greek medicine, composed between the last few decades of the fifth century and the first few of the fourth century BCE, fill ten quarto volumes in the Littré edition. But an examination of the *Index Hippocraticum* shows that the term *zoè* occurs there just eight times, and never in a technical sense. That is to say, the authors of the *Corpus* were able to describe in minute detail the humors that compose the human body and whose equilibrium determines health and sickness; consult one another on the nature of nourishment, on the growth of the fetus, and on the relation between modes of life (*diaitai*) and health; describe the symptoms of acute maladies; and, finally, reflect on the medical art, without the concept “life” ever assuming an important role and a specific function. This means that to construct the *techne iatrike* (medical art), the concept “life” is not necessary.

✠ Of the eight texts of the *Corpus* in which the word *zoè* appears, three (“The Letter to Damagete,” “The Discourse at the Altar,” “The Discourse at the Embassy of Thesaly”) do not have a medical character and are certainly apocryphal. Of the other five occurrences, three refer to the patient’s duration of life in relation to imminent death: *On Joints*, 63, “life in such cases lasts only a few days” (*zoè oligomeros toutoisi ginetai*); *On Affections*, 23: “there is no hope of life” (*zoes oudemia elpis*); *Precepts*, 9: “they depart this life” (*metallassousi tes zoes*). In two, finally, the sense could be relevant, but it is left entirely indeterminate: *On the Heart*, 7: “These ventricles are the fountains of a person’s being, and rivers pass from them through the body to water its frame; these rivers carry life to a person [*ten zoen pherousi toi anthropoi*]”; *Nutriments*, 32: “Potential is one and not one, by which all these things and those of a different sort are managed; one for the life of the whole and the part [*zoen holou kai merou*], not one for the sensation of the whole and the part.” This last occurrence is the only one in which, through the opposition between life and sensation, the term *zoè* seems to acquire a less generic meaning.

The verb *zen*, to live, which appears in the *Corpus* fifty-five times, also never has a technical meaning, and when it does not generically designate the “living,” it refers to the duration of life or, in the stereotypical form *ouk an dynaito zen*, to the impossibility of surviving in a determinate condition.

The other term for “life” in Greek, *bios* (in the sense that interests us here, that of form of life or qualified human life) appears in the *Corpus* thirty-five times, first of all in the celebrated *incipit* of the *Aphorismi* [LCL 4]: *Ho bios brachys, he de techne makrè* (“Life is short, art is long”). In confirmation of the lack of technicalization of the concept “life” in the medical sphere, the texts of the *Corpus* show, with respect to literary and philosophical texts, a certain indetermination of the opposition *zoè/bios* (cf., for example, *On Breaths*, 4).

1.2. Let us now open Aristotle’s *Politics*. Even though it is not concerned with citizens as natural living bodies but with the city as hierarchically supreme community, the concept “life” assumes a technical meaning from its very first pages. It is not necessary that it be defined for a term to have a technical character; it is sufficient that it develops a decisive strategic function in the theory. A summary survey of the meanings of the terms *zoè* and *zen* shows that, even if Aristotle never gives it an axiomatic definition, it is precisely its articulation in the couple “living/living well,” “natural life/politically qualified life,” “*zoè/bios*” that allows one to define the sphere of politics. The celebrated definition of the *polis* as “born in view of living [*tou zen*], but existing in view of living well [*tou eu zen*]” (*Politics* 1252b 28–30) has given canonical form to this interweaving of life and politically qualified life, of *zoè* and *bios*, that was to remain decisive in the history of Western politics.

It is the structure of this interweaving that we have sought to define in *Homo Sacer I*.

1.3. As Aristotle never ceases to remind us, men have not united together “only in view of living but rather for living well” (*tou zen monon heneka, alla mallon tou eu zen*). Otherwise, he adds, “there would also be a *polis* of slaves and animals” (ibid., 1280a 30–31), which for him was obviously impossible. The perfect community consequently results from the articulation of two communities: a community of the simply living (*koinonia tes zoes*; 1278b 17) and a political community (*politikè koinonia*; 1278b 25). Even if the first implies a certain “serenity” and a “natural sweetness” (1278b 30), it is in view of the second that the first is constituted (“the *polis* is by nature prior to the family [*oikia*] and to each individual, because the whole is necessarily prior to the parts”; 1253a 19–20).

The threshold that marks the passage from one community to the other is autarchy (*autarkeia*). This concept develops an essential function in Aristotelian politics, which has perhaps not yet received its due attention. Victor Goldschmidt

has shown that in Aristotle “autarchy” is not a juridical or economic or political concept but a biological one (Goldschmidt, p. 86). The *polis* is autarchic, whose population has reached the just numeric consistency. An initial examination of the passages of the *Politics* in which Aristotle makes use of this concept seems to confirm this thesis. The term in fact appears in a strategic function already in the above-cited definition of the *polis* at the beginning of the treatise: the *polis* is “a complete community, which has reached the limit of complete autarchy [*pases echousa peras tes autarkeias*], born in view of living but existing in view of living well” (1252b 28–30). The definition is confirmed in the course of the treatise in almost the same words: “a community of living well for both families and aggregations of families, for the sake of a perfect and autarchic life” (1280b33), “a community of families and villages in a perfect and autarchic life” (*zoes teleias kai autarkous*; 1281a 1). But what is an “autarchic life”?

A passage from Book VII specifies in what sense one should understand the term:

To the size of the *polis* there is a limit, as there is in other things, plants, animals, and implements; for none of these retain their natural power [*dynamis*] when they are too large or too small. . . . In like manner a *polis* when composed of too few is not autarchic—and the *polis* is something autarchic—and when of too many, though autarchic in necessities, like an ethnic community (*ethnos*), but not like a *polis*, being almost incapable of a political organization (*politeia*). For who can be the general of such a vast multitude, or who the herald, unless he have the voice of Stentor? It is necessary, then, so that there may be a *polis*, that it have a multitude (*plethos*, a quantity of population) that is autarchic with respect to the good life in accordance with political community. . . . Clearly then, this is the best limit of a *polis*: the greatest extent of the multitude with respect to autarchy of life, which can be taken in at a single view. (1326a 35–1326b 9)

1.4. The concept of autarchy serves to define the measure of population and “life” that permits one to pass from a mere *koinonia zoes* or a purely ethnic community to a political community. Political life is necessarily an “autarchic life.” This implies, however, that there is a life that is insufficient for politics and that it must become autarchic to be able to accede to the political community. *That is to say, autarchy, like stasis, is a biopolitical operator, which allows or negates the passage from the community of life to the political community, from simple zoè to politically qualified life.*

This is all the more problematic, insofar as there are, within the confines of the *polis*, human lives that participate in a community of *zoè* but that are constitutively excluded from the political community. The slave, for example,

lives in community of life (*koinonos zoes*; 1260a 40) with the master but not in political community, and the same can be said for the woman. The family is the place that is inhabited by that life, which while being a constitutive part of the city and theoretically capable of autarchy (“the family,” writes Aristotle, “is more autarchic than a single individual”; 1261b 11), is constitutively excluded from political life (or, if you like, included through its exclusion).

From this point of view, Goldschmidt’s thesis should be specified in the sense that there is a life that, while able to reach biological autarchy, is incapable of acceding to political community and whose existence is nevertheless necessary to the existence of the city. His thesis remains pertinent, however, insofar as it shows that, through the concept of autarchy, the Aristotelian political community preserves a biological character. Autarchy is, in this sense, a signature that betrays the presence in the Greek *polis* of a genuinely biopolitical element.

1.5. A more thorough examination of the meaning of the syntagma “autarchic life” shows, however, that it implies something more than simply the most appropriate numerical size. A passage of the *Nicomachean Ethics*, in which Aristotle inquires about happiness as the supreme good of the human being, in this sense furnishes a decisive indication:

The perfect good seems to be autarchic. Now by the term autarchic we do not mean that which is sufficient for a man by himself, for one who lives a solitary life, but also for parents, children, wife, and in general for his friends and fellow citizens, since man is by nature a political being. But some limit must be set to this; for if we extend our requirement to ancestors and descendants and friends’ friends we are in for an infinite series. Let us examine this question, however, on another occasion; the autarchic we now define as that which when isolated makes life desirable and lacking in nothing; and such we think happiness to be; and further we think it most desirable of all things, without anything needing to be added to it. . . . Happiness, then, is something perfect and autarchic, being the end of all actions. (1097b 7–20)

An autarchic life, such as that of the human being as political animal, is thus a life capable of happiness. But this implies that the concept of autarchy moves beyond the strictly biological sphere to acquire an immediately political meaning. And the sense in which one should understand this constitutive connection between autarchic life, happiness, and politics is stated in the passage immediately following, in which Aristotle seeks to define the work (*ergon*) proper to the human being. It cannot be a matter of simple living (*zen*), “because this seems to be common even to plants, but we are seeking what is proper [*idion*] to the human being. Let us ex-

clude, therefore, the life of nutrition and growth. Next there would be sensitive life, but it also seems to be common even to the horse, the ox, and every animal. There remains, then, a life of action [*praktikē*] of a being bestowed with *logos*. . . . [W]e state that what is proper to the human being is a certain life [*zoē tina*], and this is being in act of the soul and actions accompanied by *logos*” (1097b 34–1098a 15).

The caesura that excludes—and at the same time includes—*zoē* from—and within—the political community thus pierces within human life itself, and this division of life has been so determinate for the history of Western humanity that it still decides on the way in which we think not only the political and the social sciences but also the natural sciences and medicine.

✂ Autarchic means both “what has reached the just measure” and “politically qualified.” In this latter sense, it functions as a signature and not as a concept. That autarchy refers not only to a certain proportion of population but has in itself a political meaning is evident in medieval treatises. In both Marsilius of Padua’s *Defensor pacis* and Giles of Viterbo’s *De regimine christiano*, the end of political society is precisely autarchic life (*sufficiens vita* or *sufficiētia vitae*):

Perfecta communitas, omnem habens terminum per se sufficiente, ut consequens est dicere, facta quidem igitur vivendi gracia, existens autem gracia bene vivendi . . . ; homines . . . naturaliter sufficientem vitam appetere . . . quod etiam nec solum de homine confessum est, verum de omni animalium genere [A perfect community possessing every limit of self-sufficiency, as it is consequence to say, having thus come about for the sake of living, but existing for the sake of living well . . . ; all men . . . naturally desire a sufficient life . . . this principle is not only granted for man but also for every kind of animal]. (Marsilius, 1, 1–5)

Understanding what politics is therefore entails understanding what a “self-sufficient life” is, with all the ambiguities that such a concept, which is at once biological and political, seems to imply.

1.6. In a previous study (Agamben 1, pp. 21–22/13–14), we have tried to show how the strategic articulation of the concept of life had its original place in Aristotle’s *De anima*. Here, among the various ways in which the term “life” is said, Aristotle isolates the most general and separable one.

It is through living that the animal is distinguished from the inanimate. Living is said in many ways [*pleonachos*], and provided any one alone of these is found in a thing, we say that thing is living—namely, thinking or perception or local movement and rest, or movement in the sense of nutrition, decay, and growth. Hence we think of plants also as living, for they are observed to possess in themselves a principle through which they increase or decrease in all spatial directions. . . . This principle can be separated from the others, but not they from

it—in mortal beings at least. The fact is obvious in plants; for it is the only psychic power they possess. It is therefore through this principle that living belongs to the living. . . . We call the nutritive [*threptikon*] potential that part of the soul in which even plants participate. (413a 20ff.)

Following his customary strategy, Aristotle in no way defines what life is: he limits himself to dividing it thanks to the isolation of the nutritive function, in order then to rearticulate it into a series of distinct and correlative potentials or faculties (nutrition, sensation, thought). One of the ways in which life is said is separated from the others in order to constitute in this way the principle by means of which life can be attributed to a certain being. What has been separated and divided off (in this case, nutritive life) is precisely what permits one to construct the unity of life as a hierarchical articulation of a series of faculties and functional oppositions, whose ultimate meaning is not only psychological but immediately political.

✠ Aristotle calls “nutritive” (*threptikon*) or “nutritive soul” (*threptikè psychè*) “the most primary and common potential of the soul, through which all things have life” (*prote kai koinatote dynamis psyches, kath’ hen hyparchei to zen tois apasin*; *De anima*, 415a 25). He makes use of the term *phytikon* (vegetative or vegetable) to designate this part of the soul only one time, in the *Nicomachean Ethics*, to distinguish it from the desiring (*epithymetikon*) part and nail down its exclusion from *logos*: “The irrational part of the animal is twofold: the vegetative does not participate in reason in any way, but by contrast the desiring participates in it in some way, insofar as it obeys and complies with reason” (1102b 29–34). But since it is only in plants that the nutritive faculty is separated from the sensitive faculty (“the *threptikon* is separated from the sensitive [*aisthetikon*] in plants [*en tois phytois*]”; *De anima*, 415a 1), ancient commentators took up the habit of designating it with the term *phytikon* (or *phytikè psychè* or *phytikè dynamis*). Thus, in his commentary on the *De anima*, Themistius can write: “the soul has many faculties [*dynameis*] . . . such as that which is called vegetative [*phytiken*], whose operations are causing nourishment, causing growth, and finally generation” (Themistius, p. 44/62). “Vegetative soul” (*phytikè psychè*), by contrast, is found in Alexander of Aphrodisias’s *De anima*.

It is significant that Alexander can ask whether the vegetative principle belongs to the soul or simply to nature: the vegetative principle is, in fact, always in act in animals, even during sleep, while the other potentials of the soul are not always in act (Alexander, p. 74/59). “For if the vegetative part belonged to the soul, it would then be impossible to bring the other capacities into act at the same time; for the nutritive is always in act in living things, while none of the other faculties is. . . . [W]e will perform no other activity in respect of our soul, if the faculty of soul is single. . . .”

Through the Latin translations of Greek commentators, the expression “vegetative life” passed into medieval and modern medicine as a technical term. Modern medicine assumes at its foundation an articulation of life whose origin is metaphysical-political and not biological-scientific.

✠ The *De anima* is probably the first text in which “life” (*zoè*) takes on a generic sense, distinct from the life of the single living individual, from *a* life. Ivan Illich has defined the modern concept of “life” as a “spectral” concept and a fetish, and he has traced its first appearance to the Gospel passage in which Jesus says: “‘I am the Life.’ He does not say, ‘I am a life,’ but ‘I am Life,’ *tout court*” (Illich 2, p. 225; cf. above, Prologue, §7). “The notion of an entitative life,” he writes, “which can be professionally and legally protected has been tortuously constructed through a legal-medical-religious-scientific discourse whose roots go far back into theology” (ibid., p. 226). Church and lay institutions are converging today in regarding this spectral notion, which can be applied in the same way to everything and nothing, as the sacred and principal object of their care, as something that can be manipulated and managed and, at the same time, defended and protected.

1.7. What is decisive from our perspective is that this division of life as such immediately has a political meaning. Since *zoè* can achieve autarchy and constitute itself as a political life (*bios politikos*), it is necessary for it to be divided and for one of its articulations to be excluded and, at the same time, included and placed at the negative foundation of the *politeia*. For this reason, in the *Nicomachean Ethics* Aristotle takes care to specify that the political man must be familiar with what concerns the soul and know that there is in it a part—nutritive (or vegetative) life—that does not participate in reason in any way and, being therefore not truly human, remains excluded from happiness and virtue (and thus from politics):

It is thus necessary that the political man also be familiar with what concerns the soul. . . . We have said that there is a part of it that is deprived of reason and another that by contrast possesses it. Whether these are separated as parts of the body or of anything divisible are, or are distinct by definition but by nature inseparable, like the convex and concave in the circumference of a circle, does not affect the present question. Of the irrational element one division seems to be common [to all the living] and vegetative, namely, the principle of nutrition and growth; for such a faculty of the soul is found in all the beings that are nourished, in embryos as also in complete beings. . . . Now the virtue of such a faculty seems to be common to all beings and not properly human [*anthropine*]; for this part or faculty seems to function most in sleep, while goodness and badness are least manifest in sleep, whence comes the saying that the happy are not better off than the wretched for half their lives. . . . Let us, however, leave the nutritive faculty alone, since it has by its nature no share in human virtue. (1102a 23–1102b 14)

In the *Magna Moralia* this exclusion is confirmed in particular with respect to happiness: “the nutritive soul does not contribute to happiness” (1185a 35).

¶ In the *De anima*, Aristotle establishes a striking correspondence between touch and nutritive life, as though to touch there belonged, on the level of sensation, the same primordial role that corresponds to nutrition. After having confirmed that “the nutritive faculty must be found in all beings that grow and decay” (434a 23), he writes, “An animal is a body with a soul in it: every body is tangible [*hapton*] and perceptible by touch [*haphei*]; hence necessarily, if an animal is to survive, its body must have tactile capacity. . . . That is why taste is also a sort of touch; it is relative to nutriment, which is a tangible body . . . and it is clear that without touch it is impossible for an animal to exist” (434b 12–20).

And just as, with respect to the nutritive faculty, sensation and intellect entail a heterogeneous supplement that differentiates the animal and the human from the plant, so too, while touch renders life possible, do “the other senses exist in view of the good” (*ibid.*, 24), and just as it is not possible in mortals to separate the nutritive soul from the others, in the same way “without touch it is not possible for there to be any other sense . . . and, with the loss of touch, animals die” (435b 3–4). The metaphysical-political apparatus that divides and articulates life acts on all levels of the living body.

1.8. At this point we can further specify the articulation between simple life and politically qualified life, *zoè* and *bios*, that we placed at the foundation of Western politics in *Homo Sacer I*. What we can now call the ontological-biopolitical machine of the West is founded on a division of life that, by means of a series of caesurae and thresholds (*zoè/bios*, insufficient life/autarchic life, family/city), takes on a political character that was initially lacking. But it is precisely by means of this articulation of its *zoè* that the human being, uniquely among the living, becomes capable of a political life. The function proper to the machine, that is to say, is an operation on the living that, by “politicizing” its life, renders it “self-sufficient,” namely, capable of taking part in the *polis*. What we call politics is above all a special qualification of life, carried out by means of a series of partitions that pass through the very body of *zoè*. But this qualification has no content other than the pure fact of the caesura as such. This means that the concept of life will not truly be thought as long as the biopolitical machine, which has always already captured it within itself by means of a series of divisions and articulations, has not been deactivated. Until then, bare life will weigh on Western politics like an obscure and impenetrable sacral residue.

One can therefore understand the essentially ontologico-political and not only psychological meaning of the division of the parts of the soul (nutritive, sensitive, intellectual faculties) in Book II of *De anima*. From this perspective, the problem of whether the parts of the soul are only logically or also physically-spatially separable, which Aristotle does not fail to dwell upon, seems all the more determinative. While what is proper to the vegetable soul is, in fact, being able to exist independently of the others (as happens in plants), the other

parts, at least in mortal beings (the restriction allows one to understand that it was perhaps possible in the gods), cannot be separated from it. “Is each of these faculties,” asks Aristotle,

a soul or a part of the soul? And if a part, a part separable only logically [*logoi*] or a part distinct according to place [*topoi*]? In some cases it is not difficult to answer, while others contain difficulties. Just as in the case of plants that, when divided, are observed to live though separated from one another (thus showing that in their case the soul of each individual plant was actually one, potentially many), so we notice a similar result in other varieties of soul, as in insects that have been cut in two. . . . We have no evidence as yet about intellect or the potential for thought, but it seems to be a different kind of soul, differing as what is eternal from what is perishable; it alone is capable of being separated. All the other parts of the soul, it is evident from what we have said, are, in spite of certain statements to the contrary, incapable of separate existence though, of course, distinguishable by *logos*. (413b 14–29)

*Logos* can divide what cannot be physically divided, and the consequence that this “logical” division exercises on life is that of rendering possible its politicization. *Politics, as the ergon proper to the human, is the practice that is founded on the separation, worked by the logos, of otherwise inseparable functions.* Politics here appears as what allows one to treat a human life as if in it sensitive and intellectual life were separable from vegetative life—and thus, since it is impossible in mortals, of legitimately putting it to death. (This is the meaning of the *vitae necisque potestas* that we saw defined sovereign power; cf. Agamben 4, pp. 97–101/87–90).

For this reason, a decisive threshold in the history of Western biopolitics was reached when, in the second half of the twentieth century, through the development of techniques of resuscitation (the Italian expression, *reanimazione*, is significant: in question here are, once again, the soul and life), medicine succeeded in actualizing what Aristotle maintained was impossible, namely, the separation of vegetative life from the other vital functions in the human being. It should not surprise us if, from that moment on, all the fundamental concepts of politics were also again called into question. From a redefinition of life there necessarily follows a redefinition of politics.

✎ It is necessary to reflect on the analogy between being and living in the Aristotelian strategy. The metaphysical-political thesis declares: “To be for the living is to live” (*to de zen tois zosi to einai estin*; *De anima*, 415b 13). Both being and living, however, “are said in many ways” and are thus always already articulated and divided. Just as the articulation of being allows one to introduce movement into it and to render it finally thinkable, so also the division of life, by removing its unidimensionality, allows one to make it the

foundation of politics. To the isolation of a being, “which is said most properly in the first place and above all,” there corresponds, on the level of being, the separation of a sphere of life (vegetative life), which functions as *archè*, “by means of which living belongs to the living.” In this sense, life is the political declension of being: to the *pleonachos legesthai* of the latter, there corresponds the *pleonachos legesthai* of the former, and to the ontological apparatus, which articulates being and puts it in motion, there corresponds the biopolitical machine, which articulates and politicizes life. And a deactivation of the biopolitical machine necessarily implies a deactivation of the ontological apparatus (and vice versa).

1.9. What allows nutritive life to function as foundation and motor of the bio-political machine is above all its separability from the other spheres of life (while the others cannot be separated from it). But what constitutes its privilege is also what authorizes its exclusion from the city and from everything that defines the human as such.

A more rigorous reading of the section of the *De anima* devoted to the nutritive faculty shows, however, that it contains elements that could allow us to regard it in a completely different way. Just as he is defining the *erga* proper to this faculty, namely, generation and the use of food (*gennesai kai trophei chresthai*; 415a 26), Aristotle seems to establish a striking correspondence between the lowest part of the human soul and the highest, thought (*nous*): “The most natural work of the living . . . is the production of another like itself, an animal producing an animal, a plant a plant, in order that, to the extent possible, it may partake in the eternal and the divine” (415a 27–30). A few pages later, he writes that nourishment “preserves the being” (*sozei ten ousian*) of the living and that the nutritive faculty “is a principle [*archè*] capable of preserving the one that possesses it as such” (416b 15–16). In both Aristotle and the commentators one encounters, moreover, a curious terminological proximity between the nutritive (or vegetative) soul and the intellectual: the intellectual is in fact also “separable” (*choristos*; 430a 18) and, like the intellect, the nutritive principle is also “active” (*poietikon*; 416b 15); even more decisively in Alexander of Aphrodisias, the theorist of the active (or poetic) intellect: “the nutritive principle is *poietikon*” (Alexander, p. 74/59).

In an exemplary essay, Émile Benveniste has called attention to the apparently inexplicable double meaning of the Greek verb *trephe*, which means both “to nourish” and “to thicken, to coagulate a liquid” (for example, *trephein gala*, “to cause milk to curdle”). The difficulty is resolved if one understands that the true meaning of *trephe* is not merely to nourish but rather “to let grow or to favor the natural development of something.” There is no contradiction between *trephein gala* (“to nourish the milk,” that is, “to let it curdle”) and *trephein paidas*

(“to nourish children”), because both mean “to let something attain the state toward which it is tending” (Benveniste, p. 349/252).

By all evidence, this is the meaning that the verb and its derivative *threptikon* have in Aristotle, and for this reason he can write that the nutritive soul is a “a principle that preserves the being of the one that possesses it.” Preoccupied solely by the necessity to hold firm the political function of the signature of the division of life, the philosopher nonetheless had to exclude nutritive life from the happiness and *aretè* that define the city of men.

Both with and against Aristotle, it is a question, rather, of thinking nutritive life as what allows the living to reach the state toward which it tends, as the *conatus* that drives every being to preserve its being (*sozein ten ousian*). Not only must we learn to think an *aretè* of nutritive life, but *trephein* names in this sense the fundamental virtue of the living, the impulse thanks to which every faculty reaches the state toward which it naturally tends. And its political meaning lies not in its exclusion-inclusion in the city but in the fact that, in letting the heart beat, the lungs respire, and the mind think, it confers unity and sense on every form of life. Up to now we have thought politics as what subsists thanks to the division and articulation of life, as a separation of life from itself that qualifies it on different occasions as human, animal, or vegetable. Now it is a question of instead thinking a politics of form-of-life, of life indivisible from its form.

## A Life Inseparable from Its Form

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**2.1.** This project started from the observation that the Greeks did not have a single term to express what we understand by the word *life*. They made use of two semantically and morphologically distinct terms: *zoè*, which expressed the simple fact of living common to all living things (animals, human beings, or gods), and *bios*, which signified the form or manner of life proper to an individual or group. In modern languages, in which this opposition gradually disappears from the lexicon (where it is preserved, as in *biology* and *zoology*, it no longer indicates a substantial difference), one sole term—whose opacity grows to an extent proportional to the sacralization of its referent—designates the bare common presupposition that it is always possible to isolate in each of the innumerable forms of life.

With the term *form-of-life*, by contrast, we understand a life that can never be separated from its form, a life in which it is never possible to isolate and keep distinct something like a bare life.

2.2. A life that cannot be separated from its form is a life for which, in its mode of life, its very living is at stake, and, in its living, what is at stake is first of all its mode of life. What does this expression mean? It defines a life—human life—in which singular modes, acts, and processes of living are never simply *facts* but always and above all *possibilities* of life, always and above all potential. And potential, insofar as it is nothing other than the essence or nature of each being, can be suspended and contemplated but never absolutely divided from act. The habit of a potential is the habitual use of it and the form-of-life of this use. The form of human living is never prescribed by a specific biological vocation nor assigned by any necessity whatsoever, but even though it is customary, repeated, and socially obligatory, it always preserves its character as a real possibility, which is to say that it always puts its very living at stake. That is, there is not a subject to which a potential belongs, which he can decide at his will to put into act: form-of-life is a being of potential not only or not so much because it can do

or not do, succeed or fail, lose itself or find itself, but above all because it is its potential and coincides with it. For this reason the human being is the only being in whose living happiness is always at stake, whose life is irredeemably and painfully consigned to happiness. But this constitutes form-of-life immediately as political life.

2.3. This means that what we call form-of-life is a life in which the event of anthropogenesis—the becoming human of the human being—is still happening. Only because what is at stake in form-of-life is the memory and repetition of this event, can thought reach back archeologically to the very separation between *zoè* and *bios*. This separation was produced in the anthropogenetic event when, following a transformation whose study is not the task of the human sciences, language appeared in living beings and these latter put their very natural life at stake in language. That is to say, the anthropogenetic event coincides with the fracture between life and language, between the living being and the speaking being; but, precisely for this reason, the becoming human of the human being entails the unceasing experience of this division and, at the same time, of the just as unceasingly new historical rearticulation of what has been thus divided. The mystery of the human being is not the metaphysical one of the conjunction between the living being and language (or reason, or the soul) but the practical and political one of their separation. If thought, the arts, poetry, and human practices generally have any interest, it is because they bring about an archeological idling of the machine and the works of life, language, economy, and society, in order to carry them back to the anthropogenetic event, in order that in them the becoming human of the human being will never be achieved once and for all, will never cease to happen. Politics names the place of this event, in whatever sphere it is produced.

2.4. The political power that we are familiar with is instead always ultimately founded on the separation of a sphere of bare life from the context of forms of life. Thus, in the Hobbesian foundation of sovereignty, life in the state of nature is defined solely by its being unconditionally exposed to the threat of death (the unlimited right of all over all), and political life, namely, that which develops under the protection of the Leviathan, is only this same life, exposed to the threat that now rests in the hands of the sovereign alone. The *puissance absolue et perpétuelle*, which defines state power, is in the last instance not founded on a political will but on bare life, which is preserved and protected only to the extent that it is subjected to the sovereign's (or the law's) right of life and death. The state of exception, on which the sovereign always decides, is precisely that state

in which bare life, which in the normal situation seems to be rejoined to the multiple social forms of life, is again explicitly called into question as ultimate foundation of political power. The ultimate subject, which it is a question of excepting and at the same time including in the city, is always bare life.

2.5. “The tradition of the oppressed teaches us that the ‘state of exception’ in which we live is the rule. We must arrive at a concept of history that corresponds to this fact.” This diagnosis of Benjamin’s, at this point more than fifty years old, has lost none of its contemporaneity. And this is not so much or not only because power today has no form of legitimation other than emergency and everywhere and continually refers to it and, at the same time, secretly works to produce it (how can one not think that a system that can now only function on the basis of an emergency is also interested in maintaining it at any price?). It is also and above all because, in the meantime, bare life, which was the hidden foundation of sovereignty, has everywhere become the dominant form of life. Life, in the state of exception that has become normal, is the bare life that in all spheres separates forms of life from their cohesion into a form-of-life. From the Marxian scission between man and citizen there follows that between bare life, ultimate and opaque bearer of sovereignty, and the multiple forms of life abstractly re-codified into juridical-social identities (voter, employee, journalist, student, but also HIV-positive, transvestite, porn star, senior citizen, parent, woman), which all rest on the former. (Having mistaken this bare life separated from its form, in its abjection, for a superior principle—sovereignty or the sacred—is the limit of Bataille’s thought, which renders it useless to us.)

2.6. Foucault’s thesis according to which “what is at stake today is life” and politics has therefore become biopolitics is, in this sense, substantially accurate. But what is decisive is the way in which one understands the sense of this transformation. What in fact remains uninterrogated in contemporary debates on bioethics and biopolitics is precisely what is above all worthy of interrogation, mainly, the very biological concept of life. This concept—which today appears in the garb of a scientific notion—is in reality a secularized political concept.

Hence the often unnoticed but decisive function of medical-scientific ideology in the system of power and the growing use of scientific pseudoconcepts for ends of political control: the very drawing out of bare life, which sovereign power in certain circumstances could work on forms of life, is now achieved massively and on a daily basis by pseudo-scientific representations of the body, of sickness and health, and by the “medicalization” of ever wider spheres of life and of the individual imagination. Biological life, a secularized form of bare life, which has in common

with the latter unspeakability and impenetrability, thus constitutes the real forms of life literally into forms of *survival*, remaining intact in them as the obscure threat that can be suddenly actualized in violence, in extraneousness, in sickness, in an accident. It is the invisible sovereign that watches us behind the idiotic masks of the powerful who, whether they realize it or not, govern us in its name.

2.7. A political life, which is to say, one oriented toward the idea of happiness and cohering in a form-of-life, is thinkable only starting from emancipation from this scission. The question of the possibility of a non-state politics thus necessarily has the form: is it possible today, is there today something like a form-of-life, namely, a life for which, in its living, one has to do with the living itself, a *life of potential*?

We call *thought* the connection that constitutes forms of life into an inseparable context, into form-of-life. By this we do not understand the individual exercise of an organ or psychic faculty but an experience, an *experimentum* that has as its object the potential character of life and human intelligence. Thinking does not mean simply being affected by this or that thing but this or that content of thought in act, but being at the same time affected by one's own receptivity, gaining experience, in every thought, of a pure potential of thought. Thought is, in this sense, always use of oneself, always entails the affection that one receives insofar as one is in contact with a determinate body ("Thought is the being whose nature is that of being in potential . . . when thought has become active in each of the intelligibles . . . it also therefore remains in some way potential, and it is then able to think itself"; Aristotle, *De anima*, 429a–b).

Only if act is never totally separated from potential, only if, in my lived experiences and my acts of understanding [It., *nei mei vissuti e nei miei intesi*], I always have to do with living and understanding in themselves—that is to say, if there is, in this sense, thought—then a form of life can become, in its very facticity and thingliness, *form-of-life*, in which it is never possible to isolate something like a bare life.

2.8. The experience of thought that is here in question is always an experience of a potential and of a common use. Community and potential are identified without remainder, because the inherence of a communitarian principle in every potential is a function of the necessarily potential character of every community. Among beings who were always in act, who were always already this or that thing, this or that identity, and in these had entirely exhausted their potential, there could be no community but only factual coincidences and partitions. We can communicate with others only through what in us, as in others,

has remained in potential, and every communication (as Benjamin had intuited for language) is above all a communication not of a common but of a communicability. On the other hand, if there were a unique being, he would be absolutely impotent, and where there is potential, there are always already many (just as, if there is a language, namely, a potential to speak, then there cannot be only one being who speaks it).

For this reason modern political philosophy does not begin with classical thought, which had made of contemplation, of *bios theoreticos*, a separate and solitary activity (“exile of one alone with one alone”), but only with Averroism, namely, with the thought of one sole possible intellect common to all human beings, and most decisively at the point in *De monarchia* at which Dante affirms the inherence of a *multitudo* in the very potential for thought. After having affirmed that “there is some activity specific to humanity as a whole, for which the whole human race in its vast multitude is designed” (Dante 2, 1.3.4), he identifies this operation not simply with thought but with the potential of thought:

So the highest faculty in a human being is not simply to exist, because the elements too share in the simple fact of existence; nor is it to exist in compound form, for that is found in minerals; nor is it to exist as a living thing, for plants too share in that; nor is it to exist as a creature with sense perception, for that is also shared by the lower animals; but it is to exist as a creature who apprehends by means of the potential intellect [*esse apprehensivum per intellectum possibile*]; this mode of existence belongs to no creature (whether higher or lower) other than human beings. For while there are indeed other beings who like us are endowed with intellect, nonetheless their intellect is not potential in the way a human being’s is, since such beings exist only as intelligences and nothing else, and their very being is simply the act of understanding that their own nature exists; and they are engaged in this without discontinuity [*sine interpolatione*], otherwise they would not be eternal. It is thus clear that the highest potential of humankind is its intellectual potential or faculty. And since that potentiality cannot be fully actualized all at once in any one individual or in any of the particular social groupings, there must needs be a multitude in the human race [*multitudinem esse in humano generi*], through whom the whole of this potential can be actualized [*per quam tota potentia hec actuetur*]. . . . [T]he activity proper to humankind considered as a whole is to constantly actualize the full intellectual potential of humanity, primarily through thought and secondarily through action. (Dante 2, 1.3.6ff., 1.4.1)

2.9. Let us reflect on the constitutive connection that Dante establishes between *multitudo* and the potential of thought as generic potential of humanity (*ultimum de potentia totius humanitatis*). Here multitude is not only a quantitative

or numerical concept. As results unmistakably from the fact that it defines the specificity of the human with respect to the animals and angels and from the specification “as a whole,” it instead names the *generic form* of existence of the properly human potential, namely, thought. That is to say, it is not a matter of something like the sum of individual actualizations of potential nor—hence the special relevance of the adverb “always” (*semper*)—of a process at the completion of which the potential of humanity will be fully actualized. There is a multitude because there is in singular human beings a potential—that is, a possibility—to think (and not, as in the angels, a thought that can know no interruption—*sine interpolatione*); but precisely for this reason, the existence of the *multitudo* coincides with the generic actualization of the potential to think and, consequently, with politics. If there were only the multiple individual actualizations and their sum, there would not be a politics but only the numerical plurality of activities defined by the variety of particular goals (economic, scientific, religious, etc.). But because the actualization of the generic potential of thought coincides with the existence of a *multitudo*, this latter is immediately political.

Just as according to Averroës the *multitudo*, as generic subject of the potential of thought, is always to be thought in relation to the existence of a singular philosopher who, by means of the phantasms of his imagination, is united with the unique intellect, so also is the potential of thought of which we are speaking always to be put into relation with the singular use of a common potential. For this reason, that is to say, insofar as the unicity of common thought remains linked to the contingency of a singular exercise, it is necessary to consider cautiously the political function of the Internet, of which one speaks so often today. Insofar as it depends on the permanent availability *in actu* of a preconstituted social knowledge, there is lacking in it precisely the experience of *potential* that defines human knowledge with respect to the angelic. What remains caught in the “net,” so to speak, is thought without its potential, without the singular experience of its generic actualization.

The *multitudo* is a political concept only insofar as it inheres in the potential of thought as such. And thought does not define one form of life among others in which life and social production are articulated: it is *the unitary potential that constitutes the multiple forms of life into form-of-life*. In the face of state sovereignty, which can affirm itself only by separating bare life from its form in every sphere, it is the potential that ceaselessly reunites life with its form or prevents them from being dissociated. The distinction between the simple, massive inscription of social knowledge in the productive processes, which characterizes the contemporary phase of capitalism, and thought as antagonistic potential and

form-of-life, passes through the experience of this cohesion and this inseparability. Thought is form-of-life, life unsegregatable from its form, and wherever there appears the intimacy of this inseparable life, in the materiality of corporeal processes and habitual modes of life not less than in theory, there and there alone is there thought. And it is this thought, this form-of-life that, abandoning bare life to “man” and the “citizen,” who provisionally served as clothing for it and represented it with their “rights,” must become the guiding concept and the unitary center of coming politics.

## Living Contemplation

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**3.1.** A genealogy of the idea of life in modernity must begin from the revaluation and hypostatization of *zoè* that was carried out beginning from the second century of the Christian era in Neoplatonic, Gnostic, and Christian spheres. We do not know the reasons why late-ancient thought arrived at the reversal of the hierarchical relationship between *bios* and *zoè*: what is certain is that, when the second Academy and then Neoplatonism elaborate the theory of the three hypostases (being, life, thought) or when early Christian texts speak of an “eternal life” or even when the couple “life and light” (or “life and *logos*”) make their appearance in the *Corpus hermeticum* and in Gnosticism, it is not, as we might have expected, the term *bios* that appears in the foreground but simply *zoè*, the natural life common to all living beings that has, however, in the meantime undergone a complete semantic transformation. A lexical indicator for this phenomenon is the progressive, inexorable decline of the term *bios* in the course of the third century CE and the resulting weakening of the *bios/zoè* opposition. A glance at the *Index Plotinianum* shows that while in the *Enneads*, *bios* is retained in relatively few passages (almost always to indicate the human mode of life), *zoè*, which up to Plotinus was very rare in the sense of form of life, is gradually substituted for *bios* and acquires the entire range of meanings that flow together into the modern term “life” (in this sense, the spread of *zoè* in the vocabulary of intimacy and private life is significant, both as proper name and as an expression of tenderness, as in the modern “my life”).

3.2. The most significant document of this transformation of the classical conception of *zoè* are Plotinus’s two treatises “On Happiness” (*Ennead* I, 4) and “On Contemplation” (3, 8). Here in all likelihood Plotinus is starting from the passage in the *Sophist* (248e–249a) that attributes to being “change, life, soul, and thought, since it cannot stay changeless, solemn, and holy without living or thinking and without understanding” and from the analogous affirmation, in Book Lambda of the *Metaphysics* (1072b 27), according to which “life [*zoè*] also

belongs to God; for the actuality of thought is life, and God is that actuality; and God's essential actuality is the perfect and eternal life [*zoè aristè kai aidios*]." For Plato and Aristotle it was essentially a matter of attributing life to thought and of conceiving the life of thought as a property specific to divine being (and human being, to the extent to which it is capable of "making itself eternal"). For Plotinus, however, with a radical inversion that constitutes one of the most characteristic traits of the late-ancient world's vision, it is not that thought is also living, but life itself, in all its forms (including animals and plants), is immediately contemplation (*theoria*).

Indeed, Plotinus begins with a gesture of whose novelty he is perfectly aware, attributing contemplation to all living beings, including plants (which for Aristotle were the "alogical" beings par excellence) and suddenly announces, apparently in the form of a joke, the thesis of a *physis* that generates and produces by means of contemplation:

Suppose we said, playing at first before we set out to be serious, that all things aspire to contemplation, and direct their gaze to this end—not only rational but irrational living things, and the power of growth in plants, and the earth which brings them forth—and that all attain to it as far as possible for them in their natural state. . . . Now let us talk about the earth itself, and trees, and plants in general, and ask what their contemplation is, and how we can relate what the earth makes and produces to its activity of contemplation, and how nature, which people say has no power of forming images or reasoning, has contemplation in itself and makes what it makes by contemplation. (3, 8, 1)

The first consequence of this "theoretical" or contemplative character of *physis* is a transformation of the very idea of natural life (*zoè*), which ceases to be a sum of heterogeneous functions (psychic life, sensible life, vegetative life) and is defined from the very start with a strong accent on the unitary character of every vital phenomenon, as "neither vegetative nor sensitive nor psychic" but rather as "living contemplation." The Stoics had elaborated the concept of "logical life" (*logikè zoè*) and "logical animal" (*zoon logikon*) to characterize properly human with respect to that of other living things. The novelty of this notion, with regard to the classical definition of the human being as an "animal that has *logos*" (*zoon logon echon*) is that *logos* here is not simply added to the vital functions common to the other animals while leaving them unchanged but pervades the entire human *physis*, transforming it from top to bottom so that its impulses, its desires, its sensations, and its passions appear as intimately logical. Plotinus pushes this Stoic idea to the extreme and extends it to some extent to all living things and all forms of life without distinction. Now what is logical and theoret-

ical is life itself, which is articulated, disseminated, and diversified according to the more or less manifest character (*ergastes*, “luminous”) of contemplation that is proper to it. The intuition of this profound unity of life in its intimate logical tension toward expression and thought is the most original legacy that the late-ancient world leaves as an inheritance to Christian theology and, by means of the latter, to modernity.

Contemplation is a movement of nature toward the soul, and of the soul to thought, and contemplations become always more intimate and unified to the contemplators. . . . So this must be something where the two become truly one. But this is living contemplation [*theoria zosa*], not an object of contemplation [*theorema*] like that in something else. For that which is in something else is alive because of that other, not in its own right. If, then, an object of contemplation [*theorema*] and thought [*noema*] is to have life, it must be a life that is not vegetative [*phytikè*] nor sensible [*aisthetikè*], nor psychical. For the other lives are thoughts [*noesis*], but one is a growth-thought, one a sense-thought, and one a soul-thought. How, then, are they thoughts? Because they are *logoi*, languages. And every life is a certain thought [*pasa zoè noesis tis*], but one is dimmer than the other, just as life has degrees of clarity and strength. But this life is more luminous [*enargestera*]; this is first life and first intellect in one. So the first life is thought, and the second life thought in the second degree, and the last life thought in the last degree. All life, then, belongs to this kind and is thought. But perhaps people may speak of different kinds of thought but say that some are thoughts, but others not thoughts at all, because they do not investigate at all what kind of thing life is. But we must bring out this point, at any rate, that again our discussion shows that all beings are contemplations. And if the truest life is the life of thought, then the truest thought lives and contemplation and the object of contemplation are a living and a life and the two together are one. (3, 8, 8)

3.3. The counterpart of this dual unity of life and thought in all their manifestations is a new ontological status of the living thing, which the treatise “On Happiness” thematizes obliquely, making use of categories that seem to come from the traditional vocabulary of political reflection. The central concept of this new ontology is that of form of life (*eidos zoes* or *tes zoes*), whose peculiarity as a technical term in Plotinus’s lexicon has escaped the attention of scholars. Plotinus begins by asking whether, once “living well” (*eu zen*, the same term that in Aristotle’s *Politics* defines the end of the *polis*) has been identified with being happy (*eudaimonein*), one must then also render the other living beings aside from humans participants in it, for example, birds and plants (in his writings Plotinus betrays a striking predilection for plants, which by contrast generally function in Aristotle as negative paradigms with respect to the human). Those

who deny to irrational beings the capacity of living well end up, without realizing it, placing living well in something other than life (for example, in reason). For his part, Plotinus instead declares unreservedly that he situates happiness in life and therefore seeks to think a concept of life and of being in line with this radical thesis. Let us read the passage in question, which constitutes one of the supreme achievements of Plotinus's genius, the ontological implications of which have perhaps not yet been fully grasped:

Suppose we assume that happiness is to be found in life; then if we make life a term which applies to all living things in exactly the same sense, we allow that all of them are capable of happiness, and that those of them actually live well who possess one and the same thing, something which all living beings are naturally capable of acquiring; we do not on this assumption grant this potential solely to living beings endowed with reason, denying it to the irrational. Life is common [*koinon*] to both, which have in potential the same attitude with respect to happiness, if happiness is to be found in a kind of life. So I think that those who say that happiness is to be found in rational life [*en logikei zoei*] and not in common life [*en koinei zoei*] are unaware that they are really assuming that being happy is not a life at all. They would have to say that the rational potential on which happiness depends is a quality. But their starting point is rational life, and happiness depends on this, namely on another form of life [*peri allo eidos zoes*]. I do not mean "another form" in the sense of a logical distinction, but in the sense in which we Platonists speak of one thing as prior and another as posterior. The term "life" is used in many ways, distinguished according to the rank of the things to which it is applied, first, second, and so on; and thus life and living is a homonymous term that is said in one sense of plants, in another of rational animals, and both differ according to their level of clarity or obscurity; so obviously the same applies to living well. (I, 4, 3)

3.4. Plotinus's new bio-ontology is articulated by means of a critical reinterpretation of the Stoic concept of logical life. Plotinus thinks life, however, not as an undifferentiated substrate (*hypokeimenon*) to which determinate qualities would come to be added (for example, rational or linguistic being) but as an indivisible whole, which he defines as *eidos zoes*, "form of life." That this expression here has a terminological character emerges beyond any doubt from the specification that, in it, *eidos* does not indicate the specific difference of a common genus (for this reason it would be erroneous to translate it with "species"). The specification according to which the term *eidos* is not to be understood as species of a genus but according to the prior and posterior, refers, according to the definition that Aristotle gives in *Metaphysics* 1018b 9ff., only to the greater or lesser proximity to an *archè* (for this reason Plotinus had spoken of "primary"

and “secondary life”). “Life” is not a synonym (in which there is an identity for the term and of the definition, which have a common referent) but a homonym, which in each form of life takes on a sense that is differentiated according to its being more or less manifest, more or less luminous. Pressed by the need for a new definition of life, Plotinus profoundly transforms Aristotelian ontology: yes, there is a unique substance, yet this is not a subject that remains behind or beneath its qualities but is always already homonymically shared in a plurality of forms of life, in which life is never separable from its form and, quite to the contrary, is always its mode of being, without for that reason ceasing to be one.

3.5. “If then a human being can have the perfect life, then he will be able to be happy. If not, one would have to attribute happiness to the gods, if among them alone this kind of life is to be found. But since we maintain that this happiness is to be found among human beings we must consider how it is so. What I mean is this: it is obvious from what has been said elsewhere that the human being has perfect life by having not only sensibility, but reasoning and true thought. But there is no human being who does not possess it, in potential or in act, and when he has it in act, we will call him happy. But shall we say that he has this form of life [*eidos tes zoes*], which is perfect, in him as a part of himself? The human being who has it in potential have it as a part, but the happy person is the one who already is happy in act and has passed over into being this (form of life) [*metabebeke pros to autò einai touto*]” (I, 4, 4, 1–15).

The happy life here appears as a life that does not possess its form as a part or a quality but *is* this form, has completely passed into it (this is the sense of *metabaino*). In this new and extreme dimension, the ancient opposition of *bios* and *zoè* definitively loses its sense. Plotinus can thus write at this point, with an intentionally paradoxical expression that takes up and twists one of the key concepts from Aristotle’s *Politics*: *autarkes oun ho bios toi outos zoen echonti*, “*bios* is autarchic insofar as it in some way has *zoè*” (ibid., 23). We have seen that Victor Goldschmidt demonstrated that *autarkia* in Aristotle’s *Politics* is not a juridical or economic or political concept in the strict sense but first of all biological. That *polis* is autarchic, which has reached the just numerical consistency of its population. Only if it has reached this limit can it pass from simple living to living well. It is this biological-political concept that Plotinus completely transforms, rendering it indiscernible from *bios* and form of life. The two terms *bios* and *zoè*, on the opposition of which Aristotelian politics were founded, now contract into one another in a peremptory gesture that, while irrevocably taking leave of classical politics, points toward an unheard-of politicization of life as such (“*bios* is

autarchic insofar as it in some way has *zoè*”). The wager here is that there can be a *bios*, a mode of life, that is defined solely by means of its special and inseparable union with *zoè* and has no other content than the latter (and, reciprocally, that there is a *zoè* that is nothing other than its form, its *bios*). Precisely and solely to the *bios* and *zoè* thus transfigured do there belong the attributes of political life: happiness and autarchy, which in the classical tradition were instead founded on the separation of *bios* and *zoè*. One has a political *bios* who never has his *zoè* as a part, as something separable (that is, as bare life), but is his *zoè*, is completely *form-of-life*.

## Life Is a Form Generated by Living

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**4.1.** One of the places through which the Plotinian concepts of life and form of life (*eidōs zōēs*) were transmitted to Christian authors is the *Adversus Arium* of Marius Victorinus, a Roman rhetor and convert to Christianity who exercised a determinant influence on Augustine with his translation of the *Enneads*. Victorinus seeks to think the trinitarian paradigm, which is taking form in those years, through Neoplatonic categories, not only by developing from this perspective the doctrine of the three hypostases (being, life, thought) but also and above all by deepening the unity between being and life that we have seen to define Plotinian bio-ontology. Already Aristotle, in a passage of the *De anima* that was to have a long lineage, had affirmed, albeit cursorily, that “being for the living is to live.” Now it is a question, by completely translating the ontological vocabulary into a “bio-logical” vocabulary, of thinking the unity and consubstantiality—and at the same time, the distinction—between Father and Son as unity and articulation of “living” and “life” in God. Mobilizing to the point of excess the artifice and subtlety of his rhetorical art, Victorinus dedicates the entire fourth book of his treatise to this difficult theological problem:

“He lives” and life [*vivit ac vita*], are they one thing, or the same thing, or are they different things? One? But why the two terms? The same thing? But how so, since it is one thing to be actually, the other thing to be actuality. Are they therefore different? But how would they be different, since in that which lives there is life, and in that which is life, it is necessarily the case that it lives? Indeed, that which lives does not lack life, since then there would be life that does not live. Therefore they are different in one another, and consequently, in one another, whatever they are, they are two; and if, in some way, they are two, they are not however, two purely and simply, since indeed they are one in the other and that is the case with both of them. Are they therefore the same thing? But the same thing in two is other than itself. This identity is therefore at the same time alterity in each of the two. But if there is an identity, and each of the two is identical to itself, both are identical and one. Indeed, each one being what the other is, neither of the two is double [*geminum*]. Therefore, if each of the two, by

the very same thing that he is, is also the other, each one of the two will be one in himself. But since each one of the two is one in himself, it is the same one in the other. . . . Living and life are such that what living consists in is life and what life consists in is living: not that one is duplicated into the other, or that one is with the other—for that would be a union [*copulatio*: for from this, even if the connection were inseparable, there is only a union, not a unity (*unitum est, non unum*)]—no in fact they are such that in the very act that is living is to be life and in the same way, to be life is to live. . . . “He lives” and life are therefore one substance. (Victorinus, pp. 502–504/253–255)

4.2. Nothing shows the new and decisive centrality that the concept of life acquires both in the speculations of dying paganism and in nascent Christian theology as much as the fact that the problem of the consubstantiality between Father and Son is thought in terms of a relation between pure living and the life that is co-originarily generated in it. In a passage that, as has been noted, is perhaps the densest of his entire work, the paradox of this bi-unity is resolved by Victorinus, with an unquestionable revival of the Plotinian concept of *eidōs zōēs*, in the idea of a “form of life” (*vitae forma, forma viventis*) generated by the very act of living (*vivendo*):

Indeed, life is a habit of living [*vivendi habitus*], and it is a kind of form or state generated by living [*quasi quaedam forma vel status vivendo progenitus*], containing in itself living itself and that being which is life [*id esse quod vita est*], so that both are one substance. For they are not truly one in the other, but they are one redoubled in its own simplicity [*unum suo simplici geminum*], one, in itself because it is from itself [*ex se*] and one which is from itself because the first simplicity has a certain work within itself. . . . For living is being; but being life is a certain mode, that is, the form of living produced by the very one for which it is form [*forma viventis confecta ipso illo cui forma est*]. But the producer, living, never having a beginning—for that which lives from itself has no beginning since it lives always—it follows that life also has no beginning. Indeed as long as the producer has no beginning, that which is produced has not a beginning. As both are together [*simul*, “at the same time”], they are also consubstantial. But living is God, life is Christ, and in living is life, and in life is living. In this way certainly one is in the other because produced [*confectum*] and producer [*conficiens*] are one in the other: for as the producer is in the product, so also the product is in the producer, especially if they always coexist. Therefore the Father is in the Son and the Son in the Father. And indeed, the producer is producer of a product, and the product, product of a producer. Therefore one is their substance, not one in two or two in one but because, in the very substance in which God is, in this same substance is the Son, that is, in the following way: as God lives, so the Son lives also; in whatever kind of substance the Father is, the Son is in such a substance. (Victorinus, pp. 536–538/271)

It is necessary to reflect on the radical transformation that classical ontology undergoes once being is displaced onto the level of living. Essence and existence, potential and act, material and form are indeterminated and now refer to one another as “living” and “life,” that is—according to a syntagma that begins to appear with growing frequency in Latin prose—as *vivere vitam*, “living life.” Not only does no hierarchical or genetic superiority belong to form, since it is no longer what gives and defines being, but on the contrary, form is generated and produced in the very act of being—that is, living—and it is only a *forma viventis confecta illo ipso cui forma est* (“the form of living produced by the very one for which it is form”). Just like the Father and the Son, so also essence and existence, potential and act, living and life interpenetrate one another to such an extent that it no longer seems possible to distinguish them. It is significant that Victorinus must configure the relationship between God and the three persons of the Trinity in terms of a modal ontology, according to a paradigm that had found its first formulation among the Stoics. “For living is being; but being life is a certain mode . . .” (*modus quidam*—the correction to *motus* in the *editio princeps* is to be rejected in favor of the reading of the most authoritative manuscript), just as, a little later, Father and Son are defined as “modes” of the one divine substance. And just as mode adds nothing to substance and is only a modification or manner of being, so life adds nothing to living; it is only the form that is generated in it by living: precisely form-of-life, in which living and life become indiscernible on the level of substance and discernible only as manifestation and “appearance”:

Therefore, life is produced by living [*conficitur vivendo*], and by existing together it is formed. But this formation is an appearance [*formatio apparentia est*]; but the appearance arose, indeed, from hiddenness, and this arising from hiddenness is birth, the birth of the one who, before coming forth, already existed. (Ibid., p. 544/273–274)

4.3. It is at this point that Victorinus, taking up and pushing to the extreme the Plotinian idea of an *eidotes zoes* in which *bios* and *zoè*, life of thought and common life enter into a threshold of indistinction, can make use of the syntagma “form of—or of a—life” (*vitae forma*) in a technical sense:

God is nothing other than living, but the original living, the one whence comes all the living of all the others; he is action itself, existing in acting [*actio ipsa in agendo existens*], in this movement having his own being, which is having either existence or substance, although truly not having it [*habens quamquam ne habens quidem*] but existing itself as that which is originally and universally living [*existens*

*ipsum quod sit principaliter et universaliter vivere*]. But that which is produced from this act is in some way its form is life. Indeed as the *aion* (eon) is produced by the always present act of all things, so it is by living and by the act of living which is always present that life is produced, and as we express it, vitality, which is somehow a form of [or “of a”] life [*vitalitas, hoc est ut vitae forma*], is generated according to its own power and substance. (p. 542)

In God, form of life is so inseparably united to living that here there is no place for anything like a “having”; God does not “have” existence and form but rather, with a grammatical forcing that renders the verb “to exist” transitive, he “exists” his living and, in this way, produces a form that is nothing other than his “vitality” or the form of his life. Once again, the modal paradigm (substance/modes) calls into question the Aristotelian ontology founded on the existence/essence, potential/act oppositions: substance does not “have” but “is” its modes. In every case, in the idea of a “form-of-life,” just like existence and essence, so also do *zōè* and *bios*, living and life contract into one another and fall together, allowing a third to appear, whose meaning and implications still remain for us to deliberate.

## Toward an Ontology of Style

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**5.1.** Let us pursue Victorinus’s reflection beyond its theological context. Form-of-life is not something like a subject, which preexists living and gives it substance and reality. On the contrary, it is generated in living; it is “produced by the very one for which it is form” and for that reason does not have any priority, either substantial or transcendental, with respect to living. It is only a manner of being and living, which does not in any way determine the living thing, just as it is in no way determined by it and is nonetheless inseparable from it.

Medieval philosophers were familiar with a term, *maneries*, which they traced back to the verb *manere*, while modern philologists, identifying it with the modern “manner,” have it derive from *manus*. A passage of the *Book of Muhammad’s Ladder* instead suggests a different etymology. The author of this visionary work, which must have been familiar to Dante, at a certain point witnesses an apparition of a pen, from which “ink issued” (*manabat encaustum*). “And all these things,” he writes, “were done in such a manner that they seemed to have been created in that very instant” (*et haec omnia tali manerie facta erant, quod simul videbantur creata fuisse*; Hyatte, p. 126). The etymological juxtaposition *manarel maneries* shows that *maneries* here means “mode of welling up”: all these things emanate from the pen in such a way that they seem to have been created in that very instant.

In this sense, form-of-life is a “manner of rising forth,” not a being that has this or that property or quality but a being that is its mode of being, which is its welling up and is continually generated by its “manner” of being. (It is in this sense that one is to read the Stoic definition of *ethos* as *pegè biou*, “rising-forth of life.”)

5.2. It is in this way that we must understand the relationship between *bios* and *zoè* in form-of-life. At the end of *Homo Sacer I*, form of life was briefly evoked as a *bios* that is only its *zoè*. But what can “living (or being) one’s own *zoè*” mean? What can a mode of life be that has for its object only life, which our political tradition has always already separated into bare life? Certainly it will

mean living it as something absolutely inseparable, causing *bios* and *zoè* to coincide at every point. But above all, what are we to understand by *zoè* if it cannot be a question of bare life? Our corporeal life, the physiological life that we tend to always already separate and isolate? Here one sees the limit and, at the same time, the abyss that Nietzsche had to have glimpsed when he speaks of “great politics” as physiology. Here the risk is the same one that the biopolitics of modernity has fallen into: to make bare life as such the preeminent object of politics.

Therefore it is necessary above all to neutralize the bipolar *zoè/bios* apparatus. Just as every time we find ourselves confronted with a two-sided machine, here one needs to guard against the temptation of playing one pole off against the other as well as that of simply contracting them onto one another in a new articulation. That is to say, it is a matter of rendering both *bios* and *zoè* inoperative, so that form-of-life can appear as the *tertium* that will become thinkable only starting from this inoperativity, from this coinciding—which is to say, falling together—of *bios* and *zoè*.

5.3. In ancient medicine there is a term—*diaita*—that designates the regime of life, the “diet” of an individual or a group, understood as the harmonic proportion between food (*sitos*) and physical exercise or labor (*ponos*). Thus, in the *Corpus Hippocraticum*, “the human diet” (*diante anthropine*) is something like the mode of life, variously articulated according to seasons and individuals, best adapted to good health (*pros hygeien orthos*). That is to say, it is a question of a *bios* whose object seems to be solely *zoè*.

Curiously, this medical term also has another technical meaning, which this time refers—as also happens, after all, with our term “diet”—to the political-juridical sphere: *diaita* is that arbitration that decides a suit not according to the letter of the law but according to circumstances and equity (hence, in medieval and modern vocabulary, it has developed the meaning of “a political assembly with decision-making power”). In this sense, the term is opposed to *dike*, which indicates not so much custom or mode of life but imperative rule (Aristotle, *Rhetoric*, 1374b 19: “one must recur rather to *diaita* than to *dike*, because *diaitetes*, the will, looks to the convenient, while *dikastes*, judgment, to the law [*nomos*]”).

As often happens, the gap between two meanings of the same term can give rise to instructive considerations. If politics, as we have seen, is founded on an articulation of life (living/living well; life/autarchic life), then it certainly cannot be surprising that the mode of life, the “diet” that secures the good health of human beings, can also assume a political meaning, which, however, concerns not the *nomos* but the governance and regime of life (and it is no accident that

the Latin term that translates *diata—regimen*—also preserves the same semantic duplicity: the title *de regimine* is common to both medical and political treatises). On the level of “regime,” biological life and political life are indeterminated.

5.4. Theologians distinguish between the life that we live (*vita quam vivimus*), namely, the sum of facts and events that constitute our biography, and the life by means of which we live (*vita qua vivimus*), that which renders life livable and gives to it a sense and a form (it is perhaps what Victorinus calls *vitalitas*). In every existence these two lives appear divided, and yet one can say that every existence is the attempt, often unsuccessful and nevertheless insistently repeated, to realize their coincidence. Indeed, only that life is happy in which the division disappears.

If one leaves to one side projects to reach this happiness on the collective level—from convent rules to phalansteries—the place where the study of the coincidence between the two lives has found its most sophisticated laboratory is the modern novel. Henry James’s characters—but it holds for all characters—are in this sense only the experiment in which the life that we live is ceaselessly divided from the life by which we live and, at the same time, just as obstinately seeks to reunite itself with it. Thus, on the one hand, their existence is split into series of faces, perhaps accidental and in any case unassumable, object of the mundane *episteme* par excellence, gossip; on the other hand, it appears as the “beast in the jungle,” something that is always waiting in ambush for them in the curves and cruxes of life and will one day inevitably pounce to show “the real truth” about them.

5.5. Sexual life—which appears, for example, in the sexual biographies that Krafft-Ebing collects in his *Psychopathia sexualis* in the same years when James is writing his novels—seems to actualize a threshold that escapes the scission between the two lives. Here the beast in the jungle has always already pounced—or rather, has always already unveiled its phantasmatic nature. These biographies, which are by all appearances miserable and have been transcribed solely to bear witness to their pathological and infamous character, testify to an experience in which the life *that* has been lived is identified without remainder with the life *by which* it has been lived. In the life that the anonymous protagonists live what is at stake in every instant is the life by which they live: the latter has been wagered and forgotten without remainder from the beginning in the former, even at the cost of losing all dignity and respectability. The short-sighted summaries of medical taxonomy conceal a sort of archive of the blessed life, whose pathographic seals had each time been broken by desire. (The narcissistic withdrawal of libido

into the Ego, by which Freud defines perversion, is only the psychological transcription of the fact that for the subject what is in question in that determined and uncontrollable passion is his life, that this life has been entirely put at stake in this certain gesture or in that certain perverse behavior.)

It is striking that to find examples and materials of a life inseparable from its form in our society, one has to rummage through pathographic registers—or, as happened to Foucault for his *Lives of Infamous Men*—in police archives. In this sense, form-of-life is something that does not yet exist in its fullness and can be attested only in places that, under present circumstances, necessarily appear unedifying. In any case, it is a matter of an application of the Benjaminian principle according to which the elements of the final state are hidden in the present, not in the tendencies that appear progressive but in the most insignificant and contemptible.

5.6. There is, however, also a high tradition of inseparable life. In early Christian literature, the proximity between life and *logos* that is in question in the prologue to the Gospel of John was taken as the model of an inseparable life. “Life itself,” one reads in Origen’s commentary, “comes into existence after the Word [*epigignetai toi logoi*], being inseparable [*achoristos*] from it after it has come into existence” (Origen, II, 129).

According to the messianic paradigm of “eternal life” (*zoè aionos*), the very relationship between *bios* and *zoè* is transformed in such a way that *zoè* can appear in Clement of Alexandria as the supreme end of *bios*: “Piety toward God is the only truly universal exhortation that clearly concerns *bios* in its entirety, stretched out in every instant toward the supreme end, *zoè*” (Clement, XI). The reversal of the relation between *bios* and *zoè* here allows for a formulation that simply would not have made sense in classical Greek thought and that seems to anticipate modern biopolitics: *zoè* as *telos* of *bios*.

In Victorinus the attempt to think the relationship between Father and Son produces an unheard-of ontology, according to which “every being has an inseparable species [*omne esse inseparabilem speciem habet*], or rather, the species is the substance itself, not because the species is prior to being, but because the species defines being” (Victorinus, p. 234/116). Like living and life, so also being and form here coincide without remainder.

5.7. It is from this perspective that one can read the way in which Franciscan theorists completely rethought the Aristotelian division of souls (or lives), to the point of radically calling into question both the very reality of the division and the hierarchy between vegetative, sensitive, and intellectual soul that Scho-

lasticism had drawn from it. Intellectual life, writes Scotus, contains in itself vegetative and sensitive life not in the sense that the latter, being subordinated to the former, are to be abolished or formally destroyed but, on the contrary, only in the sense of their greater perfection (*Intellectiva continet perfecte et formaliter vegetativam et sensitivam per se et non sub ratione destruyente rationem vegetativae et sensitivae, sed sub ratione perfectiori quam illae formae habeantur sine intellectiva*). Richard of Middleton can thus affirm that “the vegetative, sensitive, and intellectual are not three forms, but one sole form [*non sunt tres formae, sed una forma*], by means of which there is in the human being a vegetative, sensitive, and intellectual being.” And beyond the Aristotelian division, the Franciscans elaborate the idea of a “form of corporeity” (*forma corporeitatis*), which is already found perfected in the embryo before the intellectual soul and later coexists with it. This means that there is never anything like a bare life, a life without form that functions as a negative foundation for a superior and more perfect life: corporeal life is always already formed, is always already inseparable from a form.

5.8. How to describe a form-of-life? At the beginning of his *Parallel Lives*, Plutarch evokes an *eidos*, a form that the biographer must know how to pick out beyond the muddle of events. What he seeks to grasp is not, however, a form-of-life but an exemplary trait, something that, in the sphere of action, allows him to unite one life to another in a single paradigm. In general, ancient biography—the lives of philosophers and poets that it has transmitted to us—does not seem interested in describing the real events nor in composing them into a unitary form so much as instead choosing a paradigmatic fact—extravagant and significant—deduced from the work rather than the life. If this singular projection of work over life remains problematic, it is nonetheless possible that precisely the attempt to define a life starting from a work constitutes something like the logical place where ancient biography had a presentiment of a form-of-life.

5.9. Fernand Deligny never sought to recount the life of the autistic children with whom he lived. Instead, he attempted to scrupulously transcribe on tracing paper the routes of their movements and encounters in the form of what he called “lines of drift” (*lignes d’erre*). Placed on top of one another, the tracing papers allow a sort of circular or elliptical ring (*cerne*) to appear, beyond the tangle of lines, which include within themselves not only lines of drift but also the points (*chevêtres*, from *enchevêtrement*, “entanglement”), strikingly constant, at which the routes cross. “It is clear,” he writes, “that the routes—the lines of drift—are transcribed and that the ring area each time appears as the *trace* of *something else* that was not *foreseen* or pre-thought by those doing the tracing nor by those being

traced. It is clear that it is a question of the effect of *something* that is not due to language, nor does it refer to the Freudian unconscious” (Deligny, p. 40).

It is possible that this striking tangle, apparently indecipherable, expresses more than any account not only the mute children’s form of life but any form of life. In this sense it is an instructive exercise to attempt to mark on the map of the cities where we have lived the itineraries of our movements, which prove to be stubbornly and almost obsessively constant. It is in the tracks of that in which we have lost our life that it is perhaps possible to find our form-of-life. In any case, Deligny seems to attribute to his *lignes d’erre* something like a political meaning that is prelinguistic and yet collective: “It is by observing this ring area that there came to us the project of persisting in transcribing the simple *visible* waiting to see *appear* there a trace of what we write with a capital W, inscribed in us since our *species* had existence, a primordial We that insists on foreshadowing, beyond every will and every power, for *nothing*, immutable, just like, on the opposite pole, ideology” (ibid.).

5.10. I have in my hands the page of a French newspaper that publishes personals ads for people who are seeking to meet a life companion. Curiously, the column is called “modes of life,” and it includes, alongside a photo, a brief message that attempts to describe through small, laconic traits something like the form or, more precisely, the mode of life of the advertisement’s author (and sometimes of the ideal addressee as well). Under the photograph of a woman seated at a café table, with her serious—indeed, decidedly melancholy—face resting on her left hand, one can read: “Parisian, tall, thin, blonde, and classy, in her fifties, lively, good family, sports: hunting, fishing, golf, horseback riding, skiing, would love to meet serious man, witty, sixty, the same profile, to live happy days together, Paris or country.” The portrait of a young brunette who is fixated on a ball suspended in the air is accompanied by this caption: “Young juggler, pretty, feminine, spiritual, seeks young woman 20–30, similar profile to be united in the G-spot!!!” At times, the photograph also tries to present the occupation of the one who is writing, like the one that shows a woman who is throwing a rag into a bucket to clean floors: “50, blonde, green eyes, 1m 60cm, porter, divorced (3 sons, 23, 25 and 29, independent). Physically and morally young, charming, desire to share the simple joys of life with lovable companion 45–55.” Other times, the decisive element for characterizing the form of life is the presence of an animal, who appears in the foreground in the photograph alongside its owner: “Gentle Labrador seeks for his mistress (36) a sweet master who is a lover of nature and animals, to swim in happiness in the countryside.” Finally, the close-up of a face on which a tear leaves

a trace of mascara reads: “Young woman, 25, with a skin-deep sensibility, seeks a tender and spiritual young man, with whom to live a river-romance.”

The list could continue, but what is both irritating and moving each time is the attempt—a complete success and, at the same time, an irreparable failure—to communicate a form of life. How indeed can this certain face, this certain life coincide with that italicized list of hobbies and character traits? It is as if something decisive—and, so to speak, unequivocally public and political—has collapsed to such a degree into the idiocy of the private that it is becoming forever unrecognizable.

5.11. In the attempt to define oneself through one’s hobbies, there comes to light in all its problematicity the relation between singularity, its tastes, and its inclinations. The most idiosyncratic aspect of everyone, their tastes, the fact that they like coffee granita, the sea at summertime, this certain shape of lips, this certain smell, but also the paintings of the late Titian so much—all this seems to safeguard its secret in the most impenetrable and insignificant way. It is necessary to decisively subtract tastes from the aesthetic dimension and rediscover their ontological character, in order to find in them something like a new ethical territory. It is not a matter of attributes or properties of a subject who judges but of the mode in which each person, in losing himself as subject, constitutes-himself as form-of-life. The secret of taste is what form-of-life must solve, has always already solved and displayed—just as gestures betray and, at the same time, absolve character.

Two theses published in *Tiqqun 2 (Introduction to Civil War)* figuratively summarize the ontological meaning to “tastes” in their relation to a form-of-life:

Every body is affected by its form-of-life as if by a clinamen, a leaning, an attraction, a *taste*. A body leans toward whatever leans its way. (§3)

“My” form-of-life relates not to *what* I am, but to *how* I am what I am. (§5)

If every body is affected by its form-of-life as by a clinamen or a taste, the ethical subject is that subject that constitutes-itself in relation to this clinamen, the subject who bears witness to its tastes, takes responsibility for the mode in which it is affected by its inclinations. Modal ontology, the ontology of the *how*, coincides with an ethics.

5.12. In his letter to Milena of August 10, 1920, Kafka recounts his fleeting encounter with a girl in a hotel. During this encounter, the girl did “in perfect innocence” “something slightly disgusting” and “said something slightly obscene”—and yet Kafka realized in that precise instant that he would never

forget it, as if precisely this small gesture and this small word had drawn him irresistibly into that hotel. Ever since then, adds Kafka, for years and years his body “was shaken almost unbearably” by the memory and by the desire for that “very particular, trivial, disgusting thing” (Kafka, p. 147).

The decisive element, what renders this trivial disgusting thing unforgettable, is obviously not the thing in itself (Kafka says that it is “not worth mentioning”); it is not only the girl’s abjection but her particular mode of being abject, her bearing witness in some way to her abjection. It is this and only this that renders that abjection perfectly innocent, which is to say, ethical.

It is not justice or beauty that moves us but the mode that each one has of being just or beautiful, of being affected by her beauty or her justice. For this reason even abjection can be innocent, even “something slightly disgusting” can move us.

5.13. A double tendency seems to be inherent to form-of-life. On the one hand, it is a life inseparable from its form, an indissoluble unity in itself, and on the other, it is separable from every thing and every context. This is evident in the classical conception of *theoria*, which is in itself united but separated and separable from every thing, in perpetual flight. This double tension is the risk inherent in form-of-life, which tends to separate itself ascetically into an autonomous sphere, theory. It is necessary instead to think form-of-life as a living of its own mode of being, as inseparable from its context, precisely because it is not in relation but in contact with it.

The same thing happens in sexual life: the more it becomes a form-of-life, the more it seems separable from its context and indifferent to it. Far from being a principle of community, it separates itself to constitute a special community of its own (the castle of Silling in Sade or the California bathhouses for Foucault). The more form-of-life becomes monadic, the more it isolates itself from the other monads. But the monad always already communicates with the others, insofar as it represents them in itself, as in a living mirror.

5.14. The arcanum of politics is in our form-of-life, and yet precisely for this reason we cannot manage to penetrate it. It is so intimate and close that if we seek to grasp it, it leaves us holding only the ungraspable, tedious everyday. It is like the form of the cities or houses where we have lived, which coincide perfectly with the life we have frittered away in them, and perhaps precisely for this reason, it seems suddenly impenetrable to us, while other times, at a stroke, as in revolutionary moments according to Jesi, it is collectively innervated and seems to unveil to us its secret.

5.15. In Western thought, the problem of form-of-life has emerged as an ethical problem (*ethos*, the mode of life of an individual or group) or as an aesthetic problem (the style by which the author leaves his mark on the work). Only if we restore it to the ontological dimension will the problem of style and mode of life be able to find its just formulation. And this can happen only in the form of something like an “ontology of style” or a doctrine that is in a position to respond to the question: “what does it mean that multiple modes modify or express the one substance?”

In the history of philosophy, the place where this problem has been posed is Averroism, as a problem of the conjunction (*copulatio*) between the singular individual and the one intellect. According to Averroës, the mean term that allows this union is the imagination: the singular is joined to the possible or material intellect through the phantasms of its imagination. The conjunction can happen, however, only if the intellect strips the phantasms of their material elements, to the point of producing, in the act of thought, a perfectly bare image, something like an absolute *imago*. This means that the phantasm is what the singular sensible body marks on the intellect to the same extent to which the inverse is true, namely, that it is what the one intellect works and marks in the singular. In the contemplated image, the singular sensible body and the one intellect coincide, which is to say, fall together. The questions “who contemplates the image?” and “what is united to what?” do not have a univocal response. (Averroistic poets, like Cavalcanti and Dante, made love the place of this experience, in which the phantasm contemplated is at once subject and object of love and the intellect knows and loves itself in the image.)

What we call form-of-life corresponds to this ontology of style; it names the mode in which a singularity bears witness to itself in being and being expresses itself in the singular body.

## Exile of One Alone with One Alone

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**6.1.** At the end of the *Enneads* (VI, 9, 11), in order to define the life of the gods and of “divine and happy men” (namely, philosophers), Plotinus makes use of the formula *phygè monou pros monon*, which remains exemplary as an expression of Neoplatonic mysticism. Bréhier translates it with these words: “Telle est la vie des dieux et des hommes bienheureux: s’affranchir des choses d’ici bas, s’y déplaire, *fuir seul vers lui seul*.”

In 1933, Erik Peterson, who had converted to Catholicism a short time previously, published a study on “The Origin and Meaning of the Formula ‘*monou pros monon*’ in Plotinus.” Against the interpretation of Cumont, who had seen in the expression the transposition of a pagan cultic formula, the neo-Roman Catholic theologian, with a gesture that betrays a Protestant sensibility, instead points toward an “old Greek expression” belonging to the vocabulary of intimacy as the origin of the formula. Expressions of the type *monos monoi*, he suggests, are common in Greek to designate a personal, private, or intimate relation. Plotinus did nothing but introduce into this conventional formula “the conceptual meaning of his metaphysics and his mysticism” (Peterson, p. 35). The metaphor “flight of one alone with one alone,” which according to Peterson contains in itself both the idea of a bond (*Verbundenheit*) and that of a separation (*Absonderung*), dislocates an expression belonging to the sphere of the private lexicon into that of mystical-philosophical terminology, and in this displacement consists Plotinus’s “most proper and original contribution.”

6.2. However, the whole question is distorted by the fact that scholars’ attention has been concentrated solely on the formula *monou pros monon*, taking for granted the meaning of the term *phygè* that immediately precedes it and of which the formula itself is only a determination. The correct but generic translation with “flight” (or “fleeing”) has thus constantly concealed the essential linguistic data, namely, the fact that *phygè* in Greek is a technical term for exile (*phygen pheugein* means “to go into exile,” and *phygas* is the exiled person). This

is so true that, a few pages before, encountering the substantive *phygè* in the series of three terms by means of which Plotinus describes the distance from the “sources of life,” the same translators render it with none other than “exile.” Plotinus does not simply transfer a formula from the sphere of intimacy to the metaphysical-philosophical sphere. Much more significant is the fact that he categorizes the divine and happy life of the philosopher above all through a term drawn from the juridico-political lexicon: exile. And yet exile is now no longer the ban of an individual from the city into another plan but that of “one alone with one alone,” and the condition of negativity and abandonment that it expresses seems to be inverted into a state of “felicity” (*eudaimonon bios*) and “lightness” (*kouphisthesetai*).

Plotinus’s “most proper and original contribution” consists, then, in having united a juridico-political term that means exclusion and exile to a syntagma that expresses intimacy and being together (also in Numenius, in a passage that is often cited as a possible source of Plotinus’s formula, we find in place of *phygè* a verb—*omilesai*—that means “to converse” and “to stand together”). The divine life of the philosopher is a paradoxical “separation (or exclusion) into intimacy.” At stake in the formula is an exile into intimacy, a ban of the self to the self.

6.3. In defining the condition of the philosopher through the image of exile, Plotinus does nothing but take up an ancient tradition. Not only had Plato made use in the *Phaedo* (67a) of a political metaphor (*apodemia*, emigration, literally the abandonment of the *demos*) to define the separation of the soul from the body, but in the *Theatetus* (176a–b), in a passage that is customarily adduced as a possible source of Plotinus’s formula—*phygè de omoiosis theoi kata ton dynaton*—its original political meaning is restored to the term *phygè*: “the assimilation to God is virtually an exile.”

Another precedent for the characterization of the philosophical life as exile is found in the passage of the *Politics* in which Aristotle defines the *bios* of the philosopher as “foreign”: “Which *bios* is preferable, that which is actualized through doing politics together [*synpoliteuesthai*] and participating in common [*koinonein*] in the *polis*, or instead, that which is foreign [*xenikos*] and untied to the political community?” (1324a 15–16). The contemplative life of the philosopher is here compared to that of a foreigner who, like the exiled, could not participate in political life in the Greek *polis*. That the condition of the *apolis*, of the one who is cut off from all political community, seems particularly disquieting to the Greek (and, precisely for this reason, both superhuman and subhuman)

is attested by a choral passage in the *Antigone*, in which Sophocles defines the essence of the *deinos*, the “terrible power” that belongs to man, with the oxymoronic *hypsipolis apolis*, literally: “superpolitical apolitical.” And Aristotle was certainly mindful of this passage when, at the beginning of the *Politics*, he affirms for his part that “the one who is stateless by nature and not by chance is either inferior to or stronger than a man” (1253a 4–8).

6.4. In the tradition of Greek philosophy, the exiled and stateless are thus not neutral figures, and only if one restores it to its juridico-political context does Plotinus’s formula acquire its full sense. Taking up the juxtaposition between the philosophical life and exile, Plotinus pushes it to the extreme, proposing a new and more enigmatic figure of the ban. The relation of the ban in which bare life is held, which we have identified in *Homo Sacer I* as the fundamental political relationship, is laid claim to and assumed as his own by the philosopher. But in this gesture, it is transformed and inverted into something positive, having been posed as a figure of a new and happy intimacy, of an “alone by oneself” as a cipher of a superior politics. Exile from politics cedes its place to a politics of exile.

In this way, philosophy is presented as an attempt to construct a life at once “superpolitical and apolitical” (*hypsipolis apolis*): separated in the ban from the city, it nevertheless becomes intimate and inseparable from itself, in a non-relation that has the form of an “exile of one alone to one alone.” “Alone with one alone” (“alone by oneself”) can only mean: to be together beyond every relation. Form-of-life is this ban that no longer has the form of a bond or an exclusion-inclusion of bare life but that of an intimacy without relation.

(It is in this sense that one is to read the gesture in §4.6 of *Homo Sacer I* toward the necessity of no longer thinking the political-social *factum* in the form of a relationship. From the same perspective, developing the idea that the State does not found itself on a social link but on the prohibition of its dissolution, §4.3 suggested that dissolution is not to be understood as the dissolution of an existent bond, because the bond itself does not have any other consistency than the purely negative one that it derives from the prohibition of dissolution. Since there is originally neither bond nor relation, this absence of relation is captured in state power in the form of the ban and of prohibition.)

6.5. Developing Aristotle’s characterization of the activity of thought as *thigein*, “touching,” Giorgio Colli defines “contact” as the “metaphysical interstice” or the moment in which two entities are separated only by a void of representation. “In contact two points are in contact in the limited sense that

between them there is nothing: contact is the indication of a representative nothing, which nevertheless is a certain nothing, because what it is not (its representative outline) gives it a spatio-temporal arrangement" (Colli, p. 349). Just as thought at its greatest summit does not represent but "touches" the intelligible, in the same way, in the life of thought as form-of-life, *bios* and *zoè*, form and life are in contact, which is to say, they dwell in a non-relation. And it is in a contact—that is, in a void of representation—and not in a relation that forms-of-life communicate. The "alone by oneself" that defines the structure of every singular form-of-life also defines its community with the others. And it is this *thigein*, this contact that the juridical order and politics seek by all means to capture and represent in a relation. Western politics is, in this sense, constitutively "representative," because it always already has to reformulate contact into the form of a relation. It will therefore be necessary to think politics as an intimacy unmediated by any articulation or representation: human beings, forms-of-life are in contact, but this is unrepresentable because it consists precisely in a representative void, that is, in the deactivation and inoperativity of every representation. To the ontology of non-relation and use there must correspond a non-representative politics.

✠ "Alone by oneself" is an expression of intimacy. We are together and very close, but between us there is not an articulation or a relation that unites us. We are united to one another in the form of our being alone. What customarily constitutes the sphere of privacy here becomes public and common. For this reason, lovers show themselves nude to one another: I show myself to you as when I am alone with myself; what we share is only our esoterism, our inappropriable zone of non-knowledge. This Inappropriable is the unthinkable; it is what our culture must always exclude and presuppose in order to make it the negative foundation of politics. For this reason the bare body must be covered by clothing to assume a political value: like bare life, so too is nudity something that must be excluded and then captured in order then to reappear only in the form of undressing (the fact that in the *Lager* the deported had to be stripped of all clothing before being eliminated again shows this political significance of nudity).

Ethologists and scholars of behavior are familiar with an exhibition of intimate parts—both among animals and among children and primitives—with an apotropaic and repulsing character. In confirmation of its originary political character, the intimacy that unites here becomes what repulses and separates. This meaning is even more obvious in the gesture of Hecuba, who shows her bare breast to her son Hector to drive him to go to the battlefield: "Hector, my child! Show *aidos* before this!" (Homer, XXII, 82). *Aidos*—translating it as "shame" would be insufficient—is an *intimate* sentiment that makes obligatory a *public* behavior. Nudity here shows its value as threshold between public and private.

6.6. In his course on Hölderlin in the winter semester of 1934–35, Heidegger, taking up an expression of the poet's, calls intimacy (*Innigkeit*) a dwelling that maintains itself in the conflict between two opposites:

Intimacy does not mean the mere "interiority" [*Innerlichkeit*] of sensation, in the sense of the closing off within oneself of a "lived experience" [*Erlebnis*]. Nor does it mean an intensified degree of "warmth of feeling." Intimacy is also not a word that belongs in the context of the "beautiful soul" and that way of conceiving the world. For Hölderlin, the word carries nothing of the flavor of some dreamy, inactive sentimentality. Quite the contrary: it means, first, supreme force of *Dasein*. Second, this force evinces itself in withstanding the most extreme conflict [*Widersreit*]. . . . (Heidegger II, p. 117/106)

That is to say, according to Heidegger, intimacy names "a knowing standing [*Innerstehen*] and supporting [*Austragen*] of the essential conflict of that which, in being opposed [*Entgegensetzung*] possesses an original unity" (ibid., p. 119/106).

Heidegger thus calls intimacy the mode in which one must live out the dwelling in the most originary dimension accessible to the human being, the "harmonically opposed." In Heideggerian ontology, this corresponds to the experience of difference as difference. Dwelling in this experience means maintaining and at the same time negating the opposites, in accordance with a gesture that Heidegger, once again following Hölderlin, calls *Verleugnung*, from a verb that means "to hide by negating, to renege." Freud had called *Verneinung* an abolition of the repressed, which in some way gives it expression, yet without carrying it to consciousness. In an analogous way, *Verleugnung*, leaving unsaid the unsayable in the said, poetically expresses the secret—namely, the co-belonging of the opposites—without formulating it; it negates it and at the same time maintains it (here there comes to light the problem of the relationship, still insufficiently investigated, of Heidegger's thought with that of Hegel).

Intimacy as a political concept, which is here in question for us, is situated beyond the Heideggerian perspective. It is not a question of having an experience of difference as such by holding firm and yet negating the opposition but of deactivating the opposites and rendering them inoperative. Archeological regression must neither express nor negate, neither say nor un-say: rather, it reaches a threshold of indiscernibility, in which the dichotomy diminishes and the opposites coincide—which is to say, fall together. What then appears is not a chronologically more originary unity, nor a new and superior unity, but something like a way out. The threshold of indiscernibility is the center of the ontologico-political machine: if one reaches it and holds oneself there in it, the machine can no longer function.

## “That’s How We Do It”

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**7.1.** In the *Philosophical Investigations*, Wittgenstein uses the term *Lebensform*, “form of life,” five times to explain what a language (*eine Sprache*) is and how one should understand a language game (*Sprachspiel*). “To imagine a language,” reads the first occurrence, “means to imagine a form of life” (Wittgenstein 1, §19). Shortly afterward, Wittgenstein specifies that “the word ‘language-game’ is used here to emphasize the fact that the speaking of language is part of an activity [*Tätigkeit*], or of a form of life [*Lebensform*]” (§23). And that this “activity or form of life” is something different or more profound than recognizing the correctness of a rule or an opinion is stated further on: “What is true or false is what human beings *say*; and it is in their *language* that human beings agree. This agreement is not in opinions [*Meinungen*], but rather in form of life” (§241). Later on, the proximity between language (more precisely: use of language) and form of life is again emphasized: “Can only those hope who can talk? Only those who have mastered the use [*Verwendung*] of a language. That is to say, the manifestations of hope are modifications of a complicated form of life” (p. 183). And the last occurrence suggests that form of life is something like a given that must be assumed as such: “What has to be accepted, the given [*das Hinzunehmende, Gegebene*], is—one might say—forms of life” (p. 238).

7.2. This last occurrence seems to characterize form of life (and the language game with which it is compared) as a sort of limit point at which, in accordance with a typical Wittgensteinian gesture, explanations and justifications seem to stop. “Our mistake,” one reads toward the end of the first part of the book, “is to look for an explanation where we ought to regard the facts as originary phenomena [*Urphänomene*]. That is, where we ought to say: this is the language game that is being played” (§654). In the *Remarks on the Foundations of Mathematics* (Wittgenstein 2, pt. 2, §74), the same concept is repeated: “The danger here, I believe, is one of giving a justification of our procedure where there is no such thing as a justification and we ought simply to have said: that’s how we do

it [*so machen wir's*].” Every investigation and every reflection reaches a limit at which, as in the “originary phenomenon” according to Goethe, the study must halt. But the novelty with respect to the Goethe citation is that this *Urphänomen* is not an object; it is simply a usage and a practice. It does not concern a “what” but only a “how”: “that’s how we do it.” And it is to this “how” that one actually refers in every justification: “What people accept as a justification shows how they think and live” (Wittgenstein I, §325).

7.3. Some have sought to explain the concept of form of life through that of constitutive rule, namely, of a rule that is not applied to a preexisting reality but constitutes it. Wittgenstein seems to refer to something of the type when he writes that “chess is characterized [*charakterisiert*] by its rules” (Wittgenstein 3, §13) or, even more precisely, “I can’t say: that is a pawn and such and such rules hold for [*bestimmen*] this piece. No, it is the rules alone which define [*bestimmen*] this piece: a pawn is the sum of the rules for its moves” (Wittgenstein 4, pp. 327–328/327).

The concept of “constitutive rule,” though apparently clear, nevertheless hides a difficulty that one must confront. While customarily one understands by a rule something that is applied to a preexisting reality or activity, in this case the rule constitutes the reality and thus seems to be identified with it. “A pawn is the sum of the rules for its moves”: thus, the pawn does not follow the rule but *is* the rule. But what can it mean to “be” its own rule? Here one again finds the same indetermination between rule and life that we have observed in monastic rules: they are not applied to the monk’s life but constitute it and define it as such. But precisely for this reason, as the monks had at once understood, the rule is resolved without remainder into a vital praxis, and this coincides at every point with the rule. The “rule-based life” is a “vital rule,” and, as in Francis, *regula* and *vita* are perfectly synonymous. Can one say, then, of the monk, as of the pawn in the game of chess, that “it is the sum of the rules for its moves”?

7.4. Those who make use of the concept of “constitutive rule” seem to imply that the rule, while being resolved into the constitution of the game, remains separate from it. But as has been noted, this holds only so long as the game is considered as a formal whole of which the rules describe the structure (or furnish the instructions for use). If we instead consider the game as it is in reality, namely, as a series of “concrete interactive episodes involving actual persons, invested with specific goals, skills, and linguistic and other capacities” (Black, p. 328), if, in a word, we regard the game from the perspective of use and not from that of instructions, then the separation is no longer possible. On the pragmatic level, the

game and the rule become indiscernible, and what appears in their becoming indetermined is a use or a form of life. “How am I able to follow a rule? Once I have exhausted the justifications, I have reached bedrock, and my spade is turned. Then I am inclined to say: ‘this is simply what I do’” (Wittgenstein I, §217).

In the same way, if we regard language from the point of view of grammatical rules, one can see that these define the language as a formal system while remaining distinct from it; but if we regard language in use (namely, as *parole* and not as *langue*), then it is just as true if not more so to say that the rules of grammar are drawn from the linguistic usage of the speakers and are not distinguished from them.

7.5. In reality the oft-invoked distinction between constitutive rule and pragmatic rule has no *raison d’être*. Every constitutive rule—the bishop moves in this or that way—can be formulated as a pragmatic rule—“one cannot move the bishop except diagonally”—and vice versa. The same happens with grammatical rules: the syntactic rule “in French the subject normally precedes the verb” can be formulated pragmatically as “you cannot say *pars je* ; you can only say *je pars*.” In truth it is a matter of two different ways of considering the game—or language: one as a formal system that exists in itself (namely, as a *langue*) and another as a use or praxis (namely, as a *parole*).

For this reason it has rightly been asked whether it is possible to transgress a rule of chess, like what constitutes checkmate. One would be tempted to say that transgression, which is impossible on the level of constitutive rules, is possible on the pragmatic level. In reality, the one who transgresses the rule simply ceases playing. Hence the special gravity of the swindler: the one who swindles does not transgress a rule but pretends to keep playing when in reality he has left the game.

7.6. What is really in question in constitutive rules, what they inadequately seek to prove, is something like the process of the autoconstitution of being, namely, the same process that philosophy had expressed in the concept of the *causa sui*. As Spinoza has suitably reminded us, this certainly cannot mean that “before existing it had brought to pass that it was to be, which is absurdity itself and cannot be” (Spinoza 4, II, XVII); instead it means the immanence of being to itself, an internal principle of self-movement and self-modification, because of which every being, as Aristotle says of *physis*, is always on the way to itself. The constitutive rule, like form of life, expresses this auto-hypostatic process, in which the constitutive is and remains immanent to the constituted, is actualized and expressed in it and by means of it, inseparable.

If one reads attentively, Wittgenstein writes as much in one of the rare passages in which he makes use (in English) of the term “to constitute” with respect to the rules of chess:

What idea do we have of the king of chess, and what is its relation to the rules of chess? . . . Do these rules follow from the idea? No, the rules are not something contained in the idea and got by analyzing it. They constitute it. . . . The rules constitute the “freedom” of the pieces. (Wittgenstein 5, p. 86)

Rules are not separable into something like an idea or a concept of the king (the king is the piece that is moved according to this or that rule): they are immanent to the movements of the king; they express the autoconstitution process of their game. In the autoconstitution of a form of life what is in question is its freedom.

7.7. For this reason Wittgenstein does not consider form of life from the point of view of rules (constitutive or pragmatic as they may be) but from that of use, which is to say, starting from the moment where explanations and justifications are no longer possible. Here one touches a point at which “giving grounds, however, justifying the evidence, comes to an end” (Wittgenstein 6, §204), something like a “foundation” that corresponds to a level that is, so to speak, animal in the human, to his “natural history.” As one of the very rare passages where the term “form of life” appears outside the *Philosophical Investigations* says, “Now I would like to regard this certainty, not as something akin to hastiness or superficiality, but as a form of life. . . . But that means I want to conceive it as something that lies beyond being justified or unjustified; as it were, as something animal” (ibid., §§358–359). The animality that is here in question is in no way opposed, according to the tradition of Western philosophy, to the human being as rational and speaking being. Quite the contrary, they are precisely the most human practices—speaking, hoping, recounting—which here reach their ultimate and most proper ground: “Giving orders, asking questions, telling stories, having a chat, are as much a part of our natural history as walking, eating, drinking, playing” (Wittgenstein 1, §25). For this ground impenetrable to explanations, which constitutive rules seek in vain to grasp, Wittgenstein also makes use of the terms “usage, custom, institutions”: “This is simply what we do. This is use and custom among us, or a fact of our natural history” (Wittgenstein 2, pt. 1, §63); “To follow a rule, to make a report, to give an order, to play a game of chess, are customs (usages, relations)” (Wittgenstein 1, §199). The opacity of forms of life is of a practical and, in the last analysis, political nature.

## Work and Inoperativity

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**8.1.** In his course on *L'herméneutique du sujet*, Foucault closely links the theme of truth and that of mode or form of life. Starting from a reflection on Greek Cynicism, he shows that the ethical practice of the self here takes the form not of a doctrine, as in the Platonic tradition, but of a test (*épreuve*), in which the choice of a mode of life becomes in every sense the decisive question. In the lineage of the Cynical model, which makes of the philosopher's life an unceasing challenge and a scandal, Foucault evokes two examples in which the claim of a certain form of life becomes ineludible: the political militant's style of life and, a little later, the life of the artist in modernity, which seems caught in a curious and inextricable circularity. On the one hand, the biography of the artist must testify through its very form to the truth of the work in which it is rooted. On the other hand, by contrast, it is the practice of art and the work that it produces that are to confer on the life itself the seal of authenticity.

Although the problem of the relation between truth and form of life is certainly one of the essential themes of the course, Foucault does not linger further on the at-once exemplary and contradictory status of the condition of the artist in modernity. The coincidence between life and art that is in question here is, from Romanticism to contemporary art, a constant tendency, which has brought about a radical transformation in the mode of conceiving the work of art itself. This bears witness beyond any possible doubt to the fact that we are not dealing with an accidental question. Not only have art and life ended up being indetermined to such an extent that it has often become impossible to distinguish life practice from artistic practice, but starting from the twentieth-century avant-garde, this has had as a consequence a progressive dissolution of the very consistency of the work. The truth criterion of art has been displaced to such a degree into the minds and, very often, into the very bodies of the artist, into his or her physicality, that these latter have no need to exhibit a work except as ashes or as a document of their own vital praxis. The work is life and the life is only

work: but in this coincidence, instead of being transformed or falling together, they continue to pursue each other in an endless fugue.

8.2. It is possible that in the paradoxical circularity of the artistic condition there comes to light a difficulty that concerns the very nature of what we call form-of-life. If life is here inseparable from its form, if *zoè* and *bios* are here intimately in contact, how are we to conceive their non-relation, how to think their being given together and simultaneously falling? What confers on form-of-life its truth and, at the same time, its errancy? And what relationship is there between artistic practice and form-of-life?

In traditional societies and, to a lesser extent, still today, every human existence is caught up in a certain praxis or in a certain mode of life—a trade, profession, precarious occupation (or today, increasingly often, in a privative form, unemployment)—that in some way defines it and with which it tends to identify itself more or less completely. For reasons that this is not the place to investigate but that certainly have to do with the privileged status that, beginning in modernity, is attributed to the work of art, artistic praxis has become the place where this identification comes to know a durable crisis, and the relation between the artist as producer and his work becomes problematic. Thus, while in classical Greece the activity of the artist was defined exclusively by his work, and, considered for this reason as *banausos*, he had a status that was, so to speak, residual with respect to the work, in modernity it is the work that comes to constitute in some way an embarrassing residual of the artist's creative activity and genius. It is not surprising, therefore, that contemporary art has achieved the decisive step of substituting the life itself for the work. But at this point, if one does not wish to remain imprisoned in a vicious circle, the problem becomes the entirely paradoxical one of trying to think the artist's form of life in itself, which is precisely what contemporary art attempts but does not seem to be able to achieve.

8.3. What we call form-of-life is not defined by its relation to a praxis (*energeia*) or a work (*ergon*) but by a potential (*dynamis*) and by an inoperativity. A living being, which seeks to define itself and give itself form through its own operation is, in fact, condemned to confuse its own life with its own operation, and vice versa. By contrast, there is form-of-life only where there is contemplation of a potential. Certainly there can only be contemplation of a potential in a work. But in contemplation, the work is deactivated and rendered inoperative, and in this way, restored to possibility, opened to a new possible use. That form of life is truly poetic that, *in its own work*, contemplates its own potential to do and not do and finds peace in it. *The truth that contemporary art never manages*

*to bring to expression is inoperativity, which it seeks at all costs to make into a work.* If artistic practice is the place where one is made to feel most forcefully the urgency and, at the same time, the difficulty of the constitution of a form-of-life, that is because in it there has been preserved the experience of a relation to something that exceeds work and operation and yet remains inseparable from it. A living being can never be defined by its work but only by its inoperativity, which is to say, by the mode in which it maintains itself in relation with a pure potential in a work and constitutes-itself as form-of-life, in which *zoè* and *bios*, life and form, private and public enter into a threshold of indifference and what is in question is no longer life or work but happiness. And the painter, the poet, the thinker—and in general, anyone who practices a *poiesis* and an activity—are not the sovereign subjects of a creative operation and of a work. Rather, they are anonymous living beings who, by always rendering inoperative the works of language, of vision, of bodies, seek to have an experience of themselves and to constitute their life as form-of-life.

And if, as Bréal suggests, the term *ethos* is only the pronominal reflexive root *e* followed by the suffix *-thos* and thus means simply and literally “selfhood,” namely, the mode in which each one enters into contact with oneself, then artistic practice, in the sense that we are here seeking to define, belongs above all to ethics and not to aesthetics; it is essentially use-of-oneself. At the point where he constitutes-himself as form-of-life, the artist is no longer the author (in the modern, essentially juridical sense of the term) of the work nor the proprietor of the creative operation. These latter are only something like the subjective remainders and the hypostases that result from the constitution of the form of life. For this reason Benjamin could claim that he did not want to be recognized (*Ich nicht erkannt sein will*; Benjamin 3, p. 532), and Foucault, even more categorically, that he did not want to identify himself (“I prefer not to identify myself”; Rabinow, p. 184 [in English in original]). Form-of-life can neither recognize itself nor be recognized, because the contact between life and form and the happiness that are in question in it are situated beyond every possible recognition and every possible work. In this sense, form-of-life is above all the articulation of a zone of irresponsibility, in which the identities and imputations of the juridical order are suspended.

## The Myth of Er

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**9.1.** At the end of the *Republic*, Plato recounts the myth of Er the Pamphyliaian, who died in battle and unexpectedly returned to life when his body had already been laid on the funeral pyre to be burned. The report that he makes of his soul's voyage into "a certain daemonic place," where he witnessed the judgment of souls and the spectacle of their reincarnation in a new *bios*, is one of the most extraordinary visions of the hereafter, comparable in liveliness and richness of meaning with the *nekylia* in the *Odyssey* and Dante's *Comedy*. The first part of the account describes the judgment of the souls of the dead: between two adjacent chasms in the earth and two other openings in the heavens, there sit judges (*dikastai*) who,

having rendered their verdict, ordered the just to go upward to the heavens through the door on the right, with signs of the judgment attached to their chests, and the unjust to travel downward through the opening on the left, with signs of all their deeds on their backs. When Er himself came forward, they told him that he was to be a messenger [*angelon*] to human beings about the things that were there, and that he was to listen to and look at everything that happened in that place. He said that he saw souls departing after judgment through one of the openings in the heavens and one in the earth, while through the other two souls were arriving. From the door in the earth souls came up covered with dust and dirt, and from the door in the heavens souls came down pure [*katharas*]. And the souls who were arriving all the time seemed to have been on long journeys so that they gladly went to the meadow, like a crowd going to a solemn festival [*en penegyrei*], and camped there. The souls who knew each other exchanged greetings, and those who came up from the earth asked those who came down from the heavens about the things there and were in turn questioned by them about the things below. And so they told their stories to one another, the former weeping as they recalled all they had suffered and seen on their journey below earth, which lasted a thousand years, while the latter, who had come from heaven, told about how well they had fared and about the inconceivably fine and beautiful sights [*theas amechanous to kallos*] they had seen. There was much to tell, Glaucon, and

it took a long time, but the main point was this: for each in turn of the unjust things they had done and for each in turn of the people they had wronged, they paid the penalty ten times over, once in every century of their journey. Since a century is roughly the length of a human life, this means that they paid a tenfold penalty for each injustice. (614c–615b)

9.2. The most significant part of the myth, at least for us, begins only at this point and concerns the choice that every soul, before reentering the cycle of birth and death, must make of its form of life, of its *bios*. All the souls, after having spent seven days in the meadow, on the eighth day had to go on a journey in order to reach on the fourth day a place from which they can make out

a straight column of life that stretched over the whole of heaven and earth, more like a rainbow than anything else, but brighter and more pure. After another day, they came to the light itself, and there, in the middle of the light, they saw the extremities of the bonds stretching from the heavens, for the light binds [*syndesmon*] the heavens like the cables girding a trireme and holds its entire revolution together. From the extremities hangs the spindle [*atrakton*] of Ananke, by means of which all the spheres are turned. Its stem and hook are of adamant, whereas in its whorl [*sphondylos*] adamant is mixed with other kinds of material. The nature of the whorl was this: its shape was like that of an ordinary whorl, but from what Er said, we must understand its structure as follows. It was as if a big whorl had been made hollow by being thoroughly scooped out, with another smaller whorl closely fitted into it, like nested boxes, and there was a third whorl inside the second, and so on, making eight whorls altogether, lying inside one another, with their rims appearing as circles from above, while from the back they formed one continuous whorl around the stem, which was driven through the center of the eighth. The first or outside whorl had the widest circular rim; that of the sixth was second in width; the fourth was third; the eighth was fourth; the seventh was fifth; the fifth was sixth; the third was seventh; and the second was eighth. The firm of the largest was spangled; that of the seventh was brightest; that of the eighth took its color from the seventh's shining on it; the second and fifth were about equal in brightness, more yellow than the others; the third was the whitest in color; the fourth was rather red; and the sixth was second in whiteness. The whole spindle turned at the same speed, but as it turned, the inner circles gently revolved in a direction opposite to that of the whole. Of the whorls themselves, the eighth was the fastest, second came the seventh, sixth, and fifth, all the same speed; it seemed to them that the fourth was third in its speed of revolution; the fourth, third; and the second, fifth. The spindle itself turned on the lap of Ananke. And up above on each of the rims of the circles stood a Siren, who accompanied its revolution, uttering a single sound, one single note. And the concord of the eight notes produced a single harmony. And there were

three other beings sitting at equal distances from one another, each on a throne. These were the Fates, the daughters of Ananke: Lachesis, Clotho, and Atropos. They were dressed in white, with garlands on their heads, and they sang to the music of the Sirens. Lachesis sang of the past, Clotho of the present, and Atropos of the future. With her right hand, Clotho touched the outer circumference of the spindle and helped it turn; Atropos with her left hand did the same to the inner ones; and Lachesis with both hands helped motions in turn. (616b–617d)

9.3. After this extraordinary vision, entirely under the sign of necessity and perfect—even if obscure—harmony, there follows, in stark contrast, the description of the choice that souls make of their modes of life. The unfailing rigor of a cosmic machine, which operates through bonds and chains and as a result produces a harmonic order, symbolized by the song of the Sirens and the Moirai, is now replaced by the “at once pitiful, ridiculous, and marvelous” spectacle (619e) of the way in which the souls again enter into the “death-bearing” cycle of birth (617d). If there had previously been bond, destiny, and necessity, here Ananke seems to cede her reign to Tyke, and everything becomes chance, contingency, and luck of the draw. And if the cipher of necessity was the wondrous metallic whorl that regulates the movements of the celestial spheres, that of contingency here has an entirely human and erratic name: *airesis*, “choice”:

When the souls arrived at the light, they had to go to Lachesis. There a herald [*prophetes*] arranged them in order, took from the lap of Lachesis a number of lots [*klerous*—the tablet and piece of chalk that each citizen signed and then put in a receptacle for the drawing] and examples of modes of life [*bion paradeigmata*], mounted a high pulpit, and spoke to them: “Here is the message of Lachesis, the maiden daughter of Ananke: ‘Ephemeral souls, this is the beginning of another mortal cycle bearing death [*periodou thnetou genous thanatephorou*]. Your daemon will not be assigned to you by lot; you will chose [*airesethe*] your daemon. The one who has the first life will be the first to choose a form of life to which he will then be bound by necessity [*aireistho bion oi synestai ex anankes*]. By contrast, virtue is free [*adespoton*, without a master, unallotted]; each will possess it to a greater or less degree, depending on whether he values or disdains it. The fault [*aitia*] lies with the one who makes the choice; the god is innocent.’” When he had said this, the herald threw the lots among all of them and each picked up [*anairesthai*, the same verb that Plato relates to the hypostases in Book VII of the *Republic*] the one that fell next to him, with the exception of Er, who wasn’t allowed to choose. And the lot made it clear to the one who picked it up where in the order he would get to make his choice. After that, the herald placed on the ground before them the examples of modes of life. There were far more of them than there were souls present, and they were of all kinds, for the animals’

forms of life [*bios*] were there, as well as all kinds of human forms of life. There were tyrannies among them, some of which lasted throughout life, while others ended halfway through in poverty, exile, and beggary. There were lives of famous men, some of whom were famous for the beauty of their appearance, others for strength or athletic prowess, others still for their high birth and the virtue or excellence of their ancestors. And there were also lives of men who weren't famous for any of these things. And the same for lives of women. But the arrangement of the soul was not included in the model because the soul is inevitably altered by the different lives it chooses. But all the other things were there, mixed with each other and with wealth, poverty, sickness, health, and the states intermediate [*mesoun*] to them. . . . Then our messenger from the other world reported that the herald spoke as follows: "There is a satisfactory life rather than a bad one available even for the one who comes last, provided that he chooses it rationally and lives it seriously. Therefore, let not the first be careless in his choice nor the last discouraged."

Er said that when the herald had told them this, the one who came up first chose the greatest tyranny. In his folly and greed he chose it without adequate examination and didn't notice that, among other evils, he was fated to eat his own children as a part of it. When he examined at leisure the life he had chosen, however, he beat his breast and bemoaned his choice. And ignoring the warning of the herald, he blamed chance [*tyken*], daemons, and everything else for these evils but himself. He was one of those who had come down from heaven, having lived his previous life in a well-ordered city, where he had participated in virtue through habit and without philosophy. Broadly speaking, indeed, most of those who were caught out in this way were souls who had come down from heaven and who were untrained in suffering as a result. The majority of those who had come up from the earth, on the other hand, having suffered themselves and seen others suffer, were in no rush to make their choices. Because of this and because of the chance of the lottery [*dià ten tou klerou tyken*], there was an interchange of goods and evils for most of the souls. However, if someone pursues philosophy in a sound manner when he comes to live here on earth and if the lottery doesn't make him one of the last to choose, then given what Er has reported about the next world, it looks as though not only will he be happy here but his journey from here to there and back again won't be along the rough underground [*chthonian*] path but along the smooth heavenly one.

Er said that the way in which souls chose their lives was a sight [*thean*] worth seeing, since it was pitiful, ridiculous, and marvelous [*eleinken kai geloian kai thaumasian*] to watch. For the most part, their choice depended upon the habit [*synethian*] of their former life. For example, he said that he saw the soul that had once belonged to Orpheus choosing a swan's life, because he hated the female sex because of his death at their hands and so was unwilling to have a woman conceive and give birth to him. Er saw the soul of Thamyris choosing

the life of a nightingale, a swan choosing to change over to a human life, and other musical animals did the same thing. The twentieth soul chose the life of a lion. This was the soul of Ajax, son of Telamon. He avoided human life because he remembered the judgment about the armor. The next soul was that of Agamemnon, whose sufferings also had made him hate the human race, so he changed to the life of an eagle. Atalanta had been assigned a place near the middle, and when she saw great honors being given to a male athlete, she chose his life, unable to pass them by. After her, he saw the soul of Epeius, the son of Panopeus, taking on the nature of a craftswoman. And very close to last, he saw the soul of the ridiculous Theristes clothing itself as a monkey. Now, it chanced that the soul of Odysseus got to make its choice last of all, and since memory of its former sufferings had relieved its love of honor, it went around for a long time, looking for the life of a private individual who did his own work, and with difficulty he found one lying off somewhere neglected by the others. He chose it gladly and said that he'd have made the same choice even if he'd been first. Still other souls changed from animals into human beings, or from one kind of animal into another, with unjust people changing into wild animals, and just people into tame ones, and all sorts of mixtures occurred.

After all the souls had chosen their lives, they went forward to Lachesis in the same order in which they had made their choices, and she assigned to each the daemon it had chosen as guardian of its life and fulfiller of its choice. This daemon first led the soul under the hand of Clotho as it turned the revolving spindle to confirm the fate [*moiran*] that the lottery and its own choice had given it. After receiving her touch, he led the soul to the spinning of Atropos, to make what had been spun irreversible [*ametastroph*]. Then, without turning around, they went from there under the throne of Ananke, and, when all of them had passed through, they traveled to the plane of Lethe in burning, choking, terrible heat, for it was empty of trees and earthly vegetation. And there, beside the river of unheeding, whose water no vessel can hold, they camped, for night was coming on. All of them had to drink a certain measure of this water, but those who weren't saved by reason drank more than that, and as each of them drank, he forgot everything and went to sleep. But around midnight there was a clap of thunder and an earthquake, and they were suddenly carried away from there, this way and that, up to their births, like shooting stars. Er himself was forbidden to drink the water. All the same, he didn't know how he had come back to his body, except that waking up suddenly he saw himself lying on the pyre at dawn. (617b–621b)

9.4. Every reading of the myth of Er must try to define the strategy in which it is inscribed, above all by singling out the problem that Plato is seeking to understand through it. In his commentary, Proclus formulates it in this way: it is a question of “showing the whole of providence, whether of Gods or of daemons,

insofar as it concerns the soul, its descent into birth [*genesis*], its being separated from it, and the multiform modes of its behavior.” Stated more precisely: the problem that Plato wants to address through the myth is the fact that, with birth, every soul seems to find itself necessarily and irrevocably united to a certain form of life (*bios*), which it abandons at death. The life (*zoè*) of mortals (the soul is the principle of life) is always in a certain *bios*, in a certain mode of life (we could say that it is “thrown” into it), and yet it does not coincide with this latter, nor is it united to it by any substantial connection. The myth explains this factual union—which includes a non-coincidence and a gap and, at the same time, a necessary bond—by means of the idea of a “choice”: each soul, on entering into birth, chooses its *bios* and then forgets having done so. From this moment on, it finds itself united to the form of life that it has chosen by a necessary bond (*oi synesthai ex anankes*). For this reason Lachesis can say that “the fault lies with the one who makes the choice; the god is innocent.”

That is to say, the myth seems to explain the irreparable union of each soul with a certain form of life in terms that are moral and, in some way, even juridical: there has been a “choice,” and there is therefore a responsibility and a fault (*aitia*). To the physics of the first part of the account, which explains necessity in terms of a cosmic machine, there corresponds an *a posteriori* necessity, which results from an ethical choice (for this reason Proclus speaks of a “necessity of result”; Proclus 2, p. 234).

9.5. Karl Reinhardt has shown that in Plato, *mythos* and *logos*, explanation through story and dialectical rigor, are not contradictory but are mutually integrated (Reinhardt, *passim*). This means that, in our case as well, the myth is a complex figure, which seeks to explain something that *logos* by itself cannot clarify and that therefore demands in its turn an uncommon hermeneutical capacity. The myth of Er thus seems to suggest that the factual union of soul and form of life must be explained as a choice, which therefore introduces into the harmonious necessity of the cosmos something like a moral fault (Porphyry, albeit with great reserve, speaks here of something like a “free will,” *to eph’ emin*, that which is in our power; Porphyry, *On Free Will*, qtd. in Proclus 2, p. 353). But is it really so? Do the souls really choose their life freely from among the “examples” (*paradeigmata*) that the daughter of necessity, Lachesis (the name simply means: “the one who distributes lots”), puts before them?

First of all we will do well not to let it escape us that the image of cosmic necessity, which takes up the first part of Er’s report, not only is not as serene and harmonic as the commentators profess but includes decidedly sinister traits.

Plato certainly could not have been ignorant of the fact that the Moirai are inscribed in the lineage of Night, before whom even Zeus shows terror (in Homer, the Moira is defined as “destructive” and “difficult to bear”). The threads that the Moirai spin out are the days of our life, which Atropos (the name means “she who cannot be dissuaded,” “the inexorable”) suddenly cuts. The Sirens are creatures who are just as sinister, true and proper goddesses of death (Kerényi, p. 58), birds with the strongest of claws. In the *Odyssey*, they dwell on an island full of putrefied bones and desiccated human skins and enchant sailors with their song to make shipwreck there. This is so much the case that to avoid having them cast a gloomy shadow over the cosmic machine, Proclus suggests, obviously without the slightest foundation, that Plato actually meant to refer to the Muses.

But even the singular machine of adamant and other metals chained to the heavens has nothing reassuring about it. If Proclus feels the need to explain that adamant is the symbol of inalterability (Proclus 2, p. 159), this is because he knew perfectly well that in Hesiod, adamant is linked to the third age of the world, that of bronze, a terrible and violent one after the happy age of gold and the less happy age of silver: human beings had arms and houses of bronze then, but their heart, said Hesiod, was adamant. Everything leads one to think that by inserting these and other grim traits (like the “choking, terrible heat” and the desert of Lethe, absolutely barren of every form of life) into the vision of Er, Plato intended to suggest that it was precisely not an image of justice and harmony.

9.6. Let us now look to the souls who, obeying Lachesis’s proclamation, choose their forms of life. Just as the machine of necessity was not, in reality, either just or harmonious, in the same way the souls’ choice is not properly a free choice. First of all, the order in which the souls must make their choice depends on the way—it is not clear if it is by chance or decided by Lachesis—in which the lots are cast. All the souls pick up the lot that has fallen near them and, according to the order that has befallen them, choose the paradigm of life that the herald has placed on the ground in front of them. If Er defines the spectacle of this choice as “pitiful” and “ridiculous,” that is because the souls, as the examples of Orpheus, Thamyris, Ajax son of Telamon, Agamemnon, Atalanta, Ulysses, and Theristes eloquently show, do not choose freely but “according to the habit [*synetheia*, the mode of living] of their former life.” For this reason, Porphyry writes that Plato in this way risks “doing away with free will and, more generally, what we call autonomy of choice, if it is true that the souls arrive at their choice in consequence of their prior lives according to preceding cycles and with a character already formed according to what they have loved and hated” (ibid.,

p. 349). Even more pertinent is the other objection mentioned by Porphyry, concerning the irrevocable character of the choice, confirmed by the Moirai and by the daemon who will keep watch so that the soul will remain faithful to its choice: “But if all this has been spun, determined by necessity, sanctioned by the Moirai, by Lethe, by Ananke, if a daemon guards the fate and keeps watch so that it is accomplished, of what are we ever masters and in what sense can one say ‘virtue is free?’” (p. 350).

To the pseudo-justice of a blind and violent necessity, which seems to make use of souls for its own inscrutable designs, there corresponds the pseudo-freedom of the souls who believe they are choosing but who in this way do nothing but submit to a destiny that has been decided elsewhere. If the game is fixed in this sense, how can judges judge actions that depend on a choice that one is not only not free to revoke but that has, moreover, been worked out as a consequence of past behavior, over which the agent no longer has any power?

9.7. It is necessary to reflect on the “ridiculous” (*geloian*) character of the spectacle (*thea*, the term used by Plato, means “sight” but also “theatrical spectacle”) of the choice that the souls make of their *bioi*. That is to say, Er attends a spectacle that, even though it should arouse pity (*eleinen*), actually seems ridiculous to him. If one recalls the preference that Plato seems to accord to comedy, in particular to mime (according to a durable legend, attested by Diogenes Laertius [III, 18] and repeated by Valerius Maximus and Quintilian, he loved the mimes of Sophron so much that he imitated their characters—*ethopoiesai*—and kept them under his pillow at the moment of his death), one could say that Er attends a comic spectacle, in which what was in question was an “ethology,” a “description of characters,” or a *mimesis biou*, an imitation of form of life (“mime is an imitation of *bios*, which includes both the decent and the indecent”; Keil, p. 491). What in tragedy is presented as the choice of a destiny is actually a comic gesture, the choice of a character. The choice of forms of life, despite the risk (*kindynos*, 618b) that it entails, is thus in the last analysis comical, and in philosophy, which exhibits and describes this ethology, what is in question is an ironic salvation rather than a condemnation of character without appeal. It is in this sense that one should read the passage, precisely at the end of the *Symposium*, in which Socrates convinces Aristophanes and Agathon that the same person ought to compose tragedies and comedies and that “the skillful tragic dramatist should also be a comic poet” (223d).

9.8. What, then, is the sense of the myth that closes the *Republic*, which is to say, a dialogue whose themes are justice and politics? One might say that once the soul, following the decree of necessity, has entered into the cycle of births

and has chosen a form of life, all justice—both on its own part and on that of those who must judge him—is impossible. To a blind choice there can only correspond a blind necessity, and vice versa.

And yet there is a passage, which we have up to now omitted to transcribe, in which Plato seems precisely to want to suggest the way of “choosing always and on every occasion the best form of life among those possible.” Immediately after having described (618a) how, in Er’s report, the modes of life had been mixed before them, some united to riches or poverty, the others to sickness or to health, while others still were intermediate (*mesoun*) among them, Plato adds:

Now, it seems that it is here, Glaucon, that a human being faces the greatest danger of all. And because of this, each of us must neglect all other subjects and be most concerned to seek out and learn those that will enable him to distinguish the good [*chreston*, literally “usable”] life from the bad and always to choose always and on every occasion the best *bios* among those possible. He should think over all the things that we have mentioned and how they jointly and severally stand with regard to the virtuous life [*pros areten biou*]. That way he will know what the good and bad effects of beauty are when it is mixed with wealth, poverty, and a particular state of the soul. He will know the effects of high or low birth, private life or ruling office, physical strength or weakness, ease or difficulty in learning, and all the things that are either naturally a part of the soul or are acquired, and he will know what they achieve when mixed with one another. And from all this he will be able, by considering the nature of the soul, to reason out which life is better and which worse and to choose accordingly, calling a life worse if it leads the soul to become more unjust, better if it leads the soul to become more just, and ignoring everything else. We have seen that this is the best way to choose, whether in life or death [*zonti te kai teleteusanti*]. Hence we must go down to Hades holding with adamant determination to the belief that this is so, lest we be dazzled there by wealth and other such evils, rush into a tyranny or some other similar course of action, do many irreparable evils, and suffer even worse ones. And we must always know how to choose the mean form of life [*ton meson bion*] among them and how to avoid either of the extremes [*hyperballonta*], as far as possible, both in this life and in all those beyond it. This is the way that a human being becomes happiest. (618c–619b)

9.9. What does it mean to choose “the mean *bios*”? First of all, a preliminary observation, which concerns the place and time when the choice happens. By writing “whether in life or death” and by specifying a little later “both in this life and in all those beyond it,” Plato reveals that what in the myth seemed to concern only the souls of the dead and the not yet born actually refers also and above all to the living. The choice that the myth situates in a “certain daemonic

place” takes place also in this life, in which according to the myth souls are always already linked by necessity to a certain form of life. The life of the mean is, that is to say, the virtuous life, and virtue, being adespotic and unassignable, is not one among the various forms of life that souls can choose, but according to Lachesis, each one will have it to a greater or less extent according to whether it loves it or despises it.

If this is true—and it can mean nothing else for virtue to be adespotic—then the “choice” of the life of the mean is not properly a choice but rather a praxis, which by orienting itself in the inextricable mixture of nobility and obscurity, private and public, wealth and poverty, strength and weakness that characterize every *bios*, succeeds in distinguishing and discerning (*diagignoskonta*) the best form of life, namely, that which will render the soul most just. It is necessary to imagine *bios* as a single segment or a single field of forces defined by two opposed extremes (Plato calls them excesses, *ta hyperbollonta*): to choose the mean does not mean to choose a *bios* but, in the *bios* that it has befallen us to choose, to be in a position to neutralize and flee the extremes through virtue. The *mesos bios* cuts every life in half and, in this way, makes use of it and constitutes it into a form-of-life. It is not a *bios* but a certain mode of using and living *bios*.

9.10. It is from this perspective that one must recall that what the herald shows to the souls are not *bioi*, modes of life, but examples (*paradeimata*) of modes of life. Following up on the work of Victor Goldschmidt, we have elsewhere pointed out the peculiar function that the concept of a paradigm, which can refer to both ideas and sensible things, develops in Plato’s thought. The example is a singular element that, by deactivating for an instant its empirical givenness, renders intelligible another singularity (or a group of singularities). By proposing paradigms of life and not simply lives to the souls, the herald gives them the possibility of understanding and rendering intelligible each form of life before choosing it, which is precisely what, in contrast with the majority of souls, the virtuous soul succeeds in doing. It is not surprising, then, that in the dialogue in which Plato reflects most extensively on the paradigm, it is never something given but is produced and recognized through a “bringing together,” a “putting beside,” and a “showing” (*Statesman*, 278b–c). Once again, what the myth presents as a fact (the paradigms of life placed on the ground by the herald) is actually the result of a discernment and a virtuous praxis, which confers on each *bios* an exemplary or paradigmatic character. The *mesos bios* is that form of life that is totally concerned with its own exemplarity (*forma vitae* in the vocabulary of monastic rules means “example of life, exemplary life”).

9.II. In his reading of the myth of Er, Porphyry calls attention to the fact that Plato uses the term *bios* in an ambiguous way. That is to say, he means by this term both modes of life in the proper sense and *zoè*. Plato “does not speak of modes of life in the sense of the authors of the treatises *On Modes of Life*, who mention first one mode of life, that of the farmer, then another, that of the statesman, and then still another, the military life.” Since, among the numerous modes of life in use among human beings, our free will can choose to abandon one in order to assume another, unprepared readers are surprised that, in the myth, the one who has chosen a *bios* remains bound to it by necessity.

This is because, according to the Stoics, “mode of life” only has the meaning of rational life [*logikes zoes*], since they mean by this term a certain course [*diexodos*] constituted by actions, reflections, and effects that are produced or undergone. But Plato means by *bios* the lives [*zoas*] of animals as well. Thus for him the *zoè* of a swan is also a *bios*, and that of the lion as lion and that of the nightingale is a *bios* too. And that of men and women are also *bios*. . . . This is, for him, a primary meaning of the term *bios*, but there is another one that refers to accidental traits of these modes of life, a sort of character that is added in a secondary way to the principal sense. Thus for the dog *bios* in the principal sense is the *zoè* of the dog. By contrast, it is accidental to the canine life that it belongs to the species of dogs that hunt or that of bloodhounds or that of dogs who sit next to the table or that of guard dogs: this *bios* is secondary. And if, for animals deprived of free will, this character comes to be added by nature or by the training imposed by their master, it is also given to human beings by nature or by chance to be born of noble parents or to be endowed with physical beauty, and it is clear that this does not depend on our free will. Rather, as to the acquisition of a certain trade, occupation, or knowledge, as to undertaking the political life or public offices or other things of the kind, all this depends on us. . . . (Porphyry, *On Free Will*, qtd. in Proclus 2, p. 351)

This observation, which Porphyry uses solely to distinguish what depends on us from what we cannot change, deserves to be taken up and developed. In Plato, the soul certainly has an essential connection with *zoè* (it “carries life [*pherousa zoen*] into whatever it occupies”; *Phaedo*, 105c). By choosing a certain *bios*, a mode of life, it chooses or has already chosen a *zoè* as well: the life of a man, a woman, a swan, a lion, a nightingale. And yet, just as it cannot be identified with a certain *bios*, neither can it be resolved into a certain *zoè* (the soul “chooses” both, and Plato does not seem to distinguish, as Porphyry professes, between the choice of a *zoè* and that of a *bios* as far as responsibility is concerned).

If the distinction in time between a “before birth,” an “after birth,” and an “after death” is, as we have seen, only an expedient of the myth, this means

that in this life—which constitutes the problem that the myth seeks to render comprehensible—a game is being played between three at once intimate and heterogeneous “partners”: the soul, *zoè*, and *bios*. The soul is not (only) *zoè*, natural life, or (only) *bios*, politically qualified life: it is, *in them and between them*, that which, while not coinciding with them, keeps them united and inseparable and, at the same time, prevents them from coinciding with each other. Among soul, *zoè*, and *bios* there is an intimate contact and an irreducible gap (this is the ultimate sense of the image of the “choice”: what is chosen does not belong to us, and yet in some way it has become ours). And the goal of the myth is not that of furnishing us with a different and better representation of the soul: rather, it is that of stopping representation, in order to exhibit a non-representable.

To comprehend the singular status of the Platonic *psychè*, it will be helpful to compare it with his disciple Aristotle’s definition of the soul. Forcing the Platonic connection between soul and *zoè*, Aristotle defines the soul as “the being-at-work [*energeia*] of a body that has *zoè* in potential,” and in this way he identifies soul and life in action. On the other hand, having thus resolved the soul into *zoè*, he must then necessarily divide it and articulate it functionally into the vegetative, sensitive, and intellectual soul (or life), in order to then make of it, as we have seen, the presupposition of political existence (which entails a clear distinction and, at the same time, a strategic articulation between *zoè* and *bios*). For this reason there belongs to the vegetative soul a status that in some way recalls that of the Platonic *psychè*: it is separable according to *logos*, while in mortals the others cannot be separated from it.

Let us now return to the aporetic situation of the soul in Plato. While being factually united to a certain *zoè* and a certain *bios*, it remains irreducible to them. This irreducibility does not mean that the myth is to be read literally, as if souls existed separately in a certain daemonic or hyperuranian place. The soul moves the body from within and not from without like an adventitious external principle: according to the clear statement of the *Phaedrus* (245c), “every body that moves itself from within [*endothen*] is animate [*empsychon*], because this is the nature of the soul.” Hence the striking silence in the myth—over which it seems that the commentators have not sufficiently lingered—on the way in which Er sees and recognizes the souls (“he said that he saw [*idein*] the soul that had once belonged to Orpheus . . .”), as if they were in some way constitutively united to their body or preserved its image. And yet it will be the soul and not the body that is to be judged for the actions committed during life.

The soul, just like form-of-life, is what *in my zoè*, *in my bodily life* does not coincide with my *bios*, with my political and social existence, and yet has

“chosen” both, practices them both in this certain, unmistakable mode. It is itself, in this sense, the *mesos bios* that, in every *bios* and every *zoè*, adventurously severs, revokes, and realizes the choice that unites them by necessity in this certain life. Form-of-life, the soul, is the infinite complement between life and mode of life, what appears when they mutually neutralize one another and show the void that united them. *Zoè* and *bios*—this is perhaps the lesson of the myth—are neither separate nor coincident: between them, as a void of representation of which it is not possible to say anything except that it is “immortal” and “ungenerated” (*Phaedrus*, 246a), stands the soul, which holds them indissolubly in contact and testifies for them.

# Epilogue: Toward a Theory of Destituent Potential

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1. The archeology of politics that was in question in the “Homo Sacer” project did not propose to critique or correct this or that concept, this or that institution of Western politics. The issue was rather to call into question the place and the very originary structure of politics, in order to try to bring to light the *arcanum imperii* that in some way constituted its foundation and that had remained at the same time fully exposed and tenaciously hidden in it.

The identification of bare life as the prime referent and ultimate stakes of politics was therefore the first act of the study. The originary structure of Western politics consists in an *ex-ceptio*, in an inclusive exclusion of human life in the form of bare life. Let us reflect on the peculiarity of this operation: life is not in itself political—for this reason it must be excluded from the city—and yet it is precisely the *exceptio*, the exclusion-inclusion of this Impolitical, that founds the space of politics.

It is important not to confuse bare life with natural life. Through its division and its capture in the apparatus of the exception, life assumes the form of bare life, which is to say, that of a life that has been cut off and separated from its form. It is in this sense that one must understand the thesis at the end of *Homo Sacer I* according to which “the fundamental activity of sovereign power is the production of bare life as originary political element” (Agamben 4, p. 202/181). And it is this bare life (or “sacred” life, if *sacer* first of all designates a life that can be killed without committing homicide) that functions in the juridico-political machine of the West as a threshold of articulation between *zoè* and *bios*, natural life and politically qualified life. And it will not be possible to think another dimension of politics and life if we have not first succeeded in deactivating the apparatus of the exception of bare life.

2. Yet in the course of the study, the structure of the exception that had been defined with respect to bare life has been revealed more generally to constitute in every sphere the structure of the *archè*, in the juridico-political tradition as

much as in ontology. In fact, one cannot understand the dialectic of the foundation that defines Western ontology, from Aristotle on, if one does not understand that it functions as an exception in the sense we have seen. The strategy is always the same: something is divided, excluded, and pushed to the bottom, and precisely through this exclusion, it is included as *archè* and foundation. This holds for life, which in Aristotle's words "is said in many ways"—vegetative life, sensitive life, intellectual life, the first of which is excluded in order to function as foundation for the others—but also for being, which is equally said in many ways, one of which is separated as foundation.

It is possible, however, that the mechanism of the exception is constitutively connected to the event of language that coincides with anthropogenesis. According to the structure of the presupposition that we have already reconstructed above, in happening, language excludes and separates from itself the non-linguistic, and in the same gesture, it includes and captures it as that with which it is always already in relation. That is to say, the *ex-ceptio*, the inclusive exclusion of the real from the *logos* and in the *logos* is the originary structure of the event of language.

3. In *State of Exception*, the juridico-political machine of the West was thus described as a double structure, formed from two heterogeneous and yet intimately coordinated elements: one normative and juridical in the strict sense (*potestas*) and one anomic and extrajudicial (*auctoritas*). The juridico-normative element, in which power in its effective form seems to reside, nevertheless has need of the anomic element for it to be able to apply itself to life. On the other hand, *auctoritas* can affirm itself and have sense only in relation to *potestas*. The state of exception is the apparatus that must ultimately articulate and hold together the two aspects of the juridico-political machine by instituting a threshold of undecidability between anomie and *nomos*, between life and the juridical order, between *auctoritas* and *potestas*. As long as the two elements remain correlated but conceptually, temporally, and personally distinct—as in republican Rome, in the opposition between senate and people, or in medieval Europe, in that between spiritual power and temporal power—their dialectic can function in some way. But when they tend to coincide in one person alone, when the state of exception, in which they are indeterminated, becomes the rule, then the juridico-political system is transformed into a killing machine.

In *The Kingdom and the Glory*, an analogous structure was brought to light in the relation between rule and governance and between inoperativity and glory. Glory appeared there as an apparatus directed at capturing within the

economic-governmental machine the inoperativity of human and divine life that our culture does not seem to be in a position to think and that nevertheless never ceases to be invoked as the ultimate mystery of divinity and power. This inoperativity is so essential for the machine that it must be captured and maintained at all costs at its center in the form of glory and acclamations that, through the media, never cease to carry out their doxological function even today.

In the same way some years earlier in *The Open*, the anthropological machine of the West was defined by the division and articulation within the human being of the human and the animal. And at the end of the book, the project of a deactivation of the machine that governs our conception of the human demanded not the study of new articulations between the animal and the human so much as rather the exposition of the central void, of the gap that separates—in the human being—the human and the animal. That which—once again in the form of the exception—was separated and then articulated together in the machine must be brought back to its division so that an inseparable life, neither animal nor human, can eventually appear.

4. In all these figures the same mechanism is at work: the *archè* is constituted by dividing the factual experience and pushing down to the origin—that is, excluding—one half of it in order then to rearticulate it to the other by including it as foundation. Thus, the city is founded on the division of life into bare life and politically qualified life, the human is defined by the exclusion-inclusion of the animal, the law by the *exceptio* of anomie, governance through the exclusion of inoperativity and its capture in the form of glory.

If the structure of the *archè* of our culture is such, then thought finds itself here confronted with an arduous task. Indeed, it is not a question of thinking, as it has for the most part done up to now, new and more effective articulations of the two elements, playing the two halves of the machine off against one another. Nor is it a matter of archeologically going back to a more originary beginning: philosophical archeology cannot reach a beginning other than the one that may perhaps result from the deactivation of the machine (in this sense first philosophy is always final philosophy).

The fundamental ontological-political problem today is not work but inoperativity, not the frantic and unceasing study of a new operativity but the exhibition of the ceaseless void that the machine of Western culture guards at its center.

5. In modern thought, radical political changes have been thought by means of the concept of a “constituent power.” Every constituted power presupposes at its origin a constituent power that, through a process that as a rule has the

form of a revolution, brings it into being and guarantees it. If our hypothesis on the structure of the *archè* is correct, if the fundamental ontological problem today is not work but inoperativity, and if this latter can nevertheless be attested only with respect to a work, then access to a different figure of politics cannot take the form of a “constituent power” but rather that of something that we can provisionally call “destituent potential.” And if to constituent power there correspond revolutions, revolts, and new constitutions, namely, a violence that puts in place and constitutes a new law, for destituent potential it is necessary to think entirely different strategies, whose definition is the task of the coming politics. A power that has only been knocked down with a constituent violence will resurge in another form, in the unceasing, unwinnable, desolate dialectic between constituent power and constituted power, between the violence that puts the juridical in place and violence that preserves it.

The paradox of constituent power is that as much as jurists more or less decisively underline its heterogeneity, it remains inseparable from constituted power, with which it forms a system. Thus, on the one hand, one affirms that constituent power is situated beyond the State, exists without it, and continues to remain external to the State even after its constitution, while the constituted power that derives from it exists only in the State. But on the other hand, this originary and unlimited power—which can, as such, threaten the stability of the system—necessarily ends up being confiscated and captured in the constituted power to which it has given origin and survives in it only as the power of constitutional revision. Even Sieyès, perhaps the most intransigent theorist of the transcendence of constituent power, in the end must drastically limit its omnipotence, leaving it no other existence than the shadowy one of a *Jury constitutionnaire*, to which is entrusted the task of modifying the text of the constitution, according to definitively established procedures.

Here the paradoxes theologians had to grapple with concerning the problem of divine omnipotence seem to repeat themselves in secularized form. Divine omnipotence implied that God could do anything whatsoever, including destroying the world that he had created or annulling or subverting the providential laws with which he had willed to direct humanity toward salvation. To contain these scandalous consequences of divine omnipotence, theologians distinguished between absolute power and ordained power: *de potentia absoluta*, God can do anything, but *de potentia ordinata*, which is to say, once he has willed something, his power is thereby limited.

Just as absolute power is in reality only the presupposition of ordained power, which the latter needs to guarantee its own unconditional validity, so also can

one say that constituent power is what constituted power must presuppose to give itself a foundation and legitimate itself. According to the schema that we have described many times, constituent is that figure of power in which a destituent potential is captured and neutralized, in such a way as to assure that it cannot be turned back against power or the juridical order as such but only against one of its determinate historical figures.

6. For this reason, the third chapter of the first part of *Homo Sacer I* affirmed that the relationship between constituent power and constituted power is just as complex as that which Aristotle establishes between potential and act, and it sought to clarify the relation between the two terms as a relation of ban or abandonment. The problem of constituent power here shows its irreducible ontological implications. Potential and act are only two aspects of the process of the sovereign autoconstitution of Being, in which the act presupposes itself as potential and the latter is maintained in relation with the former through its own suspension, its own being able not to pass into act. And on the other hand, act is only a conservation and a “salvation” (*soteria*)—in other words, an *Aufhebung*—of potential.

For the sovereign ban, which applies to the exception in no longer applying, corresponds to the structure of potential, which maintains itself in relation to act precisely through its ability not to be. Potential (in its double appearance as potential to and potential-not-to) is that through which Being finds itself sovereignly, which is to say, without anything proceeding or determining it, other than its own ability not to be. And an act is sovereign when it realizes itself by simply taking away its own potential-not-to, letting itself be, giving itself to itself. (Agamben 4, p. 54/46)

Hence the difficulty of thinking a purely destituent potential, which is to say, one completely set free from the sovereign relation of the ban that links it to constituted power. The ban here appears as a limit-form of relation, in which being is founded by maintaining itself in relation with something unrelated, which is in reality only a presupposition of itself. And if being is only the being “under the ban”—which is to say, abandoned to itself—of beings, then categories like “letting-be,” by which Heidegger sought to escape from the ontological difference, also remain within the relation of the ban.

For this reason the chapter could conclude by proclaiming the project of an ontology and a politics set free from every figure of relation, even from the limit-form of the ban that is the sovereign ban:

Instead one must think the existence of potential without any relation to being in act—not even in the extreme form of the ban and the potential-not-to be—and

of the act no longer as fulfillment and manifestation of potential—not even in the form of self-giving and letting be. This implies, however, nothing less than thinking ontology and politics beyond every figure of relation, beyond even the limit-relation that is the sovereign ban. (Ibid., p. 55/47)

Only in this context could it become possible to think a purely destituent potential, that is to say, one that never resolves itself into a constituted power.

✠ It is the secret solidarity between the violence that founds the juridical order and that which conserves it that Benjamin thought in the essay “Critique of Violence,” in seeking to define a form of violence that escapes this dialectic: “On the interruption of this cycle maintained by mythic forms of law, on the destitution [*Entsetzung*] of the juridical order together with all the powers on which it depends as they depend on it, finally therefore on the destitution of state violence, a new historical epoch is founded” (Benjamin 4, pp. 108–109/251–252). Only a power that has been rendered inoperative and deposed by means of a violence that does not aim to found a new law is fully neutralized. Benjamin identified this violence—or according to the double meaning of the German term *Gewalt*, “destituent power [It., *potere destituente*]”—in the proletarian general strike, which Sorel opposed to the simply political strike. While the suspension of labor in the political strike is violent, “since it provokes [*veranlasst*, “occasions,” “induces”] only an external modification of labor conditions, the second, as a pure means, is nonviolent” (ibid., p. 101/246). Indeed, it does not imply the resumption of labor “following external concessions and this or that modification to working conditions” but the decision to take up a labor only if it has been entirely transformed and not imposed by the state, namely, a “subversion that this kind of strike not so much provokes [*veranlasst*] as realizes [*vollzieht*]” (ibid.). In the difference between *veranlassen*, “to induce, to provoke,” and *vollziehen*, “to complete, to realize,” is expressed the opposition between constituent power, which destroys and re-creates ever new forms of juridical order, without ever definitively deposing it, and destituent violence, which, insofar as it deposes the juridical order once and for all, immediately inaugurates a new reality. “For this reason, the first of these undertakings is lawmaking but the second anarchistic” (ibid.).

At the beginning of the essay, Benjamin defines pure violence through a critique of the taken-for-granted relation between means and ends. While juridical violence is always a means—legitimate or illegitimate—with respect to an end—just or unjust—the criteria of pure or divine violence is not to be sought in its relation to an end but in “the sphere of means, without regard for the ends they serve” (p. 87/236). The problem of violence is not the oft-pursued one of identifying just ends but that of “finding a different kind of violence . . . that was not related to them as means at all but in some different way” (pp. 102–103/247).

What is in question here is the very idea of instrumentality, which beginning with the Scholastic concept of “instrumental cause,” we have seen to characterize the modern conception of use and of the sphere of technology. While these latter were defined by an instrument that appears as such only insofar as it is incorporated into the purpose of the principal agent, Benjamin here has in mind a “pure means,” namely, a means that appears

as such, only insofar as it emancipates itself from every relation to an end. Violence as pure means is never a means with regard to an end: it is attested only as exposition and destitution of the relationship between violence and juridical order, between means and end.

7. A critique of the concept of relation has been indicated in Chapter 2.8 of the second part of the present study, in connection with Augustine's theorem: "Every essence that is called something by way of relationship is also something besides the relationship" (*Omnis essentia quae relative dicitur est etiam aliquid excepto relativo*). For Augustine, it was a question of thinking the relation between unity and trinity in God, namely, of saving the unity of the divine essence without negating its articulation into three persons. We have shown that Augustine solves this problem by excluding and at the same time including relation in being and being in relation. The formula *excepto relativo* is to be read here according to the logic of the exception: the relative is both excluded and included in being, in the sense that the trinity of persons is captured in the essence-potential of God, in such a way that the latter is still maintained as distinct from the former. In Augustine's words, essence, which is and is said in relation, is something beyond relation. But this means, according to the structure of the sovereign exception that we have defined, that being is a presupposition of relation.

We can therefore define relation as that which constitutes its elements by at the same time presupposing them as unrelated. In this way, relation ceases to be one category among others and acquires a special ontological rank. Both in the Aristotelian potential-act, essence-existence apparatus, and in trinitarian theology, relation inheres in being according to a constitutive ambiguity: being precedes relation and exists beyond it, but it is always already constituted through relation and included in it as its presupposition.

8. It is in Scotus's doctrine of formal being that the ontological rank of relation finds its most coherent expression. On the one hand, he takes up the Augustinian axiom and specifies it in the form *omne enim quod dicitur ad aliquid est aliquid praeter relationem* ("what is said with respect to something is something beyond relation"; *Op. Ox.*, I, d. 5, q. 1, n. 18; qtd. in Beckmann, p. 206). The correction shows that what is in question for Scotus is the problem of relation as such. If, as he writes, "relation is not included in the concept of the absolute" (*ibid.*), it follows that the absolute is always already included in the concept of relation. With an apparent reversal of Augustine's theorem, which brings to light the implication that remained hidden in it, he can therefore write that *omne relativum est aliquid excepta relatione* ("every relative is something excepted from the relation"; *ibid.*, I, d. 26, q. 1, n. 33).

What is decisive, in any case, is that for Scotus relation implies an ontology, or a particular form of being, which he defines, with a formula that will have great success in medieval thought, as *ens debilissimum*: “among all beings relation is a very weak being, because it is only the mode of being of two beings with respect to one another” (*relatio inter omnia entia est ens debilissimum, cum sit sola habitudo duorum*; *Super praed.*, q. 25, n. 10; qtd. in Beckmann, p. 45). But this lowest form of being—which as such is difficult to know (*ita minime cognoscibile in se*; *ibid.*)—in reality takes on a constitutive function in Scotus’s thought—and starting with him, in the history of philosophy up to Kant—because it coincides with the specific contribution of his philosophical genius, the definition of the formal distinction and of the status of the transcendental.

In the formal distinction, that is to say, Scotus has thought the being of language, which cannot be *realiter* different from the thing that it names; otherwise it could not manifest it and make it known but must have a certain consistency of its own; otherwise it would be confused with the thing. What is distinguished from the thing not *realiter* but *formaliter* is its having a name—the transcendental is language.

9. If a privileged ontological status belongs to relation, it is because the very presupposing structure of language comes to expression in it. What Augustine’s theorem affirms is in fact: “all that is said enters into a relation and therefore is also something else before and outside the relation (that is to say, it is an unrelated presupposition).” The fundamental relation—the onto-logical relation—runs between beings and language, between Being and its being said or named. *Logos* is this relation, in which beings and their being said are both identified and differentiated, distant and indistinguishable.

Thinking a purely destituent potential in this sense means interrogating and calling into question the very status of relation, remaining open to the possibility that the ontological relation is not, in fact, a relation. This means engaging in a decisive hand-to-hand confrontation [It., *corpo a corpo*] with the weakest of beings that is language. But precisely because its ontological status is weak, language is the most difficult to know and grasp, as Scotus had intuited. The almost invincible force of language is in its weakness, in its remaining unthought and unsaid in what says and in that of which it is said.

For this reason, philosophy is born in Plato precisely as an attempt to get to the bottom of *logoi*, and as such, it has a political character immediately and from the very start. And for this reason, when with Kant the transcendental ceases to be what thought must get to the bottom of and instead becomes the stronghold

in which it takes refuge, then philosophy loses its relation with Being and politics enters into a decisive crisis. A new dimension for politics will be opened only when human beings—the beings who have *logos* to the same extent that they are possessed by it—have gotten to the bottom of this weakest potential that determines them and tenaciously involves them in an errancy—history—that seems interminable. Only then—but this “then” is not future but always under way—will it be possible to think politics beyond every figure of relation.

10. Just as the tradition of metaphysics has always thought the human being in the form of an articulation between two elements (nature and *logos*, body and soul, animality and humanity), so also has Western political philosophy always thought politics in the figure of the relation between two figures that it is a question of linking together: bare life and power, the household and the city, violence and institutional order, anomie (anarchy) and law, multitude and people. From the perspective of our study, we must instead attempt to think humanity and politics as what results from the disconnection of these elements and investigate not the metaphysical mystery of conjunction but the practical and political one of their disjunction.

Let us define relation as what constitutes its elements by presupposing them, together, as unrelated. Thus, for example, in the couples living being/language, constituent power/constituted power, bare life/law, it is evident that the two elements are always mutually defined and constituted through their oppositional relation, and as such, they cannot preexist it; and yet the relation that unites them presupposes them as unrelated. What we have defined in the course of this study as the ban is the link, at once attractive and repulsive, that links the two poles of the sovereign exception.

We call a potential destituent that is capable of always deposing ontological-political relations in order to cause a contact (in Colli’s sense; cf. part III, §6.5 above) to appear between their elements. Contact is not a point of tangency nor a *quid* or a substance in which two elements communicate: it is defined only by an absence of representation, only by a caesura. Where a relation is rendered destitute and interrupted, its elements are in this sense in contact, because the absence of every relation is exhibited between them. Thus, at the point where a destituent potential exhibits the nullity of the bond that pretended to hold them together, bare life and sovereign power, anomie and *nomos*, constituent power and constituted power are shown to be in contact without any relation. But precisely for this reason, what has been divided from itself and captured in the exception—life, anomie, anarchic potential—now appears in its free and intact form.

ii. Here the proximity between destituent potential and what in the course of our research we have designated by the term “inoperativity” appears clearly. In both what is in question is the capacity to deactivate something and render it inoperative—a power, a function, a human operation—without simply destroying it but by liberating the potentials that have remained inactive in it in order to allow a different use of them.

An example of a destituent strategy that is neither destructive nor constitutive is that of Paul in the face of the law. Paul expresses the relationship between the messiah and the law with the verb *katargein*, which means “render inoperative” (*argos*), “deactivate” (Estienne’s *Thesaurus* renders it with *reddo aergon et inefficacem, facio cessare ab opere suo, tollo, aboleo*, “to render *aergon* and ineffective, to cause to cease from its work, to take away, to abolish”). Thus, Paul can write that the messiah “will render inoperative [*katargese*] every power, every authority, and every potential” (1 Corinthians 15:24) and at the same time that “the messiah is the *telos* [namely, end or fulfillment] of the law” (Romans 10:4): here inoperativity and fulfillment perfectly coincide. In another passage, he says of believers that they have been “rendered inoperative [*katargethemien*] with respect to the law” (Romans 7:6). The customary translations of this verb with “destroy, annul” are not correct (the Vulgate renders it more cautiously with *evacuari*), all the more so because Paul affirms in a famous passage that he wants to “hold firm the law” (*nomon istanomen*; Romans 3:31). Luther, with an intuition whose significance would not escape Hegel, translates *katargein* with *aufheben*, which is to say, with a verb that means both “abolish” and “preserve.”

In any case, it is certain that for Paul it is not a matter of destroying the law, which is “holy and just,” but of deactivating its action with respect to sin, because it is through the law that human beings come to know sin and desire: “I would not have known what it is to desire if the law had not said, ‘You shall not desire.’ But seizing an opportunity in the commandment, sin rendered operative [*kateirgasato*, “activated”] in me all kinds of desire” (Romans 7:7–8).

It is this operativity of the law that the messianic faith neutralizes and renders inoperative, without for that reason abolishing the law. The law that is “held firm” is a law rendered destitute of its power to command, that is to say, it is no longer a law of commands and works (*nomos ton entolon*, Ephesians 2:15; *ton ergon*, Romans 3:27) but of faith (*nomos pisteos*, Romans 3:27). And faith is essentially not a work but an experience of the word (“So faith comes from what is heard, and what is heard comes through the word”; Romans 10:17).

That is to say, the messiah functions in Paul as a destituent potential of the *mitzwoth* that define Jewish identity, without for that reason constituting

another identity. The messianic (Paul does not know the term “Christian”) does not represent a new and more universal identity but a caesura that passes through every identity—both that of the Jew and that of the Gentile. The “Jew according to the spirit” and “Gentile according to the flesh” do not define a subsequent identity but only the impossibility of every identity of coinciding with itself—namely, their destitution as identities: Jew as non-Jew, Gentile as non-Gentile. (It is probably according to a paradigm of this type that one could think a destitution of the apparatus of citizenship.)

In coherence with these premises, in a decisive passage of I Corinthians (7:29–31), Paul defines the form of life of the Christian through the formula *hos me*:

I mean, brothers and sisters, time has grown short; what remains is so that those who have wives may be as not having, and those who mourn as not mourning, and those who rejoice as not rejoicing, and those who buy as not possessing, and those who use the world as not abusing. For the figure of this world is passing away.

The “as not” is a deposition without abdication. Living in the form of the “as not” means rendering destitute all juridical and social ownership, without this deposition founding a new identity. A form-of-life is, in this sense, that which ceaselessly deposes the social conditions in which it finds itself to live, without negating them, but simply by using them. “If,” writes Paul, “at the moment of your call you find yourself in the condition of a slave, do not concern yourself with it: but even if you can become free, make use [*chresai*] rather of your condition as a slave” (I Corinthians 7:21). “Making use” here names the deponent power of the Christian’s form of life, which renders destitute “the figure of this world” (*to schema tou kosmou toutou*).

12. It is this destituent power [It., *potere destituente*] that both the anarchist tradition and twentieth-century thought sought to define without truly succeeding in it. The destruction of tradition in Heidegger, the deconstruction of the *archè* and the fracture of hegemonies in Schürmann, what (in the footsteps of Foucault) I have called “philosophical archaeology,” are all pertinent but insufficient attempts to go back to a historical *a priori* in order to depose it. But a good part of the practice of the artistic avant gardes and political movements of our time can also be seen as the attempt—so often miserably failed—to actualize a destitution of work, which has instead ended up re-creating in every place the museum apparatus and the powers that it pretended to depose, which now appear all the more oppressive insofar as they are deprived of all legitimacy.

Benjamin wrote once that there is nothing more anarchic than the bourgeois order. In the same sense, Passolini has one of the officials of Salò say that the true

anarchy is that of power. If this is true, then one can understand why the thought that seeks to think anarchy—as negation of “origin” and “command,” *principium* and *princeps*—remains imprisoned in endless aporias and contradictions. Because power is constituted through the inclusive exclusion (*ex-ceptio*) of anarchy, the only possibility of thinking a true anarchy coincides with the lucid exposition of the anarchy internal to power. Anarchy is what becomes thinkable only at the point where we grasp and render destitute the anarchy of power. The same holds for every attempt to think anomie: it becomes accessible only through the exposition and deposition of the anomie that the juridical order has captured within itself in the state of exception. This is also true for thought that seeks to think the unrepresentable—the *demos*—that has been captured in the representative apparatus of modern democracy: only the exposition of the *a-demia* within democracy allows us to bring to appearance the absent people that it pretends to represent.

In all these cases, destitution coincides without remainder with constitution; position has no other consistency than in deposition.

✠ The term *archè* in Greek means both “origin” and “command.” To this double meaning of the term there corresponds the fact that, in our philosophical and religious traditions alike, origin, what gives a beginning and brings into being, is not only a preamble, which disappears and ceases to act in that to which it has given life, but it is also what commands and governs its growth, development, circulation, and transmission—in a word, history.

In an important book, *The Principle of Anarchy* (1982), Reiner Schürmann sought to deconstruct this apparatus, beginning from an interpretation of Heidegger’s thought. Thus, in the later Heidegger he distinguishes being as pure coming to presence and being as principle of historical-epochal economies. In contrast to Proudhon and Bakunin, who did nothing but “displace the origin” by substituting a rational principle for the principle of authority, Heidegger had thought an anarchic principle, in which origin as coming to presence is emancipated from the machine of epochal economies and no longer governs a historical becoming. The limit of Schürmann’s interpretation clearly appears in the very (willfully paradoxical) syntagma that furnishes the book’s title: the “principle of anarchy.” It is not sufficient to separate origin and command, *principium* and *princeps*: as we have shown in *The Kingdom and the Glory*, a king who rules but does not govern is only one of the two poles of the governmental apparatus, and playing off one pole against the other is not sufficient to halt their functioning. Anarchy can never be in the position of a principle: it can only be liberated as a contact, where both *archè* as origin and *archè* as command are exposed in their non-relation and neutralized.

13. In the potential/act apparatus, Aristotle holds together two irreconcilable elements: the contingent—what can be or not be—and the necessary—what cannot not be. According to the mechanism of relation that we have defined, he

thinks potential as existing in itself, in the form of a potential-not-to or impotential (*adynamia*), and act as ontologically superior and prior to potential. The paradox—and at the same time, the strength—of the apparatus is that, if one takes it literally, potential can never pass over into the act and the act always already anticipates its own possibility. For this reason Aristotle must think potential as a *hexis*, a “habit,” something that one “has,” and the passage to the act as an act of will.

All the more complex is the deactivation of the apparatus. What deactivates operativity is certainly an experience of potential, but of a potential that, insofar as it holds its own impotential or potential-not-to firm, exposes itself in its non-relation to the act. A poet is not someone who possesses a potential to make and, at a certain point, decides to put it into action. Having a potential in reality means: being at the mercy of one’s own impotential. In this poetic experience, potential and act are no longer in relation but immediately in contact. Dante expresses this special proximity of potential and act when in the *De monarchia* he writes that the whole potential of the multitude stands *sub actu*; “otherwise there would be a separate potential, which is impossible.” *Sub actu* here means, according to one of the possible meanings of the preposition *sub*, immediate coincidence in time and space (as in *sub manu*, immediately held in the hand, or *sub die*, immediately, in the same day).

At the point where the apparatus is thus deactivated, potential becomes a form-of-life and a form-of-life is constitutively destitute.

✠ Latin grammarians called those verbs deponent (*depositiva* or also *absolutiva* or *supina*) that, similarly to middle-voice verbs (which, in the footsteps of Benveniste, we have analyzed in order to seek in them the paradigm of a different ontology), cannot be said to be properly active or passive: *sedeo* (to sit), *sudo* (to sweat), *dormio* (to sleep), *iaceo* (to lie), *algeo* (to be cold), *sitio* (to be thirsty), *esurio* (to be hungry), *gaudeo* (to be glad). What do middle-voice or deponent verbs “depose”? They do not express an operation but depose it, neutralize it, and render it inoperative, and in this way, they expose it. The subject is not simply, in Benveniste’s words, internal to the process, but in having deposited its action, he has exposed himself with it. In form-of-life, activity and passivity coincide. Thus, in the iconographic theme of the deposition—for example, in Titian’s deposition at the Louvre—Christ has entirely deposited the glory and regality that, in some way, still belong to him on the cross, and yet precisely and solely in this way, when he is still beyond passion and action, the complete destitution of his regality inaugurates the new age of the redeemed humanity.

14. All living beings are in a form of life, but not all are (or not all are always) a form-of-life. At the point where form-of-life is constituted, it renders destitute and inoperative all singular forms of life. It is only in living a life that

it constitutes itself as a form-of-life, as the inoperativity immanent in every life. The constitution of a form-of-life fully coincides, that is to say, with the destitution of the social and biological conditions into which it finds itself thrown. In this sense, form-of-life is the revocation of all factual vocations, which deposes them and brings them into an internal tension in the same gesture in which it maintains itself and dwells in them. It is not a question of thinking a better or more authentic form of life, a superior principle, or an elsewhere that suddenly arrives at forms of life and factual vocations to revoke them and render them inoperative. Inoperativity is not another work that suddenly arrives and works to deactivate and depose them: it coincides completely and constitutively with their destitution, with living a life.

One can therefore understand the essential function that the tradition of Western philosophy has assigned to the contemplative life and to inoperativity: form-of-life, the properly human life is the one that, by rendering inoperative the specific works and functions of the living being, causes them to idle [It., *girare a vuoto*], so to speak, and in this way opens them into possibility. Contemplation and inoperativity are in this sense the metaphysical operators of anthropogenesis, which, in liberating living human beings from every biological and social destiny and every predetermined task, render them available for that peculiar absence of work that we are accustomed to calling “politics” and “art.” Politics and art are not tasks nor simply “works”: rather, they name the dimension in which works—linguistic and bodily, material and immaterial, biological and social—are deactivated and contemplated as such in order to liberate the inoperativity that has remained imprisoned in them. And in this consists the greatest good that, according to the philosopher, the human being can hope for: “a joy born from this, that human beings contemplate themselves and their own potential for acting” (Spinoza 2, III, prop. 53).

✠ At least up to modernity, the political tradition of the West has always sought to keep operating in every constituted system two heterogeneous powers, which in some way mutually limited each other. Examples of this are the duality of *auctoritas* and *potestas* in Rome, that of spiritual power and temporal power in the Middle Ages, and that of natural law and positive law up to the eighteenth century. These two powers could act as a reciprocal limit because they were entirely heterogeneous: the senate, to which *auctoritas* belonged in Rome, was lacking in the *imperium* to which the people and their supreme magistrates were entitled; the pope did not have the temporal sword, which remained the exclusive privilege of the sovereign; the unwritten natural law came from a different source than the written laws of the city. If already in Rome beginning with Augustus, who had caused the two powers to coincide in his person, and in the course of the Middle Ages,

with the struggles between pope and emperor, one of the powers had sought to eliminate the others, the modern democracies and totalitarian states had introduced in various ways one sole principle of political power, which in this way became unlimited. Whether it is founded, in the last analysis, on popular sovereignty, on ethnic and racial principles, or on personal charisma, positive right no longer knows any limits. Democracies maintain constituent power in the form of the power of revision and the control of the constitutionality of laws on the part of a special court, but these are in fact internal to the system and, in the last analysis, of a procedural nature.

Let us now imagine—something that is not within the scope of this book—in some way translating into act the action of a destituent potential in a constituted political system. It would be necessary to think an element that, while remaining heterogeneous to the system, had the capacity to render decisions destitute, suspend them, and render them inoperative. Plato had in mind something of the kind when at the end of the *Laws* (968c), he mentions as “protector” (*phylake*) of the city a “Nocturnal Council” (*nykterinos syllogos*), which, however, is not an institution in a technical sense because, as Socrates specifies, “it is impossible to lay down the council’s activities until it has been established [*prin a kosmethe*] . . . through a long standing together [*metà synousia pollen*].” While the modern State pretends through the state of exception to include within itself the anarchic and anomic element it cannot do without, it is rather a question of displaying its radical heterogeneity in order to let it act as a purely destituent potential.

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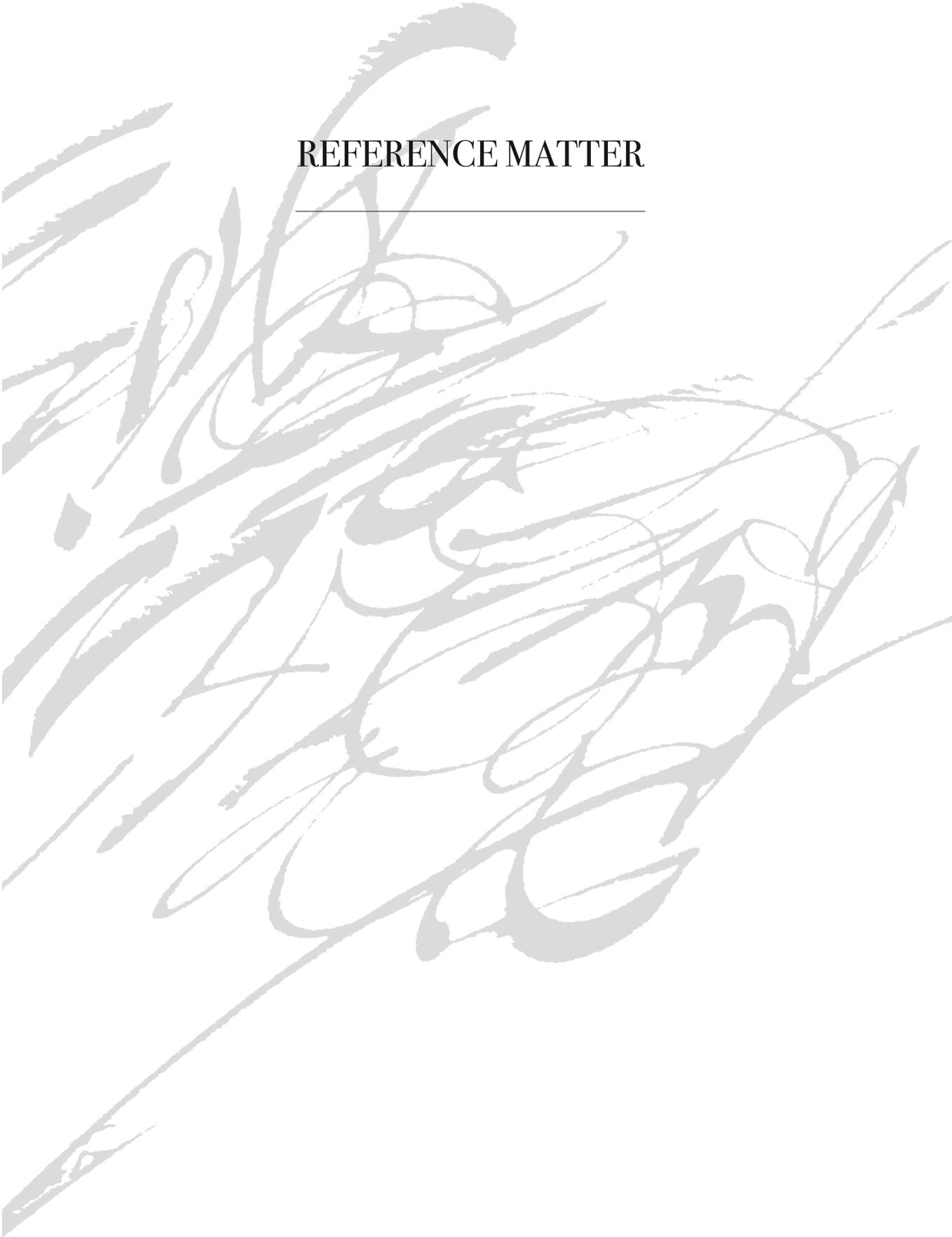
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