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THE RELATIONSHIP BETWEEN THE CHURCH AND THE STATE IN THE BYZANTINE EMPIRE

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The historical and structural relationship between the Church and the Byzantine Empire form an important tradition. However, this topic is equally traditional, as it is current, especially in Europe. It addresses a particularly complex problem which contains in itself the elements of the relation between the Church and the Byzantine Empire. Specifically, we analyse the historical, cultural, legal, political and ideological aspects of these elements.

At the present state of our knowledge, the Byzantine life is seen as marked by constant change, although at the same time there was loyal adherence to certain traditions governing the outlook of both Church and Empire. It has also become increasingly clear that the Church was not a department of State. The Byzantines had a strong feeling for dignified ceremony and symbolism and this left its mark on the ecclesiastical, as well as on the imperial developments. What mattered were the liturgical life and the faithful adherence to the traditions of the Church.³

According to one of the fathers of the Byzantine political thought, Pseudo -Dionysius Aeropagit: “hierarchy is a divine and holy order, which the order that rules with the world aspires to reach.”⁴ Hence, the ideological premise of duality of Church -State in the Byzantine Empire was constituted in the idea that the entire human order becomes a reflection of its own archetype, i.e. of the heavenly order that is the only perfect one in the full sense of the word. In this way, the concept of social organization undoubtedly comes to the fore. According to it, the entire Byzantine society was built and tended to be organized in line with the heavenly order, or as its perfect reflection on Earth. Thus, each individual or group in the Byzantine world had a strictly specified or envisaged position in the pyramid at whose top stood the Emperor himself, just as at the top of the heavenly hierarchy stood God. From there, we arrive to the picture of the place of the Emperor in the Byzantine world: as God's representative on Earth, i.e. as a Jesus' deputy.⁵

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³ J. M. Hussey, *The Orthodox Church in the Byzantine Empire* (Oxford History of the Christian Church), Oxford University Press, 1986, p. XVI.

⁴ Pseudo-Dionysius, *the Aeropagite, the complete works*, Paulist Press, New Jersey, 1987, p. 193.

⁵Konstantin VII Porfirogenit, *Poretku Carstva*, Beograd.

The maxim “God's kingdom on earth” represented the true reflection of the conception which Rhomios i.e. Byzantines had for themselves.⁶ Hence, it is especially important to emphasize that such vertical organization of the Byzantine society remained present during the entire existence of the Byzantine Empire.⁷

Here, it is undoubtedly necessary to point out that the capital of the Empire, the imperial city of Constantinople had a huge role in the social hierarchy; it took up the position of the “city over the cities”, just as it was thought that the Byzantine emperor had the highest rank in the world, and as the Ecumenical Patriarch had the highest rank in the church hierarchy (on 11 May 330 AD on the shores of the Bosphorus, the Emperor Constantine consecrated his new capital, Constantinople). Hence, Constantinople was “the queen of the cities”, while the Emperor was a cosmocrator (master of the world and the universe) and Ecumenical Patriarch i.e. spiritual leader of the world inhabited by civilized peoples.⁸

All of the above mentioned constituted the foundations on which the understanding of *the indisputable authority of the Byzantine world over the universe* was based.⁹

The unconditional respect for the order was treated as a kind of imperative. Therefore, the understanding of the Byzantines that the disorder¹⁰ is a condition in which the soul is lost¹¹ and in political terms “democracy” is an usurpation of authority by the people, the biggest heresy against the Emperor who is the only true representative of God and of the legislative authority on Earth, does not come as a surprise.

For example, Constantine the Great himself often intervened in the Church issues. For example, he convened the Council of Nicaea in 325¹² which brought together many bishops and church leaders to consider the position of Arian Christians.¹³

⁶Steven Runciman, *The Byzantine Theocracy*, Cambridge University Press, Cambridge, London, New York, Melbourne, 2003, page: 161.

⁷G. Ostrogorski, *Istorija na Vizantija*, Prosveta, 1969.

⁸B. Ferjancic, *Porfirogenit Konstantin VII, Porfirogenit, Vizantijski izvori za istoriju naroda Jugoslavije*, Vol II, Vizantoloski institute SANU, Beograd 2007.

⁹ See more in Edward W. Said's book *Orientalism*, Vintage Books, A Division of Random House, New York, 1979.

¹⁰ (p.n.) ataxiu - mess.

¹¹ (p.n.) psycholethros - loss of soul, cavern.

¹² ...The Council of Nicea, which took place in 325, was a response to a crisis that developed in the church over the teachings of a presbyter, or priest, of the church in Alexandria. And his teachings suggested that Jesus was not fully divine, that Jesus was certainly a supernatural figure of some sort, but was not God in the fullest sense. His opponents included a fellow who came to be bishop of Alexandria, Anthanasius, and the folk on that side of the divide insisted that Jesus was fully divine. The Council of Nicea was called to try to mediate that dispute, and the Council did come down on the side of the full divinity of Jesus. It all boils down to one iota of difference. And the debates in the IV century about the status of Jesus have to do with the Greek word that exemplifies the problem. One party said that Jesus was homo usias with the father, that is of the same being or substance as the father. The other

Thus built, the Byzantine ideology had its initial roots in the state - church idea which was formulated by *Eusebius of Caesarea*, the court theologian of Emperor Constantine.¹⁴ This idea of interdependence of church and secular authorities, or more precisely, the idea of the Christian empire in whose centre was not the spiritual head of the Church but the Christian Emperor had been formulated since Constantine's founding of Constantinople. The Christian

party, the Arian party, argued that Jesus was *homoi usias* with the father, inserting a single letter "i" into that word. So the difference between being the same and being similar to was at the heart of the debate over Arianism. And the Council of Nicea resolved that the proper teaching was that Jesus was of the same being as the father... The Emperor Constantine was the moving force in the Council and he, in effect, called it in order to solve this dispute. He did so because at that time he had just completed his consolidation of authority over the whole of the Roman Empire. Until 324, he had ruled only half of the Roman Empire. And he wanted to have uniformity of belief, or at least not major disputes within the church under his rule. And so he was dismayed to hear of this controversy that had been raging in Alexandria for several years before his assumption of total imperial control. And in order to dampen that controversy he called the Council... <http://www.pbs.org/wgbh/pages/frontline/shows/religion/why/legitimization.html>

¹³ The Arians were followers of a priest from Alexandria named Arius who taught that Jesus had been a mortal man created by God rather than divine and co-equal with God. Many theologians argued to the contrary, teaching that Jesus was both God and man. Constantine supported the latter position, and attended sessions of the Council of Nicea to lend his support, although at the time, he had not fully admitted to being Christian. Because of his presence, the council adopted the orthodox view, and Arianism was condemned as heresy. More in: Arianism, *Encyclopædia Britannica*. *Encyclopædia Britannica* 2007 Deluxe Edition. Chicago: *Encyclopædia Britannica*, 2007.

¹⁴ Ramsay MacMullen, *Christianizing the Roman Empire: A.D 100-400*, Yale University Press, 1984, p. 7. and Harold W. Attridge, *Eusebius on Constantine: ... Eusebius was the bishop of Caesarea in Palestine in the IV century, and he played a very active role in church politics at the time. He was at the Council of Nicea, which was the first major ecumenical council. And he had contact with the Emperor Constantine. So he was a very prominent figure. He's most important to us, however, as the first church historian. He wrote several things during his long and active lifetime, including a history of the martyrs of Palestine, a collection of prophetic texts. But the most important work is his ecclesiastical history, which describes the development of the church down through his own period, and then the persecutions which took place in the first decade of the IV century. And finally the vindication of the church with the accession of Constantine and his rise to supreme power... Eusebius is, first of all, valuable as an historian because he preserves a large number of sources that are not available in other forms. He clearly has an axe to grind and that axe has to do with the status of Christians and their relationship with the imperial authorities... Constantine, whom Eusebius describes later in "A Life of Constantine" and also in an oration on an important occasion later in his career, is a magnificent ruler endowed by God with wisdom, insight and a divine mission to vindicate the church and to bring the church and the state into unity. And so Constantine is viewed by Eusebius as a figure of God's will in human history...* <http://www.pbs.org/wgbh/pages/frontline/shows/religion/why/legitimization.html>

Emperor was shaped on the model of Constantine who appears as God's representative on Earth and to whom God gave "the representation of his omnipotent government". This system lies in the foundation of Eusebius' political theology.¹⁵ The Emperor's power had the highest God's mercy as its source and the relationship between God and the Christian Emperor was of a personal nature. Thus, God's will did not govern the Emperor's will through intermediaries i.e. through church dignitaries, but directly. Accordingly, Eusebius of Caesarea says: "So the Lord himself, the greatest ruler of the whole world, chose Constantine as his ruler and leader of all, and therefore no man can boast that he had appointed him to that position."¹⁶

Constantine's idea was to reformulate the imperial authority into an absolutistic one, completed by the divine law. This idea, at the beginning of IV century AD and under an immediate influence of the Middle East, represented a completion of the new tendencies which varied significantly from those of the old Western Roman Empire¹⁷.

For all of these reasons, a specific relationship between church and state is characteristic for the Byzantine Empire. Thus, aside from the ruler who was chosen by the Lord, the role of the religious head was limited to the spiritual functions, that is, to the preservation of the purity of faith within the church. In spite of this proportion of relations, the Emperor also took a special part in the church service. Namely, the Byzantine Emperor was the only laic who was allowed to attend the Eucharist behind the altar. In that way, God's grace was confirmed and the Emperor was made equal to a clerical person.¹⁸ The relationship between the Christian Emperor and the head of the church was perceived as harmonious, which implicated that the church accepted the Emperor as its protector and a guardian of the unity of faith, while the church voluntarily limited itself to the purely spiritual field.

This concept would later become known as *caesaropapism*, a concept of the unlimited power of the Emperor over the church, spread throughout the Orthodox ecumene.

Perhaps the most lasting monument of Justinian's reign was his codification of Roman law. By this time, it became necessary to rewrite many of the laws, as they had become obsolete since their last codification by Theodosius in 348. In the absolute monarchy the people ceased to be the source of the laws. It was now the monarch, by virtue of his office, that was responsible for putting into effect a new law, as well as the way in which it was interpreted and enforced. The heritage of Roman law represented an unbroken tradition that continued to the time of Justinian. Preservation and renewal of the laws, Justinian felt, offered the possibility of emphasizing one of major roots of the Empire's strength. This immense accomplishment by far outlasted the Byzantine Empire and survived to form the basis of European jurisprudence. On February 13, 528, Justinian appointed

¹⁵ Ibid. p. 10 and further...

¹⁶ Ibid.

¹⁷ A. A. Vasilyev, *History of the Byzantine Empire*, Vol. 2, Madison 1971.

¹⁸ Ibid.

ten jurists to compile a new codification of the Statute law. This commission, comprised of ten jurists, was appointed to the task of compiling the new code. It included two persons of particular significance. The first was Tribonian, a jurist in the civil service and Theophilus, a professor of law at the University of Constantinople. Under their diligent supervision, the new "Codex Iustinianus" was published in a little over one year, April 7, 529. With the writing of this Codex, the administration of the law was put on a new basis.

However, even before the completion of this work, an even more ambitious undertaking was begun. This was the compilation of a Digest of the jurisprudence of the great Roman lawyers of the second and third centuries AD, an undertaking that had never before been attempted on such a scale. The order to begin the work on the Digest was given on December 15, 530. In December, 533 the Digest, called "Digesta Iustiniani Augusti" was completed. It was expected that the work on it would take ten years, but it was finished in less than three. Its writing had involved, among other things, reading of 2000 books, representing 39 authors, and it included 3 million lines. The final code was reduced to 150 thousand lines.¹⁹ Most of the authors' reading came from Tribonian's private library. With both law and jurisprudence now established, any further commentary on the law was forbidden. The Code and the Digest represented the whole of the valid law, along with its interpretation - with the exception of such imperial legislation as might subsequently be issued.

The old teaching manuals, now obsolete, were replaced by new ones. While the Digest was being compiled Tribonian began working on an introductory manual, the "Institutes", which was to take the place of the classic manual of Gaius. The new manual was published on November 21, 533 and it came into effect on the same day as the Digest, December 30, 533. The teaching of law was also overhauled. To ensure better control of instruction, the teaching of law was allowed only at the universities in Constantinople and Beyrouth; the schools at Alexandria and Caesarea were closed down as their teaching of law was found to be unsatisfactory.

By the end of 533, it had become apparent that the original Code of April 533 had already been rendered obsolete by the publication of a large amount of legislation. As a result, Tribonian and his colleagues, due to their remarkable skill and competence, were once again summoned to compile a new Code. This work was to be done by Tribonian, Dorotheus of Beyrouth and three other lawyers, all of whom had been engaged to work on the Digest. The work was published on November 16, 534 and went into effect on December 30th of the same year. This edition of the Code, which is extant, is divided into twelve books. Book I deals with ecclesiastical law, the sources of the law, and the duties of higher officials. It should be noted here that the ecclesiastical law has a place of honor in this Code, which it did not have in the Code of Theodosius. Books II-VIII deal with private law. Book IX concerned the criminal law, and Books X-

¹⁹Encyclopædia Britannica. Encyclopædia Britannica 2007 Deluxe Edition. Chicago: Encyclopædia Britannica, 2007

XII the administrative law. There is a total of 4652 laws in this collection.²⁰

Any new legislation, when needed, from that point onward was issued in the form of "New Constitutions", known as "Novels". These dealt with such issues as ecclesiastical and public affairs, as well as private law. In particular, one very long Novel constitutes a code of Christian marriage law.

A sign of departing from the traditions of the old Roman Empire and the rise of the Eastern Roman Empire at the time of Justinian was the fact that all Novels were now written in Greek. While the Codes were in Latin, the traditional language of the law, this was not the natural language of judges, lawyers, litigants and the general population in the Eastern Roman Empire. Also, while Justinian was guided by the old tradition in the re-codifying of the law, he also noticed that he could not automatically perpetuate all laws of the old Roman Empire. Many Roman laws had never been popular in the Greek East, and local preferences, both Hellenic and oriental in origin, were now brought within the new legal system to replace the old Roman doctrines. The influence of Greek philosophical thought, which was at the heart of the educational system, was manifest in many of the classifications and reasoning of Justinian's legislation. A definite Hellenic and oriental shade in the new legislation can also be seen in the laws concerning family, inheritance and dowry. The power of the father, traditional in the old Roman thought, was now considerably weakened. Also attesting to the difference in the times was the fact that the new laws revealed a definite Christian spirit. There was a desire to make the laws more humane in some ways, in line with the Emperor's current emphasis on the concept of Philanthropia, or love of mankind. There was a marked increase in laws aiming to protect persons of weaker social position against persons whose position gave them increased power. Justinian's law, for instance, favoured the slave against the master, the debtor against the creditor and the wife against her husband. Of course, there still existed laws that seem to be, by today's standards, quite cruel, and there were still laws that differentiated between different classes of society, but it was a definite advance in the legal system in comparison with the days of the old Roman Empire.

The most divisive policy adopted by the Byzantine Emperors was that of *Iconoclasm*. The Empire had a long tradition of producing icons which depicted paintings of Jesus and other religious personages. They were considered useful, as they inspired the popular imagination and encouraged reverence for the figures depicted in the icons. The Emperor Leo III (r. 17 – 741) took issue with this as he considered the icons to violate the Second Commandment ("graven images.") In 726 AD he began the policy of iconoclasm, literally "breaking idols" by means of which religious images were destroyed and their use within the church prohibited. This caused protests and riots within the Empire as the laity were very fond of Icons. The

²⁰ Ibid.

debate raged for over a century and iconoclasm was abandoned in 843 AD.²¹

Byzantine nomocanons or sources of church and secular law, such as the *Nomocanon of John the Scholastic*, and the *Nomocanon of 14 titles* are also well known.

*The Nomocanon of John the Scholastic*²² was created in the middle of the VI century. Thus, in his function of Patriarch of Constantinople, John the Scholastic published two collections of law: in the first one he collected all of the generally recognized church canons, while in the second one he collected the articles of the Justinian's novels about various religious issues. At the beginning of the VII century, they were collected in one anthology under the name Nomocanon. This Nomocanon was widely used in the regulation of various questions of church and secular law and it was translated by St. Methodius on the old Slavic language.

The Nomocanon of 14 titles was created in the second half of the VII century, but it is considered that it entered into force in the first half of the VIII century. It is also known as Fotie's Nomocanon, after the Patriarch of Constantinople Fotie, who had reworked and supplemented it at the end of the IX century. During the great Constantinople's church gathering, held in year 920, it was declared as mandatory in the whole Christian church.

In favour of this, here we shall take the example of Epanagoge, which represented a legal act defining the relationship between church and state and in which the specific place of the Emperor and the position of Patriarch were determined, by which the independent functioning of the Patriarch was restricted, unlike that of the Roman Pope. Although the Epanagoge did not put the Patriarch entirely under the supervision of the Emperor, it was stipulated that *the Patriarch was allowed to stand for the truth and defence of the sacred science before the Emperor without fear*. We may conclude that the political freedom was not actually guaranteed to him, but only the spiritual freedom in relation to the Emperor. So, it is quite understandable why for the Byzantine political history the political tension between the Kingdom and the Church was not typical, and if it existed, it was a result of the relationship in which the Empire abused its absolutism in terms of spiritual freedom of the Church and of the resistance of the Church which emphasized the spiritual freedom in relationship to the absolutistic Empire.

The *Epanagoge* was passed during the reign of Emperor Basil I after 879 and it largely relied on the Prochiron.²³ Because of that

²¹David Knowles – Dimitri Oblensky, "The Christian Centuries: Volume 2, The Middle Ages", Darton, Longman & Todd, 1969, p. 108-109.

²² John the Scholastic was originally a lawyer, then a presbyter in Antioch, and finally a Constantinople patriarch.

²³The Prochiron was passed between 870 and 879 and it was conceived as a legal collection of works which should replace the Ecloga in the work of courts. It contained 40 titles in the field of private and public law and it mostly relied on Institutes of Justinian. In addition, although Basil I, when he spoke about the legislation of king's iconoclasts, held that it was "contrary to

some authors believe that it is an enlarged and revised edition of this Code. It is also uncertain whether the Epanagoge was an official collection of laws or only a draft which never entered into force. Regarding the first question, although the Epanagoge relied on the Prochiron, it also contained other legal provisions, including: The Novels of Emperor Basil I, the provisions on the relations and the rights and duties of the Emperor and the Patriarch and the provisions on marriage right taken from the Ecloga.²⁴ The most significant new provisions addressed the relationship between Church and State, i.e. between the Emperor and the Patriarch. The Emperor was determined as a “lawful authority, the common good of all citizens”, and his objective was “with his virtues, to maintain and preserve the existing goods; to recover the lost goods; to obtain with his zeal and righteous victories the needed goods. The duties of the Patriarch were to preserve the purity and piety of the lives of those that God had entrusted to him and to convert the heretics, the impious and those who had separated from the Ecumenical church to orthodoxy and unity with the Church²⁵. Hence, the ruler cared for the material welfare of his subjects, while the Patriarch observed the spiritual - a relationship that is formulated as a theory of the symphony, according to which the ecclesiastical and secular authorities are the greatest gifts that God’s kindness gave to people.²⁶

Furthermore, the *Basilicæ* or *Imperial laws*²⁷ were published as a collection of laws by Leo VI at the end of IX century (887) and they represented a further renewal of Justinian’s law, relying mainly on the Digests and the Codex, though also on the Institutes and Novels of Justinian, as well as on the novels of Justinian II and of Tiberius II. In addition, some materials were taken from the Prochiron. They contain provisions of the civil, church and public law divided into 60 books and they represent the greatest codification of the law according to Justinian. For their preparation, the commission lead by the protospatharius Simvatio used the Greek texts and comments of the already mentioned sources. Otherwise, the *Basilicæ* were widely used in Byzantium as a source of law, since they greatly facilitated the application of law to specific cases by abandoning the outdated and previously abolished norms of the Justinian’s law and by allotting the norms concerning the determined legal issues to the same place, which was not the case with Justinian's codification. After the *Basilicæ* had been passed, between X and XIII century they were amended with annotations, so called *scholia*, which were also a formal

the divine dogmas” and was passed “in order to destroy the life-saving laws,” the Ecloga had great influence on the Prochiron, especially in the public and in hereditary law. Source Biljana Popovska, *Drzavno-pravna istorija na Makedonija VII - XX vek*, Skopje, 2010, p. 43.

²⁴ Edward Gibbon, *History of the decline and fall of the Roman Empire*, Vol. V, London, 1854, p. 316.

²⁵ Nikolić Dragan, *Fragmenti pravne istorije*, quoted work, p. 206 and 207.

²⁶ Ibid.

²⁷ An universal history, from the earliest accounts to the present time, Compiled from Original Authors, Vol. XV, Taylor Institution, Balliol Coledge, London, MDCCLXXX, p. 74.

source of law in Byzantium²⁸. Thus, this relationship found a legal sanction in the legal acts as well.

In the complex and strictly hierarchized social order of the Byzantine Empire, the head of the Church could not easily fall into temptation to claim the right to political and legal authority through his spiritual authority. The conflict within the so perceived order and hierarchy was possible only where the Emperor himself would breach the teachings of the Church, and the head of the Church could use only his religious beliefs to warn the Emperor. Therefore, the danger of disruption of the harmony could happen only when the Emperor would break his authority and would interfere with the internal freedom of the Church and with the spiritual matters.

It is exactly this idea of the Christian Emperor and the Christian State to which the ideal of the Hellenistic philosopher - Emperor, or the Christian monarch and God's anointer, who is God's deputy on earth, was connected, which the eastern Slavs accepted and it became the foundation of the structure of their State from the very beginning. It is also found in Southern Slavs in the ideological structure of relations between the Emperor and the Church in medieval Dushan's State.

The understanding of its own *world order* in the Byzantine society imposed the belief which under no circumstances tolerated any contest, either inside or outside, because it was deemed that the Byzantine order was under the utmost – the divine protection. For this reason, any disputing of the order in Byzantium was regarded not only as opposed to the State principles and interests, but also as something that was against God's will and it was treated as heresy and as an act of God's enemies and opponents of the "true faith". Taking all this into account, we can understand much better why the Byzantine State almost never made any substantial reforms of its institutions. It always acted according to the principle of gradual adjustment to new situations. These adjustments never interrupted radically the old patterns, i.e. substantial changes and reforms, which somehow turned Byzantium into a prisoner of the past. In highly turbulent historical periods when it tried to sustain itself and to survive, the Empire did not end the tradition, which became the basis and essence of its existence, until its very end.

SUMMARY

In the present state of our knowledge, the byzantine life is seen as marked by constant change, although at the same time there was loyal adherence to certain traditions governing the outlook of both Church and Empire. As regards the Byzantine Empire, a specific

²⁸Biljana Popovska, "Istorija na pravoto" - II, Skopje, 2007, p. 72 to 74.

relationship between Church and State is characteristic, so apart from the ruler who was chosen by the Lord himself, the role of the religious head was limited to the spiritual functions i.e. to the preservation of the purity of faith within the Church. Despite of this character of the relationships, the Emperor also occupied a special place in the church service. This mode of action of the Byzantine Emperor would later become known under the term of caesaropapism. It encompassed in itself the entire Orthodox ecumene which obediently received it.

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