Srđan Šarkić

Legal-Historical Analysis of Monk Simeon's Charter Presented to the Monastery of Hilandar

The oldest surviving Serbian charter was presented to the monastery of Hilandar[1] in 1198 by Stefan Nemanja (Стефан Немања), ex-Great Župan[2] of Raška and the founder of the Serbian dynasty. Stefan Nemanja promulgated this charter after his withdrawal from the throne, when he became a monk and took the monastic name Simeon (Симеон).[3]

[1] Hilandar (Greek Χελανδάριον, Serbian Cyrillic Хиландар) is a Serbian monastery on Mount Athos (Holy Mountain). Originally a Greek foundation, Hilandar may have been established in the late 10th century by George Chelandarios ('The Boatman'), but by 1015 it was deserted. In 1198–1199 the monastery was restored as a Serbian *koinobion* by Stefan Nemanja, who took the monastic name Simeon, and his youngest son Rastko – monastic name Sava (Сава) – founder and organiser of the autocephalous Serbian church and its first Archbishop. See ODB (Talbot, Alice-Mary – Cutler, Antony), 931–932.

[2] Great Župan (вєли or вєлики жоупань in Serbian documents; μέγας ζουπάνος or ἀρχίζουπάνος in Greek texts; *megaiupanos, magnus iupanus* in Latin texts; *magnus comes* in Hungarian documents) was a title of Serbian monarchs from the 12th century until 1217, when Nemanja's son Stefan got the royal crown from Pope Honorius the Third. Župan was a ruler of 'župa', the Old Slavonic name for counties. See LSMA (Tomović, Gordana), 195–199.

[3] Stefan Nemanja (Νεεμᾶν of Greek sources) Great Župan of Raška (i.e. Serbia) and founder of the Nemanjid dynasty. Born c. 1114 Ribnica in Diokleia (modern Montenegro), died Mt. Athos 13 February 1199. He was appointed Great Župan by Byzantine Emperor Manuel I, probably sometime between 1165 and 1168. With Hungarian and Venetian support Nemanja rebelled against Byzantium, at first successfully. In 1172, however, Manuel attacked Nemanja with a large army and forced him to surrender. After Manuel's death (1180), he rebelled once more and invaded Byzantine territory in alliance with Béla III of Hungary. In 1189 he cordially received Frederik I Barbarossa and other participants in the Third Crusade. The Great Župan expanded his territory to the east and south and united Zeta (modern Montenegro) with Raška. He eradicated the Bogomils, whose influence was spreading in Raška. In the early 1190 Nemanja tried to improve relations with Byzantium: he married his second son Stefan to Eudokia, a niece of Emperor Isaac II Angelos, who received the Byzantine title of *sebastocrator*. In 1196 Nemanja abdicated in favour of Stefan, while giving Zeta to his eldest son Vukan to rule. Dissatisfied with this lesser inheritance, Vukan overthrew his brother in 1202 with the help of Hungarians, but his reign lasted only a few years; in 1204 or 1205, supported by the Bulgarians, Stefan came back to the throne. Stefan Nemanja first retired to the monastery he had founded at Studenica (south of Serbia) and later went with his youngest son Sava to Hilandar, where he died. On his rule see Jireček–Radonić 1978: I, 147–160; ISN (Kalić, Jovanka), 251–262.

The charter contains a very important introduction (*arenga*[4] or *prooimion,* προοίμιον, a rhetorical introduction with philosophical and political overtones), which defines the Serbian mediaeaval ideology as being in accordance with a Byzantine system of a hierarchical world order. The other provisions confirm that in the 12th century it was forbidden to the serfs to live off the land of their lords.[5]

<div align="center">I</div>

From the time of their settling in the Balkans in the 7th century the Serbs lived in the territory of the Eastern Roman Empire, and they became familiar with Byzantine constitutional ideology expressed as a hierarchical world order. According to this model not all States were equal; rather a strict order existed amongst them, reflecting the importance of each. At the head of this hierarchy was Byzantium, the legitimate holder of the idea of a Universal Empire; only its monarchs could bear the title of Emperor. All other mediaeval States had a rank dependent upon their political importance, which might vary.[6] The heads of these States, pursuing this constract, formed a so-called 'family of monarchs', associated in a fictive parentage. At the head of the family, as *pater familias,* stood the Emperor of Byzantium, whilst different degrees of relationship were conferred on other monarchs depending upon their political importance. Charlemagne, for example, became the Emperor's 'brother' (ἀδελφός) and his German, French and Italian successors were proud of this *adelphos* distinction. English Kings were merely the Emperor's 'friends' (φίλοι), whilst at the bottom of the scale came those insignificant monarchs considered by Byzantium to be part of the household property rather than a part of a family.[7]

The influence within Serbia of the Byzantine ideology of a hierarchical world order is obvious from the text of a charter presented to the monastery of Hilandar in 1198, which begins as follows:

Искони сьтвори Богь Небо и Зємлю, и чловѣкы на нєи и благослови и дасть имь власть на всѣи твари своєи, и постави ѡви царє, дроугиє кнєзє, ини владикы, и ко моуждє дасть пасти стадо своє и сьблоудати є ѡт всакога зьла находещаго на нє. Тємьже братиє Богь

4   A mediaeval Latin word: Italian *aringa,* French *harangue,* Spanish *arenga = oratio publica, declamatio, concio.*
5   Editions of the charter: NOVAKOVIĆ 1912: 384–385; SOLOVJEV 1926: 11–14; ĆOROVIĆ 1928: 1; TRIFUNOVIĆ et al. 1986: 49–60; MOŠIN et al. 2011: 67–69.
6   On the hierarchical world order see three studies by OSTROGORSKI 1936: 41–61; 1956: 1–14; 1975: 125–137. Cf. TARANOVSKI 1996: 166–176; 309–311. On monarchical ideology in Nemanjid's State see BOJOVIĆ 1995, and MARJANOVIĆ-DUŠANIĆ 1997.
7   DÖLGER 1964: 43.

прѣмилостивы оутврьди Грькє царьми а Оугрє кральми, и когождє єзика раздѣливь и законь давь [...] Тѣмьже по мьнозѣи его и неизьмѣрьнѣи милости и чловѣколюбию дарова нашимь прадѣдомь и нашимь дѣдомь ѡбладати сиювь Зємловь Срьбьсковь [...] и постави ме вєлиєга жоупана, нарєчєнаго вь свѣтѣмь крьщени Стєфана Нєманоу [In the beginning, God created the heavens and the earth and human beings on it, he blessed them and gave them power over the whole of his creation. And some of them he made emperors, others princes, others lords and provided all of them with herds to be grazed and protected from every harm. So brothers, the merciful Lord established the Greeks as emperors and the Hungarians as kings and he classed all men and gave the law (…). According to all his infinite grace and mercy He endowed our ancestors and our forefathers to rule this Serbian land (…) and appointed me, christened in holy baptism Stefan Nemanja, the Great Župan].[8]

So, for Stefan Nemanja, only the Greeks (the Byzantines) could be Emperors, the Hungarians could only be Kings, but by emphasising the fact that his monarchical power was derived from God and was based on the grace of God, he indicated his independence from the Byzantine Emperor. Consequently by the end of the 12th century Serbia had become an independent State within the Byzantine system of a hierarchical world order.

In addition to the Byzantine system of hierarchical world order, the charter mentions for the first time a term *zakon* (законь), which in the modern Serbian language indicates the ultimate act of State power; it can be translated νόμος in Greek, *lex* in Latin, *Act* or *Statute* in English, *la loi* in French, *la legge* in Italian, *la ley* in Spanish, *das Gesetz* in German, *törvény* in Hungarian, and so on in other languages, whilst in other Slavonic languages it is virtually the same word. In the Hilandar Charter *zakon* was understood as the world order created by God. During the following centuries it can be found in numerous legal sources with one of two basic meanings: firstly as a legal rule in general *(regula iuris)* and secondly as the translation of the Greek νόμος, a law-making act of the Byzantine Emperor. In its first meaning it occurs in legal documents of Serbian origin, whereas in its second it can be found in Byzantine legal compilations translated and adapted for mediaeval Serbia.[9]

In the legal documents of Serbian origin, *zakon* indicated a generally obligatory rule *(regula iuris)* which was usually not a result of the activity of a monarch as ultimate holder of State power. Even where a law was made by a State authority, such a legal rule had

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[8] ĆOROVIĆ 1928: 1; MOŠIN et al. 2011: 68.

[9] The *Syntagma* of Matheas Blastares, a nomokanonic miscellany put together in twenty-four titles (each title has a sign of one Greek alphabet letter) by the monk Matheas Blastares from Thessaloniki in 1335, contains the chapter H, under the title О Законе [On the Law], with the Roman lawyer's definitions of law, translated into Old Serbian from Byzantine legal compilation and not from a Latin original (NOVAKOVIĆ 1907: 421). See ŠARKIĆ 1996: 257–266.

primarily the appearance of a customary legal provision, regulating the condition within one particular manor *(vlastelinstvo,* властелинство*)* rather than within the whole national territory. Otherwise such laws prescribed the legal position of different categories of inhabitants and identified particular rules of status. Sometimes a law would be introduced to regulate one particular problem. The concept of law in this period also includes a legal rule derived from custom or from private contract. Each of these uses can be illustrated from many hundreds of cases from several sources.[10]

II

In the charter of Stefan Nemanja issued to the Hilandar monastery we read the following:

> И акє кьто ѡдь манастирьскихь лоуди бѣжи, или Влахь, подь велиєга жоупана или код инога кога, да сє вракаю ѡпєть, ако ли ѡдь жоупанихь лоуди, приходє оу манастирьскє лоуди, да сє вракаю опєть [And if anyone of the monastery's people or Vlachs flee from the Great Župan or someone else, send them back: if Župan's people come into monastery's manor, send them back again].[11]

This means that peasants in Serbia had already lost their freedom of movement and that they belonged either to the Church or to the Great Župan (ruler) or to someone else (noblemen). This triple division was confirmed later by article 112 of Dušan's Law Code (1349):

> Кои чловѣкь оутѣчє ись тьмницє [...] или єсть чловѣк царства ми, или црьковни или властѣлскы [If any man escape from prison[12] (...) be he the Tsar's man, or of the Church, or of the lord].[13]

The Hilandar Charter calls dependent villagers simply *ljudi* (people, singular = čovek or človek, meaning *man*). However, dependent villagers in mediaeval Serbia were usually called *meropsi* (мєропси, singular = *meropah,* мєропьхь, мѣропьхь). The meaning of the word *meropah* cannot be precisely defined, but it probably comes from the name of the Thracian tribe Meropes (Μέροπες), who lived in the Rodope Mountains (today

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[10] See ŠARKIĆ 2015: 41–208. The author has quoted all meanings of the term *zakon* that appear in Serbian legal documents.
[11] MOŠIN et al. 2011: 69.
[12] The word translated 'prison' is *tamnica,* literally, a dark place.
[13] BURR 1950: 518; NOVAKOVIĆ 1898: 86.

in Greece).[14] The term *meropsi* became common in 14th century sources, but in the texts from the 12th and 13th centuries different names are used for the villagers: *parici* (from Greek πάροικοι = colonists, settlers, literally 'one who lives nearby', the general name for the dependent peasants in Byzantium from the 10th century through to the end of the Empire, analogous, but not identical, to the serfs of mediaeval Occidental Europe), *zemlani ljudi* (literally 'men of the land', really the agricultural labourers), *Srblji* (Serbs), or simply *ljudi,* like it was the case in our charter.[15] The expression *kmet* (к'мет, from Latin *comes,* or Greek κώμη = village), which in modern Serbian and Croatian historiography denotes villager, serf or villein[16] was used in that meaning only once – in the charter of Emperor Stefan Dušan to the monastery of Hilandar (2 May 1355), where we read: и на к'метехь криноу [and from serfs one krina].[17]

III

Hilandar's charter also mentions the term *Vlachs* (Serbian *Vlasi,* Власи, singular = *Vlah,* Влахь, in Greek documents Βλάχοι), which designated first of all dependent shepherds, who were, besides *meropsi* (villagers, serfs) the most numerous category of the rural population – nomads settled in hamlets called *katuni* (катоуни, singular = *katun* катоунь).[18] The word *Vlach* comes from the name of some Celtic tribes, those that the Romans called *Volcae* and Germans *Walhos.* In German the expression became common for all Celts, and after the romanisation of Gaul, for all Romans. South Slavs took the name *Vlach* from Germans and used it for the native population of Roman origin, who lived in littoral cities and the Balkan Mountains. The expression *Vlach* was used sometimes by Serbs for Ragusans (Dubrovčani), such as in the treaty between the Serbian Great Župan Stefan

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[14] Skok 1972: 409; Radojčić 1949–1950: 157–171; LSMA (Blagojević, Miloš), 396–397.

[15] See Šarkić 1992: 63–71. Same legal documents, written either in Greek or Old Serbian, use the Greek word χώρα (*chora,* хора) = land, district, in the meaning of the assembly of villagers. See Solovjev 1926: 129, 170; Solovjev–Mošin 1934: 24; Slaveva – Miljković-Pepek 1980: 289.

[16] The word *kmet* has different meanings in Slavonic languages. The oldest documents testify that a *kmet* was a member of the privileged class, a chieftain of a village, or even a judge. However, some sources from western parts of the Balkan Peninsula mention *kmets* as dependent villagers who work on a nobleman's manor. For more details see Mažuranić 1975: 508–512; Skok 1972: 106–107; LSMA (Mihaljčić, Rade), 298–299.

[17] *Krina* was a dry measure used for wheat. One *krina* had 24 *kabao* (one *kabao* = 16 kg). *Kabao* was the Serbian translation of the Byzantine measure called μόδιον. Koprivica 2016: 113.

[18] According to the interpretation of Jokl 1923: 172, 320, the word comes from Albanian *katund-i,* meaning *Gebiet, Dorf, Stadt* (district, village, town). In modern Albanian, the word *katund* means village (the other name for village is *fšat,* coming from Latin *fossatum*). Some scholars think that the word is of Greek origin (κατούνα). See Skok 1972: 64.

Nemanjić and the city of Dubrovnik (Ragusa), from 1214–1217, surviving in two versions (Serbian and Latin). The Serbian text is as follows: И да не емле Срьблинь Влаха безь соуда [it is forbidden to the Serbs to capture a Vlach with no trial), which was translated into Latin as *et ut Sclavus non apprehendat Raguseum sine iudicio.*[19] However, as time went by, the Roman population in mountains was slavicised. As their main occupation was cattle raising, the name *Vlachs* in mediaeval Serbia meant, mostly, shepherds. On the contrary, the Slavonic (Serbian) population was increasingly engaged in agriculture, so the term *Serb* (*Srbin,* Срьблинь, Серблинь, Србинь) was identified with labourers. In 14th century charters (Saint Stephen's, Dečani's, Saint Archangels') the names Serbs (*Srbi,* Срьбли) and Vlachs (*Vlasi,* Власи) did not designate ethnic goups, but the dependent labourers (Serbs) and the shepherd (Vlachs). The expression *Vlachs* also designated some groups of Romanic peoples, especially Rumanians.[20]

Listing all the goods that he gave to the monastery of Hilandar, among others, Stefan Nemanja says: а ωд Влахь Радово соудоуство, и Ђоурьгево. А вьсего Влахь. Р.О. [and from Vlachs the judiciary of Rade and Đurđe, and total 170 Vlachs].[21] This means that Stefan Nemanja gave to Hilandar 170 Vlachs whose chiefs were Rade and Đurđe, who had a right to act as judges in some matters to their shepherds. What kind of jurisdiction they had remains unclear.

Abbreviations

ISN – *Историја српског народа, књига прва* (1981). Београд: Српска књижевна задруга [*Istorija srpskog naroda, knjiga prva.* Beograd: Srpska književna zadruga].

LSMA – *Лексикон српског средњег века* (1999). Приредили Сима Ћирковић – Раде Михаљчић. Београд: Knowledge [The Lexicon of Serbian Middle Ages. Edited by Sima Ćirković – Rade Mihaljčić. Beograd: Knowledge].

ODB – *The Oxford Dictionary of Byzantium* (1991). Editor in Chief Alexander P. Kazhdan. New York – Oxford: Oxford University Press.

[19] Mošin et al. 2011: 87. In the same meaning the term was used in four treaties of the Bosnian Prince (*Ban,* Бань) Matej Ninoslav with the city of Dubrovnik from 1232–1235, 1235–1236, 22 March 1240 and March 1249. See Mošin et al. 2011: 140, 142, 154, 182–183.

[20] During the Turkish occupation, the Turks called Serbs *Vlasi.* Today the Muslims from Bosnia call Christians *Vlasi.* On some Dalmatian islands the population of certain cities are called *Vlasi,* as well as the inhabitants of Istria (in Croatia). In Hungarian, the word *Olasz* (coming from *Vlasi*) means 'the Italians'. See Skok 1973: 606–609; Mažuranič 1975: 1584–1586. Cf. Mirdita 2004.

[21] Mošin et al. 2011: 69.

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