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THE SIGNIFICANCE OF 19TH CENTURY SERBIAN CONSTITUTIONAL ACTS FOR MODERN SERBIAN CONSTITUTIONALISM

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The concept of constitutional law is closely linked to the idea of modern constitutionalism, which first emerged in Europe through efforts to establish parliamentary monarchies. In striving to liberate itself from centuries-long occupation by the Ottoman Empire which disrupted the continuity of Serbian statehood, including the structure of government Serbia engaged in extensive constitution-making during the 19th century, as part of its final liberation and the formation of a modern state. Many current constitutional solutions find their inspiration and roots precisely in those constitutional acts. With this in mind, the paper explores one aspect of this issue using normative and comparative methods, although the contemporary concept of "rule of law" differs greatly from the understanding of this concept in the aforementioned historical period, which is the result of political conditioning and all the circumstances and characteristics that have changed throughout historical periods. The aim of this paper is to emphasize this fact and to explore the impact of those transformative and turbulent early acts of Serbian constitutional development on contemporary Serbian constitutionalism, particularly their influence on the principle of separation of powers as enshrined in the 2006 Constitution of the Republic of Serbia.

Key words: *constitutional act, separation of powers, legislative authority, executive authority, judicial authority.*

I INTRODUCTION

The historical development of constitutionalism and constitutional order represents a fundamental issue in the general history of every nation and nation-state,

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and especially in the history of state and law, where political and legal matters are constantly intertwined. The most important solutions in this field concern the separation of powers, which clearly reflects the influence of political decisions on the general legal system, as well as the reciprocal impact of legal regulation on the mechanisms of political decision-making.

The centuries-long struggle against the Ottoman Empire culminated in two armed uprisings, in 1804 and 1815, while Serbia achieved full independence (though not the recovery of all its territories) only at the Congress of Berlin in 1878. „The partial, common and conflicting interests of the interested powers (and there were no uninterested ones) were put on the table and the Berlin Congress was convened as the starting point for their reconciliation".1

The earliest attempts to address the issue of the separation of powers can be identified at the very onset of the First Serbian Uprising, which led to the convening of an assembly in Borak in 1805. At this assembly, the Governing Council (Praviteljstvujušći sovjet) was established. Alongside Karađorđe and the Assembly, this collective body exercised power and can be considered a precursor to the modern government.

In terms of the development of constitutional thought, it is also important to mention the prominent jurist of that time, Boža Grujović, who earned his doctorate in Pest and had considerable influence among the insurgents. However, he was prevented by Karađorđe from transforming his ideas on the organization of state authority through the Assembly into binding legal acts, under which all "rulers, leaders, the Governing Council, the clergy, the military, and the entire people" would be subject to legal authority,[2] and he, as the leader of rebellion, "was never willing to let go of that power, which he considered to be his personal result".[3]

Two formal constitutional acts were adopted in Serbia in 1808 and 1811. The first act represented a kind of agreement aimed at limiting the arbitrary rule of Karađorđe. The actual governance structure of revolutionary Serbia at the time could be characterized as an autocracy or absolute monarchy, and the very adoption of this constitutional act was the result of Karađorđe's will and the elders under his control. The second act, enacted three years later, significantly altered the role of the Council (Sovjet), which ceased to be an elected body and saw its powers expanded. Nonetheless, the supreme authority remained with the Leader (Vožd).

The aim of this paper is to explore, through a historical-legal and analytical approach, the significance and influence of Serbia's 19th-century constitutional acts on the development of the modern constitutional framework of the Republic of

[1] N. Ranđelović, A. Đorđević, *Uslovi priznavanja nezavisnosti Srbije 1878. godine*, in: Zaštita ljudskih i manjinskih prava u evropskom pravnom prostoru (ed. I. Pejić), Tematski zbornik radova, Knj. 1, Pravni fakultet Univerziteta u Nišu, 2011, 312.
[2] *See.* B. Grujović, *Beseda*, 295.
[3] S. Novaković, *Ustavno pitanje i zakoni Karađorđeva vremena*, Studija o postanju i razviću vrhovne i središnje vlasti u Srbiji 1805-1811, Beograd, 1907, 19.

Serbia. Particular attention will be paid to examining how these constitutional acts contributed to establishing and developing the principle of separation of powers, as well as other key principles embedded in the Constitution of the Republic of Serbia of 2006. The paper will highlight the continuity and disruptions in the development of Serbian statehood and constitutionalism, as well as the importance of these documents for the modern legal and political system of Serbia.

Methodologically, the paper relies on the analysis of historical and normative sources, such as the original 19th-century constitutional acts, relevant legal and political literature, and scholarly works and studies in constitutional law and political history. Through comparative and descriptive methods, the evolution of constitutional principles and their application in the contemporary constitutional system of Serbia will be analyzed. The paper will follow a chronological approach to the development and constitutional activities of Serbian state bodies in the 19th century and their impact on today's constitutionalism.

II THE SRETENJE CONSTITUTION OF 1835

"It can be freely said that from 1804 to 1835, the Serbian people carried out a spiritual revolution in their struggle to make the rule of law prevail over the rule of force, and in this lies the immense importance of the Sretenje Constitution, regardless of its exceptionally short lifespan".[4] This constitution marked a victory for the liberal and democratic forces over the previously authoritarian and dictatorial practices first of the Vožd (revolutionary leader), and later of Prince Miloš Obrenović, who was proclaimed hereditary prince by the Sultan's Hatt-i Sharif of 1830, which also recognized Serbia as a vassal state. According to this act, "Serbia was defined as a tributary self-governing principality under the supreme authority of the Ottoman Empire".5

Due to the refusal to share power with the Council of National Leaders, established by the Hatt-i Sharif, and because of his inclination toward absolutist rule, the well-known Prince Miletus's rebellion broke out. "The rebel leaders formulated their three demands to Miloš. First, they demanded that the Council be established as the supreme authority. The second demand related to the security of life and property, and the third to the determination of a moderate uniform tax in money." [6]The extent of the general dissatisfaction with Miloš's absolutist rule is best illustrated by the fact that even his closest relatives joined the rebellion on that occasion, his wife Ljubica and his own brother Jevrem. One of the goals set by this rebellion was the adoption of a "constitution", which led Prince Miloš to accept the political reality. The National Assembly, held outdoors, unanimously adopted the first constitution of Serbia. Its author, Dimitrije Davidović, founder and editor of „Novine Serbske", used the term

[4] B. Galić, *Podela vlasti u Ustavu Republike Srbije iz 2006 – ključni princip organizacije vlasti*, Kragujevac, 2020, 119.
[5] M. Pavlović, *Preobraženski Ustav, Prvi Srpski Ustav*, Kragujevac, 1997, 116.
[6] M. Pavlović, *Srpsko pravo od VII do XX veka*, Kragujevac, 2023, 127.

"constitution" for the first time, intending to limit the autocratic and unlimited power that had deep roots in Serbia. Until then, the Western European term "Constitution" was used for the highest legal act. [7]

The most significant value of this constitution, which incorporated the best experiences of modern Europe at the time, lies in the establishment of the principle of separation of powers into legislative, executive, and judicial branches, as well as in the proclamation of fundamental human rights and principles. Some of these rights remain goals that have not yet been fully achieved today (such as judicial independence, the right to a fair trial, civil liberties and rights, equality of citizens regardless of religion or nationality, protection of private property, freedom of movement and residence, abolition of corvée labor, slavery, and feudal relations, among others).

The importance of this constitution is reflected in Serbia's transition from an absolute monarchy to an oligarchic rule (with the division of power between the prince and the State Council, i.e., the government). However, the separation of powers "was not consistently applied but rather resulted in a confusion of authority between these two bodies" [8]. It can therefore be stated that this constitution "only declaratively proclaimed the principle of separation of powers in Article 5, distinguishing three state functions: legislative (law-making), executive (law-enforcing), and judicial (law-judging)" [9] while leaving certain legislative and judicial competences with the prince in the State Council10.

Despite its shortcomings, within the historical context in which it was enacted, the Sretenje Constitution represents a significant breakthrough and advancement in constitutional governance. For the great powers of that time, which were still absolute monarchies (Turkey, Austria, Russia), it was considered a revolutionary act. They recognized in it the ideas of the Great French Revolution, which threatened the monarchical principle, and consequently demanded the suspension of this constitution after only 55 days of its validity.

III THE TURKISH CONSTITUTION OF 1838

After the abolition of the Sretenje Constitution and the period known as the constitutional provisionalism (a temporary state without a valid constitution), the struggle for the constitutionalization of power continued in Serbia. The constitutionalization of power represents a limitation of authority in the interest of freedom. It is best expressed in the American Declaration of Independence of 1776 and the French Declaration of the Rights of Man and of the Citizen of 1789.

[7] *See. Ibid.*, 131.
[8] D. Bataveljić, *Ustavno pravo*, Kragujevac, 2013, 295.
[9] D. Simović, *Sretenjski ustav – zaraziteljna konstitucija*, in: Odjeci Sretenja – Srbija u potrazi za novim ustavom (ed. D. Bataveljić), Kragujevac, 2006, 61.
[10] See. Article 78 of the Constitution stipulated that one department of the State Council would perform a judicial function, acting as the third-instance and final judicial authority.

In 1838, the Sultan granted Serbia a constitution in the form of a Hatt-ı Şerif, as a Charter Constitution, which is why it is remembered as the Turkish Constitution, since it was not adopted by a popular assembly. This constitution was low both in formal and substantive terms and was the shortest, containing only 66 articles, with questionable legislative technique and legal quality.

However, it lasted the longest—an entire 31 years. When compared to the Sretenje Constitution, numerous differences can be observed „The Sretenje Constitution was a complete constitution, while the Turkish Constitution was more of an organic law, limited to prescribing the internal administration of the country. It is remembered for the abolition of all forms of corvée (Article 49) and for the proclamation of full civil liberties and rights. (Article 45)“ 11, However, it is symptomatic that the most advanced constitution of a modern state lasted the shortest time, while the constitution of lower quality endured for the longest period.

The Turkish Constitution, in just three articles (3–6), stipulates the powers pertaining to Miloš Obrenović, who was confirmed as the hereditary Prince of Serbia, while significantly more articles are devoted to the State Council, or Soviet (6–17). The judicial authority is defined in five articles (27–31).

The Prince shared power with the Soviet, whose members he appointed but could not dismiss, as they were designated “irremovable“ („Members of the Council shall not be removed without cause, unless it is proven to my High Porte that they have been guilty of some offense or of violating the laws and regulations of the land.“). This limited his power and absolutist ambitions, as he acted in accordance with the Constitution and the law, while the Soviet assumed the role of the true bearer of state authority. Starting from the fact that the "Constitution is the work of sovereign authority," it is justified to ask whether the Fourth Hatt-i Sharif of 1838 had the characteristics of a Constitution as the highest legal act of a specific state. 12 Thus, „according to this Constitution, the Prince did not have the right to a legislative veto, and his role was limited only to confirming laws and regulations.“. [13] This constitution established the oligarchic rule of the Soviet, which was further strengthened by the adoption of a special law, enacted by the Soviet itself, regarding its own organization. This enabled a vast centralization of power and jurisdiction within a single body, encompassing both legislative and executive authority. The constitution did not even provide for a body representing the broader population, such as a National Assembly, so it can be concluded that during this period we cannot speak of the separation of powers in the classical sense, as it neither existed in theory nor in practice. Nevertheless, some progress was made in advancing democratic changes during this time. „In the history of Serbian constitutionality, the Turkish Constitution, although the shortest Serbian constitution, was in effect for over three

[11] R. Marković, *Ustavno pravo*, Beograd, 2022, 98.
[12] R. Marković, *Ustavno pravo*, Beograd, 2009, 45.
[13] M. Radojević, *Ustav Kneževine Srbije od 1838. godine (Turski Ustav)*, Politička revija no. 24 (2), 2010, 417.

decades and, in a certain sense, contributed to the gradual introduction of democratization of the political life of Serbia at that time.)". 14 Limited by this constitution, Prince Miloš abdicated in 1839. After a turbulent period marked by the succession of rulers (Princes Milan and Mihailo) as well as dynasties (following a rebellion led by Toma Vučić Perišić, the Obrenović dynasty was overthrown and Karađorđe's son, Aleksandar, was brought to the throne), Miloš returned to power in his later years after the Saint Andrew's Assembly in 1858. He ruled for two years until his death, during which he disregarded the existence of the Turkish constitution. He was succeeded by his son Mihailo, under whose reign the last Turkish garrisons left Serbian cities. However, Serbia continued to experience intense political turmoil and numerous conflicts, both dynastic and partisan. The culmination of these struggles resulted in Mihailo's assassination in 1868. Since he had no male heirs, regents (Jovan Ristić, Milivoje Petrović-Blaznavac, and Jovan Gavrilović) assumed power, governing on behalf of Jevrem Obrenović's grandson, Milan, who was still a minor.

IV THE TRANSFIGURATION CONSTITUTION OF 1861

In its desire to achieve complete independence and independence from the Ottoman Empire, Serbia did not have the support of the great powers of that period, and for this reason, it was not able to adopt a new Constitution and finally realize its aspiration. A significant step in this regard was made during the reign of Prince Mihailo Obrenović, in 1861, when several laws were passed in Kragujevac at the "Transformation Assembly". This way, Serbia diplomatically avoided a conflict with the great powers, and yet with the adoption of five fundamental national laws (the Law on the Organization of the State Council, the Law on the National Assembly, the Law on the Inheritance of the Princely-Serbian Throne, the Law on the National army, the Law on the Organization of the Central State Administration) completely changed the constitutional order. For this reason, one can find opinions in legal theory, that even if the text was not codified, these laws constitute the first Serbian constitution, and that the "Sretenjski Constitution" was the result of "liberal delusions" and the unrealistic political strength of Serbia at the time. [15]The "Transformed Constitution" retained the institutions provided for by the "Turkish Constitution" from 1838, but they acquired a completely different role and meaning, which effectively ended its substantive validity. The legislative and political power of the Council was reduced, the National Assembly was defined as an advisory body that was convened, dissolved and controlled by the prince. Also, the inheritance of the throne, according to the principle of primogeniture, was established for the Obrenović family, which prevented Turkey from influencing the choice of the ruler in Serbia. They are ministries reorganized, the function of the President of the Council of

[14] R. Ljušić, *O Ustavu od 1838. godine*, in: Ustavni razvitak Srbije u XIX i početkom XX veka (ed. M. Jovičić), Srpska akademija nauka i umetnosti, Beograd 1990, 31.
[15] *See.* M. Pavlović, *Preobraženski Ustav..., op. cit.*

Ministers was introduced, who answered directly to the prince. Such legislative changes carried out "a complete centralization of the administration in which the police state reaches its peak." [16]

For the final liberation from Turkey, a major role was played by the introduction of general military service for all men between the ages of 20 and 50, which created a respectable army of approximately 150,000 men. From all of the above, it follows that all real power was transferred to the hands of the Prince, which established a system of enlightened absolutism.

V THE REGENCY CONSTITUTION OF 1869

A significant step forward in the development of Serbian constitutionalism was made with the adoption of the Regency Constitution of 1869, which was enacted in Kragujevac on the holiday of the Holy Trinity, hence it is sometimes called the "Trinity Constitution."

The most striking feature of this constitution was the newly established and previously unseen status of the National Assembly as a legislative body. The system provided by this constitution cannot be described as a standard parliamentary monarchy, but it is clear that a more serious system of separation of powers legislative, executive, and judicial was aimed for. Notably, Article 110, paragraph 1, prescribed that "no state power, neither legislative nor administrative, may perform judicial functions, nor may courts perform legislative or administrative power," while Article 109 guaranteed judicial independence, stating that "in the administration of justice, courts are independent and are subject to no authority except the law." However, this did not apply to the selection of judges, which was only regulated in 1881 with the enactment of the Law on Judges. This law, as a special act, guaranteed judicial independence in Serbia through partial election, permanence, and irremovability of judges, as well as by improving their material status through increased judicial salaries, thus judges ceased to be state officials directly dependent on the government's will.

Despite evident progress regarding the separation of powers, real authority remained concentrated in the powers of the prince and the government, i.e., the executive branch. This institutional supremacy is evident in the provisions of Article 76 of the Constitution, which states that "The Prince convenes, opens, and closes the assembly; he determines the time of year and place where it will be convened," and Article 78, which provides that the prince "may also dissolve the assembly and order a new election of deputies." A particular disproportion in powers is noticeable in Article 79, which stipulates that "without the Prince's summons, deputies cannot convene or extend the assembly session." According to constitutional provisions, the Assembly did not even have the right of legislative initiative, nor the power to appoint members of the government or vote on confidence. Nevertheless, this constitution

[16] R. Marković, *Ustavno pravo i političke institucije*, Beograd, 2005, 269.

guaranteed the National Assembly legislative authority, which, together with the Prince, was a decisive factor in lawmaking, while the Council was assigned a consultative role without decision-making power.

The Regency Constitution was far from establishing a full parliamentary system in the Principality of Serbia, as the executive power remained concentrated in the monarch's authority, who still had the power to appoint and dismiss ministers and hold them accountable. His supremacy over the Assembly was evident in the fact that only he had the power of initiative, while the draft laws were entirely prepared by the government. "All in all, the Regency Constitution provided instruments that ensured the Government a dominant position in relation to the National Assembly." [17]

Despite the disappointment of the more liberal Serbs, the principle of the separation of powers was applied more consistently than ever before. Thus, this constitution can be considered a cornerstone in the development of constitutionalism in Serbia. This period is also characterized by the emergence of modern, organized political parties, which is why it is referred to as the "Age of Constitutionality." It can be concluded that based on the Regency Constitution, "Serbia was not a country with a parliamentary system, but a German-type representative system. [18]

VI THE RADICAL CONSTITUTION OF 1888

All previous constitutions, despite their obvious limitations, played a significant role in the liberation from Ottoman rule during the period between the two uprisings and the Congress of Berlin, which marked the acquisition of sovereignty. An interesting description of this period can be found in the words of the liberal politician Milovan Janković, who called it "the engraving of freedom... fundamental lessons of liberal political democracy were engraved, which are essentially lessons of the modern state." [19]

As for the Radical Constitution, named after the Radical Party that held the parliamentary majority, it can be said that it represented a crucial step, and the text itself - This was "the longest of all the constitutions of the Principality of Serbia and the Kingdom of Serbia ... It had 204 articles. Although extensive, its norms were clear and precise." 20 It represented a rarely liberal constitution for Europe of that era — the most liberal constitutional act in the history of Serbia, which kept pace with the progressive aspirations of the time. It was adopted by the Great National Assembly and ratified by the King himself. Finally, Serbia acquired a system that could be called constitutional and parliamentary monarchy, thanks to a more consistent

[17] M. Pavlović, *Srpsko pravo..., op. cit.*, 181.
[18] *Ibid.*
[19] J. Trkulja, „Zakon je narodu isto što je i čoveku hrana.", http://www.novosti.rs/vesti/naslovna/drustvo/aktuelno.290.html:478505-Zakon-je-narodu-isto-sto-je-i-coveku-hrana, accessed: 21. 04. 2025.
[20] V. Petrov, *Ustavno pravo*, Beograd, 2024, 77-78.

application of the principle of separation of powers. Due to its characteristics, it was also highly regarded in the comparative constitutional law of contemporary Europe.

This constitution is also marked by a significant advancement in citizens' freedoms and rights, primarily reflected in the limitation of executive powers held by the King, as well as by the Assembly, regarding the suspension of constitutional rights a discretion reserved for the Constituent Assembly as the bearer of constitutional authority. This constitution introduced a parliamentary system and a consistent separation of powers, while the monarch's authorities were aligned with the modern tendencies of constitutional monarchies of that era. Although it did not explicitly define the tripartite division of powers into legislative, executive, and judicial branches, all three branches are explicitly mentioned, regulated, and referenced 21 With appropriate limitations and relations regulated according to the generally accepted norms of the time, a significant advancement toward a more consistent separation of powers was achieved through the regulation of judicial tenure, which greatly enhanced the independence of the judiciary. Meanwhile, legislative power was vested in the monarch and the popular representation, namely the King and the National Assembly, while the King also held executive power, given that he personally appointed and dismissed all ministers.

King Milan, dissatisfied with the more consistent application of the principle of separation of powers compared to previous constitutional acts and unable to realize his ruling ambitions as he envisioned, abdicated in 1889. He was succeeded by his minor heir, his son Alexander, who in 1894 abolished this progressive constitution and reinstated the Regency Constitution of 1869. This move aimed to restore conservative ideas by reestablishing executive supremacy over the legislature, which led to so-called "false parliamentarism" and rendered the Constitution a mere "dead letter," causing a pronounced weakening of the principle of separation of powers.

This new-old arrangement and constitutional regression lasted until 1901, when the so-called Octroied Constitution was promulgated by King Alexander in April—often referred to as the April Constitution. This marked the beginning of constitutionalism in Serbia in the 20th century, though this period falls outside the scope of our study. All the aforementioned constitutions were enacted with the purpose of realizing the political interests of their creators " Historically, all constitutions have emerged as the ultimate realization and concretization of certain ideas, initially created in the works of well-known thinkers and theorists of their time, and later developed in political programs and actions of social actors who aimed to organize existing states and societies according to their vision, but for the benefit of future generations." 22 and left a mark on the development of constitutionalism in Serbia.

[21] *See.* Article 33 grants legislative power, while Article 38 grants executive power.

[22] J. Vučković, *Vidovdanski ustav – simbol (ne)jedinstva prve jugoslovenske države,* 100 godina od Vidovdanskog ustava (ed. S. Đorđević, J. Vučković), Pravni fakultet Univerziteta u Kragujevcu, Kragujevac 2021, 110.

VII CONSTITUTIONAL ISSUES OF THE 19TH CENTURY AND MODERN CONSTITUTIONALITY

The history of Serbian constitutionalism and statehood in the 19th century was shaped by Slobodan Jovanović in his work “Periods of Serbian Constitutional History”, where he distinguished the period of revolutionary creation of political power, followed by the era of bureaucratic oligarchy of the constitutional defenders, the police state period under Prince Mihailo, and then three significant periods: the era of constitutionalism (1868–1888), the era of parliamentarism (1888–1893), and the era of reaction (1893–1903). This division provides a clear picture of the differences between these stages in the development of modern Serbian constitutionalism and statehood, but also reveals certain similarities that represent a constant.

The separation of powers was the most challenging legal and political issue, marked by a strong tendency of the monarch—whether prince or king—towards autocracy rather than an egalitarian parliamentary monarchy. Constitutions that were exceptionally progressive and well-regulated in terms of separation of powers had short lifespans (the Sretenje Constitution lasted less than two months, while the Radical Constitution, despite its wide popular support, lasted only six years), whereas the conservative 1869 Constitution remained in force for 19 years initially, and then an additional 10 years during the era of reaction.

The Law on Judges from 1881 is also of great importance for the development of the principle of separation of powers. This law introduced principles such as the permanence of the judicial function, which was also accepted in the current Constitution of the Republic of Serbia from 2006. [23]The current Constitution also accepts the related right to the immovability of judges, which, when it comes to the Republic of Serbia, also finds its source in the law from the 19th century. [24]In relation to other holders of government functions, it can be noted that many of the competences of the National Assembly as the holder of legislative power have their roots in the Constitutions of the 19th century, primarily in the Regency Constitution from 1869 and the Radical Constitution from 1888, which established the duties that developed into the modern legislative, budgetary and control functions. The responsibility of the Government and ministers before the House of Representatives was precisely conceived in that period, and since then no tax or state expenditure can be introduced without the approval of the deputies. Even today, the Constitution of the Republic of Serbia stipulates that "taxes and other revenues can only be introduced by law". [25] (which means that they must be adopted by the Assembly). The identical solution of the current Constitution is with regard to public expenditure

[23] Constitution of the Republic of Serbia (CRS), *Official Gazette* no. 98/2006 and 115/2021, Art. 146.
[24] CRS, Art.147.
[25] CRS, Art. 91, para. 2.

that must be financed from the budget, which is also adopted in the form of a law exclusively by the National Assembly.

The Law on Judges from 1881 was also of great importance for the principle of separation of powers. Modern Serbian constitutionalism, primarily embodied in the 2006 Constitution, was built, among other things, on the historical experience of the first Serbian constitutions from the 19th century, as well as later constitutional acts, which reflected different forms of government (monarchy and republic) and systems of power (separation of powers and parliamentary system, unity of power introduced after World War II).

The foundations and principles of the separation of powers, attempted to be established by 19th-century constitutional acts, along with the identified problems and experiences highlighted in this study, provide from today's perspective a more realistic understanding of these issues. This has influenced modern Serbian constitutionalism, although it can be stated that certain problems remain constant, and that even today we seek the best solutions that will lead to a genuine separation of powers a process initiated precisely with the constitutional acts of the 19th century.

VII CONCLUSION

The organization of government in modern states, including Serbia, is primarily based on the principle of separation of powers, which ensures the functionality of state power, and this principle was fully affirmed in the constitutional acts of the 19th century.

Unfortunately, it can be stated that the later constitutional and legal history of Serbia was full of frequent changes to the highest legal act, and that Serbia encountered different constitutional solutions regarding the organization of government, form of government and state organization.

As in the 19th century, the idea of separation of powers stands in opposition to abuses of all forms of state power in all types of governance, which is why it remains relevant in democratic societies and represents the cornerstone of every modern state. Regarding Serbia, this foundational cornerstone was laid back in the 19th century, and the constitutional system has since been built upon those early foundations, which have undeniably influenced Serbia's contemporary constitutionalism. The importance of constitutional acts from the 19th century on modern constitutionalism is precisely reflected in the fact that modern constitutional solutions elaborated the principles established in the 19th century, such as the separation of powers, the independence of the judiciary, parliamentary control of budget funds, and the guarantee of basic human freedoms and rights.

Even today, we face similar problems in finding the best constitutional solutions regarding the organization of government, and the rich constitutional-legal tradition can help us to find the best solutions in this regard, thus continuing the search that we started in the 19th century, restoring Serbian statehood after liberation from the Ottoman Empire.

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ЗНАЧАЈ УСТАВНИХ АКАТА СРБИЈЕ ИЗ 19. ВЕКА ЗА САВРЕМЕНУ УСТАВНОСТ СРБИЈЕ

Резиме

Појам уставног права тесно је повезан са идејом модерног конституционализма, која се првобитно јавила у Европи кроз настојања да се успоставе парламентарне монархије. У тежњи да се ослободи вишевековне окупације од стране Османског царства која је нарушила континуитет српске државности, укључујући и структуру власти, Србија је током 19. века спровела опсежне активности на доношењу устава, као део процеса коначног ослобођења и изградње модерне државе. Многа савремена уставна решења своју инспирацију и корене налазе управо у тим уставним актима. Имајући то у виду, овај рад истражује један аспект наведене проблематике применом нормативног и компаративног метода, иако се савремени концепт „владавине права" значајно разликује од схватања тог појма у поменутом историјском периоду, што је последица политичких услова, као и свих околности и карактеристика које су се мењале током историје. Циљ рада је да се укаже на ту чињеницу и истражи утицај тих трансформативних и бурних аката из ране фазе српског уставног развоја на савремени српски конституционализам, а посебно њихов утицај на начело поделе власти, како је оно утврђено Уставом Републике Србије из 2006. године.

Кључне речи: *уставни акт, подела власти, законодавна власт, извршна власт, судска власт.*

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