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*I. Rule and Life*



## § 1 Birth of the Rule

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 horrifique 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 reigléz 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 *cursum*, 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 reiglé par heures, feut decreté que là ne seroit horloge ny quadrant aulcun, mais selon les occasions et opportunitéz seroient toutes les œuvres dispensées ; car (disoit Gargantua) 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'avoit 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 plaire. 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 further, 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 depræhensus 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 koinoniai*), 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 unianimes 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* 1, 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.

8 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 communiō*]” (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 adprobati*; 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 (*habitus appellamus animi aut corporis constantem et absolutam aliqua in re perfectionem*, “By *habitus* 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 I, 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 (*palliolus*) 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 ascesis 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 [píptei tou hydrologiou to syssemon] at the sixth hour at the point where the seventh hour is beginning, at this signal the waker [*aphypnistes*] 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 censens 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 asceticism 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 cenobism 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.

I.II. 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."

8 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).

## § 2 Rule and Law

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 autoritas*]” (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. 1377/132). 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 [*nomothētēs*]” (*Apo-phthegmata 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 fusiis 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 analogy 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 debemus. . . . 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]. (Capele, 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 *devoveo*—*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.