

“FRENCH SEEDLINGS IN SERBIAN FOREST” INFLUENCES OF THE FRENCH REVOLUTION ON CONSTITUTIONAL AND LEGAL DEVELOPMENT OF SERBIA

Mijodrag Radojević

This article discusses the influence of the French Revolution, i.e., the Declaration of the Rights of Man and of the Citizen of 1789, on the constitutional development of Serbia in the 19th century. The written constitution and the rule of law, the separation and limitation of powers, human rights and freedoms were avowedly adopted as the principles for the formation of political and legal institutions. The political life is characterized by the struggle for independence and the conquest of freedom and democracy. However, the process of absorbing and adapting of the achievements of the French Revolution was gradual, slow, and limited, often contradictory, due to difficult circumstances and Serbia's position as a tributary vassal principality in the Turkish Empire.

The greatest support for the revolutionary ideas came from a few liberal-minded intellectuals. However, the obstacles were poverty and lack of enlightenment in Serbian society, dynastic conflicts, as well as the influence of the great powers (large countries). In all this,

attempts to incorporate liberal values of the French Revolution into the legal order failed to this day.

Between the contradictory views on the nature of the Serbian Revolution in the first decades of 19th century and the French Revolution, the author presents a thesis on the hidden and indirect connection of these two historical processes. This point of view is confirmed by the fact that even at the early stage of the Serbian Revolution, the authors of the proposal for the first constitutional act (in the year 1805) and later the first Constitution (in the year 1835) intended the ideas of the Declaration of human and civil rights to become the flywheel of the struggle for independence from the Ottoman Empire and the creation of a modern state. Finally, some of the liberal political principles have been integrated into the constitutional system after gaining independence and adoption of the Constitution of 1888.

I THE CONTRIBUTION OF THE FRENCH REVOLUTION TO MODERN CONSTITUTIONALITY

The First French Revolution is considered one of the epochal events in recent political history.¹ With the "Glorious Revolution" that took place a century earlier, and the American Revolution, it had influence not only on the creation of the modern French nation, but also on the social transformation and political changes in Europe and around the world. More than two centuries, it shaped new forms of politics and legal institutions that will become universal values and an inspiration to numerous political movements. Revolution was based on the ideas of freedom, equality, and fraternity, as well as natural and inalienable human rights, it shook the Christian worldview and offered a different vision of society. First, the French Revolution overthrew monarchical absolutism and established a

1 In France, four revolutions took place during the 19th century (in the years 1789, 1830, 1848 and 1871)

constitutional monarchy, then a republic, and from a social point of view declared a political community of equal citizens. However, like any other revolution, it also showed its other face – violence in the form of terror, dictatorship, and war,² a legacy in the form of a “perverted idea of freedom.”³

The revolutionaries believed that it was possible to create an ideal society based on reason and embodied in a written Constitution.⁴ During the revolution, six constitutions were adopted (in 1791, 1793, and 1795, as well as the Napoleonic Constitutions of 1799, 1802, and 1804).⁵ During its first phase, the Constitution of 1791, a constitutional monarchy was created, class privileges were abolished and fundamental rights and freedoms were proclaimed. The Declaration of the Rights of Man and of the Citizen (1789), the preamble to this first written Constitution in Europe, guaranteed the liberal values of the new order of government. In the second phase, the Constitution of year 1793 was adopted, the Constitution known as Montagnard or the Jacobin Constitution, in accordance with the principles of the Republic, popular sovereignty and the supremacy of the *Assemblée Nationale*. The Constitution never came into force, but the guarantee of new social rights and the concept of Radical Constitutional democracy were implemented later in other conditions.⁶ At the stage of the Thermidor of the Constitution

2 Read more: Marvin Peri, *Intelektualna istorija Evrope*, translated from English by Đorđe Krivokapić (Marvin Perry, *An Intellectual History of Modern Europe*, Houghton Mifflin, 1993), p. 218.

3 About the contradictory meaning of the French Revolution – in this book, in more detail: Aleksandar Novaković “French revolution and its intellectual legacy.”

4 The American and French Revolutions combined the political and legal concepts of the Constitution. Cf. Olivije Bo, *Država i njena vlast*, translated by Marko Božić (Olivier Beaud, *La puissance de l'état*, Presses Universitaires de France, 1994), Faculty of Law of the University of Belgrade, Official Envoy, Belgrade, 2016, p. 202).

5 To paraphrase Tocqueville, Napoleon's Constitutions were that other stream of the river that led to unlimited power in the hands of one man.

6 The experience of working with the assembly system and direct democracy

of the year 1795 the separation of power with a "Directory model of governance" was restored. Based on this brief and rich constitutional history, the literature concludes that the French Revolution is a kind of legal revolution. Summing up its significance, the Italian constitutionalist Giuseppe De Vergotini in his work *Comparative constitutional law* concludes that the French Constitutions of the revolutionary era represent a special cycle in the development of the constitutionality of the world.⁷

The Declaration of the Rights of Man and of the Citizen (1789) is the most important achievement of the French Revolution (Joseph-Barthélemy).⁸ Adopted at the beginning of the revolution, drafted in the form of a "program law" (Fassò), it contained ideas about the foundations of a new social regulation and human rights and freedoms. The revolt against the "old order" is an expression of liberal political ideology about sovereignty of the people, freedom and equality, secularism and tolerance, constitutionalism, separation of powers, inviolability of private property, personal security and resistance to oppression.⁹ On the one hand, it proposed a new ideo-

inspired Marxists and later founders in communist and socialist countries, as well as in the former Yugoslavia. About these impacts, see: Smiljko Sokol, *Politička i ustavna povijest jakobinskog razdoblja Francuske revolucije*, Globus, Pravni fakultet Sveučilišta u Zagrebu, Zagreb, 1989, p. 249 and further.

- 7 Đuzepe de Vergotini, *Usporedno ustavno pravo*, translated by Ljiljana Grubac, Službeni glasnik Beograd, 2015, p. 336 (Giuseppe De Vergotini, *Comparative Analysis of the Constitution*, vol. 1, 2011).
- 8 Joseph-Barthélemy, *Précis de Droit Public*, Dalloy, Pariz, 1937, p. 43. The Declaration was supplemented in the year 1793, and as such was an integral part of the new constitution. In this declaration, the provision on the division of powers was abolished, and new rights were proclaimed: the right to work, the right to welfare and the right to education. In addition, the Declaration indicated not only the rights, but also the duties of a citizen to the state, which was a significant difference from its predecessor, since it allowed the state to violate the indisputable autonomy of the individual. Finally, the Declaration of the year of the Third revolution also pays considerable attention to responsibilities (nine of the 31 provisions relate to responsibilities).
- 9 Critical discourse provides a more nuanced interpretation of the Revolution

logical paradigm, not entirely original,¹⁰ because some ideas were borrowed from the American Revolution.¹¹ On the other hand, the declarations also proclaimed a ban on arbitrary persecution of a person, freedom of conscience and religion, freedom of speech and press. A person should enjoy those rights that are “natural” or congenital, and they belong to him or her regardless of political regulation.¹² The French Revolution established the catechism of future

from the point of view of democracy, which is why Eric Hobsbawm notes that “this document is a manifesto against a hierarchical society of noble privileges, but not in favor of a democratic and egalitarian society.” See in, Eric Hobsbawm, *The Age of Revolution 1789–1848*, Random House, New York, 1996, p. 59. For example, the democratic deficit in the first stage of the Revolution was that the Constitution was not received on the basis of the general right to vote.

- 10 Guido Fassò, an Italian legal theorist, believes that there was a reversible influence on the text of the declaration through French thinkers, such as the doctrine of the separation of powers by Charles Montesquieu (Guido Fassò, *Istorija filozofije prava*, translated from Italian by Dragan Mraović, CID, Univerzitet Mediteran, Podgorica, 2007, p. 381). Edmund Burke, however, in his *Reflections on the French Revolution*, also noted disagreements between the American and French understandings of legal institutions and concepts. According to Burke’s critique, A. Novakovic concludes that the Declaration only absorbed ideas that “circulated” earlier, and its character is ambivalent, and even “schizophrenic.” Trouble with the Declaration arises when it is interpreted in accordance with the theory of the Social Contract, which was already done in the Jacobin period of the revolution. According to Rousseau, freedom, one of the cries of the French Revolution, is a goal, not a means, as liberal theorists like Edmund Burke believed. Such “freedom” is possible only in pure democracies, where there is no difference between the government and those governed. The paradox of Rousseau’s understanding of freedom is that in order to become free, a citizen obeys the general will, and thus renounces his inherent rights. As Hans Kelzen notes, the contradiction is that instead of a free individual, we have a “free state,” whose real name is – a totalitarian state. Compare: Philippe Lauvaux, *Les grandes démocraties contemporaines*, PUF, Paris, 1990, pp. 15-17.
- 11 Georg Jellinek identified these similarities by comparing the texts of the declaration of rights of individual US states with the Declaration of Rights of 1789. See: Georg Jellinek, *The Declaration of the Rights of Man and Citizens: The Struggle for Modern Constitutional History*, Henry Holt and Company, New York, 1901, pp. 25-42.
- 12 French theorist Michel Troper concludes that, contrary to many other

constitutions – responsible and limited government, sovereignty of the people and human rights. In a rigid or flexible version, the separation of powers implies that unlimited power is precluded. Instead, there are numerous carriers of various functions, while in the declaration of the year 1793, it was announced that “the boundaries of public functions should be clearly established.”

In his work *The Old Regime and the Revolution* Alexis De Tocqueville writes that the French Revolution began as a political revolution and received the distinctive features of a religious movement transmitted through propaganda and the press. The goal of the revolution was not only the transformation of France, but also the rebirth of humanity.¹³ Based on the experience of the French Revolution and, in particular, the Declaration of the Rights of Man, this radical makeup of legal systems was based on legality and constitutionality, and not on the ruthless will of absolute rulers and customary law. With the first French Constitution (1791) – which established a constitutional monarchy and a one-house parliament as an organ of the sovereign people – the era of written constitutionality in Europe began followed by the introduction of numerous constitutions and constitutional charters during the XIX century. Abstract philosophical values of the Declaration were concretized with the help of legal norms, and its ideas and principles, as well as specific rights, were introduced into modern constitutions.¹⁴

points of view, the Declaration of 1789. in addition to the naturalistic, it also has a positivist character, which means that it has not only a declarative, but also a constitutive character (Mišel Troper, *Pravna teorija države*, translated by Marco Christmas [Michael Troper, *Pour unethéoriejudigue de l'état*, Presses Universitaires de France, 1995]), pp. 320 et seq.

13 A similar observation is made by Edmund Burke, who compared the French Revolution with the religious movement of the Reformation. The French Revolution is simultaneously a “revolution of doctrine and theoretical dogma.” See Edmund Burke, “Thoughts on French Affairs,” in Daniel Richie, *Further Reflections on the Revolution in France*, Liberty Fund, Indianapolis, 1992, p. 182.

14 Explaining this influence on European Constitutions at the beginning

There are conflicting points of view about the influence of the French Revolution on the development of constitutionality in Serbia. According to some, the influence is barely noticeable and almost insignificant. According to another point of view, the French Revolution represented a general blueprint for Serbian constitutions in the 19th century, and some researchers even claimed that it partly inspired the First Serbian Uprising against the Turks in 1804. The influence is defined as twofold: direct, which formed the specific content of the Constitution, and indirect, which directed political life and struggle in Serbia. This is especially evident in the attempts to write and adopt the first declaration of rights and the first Serbian constitution.

II THE FRENCH REVOLUTION AND THE CONSTITUTIONAL QUESTION IN SERBIA

At the end of the 18th and the beginning of the 19th century, most of the current territory of Serbia was part of the Ottoman Empire. The population, in accordance with the pragmatic policy of the conqueror, was divided into several administrative units, in which the Turkish feudal system of governance ruled, with a limited degree of self-government in villages and districts (so-called self-governance and patriarchal democracy). Islamization of Serbian people was carried out forcibly or with the help of rewards in the form of tax benefits or rights to perform certain professions in certain areas. Dissatisfied with their position, oppression and violence of the local Turks, the Serbian people began two great uprisings (in the years 1804 and 1815). After the Second Uprising, Serbia received

of the 20th century, Jellinek argues that similar enumerations of human rights were adopted in accordance with the Declaration. The differences in their content are due to the adaptation of individual terms and phrases. Georg Jellinek, *ibid*, p. 4-5. In the Preamble of the Constitution of the Fifth French Republic (1958) it was written that the French people “proclaim their commitment” to the Declaration of year 1789.

the privileged position of a principality with self-governance, established by the Bucharest Peace (1812), the Akkerman Convention (1826) and subsequently confirmed by *the Hatisherif* (1830).¹⁵ By a special act of the Sultan to Miloš Obrenović, the leader of the Second Uprising, the right of the crown prince was recognized, which was a unique example compared to other provinces. Although a vassal tributary principality, Serbia adopted three constitutions. The first (1835) was simply a "letter on paper"; the second, known as the "The Turkish Constitution" (1838), adopted in the form of a hatisherif, was significantly modified and put out of force by the adoption of organic laws in 1861 and 1862;¹⁶ The Third Constitution (1869), modeled after the German principalities, established a constitutional monarchy. After gaining independence (1878), Serbia declared three more constitutions (in 1888, 1901 and 1903). The 1888 Constitution was a modern constitution with a parliamentary system of government and a wide catalog of human rights and freedoms. The coup of 1901 restored the 1869 Constitution, but two years later, after the coup and the assassination of the legitimate king, the amended 1888 Constitution was applied.

In the 19th century, Serbia, like France, had a turbulent political life and constitutionality, with frequent changes to the constitution and of the rulers. During this period, six constitutions were adopted, as many as during the French Revolution. Dynastic conflicts and constitutional battles were influenced not only by the internal political circumstances, but also by the geopolitical map of Europe. The constitutions symbolized state autonomy and independence, and also spread between liberal aspirations and absolutism of

15 In Turkish: *Hatt-ı Şerif* – order of the sultan in a special written form. The sultan issued four hatisherifs to Serbia – in 1829, 1830, 1833 and 1838.

16 Considering that the great powers opposed the adoption of a new constitution, Serbia found a wise way to suspend 1838 constitution, without provoking the reaction. When special laws were passed in 1861, which were known as the "Transfiguration Day Constitution" (*Preobraženski ustav*), a permanent convocation of the National Assembly was also organized, which is not mentioned as a body in the so-called Turkish Constitution.

Serbian princes and kings. Serbian constitutional question was less influenced by political and legal doctrines and ideologies, but rather by its vassal status and the relations of the Great Powers.

The influence of the French Revolution is present in Serbia, at various moments: events during the First (Serbian) Uprising, during the adoption of the first Constitution, and then in the struggle for written constitutionality and the establishment of a constitutional order based on the principles of separation of powers and human rights and freedoms. Summing up this influence, Miodrag Jovičić, a renowned expert of the constitutional history of Serbia, concluded that it was a twofold institutional and ideological influence.¹⁷ Students studying abroad, mostly familiar with the achievements of the French Revolution, supported the simultaneous struggle for national liberation and political changes,¹⁸ the adoption of the constitution and the guarantee of freedoms and rights. The French Revolution, according to Stojan Novaković, indirectly influenced the political position of Serbia in the late 18th and early 19th centuries. Although France had no geopolitical interests in destroying its relations with its then ally, Napoleon's raids on Egypt and the Balkans led to internal reforms in Turkey. The wars that France waged with other powers (Austria, Russia and Prussia) also raised the question of autonomy for the oppressed Balkan peoples.¹⁹

17 The direct influence was reflected in the principles and institutions of the Serbian constitutions, adopted between 1835 and 1903, while the indirect influence was felt in the entire public life of Serbia, first in the struggle for constitution, and then in the permeation of the entire Serbian society. Cf. Miodrag Jovičić, "Uticaj ideja Francuske revolucije na ustave i ustavnost u Srbiji," *Zbornik matice srpske za društvene nauke*, broj 96, Novi Sad, 1994, p. 73.

18 See: L. Ford, *Evropa u doba revolucija 1780–1830*, translated from English Ksenija Todorović (Frenklin L. Ford, *Europe 1780–1830*, the 2nd edition, Longman Group Limited, 1989), Clio, Beograd, 2005, p. 169).

19 Stojan Novaković, *Vaskrs države srpske i druge studije*, Novinsko-izdavačka ustanova Službeni list SFRJ, Beograd, 1986, pp. 36–37. Napoleon's raids caused an internal political crisis in the Ottoman Empire, weakened the sultan's power, and, in some provinces, defected Turkish leaders seized power to the detriment of enslaved peoples. In Serbia, they were known as the

The First Serbian Uprising against the Turks (from 1804 to 1813), by its nature an anti-feudal and democratic, national and social movement, in professional literature, by analogy with the events in France since 1789, was also designated as the "Serbian Revolution."²⁰ However, such an understanding can be seen as a radical interpretation if one insists on common similarities between these two events. After all, the "Serbian Revolution," like a number of other national liberation movements during the nineteenth century, was a unique historical, political and social phenomenon.²¹ On the other hand, such interpretations ignore the fact that the French Revolution was perceived as dangerous and "heretical" event not only for the forces directly involved in the resolution of the Serbian question (Turkey, Russia and Austria), but also for the dynasties that ruled Serbia in the 19th century.

At the beginning of the First Serbian Uprising in the liberated territory, the rebels decided to organize the government and estab-

"Dahije," they revoked the rights granted by Selim III and conducted a reign of terror. These Turkish mutineers organized the killings of prominent Serbs, which sparked the First Uprising among the people, also known as the "Rebellion against the Dahija." The influence of the French Revolution is also noticeable in other events and the situation of the Serbian people in Hungary. See also: Marko Pavlović, "Odjeci velike francuske revolucije u obnovljenoj Srbiji," *Anali Pravnog fakulteta u Beograd*, br. 6/1989, pp. 724-725.

- 20 The German historian Leopold von Ranke was the first to compare the Serbian uprisings with the French Revolution, calling them the Serbian Revolution. Theorists of leftist and romantic provenance uncritically accepted this qualification: Vasa Čubrilović, *Istorija političke misli u Srbiji XIX veka*, Prosveta, Beograd, 1958, p. 85; Andrija B. Stojković, "Ideologija 'srpske revolucije' i filozofska misao u Srbiji," Vasa Čubrilović (ur.), *Istorijski značaj srpske revolucije 1804. godine*, Srpska akademija nauka i umetnosti, Beograd, 1983, p. 57-87.
- 21 Also in this volume, an interesting interpretation of the relationship between the Serbian Revolution and the French Revolution was provided by Marko Pejšković ("The Difference Between the French Revolution and the Serbian and Greek National Uprisings of the 19th Century.") Comparing the goals and actors, he concludes that there is no sign of equality between the two revolutions, that is, that the Serbian revolution is structurally and ideologically different from the French Revolution.

lish legal order. They also tried to get new laws, since their disputes were resolved in accordance with the “old” medieval Serbian regulations (legal code of Tsar Dušan dating back in the 14th century).²² However, these rules did not correspond to the changed social and political conditions and did not answer the question of how to organize the supreme power. Therefore, Serbs turned to their allies for help, first of all Austria, which ignored their appeals, and then to imperial Russia, as well as to educated Serbs who lived in other parts of Europe.

1. From the “A Word on Freedom” to the 1835 Constitution

During the First Serbian Uprising, two constitutional acts were passed into law (in 1808 and 1811). However, different political factions emerged with opposing ideas about the organization of the new state.²³ Most of them did not cherish democratic values; still, some of them advocated progressive ideals, such is democracy and the rule of law. One of them was Božidar Grujović, the first secretary of the Governing Council, who came to short prominence at the beginning of the First Uprising. According to his political views, Serbia should have enacted a written constitution with the separation of powers, and proclaimed freedoms and human rights.

Grujović presented his ideas, mainly taken from the Declaration of the Rights of Man (1789),²⁴ in a document entitled “A Word

22 See also: Stojan Novaković, *Ustavno pitanje i zakoni Karađorđeva vremena – studija o postanju i razviću vrhovne i središnje vlasti u Srbiji 1805–1811*, Nova štamparija – “Davidović,” Beograd, 1907, pp. 9–10.

23 Centralism supported the leader Karađorđe Petrović, believing that his power should be unlimited. The second option advocated the decentralization of power, but with broad powers of local leaders, while the third “enlightening” flow was for a moderately limited central body regulated by the Constitution and laws. More detailed: Jaša M. Prodanović, *Ustavni razvitak i ustavne borbe u Srbiji*, Geca Kon A. D., Beograd, 1936, p. 10

24 On the influence of the French Revolution on Božidar Grujović’s “A Word on Freedom,” see: Srđan Šarkić, “Začeci pravne države u ustaničkoj Srbiji,”

on Freedom."²⁵ He intended to publicly read his political program before one of the assemblies in 1805. It was the same year in which he proposed reorganizing the Council's role to reflect a representative body of a highest authority, higher even from that of a revolutionary institution of *vožd* (the leader of the Uprising). The key novelty was the separation of civil and military authorities, in which the leader of the Uprising (*vožd*) should become *primus inter pares* – one of the 12 elected advisers. A council organized in such a way, following the principle of separation of powers, would prevent the concentration of power and ensure the "freedom of the people."²⁶ "A Word on Freedom" was written in the form of a declaration and had a programmatic character. It is rightly considered perhaps not as "evidence of the Liberal Democratic tradition,"²⁷ but undoubtedly one of the founding documents of this tradition that reflect the penetration of liberal ideas in revolutionary Serbia at the beginning of the XIX century. According to some (e.g., Danilo Basta), this text was of great importance in the later development of Serbian statehood: "With his Word, which raised the law, freedom, and security to prominence, Grujović sided with the great legacy of the French Revolution, trying to sow that seed, the seed of the liberal-democratic state and free citizen, in the new Serbian state."²⁸

in *Vladavina prava i pravna država u regionu*, Istočno Sarajevo, 2014, pp. 772–774; Momir Milojević, "Francuska revolucija i ljudska prava," *Analiti Pravnog fakulteta u Beogradu*, br. 4/1991, p. 383.

- 25 The text of "A Word on Freedom" was also published in the book: Vladan Petrov, Darko Simović, Mijodrag Radojević (prir.), *Srpski ustavi – knjiga prva, Ustavi Kneževine i Kraljevine Srbije sa ustavnim aktima od Prvog srpskog ustanka*, Službeni glasnik, Beograd, 2021, pp. 55–57.
- 26 No sources could also give us an interpretation of Grujović's concept of the organization of power. We assume he felt the assembly would be entrusted with exercising legislative power and professional judges with judicial power.
- 27 Danilo Basta, "Životni put Božidara Grujovića (Teodora Filipovića)," in *Liberalna misao u Srbiji – prilozi istoriji liberalizma od kraja XVIII do sredine XX veka*, Dragoljub Popović, Jovica Trkulja (eds.), Centar za unapređivanje pravnih studija, Beograd, 2001, p. 18.
- 28 Ibidem, p. 29.

Although a former Hungarian student, and then a professor of law at the University of Kharkov in the imperial Russia,²⁹ Grujović is closer to the liberal French and Anglo-Saxon tradition in terms of understanding law and democracy. “A Word on Freedom” begins as follows: “The law is the will of the people,” equal for all, reasonable and just, which all obey. Grujović practically copied Article 6 of the Declaration and the principles of legality, i.e., equality before the law (*égalité*). The interpretation of law as an expression of natural law is similar to the one that can be found in Montesquieu³⁰ and the English constitutionalists. In explaining the origin of law, he does not start from the constructivist approach, but from the organicist concept according to which law or the constitution is an expression of the people’s spirit, which is close to David Hume and Montesquieu. The task of the law and the constitution is to legally limit the government.

However, Grujović is not consistent in his understanding of the origin of law. In accordance with his legal and theoretical syncretism, he defines the law as an expression of the general will (*volonté générale*), but also of the mind (*reason*) and justice.³¹ The law unites these interests. By renouncing the acts of absolute freedom, the individual obeys the law, acts in accordance with reason and justice. In that way, the law is a means to achieve freedom, which for Grujović is supreme value (*Liberté*).

29 In the Austro-Hungarian monarchy, persons of the Orthodox faith could not become civil servants. Grujović graduated from the Faculty of Law in Pest (Hungary), but he could not be entered into the list of lawyers.

30 Cf. Basta, *ibid.*, p. 19.

31 One of the first scientific analyzes of Grujović’s political and legal philosophy was made only on the eve of the Second World War (Cf. Rade VI. Radović, “Demokratsko prirodno pravo u političkoj i pravnoj filozofiji Bože Grujovića,” *Arhiv za pravne i društvene nauke*, br. 1–6/1940, round 2, book 57, p. 42). Later research is mainly based on the mentioned scientific work: Milovan Ristić, *Ustanički zakonopisac Teodor Filipović (Božidar Grujović)*, Prosveta, Beograd, 1953; Samir Aličić, “Pojam zakona u delu Božidara Grujovića,” *Zbornik Matice srpske za društvene nauke*, br. 1/2016, Matica srpska, Novi Sad, pp. 815–829.

*[...] reason and justice are two halves of welfare. Where there is no reason and justice there is no law. Let us raise and establish in Serbia these two – reason and justice, and make them bold with all our strength so that each force and power shall be subjugated to them. And let this wise and righteous law be our overlord and commander.*³²

These ideas about inalienable *natural rights*, *the rule of law* and *the sovereignty* of the people were radical and revolutionary in the Balkans. According to Grujović, sovereignty is general and indivisible, and its bearer is the people. His understanding of sovereignty is eclectic and inconsistent, because it is based in part on the social contract, but also on rational natural law. The people must submit to a sovereign (abstract) legal norm, which is close to English constitutionalism.³³

When Grujović talks about the so-called Civil law, he has in mind a citizen, a political and legal entity, which did not exist at that time. The citizen is the antipode to the feudal position of serfs (dependent peasants) in Serbia. In this perfect community of the future, citizens live in solidarity (*fraternité*), in a state governed by the rule of law, where power is limited by law and where the rule of law prevails. The teaching is permeated by the influence of different legal theories, French, German and English legal theory. Also, in "A Word on Freedom" we come across the seeds of the principle of independence of the judiciary, clearly defined principles of constitutionality and legality. Judges should judge according to law and reason. These principles, as well as the understanding of freedom, stand at the opposing side from the doctrine of absolute monarchy and feudal social relations.

32 A translation of this text in English was published in the book: Dragoljub Popović, *Constitutional history of Serbia*, Brill, Schöningh, Paderborn, 2021, pp. 241–242.

33 Compare with another research: Rade Vl. Radović, *ibidem*; Andrija Stojković, *ibid.*, p. 71.

“Where there is a good constitution, that is where the law is well established, and the authority is well set up under the law, there is freedom, there is a willingness. And where one or few command at their own will, and disobeying the law do what pleases them, there the country has perished, there is no freedom, no security, and no well-being. There is only banditism and renegade under a different name.”³⁴

According to Grujović, it is necessary to guarantee rights, first of all right to life, equality, freedom of property, and to prohibit abuse of power, slavery (“freedom distinguishes us from beasts, and slaves are worse than beasts [...]”) and to prohibit breaking the law.³⁵ Legal certainty includes the prohibition of arbitrariness and retroactive validity of the law. The government must be responsible, and it is the duty of the government to guarantee basic human rights and freedoms. Grujović ends his text with the words – “where there is no freedom, there is no life.”

Grujović’s declaration of rights, entitled “A Word on Freedom,” contains the basic slogans of the French Revolution (equality and freedom) and the principles of the Declaration of the Rights of Man and of the Citizen. The origin of the highest power is in the people (people’s sovereignty); the law is an expression of the general will, equal and the same for all; a written constitution regulates and limits power; rights are inalienable and natural rights, and their protection is the goal of political association.

Unfortunately, neither Grujović read his declaration before the assembly, nor has the integral version of this text been preserved. The interpretation of “A Word on Freedom” is based on a partial document, only a few surviving handwritten pages. We assume that there were several other elements in the complete version, that would confirm the similarity between the Declaration of the Rights of Man and of the Citizen and Grujović’s text. It is also interesting that until the Second World War “A Word on Freedom” was published only

³⁴ Božidar Grujović, *ibid.*

³⁵ Compare with Art. 1-2, 4 and 17. Declaration.

in the first edition of the *Memoirs* of the priest Mateja Nenadović in 1867. His ideas were subversive not only in Serbia, which was getting freed of Turkish pressure, but also in the wider environment, even decades after they were written. The influence of the French Revolution during the First Uprising, after an attempt to make a declaration in the form of "A Word on Freedom," weakened but did not completely subside. The attitude of France towards Serbia also significantly contributed to that.

France, unlike Russia, was not interested in the position of the Serbian people in the Ottoman Empire and the outcome of the First Serbian Uprising.³⁶ Moreover, there were fears that the fire of the Serbian rebellion would spread, which would endanger their traditional ally – the Turkish Empire. Russia, on the other hand, tried to strengthen its influence in the Balkans, seeing that chance in the First Uprising when it takes the role of a protecting force for the Serbian people. However, Russia had better relations with some other insurgency leaders than with the leader of the uprising – Karađorđe Petrović.³⁷ Because of that, the Russian diplomacy tried to use his political opponents to bring the uprising under its control. Its representatives in Serbia proposed a collective body, with executive and judiciary powers, which would be the supreme body of the insurgent government. Karađorđe was reluctant to accept such a proposal, so a compromise was made in the constitutional acts of 1808 and 1811. In such a way, Imperial Russia succeeded in limiting Karađorđe Petrović's personal power, but also supported his political opponents, who accepted the oligarchic or aristocratic political structure of the new government.³⁸

36 On the policy of France towards Serbia during the First Uprising, see: Dimitrije Đorđević, *Stvaranje moderne Srbije 1800–1918*, Zavod za udžbenike, Beograd, 2018, pp. 56, 67–68.

37 Russia was distrustful of Karađorđe, because it revealed that he had sent a message to France to put Serbia under its protection (1806).

38 Stojan Novaković, *Ustavno pitanje i zakoni Karađorđeva vremena – studija o postanju i razviću vrhovne i središnje vlasti u Srbiji 1805–1811*, p. 33.

The constitutional movement, conceived with the document “A Word on Freedom,” was gradually expanding. The mentioned constitutional acts also show traces of the struggle for written constitutionality. In the next two decades, three hatisherifs (1829, 1830 and 1833) were issued, which guaranteed autonomy to the Principality of Serbia. The French influence would be identified in this period as well, and the July Revolution in France (1830) also contributed to that.³⁹ In political life, concepts such as the constitution, nation, rights and freedoms that are used as tools in the fight against autocracy of Miloš Obrenović, the leader of the Second Uprising and the Serbian prince, are increasingly encountered.

The strong critique of his political regime, based on the principles of the French Revolution, was directed by the reformer of the Serbian language and orthography, Vuk Stefanović Karadžić in 1832.⁴⁰ In his letter to the Serbian prince, he explains his view on the organization of the Serbian state. The key point of his thinking is the sovereignty of the people and the written constitution, which represent a sort of revival of Grujović’s political ideals. V. S. Karadžić proposed the adoption of the constitution and the establishment of the principles of legality, respect for basic human rights (equality, freedom of speech and opinion, education...⁴¹ In the meantime, the French traveler, writer and diplomat Bois le Comte (1834), who had spent some time in Serbia, offered his services in drafting the constitution in the form of the Draft Fundamentals of the Consti-

39 Marko Pavlović, “Odjeci velike francuske revolucije u obnovljenoj Srbiji,” p. 726.

40 Read more in: Dragoljub M. Popović, *Prapočetak srpskoga parlamentarizma – ključ i preuranjen plod*, Pravni fakultet Univerziteta u Beogradu, Beograd, 1996, pp. 36–37.

41 On the occasion of this letter, we come across interpretations that V. S. Karadžić took care not to mention the French Revolution in his letter, in his words “the spirit of the Declaration of the Rights of Man and of the Citizen.” Although Vuk distanced himself from the Constitution of France, his letter was ‘French’ intoned. M. Pavlović, “Odjeci velike francuske revolucije u obnovljenoj Srbiji,” p. 727).

tution. The project was based on separation of powers, ministerial responsibility and a bicameral system.⁴² Prince Miloš Obrenović was not a sworn opponent of written legal acts, if they could fit his understanding of the ruling power. With the intention of consolidating the acquired autonomy, he initiated the drafting of the constitution, and a little earlier, the translation of Napoleon's Civil Code. Both attempts were unsuccessful, especially the reception of the Code Civil in the Serbian law.

The reason for the adoption of the first constitution was the rebellion against the regime of Prince Miloš Obrenović. Less than a month after the Uprising, in February 1835, the first Serbian constitution ("Candelmas Constitution") was adopted.⁴³ The Declaration of the Rights of Man and of the Citizen, as well as the French constitutions of 1791 and 1814,⁴⁴ influenced the content of the 1835 Constitution.⁴⁵ One of the most prominent Serbian theorists, Slobodan Jovanović, explained that this influence was a consequence of the fact that Dimitrije Davidović,⁴⁶ the author of the 1835 Con-

42 More about the Bois le Comte mission: Dragoljub M. Popović, *Prapočetak srpskoga parlamentarizma – klice i preuranjen plod*, pp. 66–69; Marko Pavlović, *Pravna evropeizacija Srbije 1804–1914*, Pravni fakultet, Pogledi, Kragujevac, 2008, pp. 41–44.

43 During the 19th century, it was common in Serbia for important events to take place and for legal acts to be passed on religious holidays as well. The current constitution in Serbia from 2006 was adopted on a religious holiday and that is why it is called the Mitrovdan Constitution.

44 See more: Mijodrag Radojević, "Sretenjski ustav i razvoj političkih ideja i institucija," *Politička revija*, br. 3/2010, Institut za političke studije, Beograd, p. 51.

45 In Serbia, it is almost a rule that important political events take place and legal acts are passed on church holidays. About Candelmas Constitution see more: Ljubica Kandić, "Ustav od 1835. i njegov značaj za dalji razvitak ustavnosti u Srbiji," *Arhiv za pravne i društvene nauke*, br. 1–2/1960, p. 137. Miodrag Jovičić will shake up this understanding, directing our attention to the influence of other constitutional systems: Miodrag Jovičić, "Ustav Knjaževstva Srbije od 1835.," Miodrag Jovičić (ed.), *Ustavi Kneževine i Kraljevine Srbije 1835–1903*, SANU, Beograd, 1988, pp. 37–42.

46 Dimitrije Davidović was born in Hungary in the year when the French Revolution began. Although without a thorough legal education, with some

stitution, was “a great fan of French constitutions.” The similarity of the Constitution with the Declaration is “indisputable,”⁴⁷ and this can best be seen in the eleventh chapter, in the provisions on human rights entitled “Universal Rights of Serbs,” but also in the provisions on the division of power.⁴⁸ Critics say one should be careful with such interpretations. For example, the Constitution provides for a rudimentary form of the parliamentary system,⁴⁹ with modest powers of the National Assembly, and the power structure inclines to a specific variant of non-parliamentary legislation.

The influence of the French Declaration, as well as the mentioned constitutions and constitutional acts, is partially disputed in relation to the 1835 Constitution (Sretenje Constitution or Candlemas Constitution) when the provisions on freedoms and rights are analyzed. In a way similar to the Declaration, 1835 Constitution proclaims the equality of citizens, the inviolability of private proper-

journalistic experience, he became the secretary of the prince's office and participated in diplomatic negotiations during the drafting of the *Hatt-ı Şerif* from 1830 and 1833. As a person of the greatest trust of Prince Miloš Obrenović, he dedicated himself to drafting the constitution, in which he had the help of one commission. Historian Radoš Ljušić believes that Count Bois le Comte had a decisive influence on Dimitrije Davidović, when he was preparing the Constitution. To see: R. Ljušić, *Kneževina Srbija 1830–1839*, Zavod za udžbenike i nastavna sredstva, Beograd, 2004, p. 151.

47 Pavle Nikolić, “Deklaracija prava čoveka i građanina od 1789. i prava i slobode u srpskim ustavima u XIX veku,” Jovičić Miodrag (ur.), *Inostrani uticaji na naše pravo*, Srpska akademija nauka i umetnosti, Beograd, 2002, p. 64.

48 Slobodan Jovanović, “Naše ustavno pitanje u XIX veku,” *Političke i pravne rasprave I–III, Sabrana dela Slobodana Jovanovića*, Beogradski izdavačko-grafički zavod, Jugoslavijapublik, Srpska književna zadruka, Beograd, 1990, p. 19.

49 Miodrag Jovičić compared the provisions on the organization of the government of the 1835 Constitution 1835, with 1791 Constitution, the charters of 1814 and 1830, as well as 1831 Belgian Constitution. (Miodrag Jovičić, “Ustav Knjaževstva Srbije od 1835 [‘Sretenjski ustav’] i njegovo mesto u svetu savremene ustavnosti,” Ratko Marković [ed.], *150 godina od donošenja Sretenjskog ustava*, Univerzitet “Svetozar Marković“ u Kragujevcu, Centar za marksističko obrazovanje, Kragujevac, 1985, p. 86). Takođe: M. Pavlović, *ibid.*, p. 728).

ty, but also personal rights, such as the protection of the individual, the right to a lawful trial.⁵⁰ However, there are significant differences, for example, compared to the 1791 Constitutions and the Constitutional Charter. The 1835 Constitution did not contain political rights (freedom of speech, freedom of assembly and association, suffrage), and did not proclaim the principle of people's sovereignty. The omission of these provisions, as well as other solutions within the Constitution, served as arguments for pointing out similarities with other constitutions, and only modest influence of French constitutionality and of the Declaration of the Rights of Man and of the Citizen.⁵¹

Despite the fact that the 1835 Constitution was below certain standards in terms of proclaiming and guaranteeing human rights in relation to the highest achievements of contemporary constitutionality – which is attributed to a particular political context (authoritarian regime of Prince Miloš, and adapting the constitution to internal circumstances) – other countries pointed to its connection to the French constitutionalism. The Austrian press claimed that liberal French regulations were not for Serbia,⁵² Russian diplomats did not accept this "French paper," and Turkish officials emphasized the "contagious" nature of the Constitution. This opinion was later widely accepted, thanks to the French writer Cyprien Robert, who noted that the first Serbian constitution was "French seedlings in the Turkish forest."⁵³ The argument in favor of such reasoning is that the flag of France was chosen as one of the state symbols, a tricolor type with the same colors turned horizontally (Article 3 of the 1835 Constitution). Also, certain provisions were literally copied from the

50 Compare: Miodrag Jovičić, "Ustav Knjaževstva Srbije od 1835 ['Sretenjski ustav'] i njegovo mesto u svetu savremene ustavnosti," pp. 96–98.

51 See an overview of these different points of views: Sima Avramović, "Sretenjski ustav – 175 godina posle," *Anali Pravnog fakulteta u Beogradu*, br. 1/2010, Pravni fakultet Univerziteta u Beogradu, Beograd, pp. 55–62.

52 Jaša M. Prodanović, *ibid*, p. 60.

53 Sima Avramović, *ibid*, p. 56 (fn. 72).

French constitutions, such as the provision on customs (Article 106 of the Constitution of Sretenje).

A careful analysis denies the previously stated assessments. Although certain provisions of the French constitutional charters and the Napoleonic Code have been transposed in the constitutional text, other foreign influences are also recognized.⁵⁴ The Constitution is *stricto sensu* a specific cocktail of provisions devised from comparative law. However, considering that it also regulated internal legal institutions based on the frameworks imposed by the hatisherifs, it is also referred to as an autochthonous legal product.⁵⁵

The Constitution, however, was soon suspended under pressure of the great powers. Austria, Russia and Turkey were unanimous in their assessment that the constitution should not be implemented. It did not suit Turkey because it violated the vassal status of Serbia, and it spread “heretical” ideas of the French Revolution towards Russia and Austria, especially those that referred to the anti-feudal order and rights and freedoms. The doctrine of people’s sovereignty, embraced during the First Uprising, and expressed in written laws and the constitution of the people gathered in the Assembly, was later the detonator in the explosion of revolutionary events and revolts of oppressed peoples in the Habsburg Empire and Imperial Russia.

2. Intellectual elite and the constitutional question

The Serbian constitutional issue was settled after the enactment of 1838 Hatisherif, known as the Turkish Constitution. According

54 About these influences in the literature: Dragan Stojanović, “Ustav Srbije od 1888. i ljudska prava,” Aleksandar Fira, Ratko Marković (ur.), *Dva veka srpske ustavnosti*, Srpska akademija nauka i umetnosti, Beograd, 2010, p. 273; Sima Avramović, *ibidem*.

55 Based on the analysis, we conclude that there were three sources of influence on the final appearance of constitutional provisions: ideas and solutions in foreign constitutions, forms of domestic institutions and provisions of the Hatisherif. Cf. R. Ljušić, *ibid.*, pp. 150–152.

to the manner of passing the international treaty between Turkey and Russia, this act took the form of an organic law, the content of which lacked the system inherent in constitutions: internal relations in the vassal principality were regulated by Hatisherif, which did not have a liberal character.⁵⁶ Provisions on the National Assembly and personal rights and freedoms have been omitted, and instead of "the citizen" mentioned in the 1835 Constitution, there is "a subject of the Ottoman Porte." The main goal of the Serbian delegation, which participated in the writing of Hatisherif, was to recognize the rights and privileges of autonomy of Serbian Principality, so it avoided criticising the omission of institutes and provisions of a liberal character.⁵⁷

The intellectual elite, which was only just emerging then, was mostly liberal. France has become one of the most important countries where Serbs have been educated since the mid-19th century. Apart from France, Serbs studied in the Habsburg monarchy and Germany.⁵⁸ Bringing valuable knowledge to their country, they were mostly divided into Francophiles (Parisians – *Parizlije*) or liberals, and Germanophiles (*Nemačkari*) or conservatives.⁵⁹ This rough division ignores the fact that there were French students who were in favor of conservative ideas, such as Milutin Garašanin, Milan Piročanac, and later Živojin Perić, and vice versa, students educated in Germany who were liberals. As a rule, the Germanophiles were

56 See more: Mijodrag Radojević, "Ustav Kneževine Srbije od 1838. godine (Turski ustav)," *Politička revija*, br. 2/2010, Institut za političke studije, Beograd, p. 415–416.

57 "[...] in prescribing rights and freedoms, the creators of this Constitution did not noticeably, as the creators of the Constitution of Sretenje, find inspiration in the French Declaration of 1789 and other declarations and constitutions of that time." P. Nikolić, *ibid.*, p. 69.

58 In the face of significant social turmoil (1858), Serbia had about two hundred university educated people (Dimitrije Đorđević, *Stvaranje moderne Srbije 1800–1918*, Zavod za udžbenike, Beograd, 2018, p. 161).

59 Dušan T. Bataković, "French Influence in Serbia 1835–1914: Four Generations of Parisians," *Balkanica XLI – Annual of the Institute for Balkan Studies*, Institute for Balkan Studies, Belgrade, 2010, pp. 99–100.

supporters of a strong state, with an enlightened ruler and bureaucracy; they were advocates for gradual development of institutions in accordance with the spirit of the people. The Parisians propagated the values of the French Revolution. The constitutional movement took two forms. The first, so-called protectors of the Constitution (*ustavobranitelji*), supported by conservatives, gravitated around the prince and the state council, and advocated a constitutional monarchy modeled on German principalities; the others, marked as liberals, were in favor of a new constitution, in which the position of the assembly and parliamentary government should be strong. Francophiles found their place in the liberal movement, and became the bearers of the movement (Jevrem Grujić,⁶⁰ Ljubomir Nenadović, Vladimir Jovanović⁶¹) and advocated the ideas of the French Revolution.⁶² Their contribution was not of a theoretical nature, but had a practical effect in the adoption of Constitution (1861 “Transfiguration Day Constitution”),⁶³ which had repealed the Turkish Con-

60 One of the politicians at the time, Jevrem Grujić, began his studies in Heidelberg, but after racist comments from his professor about the Slavs, he left his studies and went to Paris. (Jovan Milićević, *Jevrem Grujić – istorijat svetoandrejskog liberalizma*, Nolit, Beograd, 1964, p. 36). Grujić later became an enthusiastic francophone, believing that there are many similarities between French and Serbs, that even Serbs cultivate numerous customs and rights as in France, except that they do not have a written form. (Jovan Milićević, *ibid.*, p. 43).

61 As a prominent liberal, Vladimir Jovanovic strongly advocated that the constitution be based on people’s sovereignty and human rights and freedoms. V. Jovanović, “Slobodnjački preobražaj Srbije: Kakav Ustav Srbiji treba,” *Zastava*, br. 65–67, 1869; See also: Vladimir Jovanović, *Izabrani spisi*, Službeni glasnik, Beograd, p. 155.

62 Marko Pavlović, “Odjeci velike francuske revolucije u obnovljenoj Srbiji,” pp. 729–732. This view is partially accepted in modern theory (B. Milosavljević, D. M. Popović, *Ustavno pravo, treće izmenjeno i dopunjeno izdanje*, Pravni fakultet Univerziteta Union, Beograd, 2009, p. 87).

63 The three laws (on the National Assembly, on the State Council, the People’s Army and the tax) composed an uncodified constitution. In the opinion of Marko Pavlović, this is the first Serbian constitution (*Transfiguration Day Constitution – Preobraženski ustav*), which was adopted independently (Marko Pavlović, “Ustavno zakonodavstvo kneza Mihaila,” doktorska dis-

stitution. In accordance with laws (1861 Constitution), the Constituent Assembly convened and adopted a new constitution in 1869.

The 1869 Constitution did not meet the requirements of the liberal movement, because it had characteristics of a compromise. The National Assembly became an unavoidable constitutional factor, but without full legislative power. New political rights were guaranteed (suffrage, the right to inviolability of home, the right to self-defense), but also, they were limited (e.g. the threshold for using active and passive suffrage).⁶⁴ Forms of the Constitutional institutions and other state institutions were partly a consequence of the influence of contemporary French law. The Council of State was established on the model of the French system of administrative justice, and the second house (the Senate) on the model of the Constitution of Louis Napoleon of 1852. The constitution-makers were also influenced by Benjamin Constant's theory of the neutral role of the monarch in the system of government organization. Regardless of its shortcomings, the significance of this constitution is in creating preconditions for the development of parliamentarism.

The 1888 Constitution of the Kingdom of Serbia, proclaimed a decade after gaining independence, marked the culmination of the development of Serbian constitutionalism in the 19th century. The 1831 Belgian Constitution and the French Constitutional Charter of 1830 served as blueprints. A parliamentary system was established, with organized local self-government, a wide catalog of human rights and freedoms and modern institutions, so opinions were expressed that it was "one of the most democratic constitutions of that time in Europe."⁶⁵ Considering that the Radical Party had

ertacija, Pravni fakultet Univerziteta u Beogradu, Beograd, 1989, pp. 256–272 i 354–358; Marko Pavlović, *Preobraženski ustav*, Pogledi, Kragujevac, 1997). In Serbian legal theory, this theory is criticized.

64 See more: Mijodrag Radojević, "Jedan ogled o razvoju srpske ustavnosti – Namesnički ustav," *Politička revija*, br. 1/2010, Institut za političke studije, Beograd, pp. 479–482.

65 P. Nikolić, *ibid.*, p. 74.

a great influence on the adoption of this constitution, it was named after this political party. Yet the Constitution was partially different from the 1883 Draft Constitution, in which the introductory words, modeled on the Declaration of the Rights of Man and of the Citizen, enshrined the fundamental principle of people's sovereignty: "The Serbian people are sovereign and the source of all power."⁶⁶

III BETWEEN STATE SOVEREIGNTY AND CIVIL LIBERTY

At the beginning of the French Revolution, the French poet André Chénier prophetically remarked that the world would no longer be the same after the French Revolution – "Europe's destiny will change. People will rule with their rights and the people with their sovereignty."⁶⁷ Did these words come true? If we look at the modern political map of Europe, we notice realization of Tocqueville's metaphor of two political rivers or contradictory faces of the god Janus – libertarian and totalitarian.

The French Revolution undoubtedly inspired the constitutional development of Serbia, but this influence was partial and limited, less noticeable until the second half of the 19th century. Revolutionary ideas had weak roots in insurgent Serbia, because there were real limitations. The struggle for independence and national liberation were not a good environment for the development of democracy, because strong political power was needed, which had authoritarian characteristics. Austria, Russia and Turkey, which decided the fate of the Serbian people, were distrustful toward any French influence.

66 The similarity of these formulations was pointed out by Milan Vladislavljević (Milan Vladislavljević, *Razvoj ustavnosti u Srbiji*, Politika i društvo, Beograd, 1938, p. 57). This provision was not contained in the final text of the Constitution.

67 Quote taken from the book: Marvina Perija, *Intelektualna istorija Evrope*, preveo sa engleskog Đorđe Krivokapić, CLIO, Beograd, 2000, p. 213 (title of the original: Marvin Perry, *An Intellectual History of Modern Europe*, Houghton Mifflin, 1993).

Serbia was bound by its vassal tributary position, so it could not independently pass the highest legal act that would organize the internal organization of government. Ottoman Empire and other great powers were extremely anti-liberal, so they prevented any attempt to transplant or receive ideas of the French Revolution. In an uneducated society and in one of the poorest countries in Europe, political changes took place gradually and with great problems. Very low percentage of the population knew how to read and write,⁶⁸ and primary place for education and dissemination of literacy were Serbian monasteries. The reformer of the Serbian language and grammar, Vuk Karadžić, learned to read and write in the Tronoša monastery.⁶⁹

Although patriarchal political culture, with a powerful ruler and strong administration, was more conducive to conservative political ideas, a liberal political movement also got off the ground. In the second half of the 19th century, there was no "third estate" in Serbia; Serbian society, in which there were no great social differences, was a fertile ground for the values of the French Revolution: egalitarianism, human rights and freedoms, written constitution, division of power and inviolability of private property. All of these become popular not only among the most enlightened class, the intellectual elite, but among the common people. However, the Serbian Revolution, as was the case in other Balkan countries, had to adapt the achievements of the French Revolution to its local conditions.⁷⁰

68 In the second half of the 19th century, the vast majority of the population was illiterate (96%). Data taken from: Zoran S. Mirković, "Grk Georgij Zaharidis – nesuđeni srpski zakonopisac," *Zbornik radova Pravnog fakulteta u Novom Sadu*, br. 3/2015, p. 1077.

69 The first schools, in the rank of secondary schools and faculties, were introduced after the First Uprising (Great School, 1808, and then the Lyceum 1838).

70 Dušan Bataković, *ibid.*, pp. 93–94 ("Despite differences in historical experience, economic development and social structure, the two countries, France and Serbia, have shared joint efforts to bring the political system into line with the basic provisions of the Declaration of the Rights of Man and of the Citizen.," p. 95).

The idea of a written constitution during the First Uprising, but also political conflicts between the prince and his opponents, led to the first constitution which was a mixture of the principles of the Declaration of the Rights of Man and of the Citizen and solutions taken from other foreign constitutions. Since the mid-19th century, Serbia had increasingly relied on the Austrian and German legal tradition. However, with the changing geopolitical situation, especially after 1856, when France assumed the role of protecting the Principality, its influence on the appearance of the legal system of Serbia increased again.

An important factor in that process were the so-called cadets – students educated in France, who upon returning back to the country formed a liberal political group. The French understanding of the nation, citizens, democracy, rights and constitutional institutions was increasingly penetrating Serbia. By the beginning of the First World War, these doctrinal influences, in cooperation with other factors, shaped the legal system with a written constitution, constitutionality and legality, parliamentarism, guaranteeing human rights and freedoms and establishing other democratic institutions.

The French Revolution had more far-reaching goals, it changed the political map of Europe, as Hobsbawm notes, “kings are no longer gods on earth,” while the Serbian Revolution had a more modest demand at the beginning – national liberation as the primary goal. The keyword, however, in both revolutions remains the same – *freedom*, but with different content.