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Byzantine Monastic Foundation Documents:

A Complete Translation of the Surviving Founders' Typika and Testaments

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CHAPTER TWO

Athonite Monasteries

“In my own case, now, I have absolute dominion, and not even one person can gainsay my command . . .” (13) *Ath. Typikon* [16]

“My majesty does not wish that anything novel should be undertaken on this Holy Mountain, but rather that the ancient laws and rules be observed and that all be done according to the orders of the emperors of blessed memory.” (15) *Constantine IX*, Preface

“Once we succeeded in acquiring a deeply spiritual understanding of the matter, it was found that both parties were absolutely guiltless, strange as this may sound. The dispute which had arisen between them was recognized as having been caused by the activity of Satan.” (12) *Tzimiskes*, Preface

There are five documents in this second group of Byzantine monastic foundation documents, clustered together in less than a century’s span of time from the second half of the tenth to the first half of the eleventh century. They are all associated with the monastic communities located on Mount Athos on the southeastern peninsular extremity of the Chalkidike in northern Greece.

A. Typology of the Documents

Three of the documents, (11) *Ath. Rule*, (13) *Ath. Typikon*, and (14) *Ath. Testament*, all of the last half of the tenth century, share an author, Athanasios the Athonite, founder of the famous Lavra monastery on Mount Athos. Like (4) *Stoudios*, upon which it is heavily dependent, (11) *Ath. Rule* is an example of an early *typikon* in which the regulation of liturgical performances and some administrative matters are combined in a single document, the genre not yet having evolved into separate *typika leitourgika* and *typika ktetorika*. (13) *Ath. Typikon*, despite its title, is generically a testament, borrowing a significant amount of its content, in fact, from (3) *Theodore Studites*, the prototypal testament of the previous century. The last Athanasian document, (14) *Ath. Testament*, is a result of the author’s need to re-examine the administrative arrangements he had made for his foundation approximately a decade earlier in (13) *Ath. Typikon*.

The other two documents, (12) *Tzimiskes* and (15) *Constantine IX*, have a quasi-judicial character. They are records of imperial inquests by special representatives of the monarchs whose names they bear into disciplinary problems affecting all the monasteries on Mount Athos, not just Lavra. While these imperial documents are not unique, another example of the genre will not be found in our collection until (59) *Manuel II* in the fifteenth century, although (55) *Athanasios I*, a

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patriarchal document from the early fourteenth century, exhibits certain similarities. The objection raised that the two documents in this chapter are not really *typika* is unjustified.¹ The authorship and format may be atypical, but these documents were indubitably intended to be prescriptive for the governance of the monastic communities whose leaders subscribed to them, and on this basis merit their place in our collection.

B. Concerns of the Authors

1. The Studite Legacy

Athanasios' first two documents, (11) *Ath. Rule* and (13) *Ath. Typikon*, illustrate the continued influence and prestige of Studite monasticism, as they borrow freely from (4) *Stoudios* and (3) *Theodore Studites* respectively, though without attribution. It is likely that the Studite *typikon*, (4) *Stoudios*, had already been in circulation for more than a century by the time Athanasios made extensive use of a version of it that was evidently rather different from and later than either of the two versions, [A] and [B], now available in printed editions that we have presented in translation in Chapter One. By Athanasios' time, it had likely become a kind of "off-the-shelf" product, stripped of specifically Studite customs, Constantinopolitan geographic references, etc., that could be customized for any cenobitically-organized monastery to fit a founder's preferences for the liturgical and dietary matters with which it is primarily concerned.

The Studite *Testament*, (3) *Theodore Studites*, was another matter altogether. It is much more tightly bound than the Studite *typikon* to the context of its times in the early ninth century. It partakes of an anti-entrepreneurial bias that is even more archaic, rooted in an ideology of modest self-sufficiency that can be traced back to the document's late antique sources. It evidently suited Athanasios' needs at the time that he composed his own (13) *Ath. Typikon*, circa 973–75, to pay tribute to these aspects of Studite monasticism, utilizing (3) *Theodore Studites* selectively and even adding some provisions of his own in the same vein. Just a short time before, he had survived an imperial inquest, memorialized in (12) *Tzimiskes*, and a concerted attempt by his Athonite neighbors to have him expelled from the Mountain for pursuing an entirely opposite policy of aggressive economic activity and territorial aggrandizement that threatened their way of life.

In the long run, Studite institutions had a more lasting impact on the daily life of Lavra's monks, broadly based on cenobitic principles, than on the foundation's external relations, economic policies, or territorial ambitions. It may be significant that when Athanasios drew up (14) *Ath. Testament* towards the end of his life, he took care to note the continued validity of (11) *Ath. Rule* in an apparent allusion to that earlier document, but ignored (13) *Ath. Typikon* and superseded many of its provisions with new administrative arrangements.

2. Institutional Autonomy and Financial Security

Athanasios' three foundation documents, composed over the course of approximately thirty years from circa 963 to sometime after 993, demonstrate the founder's considerable ingenuity and flexibility in responding to the challenges of his times. This was a very tumultuous era in the institu-

¹ Cf. Catia Galatariotou, "Byzantine Ktetorika Typika: A Comparative Study," *REB* 45 (1987), 77–138, at 84.

tional history of Byzantium's religious foundations, and yet Athanasios managed to assure the protection of his monastery from assorted threats and predators. Thus we are presented with a rare opportunity (as also later with (25) *Fragala* and (51) *Koutloumoussi*) to study the evolution of a founder's approach to balancing the frequently conflicting needs for institutional autonomy and financial security for his monastery.

3. Birth of the Independent Monastery

Lavra, moreover, was no ordinary monastic foundation. (13) *Ath. Typikon* provides invaluable testimony to the origins of the "independent and self-governing" monastery in Byzantium, a form of organization that would come to dominate the ecclesiastical landscape of the Byzantine world from the late eleventh century down to the empire's collapse in the fifteenth century and even beyond (see below, Chapters Four, Five, Six, Seven, and Nine). Generally, if private monasteries like the monastery of Kolobou near Hierissos and the monastery of St. Andrew Peristerai near Thessalonike, to name two examples near Athos founded in the late ninth century, sought imperial financial support, they ran the risk of being taken over by the government and being converted into imperial foundations, as these two were in the course of the ninth century.² For a time it appeared as if Lavra might follow the same pattern, having been built by Athanasios at the orders of Nikephoros Phokas while the latter was still a general in the service of Romanos II (959–963); then with its patron's accession to the emperors in 963 the new foundation suddenly found itself a de facto imperial monastery. Through a brilliant set of tactical maneuvers, including temporarily resigning his superiorship and leaving for an intended pilgrimage to the Holy Land, followed by hard negotiating with the new emperor himself in Constantinople, Athanasios essentially succeeded in sparing Lavra this fate without giving up the advantages of generous financial assistance.

The critical document that made this feat possible was Nikephoros II Phokas's chrysobull of 964,³ portions of which are preserved in (13) *Ath. Typikon* and (14) *Ath. Testament*. A reconstruction of the fragments of this text follows:

Frag. 1: We decree that after us this Lavra is to be under the dominion of the most reverend monk Athanasios, and while my majesty is still alive we want this same most reverend monk Athanasios to be the undisturbed superior of the eighty monks in this Lavra and in the cells round about the Lavra. Everything is to be administered by him in accord with what is dear to God and consonant with the monastic constitution. After his death, if my majesty is still alive, the person who has distinguished himself in that same Lavra and the cells subject to it and in whom that most reverend monk Athanasios before dying should have placed his trust, that man should be installed in the position of superior. But when God shall call us from this vain life and have us partake of the common chalice of death, we want nobody else at all to be appointed as superior of this lavra except him whom the monks of the Lavra and the cells subject to it, having gathered together and

² For these monasteries, see Denise Papachryssanthou, *Actes du Prôtaton* (= Archives de l'Athos 7) (Paris, 1975), pp. 35–41.

³ Franz Dölger, *Regesten der Kaiserurkunden des oströmischen Reiches von 565–1453*, 5 vols. (Munich-Berlin, 1924–65), no. 704.

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after careful examination, shall look upon as distinguished in virtue and capable of exercising this office, and they shall establish him as superior. Under no circumstances at all do we permit a person from a different lavra or monastery to become superior of this one. Even after our death we do not want anyone to be allowed to grant this Lavra to any secular or ecclesiastical person or even to a monk or to make it subject to another monastery. It is our will and command, rather, that it remain free and self-governing. = (13) *Ath. Typikon* [12]

Frag. 2: We do not want anyone advanced to the position of superior of this Lavra except that person whom the monks of the Lavra after careful investigation shall find to be outstanding in virtue and suitable for the task, and they shall install him as superior.
= (13) *Ath. Typikon* [18]

Frag. 3: The superior of the Lavra must not be appointed from anywhere else except from among the brothers persevering in it, and he must be distinguished in intelligence and in virtue. = (14) *Ath. Testament* [3]

As Athanasios' selection of excerpts from Nikephoros Phokas' chrysobull shows, he realized that the right to name a superior was one of the traditional keys to control of a monastic institution. By securing the emperor's assent that the choice of the superior should eventually be determined internally within Lavra, Athanasios hoped to make his foundation effectively an independent institution despite its continued dependence on the emperor for financial support.

4. The Costs of Growth

To a limited extent, the entire monastic community on Mount Athos had benefited financially from imperial patronage since Romanos I Lekapenos (920–944) granted an annual pension known as the *roga*, probably in the amount of three pounds of gold.⁴ This sum was shared among many institutions, however, while Athanasios had an analogous annual pension from Nikephoros Phokas exactly twice as large all to himself, even though he took the precaution of getting the emperor to raise the general Athonite pension to seven pounds. Athanasios' imperial subvention allowed him to support Lavra's relatively large contingent of eighty monks even as early as 964. A doubling of the subsidy later by Emperor John Tzimiskes (969–976) made it possible to increase the maximum number of monks supported to 120. Yet after Athanasios' death, Lavra was to grow to almost nine times its original size, reaching 700 monks by the time (15) *Constantine IX* [4] was issued in the mid-eleventh century.

Athanasios, like monastic directors elsewhere, had to face the consequences of the almost inescapable nexus of growth and the increased economic activity needed to support it. His statements in the Studite-inspired (13) *Ath. Typikon* notwithstanding, Athanasios seems to have had few compunctions about permitting a level of economic activities sufficient to support his monks, but he had the advantage of extra flexibility thanks to his large imperial subsidy. Most other Athonite ascetics, less well-connected than he, simply lacked Athanasios' access to patronage on

⁴ For the first imperial subsidy see Papachryssanthou, *Prôtaton*, p. 54; Lavra's financial support from the emperors is discussed below in (11) *Ath. Rule*, Institutional History, A 7–11.

this scale. Some, untroubled by the consequences of increased economic activity, opted for self-help. Others preferred to rely on the subsistence existence, perhaps assisted by a small share in the general imperial subsidy, that was traditional on Athos for solitary ascetics and small groups of monks living in individual cells called *kelliotai*.

5. Protection for More Perilous Times

Despite his assertion of Lavra's institutional independence, Athanasios still found it difficult not to think like a traditional patron, as in (13) *Ath. Typikon* [16], where he declares in connection with the choice of his successor, "In my own case, now, I have absolute dominion, and not even one person can gainsay my command." The appeal of the conventions of the old order was not merely psychological; as external threats to the well-being of monastic institutions increased towards the close of the tenth century (see below, Historical Context) prudent founders of the new independent monasteries like Athanasios realized that it was simply too dangerous not to find a replacement for the role formerly played by the private patron.

In (14) *Ath. Testament* Athanasios chose the protectorate for this role, embodied in two administrators (*epitropoi*), one on Mount Athos itself and another residing at court in Constantinople. The local administrator, Athanasios' friend and fellow ascetic John the Iberian, was to enjoy what were traditional patronal rights over Lavra despite Athanasios' concession of "absolute authority and dominion" in the governance of both spiritual and material affairs to his successor as superior. Therefore some thirty years after Lavra's initial designation as an "independent" monastery, the internal contradictions between traditional needs for protection and new aspirations for self-governance had not yet been resolved.

During Athanasios' lifetime, he skillfully parried the recurring opposition of his Athonite neighbors and managed to maintain the imperial subsidy, even gaining another increase from Basil II in 978, all the while retaining a free hand in administering Lavra as he saw fit. After his death, and throughout the eleventh century, arrangements for Lavra's governance remained subject to change, responsive to emerging threats to its institutional autonomy and problems the monks encountered in governing themselves. In this era, as earlier, protection and financial support were the currencies with which interested parties—the emperors, patriarchs, local notables—bought patronal privilege in the empire's religious institutions. Following the example of its founder, Lavra generally drove a hard bargain.

6. The Future Direction of Athonite Monasticism

Aside from the three Athanasian texts, the other two documents in this chapter's grouping are (12) *Tzimiskes* and (15) *Constantine IX*. Both are of considerable value to us since they stand outside of the normative conventions of most other monastic *typika* and illustrate how very different actual circumstances might be from the theoretical organization enjoined in the more conventional foundation documents. These documents are also critical witnesses to an ongoing struggle in the late tenth and early eleventh centuries for the heart and soul of Athonite monasticism.

Under its traditional pattern of organization, Athos had a delicate balance of a variety of monastic lifestyles under a loose organizational structure headed by a *protos* at the principal settlement, Karyes, and was governed by a council of elders and periodic assemblies of all the mountain's

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monks.⁵ During the reign of Leo VI the Wise (886–912), the Athonites had successfully fought off an attempt at annexation by the neighboring cenobitic monastery of Kolobou.⁶ Athanasios, who had initially been warmly received by the Athonites, must have given them reason to fear a repetition of Kolobou's initiative when he began to develop Lavra as a large, economically aggressive, and territorially expansionist cenobitic monastery during Nikephoros Phokas' reign (963–969).

7. Reconciliation of Divergent Forms of Monastic Life

The actual author of (12) *Tzimiskes*, the Studite monk Euthymios, may have been chosen in 971–72 to conduct Emperor John Tzimiskes' inquest primarily because of his monastery's traditionally close association with the emperors (for which see (5) *Euthymios*, Institutional History) but it is not unreasonable to suspect that Athanasios had some influence in the selection of the leader of a cenobitic monastery linked by its customary to his own for an investigation on whose outcome the fate of Athanasios' lifetime work depended. In any event, Euthymios attempted to provide for the interests of all the forms of monastic organization on Mount Athos, the emerging cenobitic monasteries like Lavra as well as the more traditional small groups of kelliotic monks and solitary ascetics.⁷ He made a modest attempt to reform some of the disciplinary abuses present in traditional Athonite monasticism—such as the vagabond priests who presumed to celebrate the liturgy without authorization from their bishops—that were endemic to the Byzantine private church system, yet he also permitted the continuance of the commercial aspects of that system, especially the sale, donation and bequeathing of monastic buildings and properties. His attempt to restrict the Athonites' other commercial activities, even those engaged in for profit with laymen beyond the Mountain, were half-hearted and ultimately ineffective. So not only were Athanasios and his brand of cenobitic monasticism enabled to stay on Mount Athos, but also the circumstances for its expansion at the expense of other forms of monastic life were especially propitious.

8. The Challenge of the Monastic Reform

The controversies of (12) *Tzimiskes* were re-examined in (15) *Constantine IX* in 1045, 73 years later, in another imperial inquest, led this time by the monk Kosmas Tzintziloukes. In the interim, Lavra, as noted, had grown to nearly nine times its original size, and along with other large cenobitic monasteries had come to dominate Mount Athos. Indeed, the last of the ascetics living in the traditional way with a minimum of work and alms received from other monasteries had been obliged to adopt a cenobitic organization before the close of the tenth century.⁸ This time the challenge to Lavra and the other large monasteries, Athos' exponents of "big monasticism," apparently came from the smaller cenobitic institutions. Their leaders, reformist partisans of a fundamentalist persuasion, achieved their first success even before Constantine IX dispatched Tzintziloukes on his mission by getting the emperor to order the use of (12) *Tzimiskes* along with certain imperial chrysobulls as the documents of reference for adjudicating the controversies with

⁵ For the governmental institutions of Athos, see Papachryssanthou, *Prôtaton*, pp. 11–64.

⁶ See the Act of Leo VI (908), ed. Papachryssanthou, *Prôtaton*, pp. 52–54, with discussion 38–41.

⁷ For this interpretation, see Papachryssanthou, *Prôtaton*, p. 100.

⁸ See Papachryssanthou, *Prôtaton*, p. 102.

their opponents. Ironically, (12) *Tzimiskes*, a document notable in the context of its own times for doing little to restrict the growth of Lavra, was now readily employable as a base-line standard for those who now wished to curtail the activities of the much larger Lavra of the mid-eleventh century.

In Chapter One, we have already seen how some reform-minded monks and aspiring patrons in (9) *Galesios* were appalled by the decay of cenobitical institutions and sought the founder Lazarus' guidance on how to do better. Virtually contemporaneously, the fundamentalist reformers on Mount Athos were launching their own revolt against aristocratic privilege and permissive attitudes towards a whole range of economic activities that they thought were incompatible with the monastic life. In addition to asserting the authoritativeness of (12) *Tzimiskes*, these reformers also attempted to set up patristic authority as an equally valid touchstone of authority. The fundamentalist recovery of late antique patristic precedents, just noticeable here, would become a development of great significance as the monastic reform movement progressed during the rest of the eleventh century.

It is noteworthy how the dynamics of the struggle changed in another way since (12) *Tzimiskes*. Leaving aside economic issues, three-quarters of a century earlier, Athanasios could with some justice see Lavra as the center of at least disciplinary reform against the background of the mores of traditional private religious foundations on Athos. Now in the middle of the eleventh century, Neophytos, one of Athanasios' successors, was among the participants in the assembly memorialized in (15) *Constantine IX*, but the mighty superior of Lavra, attended by his entourage of servants, could no longer be considered to be an agent of reform in any sense. The hostility of the smaller houses towards what they deemed to be the arrogance of the larger monasteries is quite manifest. Yet the larger houses—Lavra and Vatopedi are mentioned by name—convincingly argued that their very size justified a lenient interpretation of what was to be permitted in the way of sustaining economic activities. As Tzintziloukes quickly realized, times had changed so much that the economic provisions of (12) *Tzimiskes* could no longer simply be reinstated despite his mandate from the emperor to do just that. An enforcement of the disciplinary legislation in (12) *Tzimiskes* was easier to achieve, as was a partial curtailment of the honorary prerogatives of the superiors of the great monasteries. So neither side was able to win a complete victory here.

9. The Continuing Debate on Economic Activities

The participants in the inquest that resulted in (15) *Constantine IX* were engaged in a lively debate over the appropriateness of various economic activities for individuals in monastic life. As before, the tolerance of the various Athonite monastic communities for these activities had determinative implications for the size of their foundations, and tended to shape attitudes on related moral and disciplinary problems as well.

The larger institutions tended over the long course of time to become more traditional (and entrepreneurial) in outlook regardless of their ideological origins. By the mid-eleventh century the Athonite establishment monasteries like Lavra had in effect fallen back on the reliable if hardly abuse-free model available in the old private religious foundation. The mores of this model stressed freedom from interference by outside (i.e., public) authority, and accommodated self-sustaining

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growth by tolerating considerable economic activity, including transactions with laymen. Despite his mandate from the emperor to decide the issues in dispute on the basis of the prescriptions in pre-existing *typika* and chrysobulls, Tzintziloukes found the logic of the great monasteries' endorsement of this model compelling, since the economic activity they willingly accepted could be abolished only at the cost of drastically reducing the overall size of the monastic settlement on Athos.

The reformers, ideologically hostile to most commercial activities, had perforce to content themselves with smaller foundations in order to maintain consistency with their principles since—unlike Lavra—they were not recipients of specially-earmarked and generous imperial largess. The attitudes associated with a “smaller is better” philosophy naturally appealed to smaller institutions. Most later reform monasteries in succeeding centuries would tend to be small in size too, at least those that did not have access to imperial support.

As Tzintziloukes must have realized, the mid-eleventh century was hardly a propitious time to embrace a vision of fundamentalist monasticism that could not accommodate growth without outside financial support. The public authorities of the empire, both the imperial government and the ecclesiastical hierarchy, were at that very time enthusiastically cooperating in the use of the *charistike*, an extensive program to redistribute older private foundations among a new class of private patrons that also encompassed the effective privatization of existing publicly supported religious institutions. So massive imperial support, the solution devised for Lavra by Athanasios for assuring its institutional independence, was now hardly practical as a model for other institutions. Few contemporaries could have expected therefore that the fundamentalist reform party would have had much of an impact on the future of Byzantine monasticism, but the very smallness and relative insignificance of their foundations enabled them to escape the wave of de-facto secularization through the *charistike* that overwhelmed virtually all other monastic foundations in the course of the eleventh century.⁹ By the century's end, their foundations were well positioned to lead a reform with the support of sympathetic patrons of all social classes.

C. Historical Context

The broader historical context of this period helps us gain a better understanding of this micro-view of monastic history on Mount Athos in this hundred-year period from the mid-tenth through the mid-eleventh century.

1. The First Imperial Agrarian Legislation

A famous novel of Romanos Lekapenos issued in 934 included superiors, the directors of philanthropic institutions, archbishops, metropolitans, and other ecclesiastical officials along with lay magnates in the list of individuals who were forbidden to obtain the property of peasants under any circumstances.¹⁰ Romanos' successor Constantine VII (944–959) confirmed these restric-

⁹ So John of Antioch, *Oratio de monasteriis*, chap. 9, ed. Paul Lemerle, “Réquisitoire du patriarche Jean d'Antioche contre le charisticariat,” *REB* 33 (1971), 213–84, at 109.

¹⁰ Romanos I Lekapenos, *Novella de potentibus ab acquisitione praediorum arcendis* (934) (*JGR* 3.241–52 = Zepos, *Jus* 1.205 ff.) = Dölger, *Regesten*, no. 628.

tions in a law of his own dated to 947.¹¹ These laws had the effect of practically prohibiting extensions of the endowments of monasteries in order to increase revenues.

2. Nikephoros Phokas' Ban on Construction of Religious Facilities

Athanasios' patron Nikephoros Phokas thought that the number of monasteries and philanthropic foundations in the Byzantine Empire had become disproportionate to the need for them. Accordingly, shortly after his initial patronage of the Lavra monastery, he issued a controversial law,¹² probably in 964, which recommends that wealthy benefactors should henceforth sell properties that they would otherwise have donated to new foundations and give the proceeds to the poor. Alternatively, his law suggests that these benefactors turn their attentions to ruined and dilapidated foundations that badly needed financial assistance for repairs and capital improvements. These would use the benefactors' money to acquire field hands and livestock in order to put their current properties to better use. The law strictly forbids benefactors to make direct grants of lands and buildings although it makes special provision for exemptions for institutions that had shortages of endowed properties. While the law did not abolish private monasteries, it did prevent the endowment of any new ones with landed property. Individual monastic cells (*kellia*) and lavras (*lavrai*), or collections of such cells, were excepted from the restrictions too.

3. Relevance of Nikephoros Phokas' Law to Mount Athos

Nikephoros Phokas' law thus reflects a specific policy of encouraging small-scale lavriot and kelliotic monasticism while simultaneously curtailing the further growth of large landowning monasteries.¹³ Whether Lavra was a foundation in accord with this policy or a special exception is difficult to say. Certainly Lavra was eventually to become just the sort of foundation of which the emperor would not have approved. The foundation's terminological ambiguity, called "Lavra" but operated as a *koinobion*, may have been intended to take advantage of one of the law's largest loopholes. On the other hand, Athanasios' heavy reliance at first on imperial subsidies may have kept Lavra within the spirit as well as the letter of Nikephoros Phokas' law. Even when his successor John Tzimiskes made an additional grant to Lavra, recorded by (13) *Ath. Typikon* [36], that was derived from tax receipts from the island of Lemnos, once again no land grants were involved.

4. Background to the Development of the *Charistike*

Nikephoros Phokas' law most likely remained at least nominally in force until repealed by Basil II in 988.¹⁴ At about the same time Patriarch Nicholas II Chrysoberges (980–992) unsuccessfully

¹¹ Constantine VII, *Novella de potentibus praedia pauperum acquirentibus* (JGR 3.252–56 = Zepos, *Jus* 1.214 ff.), esp. chap. 2 = Dölger, *Regesten*, no. 656.

¹² Nikephoros Phokas, *Novella de monasteriis* (964) (JGR 3.292–96 = Zepos, *Jus* 1.249–52) = Dölger, *Regesten*, no. 699; translation and commentary by Peter Charanis, "Monastic Properties and the State in the Byzantine Empire," *DOP* 4 (1948), 53–118, at 56–57.

¹³ For the interpretation of the law and its relevance to Lavra, see Rosemary Morris, "The Two Faces of Nikephoros Phokas," *B&MGS* 12 (1988), 83–115, esp. 105–7.

¹⁴ Basil II, *Novella quae legem Nicephori de monasteriis tollit* (988) (JGR 3.303 = Zepos, *Jus* 1.259) = Dölger, *Regesten*, no. 772. Authenticity questioned by N. Svoronos, "Histoire des institutions de l'empire

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attempted to assert control over the monastery of Piperatos (once owned by Romanos I Lekapenos), but the owners objected and Basil II upheld their private property rights in the institution.¹⁵ The owners were able to establish that their monastery was independent (*autodespotos*), like Athanasios' Lavra, and had never been conceded to an ecclesiastical overlord.

There is no indication of what legal mechanism, if any, had been employed to permit private benefactors to undertake the restoration of ruined ecclesiastical foundations under the provisions of Nikephoros Phokas' law before its repeal. It is possible that the essential features of what would become known as the *charistike* were already in place in the 960s,¹⁶ but more likely that incidents like the Piperatos case provided the stimulus for its development since that judgment established that the ecclesiastical hierarchy could not take over an old institution without regard for the owner's property rights.

5. Impact of the *Charistike* on Lavra

The soon-to-be infamous *charistike* was a public program employed by the emperor and the ecclesiastical hierarchy for the private management of religious institutions.¹⁷ It did not disturb the ultimate rights of ownership but separated the rights of management and financial exploitation for a third party. All grants were temporary and limited to one, two, or (rarely) three lifetime tenancies. The *charistike* originated and flourished in the tolerant atmosphere of a society long accustomed to lay and governmental exploitation of ecclesiastical institutions and their properties, but contemporary benefactors like Athanasios who were committed to preserving the independence of their foundations could not but see it as a serious threat to their interests. Athanasios' establishment of a protectorate for his foundation in (14) *Ath. Testament*, sometime after 993, most likely reflects his perception of this threat and constitutes his attempt to ward it off by designating a high court official, the *epi tou kanikleiou*, and his successors in perpetuity as administrative trustees for Lavra.

6. Ecclesiastical Opposition to the *Charistike*

As we have seen, two distinct views on the proper conduct of monastic life on Mount Athos developed during the interval of approximately 50 years between (14) *Ath. Testament* and (15) *Constantine IX* in 1045. This was a time of great stress for the Byzantine church generally that was directly related to the *charistike*. Roughly contemporaneously with the drafting of (14) *Ath. Testament*, the *charistike* was challenged by Patriarch Sisinnios II (996–998) who terminated patriarchal participation in the program and ordered the return of all patriarchal monasteries alienated by his predecessors not only under the *charistike* but also under *epidosis*.¹⁸ This latter was a program parallel to but older than the *charistike*, designed to facilitate the transfer of monasteries

byzantin," *Annuaire de l'École pratique des hautes études, IV^e section* (1970–71), 353–65, at 357, but see my "A Disputed Novel of Basil II," *GRBS* 24 (1983), 273–83.

¹⁵ Eustathios Rhomaios, *Peira* (JGR 1.43); for the foundation, see Janin, *Géographie*, vol. 2, p. 39.

¹⁶ See (12) *Tzimiskes* [7] with note.

¹⁷ For the *charistike*, see General Bibliography, XXIV: Monasticism and the *Charistike*.

¹⁸ Grumel, *Regestes*, no. 809; recorded by Theodore Balsamon, *Comm. ad C. Nicaen. II*, c. 13 (R&P 2.612).

from one ecclesiastical authority to another. It had been used since the late tenth century to compensate for significant differences in the endowments of episcopal, archiepiscopal and metropolitan sees. Even Athanasios had been one of its beneficiaries when Nicholas II Chrysoberges employed it in 989 to donate to Lavra a dilapidated monastery of the Mother of God of Gomatou.¹⁹

7. Basil II's Agrarian Law of 996

Basil II, however, remained committed to the use of the *charistike*, as his famous law *Peri ton dynaton*, issued just before Sisinnios II's elevation to the patriarchate in 996, makes clear.²⁰ Among other problems addressed in this law was the challenge of how to reconcile operation of the *charistike* with the imperial government's longstanding agrarian policy of reversing the increasing concentration of rural land ownership in the hands of the aristocracy. Apparently local bishops, relying on the *charistike*, were annexing small religious foundations in villages upon the deaths of their peasant proprietors and then granting them out to wealthy magnates under this program. As a result, magnates were continuing to gain communal property in violation of the spirit of existing imperial agrarian legislation. This the emperor was unwilling to countenance any longer, but his law makes generous allowance for donations of other, larger foundations so that the *charistike* could continue. Foundations, like Athanasios' Lavra monastery, that were under imperial oversight (*pronoia*) by virtue of having received dedicatory offerings (*solemnia*) or allowances for expenses of illumination (*photapsiai*) were also excluded from liability to being granted out under the *charistike*. This exception, granted at a critical time in the history of Athanasios' foundation, perhaps accounts for Lavra's ability to escape from participation in the *charistike* during the eleventh century.

8. Basil II's Law on the *Allelengyon* (1002)

Basil II increased the pressure on the ecclesiastical hierarchy with his law of 1002 that required wealthy property owners to assume the burden of the defaulted taxes of their poorer neighbors, an obligation known as the *allelengyon*.²¹ Patriarch Sergios II (999–1019), supported by a delegation of bishops and monastic superiors, took the lead in protesting against the burden this law placed on the empire's ecclesiastical institutions. Basil II's refusal to repeal this law probably motivated the patriarchate to reconsider its opposition to the *charistike*. In any event, Sergios II eventually saw fit in 1016 to resume use of the *charistike* and *epidosis*. Even if this decision relieved the church of some of its fiscal burdens, it did not suffice to gain a cancellation of the law on the *allelengyon* from the emperor when the patriarch sought this favor a second time in 1019. The law remained in force even after Basil II's death in 1025, and was repealed only after the accession of Romanos III Argyros (1028–1034).

¹⁹ Paul Lemerle et al., *Actes de Lavra*, pt. 1: *Des Origines à 1204* (= Archives de l'Athos 5) (Paris, 1970), doc. 8 (989), pp. 115–17.

²⁰ Basil II, *Peri ton dynaton* (996) (*JGR* 3.306–18 = Zepos, *Jus* 1.262–72) = Dölger, *Regesten*, no. 783.

²¹ Dölger, *Regesten*, no. 793.

CHAPTER TWO

9. Patriarch Alexios Studites' Reform of the *Charistike*

It was left to Alexios Studites (1024–1043), the last patriarch chosen during the reign of Basil II, to make the first attempts at reforming the abuses that became endemic in the *charistike*.²² Synodal legislation issued in 1027 set up the office of the patriarch's chancellor (*chartophylax*) to serve as a clearinghouse for the approval and registration of all grants of ecclesiastical institutions. Further legislation in 1028 ordered the expulsion of corrupt beneficiaries (the *charistikarioi*) and denied the competence of secular courts to entertain countersuits. This legislation also attempted to restrict the *charistike* to non-diocesan monasteries. The patriarch's decision to attempt to reform rather than abolish the *charistike* probably reflects the inability of the hard-pressed public churches to take back all of the institutions that had been conceded to laymen over the previous forty years and thus be responsible for their tax obligations under the then still current law on the *allelengyon*.

10. Renewed Peril from the *Charistike*

It may be doubted how effective Alexios Studites' legislation was in curbing abuses of the *charistike*. As (9) *Galesios* [141] shows, by the mid-eleventh century the provincial hierarchy eagerly sought to suppress the independence of or else simply dissolve privately founded monasteries. Lazarus, that document's author, sought to prevent this by gaining an independent constitution for one of his monasteries and by drawing up a *typikon* for the others, to be confirmed later by Constantine IX and Patriarch Michael I Keroullarios (1043–1058). Since by that time the emperor and the patriarch were among the most prolific users of the *charistike*, this was necessarily a dangerous game, yet one that the Athonite monks showed could still be played with success.

11. Historical Background to (15) *Constantine IX*

Therefore, when the assembly of the Athonite community attested to by (15) *Constantine IX* met in 1045 under the leadership of the emperor's personal representative Kosmas Tzintziloukes, Athos' monasteries were, despite their constitutional and ideological differences, anomalous elements in the contemporary ecclesiastical landscape otherwise dominated by the *charistike*. The knowledge of the blatant economic exploitation visited upon other ecclesiastical institutions included in the *charistike* probably helped the directors of the great Athonite monasteries like Lavra feel justified in their pursuit of various commercial activities and vigorous territorial expansion. At the same time, the example of the *charistike* probably served to reinforce the pre-existing casualness with which private benefactors were prone to treat their foundations and their properties (see especially (15) *Constantine IX* [9], [11]). Conversely, the fundamentalist reformers reacted in horror against

²² Alexios Studites, *Hypomnema A'* (R&P 5.20–24) = Grumel, *Regestes*, no. 833; *Hypomnema B'* (R&P 5.25–32) = Grumel, *Regestes*, no. 835.