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SACRED AND SECULAR IN MEDIEVAL AND EARLY MODERN CULTURES

NEW ESSAYS

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CHAPTER 6

THE COMMUNAL BODY, THE CORPORATE BODY, AND THE CLERICAL BODY: AN ANTHROPOLOGICAL READING OF THE GREGORIAN REFORM

Lior Barshack

*The Gregorian reform has often attracted the attention of non-historians, and seemed to be of central interest to social theory because of its unique place in the history of the West as well as its general illustrative potential. This essay attempts to base different historical accounts of the Gregorian reform on a unified model of society—the corporate model of social structure. According to the corporate model, social structures are premised on a deconsecration of society through the projection of communal sanctity onto a sacred but absent collective body—the corporate body of the group (Kantorowicz)—and onto a clerical caste. The notion of the communal body will be used to refer to the group as it exists in an ideal state of *communitas*, a state of weak interpersonal separation and immediate encounter with the sacred. The emergence of social structure out of *communitas* can thus be described as a process of transformation of the communal body into corporate and clerical bodies, a transformation of immanent communal sanctity into clerical sanctity and the sanctity of the transcendent corporate body. The Gregorian reform illustrates the process of deconsecration of society and its results: consolidation of social structure, corporate-formation and separation between civil and clerical powers. The article traces in particular the intertwined processes of legalization, bureaucratization, and development of civil religion, which took place in the aftermath of the Gregorian reform, to the separation of powers and corporate-formation advocated by the reformers.*

The Gregorian Reform was the culmination of one of the most thorough and impassioned engagements of Western society with the delineation of the sacred and the secular. The reform was propelled by a group of churchmen who strove to entrench the separation between the sacred and the secular spheres—between ecclesiastical and lay society—and give the sacred realm a solid institutional structure. However, the reform spurred processes of institutionalization not only within the Church but generally in lay society as well. It was followed by a large-scale development of temporal legal and administrative institutions. Lawyers, social theorists, and historians often refer to the Gregorian Reform as a crucial phase in the history, or rather prehistory, of the state. By virtue of its historical consequences, the reform is clearly suggestive of the broad social implications of different lines of demarcation between the sacred and the secular. The present essay is not written by a historian; its origin lies rather in an attempt by a legal and social theorist to comprehend, through various historical examples, alternative social strategies of deploying the sacred. The Gregorian Reform is adduced as a tentative illustration of general claims concerning the demarcation of the sacred and secular spheres, an illustration whose complexity incessantly opens up novel theoretical possibilities, almost to the point of defying the theoretical effort itself.

In the first section of this essay, I outline a general model of the relations between the sacred and the secular in social structure. The model, departing from Victor Turner's distinction between social structure and *communitas*, construes the latter as a mode of social existence in which the sacred is immanent to the social and all group members disappear into a single collective body, which I call the *communal body*. The communal body is sacred, and it is on account of its immediate presence in the course of *communitas* that the group seems then to be permeated with sacredness. As all group members disappear into the sacred communal body there is no room left for individual autonomy and spheres of worldly, secular activity. In *communitas* the sacred is omnipresent throughout social life; there is no separation between the sacred and the secular.

By contrast, social structure is a mode of social existence in which the sacred collective body of the group is expelled from the social. The communal body is projected onto a transcendent realm and into various enclaves of sacredness within the social structure, such as the clerical body. Through projection, society is largely secularized and a separation between sacred and secular is instituted. The group's projection of oneness and unity makes pluralism and autonomy within it possible. My notion of the *corporate body* refers to the absent sacred body of the group, that is, the communal body once lodged in its transcendent dwelling place. Constitutional principles such as separation of powers, rule of law, and separation between church

and state secure society's renunciation and projection of its omnipotent and lawless communal body. The projection of sacred communal fusion outside of the group and its transformation into an imaginary corporate body allow for the advanced degree of interpersonal separation and individual autonomy that is characteristic of social structures and make room for secular spheres of interaction. Social structure and *communitas* correspond then to the corporate and communal bodies as two alternative modes of social existence.

Once the model of social structure and *communitas* as corporate and communal bodies, respectively, has been introduced, I turn, in the second section, to the Gregorian Reform in light of that model. The Gregorian Reform illustrates the process of consolidation of corporate structures at the expense of communal forces. The strict separation between temporal and spiritual powers advocated by the reformers expelled the mystical and omnipotent communal body from the group into the corporate realm, leaving behind temporal and clerical offices as defined and circumscribed bureaucratic functions. Within both realms, temporal and ecclesiastical, an ever-ramifying network of legal divisions and subdivisions gradually replaced ideals and practices of mystical unity. Processes of corporate-formation within the Church and lay society following the differentiation of temporal and spiritual powers were often noted by medieval historians and already by their historical protagonists. The separation of sacred and secular turned even the Church, the exclusive container of sacredness, into a rationally ordered corporate body. Within the temporal realm, the desacralization of royal power reflected general social processes of secularization, rationalization, and corporate-formation.

Ostensibly in conflict with each other over ultimate power, spiritual and temporal authorities benefited from the separation between sacred and secular jurisdictions because of its contribution to structural development. They had a common archenemy—undomesticated popular religion with its threat to animate the communal body and undermine corporate structures. Through harsh political and ecclesiastical measures, communal sanctity was increasingly channeled outside of the social and confined to the domain of the clerical body, or, more specifically, the domain of regulated ritual exclusively administered by the clergy.¹ At the same time, and in addition to the clerical colonization of communal sanctity, the temporal realm that emerged through divorce from the Church and suppression of irrational, localized communal forces increasingly channeled devotional fervor to the official cult of its own corporate, transcendent body: the corporate body of the king and the realm, the deity of the emerging civil religion. While the Gregorian Reform, with its secularizing effects, antedated the birth of the state, it prompted the appearance of "corporate symptoms"² and spurred

the intertwined processes of structural consolidation, juridification, development of civil religion, and bureaucratization, which culminated in later periods with the emergence of the modern state. These processes and their coincidence can be viewed in the light of the structural relations among the communal, corporate, and clerical bodies. This approach to the Gregorian Reform may strike some readers not only as excessively speculative but also as teleological, rationalistic, and narrowly legal. The focus on institutionalization, let alone substantial assumptions about its social merits and repercussions, echoes an outdated paradigm in medieval historiography.³ While this impression is correct, the legal theory of the corporation demonstrates the inevitable convergence of the modernist concern with institutional history and the preoccupations of contemporary social and cultural historians.

Social Structure as a Corporate Body

The most familiar version of the distinction between structure and *communitas* is the one proposed by Victor Turner.⁴ His distinction had various precursors, such as the theories of the mass developed at the turn of the twentieth century to describe crises in structure and the theoretical accounts of rituals offered by Van Gennep, Evans-Prichard, Gluckman, and others. The present exposition follows Turner's conceptualizations of structure and *communitas*, albeit with several additions: (a) The psychoanalytic distinction between interpersonal relations of mutual recognition among autonomous individuals, on the one hand, and relations of fusion, on the other, will be read into Turner's distinction.⁵ I argue that the former mode of interaction is characteristic of structure, the latter of *communitas*. (b) The theological distinction between absence and presence are also read into Turner's distinction; in *communitas* there is no *absence*, *desire*, or *ideal*: human existence is immanent and complete, marked by an unadulterated presence. (c) Social structures are further characterized by a differentiation, which vanishes during *communitas*, between public and private spheres; in *communitas* individuality dissolves in the communal experience and no room is left for private pursuit and achievement.

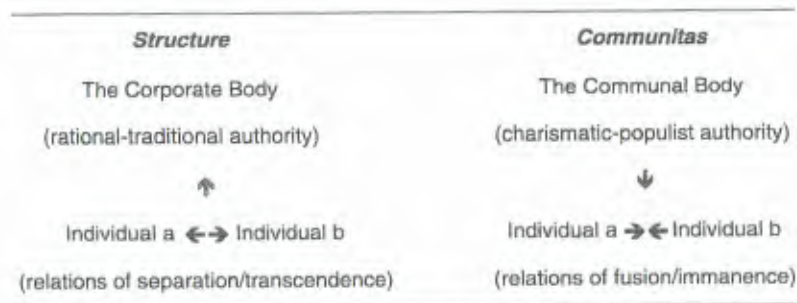
Structure and *communitas* are two opposing modes of social interaction: whereas interaction in social structure proceeds between firmly separated individuals and is mediated by objective social roles and juridical categories, in *communitas* immediate interaction takes place between barely individuated total beings bereft of social status and identity. Individuals in social structure are embedded in networks of normative categories through which their concrete identities are defined. These categories comprise social strata, classificatory kinship, differentiated spheres of life (family/civil society/state), distinctions between structure's inside and outside—between members

and strangers—and between the sacred and the temporal. Structures are articulate and divided. Clashes of interest, institutionalized competition over economic and political power, struggle over hegemony—these are inherent to social structure, whose greatest enemy is uniformity, and maintain within it a high degree of interpersonal separation and individual autonomy.⁶ By contrast, the situation of the "mob" is, according to George Mead, a "degradation of social structure" that involves a suspension of all social friction and an expansion of the self.⁷

Whereas social structure is afflicted with division, absence, and representation, *communitas* occasions an immanent presence of the sacred. No boundaries are recognized between sacred and secular, self and other, inside and outside, and life and death or between such different spheres of interaction as family and state. *Communitas* precipitates the dissolution of interpersonal boundaries and brings about interaction among barely differentiated beings. The personal self expands and coincides with the collective self. Conflicts over status, faith, or interest that enhance individual autonomy in social structure fade away in *communitas*. The alienation of the individual from his own and other selves, which accompanies structural individuation and legally mediated interaction, is no longer tolerated and is replaced by immediacy and fusion. *Communitas* is an essentially lawless form of interaction: during *communitas* the normative system that orders everyday life in social structure is suspended and in many cases challenged and modified.

In the course of *communitas*, society seems to form a single *communal body*. By the notion of the *communal body* I refer to the group as an inarticulate unity that results from the dissolution of interpersonal boundaries. The communal body is the sacred fusion of all individual bodies generated during rites of passage, carnivals, natural disasters, fascist regimes, wars, revolutions, referenda, elections, and many other instances of *communitas*. The idea of the communal body can be identified within religious discourse, for example, in certain interpretations of the Pauline theory of the Church as the body of Christ.⁸

While in the course of *communitas* all individuals disappear into a communal body, the perfect incarnation of this collective body is the sacred leader of the group, who presides over the uncanny communal happening. Following the literature on divine kingship, Luc de Heusch distinguished between two paradigms of leadership: magical, charismatic leadership whose authority rests on heroic exploit (such as the slaying of the predecessor), on the one hand, and leadership that derives its authority from the law, on the other.⁹ The former type of kingship corresponds to *communitas* and the latter to social structure. The divine king—the modern fascist leader, for example—enacts the omnipotent communal body; the sacred permeates his body, which is thereby exempted from the rule of law. In many cases divine



6.1 Horizontal and vertical relationships between the group and its authorities

kings were expected to violate fundamental interdictions (e.g., over incest or arbitrary bloodshed) and thus the very separation between the human and the sacred. By contrast, hereditary, human, administrative kingship is premised on a clear distinction between human and sacred powers and is generally congruous with the rule of law and firm structure.¹⁰ The authority of the administrative king, unlike that of the divine king, is circumscribed by the law in which it is grounded.

In both structure and *communitas*, horizontal relations among individuals reproduce the vertical relations between the group and its authorities. The horizontal and vertical axes mirror each other. In structure, there is separation among individuals as well as between the group and its supreme authority. In Weber's terms, authority is rational or traditional: it embodies rational normative standards that are superimposed on the community. In *communitas*, by contrast, nonseparation between the group as a whole and its charismatic-populist leader infects all interpersonal relations (see figure 6.1).

The Corporate Body

As long as social structure is intact, the sacred communal body is kept away from the group. It is removed to an external, corporate realm in order to allow for interpersonal separation within the group and for the formation of secular social spheres. I introduce the idea of the corporation through a series of general characterizations.

The Classical Theory of the Corporation

The corporation is an immortal legal personality. Maine, Maitland, and Kantorowicz considered immortality as the corporation's essential and distinctive characteristic.¹¹ The family and the crown served them as the two paradigmatic—and intimately related—instances of immortal bodies. The

family preserves its identity across generations; it is not restricted to the life span of a particular generation. The crown, or in Kantorowicz's terms, the public body of the king, is indifferent to the death of individual kings and retains its identity across generations.

Sovereignty is vested in the corporate personality of the family and the state, not in the private person of their living heads. Kantorowicz's analysis implies that sovereignty resides not in the private body of the king but in his corporate, public body. The king is obliged to defend and augment the inalienable possessions of the realm—they are not his own—an obligation that received its clearest expression in the coronation oath. Maine makes this point in his discussion of the Roman family: the *Pater familias* embodies the abstract legal personality of the family and is in charge of its affairs. He can act only in the name of its immortal interest, not out of personal desire or passing whim.

An Elaboration of the Classical Theory

I would like to supplement classical accounts of the corporation with several claims, partly inspired by psychoanalytic approaches in group psychology.¹² The separate corporate personality of the family and the state is associated with the mythical person of their founding ancestors. This point is hardly surprising, but I would like to emphasize its importance. The examples of the family and state suggest that corporate bodies are personified by their founding ancestors, such as the mythical, heroic founder of a Roman family or the founder of a royal dynasty. The names of descent groups, for example, refer directly or indirectly to their founding ancestors.¹³ In the state, the identity of the crown survives changing dynasties: the crown is then associated not with the founder of a particular dynasty but with national ancestors fictionally linked to all dynasties. In fact, a nation-state postulates as its mythical premise the shared descent of all its citizens.

The corporate-ancestral personality of the group is an absent, transcendent object of worship. Through its corporate personality, its mythical ancestors, and their multiple totemic representations, the group articulates itself for itself. According to Hegel and Durkheim, notwithstanding the differences between their theories of religion, society worships its own self-representations. If the corporation is associated with ancestral figures—and ancestral law—and constitutes the self-representation of the group, it cannot fail to be sacred. Like the gods, corporations are transcendent: they are absent, invisible, external, and superior to the group, and act through representatives.¹⁴ The religious dimension of political systems and families resides in their corporate structure. National and domestic totemic symbols designate the corporate bodies of the state and the family, the respective objects of worship of civil and domestic cults.

The corporate body originates in the projection of sacredness outside the group. Corporations come into being through the projection of sacredness from within the group onto a transcendent realm.¹⁵ Corporate-formation secularizes society; once sacredness is projected outside the group, a realm of secular social interaction can assert itself. In the chaotic, transitional, lawless states of *communitas*, the social is not yet secularized. The sacred is then immanent to society, and authority sacral and boundless. The passage from divine kingship to law-bound authority should be understood in terms of projection: the private body of the king is deconsecrated and its sacredness projected onto the transcendent domain of the ancestral-corporate body. The elementary institutions of social structure—law, language, hierarchy, religion—are premised on the projection of sacredness and the ensuing separation between sacred and secular. Contrary to accepted wisdom, any accentuation of the transcendence of ultimate authority implies a further secularization of society.

It is the sacred communal body that is projected by the group and transformed into its corporate body; the corporate body and the communal body correspond to social structure and communitas, respectively. We have seen that the sacred communal body amounts to an immanent presence of the unity of the group, formed through the dissolution of interpersonal boundaries. In social structure, the communal body is projected, transformed into a corporate body, and worshipped from afar by its separate individual subjects. The unity of the group is retained but deposited outside of it. Reconciling unity and division, being functionally divided into multiple organs yet seen from the outside as a single body, the corporate form is the essential form of social structure. As corporate bodies, social structures are marked by a division between an external sphere of the sacred and spheres of secular quotidian life tainted by every possible form of absence. Absence is one of the primary structural values, cherished by civil as well as revealed religions with their promises of an ever-postponed salvation. By contrast, in *communitas* every individual participates in the communal body and is consecrated. The absence and expectation that characterize everyday human existence are replaced by presence and immediate satisfaction.

The structure of the corporate body is thoroughly legal. In the passage from *communitas* to social structure, from an immanent communal body to a transcendent corporate body, the law comes into being. The law is always seen as prescribed by the ancestral-corporate authority of the group, and hence cannot be found in the course of *communitas* as the corporate body dissolves into a communal body. Law-giving is the predominant function of the corporate/ancestral authority of a group: the more an authority is transcendent the more its function is reduced to that of law-giving. In the passage from *communitas* to social structure, the voice of law—the ancestral-corporate

voice that introduces itself as law—is recognized. Social structure emerges with the recognition of law and persists by its enforcement. Legal categories divide society into alienated spheres, groups, and individuals, to the effect that it can no longer contain its unity which finds refuge in the corporate realm. Individual rights and duties, for example, entrench the private/public distinction, anchor individual autonomy, and thereby expel the communal body. Through the law, the community is divided into antagonistic groups and individuals and its longings for fusion and the sacred are repressed.

The Gregorian Reform and the Corporate Model of Social Structures

According to the corporate model, social structures such as the state are premised on a removal of the sacred, accomplished through a transformation of an immanent communal body into a transcendent corporate body. The projection of the sacred gives rise to an advanced degree of interpersonal separation and to a legal order. The Gregorian Reform provides an illuminating example of the interrelated processes of desacralization of the social, structural consolidation and corporate-formation. It highlights central structural effects of corporate-formation such as bureaucratization, juridification, and separation of powers, which were merely mentioned in the preceding outline of the corporate model. The present section illustrates and elaborates on my earlier characterization of the corporation through standard, if not uncontested, historical accounts of the Gregorian Reform.

The origins of the Gregorian Reform lay in the attempts led by such popes as Leo IX, Nicholas II, and Gregory VII during the eleventh century to establish the Church as the supreme sovereign power in the Christian world, distinct from and superior to the various existing types of monarchic power, which were seen as licensed by the Church. The papacy gradually claimed for itself the authority of Christ, beyond that of Peter, and deprived the emperor of his Christ-like nature and independent spiritual authority. During the twelfth and thirteenth centuries, the papacy acquired unprecedented power: it enjoyed fiscal independence, significant political influence, and a broad jurisdiction.¹⁶ The Church trained a highly professional administration that spread throughout Europe, becoming an elaborate, formally ordered, and centralized system of offices, and according to some historians the first European state.¹⁷ The preceding lines already suggest some of the major effects of the Gregorian Reform: separation between temporal and ecclesiastical corporations, structural consolidation, and legal and administrative development that involved the impersonalization and rationalization of authority.

The Dialectics of Structure and *Communitas*

Historians have argued that the Gregorian Reform constituted a dialectical response to a period marked by a rudimentary distinction between the sacred and the profane. Before the Gregorian Reform, it has been argued, the mundane was fused with the sacred to a much greater extent, magical unity was stressed at the expense of structural articulation, and temporal authority was largely *sacral* and *magical*, rooted in charisma rather than corporate principles.¹⁸ Temporal government was not self-centered but placed its *raison-d'être* and immediate ideals and goals in an otherworldly realm in a way that weakened its inner organization. Such generalizations call for a careful critical qualification, which far exceeds my competence and in any case cannot be undertaken in the present context. However, theoretical considerations support the suggestion of a dialectical pattern leading from communal to corporate symptoms, from magical to administrative kingship,¹⁹ even if these two types of authority form a continuum and rarely present themselves in ideal form.

Corporate structures consolidate in response to communal exuberance, and once established are subject to renewed onsets of communal forces. Each pole of the continuum faces inbuilt pressures for its transformation in a way that produces a dialectic of structure and *communitas*.²⁰ It is thus arguable on theoretical as well as historical grounds that the Gregorian Reform constituted a response to pronounced communal forces. The story of the Gregorian Reform may serve as an illustration of the process by which corporate bodies emerge out of predominantly communal formations. In a classic essay, Gerhart Ladner described a dialectic of *sacred* and *temporal* authority throughout the Middle Ages, identifying four major transformations in the theology of power.²¹

The Gelasian Doctrine

According to the early Gelasian doctrine, named after Pope Gelasius I (492–96), two powers, earthly and divine, dominate the world. The earthly city is subservient to the heavenly one that is neither directly involved in the governing of society nor capable of governing it. The prince embodies the former, the pope the latter, and the relationship between the two individuals actualizes the relationship between the two realms. The inferior mundane realm must strive to meet the requirements imposed by the Church as long as it awaits redemption. Ladner refers to this doctrine as the *functional* conception of the state, pointing out that no proper state existed at this incipient stage of institutional development.²²

The Carolingian Paradigm

During the Carolingian age, the otherworldly commitments of temporal authority postulated by the Gelasian doctrine were further accentuated as the world in its entirety became impregnated with sacredness. According to Ladner:

While for Pope Gelasius I priestly authority and kingly power had been two forces or principles by which the world is ruled, in the Carolingian age this neutral concept of the world is firmly and clearly replaced by that of the Church which, as the Body of Christ, is the only possible all-embracing community and milieu in which government temporal, that is political, as well as spiritual can function. This then was the great political idea of Christian unity in the Carolingian age, and on the whole, in the succeeding centuries down to the era of St. Gregory VII. Empire as the apex of kingship coordinated with the Papacy as the apex of priesthood, but—and this is most important for the history of political theory and reality—empires and kingdoms were *in* the Church, not *beside* the Church, as in St. Augustine and Gelasius, and not *above* the Church, as in the caesaro-papism of the Byzantine Empire.²³

The fusion of sacred and secular reached a climax under the Carolingian doctrine. "[B]oth *Regnum and Sacerdotium* were *in* the Church, in the Church understood as the Body of Christ."²⁴ There was no precise division of symbolic labor between empire and papacy, nor was there a clear-cut hierarchical ordering of these two extensions of the body of Christ. Relations between these two barely distinct realms remained predominantly personal, and the magical, sacred aspects of kingship—of the king's body as an extension of the body of Christ—were emphasized.

The Gregorian Reform

The political theology of the Carolingian period was followed by a gradual disentangling of spiritual and temporal powers. In place of mystical unity, each realm—temporal and ecclesiastical—gradually organized itself as a distinct, articulate institution. Separation of powers goes hand in hand with institutionalization, that is, impersonalization of authority. Temporal and spiritual authorities were increasingly vested in formally defined and circumscribed offices. According to Ladner, the two realms were no longer identified with the private persons of emperor and pope but were gradually becoming seen as corporations regulated by law. Perceptive of the role of the law in the deconsecration—and true individuation—of the subject, Ladner and Claude Lefort suggestively link the constitutional *separation of powers* with their *impersonalization*, that is, with their notional dissociation

from their changing individual holders:

The question was no longer who was supreme in the Church, Pope or ruler, but rather who was superior in Christendom: the Church under the Pope or the kingdoms, among which it is true the Holy Roman Empire was still more closely linked to the Papacy than the others. The problem of Church and State which strictly speaking had been in abeyance for two hundred years, as it had been conceived of as the problem of *Regnum-Imperium* and *Sacerdotium*, within the *Ecclesia*, appeared again in a more genuine form.²⁵

Despite the attempts made by the Othonian Emperors, the path to a complete identification with a God-made-man remains blocked. At the same time, the king comes up against another earthly force: the priest from whose hands he receives grace, and who is in a position to claim to be his superior. The division of the body of the king [into private and public bodies—L.B.] therefore goes hand in hand with the division between royal (or imperial) and papal authority. . . . we can from the outset discern two simultaneous movements towards a universal authority that is both scriptural and temporal. But neither can be carried through to completion: unrestricted political domination is impossible, and so is the creation of a theocratic monarchy.²⁶

The shift from the Carolingian to the Gregorian paradigm described by Ladner can be construed in terms of a transformation of communal into corporate bodies and the concomitant consolidation of the transcendence of authority. Separation of powers and endorsement of the rule of law attest to society's renunciation of the omnipotent communal body. The latter is projected and transformed into a transcendent corporate body. The desacralization of the royal and the political body at large fosters individual autonomy and a distinction between private and public spheres, between individuals and their public roles: the body of the king is to a considerable extent rendered human, deficient.²⁷ It no longer functions as an incarnation of the sacred communal body but as an organ of a corporate order occupying, as Kantorowicz suggested, an impersonal office as a private person. The king's private body is distinguished simultaneously from the sacred *clerical body* and from his own public role, the royal public body. The separation between temporal and spiritual powers turns kingship into an office, hence the structural coincidence of separation of powers, impersonalization of authority, corporate formation, secularization, and consolidation of the private-public distinction.²⁸

Let us briefly consider the implications of the separation between the spiritual and temporal powers for each realm. The Gregorian Reform kindled processes of legal articulation first and foremost within the Church. It brought about the secularization and bureaucratization not only of temporal power but of the Church itself, through its inner functional division and

general corporate form. According to R.I. Morris:

Charisma had been replaced by institutional authority, or, in plainer language, intellectual status and access to the power it could confer were passed down from the top, instead of up from the bottom. As in so many aspects of social existence in these centuries, an old order had been superseded by a new one—the authority of the bishop by that of the corporation of masters—after a heady interval of much looser, popularly sanctioned control.²⁹

In order to deconsecrate political power the Church had to deconsecrate itself. It would not have been able to separate itself from temporal power had it not simultaneously rid itself of the communal body and become a corporation. Permeated with sacred oneness, it would have resisted any separation of powers and sought union with the temporal order. While proscribing expressions of popular anarchic religiosity, which threatened to invigorate communal bodies,³⁰ and consequently absorbing communal sanctity, the Church had to tame its own increasingly exclusive sanctity. In order to become one among several corporate actors in the temporal world, the Church confined sanctity to delimited areas within church life: the transcendent corporate realm, regulated ritual and the clerical body,³¹ and monastic life.

Processes of secularization, rationalization, and bureaucratization within the Church were facilitated by the monastic reform that turned the monasteries into containers of the communal body projected outside the secular church. In the course of its own reform, preceding that of the Church, the monastic world endorsed the ascetic ideal to an extent that allowed for the growing adoption of human traits on the part of the secular clergy and for the institutionalization, legalization, rationalization, and secularization of the Church. The more the monastic world approximates the condition of *communitas*, the more the Church can structure itself as a network of clearly defined offices. The interdependence of the religious establishment and monastic spirituality is not unique to medieval Christianity. It reflects a basic pattern of religious institutionalization, consisting of a gradation among different levels of clerical renunciation.³² In order to accommodate and handle the sacred, social structures institute world-denying cults alongside institutions with predominantly mundane features.

The emergence of ecclesiastical institutions claiming supreme sovereignty in the Christian world was not intended to bring temporal institutions to their end, nor did it ever produce such an outcome. It did mean that the Church closed itself and became a largely separate realm, in certain matters freer from temporal intervention than it used to be, purporting to exercise an authority over temporal institutions to dictate policies, depose unruly

kings, and command the peoples of Christendom to disobey their temporal lords. The closure of the Church as an autonomous realm had various manifestations, such as a moderate and discontinuous decrease in temporal intervention in ecclesiastic appointments and a certain immunity of the clergy from temporal jurisdiction.³³ The legal manifestations of independence attest to a deep, if gradual, transformation: the relegation of the sacred to outside the realm of temporal government. The claim of the Church to unqualified authority over the inferior temporal realm was much harder to realize than its claims to separateness and autonomy. The monopoly of the Church over sacred powers implied, in fact, renunciation of temporal powers and recognition of the autonomy of the temporal realm to conduct its own affairs. The Church gradually and implicitly accepted in practice this structural principle.³⁴ Within firm social structures, omnipotence cannot be accommodated because it threatens to precipitate the return of the communal body and the collapse of transcendence into immanence. Both temporal and ecclesiastical realms recognized that omnipotence transcends their terrestrial institutions. Processes of rationalization, juridification, and institutionalization were prompted by the endorsement of the division of labor between temporal and spiritual authorities.

Temporal power, even if held inferior, could gradually establish its own monopoly over temporal affairs and develop its own institutional organization once it was separated from the Church and emptied of sacredness. Temporal society underwent a process of institutionalization and corporate formation modeled on the internal transformation of the Church.³⁵ It could direct its evolving institutions to the pursuit of its own interests, goals, and values—sources of what would be one day called *raison d'Etat*.³⁶ The relegation of spiritual and mystical concerns to the enclosed realm of the Church allowed the mundane order to pursue temporal prosperity as an independent body.³⁷ In John of Salisbury's *Policraticus*, the representative statement of the emerging political theory,³⁸ temporal society was for the first time recognized as possessing its own body, on a par with the Church. As Ladner notes:

It was, perhaps, the formation of a "corporational"—institutional aspect of the concept of the Church which gave increasing importance to the concept of a Christian "temporal" society (*Christianitas, populus Christianus, politia or republica Christiana*), not simply identical with the Church.³⁹ . . . The evolution of the organological or corporational or body politic theory of the state. . . marks the transition from the functional notion of the state to that of the state as self-sufficient community. . . It can hardly be an accident that in Christian times before the Gregorian era it was as a rule not applied to the state but to the Church. The Church was the Body of Christ beside which or

in which the "states" functioned as governments rather than as autonomous bodies. It is only from the era of Gregory VII that the states were seen as bodies politic, while at the same time the Roman Catholic Church developed its institutional-corporational side as one aspect of its being the Body of Christ.⁴⁰

The apparent conflict between temporal and spiritual powers over the extent of their respective jurisdictions obscures the fact that they shared an interest in a clear division of labor. The separation between sacred and secular authorities enhanced the structural development of the two realms. The common archenemy of both realms was popular religiosity and local tradition, generally, threatening to fuse sacred and secular, revitalize communal forces, and collapse corporate structures. The separation of sacred and secular that underpinned processes of structural consolidation in the aftermath of the Gregorian Reform was embedded in various dichotomies and systems of classification. The strict division between temporal and spiritual authorities was only one of the dichotomies through which the separation of sacred and secular was instituted. Others included the public-private distinction and the "trifunctional" distinction among the three orders of society. These distinctions entrenched the separation between sacred and secular and at the same time added themselves to the array of normative categories according to which society could be organized, thereby contributing to the general process of elaboration, inner articulation, and consolidation of social structure. The tripartite distinction among "those who pray, those who fight, and those who work," which gained currency in the thirteenth century, entrenched the sacred/secular distinction by instituting the clergy as a distinct container of sanctity and at the same time gave society a general stratified structure. As the organizing ideology of a mundane, hierarchic division of labor the trifunctional distinction reinforced social structure.⁴¹

The increasing dissociation between private and public realms⁴² strengthened the separation of sacred and secular by turning the family into an enclosed repository of sanctity, alongside the clerical body, and constituted one of the founding dichotomies of social structure as a network of divisions and subdivisions. Across different historical periods, the corporate model governed interaction in public spheres while interaction remained comparatively communal within the family fold. Expelled from the public sphere the communal body finds refuge in the family, where it can be more easily accommodated. The social structure rests on the projection of immediacy, bodily or emotional, to the family.⁴³ The family is sacralized at the same time that the political is desacralized: the sacramental, or "ecclesiastical" model of family life gained official priority over other models in the course of the twelfth and thirteenth centuries.⁴⁴

The ecclesiastical model championed the integrity, purity, sanctity—and thus singularity and unbreakability—of the marital bond, thereby thwarting its economic and political utilization by the heads of the aristocratic families. It articulated and propagated the timeless ideal of the family as free from social, political, and economic exigencies, and subsumed it under separate ecclesiastical jurisdiction. The requirement of the free consent of the parties and the prohibition of bigamy and incest diminished the capacity of family heads to use marriage as a means for forging alliances and acquiring or preserving property. The ecclesiastical model proclaimed the autonomy of the family vis-à-vis economic and political pressures and endowed it with sanctity. The crystallization of the sacramental model of marriage in the twelfth century can be understood as part of an economy of the sacred in which the public sphere is increasingly desacralized and separated from spheres in which the communal body is allowed to thrive. Even if sacralization of the family complicated the economic and political instrumentalization of marriage—though according to Duby, family heads actually did not lose much of their influence—it served the structural interest of the lay aristocracy by facilitating the secularization of civic life.

Prospects of Humanism

Ladner concludes his account by indicating a further dialectical development in the aftermath of the Gregorian Reform, namely, the gradual liberation of the secular realm from the hegemony of the Church.⁴⁵ If the Gregorian Reform instituted two separate realms, it endowed one of them, at least in theory, with supreme moral and constitutional authority. The civic realm was conceived as licensed by the superior realm of the Church. It was Dante who, according to Ladner, came first to conceive of *Humana Civilitas* as coordinate rather than subordinate to the Church.⁴⁶ In a dialectical way, the centralized organization of the Church paved the way for the ascent of equally powerful and autonomous normative and cultural realms.

Corporate Symptoms in the Temporal Realm: Toward the State

We have seen that according to the corporate model of social structures, separation of powers brings about the projection of the sacred communal body onto a transcendent realm, establishing an omnipotent but absent corporate body, on the one hand, and rational institutions run by organs of the corporate body, on the other. In the aftermath of the Gregorian Reform, the legal idea of the corporation became increasingly central to constitutional thought⁴⁷ and corporate symptoms to constitutional practice. The

Gregorian separation between sacred and secular realms served as a catalyst for a set of additional interrelated processes, such as juridification of social relations, the rise of civil religion, and bureaucratic expansion, tendencies whose coincidence in the aftermath of the Gregorian Reform has been noted and studied by historians such as Berman, Ladner, Leyser, and Strayer. The temporal realm exhibited each of these corporate symptoms in a rudimentary form at a different moment, and developed each of them over a long period of time. In what follows, I sketch some of the central structural developments precipitated by the Gregorian separation between the sacred and the secular that shed light on the general form of corporate bodies and on the dynamics of its historical concretization.

Juridification

Separation between the sacred and the secular realms and corporate-formation go hand in hand with increasing juridification of social relations. The consolidation of a legal system is a crucial step in the process of corporate-formation since it is the law that enhances individuation, institutes social division, and represses the communal pursuit of sanctity. The separation between temporal and spiritual authorities is in itself entrenched in constitutional definitions of the respective powers. In order to keep the communal body away from the social, and thereby desacralize the social, numerous other divisions and subdivisions—between groups, classes, spheres of interaction, individuals—have to be implemented by the law. By implementing individual rights and duties, the law consolidates interpersonal separation and confronts the expansionist attempts of the sacred communal body.

However, by dividing the social body, the law becomes the embodiment of its new, corporate unity. Through the unification of law within a realm, a common corporate law-giving authority is postulated. Communal bonds are replaced by an overarching corporate unity that is represented by the law. Any representation of the law in any medium—whether learned, figurative, ritual, or oral-popular—points to its origin in a common, corporate, law-giving authority. Through the standardization of law, individuals across the realm and their transactions are redefined by reference to a single law, a single corporate authority. By being subjected to the same laws, individuals become organs of a single body.

In the aftermath of the Gregorian Reform, temporal realms embarked on a large-scale enterprise of juridification—and secularization—of social relations through the unification of law and adjudication and propagation of the law as the epitome of corporate unity and identity. Historians of the common law have written extensively on the simultaneous processes of standardization of the law and restriction of local judicial discretion, The

increased royal dispensation of common law justice, and concomitant bureaucratization during the twelfth century.⁴⁸ Royal law increasingly affirmed itself over communal custom. The alien, repressive nature of the king's law was enhanced by the fact that it was a written law superimposed on largely illiterate communities. The incapacitation of the community through centralized law and jurisdiction was conducive to structural individuation, articulation, and consolidation. While enfeebling communal entities, the law forged a new corporate unity and identity by defining a single royal jurisdiction and postulating a single corporate law-giving authority. The unity of collectivities came to be manifested primarily through the unity of the law that regulated them.⁴⁹ With law as the primary manifestation of social unity, kings propagated images of themselves as personifications of the law and guarantors of justice. The royal office became increasingly identified with the administration of justice.⁵⁰

The passage from custom to written law plays a significant role in the consolidation of legal systems and corporate orders as a whole. The law book divests communal bodies and authorities of much of their power. It postulates a single transcendent law-giving authority, whose commands are encoded in it. The written, codified form as such implies the new law's claim to sanctity, transcendent origin, and authority over the community.⁵¹ Legal scripture derives its authority from the fiction of a transcendent law-giver.⁵² Its very existence establishes and publicly verifies that fiction and grounds vast institutional structures within it. The law book reifies the law and inaugurates a formalist mode of legal reasoning that replaces communal rites by the magic of the book. Through the repetitive magical exercise of certain interpretive manipulations of the text, its timeless truth is revealed. Legal scripture posits the sovereign, absent legislator as the object of civic worship and itself as a focal point of the civic cult. It becomes the magical incarnation of the threshold between the secular and the sacred, between the world of the living and that of their corporate body, their ancestral legislators, their dead.

Civil Religion

Separation between spiritual and temporal authorities and corporate-formation foster the elaboration of civil religion. The notion of civil religion conventionally refers to the religious components of modern political systems. However, even before the enlightened doctrines and practices of separation between Church and state, political bodies had their distinct civic cults upholding their institutions and valid in their territories. They had their own political myths, totemic emblems, rituals, and spectacles of power celebrating their corporate identity and unity. Totemic representations

of the temporal realm that are clearly distinct from those of historical religion—the crown, the seal, the dynastic emblem—designated the corporate body, and their dignity was protected by civil taboos. Political mythology celebrated the founding events of the sovereign corporate body, reenacted by the political group in civic rituals. During and following the Gregorian Reform, worldly virtues of kings and other laymen were redefined and extolled by civil religion as the clergy refined its ascetic ideals. Needless to say, distinctions between revealed and civil religion were much less pronounced in the twelfth and thirteenth centuries than in the modern period, but the development of some forms of a distinctly civil religion was bound to be encouraged by the Gregorian separation of powers.

Contrary to the prevailing sociological identification of civil religion with popular national myths and rituals, its core lies in the constitutional doctrines of sovereign power, in the repeated evocation and affirmation of sovereign jurisdiction in daily official rites, and in the magic of legal validity. Thus, the development of civil religion in the aftermath of the Gregorian Reform occurred through the more conspicuous processes of juridification and bureaucratization. The law itself postulates and inculcates the fiction of a single transcendent corporate authority. With corporate-formation emerged a distinctly public law articulating and advocating the impersonal claims of the corporate body.⁵³

In late-medieval civil religion, the corporate identity and unity of the realm—the objects of civic worship—were largely represented by the king. The king did not possess sovereignty but only displayed it. Such legal abstractions were expressed in doctrine and in ritual, as Kantorowicz's work amply demonstrated. Constitutional theory was reflected in the rituals in which the body of the king was celebrated, such as coronations, funerals, and royal entries. The various rituals have to be studied in light of one another because they reflect a single underlying conception of kingship and each was devised to enact and communicate a specific aspect of the underlying idea of kingship. The different spectacles of civil religion, whether old or modern, at once mirror and complement each other. Funerals, entries, and coronations became rituals of a distinctly civic religion as they came to revolve around the political body. Even if the infiltration of corporate ideas into ritual practice was slow and gradual, it was a continuous process that laid the foundation of modern civil religion.⁵⁴ In *The King's Two Bodies*, Kantorowicz not only analyzes the expression of corporate continuity in funerals, but also comments on the gradual transformation of the coronation from a rite constitutive of royal charisma into a mere display of civic wealth and prowess.⁵⁵ The more administrative and juridical the royal authority, the more formal and declaratory the rite of consecration. As the juridical source of royal power predominates over its

charismatic and sacral sources, the coronation becomes a largely symbolic gesture.

Civil religion calls for the centralization of power—a process that often proved to be slower than others—since the mythical-ancestral identity of the corporate group and its shared values need a hegemonic center to represent them. The civic center constitutes a religious focus that competes with the geographical foci of revealed religion, and its emergence is related to the crystallization of national boundaries. The aggrandizement of the center takes place as part of a wider propagation of national values, identities, and symbols that is suggestive of a widening cleavage between revealed and civil religion.⁵⁶ Strayer notes that one of the symptoms of state formation in the Late Middle Ages was the growing loyalty of dispersed populations to the center,⁵⁷ an observation that reminds us that corporate-ancestral bodies are the objects of the love and fidelity of their organs.⁵⁸

Administration

The separation of powers and the consequent deconsecration of the political foster the crystallization of the idea of the office and facilitate a general process of bureaucratization. Sacral kingship is not an office. Whereas the divine king is irreplaceable and superior to the law, the office subjects its changing occupants to a normative system.⁵⁹ The institution of office attests to a separation between private and public realms in addition to the separation between sacred and secular powers. The individual occupant is distinguishable from his office by virtue of simultaneously playing other roles in other, private spheres. The office, then, is an impersonal function defined and circumscribed by collective interests and occupied by deconsecrated individual bodies exercising worldly, human capacities. The separation between crown and king, between the public (corporate) and private bodies of the king, facilitates the emergence of an entire system of offices. The roles of the different members of the ruling elite increasingly consist of legally defined obligations toward an impersonal body. As office holders, their interaction is mediated and structured by constant reference to an impersonal, transcendent authority:

King and Crown no longer were the same thing. . . it normally was the "community of the realm" that swore to the Crown, since king, councillors, officials, and lords spiritual and secular took consonantly the same oath to maintain the rights of the Crown; and they together and with the king as their head, after all, represented and were the "community of the realm," the *universitas*. Equally, and using similar terms, they all were constrained to

protect the Crown as something superior to all of them and as something they all had in common.⁶⁰

Juridification, bureaucratization, and the development of a civic cult, together with other structural developments, reflected and accelerated the demarcation between sacred and secular and the consolidation of corporate structures over and above communal forces. The more the legal and bureaucratic dimensions of social structure are advanced, the more the sacred is confined to the transcendent corporate realm and to strictly delimited enclaves within social structure. The development of corporate structures continued in the modern era with further sophistication of the juridical and administrative aspects of the state.⁶¹ The essentially juridical form of the corporate body receives its fullest elaboration in the modern *Rechtsstaat* with its separation of powers, strict definition of the powers delegated from the corporate body to its organs, and preoccupation with the impersonal execution of laws in the name of the Law. This further evolution of the rule of law in democracy provoked assaults by the communal body to which democracy is particularly vulnerable. Today, communal forces rise against corporate structures not only in the familiar guises of nationalism and fundamentalism. Their influence can be detected behind the most dispassionate arguments for either regional or global culture, for particularity or abstraction—arguments that were traditionally balanced in and by the corporate body. It remains to be seen what structural and institutional transformations will be brought about by these renewed pressures.

8. S. Schoenbaum, *Shakespeare's Lives* (Oxford: Clarendon Press, 1970), p. 32.
9. R.H. Tawney, *Religion and the Rise of Capitalism* (Harmondsworth: Penguin Books, 1948), pp. 37, 58.
10. G.G. Coulton, *The Medieval Panorama* (New York: Meridian Books, 1955), p. 332.
11. Benjamin Nelson, *The Idea of Usury* (Princeton: Princeton University Press, 1949), pp. 29–30, 93–94.
12. Thomas Wilson, *Discourse on Usury*, with an historical introduction by R.H. Tawney (London: G. Bell, 1925), orig. 1572.
13. Laura C. Stevenson, *Praise and Paradox: Merchants and Craftsmen in Elizabethan Popular Literature* (Cambridge, UK: Cambridge University Press, 1984), p. 97.
14. Quoted in R.H. Tawney's introduction to Wilson's *Discourse*.
15. Tawney, *Religion and the Rise of Capitalism*, especially pp. 179–96.
16. Richard Sibbes, *The Saints Cordials* (London, 1637), p. 188.
17. G.J. Parry, *A Protestant Vision: William Harrison and the Reformation of Elizabethan England* (Cambridge, UK: Cambridge University Press, 1987), p. 282.
18. Schoenbaum, *Shakespeare's Lives*, p. 33.
19. Shakespeare may have taken the idea from the Merchant Adventurers, the chartered company founded to encourage trade with the Netherlands, which was particularly active at this time.
20. Holmer, *The Merchant of Venice: Choice, Hazard, and Consequence*, p. 157.
21. In 1598, the play was entered in the Stationers' Register as *The Marchaunt of Venyce or otherwise called the Jewe of Venyce*, an entry suggesting that the public linked it to Marlowe's play and that the official at the Stationers' Register wished the connection to be acknowledged. But that was not the title Shakespeare himself chose.

Chapter 6 The Communal Body, the Corporate Body, and the Clerical Body: An Anthropological Reading of the Gregorian Reform

1. In his book *The First European Revolution*, R.I. Morris accords the repression of communal forces pride of place in the twelfth-century construction of a new social order. "If any single aspect of the twelfth century revolution in government was of decisive importance for the future it was the capacity developed by both secular and ecclesiastical power to penetrate communities of every kind vigorously and ruthlessly, overriding the restraints of custom, and enlisting, or destroying, men of local standing and influence in the name of order, orthodoxy and reform" (*The First European Revolution ca. 970–1215* [Oxford: Blackwell, 2000], p. 172).
2. The expression is used by Ernst H. Kantorowicz, *The King's Two Bodies: A Study in Mediaeval Political Theology* (Princeton: Princeton University Press, 1957), p. 401.
3. On the theoretical biases of influential historians such as Strayer and their students, see Paul Freedman and Gabrielle M. Spiegel, "Medievalisms Old

- and New: The Rediscovery of Alterity in North American Medieval Studies," *The American Historical Review* 103 (1998): 686–89 [677–704].
4. See in particular Victor Turner, *The Ritual Process* (Ithaca: Cornell University Press, 1969). The term *communitas* was of course coined by Turner himself.
 5. Different psychoanalytic schools formulated this distinction in their own terms. Fromm, e.g., depicted authoritarianism as a state of violent fusion; see Erich Fromm, *Escape from Freedom* (New York: Farrar and Rinehart, 1941), p. 141; and *Man for Himself* (New York: Holt, Rinehart and Winston, 1947), p. 151. According to Fromm, weak selves seek empowerment simultaneously through fusion with powerful figures and through assertion of violence, whether as its perpetrators or as victims who experience empowerment by disappearing into violent aggressors. Fromm developed his basic intuition concerning the sadomasochistic nature of symbiotic relations throughout his *oeuvre* and applied it in the analysis of diverse forms of cultural regression. For Melanie Klein, the earliest phase in the life of the infant—the schizoid-paranoid position—consists of violent fusion of mother and child. According to Klein's object-relations theory, violence in social or interpersonal relations often indicates a reenactment of primary symbiotic relations. For a comprehensive contemporary account of individuation and recognition, see Axel Honneth, *The Struggle for Recognition: The Moral Grammar of Social Conflicts*, trans. Joel Anderson (Cambridge, UK: Polity Press, 1995).
 6. According to Engels, the state derives its vitality and very justification from its capacity to contain and regulate permanent social conflict. See Friedrich Engels, *The Origin of the Family, Private Property and the State*, trans. Alick West and Dona Torr (New York: International Publishers, 1942), p. 229. Engels did not conceive of such social conflict or of the capacity of the state as necessary conditions for social life, as the proposed account of social structure takes them to be.
 7. George Herbert Mead, *Mind, Self and Society* (Chicago: University of Chicago Press, 1934), pp. 213, 218.
 8. In the history of its interpretation, the Pauline doctrine came to refer to the Church alternately as structure and ritual. See Kantorowicz, *The King's Two Bodies*, p. 194.
 9. Luc de Heusch, "Pour une dialectique de la sacralité du pouvoir," in his *Écrits sur la royauté sacrée* (Brussels: Editions de l'université de Bruxelles, 1987), pp. 215–62.
 10. Even advocates of absolute monarchy, such as Bodin, recognized that the hereditary king is subject to the two *Leges Imperii*: the order of succession and the inalienability of the realm. See Quentin Skinner, *The Foundations of Modern Political Thought, Vol. II: The Age of Reformation* (Cambridge, UK: Cambridge University Press, 1978), p. 293. It is these or analogous laws, which in different societies, create a corporate structure by erecting a lineage—an immortal collective body that is placed above the private person of the king—and ancestral authority and law.
 11. According to Maine, the definitive characteristic of the corporation is continuity across generations; see Henry S. Maine, *Ancient Law* (London: Murray, 1930),

- p. 207. For Meyer Fortes, the corporate organization "is the institutional medium through which the metaphysical dogma of the perpetuity and unity of the lineage blood is translated into jural and moral process" (*Kinship and the Social Order* [Chicago: Aldine, 1969], p. 184).
12. For an elaboration of these suggestions, see my paper "Notes on the Clerical Body of the Law," *Cardozo Law Review* 24 (2003): 1151–81.
 13. Since ancestors inhabit the world of myth their own timelessness and capacity to secure the immortality of the corporate body is not in the least diminished when they can in fact be traced to a fairly recent generation. "[I]t is a common experience to find an informant who refuses to admit that his lineage or even his branch of a greater lineage did not at one time exist. Myth and legend, believed, naturally, to be true history, are quickly cited to prove the contrary. But investigation shows that the stretch of time, or rather of duration, with which perpetuity is equated varies according to the count of generations needed to conceptualize the internal structure of the lineage and link it on to an absolute, usually mythological origin for the whole social system in a first founder" (Meyer Fortes, "The Structure of Unilineal Descent Groups," in *Kinship*, ed. Jack Goody [Harmondsworth: Penguin, 1971], p. 264 [263–75]).
 14. The proposed vertical and hierarchic account of the corporate body is at variance with Gierke's horizontal, communitarian view of the corporation as an immanent totality. Berman convincingly criticized Gierke's theory in Harold Berman, *Law and Revolution* (Cambridge, MA: Harvard University Press, 1983), p. 220.
 15. Various general theories in group psychology and theories of sacrifice and divine kingship, such as Burkert's and Girard's, conceive of authority and the social order at large as constituted by a founding projection of destructive urges onto a central authority that is placed above the social. According to Wilfred R. Bion, "... identification of the individual with the leader depends not on introjection alone but on a simultaneous process of projective identification" (*Experiences in Groups* [New York: Routledge, 1961], p. 177). The different accounts of founding projection, including the proposed notion of the corporate body as a projected communal body, are not mutually exclusive but complement each other. On sacrifice as an inaugural projection of aggression, see Walter Burkert, *Homo Necans. The Anthropology of Ancient Greek Sacrificial Ritual and Myth*, trans. Peter Bing (Berkeley: University of California Press, 1983), p. 42; René Girard, *Violence and the Sacred*, trans. Patrick Gregory (Baltimore: Johns Hopkins University Press, 1977), pp. 4–10, 110–11.
 16. Richard Southern, *Western Society and the Church in the Middle Ages* (Harmondsworth: Penguin, 1970), pp. 91–169.
 17. A widely quoted formulation of this observation is John N. Figgis's remark that, "In the Middle Ages the Church was not a State, it was the State; the State or rather the civil authority (for a separate society was not recognized) was merely the police department of the Church" (*Political Thought from Gerson to Grotius, 1414–1624* [New York: Harper, 1960], p. 5). On the

- church as state see, e.g., Berman, *Law and Revolution*, p. 243; Fredric L. Cheyette, "The Invention of the State," in *Essays on Medieval Civilization*, ed. Bede K. Lackner (Austin: University of Texas Press, 1978), p. 163 [143–78].
18. Kantorowicz referred to a process of "clericalization of the royal office" (*The King's Two Bodies*, p. 89). For an account of pre-Gregorian pontifical kingship, its divine aura and episcopal status, see Karl E. Morrison's introduction to *Imperial Lives and Letters of the Eleventh Century* (New York: Columbia University Press, 2000), pp. 3–40. See also Karl Leyser, *Rule and Conflict in an Early Medieval Society* (Bloomington: Indiana University Press, 1979), pp. 77–107.
 19. On the rise of administrative kingship in the twelfth century, see C. Warren Hollister and John W. Baldwin, "The Rise of Administrative Kingship: Henry I and Philip Augustus," *American Historical Review* 83 (1978): 867–905.
 20. Luc de Heusch has described a dialectical alternation of divine and hereditary kingship and offered numerous illustrations of this process. The magical leadership of early Roman history, e.g., which gave way to law-bound power, eventually returned in a dialectical movement. See de Heusch, "Pour une dialectique de la sacralité du pouvoir" in his *Écrits sur la royauté sacrée*, p. 238.
 21. Gerhart B. Ladner, "Aspects of Mediaeval Thought on Church and State," *The Review of Politics* 9 (1947): 403–22.
 22. Ladner, "Mediaeval Thought," 406.
 23. Ladner, "Mediaeval Thought," 407–08.
 24. Ladner, "The Concepts of 'Ecclesia' and 'Christianitas' and their Relation to the Idea of Papal 'Plenitudo Potestas' from Gregory VII to Boniface VIII," in *Sacerdotio e Regno da Gregorio VII a Bonifacio VIII*, *Miscellanea Historiae Pontificiae* 18 (Rome: Pontificia Università Gregoriana, 1954), p. 50 [49–77].
 25. Ladner, "'Ecclesia' and 'Christianitas,'" p. 54.
 26. Claude Lefort, "The Permanence of the Theologico-Political," in his *Democracy and Political Theory* trans. David Macey (Cambridge, UK: Polity Press, 1988), p. 252 [213–55].
 27. On the impersonalization of authority, see Joseph R. Strayer, *On the Medieval Origins of the Modern State* (Princeton: Princeton University Press, 1970), p. 6. According to Cheyette, the distinctions between office–person, rule of law–rule of man, public–private crystallized simultaneously in the second half of the eleventh century ("The Invention of the State," pp. 149, 163). For a wealth of illustrations of secularization and professionalization of kingship in the course of the twelfth century, see Karl J. Leyser, "Some Reflections on Twelfth-Century Kings and Kingship," in *Medieval Germany and its Neighbours, 900–1250* (London: Hambledon Press, 1982), pp. 241–67.
 28. Alain Boureau has described the Gregorian Reform as a process whose principal outcomes—secularized kingship and consolidated social structure—were inseparable:

[L]a dynamique du processus hiérarchique construit une conception contractuelle de la royauté, une autonomisation purement terrestre du

pouvoir monarchique. En effet, la distribution hiérarchique, à partir d'un point focal religieux hors du monde pratique, implique, de la part des classes sacerdotales, un renoncement à la puissance temporelle. . . la réforme grégorienne du XI^e siècle, qui promeut l'indépendance supérieure du spirituel et dégage ainsi l'espace nécessaire à la construction des monarchies occidentales, tout en les privant de toute possibilité de légitimation sacrale.

("Un obstacle à la sacralité royale en occident—le principe hiérarchique," in *La royauté sacrée dans le monde chrétien*, ed. Alain Boureau and Claudio-Sergio Ingerflom (Paris: Ecole des Hautes Etudes en Sciences Sociales, 1992), p. 32 [29–37]).

29. R.I. Morris, *The First European Revolution*, p. 190. As Berman writes:

It is generally recognized that prior to the late eleventh century the material and corporative sides of the Church were fused, to a much greater extent than they were later, with its spiritual and sacramental sides. . . Distinctions between the sacred and the profane were much less pronounced. The jurisdictional element of the Church's law was viewed as an integral part of the sacramental element, which embraced not only such liturgical events as baptism, marriage, and ordination but also an undefined variety of moral and spiritual acts and rites. (Berman, *Law and Revolution*, p. 201)

On the inner constitutional organization of the Church see Berman, *Law and Revolution*, p. 213.

30. According to Morris, "All the practices and rituals which we have encountered as mechanisms for the articulation and expression of communal sentiment were firmly suppressed. Priests were forbidden to perform the rituals which preceded the ordeal. Preachers and holy men were ruthlessly subordinated to episcopal authority. Canonization was conferred by ecclesiastical process instead of popular acclaim; miracles were confined to properly supervised shrines; and shrines themselves were orchestrated and ranked from village upward to mirror and affirm the new order. . ." (Morris, *The First European Revolution*, p. 174).
31. While the church instituted the clerical body as a repository of sanctity through the articulation of its sacramental powers, rules of clerical abstinence, and the symbolism of the ordination, the sanctity of the clerical body was tamed and rationalized by being strictly regulated and encoded in administrative and legal terms as a set of privileges, interdictions, and administrative functions.
32. On the complementarity of the Brahman establishment and monastic renunciation in India, see Louis Dumont, *Religion/Politics and History in India* (The Hague: Mouton, 1970), p. 43.
33. For an account of the ramifications of the investiture controversy under Gregory's successors, see Uta-Renate Blumenthal, *The Investiture*

Controversy: Church and Monarchy from the Ninth to the Twelfth Century (Philadelphia: University of Pennsylvania Press, 1988), pp. 135–74.

34. Ladner, "Ecclesia' and 'Christianitas,'" p. 76.
35. Berman, *Law and Revolution*, p. 273.
36. On raison d'Etat see Gaines Post, *Studies in Medieval Legal Thought* (Princeton: Princeton University Press, 1964), pp. 241–309.
37. According to Strayer, ". . . the victory of the Church in the Investiture Conflict had unforeseen consequences. By asserting its unique character, by separating itself so clearly from lay governments, the Church unwittingly sharpened concepts about the nature of secular authority" (*Medieval Origins*, p. 22). On secularization and state formation, see Ernst Wolfgang Bockenforde, "The Rise of the State as a Process of Secularization," in his *State, Society and Liberty*, trans. J.A. Underwood (New York: Berg, 1991), pp. 27–33 [26–46].
38. See Kantorowicz, *The King's Two Bodies*, pp. 94–97.
39. Ladner, "Mediaeval Thought," 412.
40. Ladner, "Mediaeval Thought," 413–14.
41. According to Duby, the trifunctional scheme served the interests of secular power; Georges Duby, *The Three Orders: Feudal Society Imagined*, trans. Arthur Goldhammer (Chicago: University of Chicago Press, 1980), pp. 305–53. While Duby's account of the theme of the three orders prior to the thirteenth century has been challenged, it is accepted that the tripartite scheme was propagated by royal power from the early thirteenth century onward.
42. Cheyette, "The Invention of the State," in *Essays on Medieval Civilization*, pp. 149, 163; On the crystallization of the separation between public and private law see Peter J. Riga, "The Influence of Roman Law on State Theory in the Eleventh and Twelfth Centuries: A Study of the Roman Glossators and their Influence on Modern State Theory," *The American Journal of Jurisprudence* 35 (1990): 178–79 [171–87].
43. Lior Barshack, "The Holy Family and the Law," *International Journal of Law, Policy and the Family* 18 (2004), 214–34.
44. Georges Duby, *Medieval Marriage: Two Models from Twelfth-Century France*, trans. Elborg Forster (Baltimore: Johns Hopkins University Press, 1978), pp. 1–23.
45. Ladner, "Mediaeval Thought," 420.
46. Drawing on an analysis of variations in royal ritual, Ralph Giesey has suggested a historical development from *sacral* to *humanistic* kingship through a stage of *juristic* kingship. See Ralph E. Giesey, "Models of Rulership in French Royal Ceremonial," in *Rites of Power: Symbolism, Ritual and Politics since the Middle Ages*, ed. Sean Wilentz (Philadelphia: University of Pennsylvania Press, 1985), p. 51 [41–64].
47. On the corporation theories of the Middle Ages, see Kantorowicz, *The King's Two Bodies*, pp. 302–409; Post, *Medieval Legal Thought*, pp. 27–50; Joseph P. Canning, "Law, Sovereignty and Corporation Theory, 1300–1450," in

The Cambridge History of Medieval Political Thought, ed. J.H. Burns (Cambridge, UK: Cambridge University Press, 1988), pp. 453–76.

48. Parallel processes occurred in France and in Norman Sicily that seem to have been guided by a highly effective if inarticulate idea of reason of state. On the parallel expansion of royal jurisdiction and administration in England and France, see Hollister and Baldwin, "The Rise of Administrative Kingship," 867–905; and Alan Harding, *Medieval Law and the Foundations of the State* (Oxford: Oxford University Press, 2002), pp. 109–46.
49. Alongside political myths and emblems and dynastic cults, law figures prominently in Colette Beaune's survey of the sources of national identity in the Middle Ages, *The Birth of an Ideology: Myths and Symbols of Nation in Late-Medieval France*, trans. Susan Ross (Berkeley: University of California Press, 1991), esp. pp. 245–65. Alan Harding explains the significance of the law as the defining, unifying, and solidifying force within each realm as follows:

In a *Rechtsbook*, constitutional description which placed all members of society in relationship through jurisdiction and brought clergy and laity into harmony under the Crown was combined with a record of the king's law-making for a community to produce a myth of national unification which was most potent when a country's territory was under attack." ("Regiam Majestatem amongst Medieval Law Books," *Juridical Review* 29–30 [1984]: 110 [97–111])

50. As Strayer notes, ". . . the Investiture Conflict reinforced a tendency. . . to consider the lay ruler primarily as a guarantor and a distributor of justice" (*Medieval Origins*, p. 23).
51. On Gregory's own view of law, as opposed to custom, as the reservoir of the divine truth according to which the Church and society at large should be organized, see Brian Stock, *The Implications of Literacy: Written Language and Models of Interpretation in the Eleventh and Twelfth Centuries* (Princeton: Princeton University Press, 1983), p. 37.
52. This fiction remains implicit in the legal codes of modern democracies. In his essay on Artaud's theater, Derrida unearths a fiction of transcendent authorship that is implied by any performed or interpreted text:

The stage is theological for as long as its structure, following the entirety of tradition, comports the following elements: an author-creator who, absent and from afar, is armed with a *text* [emphasis mine] and keeps watch over, assembles, regulates the time or the meaning of representation, letting this latter *represent* him as concerns what is called the content of his thoughts, his intentions, his ideas." (Jacques Derrida, "The Theater of Cruelty and the Closure of Representation," in *Writing and Difference*, trans. Alan Bass [Chicago: University of Chicago Press, 1978], p. 235 [232–50])

In religion as in entertainment the expansion of literacy encroaches upon the domain of ritual presence and immediacy. On literacy and the eucharistic debates, see Stock, *The Implications of Literacy*, pp. 241–315.

53. Post, *Medieval Legal Thought*, pp. 415–93; on the entrenchment of the separation between public and private law, see Riga, "The Influence of Roman Law," 178–79.
54. Kantorowicz, *The King's Two Bodies*, p. 409. Once civil religion is established, the category of the sacred and symbols of sanctity often refer to the political body even when they seem to propagate the personal sanctity of the king.
55. Kantorowicz, *The King's Two Bodies*, pp. 317–29. See also Giesey, "Models of Rulership," p. 46. According to Bryant, the political ideal encoded in royal entries in the High Middle Ages was that of juridical kingship, Lawrence M. Bryant, "The Medieval Entry Ceremony at Paris," in *Coronations: Medieval and Early Modern Monarchic Ritual*, ed. János M. Bak (Berkeley: University of California Press, 1990), p. 111 [88–118]. The gestures and symbols of the entry evoked and affirmed the constitutional principles in which monarchic power was grounded and by which it was conditioned; see also Bryant, *The King and the City in the Parisian Royal Entry Ceremony: Politics, Ritual, and Art in the Renaissance* (Geneva: Droz, 1986), p. 77.
56. On late-medieval nationalism, see Strayer, "The Laicization of French and English Society in the Thirteenth Century," in *Change in Medieval Society*, ed. Sylvia L. Thrupp (New York: Appleton, 1964), p. 111 [103–15]; and Post, *Medieval Legal Thought*, pp. 434–93.
57. Strayer, *Medieval Origins*, pp. 10, 45, 54.
58. On the love of ancestral deities, see Meyer Fortes, "Pietas in Ancestral Worship," in *Time and Social Structure and Other Essays* (London: Athlone, 1970), p. 165 [164–200].
59. Kantorowicz attaches great theoretical significance to the "oath of office urging the king as well as his officers to protect an impersonal institution which 'never dies,' the crown" (*The King's Two Bodies*, p. 354). On the growing size and sophistication of the administration in most European countries in the thirteenth century, see Strayer, *Medieval Origins*, p. 34; on the modernity of medieval administration, see Udo Wolter, "The *Officium* in Medieval Ecclesiastical Law as a Prototype of Modern Administration," in *Legislation and Justice*, ed. Antonio Padoa-Schioppa (Oxford: Oxford University Press, 1997), pp. 17–36.
- Since the bureaucracy saps the vitality of charismatic authority and the community at large, and epitomizes the structural values of the rule of law, separation between private and public spheres, and separation of powers, it became in the twentieth century one of the prime objects of populist resentment.
60. Kantorowicz, *The King's Two Bodies*, pp. 360–61.
61. The distant roots of the modern rule of law lie in the consolidation of the corporate organization of society in the aftermath of the Gregorian Reform. See Laurent Mayali, "De la *juris auctoritas* à la *legis potestas*. Aux origines de l'Etat de droit dans la science juridique médiévale," in *Droits savants et pratiques françaises du pouvoir*, ed. Jacques Krynen and Albert Rigaudière (Bordeaux: Presses Universitaires de Bordeaux, 1992), pp. 129–49.