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“Continuities and Discontinuities: Political Thought in the Habsburg Empire in the Long Nineteenth Century”

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Martyn Rady

Nonnisi in sensu legum? Decree and Rendelet in Hungary (1790–1914)

The Hungarian “constitution” was never balanced, for its sovereigns possessed a supervisory jurisdiction that permitted them to legislate by decree, mainly by using patents and rescripts. Although the right to proceed by decree was seldom abused by Hungary’s Habsburg rulers, it permitted the monarch on occasion to impose reforms in defiance of the Diet. Attempts undertaken in the early 1790s to hem in the ruler’s power by making the written law both fixed and comprehensive were unsuccessful. After 1867, the right to legislate by decree was assumed by Hungary’s government, and ministerial decree or “rendelet” was used as a substitute for parliamentary legislation. Not only could *rendelets* be used to fill in gaps in parliamentary legislation, they could also be used to bypass parliament and even to countermand parliamentary acts, sometimes at the expense of individual rights. The tendency remains in Hungary for its governments to use discretionary administrative instruments as a substitute for parliamentary legislation.

Keywords: constitution, decree, patent, *rendelet*, legislation, Diet, Parliament

In 1792, the Transylvanian Diet opened in the assembly rooms of Kolozsvár (today Cluj, Romania) with a trio, sung by the three graces, each of whom embodied one of the three powers identified by Montesquieu as contributing to a balanced constitution.¹ The Hungarian constitution, however, was never balanced. The power attached to the executive was always the greatest. Attempts to hem in the executive, however, proved unsuccessful. During the later nineteenth century, the legislature surrendered to ministers a large share of its legislative capacity, with the consequence that ministerial decree or *rendelet* often took the place of statute law. Deficiencies in the drafting of bills and calculated neglect left large areas of the law to the determination of government and its agencies, expanding the domain of administrative discretion (*freie Verwaltung*). Whereas in the French revolutionary tradition, where the law was silent the citizen was free, in Hungary the reverse circumstance applied. Where the law was silent, the executive and its

1 Sándor Eckhardt, *A francia forradalom eszméi Magyarországon* (Budapest: Franklin, 1924), 26–28. The diet met in the Reduta Hall, in what is now the Ethnographic Museum.

surrogates retained the right to intrude, enacting measures that were potentially injurious to individual freedoms.²

The executive, in the sense of the royal government, historically claimed the right to legislative intervention in Hungary on two grounds. The first was through the plenitude of power that attached to the monarch by virtue of his office. The ruler's right to alter the law was frequently invoked in the Middle Ages, but scarcely survived into the modern period.³ The royal plenitude was only used by way of justification in respect of land trusts, the grant of which by the crown ran contrary to the customary traditions of noble land holding. There emerged as a consequence a branch of equity jurisprudence, administered through the chancellery, which operated independently of the customary law practiced by the kingdom's courts.⁴ Unlike the situation in Bohemia, in Hungary the royal plenitude was never invoked in the early modern period to support a superior *iuris legis ferendae* belonging to the ruler (Leopold I ordered that a pamphlet suggesting this be publicly burnt).⁵ The second right of intervention derived from the so-called power of supervision or *Aufsichtungsrecht*, which was underpinned by the first article of the laws of 1526. This entrusted the monarch "to use the authority and power he has to do with mature deliberation all that concerns the governance of the realm, the proper collection, increase and correct spending of His Majesty's revenues as well as everything else pertaining to the defense, liberty and other needs of the realm."⁶ The *Aufsichtungsrecht*, as deployed by Hungary's rulers, made specific appeal to this provision for its justification.⁷

The right of supervision was manifested in a range of instruments, whereby the monarch influenced administration and justice—*intimatoria*, *normalia*, circulars, and so on. The two most important were patents and rescripts. The first of these was intended to make up for statute law where the existing law

2 István Kovács, "A törvény és törvényerejű rendelet problematikájához," *Allam- és Jogtudomány* 16, no. 3 (1973): 349–51.

3 Joseph Holub, "Ordinaria potentia – absoluta potentia," *Revue Historique de droit français et étranger* 28 (1950): 92–99.

4 Mór Katona, *A magyar családi hitbizomány* (Budapest: Franklin, 1894), 32–61.

5 János J. Varga, "Die Notwendigkeit einer neuen Einrichtung Ungarns nach die Türkenzeit," in *Einrichtungswerk des Königreichs Hungarn (1688–1690)*, ed. János Kálmár and János J. Varga (Stuttgart: Steiner, 2010), 47–48.

6 Given in *Decreta Regni Mediaevalis Hungariae: The Laws of the Medieval Kingdom of Hungary, 1490–1526*, ed. János M. Bak, Péter Banyó, and Martyn Rady (Budapest–Idyllwild, CA: CEU–Schlacks, 2012), 265.

7 János Zlinszky, "Az ügyvédség kialakulása Magyarországon és története Fejér megyében," *Fejér megyei történelmi évkönyv* 8 (1974): 26.

was deficient; the second to assist the implementation of statute.⁸ There was, nevertheless, considerable overlap between all of these instruments, on account of which they were frequently included together under the name of mandates or *benignae ordinationes*. On the whole, we may observe that patents and *normalia* dealt with matters of general significance and were communicated through the chancellery; rescripts involved the application of the law in specific instances; judicial mandates instructed court procedure; and *intimatoria* were published on the ruler's behalf by the regency council.⁹

In the vast majority of cases, decrees of the monarch or of his surrogates were unexceptionable, treating either upon matters of temporary significance (the movement of prisoners, quarantine restrictions, signs of rabies, and so on) or of minor administrative import (the proper care of triangulation stations, the danger of lighting candles in stables, the lidding of tobacco pipes, and so on). Rescripts addressed to the courts were usually intended to speed up the judicial process, lifting cases to the highest court so as to close off subsequent grounds for appeal or transferring adjudication on the grounds that the judges were potentially partisan. Even when the ruler caused a case to be stopped or pulled it into the chancellery for adjudication, considered reasons were still given.¹⁰ Rescripts were emphatically not used, as was later claimed, to subvert the judicial process, for there were better ways of doing this, most notably through the appointment of special tribunals.¹¹ Nevertheless, there were occasions when decrees were deployed as a substitute for statutory legislation. Having failed, therefore, to regulate seigneurial relations through a law agreed by the Diet, Maria Theresa imposed her urbarial reform by patent. Her reform of education undertaken in 1777 was similarly imposed by decree, without the agreement of the Diet, even though it trespassed beyond the sphere which customarily belonged to the monarch. The entirety of Joseph II's legislation was enacted by decree.

8 Henrik Marczali, *Magyarország története II. József korában*, 2nd ed., 2 vols (Budapest: MTA, 1885–88), 1:333.

9 Endre Varga and Miklós Veres, *Bírósági levéltárak 1526–1869* (Budapest: Akad. Kiadó, 1989), 42–46, 65–71; for judicial mandates, see also Ignác Kassics, *Tractatus de Mandatis Judicialibus* (Pest: Trattner, 1828).

10 Magyar Nemzeti Levéltár Országos Levéltára (=MNL OL) O11, Rescripta Regia, Bundle 1, fols 6, 18, 29, 91, 109, 423, 429; *ibid.*, Bundle 2, fols 106, 108, 114, 159, 275 etc.

11 For the alleged subversion of justice by mandates, see Béni Grosschmid, *Magyar előadások: Jogszabálytan* (Budapest: Athenaeum, 1905), 127; for delegated tribunals, see György Bónis, Alajos Degré, and Endre Varga, *A magyar bírósági szervezet és perjog története*, 2nd edition (Zalaegerszeg: Zala M. Bíróság, 1996), 86–87, 95.

Well before Joseph II's reign (1780–1790), there had been considerable disquiet over the use of decrees. Statutes had, therefore, repeatedly stressed that mandates which contravened the kingdom's liberties and laws should be neither enforced nor observed—*Mandata contra Jura et Leges Regni non expeditantur, Mandata contra Decreta Regni non observentur*, and so on.¹² The *Revisionsklausel*, included after 1687 in either the royal oath or the inaugural diploma (or both), likewise insisted that the monarch observe the political community's "immunities, liberties, rights, privileges and approved customs as the king and the assembled estates shall agree on the interpretation and application thereof."¹³ Nevertheless, the fundamental rights of the kingdom's nobility were put beyond discussion, with the implication that they could not be altered either by decree or indeed by statutory law.¹⁴ Even monarchomaniacs, like the Judge Royal (*országbíró, Landesrichter*) Antal Mózes Cziráky (1772–1852), who otherwise claimed a royal right of *suprema inspectio* that applied to all bodies within the kingdom, conceded that the royal power could only be exercised in accordance with the law.¹⁵

Monarchs might, nonetheless, ignore these constraints with impunity. Maria Theresa's chancellor, Miklós Pálffy (1710–1773), opined that decrees which were not in conformity with the kingdom's laws were likely to lapse on account of their "lack of weight," but his appeal to the principle of desuetude hardly carried conviction.¹⁶ Accordingly, in the aftermath of the Josephinist experiment, the newly-convened Hungarian Diet sought to hem in the powers of Joseph's successor by having Leopold II (1790–1792) formally commit himself to govern in accordance with Hungary's laws and customs and not to publish decrees unless they were in conformity with the kingdom's laws—*nonnisi in sensu legum*.¹⁷

The problem was that the content of the kingdom's laws and customs was uncertain. Notwithstanding its reputation as the bible of the nobility, large parts of István Werbőczy's *Tripartitum* were no longer relevant (indeed, chunks of

12 1543: 31; 1563: 80; 1608: 6. The relevant statutes are rehearsed in *Omnia ad Majorem Dei Gloriam*, Academia Româna Filiala Bibliotheca Cluj-Napoca, MSS, U523F (1655). Despite its current location, this MS was intended for use in Hungary.

13 Gustav Turba, *Die Grundlagen der Pragmatischen Sanktion, 1. Ungarn* (Leipzig–Vienna: Deuticke, 1911), 63; Martyn Rady, *Customary Law in Hungary: Courts, Texts and the Tripartitum* (Oxford: Oxford University Press, 2015), 186.

14 László Péter, "The Primacy of *Consuetudo* in Hungarian Law," in *Custom and Law in Central Europe*, ed. Martyn Rady (Cambridge: Faculty of Law, 2003), 104.

15 Antal Moses Cziráky, *Conspectus Juris Publici Regni Hungariae ad annum 1848*, 2 vols (Vienna: Wallishausser, 1851), 2:73–82.

16 Henrik Marczali, *Gróf Pálffy Miklós emlékiratai* (Budapest: MTA, 1884), 9.

17 Law X of 1790/91.

its text had from the very first been ignored by the courts). The *Corpus Juris Hungarici*, in which the kingdom's statutes were printed, was moreover known to be defective and also to include materials that had been superseded by practice. Hungary was still a customary jurisdiction, on account of which the efficacy of the written law rested upon the degree to which its provisions had themselves been customized by use. In view of this, the Diet that assembled in 1790 instructed that the entire body of the kingdom's law be revised and published so that its content be henceforward known and rendered immutable, even by royal decree. The Diet accordingly appointed nine committees or Deputationes Regnicolares to work out a thorough legislative settlement, which was to include not only the elaboration of codes of criminal, civil, commercial and procedural law, but also public administration, taxation, peasant obligations, the national economy, mining, ecclesiastical matters, education and culture, and the miscellaneous complaints of the Diet.¹⁸ The plan, as originally envisaged, was for the committees to work together to produce a body of draft legislation that would be put to a future Diet for approval as “a single uniform scheme [...] all parts of which should make up an orderly and coherent whole.”¹⁹

The committees were uncertain whether their task was to accomplish a concentration of the laws as currently found or to devise a program of legislative reform. Leopold pushed for the latter, hoping thereby to force the modernization of the kingdom's institutions.²⁰ Although the committees entrusted with overseeing economic and cultural policies were innovatory, the majority assumed a largely conservative stance. The committee entrusted with judicial organization managed, therefore, little more in respect of the civil law than a rewriting of the *Tripartitum* and of János Kitionich's early-seventeenth-century manual on procedure.²¹ The committees completed their work in good time, with most of their drafts ready by 1793 (the judicial committee took longer, finishing only in 1795). Nevertheless, the drafts that the committees had composed languished. The Jacobin trials of the 1790s and the climate of repression that followed made all thought of change not only otiose but also dangerous. Although the drafts were occasionally dusted off, and in the 1820s published in an emended edition, only very little of their content was converted by the Diet into statutory

18 The remit of the nine committees is given in Law LXVII of 1790/91.

19 Elemér Mályusz, *Sándor Lipót főherceg nádor iratai 1790–1795* (Budapest: MTT, 1926), 120.

20 Ibid., 74.

21 The civil law part of the committee's work is given in Mária Homoki-Nagy, *Az 1795. évi magánjogi tervezetek* (Szeged: JATE Press), 2004.

legislation.²² In the legislative gap, decrees of the monarch continued to intrude. Ignác Kassics's *Enchiridion*, which listed the decrees of the ruler that were considered to be of general application, ran to over 4,000 items for the period between 1790 and 1824.²³

The April Laws of 1848 borrowed from the Belgian constitution the principle that decrees of the monarch required counter-signature by the relevant minister. The executive power was accordingly to be exercised by the monarch “through an independent Hungarian ministry, in accordance with the laws [a törvények értelmében].”²⁴ Hungary's defeat in the War of Independence (1849) rendered these provisions redundant. Relying upon the doctrine of constitutional forfeiture (*Verwirkungstheorie*), Franz Joseph now administered Hungary in the manner of his other kingdoms, imposing legislation in the form of decrees. The Neo-Absolutist regime that he introduced may well have been radical and modernizing, carrying into effect the social revolution begun in 1848, but it relied upon instruments the constitutional validity of which had been previously voided by the terms of the April Laws. Neo-Absolutism proved, however, as unworkable in Hungary and the Habsburg Monarchy as in France. Military defeat and the refusal of the banks to extend loans to maintain the regime forced the retreat to constitutionalism begun by the October Diploma of 1860.

After several false starts, a constitutional solution was reached in Hungary in 1867. Legislative competence in most matters of domestic policy belonged to the legislature, which now became a recognizable parliament. The right of the monarch to legislate by decree was converted into a right that belonged to individual ministers, on the basis of which they might henceforward exercise executive power “on the basis of the laws and the constitution.”²⁵ In the chaos surrounding the establishment of the new Hungarian government, ministerial decrees or *rendelets* took the place of statutory legislation, for there was simply no time to put through the parliament the bills necessary for the collection of taxes and military recruitment.²⁶ The efficacy of *rendelets* was subsequently qualified by Law IV of 1869, “On the Exercise of Judicial Power,” which declared that

22 George Barany, *Stephen Széchenyi and the Awakening of Hungarian Nationalism, 1791–1841* (Princeton, NJ: Princeton University Press, 1968), 200, 282–85. Some of the committee's *Codex Cambio-Mercantil* subsequently entered into statute law (Law XVI–XXII of 1840 and IV of 1844).

23 Ignác Kassics, *Enchiridion seu Extractus Benignarum normalium ordinationum regiarum*, 3 vols (Pest: Trattner, 1825).

24 Law III of 1848, §3.

25 Law III of 1867, §1.

26 *Magyarországi Rendeletek Tára, 1867*, 2nd edition (Pest: Ráth, 1871), 26–30, 55–58.

the courts should “proceed and judge according to the laws, rendelets that rest on the law and have been proclaimed, and on custom that has the force of law. They cannot call into doubt the validity of properly proclaimed laws, but the judge shall decide on the lawfulness of rendelets in individual cases.”²⁷ Both this and the requirement laid in 1867 that the executive power be exercised in accordance with the laws and the constitution were filled with holes. There was no constitution in the sense of a set of rules that adumbrated the competences belonging respectively to the legislature, judiciary and executive. Nor was there any normative statement regarding the rights and duties of the citizen. The customary law to which the 1869 law made reference was contested and its provisions were far from settled.²⁸ The status of *rendelets* that were lawfully proclaimed, but which rested on neither custom nor statute, being intended to make up for a legislative deficiency, was not addressed. Plainly, much was left to the courts to decide, and the 1869 law endeavored to ensure that these should be as free as possible from governmental interference. Nevertheless, the right of the minister of justice to appoint to the bench compromised judicial independence and ensured that the courts were usually led by reliable (and badly paid) placemen.²⁹

Hungary’s parliaments were never less than busy. Altogether, between 1870 and 1890, one thousand bills became law, a number that would more than double by 1930.³⁰ Some of these were intended to lay the liberal foundations of a modern civil society—regulating the rights of members of national minorities (less than half of the citizens of Hungary were native Hungarian-speakers in 1910), establishing religious toleration, renewing the kingdom’s commercial legislation, enacting a new criminal code, and so on. Nevertheless, the legislation that was passed tended to be piecemeal rather than comprehensive. Large parts of the law, particularly those affecting legal equality and the remaining encumbrances on peasant tenures, were dealt with in a fragmentary fashion.³¹

27 Law IV of 1869, §19: “A bíró a törvények, a törvény alapján keletkezett s kihirdetett rendeletek s a törvényerejű szokás szerint tartozik eljárni és ítélni. A rendesen kihirdetett törvények érvényét kétségbe nem veheti, de a rendeletek törvényessége felett egyes jogesetekben a bíró ítélt.”

28 The inclusion of customary law as one of the sources by which the courts should judge was intended to give legal substance to the ‘Provisional Judicial Rules’ of 1861, which otherwise lacked any basis in statutory authority. Despite their ‘provisional’ character, the regulations of 1861 continued in force until the late 1940s.

29 Lajos Králik, *A magyar ügyvédség: Az ügyvédi kar*, 2 vols (Budapest: Budapesti Ügyvédi Kamara, 1903), 1:245–48, 255.

30 Zoltán Magyary, *The Rationalisation of Hungarian Public Administration* (Budapest: Athenaeum, 1932), 11.

31 László Péter, “The Aristocracy, the Gentry and their Parliamentary Tradition in Nineteenth-Century Hungary,” in idem, *Hungary’s Long Nineteenth Century: Constitutional and Democratic Traditions in a European Perspective. Collected Studies*, ed. Miklós Lojka (Leiden–Boston: Brill, 2012), 311–13.

Still, at the beginning of the next century, there were categories of woodland where the rights of peasant usufruct had not been legally resolved.³² The overwhelming share of legislation passing through parliament was given over to measures of only fleeting significance, being nuts-and-bolts administrative and financial provisions. Possibly as much as 80 percent of parliamentary legislation fell into this category.³³

Legislation was not only partial, it was also often derivative. It was much easier to borrow foreign legislative acts than to draft bills from scratch. The problem was that the importation of models from abroad introduced a vocabulary and distinctions in law that were not applicable to Hungary. In copying the German *Strafgesetzbuch* of 1871, the criminal code of 1878–79, devised by Károly Csemegi, introduced a threefold classification of crimes, dividing these between *bűntett*, *vétség* and *kibágás* (corresponding to the German *Tat*, *Verbrechen* and *Vergehen*), that had no basis in Hungarian practice.³⁴ The commercial legislation of the late 1870s was similarly taken from German law and smuggled in provisions of consumer protection without establishing a context for their implementation.³⁵ A further round of borrowing saw the eventual establishment in the 1880s of a financial-administrative court for the resolution of disputes over taxation, fines and exemptions. Its competence was extended to other branches of the administration in 1896 and included most cases for legal redress against excesses or derelictions of duty by organs of state and local government. The inspiration for this development came primarily from the examples of the Austrian Reichsgericht (1869) and Verwaltungsgerichtshof (1875). Even at the time, however, the introduction of administrative courts was considered contrary to established Hungarian practice.³⁶

32 Ferencz Szilárd, “Az úrbéres erdők ügye,” *Erdészeti Lapok* 49, no 21 (1910): 809–20.

33 Magyary, *The Rationalisation of Hungarian Public Administration*, 11.

34 Law V of 1878 established the first two categories; Law XL of 1879 added the third. For a summary of the Csemegi code, see Krisztina Karsai and Zsolt Szomora, *Criminal Law in Hungary* (Alphen aan den Rijn: Kluwer Law International, 2010), 35–36; Tibor Király, “Das Strafgesetzbuch von 1878: Der Csemegi Kodex,” in *Die Entwicklung der Österreichisch-Ungarischen Strafrechtskodifikation im XIX.–XX. Jahrhundert*, ed. Gábor Máthé and Werner Ogris (Budapest: Unió Lap és Kk., n.d.), 221–36. The German terms have no meaningful English equivalents.

35 János Zlinszky, “Hungarian Private Law in the 19th and 20th Centuries up to World War II,” in *The Hungarian State: Thousand Years in Europe*, ed. András Gergely and Gábor Máthé (Budapest: Korona, 2000), 311; Gusztáv Schwarz (Szász-Schwarz), *Magánjogunk felépítése* (Budapest: Magyar Jogászegylet: 1893), 14.

36 János Martonyi, *A közigazgatási bíráskodás bevezetése, szervezete és hatékonysága Magyarországon (1867–1949)* (Szeged: Acta Juridica et Politica, 20, no 2, 1972), 3–4. For the background and development of

The establishment of administrative courts created an artificial division between public and private law that opened up new problems of jurisdiction and of the appropriate forum for adjudication. This is precisely what we might expect, given that the “continental distinction” between public and private law was as foreign to Hungary then as it is to England today.³⁷ Rather than tackle the problems of competence head on, however, successive governments chose not to legislate at all. Whole areas of activity were thus not covered by legislative provision, particularly in respect to the rights that belonged to individuals and their relationships to the offices of state power. Of these, the most signal involved the rights of association and assembly.³⁸ There was, however, a similar legislative void in respect of the burgeoning number of land trusts (an individual right gifted by the monarch on the advice of the Minister of Justice) and the post office (a public body trusted with the delivery of private communications).³⁹ The law of mortmain (*holtkéz*), affecting the individual right to give property to the churches, which were conceived of as public bodies, remained notoriously without any guidance in modern statute. It was ultimately left to the courts to determine that the restrictions on mortmain inherited from the Middle Ages had lapsed through desuetude.⁴⁰

Further difficulties attended the civil law. The April Laws (1848) had promised a civil code to regulate land ownership and inheritance following the abolition of the antique rules of entail, inherited from the Middle Ages. No code, however, had been forthcoming. During Neo-Absolutism, the Austrian Civil Code had been imposed by decree of the monarch. It had been replaced in 1861 by the Provisional Judicial Rules, drawn up by a specially-convened assembly of lawyers and former judges (the High Judge Conference, Országbírói Értekezlet). By referring back to the Austrian Civil Code, the Provisional Judicial

administrative courts in Hungary, see István Stipta, *A magyar bírósági rendszer története*, 2nd edition (Debrecen: Multiplex Media, 1998), 141–52.

37 See generally on this point, J. W. F. Allison, *A Continental Distinction in the Common Law: A Historical and Comparative Perspective on English Public Law* (Oxford: Oxford UP, 2000).

38 See below.

39 Mór Katona, *A magyar családi hitbizomány* (Budapest: Franklin, 1894), 65–66; Gábor Kertész, “A magyarországi postaszabályozás fejlődése a kezdetektől a rendszerváltásig,” *Jogtörténeti Szemle* 23, no. 2 (2008): 33–34.

40 *Magyar Jogi Lexikon*, ed. Dezső Márkus, 6 vols (Budapest: Pallas, 1898–1907), 4:175–76; on the status of the churches, see Andor Csizmadia, *Rechtliche Beziehungen von Staat und Kirche in Ungarn vor 1944* (Budapest: Akadémiai Kiadó, 1971), 26–28. The decision of the Curia was not legerdemain, for gifts to churches had been previously entered without objection into land registers. See Károly Csemegi, *Az egyházi holtkéz a magyar törvények szerint* (Budapest: Franklin, 1897), 46.

Rules provided the means whereby chunks of the Code were readmitted into Hungarian law.⁴¹ Moreover, the Provisional Rules did not apply to Transylvania, as a consequence of which the Austrian Civil Code continued to operate there, notwithstanding the reunion of Hungary and Transylvania in 1867. No new civil code, however, was forthcoming. A committee established in 1869 produced a mishmash of provisions that satisfied no one. A second committee was formed in 1894 with the brief of “elaborating a unified and systematic draft of the Civil Code, taking into consideration Hungary’s statutes affecting the private law and its customary laws, the drafts that have been already compiled, Hungarian judicial opinion and literature, and legal developments in other civilized states.”⁴² The committee took five years to produce a text running to more than 2,000 paragraphs. This was then published in a five-part edition in 1901–2, and sent out for comment. A revised draft was commenced in 1909, which on account of the need to accommodate criticisms resulted in an expanded text—the section on inheritance law doubled to 1980 paragraphs. The amended version was put before the Lower House in 1913 and revised by a parliamentary committee in 1915, but on account of the war it never received legislative sanction.⁴³

There were two responses to the deficit in the kingdom’s statutory law. The first was judicial activism. The courts filled in the gaps by publishing decisions that might serve to guide subsequent judgments.⁴⁴ Since, however, Hungary did not have a tradition of case law jurisprudence, these anterior decisions were not compelling. It was only after 1912 that a full session of Hungary’s highest court, the Curia, was empowered to issue decisions that were binding on the lower courts.⁴⁵ In respect of the civil law, the courts relied for the most part on the drafts published after 1901. These had no basis in statutory law, but were instead comprehended as customary (and thus within the terms of the 1869 act), insofar as they were considered to derive their authority from court practice.⁴⁶ In a similar fashion, the courts relied for their knowledge of criminal procedure on

41 Schwarz, *Magánjogunk felépítése*, 10–12.

42 Helmut Coing, *Handbuch der Quellen und Literatur der neueren europäischen Privatrechtsgeschichte*, 3 vols in 8 parts (Munich: Beck’sche, 1973–88), 2:2169.

43 Coing, *Handbuch der Quellen*, 2:2170–71.

44 The relevant compendia of decisions are given in János Zlinszky & B. Szabó, “Ungarn,” in *Gedruckte Quellen der Rechtsprechung in Europa (1800–1945)*, ed. Filippo Ranieri (Frankfurt a/M: Klostermann, 1992), 953–64.

45 István Kónya, “A döntvényjog kialakulása,” *Magyar Jog* 44, no. 5 (1997): 268.

46 Coing, *Handbuch der Quellen*, 2:2155

Csemegi's draft of 1871 (the so-called Yellow Book or *Sárga könyv*), which was only superseded by a parliamentary statute in 1896.⁴⁷

The second response was to rely upon ministerial *rendelet* with the consequence that a good part of Hungarian law was not parliamentary or even judicial in origin, but derived instead from administrative fiat. From the very start, however, ministerial *rendelet* was abused. First, parliamentary law making was invariably sloppy and more concerned with establishing general principles than with providing a thorough explication of the ways in which the law should be applied. It was intended that ministerial *rendelet* should make up for deficiencies in the drafting process, fleshing out on an ad hoc basis the details that the legislative instrument lacked. The law of hunting illustrates this trend. The two statutes published in 1883 that regulated hunting and hunting grounds consisted of only a few pages of text, altogether just over a hundred short paragraphs. Within eight years their statutory content had been amplified by several hundred ministerial interventions and *rendelets* that ran to almost two hundred pages.⁴⁸ Year after year, issues of the *Woodland Gazette* (*Erdészeti Lapok*) and the *Hunter's Almanach* (*Vadászati Zsebnaptár*) carried pages of further administrative orders with which the dutiful huntsman and forester should comply. He was well advised to do so. Csemegi's criminal code of 1878–79 had not defined the offences that fell within the category of *kibágás* (*Versprechen*). These were left blank; to be filled in by ministerial *rendelet* as the occasion arose.⁴⁹

Secondly, *rendelet* was used not only to supplement existing legislation but also in place of it.⁵⁰ Where the law was silent, ministerial regulations might be applied, which almost always worked to the state's advantage. Since ministerial decrees of this type were not explanatory of an existing legislative instrument, their legality could not be challenged in any court, which permitted all sorts of abuses. The ministerial requirement that associations fulfill only single purposes was therefore used to harass trade unions and to ban societies that promoted the cultural interests of national minorities.⁵¹ The ministerial right to disband

47 Barna Mezey, *Magyar jogtörténet*, 2nd edition (Budapest: Osiris, 1999), 378–79.

48 Gyula Egervári Egerváry, *Vadászati ügyben hozott kormány-rendeletek*, 3rd edition (Budapest: Grill, 1891).

49 László Péter, "The Autocratic Principle of the Law and Civil Rights in Nineteenth Century Hungary," in Péter, *Hungary's Long Nineteenth Century*, 289–90. Analogous provisions applied to Law XXVII (§118) of 1876, on bills of exchange.

50 Gábor Máthé, *A magyar burzsoá igazságszolgáltatási szervezet kialakulása 1867–1875* (Budapest: Akadémiai Kiadó, 1982), 64–65.

51 Emil Vita, *Egyesületi jog* (Budapest: Gyakorlati Közigazgatási Könyvtár és Döntvénytár, 1906), 21–22, 27–38.

associations on the grounds that their goals were contrary to public moral (*erkölcsellenes*) was recognized at the time as entirely discretionary, even by one of the leading advocates of the state's expansive right of supervision.⁵² An Interior Ministry *rendelet* of 1898 provided for imprisonment and a fine for the continued participation in a disbanded association.⁵³ Restrictions on assembly, imposed by the Interior Minister or on his behalf by local police chiefs, often led to violent confrontations and deaths.⁵⁴ Parliamentary challenges to the arbitrary power wielded by ministers came to nothing.⁵⁵

According to the Law of 1869, the courts were obliged to take heed of *rendelets* that were in accordance with statute law and properly proclaimed. Not only, however, were *rendelets* deployed in the absence of law, to fill in a void deliberately left open by government, but their efficacy did not depend upon their publication. Confidential circulars of the Interior Ministry laid down requirements necessary for meetings, with which the courts were bound to comply. The right, moreover, of ministers to adjust the application of *rendelets* on grounds of expediency was also affirmed, and this permitted the terms of a published ministerial *rendelet* to be altered without notice.⁵⁶ A *rendelet* might on occasion even be used to overturn the provisions of statute law. In 1871, therefore, the Ministry of Commerce decreed that Hungarian was the only language that might be spoken in an official context on the railways, even though this regulation contradicted if not the letter then certainly the intention of the 1868 Nationalities Law.⁵⁷ A series of ministerial *rendelets* further hemmed in the language rights previously accorded by statutory legislation to the nationalities.⁵⁸

The reliance on extra-statutory instruments, which marked the Dualist period, continued into the twentieth century. It was characterized by such egregious nonsense as the Interior Ministry *rendelet* of 1927, “On the defense of public morals,” that, among much else, forbade the “chatting up” on the streets of “respectable” women and, later, by the disregard shown by the Communist government for any distinction between statutory legislation and ministerial

52 Ibid., 21, 38.

53 Péter, “The Autocratic Principle of the Law and Civil Rights,” 297.

54 Attila Horváth, “A gyülekezési jog elméletének és gyakorlatának története Magyarországon 1989-ig,” *Jogtörténeti Szemle* 22, no. 1 (2007): 10–11.

55 Péter, “The Autocratic Principle of the Law and Civil Rights,” 294–301.

56 Ibid., 301.

57 Rendelet 19.672/1871 of the Ministry of Commerce.

58 Some of these are given in Scotus Viator (R. W. Seton-Watson), *Racial Problems in Hungary* (London: Constable, 1908), 245–48.

instruction.⁵⁹ In the consolidation of communist rule, statutory legislation took second place to ministerial decree, with often the most important measures being implemented by order of the presidential council.⁶⁰ The Constitutional Court, which took office in 1990, accordingly demanded from the outset that gaps in the law, which might be exploited to the detriment of the rights of the citizen, be filled with statutory legislation. The Constitutional Court's "jurisdiction of omission" forced governments to proceed through parliamentary acts rather than through ministerial instruments.⁶¹

Notwithstanding the Constitutional Court's activism, a tendency remains for governments in Hungary to proceed through decree and administrative fiat. It was estimated in the late 1990s that 80 percent of the regulations currently then in force originated in administrative rather than parliamentary acts.⁶² Many of these measures consist of technical provisions that are explanatory of statute, but some plainly substitute for parliamentary legislation. Therefore, when a bill aimed at establishing regional governments was blocked in 2006, parliament was simply bypassed and the necessary implementation inaugurated by governmental decree.⁶³ Likewise, after 2010, the details of legislation and its subsequent application were in areas of particular controversy devolved to agencies of government, rather than originating in statutory provision. If the rights of the citizen are to be protected, the executive branch needs to show forbearance in its use of administrative instruments, in which respect the will of the electorate, as translated into a government majority in parliament, is not the same as a democratic mandate. As György Schöpflin argued more than twenty years ago, a successful democracy requires "self-limitation, the readiness to exercise a self-denying ordinance on the part of all those who exercise power, in society as well as in the state." Schöpflin's conclusion is, however, as pertinent now as it was at the time: "There is considerable evidence to suggest that self-limitation is barely

59 Rendelet 151.000/1927 of the Ministry of Interior.

60 Mária Palasik, *A jogállamiság megteremtésének kísérlete és kudarca Magyarországon 1944–1949* (Budapest: Napvilág, 2000), 319.

61 András Sajó, "Reading the Invisible Constitution: Judicial Activism in Hungary," *Oxford Journal of Legal Studies* 15 (1995): 256; László Sólyom, "To the Tenth Anniversary of Constitutional Review," in *A megtalált alkotmány: A magyar alapjogi bírászkodás első kilenc éve*, ed. Gábor Halmai (Budapest: INDOK, 2000), 34.

62 Attila Harmathy, *Introduction to Hungarian Law* (Budapest: Kluwer Law International, 1998), 40.

63 István Balázs, "The Readjustment of Public Administration from the Political Transformation to Today," in *Transformation in Hungarian Law (1989–2006)*, ed. Vanda Lamm (Budapest: Akadémiai Kiadó, 2007), 114.

understood by the post-communist systems and only occasionally practiced.”⁶⁴ In this respect, the concert of the three graces remains as discordant today as it was more than two hundred years ago in Kolozsvár.

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64 George Schöpflin, *Politics in Eastern Europe, 1945–1992* (Oxford: Blackwell, 1993), 281.

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Ferenc Hörcher

Enlightened Reform or National Reform?

The Continuity Debate about the Hungarian Reform Era and the Example of the Two Széchenyis (1790–1848)¹

This paper returns to the problem of how to interpret the Reform Era, a constant issue of Hungarian historiography since the 1840s. While most master narratives continue, even today, to repeat that it actually began in 1830, there are compelling arguments that in fact the reform programs of the 1830s were deeply rooted in the earlier movements of the 1790s, or even in Joseph II's reforms of the 1780s.

The paper offers an overview of some of the latest trends in the research of the problem (in the writings of Károly Kecskeméti and Gábor Vermes, viewed from the perspective of Ambrus Miskolczi), as well as a reconstruction of the ways in which contemporaries saw the issue during the Reform Era. In the second part, it compares two important aristocratic protagonists of the age, father and son, Counts Ferenc Széchenyi and István Széchenyi.² It will show that there are indeed close links between these two people, including their plans for reform and their anglophile political attitudes. As both of them played major roles in their own time and were often regarded as heroes by members of their respective societies, if the link between them is strong enough, their example can presumably be used as an argument for the continuity thesis between the two reform generations of the period, and thereby for an interpretation of the Reform Era in the context of the late Enlightenment.

Keywords: continuity, Hungarian Reform Era, historiography, István Széchenyi, Ferenc Széchenyi, Enlightenment, liberalism

Preliminary Remarks

One of the key questions of narratives of political history is how to make sense of apparent historical ruptures or breaks. Although the issue is obviously present in all kinds of historical narratives, it is more pressing in the history of political

1 This essay was written as part of the research project no. K 108 670 with the support of the National Research, Development and Innovation Fund, entitled *Művészetek és tudomány a nemzetépítés szolgálatában a 19. századi Magyarországon* [Arts and Sciences Serving the Building of the Nation in Nineteenth-century Hungary].

2 The two Széchenyis, father Ferenc Széchenyi and son István Széchenyi used different ways of spelling their names.

thought, confined to specific cultural contexts. We know that the transition into modernity most often was accompanied by social unrest, political upheavals and frequent and abrupt changes of political regimes, resulting in a series of rather divergent political settings in a short span of time. In this respect, Central Europe certainly has one of the richest catalogues of problems: in the nineteenth and twentieth centuries, sharp historical turns were part and parcel of daily political life in the region.

This paper, an exercise in the history of political thought, will not use new primary resources. It will rely on the basic research that has been done by historians of the Reform Era to analyze a recurring debate in the discourse on the Hungarian past. In Hungarian historiography, the question of continuity versus rupture is a key issue. One particular manifestation of this is the debate about how to look at the period between 1790 and 1848 and how exactly to connect in a historical narrative the well-known political phases of this era. The historian's choices are telling with regards to their professional and personal priorities, including their value-hierarchy. As soon as you claim, for example, that there is continuity between the 1790s and the 1830s, you can easily argue that what is called Hungarian Liberalism grew out of the spiritual fermentation of what is usually labeled Enlightenment. Also, it will represent the fathers' generation (active at the turn of the century) as having been quite in tune with the spirit of its age, while the sons (who entered the public arena in the 1820s) will probably be characterized as latecomers. On the other hand, by disconnecting the 1830s from signs of change at the end of the previous century, one presents Hungarian Liberalism as a post-romantic phenomenon which has more to do with the rise of nationalism and turbulent social upheavals than with the European program of the Enlightenment.

Most researchers agree that the death of Joseph II in 1790 was a milestone in Hungarian history, a moment when perhaps for the first time the political elite as a whole directly confronted the challenges posed by modernization in the Habsburg Empire. 1848/9, the so-called "civic revolution" and later war of independence, is among the most influential dates of the country's modern history. However, when historians of the so-called Hungarian Reform Era try to make sense of the troubled process which led from 1790 to 1848, they soon find themselves in one of two opposing camps. On the one side there are those who argue for a continuity of reform efforts among the Hungarian aristocracy, nobility and intelligentsia, which they claim began with the diet of 1790 and led in a more or less uninterrupted fashion to the reform agenda of the 1830s. This

view is criticized by those who refer to two brutal attacks on real or supposed Hungarian enemies of Vienna, first around 1795, using as an alibi the so-called Hungarian Jacobin conspiracy and led by the state's earlier secret agent, Ignác Martinovics, and later in 1812, when, after an unsuccessful negotiating process between the diet and the king, Francis I, inspired by the absolutistic tendencies of Joseph II's rule, adopted an even more authoritative style of rule and decided not to summon the diet for 13 years.

If we look at the periods demarcated by these events, the following rather divergent time spans can be delineated during the six decades between 1790 and the outbreak of the Revolution: 1) 1790–1795, 2) 1795–1812, 3) 1812–1825/30, 4) 1825/1830–1848/9. I offer the following brief characterization of these dates:

1) 1790–1795: a period of intense reform efforts and public debate, which concluded with the public execution of the participants in the alleged Jacobin conspiracy of Ignác Martinovics and his small circle by the Court;

2) 1795–1812: a joint effort of Court and Country, Vienna and Pozsony (Bratislava), to counterbalance the effects of the French Revolution;³

3) 1812–1825/30: a period of arbitrary rule by the Habsburgs, when the Hungarian diet was not summoned by the king;⁴ and finally

4) 1825/1830–1848/9: The actual Reform Era in the narrow sense.⁵

Certainly the opposing political atmospheres of these four stages suggest a rather stormy climate, including the misguided, farce *coup d'état*, followed first by public executions and later by authoritarian and unconstitutional rule, which led through the unprecedented Reform Era to a bloodless revolution, to establish the first responsible Hungarian government, but led further into a rather bloody war of independence, and finally to a total surrender of the autonomous and constitutional Hungarian kingdom before the combined armies of the Habsburgs and the Russian Czar.

If we examine these four historical contexts in detail, we find interesting facts. First of all, one notes the obstinately non-modernist policy of Metternich's

3 For further details, see: János Poór, *Kényszerpályák nemzedéke 1795–1815* (Budapest: Gondolat, 1988).

4 For further details see: Gábor Pajkossy, "Az abszolutizmus és a rendiség utolsó küzdelmei: Az első reformtörekvések (1790–1830)," in *19. századi magyar történelem 1790–1918*, ed. András Gergely (Budapest: Korona Kiadó, 1998), 127–58.

5 For further details, see: Gábor Pajkossy, "A reformkor (1830–1848)," in *19. századi magyar történelem: 1790–1918* (Budapest: Korona Kiadó, 1998), 197–246, and András Gergely, "A forradalom és az önvédelmi háború (1848–1849)," in *19. századi magyar történelem*, 247–91.

Vienna, which determines the space for maneuver for Hungary.⁶ A far more interesting question, however, is whether the tyrannical moves were enough to put an end to both the intellectual fermentation, which was so characteristic of the spiritual climate of the early 1790s, and the actual social process of an awakening public, roused by the threat of royal absolutism on the one hand and the external danger of the French revolution and Napoleon's European-wide warfare on the other.⁷ In the political environment of external and internal threats there is undoubtedly a perceptible calming down of political fever both on the level of the diet and on the level of the county assemblies, as well as a fast decline in the political pamphlet literature so characteristic of the political culture of the early 1790s.⁸

The creative energy of the national elite turned towards politically less sensitive fields, including the rather fervent but introverted movement aiming at linguistic neology and the polishing of the literary register of the language, the so-called language reform or “nyelvújítás,” the establishment of cultural institutions⁹ and the organization of literary workshops, journals and networks. The substantial question is how a historian is to evaluate this withdrawal of the political elite from direct political involvement and the decision to concentrate their powers on the cultural and interpersonal field. One could argue that this phenomenon proves that the tactics of the court were successful, keeping Hungarian nobles far from direct political participation, which bore an ever-present revolutionary potential. One could also argue, however, that this interim activity served indeed as a preparatory school for the next political elite, and—to use another metaphor—as a bridge to connect the fervent political activity of the early 1790s with those of the period of 1830–1848.

Before reconstructing the problem in a case study of the relationship of Ferenc Széchenyi and István Széchenyi, this paper will first try to summarize the latest wave of scholarly literature. It will examine two prominent moments of

6 On the relationship between Metternich and Széchenyi, see Ferenc Hörcher, “Trust, Credit and Commerce: Count Széchenyi's Vision of How to Build Social Cohesion in 19th Century Hungary,” in *A bizalom*, ed. Sándor Laczkó (Szeged: Pro Philosophia Szegediensei Alapítvány–Magyar Filozófiai Társaság–Státus Kiadó, 2015), 102–18.

7 See Gabriella Gáspár, *A polgári nyilvánosság kezdetei Magyarországon* (Budapest: Agroinform Kiadó, 2002).

8 Perhaps the first account of this pamphlet civil war (and by now this account has become the classic account) is Győző Concha, *A kilencvenes évek reformeszméi és előzményeik* (Budapest: Franklin, 1885, present edition: 2005).

9 See my paper on this issue: Ferenc Hörcher, “‘Soft power’ a reformkorban? A Széchenyiek tudománypolitikai céljai,” *Korall* 52 (2016): 5–28.

the Hungarian historians' debate in their contexts, showing the relevance of the issue for a general interpretation of Hungarian political culture and providing examples of how the interpretation of the problem may vary depending on the given historian's perspective and context. After that, the case study of the father and son represents the micro-level of the analysis, still in a sketchy format, but suggesting a way to handle the issue in a reflective manner, learning from earlier professional practices.

The Latest Phase of the Discontinuity Debate

By now, there is an extended branch of historical literature directly addressing the problem of discontinuity.¹⁰ If one looks at the main protagonists of the last chapter of the historiographical debate, their geographic distribution is quite remarkable. Interestingly, the debate by now seems to be more relevant for those who work on Hungarian history outside of the borders of Hungary. The issue of continuity had a long prehistory in Hungarian historiography, but recently was first reconsidered by Moritz Csáky in his monograph on the relationship between Enlightenment and Liberalism.¹¹ Perhaps the most articulate debating partners, however, were Károly Kecskeméti and Gábor Vermes, who both published a volume on their opposing views. Kecskeméti defended the continuity thesis in his French publication on liberal reformism in Hungary.¹² Gábor Vermes, on the other hand, published a Hungarian language volume on the history of Hungary between 1711 and 1848, based on his research into this topic in the framework of a two-decade long research project.¹³ While Kecskeméti agreed with Csáky's main thesis, according to which the Hungarian Reform Era was a direct continuation of the political climate of the early 1790s, Vermes' long term panorama emphasized the traditionalist culture of the Hungarian political

10 In addition to the literature quoted below, see for example *Folytonosság vagy fordulat? A felvilágosodás kutatásának időszerei kérdései*, ed. Attila Debreczeni (Debrecen: Kossuth Egyetemi Kiadó, 1996); Gábor Zoltán Szűcs, "Kontinuitás és diszkontinuitás a 18–19. század fordulójának magyar politikai kultúrájában: Politikaidiskurzus-történeti esszé," *Századvég* 55 (2010): 19–42.

11 Moritz Csáky, *Von der Aufklärung zum Liberalismus: Studien zum Frühliberalismus in Ungarn* (Vienna: Verlag der Österreichischen Akademie der Wissenschaften, 1981).

12 Károly Kecskeméti, *La Hongrie et le reformisme libéral: Problèmes politiques et sociaux (1790–1848)* (Rome: Klincksieck, 1989).

13 Gábor Vermes, *Hungarian Culture and Politics in the Habsburg Monarchy, 1711–1848* (Budapest: Central European University Press, 2014). For an earlier publication by this scholar of the eighteenth-century context see Gábor Vermes "A tradicionalizmus és a felvilágosodás keveredése a tizenharmadik század második felében Magyarországon," *Sic Itur Ad Astra* 17, no. 3–4 (2006): 87–112.

elite, which prompted them to take every opportunity to try to resist external influences of change and reform. His emphasis is less on the Enlightened nature of the Reform age and more on the causes of the dissolution of the traditionalist agenda and the discrepancies between the different types, periods and discourses of reform initiatives. He explicitly denies that the brave efforts of the Enlightenment could really have survived after 1795, and even less after 1812.

The significance of the debate is not simply historiographical. These authors, working respectively in a German, French and English speaking scientific environment, transmitted their respective views of Hungary and its role in early nineteenth-century Europe to their scientific community, which, of course, had no direct access to much of the source material in question.¹⁴ It was therefore of crucial importance how they translated the discourses of early nineteenth-century Hungarian politics into the languages and terminologies used by their reader. As for long periods of time Hungarian historiography was cut off from mainstream Western trends, these “translators” had and still have a huge impact in the fashioning of an adequate terminology to make Hungarian debates understandable for foreign readers.

It is crucial to understand how Western historians translate the terms of Werbőczy-based customary law of the country and the terms of the strategic games of grievances or gravaminal policy (*sérelmi politika*), which was so characteristic of the activity of Hungarian diets in the age. In this respect, Professor László Péter played an important role: he made tremendous efforts to develop an English terminology with which to talk and write about Hungarian political thought in a historical perspective. His efforts were not independent of the achievements of other British colleagues, including the two Seaton-Watsons, Professors Macartney, Cushing and Robert Evans among others, as well as Péter’s student, Martyn Rady, the major international authorities of eighteenth-century and nineteenth-century Hungarian political thought. These historians had a wide range of knowledge of Hungarian history, and they also made tremendous efforts to explain Hungarian historical ideas to foreign audiences. They were not involved in the political debates about historiographical positions, which were so characteristic of Hungarian intellectual life both in the Horthy and the Kádár eras, and this “spectatorial” position liberated them most of the time from the

14 Although Latin was the official written language produced at the Hungarian diet until the late 1830s and the use of German was also accepted in the public sphere, knowledge of Hungarian is a standard requirement if one wishes to study Hungarian history in the eighteenth and nineteenth centuries.

possible mistakes of direct political overtones in history writing. Yet perhaps none of them was or has been able to avoid taking a politico-philosophical position, as all historiographical problems have theoretical connotations. After all, as we have seen, the continuity debate itself seems to be connected to larger issues of the relationship between the Hungarian Enlightenment and the rise of nationalism. I cannot address this aspect of the debate in this essay in a more detailed fashion, and offer this observation only as a cautionary remark, provoked by the fact that the continuity question has been of interest to historians who lived or live outside the borders of Hungary.

In what follows I offer first a short glimpse of the early nineteenth-century Hungarian context. Then I give an assessment of some of the conclusions one can draw from the present turn of the debate.¹⁵ Finally, I provide a case study in which I examine the relationship between Count Ferenc Széchenyi and his son, Count István Széchenyi. I wish to test the view according to which there is continuity between the Hungarian Reform age and the 1790s. I will also argue that one possible reason behind the common agenda (if there was one) of the father's generation and the son's generation is their common source of inspiration: the European (and more particularly, in a number of cases, the British) Enlightenment.¹⁶

Nineteenth-Century Views of the Issue of Continuity

I have already observed that the continuity debate began contemporaneously with the actual phenomenon it described. In fact, the idea of discontinuity was an important building block of the self-identification and the ideology of the members of the new generation of the Reform Era, who were keen to show that something unprecedented had begun with their début. According to their official

15 See especially the writings of Ambrus Miskolczi and Zoltán Gábor Szűcs: Ambrus Miskolczi, "Egy történelemszöveg anatómiája: 1790–1830/1848: Folytonosság vagy megszakítottság? (avagy mit üzent Kossuth Lajos?)" *Aetas* 20 (2005): 160–212; Idem, *A felvilágosodás és a liberalizmus között: Folytonosság vagy megszakítottság? Egy magyar történelemszöveg anatómiája* (Budapest: Lucidus Kiadó, 2007); Zoltán Gábor Szűcs, "Magyar protokonzervatívok," *Kommentár* 4, no. 4 (2009): 17–31; Zoltán Gábor Szűcs, "Burke és a magyar 'protokonzervatívok': Politikai diskurzustörténeti esettanulmány," in *Edmund Burke esztétikája és az európai felvilágosodás*, ed. Ferenc Hörcher and Márton Szilágyi (Budapest: Ráció, 2011), 248–70. See also the last author's work quoted above.

16 For a comparative view of the legal thought of different national Enlightenments, see Ferenc Hörcher, "Beccaria, Voltaire, and the Scots on Capital Punishment: A Comparative View of the Legal Enlightenment," in *Scotland and France in the Enlightenment*, ed. Deidre Dawson and Pierre Morère (London: Associated University Presses, 2004), 305–30.

doctrine or founding myth,¹⁷ it was Count István Széchenyi, who, first with his gesture of offering one year of his estate's revenue for the establishment of the Hungarian Academy of Sciences and later with the publication of his book *Credit (Hitel)*, 1830,¹⁸ woke the nation from its slumber—an idea which was in fact loudly promulgated by Széchenyi himself.¹⁹ In his *A Kelet népe (The People of the East)*, 1841) he wrote, “as 10, 12 years ago, the deep sleeping-sickness of this order made awakening and agitation the most urgent necessity, so today, when we see all other phenomena except for a sleeping-sickness, we have to strive to calm down the passions.”²⁰ In other words, according to his own interpretation, in the 1830s he had been right to wake the nation, but by the 1840s his duty was rather to calm down its hot passions.

This myth was challenged as early as 1830. Baron József Eötvös, a key actor of the period, who was 10 years younger than Lajos Kossuth, in 1830 made the following remark to Ferenc Kazinczy:

How much my homeland (hazám) owes the honorable gentleman, I and all true Hungarians feel this deeply, for although in every nation a great power sleeps, it sleeps until culture will wake it. In my homeland, Mr. Kazinczy laid down the first stone of the temple of culture, out of which the genius emerges, who now awakens our still dormant national power and pulls it from ugly passivity to a noble life.²¹

This quote from Eötvös, 22 years younger than Széchenyi, is understandable if we recall that for some time he was rather critical of the count. He was even ready

17 Mihály Horváth, *Huszonöt év Magyarország történelméből 1823-tól 1848-ig*, 2nd edition (Pest: Ráth, 1868), 1–3.

18 My interpretation of Széchenyi's *Hitel* is summarized in Ferenc Hörcher, “Ahol a politikai és a gazdasági eszmetörténet metszi az irodalomtörténetet: A *Hitel* tudományközi kontextusai,” in *Jólét és erény: Tanulmányok Széchenyi István Hitel című művéről*, ed. Sándor Hites (Budapest: Reciti Kiadó, 2014), 9–27.

19 According to Horváth, Széchenyi was “the Moses of our new age.” Horváth, *Huszonöt év*, 44.

20 “[V]alamint 10, 12 évvel ezelőtt ezen rendnek mély álmokorsága a' felébresztést, a' felrázást tette legsürgetőbbben szükségessé: úgy ma, midőn minden jelenség mutatkozik inkább mint az álmokorságé, ismét azon kell iparkodni mindenek felett, hogy a' szenvedelmek csilapítassanak.” István Széchenyi, *A Kelet népe*, 2th edition (Pozsony: Wigand Károly Frídrik, 1841), 69. Accessed April 12, 2016, <http://mek.niif.hu/05500/05533/05533.htm>.

21 “Mennyit köszönhet hazám a tekintetes úrnak, én és minden igaz magyar mélyen érzi, mert alszik nagy erő minden nemzetben, de alszik, csak a míveltség ébreszti fel, hazámba Kazinczy úr tette míveltségünk temploma első követ, melyből kilép majd a géniusz, ki most még szunnyadó nemzeti erőnket felébreszti, s csúf nyugalomból nemes életre ragadja.” Baron József Eötvös to Ferenc Kazinczy, December 30, 1830, in József Eötvös, *Levelek*, edited and the foreign language letters translated by Ambrus Oltványi (Budapest: Magyar Helikon, 1976), accessed April 12, 2016, <http://mek.oszk.hu/05400/05480/05480.htm>, letter 3.

to join Kossuth in the debate about *A Kelet népe*, when Kossuth, later the most popular politician of the country, tried to answer the challenge of Széchenyi, the clarion of the nation. While Széchenyi positioned himself in opposition to his frightened, ageing father, thus presenting himself as the leader of a new and fresh generational revival, his debate partner, Kossuth, tried to show the ties connecting the prophet of the Reform age to the preceding generation in order to indicate a certain belatedness in his whole approach. In his counterargument Kossuth claims, “and then came the diet of 1825, about which Count Széchenyi so truly said: “the counter effect of the momentary pressure clearly proved to the world that the prince of Hungary ruled a vivid and young nation, not an old and dead one.” Kossuth, the outstanding orator, concluded from this fact that “this does not suggest that our nation was already frozen at the brink of the tomb.”²²

Interestingly, the two positions, Széchenyi’s self-fashioning presentation of himself as the biblical clarion for the whole nation on the one hand and Kossuth’s efforts to question Széchenyi’s role in the reform movement on the other, were addressed by Zsigmond Kemény in his historical essay about Széchenyi. Kemény, a journalist and political thinker, did not accept the view that the 35 years between the two generations’ heydays was “a sign of political death of the reforms.” In his view, it was only a “political slumber.” In Kemény’s historical narrative, the language reformers in fact almost directly prepared the way for the political reformers. In short, “Kazinczy was Széchenyi’s predecessor.”²³ Kemény was a close friend of Eötvös, and the two of them, together with their two further friends, tried to recount the founding myth by drawing a closer link between the generation of the 1790s and that of the 1830s. One of them was the lawyer-historian-publicist László Szalay, who made the following contention in 1844:

We, who do not belong to the youngest generation, who did not read Kossuth’s papers as adolescents, but rather read those by [István] Kultsár and [István] Márton,²⁴ did not acquire our knowledge of

22 Lajos Kossuth, “Felelet gróf Széchenyi Istvánnak,” in István Széchenyi, *A Kelet népe*, ed. Zoltán Ferenczi (Budapest: Magyar Történelmi Társulat, 1925), 419–20.

23 Zsigmond Kemény, “Széchenyi,” in idem, *Tanulmányai I* (Pest: n.p., 1870), 325–26, cited in Miskolczy, *A felvilágosodás*, 88.

24 István Kultsár (1760–1828) was a turn-of-the-century secondary school teacher, writer, journalist, publisher and theatre director. István Márton (1770–1831) was a pastor in the Calvinist church, theology and philosophy professor.

journalism [*publicisztikai ismeret*] from the aforementioned, but rather acquired it at least partly from the pamphlet literature of 1790–92.²⁵

The other one was the lawyer and journalist Ágoston Trefort, who in 1845 made the following claim: “Our century is the offspring of the eighteenth century, and though its physiognomy is different, the basic capital of its operations is the intellectual treasure which was accumulated by its precursor, which we consume unconsciously, as if we had collected it.”²⁶ These and other quotes from the period between 1830 and 1848 by the leading generation of what is called the flourishing Reform Era provide ample evidence that some of the main protagonists of the 1830s worked hard to establish the principle of continuity between their historical moment and the 1790s. Of course, this reinterpretation of their recent past served very well-considered political purposes, and this topic is worth further consideration.

The Last Phase of the Continuity Debate

Given the focus and framework of this essay, I cannot expand on all of the aspects of the history of the debate. Ambrus Miskolczy’s recent thoughtful summary of it is rich in details, and it does not need to be retold. I would return rather to our specific context and examine some of the conclusions that can be drawn concerning “Hungarian revisionism in the West” with the help of Miskolczy’s narrative.

Ambrus Miskolczy seems to favor the positions of Moritz Csáky and Károly Kecskeméti.²⁷ As mentioned, both of them published a volume about the period recently, introducing the problem for their language community. Csáky’s aims are obvious from the title of his book. His main thesis is that there was a gradual shift from Enlightenment to liberalism in Hungarian political thinking, and he finds the breakthrough in the 1810s. As he sees it, “the constitution of the estates served as the formal starting point of democratic representation.”²⁸ In

25 “[M]i, kik a legújabb ivadékhöz nem tartozunk, kik serdülő korunkban nem Kossuth lapjait olvastuk, hanem Kultsáréit vagy Mártonéit, bizony nem ezekből, hanem legalább részben – az 1790–92-diki pamfletirodalomból – merítettük publicisztikai ismereteinket.” László Szalay, *Publicisztikai dolgozatok II* (Pest: n.p., 1847), 17.

26 “Századunk a XVIII. századnak gyermeke, s bár physiognómiája más, működésének alaptökéje azon eszmekincs melyet előde szerzett, s melyet mi öntudatlanul fogyasztunk, mintha önmagunk gyűjtöttük volna.” Ágoston Trefort, “XVIII. század,” *Pesti Hírlap*, February 6, 1845, cited in Kecskeméti, *Magyar*, 10.

27 Miskolczy, *A felvilágosodás*, 59–66.

28 *Ibid.*, 60.

Miskolczy's interpretation, Csáky's findings are in tune with those of literary historians, "as they basically try to seize the turning point between the two periods in changes of the public's perception and less in the flips of the political-public sequels."²⁹

Even more telling is Miskolczy's reading of Kecskeméti's book, which has since been published in Hungarian as well.³⁰ Kecskeméti arrives at the following conclusion: "the Hungarian liberals of the nineteenth century were aware of what their country owed to Joseph."³¹ Miskolczy is not uncritical with regards to Kecskeméti's narrative (for instance, he argues that Kecskeméti paints the narrow path which led from 1790 to 1830 as a wide and comfortable road, which certainly was not the case), and he digs into the historical details to weigh the merits of his arguments. He finds a bit counterproductive Kecskeméti's main bit of evidence, the quote by Szalay mentioned above. According to Miskolczy, it only proves that the grandchildren of the great generation of the 1790s were ready to turn back to the examples of their grandfathers, thereby actually revolting against their own fathers. But it is more important for us, in the context of this inquiry that in Miskolczy's reading Kecskeméti finds "the centralists" the real inheritors of the Hungarian Enlightenment.³² This closely tied group of politicians, intellectuals and journalists was also called the club of Hungarian doctrinaires, who in the sparkling rhetorical and political clash between Széchenyi's supporters and those of Kossuth first chose Kossuth, but later got closer to Széchenyi. The circle included Eötvös, Trefort, Szalay, Antal Csengery, Dániel Irinyi and a bit further away also Kemény. Miskolczy seems to be again a bit ironical or sarcastic when he writes that, according to Kecskeméti, "they were the most perfect thinkers of the age."³³ It should be clear: Kecskeméti's claim about the centralists as the real successors to the Enlightenment is hardly questionable. I myself have also mentioned Eötvös, Szalay, Trefort and Kemény as people who had a lively interest in the ideas of the previous generation, and who were indeed well versed in their intellectual heritage. István Fenyő, the monographer of the centralists, also argued that there was a direct link between them and the Enlightenment.³⁴ In the article about this theme, which he published independently as well, Fenyő

29 Ibid., 61.

30 Károly Kecskeméti, *Magyar liberalizmus, 1790–1848* (Budapest: Argumentum Kiadó, 2008).

31 Ibid., *Magyar liberalizmus*, 24.

32 Miskolczy, *A felvilágosodás*, 65.

33 Ibid.

34 See his monograph: István Fenyő, *A centralisták: Egy liberális csoport a reformkori Magyarországon* (Budapest: Argumentum, 1997). The specific article about this topic is: "A centralisták hazai előzményei 1848

demonstrated with ample philological apparatus their connections with the Theresian-Josephinist program, with Palatine Joseph, their readings of József Hajnóczy and Gergely Berzeviczy, and their links to Széchenyi, and perhaps even more importantly, to Ferenc Kölcsey. All these influences point to that narrow path which we need as a proof to establish the connection between this new generation and their (fore)fathers.

One more thing needs to be said however. In this longstanding historiographical debate about intellectual origins what is really at stake is not the simple factual question of whether a genuine Hungarian Enlightenment and a native Hungarian liberalism existed. These questions by now seem to be a bit outdated and scholastic as well (for what exactly would one mean by a “real” Hungarian Enlightenment and a “real” Hungarian liberalism), but the very existence and persistence of the question can be seen as symptoms of a well-formed political inferiority complex problem. Again, this is not something that history writing could directly tackle. But as historians of political thought we have to ask how and to what extent this complex captured the imagination of Hungarian historians as well, and how far it still distorts a real assessment of the Hungarian past, including perhaps even this very essay.

To be explicit, an equivalent of what is called Whig historiography in the Anglo-Saxon context is easy to detect in the Hungarian historiographic convention, mostly in its independence-oriented Protestant variation, but also in its progressivist-communist incarnation. István Bibó represented a combination of these two traditions. Bibó proceeded from the assumption that belatedness is a key issue of Hungarian modernization, and that all political thought and action should be judged in comparison with contemporary Western standards.

In fact, as I see it, the continuity thesis in this context is an argument that the reform movement was not as belated as we used to think, and that it is comparable to parallel efforts of the European Enlightenment. While I agree with a substantial part of the views of those who defend the continuity thesis, at the same time I endeavor to step out of the false dichotomy of Protestant-leftist values of independence and progress versus Catholic-conservative values of loyalty and order in order to provide a perspective which shows that what is regarded as the birth of nationalism is indeed closely connected to an earlier period of Cosmopolitan ways of thinking.

előtt,” *Irodalomtörténeti Közlemények*, 96, no. 3 (1992): 295–319, accessed April 30, 2016, http://epa.oszk.hu/00000/00001/00369/pdf/itk00001_1992_03_295-319.pdf.

In what follows, I offer a case study: an analysis of the relationship of István Széchenyi to his father Ferenc, in order to see whether indeed the continuity thesis can be substantiated on the micro-level. My further aim is to reflect on the consequences of a substantiated thesis of continuity: to what extent and in what directions does it restructure our understanding of the Reform Era.

A Case Study: István Széchenyi and His Father

Hungarian aristocratic families in the late eighteenth century brought up their children in a spirit which suggested a close, sometimes sentimental, but not yet romantic relationship between parents and offspring. It preserved something of the patriarchal nature of family relationships so characteristic of the early modern period. One part of this sentimental upbringing was the expectation that children speak and write to their parents in a decent and proper way.³⁵ If we read the early letters of István to his parents, we sense this sort of veneration, which was characteristic in their circle. Sometimes István sounds as if he regarded his parents as his idols: “It is my resolute intention to follow in the footsteps of my parents, who are beloved by everyone.”³⁶ Although this good relationship became more troubled when the young man joined the army and was forced to request considerable financial support to cover the costs he incurred while fighting abroad, he seems to have taken to heart most of the final pieces of advice he received from his father. He carefully retained the letter of spring 1817, in which his dying father bid farewell to his son, and kept it with him as a talisman. In this letter, his father asked his son for pardon if he had caused him any pain with his “bad example.” He kept reminding István of his “Christian and civil obligations”³⁷ and the importance of being liked by God and his fellow human beings. He warned him of the unreliability of public opinion: “Public opinion is a tribunal for all of us which we should never rule out, but which we are never obliged to accept unconditionally or search for as the only guideline.”³⁸ He advises István to get rid of all readings that could seduce his “belief, heart

35 For a reader on aristocratic and middle class family life from this period, see *A művelt és udvarias ember: A társas viselkedés szabályai a magyar nyelvű életvezetési és illemtankönyvekben (1798–1935)*. Szöveggyűjtemény, ed. Anna Fábri (Budapest: Mágus Kiadó, 2001).

36 “Eltökélt szándékom szüleimnek, kik mindenki szeretetét kivívták, nyomdokaiba lépni.” István Széchenyi, June 5, 1809, cited in Vilmos Fraknói, *Gróf Széchenyi Ferencz, 1754–1820* (Budapest: A Magyar Történelmi Társulat Kiadása, 1902), 313.

37 Cited in *ibid.*, 338.

38 *Ibid.*, 340.

and morals” and to collect books which have moral, historical, statistical or military subjects. But even more importantly, Ferenc encourages him to acquire the mental, moral and intellectual abilities necessary to “serve the state.” He is aware of the defects of István’s moral education, but he consoles him and himself that “what is necessary can still be supplemented (in order to let you govern a state, conduct an army, defend the rights of your family, serve your homeland, look after your stocks and felicitate your fellow human beings).”³⁹ He also wrote about the importance of learning foreign languages and travelling abroad (not distinguishing between the two), but he warns his son that these two things alone would not satisfy the need to be “useful to the state.”⁴⁰

Széchényi’s advice to his son, a gesture resembling that of Polonius to his son in Shakespeare’s *Hamlet*, does not fit the usual description of the father’s late views and the commonly supposed relationship between the father and son very well. For example, according to the notes of a pre-1990 edition of István’s diary, Ferenc Széchényi had been a supporter of Josephinist reforms, but after 1795 he had become an “unbending conservative,” and he had spent his last decades “as a recluse, in a sort of religious fervor.”⁴¹ The letter quoted above, in contrast, contains sober suggestions along a Christian stoical line, cherishing virtues like “modesty [*szerénység*], seclusion [*visszavonultság*] and propriety [*illetmudás*].”⁴² His advice also includes reservations about material richness, and suggests the importance of a good relationship with servants and their stewards, “If they find in you science, justice, order, enduring industry and charity, they will also serve you honestly, with diligence, and justly, and they will handle your servants in a humane manner.”⁴³

This letter seems to support the idea that Széchényi was not a bigoted religious fanatic, not even in his old age, as he is presented in most of the simplified historical narratives. He surely must have lost many of his youthful

39 Ibid., 342.

40 Ibid.

41 István Széchenyi, *Napló*, ed. Ambrus Oltványi, 2nd edition (Budapest: Gondolat, 1982), 1514–15. This description follows István’s own description of his father, narrated from the viewpoint of the old Viczay: “My good old father was seen by the senior Viczay as atheist, as a patriot in flames, as an ardent royalist, as a bigot, and so on. That’s how the waves have carried him, how shall they carry me?” November 21, 1820, *Napló*, 180. See also the characterization given by Csorba: “limitless honoring of authority, inflexible loyalty to the court, and an intensive catholic commitment almost bordering on bigotry.” László Csorba, *István Széchenyi* (Budapest: M-Érték Kiadó, 1991, 2010), 17. Unless otherwise noted, all translations are mine.

42 Quoted by Fraknói, *Gróf Széchényi*, 343.

43 Ibid., 344.

hopes. He was indeed a radical idealist as a young aristocrat, and during the early years of the 1790s he served as one of the engines of the reform wing. He had a vision of the “impenetrable warrant of the constitution, because nine million people defend it, who have the same homeland and whose hearts beat with the same rhythm.”⁴⁴ If this was his starting point in 1790, by 1792 he had arrived at a reform plan which indeed foreshadowed much of the guiding ideas of the son: security of person and property for the serfs, customs to be paid by nobles, industrial, commercial and credit allowances, etc., and the much vaguer hope that everyone in the country might join the political community.⁴⁵

Having embarked on these high ideals, he had good reason to be frustrated at first in the second half of the 1780s, when the policies followed by Joseph II turned out to be hard for him to reconcile with Hungarian interests, and then after 1795, when his earlier secretary, the talented political thinker József Hajnóczy, got executed in the Martinovics trial. He himself was also rightly accused of having gone too far in his loyalty to his king at a time when the country was threatened by the monarch’s absolutist policies.⁴⁶ But it is hardly acceptable to claim that he had given up his sense of national belonging, nor does it seem probable that he had given up his aspirations to serve his homeland, as the foundation of the national museum and library amply proves. Also, obviously, he brought up his children in a spirit of service to their nation, and there is no indication that he changed his views in this matter. The fact that this did not exclude his loyalty to an absolute ruler only reminds us to be careful with generalizations: even if there was a longstanding debate between the king and the country in the Hungarian political tradition, one of its key constitutional principles was and remained the need for a balance and ongoing cooperation between king and country, which might have been relevant for ardent patriots, like the elder Széchenyi, as well. Certainly, with the Habsburgs, it was easier to respect this demand of the constitution if you were Catholic and an aristocrat than if you were Protestant or belonged to any other unprivileged denomination or minor social class, including the nobility as well.

44 Ferenc Széchenyi, “Pártatlan gondolatok az 1790-ben megtartandó országgyűlésről,” March 10, 1790, Vienna, excerpt in *Magyarország története a 19. században: Szöveggyűjtemény*, ed. Gábor Pajkossy (Budapest: Osiris, 2006), 34–38, 38.

45 Csorba, *István Széchenyi*, 153. Csorba argues that this reform plan might have had a direct influence on the son, when he wrote *Stadium*. *Ibid.*, 152–54.

46 László Csorba is right to claim that “the turn separating the early and the late phase of his career is not yet fully disclosed.” *Ibid.*, 13.

It is also obvious that there was a very outspoken religiosity in Széchenyi's late years, but it would be hard to characterize it as a sign of provincial traditionalism, opposed to the trendy ideas of his age. His religiosity was closely linked to the most popular trend in contemporary Vienna, one which had Europe-wide support, in the form of the Romantic movement in art and thought. His close relationship to Klemens Maria Hofbauer (1751–1820), originally a hermit but later a celebrated Catholic priest and preacher and member of the Redemptorist Congregation, is just one sign of the fact that Széchenyi's religious fervor was not a delirium that bordered on madness, as it was sometimes described, even by his son.⁴⁷ Certainly, the circle of which he was the centre was open to seemingly inexplicable mystic experiences, and the rituals followed by them might have seemed sometimes even embarrassing from the outside, but all this was quite in tune with the Catholic revival characteristic of Restoration Vienna.⁴⁸ This atmosphere attracted spiritual celebrities and artists to Vienna, including Adam Müller, Dorothea and Friedrich Schlegel, Friedrich Gentz and others. Széchenyi himself became a minor star in Vienna's social and religious life, providing a home for the informal gathering of his socially well-positioned and cultured friends and fellows in his apostolical and evangelizing activity. Although Széchenyi withdrew from public activity and concentrated on this sort of charity work, his son's accounts of him seem to be a bit exaggerated and tendentious. They were no doubt based on his own personal recollections, but they were perhaps also colored by political motivations and at times influenced by his attempts to position himself. The characteristic presentation of their common story, in which he describes the decline and death of his father as an allegory of the decline and death of eighteenth-century Hungarian patriotism and his own embarkation as the birth of a new kind of national awareness, is telling. The story is an important part of his argument against Kossuth, and it includes the following confession: "since my father, whose civil virtues were shining, as 'Hungarian', had fallen into his grave hopelessly, I kept comparing the life signs of other nations with the thread of the life of the Hungarian, to find out if there is still hope for resurrection, or if it has gone forever. This was the

47 István wrote that his children were frightened that perhaps "his mind would be wholly muddled up, and the last period of his life, for all those who surrounded him with love and honor, will become embarrassing." Cited in Fraknói, *Gróf Széchenyi*, 348.

48 For a detailed account of this part of Ferenc Széchenyi's life, including an account of other members of this spiritual circle, see: Katalin Gillemot, *Gróf Széchenyi Ferenc és bécsi köre* (Budapest: Türk-Nyomda, 1933).

deepest task of my life.”⁴⁹ This play of counterpoint, according to which his father was sacrificed on the altar of national renaissance, serves to emphasize the unprecedented significance of his own role in awakening the “Hungarian.” The book in which he poses in this role was published at the very moment when he sensed that his role as the first pioneer of the Hungarian reform movement was challenged by the leading voice of the next generation, his main rival, the rhetorically talented and charismatic young lawyer, Lajos Kossuth. And it is exactly this sort of self-fashioning by István Széchenyi that provoked Kossuth to fashion an oration against it, which builds up the following way.

In Kossuth’s reading, the whole point of Széchenyi’s book was to show that “this nation is a weakened patient,” and he (Széchenyi) is the dedicated physician, who with his assistants has been healing the patients for 15 years.

According to Kossuth, however, the nation is and was not as old and ill, and it was not standing so close to the brink of the grave, as Széchenyi painted it. To argue in support of this second point, Kossuth referred back to the diet of 1790, of which he claimed that in it, the Enlightenment was joined by patience. He also referred especially to the workings (*munkálat*) of the committees of the diet, of which even “the children of the nineteenth century” could be proud, and to the zeal and self-sacrifice that characterized the next quarter of a century. He defended even the periods of stagnation (presumably the absolutist phase between 1812–1825), because it was during that time that the champions of the Reform Era were brought up. The fact that the nation was so enthusiastic about Széchenyi’s suggestions was, in Kossuth’s assessment, a sure sign that it was the living-dead entity painted by Széchenyi.⁵⁰

The important point of this fine pamphlet is that Kossuth attributes a special significance to the apparently inactive period of the early nineteenth century, explaining it as a time for preparation. Of course the language reform is often interpreted as a necessary step in preparation for the Reform Era, but Kossuth seems to be more sensitive to an issue which failed to catch the phantasy of most mainstream representatives of the earlier generation who took part in national politics: the close connection between institutionalized culture and reform politics.

49 “[M]ióta annyi polgári erényekkel fénylő atyám, mint «magyar» reménytelen szállott sírjába, azóta meg nem szünőleg hasonlítgatóm más nemzetek’ életjeleit a’ magyarnak életfonalával össze; mikép küsmerném: van-e még feltámadása körül remény vagy nincs-e többé. Életem’ legmélyebb feladása ez vala.” Széchenyi, *A Kelet*, second edition, 6.

50 Lajos Kossuth, “Felelet gróf Széchenyi Istvánnak Kossuth Lajostól,” in idem, *A “Felelet” és más vitairatok Széchenyi István A’ Kelet népe című könyvére* (Budapest: Közgazdasági és Jogi Könyvkiadó, 1986), 8–9.

Generally, historians describing this period continue to stress the frustration caused by the Viennese Court's de-politicizing strategy among the Hungarian nobility and intellectuals, but in fact cultural institutional innovations, following in the footsteps of the two Széchenyis, played a major role in the project of nation-building, and should themselves be taken as substantial forms of political self-expression. Museum, library, educational institution, academy, theater, casino—these were all envisioned and realised by Széchenyi and his son as tools with which to organize and educate the political elite of the day, thus widening the circle of those involved in the affairs of the nation and their political armor.

As Ferenc Széchenyi's example shows, the practice of cultural institution building grew out of the aristocratic habits of patronizing the arts. However, very soon it turned into indirect support for the cause of the nation.⁵¹ Ferenc Széchenyi's strategic moves to establish the National Museum and Library grew out of the traditional practice of his own social standing, and yet it came to be seen by his nation as foundational work for long-term national progress.

István Széchenyi quite naturally followed this example, but added to it an extra dimension by combining the Hungarian version of the aristocratic ideology of politeness and refinement with the new insight that the nation's real strength lies in a strong middle class (*középesülés*), which needs a quality education and the possibility to refine their minds.⁵² Széchenyi's stunningly brave claim is that the real resource of a state is the "cultivated mind" (*kiművelt emberfő*) among its citizens. The argument of the present paper is that this claim does not come out of the blue. It is closely connected with the practice of cultural sponsorship developed in the Enlightenment and popularized by members of the previous generation. Széchenyi's program is easily decoded if one uses the vocabulary of the Enlightenment as the code of interpretation.

The end of the eighteenth and the beginning of the nineteenth century witnessed the evolution of an institutional infrastructure for the arts and sciences all over Europe, which laid the way for the (more) middle class culture of the

51 For a similar project of a patron of arts, a contemporary, friend and relative of Széchenyi, see: György Kurucz, *Keszthely grófja: Festetics György* (Budapest: Corvina, 2013).

52 "Whatever collects the patriots, even if because of an insignificant cause, is useful and good, and its blessed consequences are numerous. From concentration—middling (*középesülés*)—comes—as we said—nationality, and from that national virtue." (Minden, ami a hazafiakat nyilván gyűjti össze, még ha legcsekélyebb ok lenne is, hasznos és jó, s áldott következtési számlálhatlanok. Koncentrációból – középesülésből – foly – mondottuk – nemzetiség s ebből nemzeti erény.) István Széchenyi, *Hitel* (Pest: Petrózai Trattner J. M.–Károlyi Ostván Könyvnyomtató Intézete, 1830), 176. Accessed April 12, 2016, <https://ia800502.us.archive.org/25/items/hitelist00sz/hitelist00sz.pdf>.

industrial revolution and the birth of what is called “commercial society” in the British and French traditions. The connections between sociability, commerce and culture were developed by the theorists of the Scottish Enlightenment, including Hume, Smith, Millar, Ferguson and Robertson. They became heroes of Central European “anglophilia” and important in particular as reference points for both Ferenc Széchenyi and his son, István.⁵³ The ideas of the Scots were immediately well-received in Germany, in particular through Göttingen and other major university centers, as well as in key scientific and cultural journals, in the form of reviews, excerpts and translations, as well as debates and pamphlets criticizing British authors.⁵⁴ No doubt, the German discussion of the *bürgerliche Gesellschaft* profited from this reception history. The German term is used to describe a social organization based on the hard-working, disciplined, ethical and innovative spirit of the middle classes, but one which also depends on the culture and education of its individuals and communities, as the term *Bildungsbürger* (educated middle class citizen) so tellingly expresses.

Certainly, the aristocratic status of the Széchenyi family did not allow István to identify directly with the ethos of the ordinary citizenry. The way in which children of the aristocracy at the turn of the century were brought up offered them a much wider intellectual and social panorama and a much more luxurious lifestyle. Yet the real merit of Széchenyi’s program was closely connected to a new, urban *Lebensform* experienced by the middle classes in major cities. In fact, Széchenyi’s aim, inspired by eighteenth-century Britain’s example, was to domesticate the rural nobility of Hungary to the social standards of urbanized high culture. His efforts to establish

53 For an overall assessment of this paradigm see István Hont: “The Language of Sociability and Commerce,” in *The Languages of Political Theory in Early Modern Europe*, ed. Anthony Pagden (Cambridge: Cambridge University Press, 1987), 253–76. Ferenc and István both traveled in Britain. Ferenc met with Adam Smith, and István returned to Britain on a regular basis. His first trip to London in 1815 was a strange and reversed grand tour, in the course of which he was anxious to learn not only the language but also all the layers of British culture, including journals, novels, mechanical discoveries, theatre, and to visit “the temple of English poetry,” Shakespeare’s oeuvre. He planned to travel around Scotland, as his father had done, but he was also interested in Ireland. (See his letter written on 15. October, 1815, from London to his father, in *Ezt közzük! Isten áldja! Széchenyi István válogatott levelei*, ed. and trans. Henriett Kovács et al. (Budapest: MTA Bölcsészettudományi Kutatóközpont, 2014), 35–37. At the end of this tour he famously declared, “There are only three things in England that in my opinion one has to learn, and all the others are nothing: the constitution, the machines, and horse breeding.” István Széchenyi, *Napló*, December 13, 1815, 63. For Anglomania as a historical phenomenon in general, see Ian Buruma, *Anglomania: A European Love Affair* (London: Weidenfeld and Nicolson, 1998).

54 See Ferenc Hörcher, “Sensus Communis in Gellert, Garve and Feder: An Anglo-Scottish element in German Popular Philosophy,” in idem, *Prudentia Iuris: Towards a Pragmatic Theory of Natural Law* (Budapest: Akadémiai Kiadó, 2000), 137–57.

institutions which provoked refined but large-scale social gatherings on a regular basis, including the horse race and the Casino, his building project of the Chain bridge between Buda and Pest to connect the chief trade routes of the two sides, his support for the establishment of the national theatre, and even the simple fact that he applied for citizenship in both Pest and Buda, all of these can prove his conscious effort to propagate city life and urbanized manners.

Conclusion

The main issue of this paper is not to question the originality of the entrée of István Széchenyi. Rather, it tried to show how and to what extent Enlightenment thought and practice was still part and parcel of early nineteenth-century Hungarian intellectual life and to point out that István's "practical philosophy" and that of his father, in spite of the differences between them alleged by István Széchenyi, had common roots in the thought of the earlier Josephinist era and in the Continental fashion of Anglophilia. As we have seen, the son's attempt to distance himself from his father was of an "ideological" nature, but it was adopted by the public opinion of the period, and this strengthened the position of the discontinuity thesis.

The close relationship between Ferenc Széchenyi's and István Széchenyi's respective acts (the establishment of the national Museum and Library in the case of the former and the establishment of the Hungarian Academy of Sciences in the case of the latter) supports the validity and relevance of the continuity thesis and reveals how broadly the ideas of the Reform Era could be interpreted in the context of the discursive framework of the Enlightenment. In other words, this case study seems to support the continuity thesis, which, once accepted, casts the Reform Era in a different light. It differs both from the picture that participants themselves preferred and from the way in which the Whig-style national historiographical tradition usually characterized it. If the birthdate of the Reform Era is in fact neither 1825 nor 1830, but rather it is to be looked for somewhere around the 1780s–1790s, this might have consequences concerning not only the periodization of the first half of the nineteenth century, but also the narrative and the evaluative content of the historiographical category of the Reform Era itself. In other words this conclusion reinforces the view according to which the reform movement was born in the Cosmopolitan atmosphere of the Enlightenment and the nationalist turn was only a later development, effectively introduced only around the 1840s.

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Áron Kovács

Continuity and Discontinuity in Transylvanian Romanian Thought

An Analysis of Four Bishopric Pleas from the Period between 1791 and 1842

Based on the analysis of four Romanian bishopric pleas, the article examines the connection between the reform movements of the 1790s and 1830s. The subject of the analysis is the political and intellectual-historical background of the 1791 *Supplex Libellus Valachorum* and the pleas of 1834, 1838 and 1842, with particular focus on how the authors of the pleas formulated their concepts of the future and the relationship between the pleas and concepts of natural law.

If one examines the pleas side by side, the key concept in each of them, with the exception of the plea of 1838, was repositioning (*reponere, repositione, repunere*), but the meaning of this concept changed significantly over time. In the case of the *Supplex Libellus Valachorum*, the argumentation based on social contracts and the customary law definition of feudal rights was replaced with a positive legal argumentation built on actual acts of laws. On the other hand, in the plea of 1838 the concept of handling nations as living beings is unmistakably recognizable, together with the idea of their rise through civilization and culture. This change of paradigms caused a change in the aims of the pleas as well. Eventually, their main aim was not merely to secure rights, but to establish auspicious circumstances for the development of a nation conceived of as a living being. The goal became to prepare for cultural development and establish the conditions necessary for culture to flourish. Thus, although at first glance the argumentations of the documents seem to have a lot in common, in fact one can clearly discern how the community-related concepts of Transylvanian Romanian Romanticism started to gain ground, while at the same time the tropes appearing in the *Supplex Libellus Valachorum* started to undergo a transformation.

Keywords: Transylvania, Transylvanian Romanians, *Supplex Libellus Valachorum*, social contract, natural law, eighteenth century, nineteenth century, political thinking, Romanian Enlightenment, Romanian Romanticism

The debate regarding whether the end of the eighteenth century and the reform movements of the 1830–1848 period are one single concept or two separate events has not been as thoroughly discussed in the case of Transylvanian Romanians as

it has in the case of Hungarian history. David Prodan's work the *Supplex Libellus Valachorum*¹ and Ladislau Gyémánt's *Mișcarea națională a românilor din Transilvania între anii 1790 și 1848* (*The national movement of Romanians in Transylvania between 1790 and 1848*)² conceive them as one single set of events. Even when other works on Romanian history contend that there was a sharp border in this period (and this typically done only in works that offer narratives of the whole history of the Romanian people), the borderline is 1821, the Wallachian revolution of Tudor Vladimirescu. For instance, the book series *Istoria Românilor* (*History of the Romanians*)³ and the *History of Romania: Compendium*⁴ divide these two periods like this; at the same time, the relevant chapters of these works often refer back to the events of the 1780s and 1790s when discussing the 1830s.

This essay examines the connection between the two reform movements based on four Romanian bishopric pleas between 1791 and 1842. The subject of this analysis is the political and intellectual-historical background of the abovementioned documents, with a particular focus on how the authors of the pleas formulated their concepts of the future and the relationship between the pleas and concepts of natural law. Under the latter term, I mean a branch of legal philosophy which draws a sharp distinction between *a priori* existing natural law considered as a norm and the conventions determined by people and society. According to this view, the goal of the latter is to approach natural law and thus arrive at a perfect state of law and order.⁵

The importance of the sources used in this essay is established by the contexts in which they came into existence. The Transylvanian Romanians did not have collective rights in the political system of the Grand Principality. Transylvania, in the first half of the nineteenth century, still existed within the legal-political framework that had been established in the late medieval and early modern times. Three privileged groups, or *natio*s, (the nobility, the Saxons and the Székelys) formed different territorial and administrative units within the country. The most numerous among them was the nobility, the so-called *Natio*

1 David Prodan, *Supplex Libellus Valachorum* (Bucharest: Editură Științifică, 1967).

2 Ladislau Gyémánt, *Mișcarea națională a românilor din Transilvania între anii 1790 și 1848* (Bucharest: Editură Științifică și Enciclopedică, 1986).

3 Dan Berindei, *Constituirea României Moderne (1821–1878)*, vol. 7/1 of *Istoria Românilor*, (Bucharest: Editură Enciclopedică, 2003).

4 Ioan-Aurel Pop and Ioan Bolovan, eds., *History of Romania: Compendium* (Cluj-Napoca: Romanian Cultural Institute, 2006).

5 Sándor Pruzsinszky, *Természetjog és politika a XVIII. századi Magyarországon: Batthyány Alajostól Martinovicsig* (Budapest: Napvilág Kiadó, 2001), 79–83.

hungarica, which was found in 11 noble counties of Transylvania and Partium (a region to the west of Transylvania often conflated with it today). Although most of the nobles were of Hungarian ethnic origin, the nobility cannot be considered an ethnic category. It included every noble family of Transylvania, regardless of ethnicity and mother-tongue. Due to this, the noblemen of Romanian origin in the districts of Fogaras (today Făgăraș, Romania) and Hátszeg (today Hațeg) were represented by the *Natio hungarica*. Alongside them, two other major political groups participated in the governance of Transylvania: The *Saxon Universitas*, an administratively autonomous group of German ethnic origin living in the region called Fundus Regius, based on the 1224 privilege of Andrew II, called *Andreanum*, and the Székelys, a Hungarian-speaking ethnic group of contested origins who had served as frontier guards since the Middle Ages. These three *natio*s, as political bodies, had the right to send representatives to the Diet, the parliament of the estates, the origins of which also lay in the Middle Ages.⁶ The Romanians as a community were not part of the political system of Transylvania. Until the end of the 1830s, the appearance of the secular clerisy and their political representation was practiced by their bishops, the Greek Catholic bishop of Fogaras (Făgăraș) and the Orthodox bishop of Nagyszeben (Sibiu). The political pleas written in the name of the whole community could only reach the royal court through them. For a long time, these documents were the only way to represent the political interests of the Romanians in national political life. The abovementioned pleas also represented the final stage of a long-lasting political tradition. With the clerisy being laicized and the Transylvanian Romanian press being born, a political practice was beginning to emerge that was much more public and different radically from the one that had existed before, in part because the role of the two church leaders significantly decreased.

Eighteenth-century East Central Europe, with the age of the *Supplex Libellus Valachorum*, a petition submitted to Leopold II in 1791, serving as the starting point of this analysis, bore witness to a unique headway of the different social contract theories. As pointed out by Sándor Pruzsinszky in his analysis, the different social and political groups derived the rightfulness of their often opposing goals from basically the same principles. Enlightened absolutism, the enlightened estates of the realm, and the bourgeois and Jacobin direction of the Enlightenment all drew arguments and philosophical support from the

6 For further information about the medieval political order of Transylvania see: László Makkai, "Transylvania in the medieval Hungarian Kingdom (896–1526)," in *The History of Transylvania*, Hungarian Electronic Library, accessed April 15, 2016, <http://mek.oszk.hu/03400/03407/html/75.html>.

same axioms of the natural law of the Enlightenment. Martini⁷ used the social contract theories in favor of the court, while the diet of 1790 applied them in opposition to the deceased ruler, Joseph II. These same ideas also provided an important foundation for the Hungarian Jacobin Movement in the 1790s. As has also been noted by Gábor Zoltán Szűcs, the modern Protestant theories of natural law became an integral part of Hungarian political thinking in the eighteenth century. Szűcs does not consider them to have been ideas mechanically imported from Western Europe, but rather regards them as ideas that were adapted to the local specifications of the political system and society. Their aim was to try to reposition individuals and social groups to their erstwhile perfect status dreamt up by the authors of social contracts, and in doing so, to restore the natural rights they actually never had. In their argumentation, there was a sharp distinction between natural and manmade law. They regarded natural law as an unattainable, absolute truth, which transcended social conventions. The main purpose of the actual laws (conventions) was to approach this state of perfection. Thus, through this distinction, when referring to the natural law, they were actually asking for the restoration of their imagined natural rights based on eternal truths that stand above laws.⁸

Thinking based on this concept of natural law had significant influence on the Transylvanian Romanians as well, as highlighted by both David Prodan and Zoltán I. Tóth. They found one of the most important bits of evidence of this in the *Supplex Libellus Valachorum*, a central text of Transylvanian Romanian political thinking, formulated in 1791.⁹ With the help of this plea, utilizing the legal methodology of the period, the Greek Catholic, Orthodox and laical

7 Karl Anton von Martini, “Philosopher of Law: The Professor of Natural Law and Public Administration at the University of Vienna,” in *Late Enlightenment*, ed. Balázs Trencsényi and Michal Kopeček, vol. 1 of *Discourses of Collective identity in Central and Southeastern Europe (1770–1945): Texts and Commentaries* (Budapest–New York: Central European University Press, 2006), 129.

8 Ibid., 79–83; Sándor Eckhardt, “A contract social,” *Minerva* 2 (1923): 135–61; Zoltán Gábor Szűcs, “Természet, jog, teológia: Egy fejezet a politikai diskurzus történetéből a 18. századi Magyarországon,” *Aetas* 26, no. 2 (2011): 99–114; Ernst Cassirer, *A felvilágosodás filozófiája* (Budapest: Atlantisz Könyvkiadó, 2007), 299–322.

9 The *Supplex Libellus Valachorum* movement, according to Zoltán I. Tóth, began in 1789 in order to secure rights for the Romanian people in Transylvania. The list of the participants and the authorship of the plea is still a question. Zoltán I. Tóth suspects Iosif Méhesi and Samuil Micu to have been the authors, but several other personalities of the Transylvanian Romanian Enlightenment participated in the work. The first version of the plea was submitted to the court on 11 March, 1791. After its failure, it was followed by a second *Supplex Libellus Valachorum* in 1792. Zoltán I. Tóth, *Az erdélyi román nacionalizmus első százada 1697–1792* (Máriabesnyő–Gödöllő: Attraktor, 2005), 259–66.

Romanian intellectuals tried to establish an elite in the eighteenth century which would have the same legal and governmental status as the Hungarians, Saxons and Székelys.¹⁰ For this reason, the authors worked out a historical argument that bore many of the characteristics of the social contract theories. The assessments of David Prodan and Zoltán I. Tóth to the contrary,¹¹ this argumentation had an important role in supporting the plea both from the perspective of the *Tripartitum*-based¹² feudal rights and from the perspective of natural rights: it proved the existence of a social contract between the Hungarians and the Romanians and the existence of the neglected but still existing rights of the Romanians.¹³ On the other hand, the feudal judicial argumentation of the plea sought to assert the claim that the rights of the Romanian people were common rights, based on the customary law definition of the *Tripartitum*. Thus, the authors of the plea could support their political ambitions from two sides with the help of historical argumentation.

The authors of the petition expressed the ideal, taintless state of the society with the concept of civil society. In their interpretation, this meant a monarchy in which the main objective of the monarch is to establish social balance. This balance can be achieved through the development of civil rights and the establishing of a kind of equality before the law. Thus, no group of citizens can acquire a position in which it can deprive the others of their rights by force or oppress them. According to the authors of the *Supplex Libellus Valachorum*, such a perfect social order had once already been established in Transylvania, allegedly in the age of the Hungarian Conquest of the Carpathian Basin, when a religious and legal equality was established between the Romanians and the Hungarians.¹⁴ But how did this founding act of Transylvanian society look? The *Supplex* built

10 Victor Neumann, *Essays on Romanian Intellectual History*, trans. Simona Neumann (Timișoara: Editura Universității de Vest, 2008), 28. For further information regarding the national movements of the period in the region of the Hungarian Kingdom see: R. J. W. Evans, *Austria, Hungary and the Habsburgs: Essays on Central Europe c. 1683–1867* (New York: Oxford University Press, 2006), 156–69.

11 Prodan called the historical argument of the plea a naive interpretation (Prodan, *Supplex Libellus Valachorum*, 459–62), while Zoltán I. Tóth considers it a “constrained and perfectly erroneous historical concept” I. Tóth, *Az erdélyi román nacionalizmus első százada*, 260.

12 *Tripartitum*: the collection of the customary laws of the Hungarian Kingdom, compiled by István Werbőczy, published for the first time in Vienna in 1517. István Werbőczy, *Hármaskönyve* (Budapest: Magyar Tudományos Akadémia, 1894), V–XXXII.

13 Regarding history becoming a tool of politics in the case of the Transylvanian school, especially in the case of Ioan Budai-Deleanu, one of the presumed authors of *Supplex Libellus Valachorum*, see: Neumann, *Essays on Romanian Intellectual History*, 16–17.

14 Károly Köllő, ed., *Supplex Libellus Valachorum* (Bucharest: Kriterion Könyvkiadó, 1971), 75.

its arguments on the *Gesta Hungarorum*, a twelfth-century cronicle written by an anonymus author. According to the plea, at the time of the Hungarian invasion of Transylvania in the ninth century, Gelou, the leader of the so-called Wallach people, who held themselves to be descendants of the Romans, was killed in the defensive battles. The Wallachs stopped fighting after his death; they rather “shook hands in free will, choosing Tuhutum, the leader of the Hungarians as their lord.”¹⁵ “The rights of the citizens of the two nations [*the Hungarians and the Wallachs*] were melded in one company”¹⁶ from the beginning of the reign of Tuhutum. If this is considered from the perspective of social contracts, this means, that the two groups of people established a collective society.¹⁷ After the Romanians accepted the Hungarians “into a common homeland,”¹⁸ the two *nationes* had the same exemptions and civic freedoms.¹⁹ Thus, the *Supplex* sees the agreement between Tuhutum and the Wallachs as a contract. With the mutual acknowledgement of each other’s rights, it established perfect isonomy and the taintless, almost paradisiac state of society.²⁰ According to the interpretation of the petition, the religious equality can also be dated back to this period, to the tenth and eleventh centuries. Transylvania turned to Eastern Christianity in the tenth century with the conversion of Tuhutum’s grandson, Gyula. Western Christianity gained ground in the province only after the fall of Gyula. This took place at a rapid pace, and soon only the Wallach population remained in the Eastern Church, although they were able to practice their religion undisturbed.²¹

This historical summary was used to assert the existence of a social contract and equality before the law and strengthen the feudal judicial argumentation. This is based on the customary law definition of *Werbóczy*. The *Tripartitum* defines this legal institution as a set of rights with moral origins, which act as a law when there is no applicable law. For the purposes of my analysis, its main significance is that it does not need to exist in a written form. As long as it serves the common good and is a long-standing practice, it must be considered equal

15 “*Propria voluntate, dexteram dantes, Dominum sibi elegerunt Tuhutum, Hungarorum Ducem, ac fidem iureiurando firmaverunt.*” Ibid., 49.

16 “*Utrique genti, Hungaricae scilicet et Valachicae, a tempore quo sub Duce Tuhutum in unam societatem coaluere communia erant.*” Ibid., 50.

17 “*Hungaricae scilicet et Valachicae, a tempore quo sub Duce Tuhutum in unam societatem coaluere communis erant.*” Ibid., 50.

18 “*Ad concivilitatem.*” Ibid., 58.

19 Ibid., 49–51, 57–58.

20 Ibid., 62–64.

21 Ibid., 48–50.

to written law.²² As according to the interpretation of the plea given above all the previous points were realized, in the Middle Ages the customary laws of the Romanians functioned concepts of a status equal with the status of written law.

There was a huge difference between the allegedly ideal historical age and the lack of rights endured by the Romanian-speaking communities in their own age. The connection was established by the authors of the *Supplex Libellus Valachorum* by stating that the rights of the Romanians had never been legally abolished. Rather, they had been taken away²³ by “the cruel ages.”²⁴ The plea explained the history of this in two steps. First, laws had been established that did not affect the Romanians; thus, those laws did not mention the Romanians. Later, since the customary laws were built on written laws that did not mention the Romanians, their rights were seriously limited. This process allegedly began with the *Unio Trium Nationum* and the Reformation. The plea saw the union as an alliance between the Hungarian, Saxon and Székely *nationes* forged in 1437, and not as an agreement determining the governmental form of the country. According to this interpretation, the union of the three estates of the realm was their own private matter, and it did not affect the legal status of Romanians, as it existed only in the form of customary law. The authors used the same analogy regarding religions as well: the changes that took place in Western Christianity in the sixteenth century did not affect the situation of those belonging to the Orthodox church, including the Romanians. According to the plea, the church-related acts of law established in 1540–1563 were not intended to define the religions accepted in the country. The authors interpret these regulations as providing a legal description for the Roman Catholic Church, the legal state of which had undergone a change at the time, and the Lutheran, Calvinist, and Unitarian Churches, which were gathering ground in Transylvania at the time. The regulations had been intended merely to secure the legality of these four Churches. If we examine this from the perspective of the Orthodox Church, there was no change in its situation because of the Reformation, so it was unnecessary to mention it in these laws.²⁵ The authors are trying to prove via leading cases that the above method of interpreting the law is perfect and that Romanians did not have to face any kind of disadvantageous legal discrimination after the union and the acceptance of the Church-related

22 Werbőczy, *Hármaskönyve*, 27–28.

23 *Ibid.*, 47.

24 “*Iniqua dumtaxat temporum illorum sorte*” Köllő, *Supplex Libellus Valachorum*, 47.

25 *Ibid.*, 52–54, 58–61.

acts. They recall that the Romanian people gave several high ranking people to the Kingdom of Hungary, including kings, governors and archbishops of Esztergom in the ages before the *Supplex Libellus Valachorum*.²⁶

The authors believe that the misinterpretation of the abovementioned acts started with the introduction of the *Approbatæ Constitutiones*.²⁷ The authors of this document carelessly or deliberately included several regulations among the acts that had severe effects on the situation of the Romanians. Forgetting about their equality granted by customary law but never registered in written form, the *Approbatæ Constitutiones* categorized them as received, tolerated people. Their deprivation of rights was not declared in a separate act, it only appeared in the preamble of other acts.²⁸ One of the sections in the legal code about which they had a grievance was the introduction to the chapter concerning Romanian priests. “Though the Walachian nation does not belong to the Estates in this land nor does its religion belong to the recognized religions, yet it is further tolerated for the advantage of the kingdom (propter emolumentum Regni), subject to its priests observing certain conditions.”²⁹ According to the authors, this new approach swiftly made its way into customary law, and it found support among “many citizens of the Homeland,”³⁰ thus establishing a legally flawed practice.³¹

Thus, the reasons for the situation of the Romanians were not to be found in the acts, but in customary law based on the preambles of the acts and in “the cruelty of the ages.”³² The *Supplex Libellus Valachorum*, in accordance with the natural rights-based thinking widespread in eighteenth-century Hungary, considers it to be the Sovereign’s task to grant an order to the community, which

26 Ibid., 50–53; Werbőczy, *Hármaskönyve*, 27–28.

27 *Approbatæ Constitutiones regni Transylvaniae et Pratum Hungariae eidem annexarum*: the law corpus of the Transylvanian legislation, codified between 1541–1653, compiled on the order of Prince György Rákóczi II in 1653. (Sándor Kolosvári and Kelemen Óvári, trans., *Magyar Törvénytár: 1540–1848. évi erdélyi törvények* (Budapest: Franklin Társulat, 1900), 1.) The use of *Approbatæ Constitutiones* as an argument is not unique to the *Supplex*. As highlighted by Victor Neumann, starting with Inochentie Micu-Klein, the herald of the Romanian Enlightenment, this played an important role in the political struggles of the Romanians. Victor Neumann, *Tentația lui homo europæus* (Bucharest: Polirom, 2006), 139–40.

28 Köllő, *Supplex Libellus Valachorum*, 53–57.

29 *Approbat. Const.* P: I. T: VIII. Art.: I, in Kolosvári, Óvári, *Magyar Törvénytár. 1540–1848. évi erdélyi törvények*, 22. “*Quamvis Valachica Natio in Regno inter Status reputata non sit et ipsius religio e receptis non sit, nihilominus tamen, donec illae propter emolumentum Regni tolerabuntur, sequentia ecclesiastici observabunt etc.*” Köllő, *Supplex Libellus Valachorum*, 54–55.

30 “*complures Patriae cives*” Ibid., 56.

31 Ibid., 55–58.

32 Ibid., 60–61.

would make morality possible.³³ Therefore, the predecessors of monarch Leopold II—including Leopold I, Maria Theresa and Joseph II, who fully understood “the natural and real rights of men and citizens”³⁴—were trying to change the situation of the Romanians. According to the authors of the plea, their charters, orders and commands were useless, because the diets openly opposed them.³⁵

The authors emphasize in their arguments that since the rights had never been lost, they were still in effect. Based on this claim, the aim of the plea was not to achieve new rights and overthrow the constitutional order of the country, but to reestablish the Romanians into their earlier position of equal rights. They wanted to achieve this with the help of the monarch. Alternatively, there was the declaration of their deprivation of rights, which could only be interpreted according to the authors as the dismissal of the agreement. They thought it meant the restoration of the relationship between the two nations before the agreement, and this relationship was war. In such a case—six years after the Horea revolt³⁶—they foresaw the danger of a new peasant rebellion, which could be started by the Romanian peasantry if they continued to be treated differently than the peasants of other *nationales*.³⁷

The authors of the *Supplex* phrased their actual requests in five points. These were the following: First, the phrases “received,” “tolerated,” and “does not belong to the Estates of this land” had to be withdrawn once and for all, and the Romanians had to be repositioned to citizens of the country with equal rights. Second, the old-established equality of the Romanians had to be restored. Third, all groups of Romanian society, regardless of religion, had to enjoy equal treatment to the other *nationales*. Fourth, in the parishes, seats, districts and counties the officers must ensure that the Romanians get representation in proportion to their numbers. And finally, the counties, seats and parishes that had a Romanian population must be allowed to use a Romanian name, too.³⁸

33 Szűcs, “Természet, jog, teológia,” 103.

34 “*qui equidem pura et simplicia tum hominis, cum civis iura intellexit*” Köllő, *Supplex Libellus Valachorum*, 64.

35 Ibid., 62–69. The myth that the monarch did everything to help the people of the monarchy and his orders were hindered locally was widespread among the people. For further information: Gyöngy Kovács Kiss, *A Habsburg-uralom erdélyi kitéljesezésének folyamata a korabeli magyar emlékirodalom láttatásában, 17. század vége – 19. század eleje* (Kolozsvár: Erdélyi Múzeum-Egyesület, 2000).

36 A revolt of Transylvanian Romanian peasants at the turn of 1784–1785. Its leaders were three serfs: Horea, Cloșca and Crișan. I. Tóth, *Az erdélyi román nacionalizmus első százada*, 222–28.

37 Köllő, *Supplex Libellus Valachorum*, 62–64, 68–69.

38 Ibid., 69–72.

As can be seen, the requests aimed to reestablish rights and achieve equal legal status with the Hungarians, and not to acquire additional rights. As an example, they followed the continuous grievance policy of the Hungarian estates that were present until 1838. The reference basis in this case was “the truths of nature,” “the basic laws of civil society” and the “agreements bound,”³⁹ i.e. the norms and conventions of customary law. The use of the argumentation based on the concept of social contracts made it possible to refer to an imaginary status based on natural law interpreted as supreme truth. The plea was consequential in using the terms *restoration* and *reestablishing*, trying to draw the Romanians near this status. Thus, the words *restoration* and *reestablishment* do not refer to the past; the authors used the legal methodology of the period to describe their demands regarding the future political situation of the Romanians.

Another key characteristic of the *Supplex Libellus Valachorum* is that although we cannot yet speak of nationalism in its modern form, the document bears the first signs of the evolution of a new group identity that was not Church-based. One of the main arguments of the plea was the primordality of the Romanians. It finds evidence in support of the view according to which the Wallach people were the oldest inhabitants of Transylvania and the descendants of the veterans settled by Traianus in the region in historical sources and similarities in language, morality and customs. This can be considered the first sign of a cultural-national model, but it appeared only among the intellectuals at the time. The identity of the Romanian peasantry consisted of totally different elements.⁴⁰

In the plea, there another idea emerges that was going to be very important later, and that was the need for the education of the Romanian people:

Nothing can be expected from the education of this nation while its clergy and nobility are kept in squalor, and because of this there is no accession in diligence; rather, ignorance, indolence, and slothfulness come from it, together with those greater sins to which it usually gives birth, for the destruction of the province.⁴¹

39 “*aequitati naturali principisue societatis civilis pactisque conventis inniti petita haec e supradictis abunde patet*” Ibid., 70.

40 Ibid., 47; On the identity elements of the Romanian peasants of the Apușeni Mountains at the end of the eighteenth century see: Áron Kovács, “A magyarellenesség és a nacionalizmus kérdése a Horea-felkelés kapcsán,” in XI. *RODOSZ Konferenciakötet*, ed. Tünde Székely (Cluj-Napoca: Romániai Magyar Doktorandusok és Fialat Kutató Szövetsége, 2010), 209–21.

41 “*nulla Nationis huius quamdiu eius Clerus et Nobilitas in abiecto statu conservabitur sperari possit cultura, proinde nec industriae ulla accessio, sed potius ignorantiam, desidiam et ignaviam cum omnibus quae abinde generari solent vitis maiora adhuc apud ipsam, in desolationem Provinciae*” Köllő, *Supplex Libellus Valachorum*, 69.

The clergy and nobility, as the two determinant groups of Transylvanian Romanian society, were given an extraordinary role in this statement. Thus, the enrichment of the whole nation, expressed with the phrase “accession in diligence,” depended on their education. Their ignorance and indolence led to the failure of progress. This endeavor, since there was no organic concept of the nation as a living being, was, implicitly, in the interests of the state.⁴²

The *Supplex Libellus Valachorum* was followed by several petitions from the circles of the Orthodox and Greek Catholic prelacy. In these, the methods of argumentation and the principles from the pleas of 1791 and 1792 return; however, they are now parts of a partially or totally different system of concepts.⁴³ The document handed over to the monarch in 1834 by Ioan Lemeni⁴⁴ and Vasile Moga,⁴⁵ with a reassurance from commissioner Ferenc Wlassits,⁴⁶ also fits into this tradition. The plea itself was completed only some months before the reopening of the diet, which had been a burning demand for about a quarter of a century. It was supported by commissioner Wlassits because he considered it as a tool for the weakening of the liberal opposition, which was gaining ground. The plea consciously relies on the traditions of the documents written in the beginning of the 1790s, and its aim was to renew the pleas of the *Supplex Libellus Valachorum*. The authors based their work on the monarch’s reply to the *Supplex Libellus Valachorum*, dated 21 July, 1792. This reply made a declaration of intent to eradicate the grievances of the Romanian people; however, as the authors pointed out, this had not been realized in the 41 years that had passed between the two pleas. As they emphasized, this was in spite of the fact that during this time there had been two attempts⁴⁷ to start a rebellion, while the Romanians had

42 On the Viennese government’s educational policy in the Enlightenment age and the connection between education and state interests, see: Iacob Mârza, “Conceptul de educație în gândirea iluminist-romantică a românilor din Transilvania,” in *Istoria României prin concepte: Perspective alternative asupra limbajelor social-politice*, ed. Victor Neumann and Armin Heinen (Iași: Polirom, 2010), 81–98.

43 For the pleas written between 1792 and 1834 see Gyémánt, *Mișcarea națională a românilor din Transilvania între anii 1790 și 1848*, 119–29, 250–68.

44 Ioan Lemeni was Greek Catholic bishop of Făgăraș from 1833 until 1850. Szinnyei József, *Magyar írók élete és munkái* (Budapest: Hornyánszky Viktor Könyvkiadóhivatala, 1900), 7:1017–18.

45 Vasile Moga was Romanian orthodox bishop of Transylvania from 1811 until 1845. Nicolae Iorga, *Istoria Bisericii Românești și a vieții religioase a românilor* (Bucharest: Editura Ministeriului de Culte, 1930), 2:221, 238.

46 Ferenc Wlassits was lieutenant-general, the Ban of Croatia. In 1833 he was appointed as plenipotentiary commissioner of the court of Transylvania, a position from which he was displaced in November of the same year. Ambrus Miskolczy, “Társadalom, nemzetiség és ellenzékiesség kérdései az erdélyi magyar reformmozgalomban (1830–1843),” *Századok* 117 (1983): 1077.

47 The authors may be referring to the peasant movements of 1819 and 1831 in the Apușeni Mountains.

been waiting in peace to have their rights restored and to join the other *nationales* in an alliance of mutual cooperation.⁴⁸

The authors tried to support their contention that the Romanians possessed rights in two ways: they referred to the Transylvanian acts and the natural laws, as in the case of the *Supplex Libellus Valachorum*. However, the demonstrative argumentation already differed from the plea of 1791: the social contract theory was no longer part of the argumentation, which was based on concepts of natural law, and its arguments concerning public law did not try to present Romanian legal equality on the basis of customary law anymore. Its fundamental idea was that the Romanians were not to be excluded from the national rights and monarchical benefits, neither through nature nor by law.⁴⁹ On the contrary, nature guaranteed them the same rights as the other *nationales* and all the benefits of the law. Via this formula, the plea of Lemeni and Moga delimits the “acts of laws rooted in human nature”;⁵⁰ that is, the natural laws and the acts that are ideally codified based on this law. Since it saw the Romanians as entitled to equal rights “designated by nature,”⁵¹ indirectly it declares that all acts that deprive Romanians of such rights and benefits are contrary to natural law. The same formula is repeated by the authors again at the end of the plea in a different way. Here, in order to prove the just nature of the requests, the basis of reference was the fact that they are rooted in nature, so “they can never be ripped out of their hearts.”⁵²

In addition to the arguments based on natural law, the plea used other methods as well to try to achieve the restoration of former rights.⁵³ Alluding to the fact that the Romanian nobility and also the free men had the same rights as the respective groups among the Hungarians, Saxons and Székelys, the latter three could not demand any privileges over the Romanians. According to the plea, the determination of the three estates of the realm, the three *nationales*, constituted such a privilege, so the plea sought recognition of the Romanian

48 Ioan Lemeni and Vasile Moga, “Memoriului episcopilor Lemeni și Moga 1833/1834,” Published as an annex of László Gyémánt, “Memoriilor românilor ardeleni din 1834,” *Anuarul Institutului de Istorie și Arheologie Cluj-Napoca* 17 (1974): 113–14. Zoltán I. Tóth, *Az erdélyi és magyarországi román nemzeti mozgalom (1790–1848)* (Budapest: Akadémiai Kiadó, 1959), 66–67; László Gyémánt, *Mișcarea națională a românilor din Transilvania între anii 1790 și 1848*, 130; Berindei, ed. *Constituirea României Moderne*, 174–75.

49 “*Quod supplicans natio Vallachica nec a natura, neque etiam per Leges a Juribus et Beneficiis regnicolaribus exclusa sit*” Lemeni and Moga, “Memoriului episcopilor Lemeni și Moga 1833/1834,” 111.

50 “*Jure [...] in ipsa natura humana radicentur*” Ibid., 113.

51 “*natura enim eandem quoque qualificatam esse, quo juribus concivitatis*”

52 “*illa ex animis ejus numquam evelli poterunt ita*” Ibid., 114–15.

53 “*Cum ergo per santionandam publicam Legem super Repositione Valachorum in Statum avitum systema Transilvaniae non modo turbaretur*” Ibid., 112.

community as the fourth *natio*.⁵⁴ At the same time, the plea rejected the idea that the epithets related to tolerated legal status could be applied to the Romanians and that the Romanians would not count as a part of the constitutional system of the Grand Principality of Transylvania. The plea approached the problem along the logical system of cameral economics: as long as they are not part of the constitutional system, they should leave the country. In this case, the country would not find enough people to compensate for their absence, people who would take on the same burdens without the rights and privileges of the people living in the country, and without being treated as a constitutional factor.⁵⁵

Thus, the plea of 1833/34 bears strong affinities with the *Supplex Libellus Valachorum* in two respects. The norm-based argumentation concerning natural laws was partially taken from the *Supplex*, together with the expression *repositioning* (*repositione*), the technique aiming at the delineation of future political positions. The real difference between the two documents is that the historical argumentation that supported the social contract concept of the *Supplex Libellus Valachorum* was neglected. While the *Supplex* elaborates on the whole history of the social contract as the foundation of Transylvanian society, it is not mentioned in the plea of 1834. The cardinal referential basis of this plea is natural law and concrete acts of law, and not a hypothetically established contract. Apart from these changes in the legal sources, the logical structure was similar to the one introduced in the *Supplex Libellus Valachorum*. The Romanians have always had these rights, they only needed to be recognized again. The bishops continued to phrase their requests in the name of the *natio*, and they wanted to achieve a status for all social groups that the respective groups with same legal standings had. Thus, the plea adhered to the conceptual framework outlined in the 1790s. The aims for the region did not include changing the structure of society, which would remain within the framework of the estates.

54 Ibid., 114–15.

55 Ibid., 114. Beginning in the second half of the eighteenth century, a new, agrarian-centered mercantilist economic policy began to emerge in the Habsburg and Hohenzollern monarchies. Its representatives Johann Heinrich Justi (1720–1771) and Joseph Sonnenfels (1733–1817) united the economic principles of the Austrian cameralism with the economic control principles of Western Europe of the eighteenth century. Sonnenfels, who had a greater impact on the Habsburg state and the establishment of the Josephinist views than Justi, made a case for the expansion of cultivated lands, technical innovation, and an increase in the number of producers, that is, for the settling of peasants, whose role was becoming increasingly important as a result of this. János Barta, Ifj., *A felvilágosult abszolútizmus agrárpolitikája a Habsburg- és Hohenzollern-monarchiában* (Budapest: Akadémiai Kiadó, 1982), 148–60.

The plea of 1834 was sent out for assessment by the court to the Transylvanian chancellery, which replied with its 1792 rejection of the *Supplex Libellus Valachorum* as an answer and forwarded the plea itself to the diet. This latter could not discuss it because it was dissolved. After the failure of this document, the next plea was handed over to the monarch by Vasile Moga, acting alone, in July, 1837.⁵⁶ In this, one discerns a significant change in strategy compared to the former pleas. The set of questions were narrowed down to *Fundus Regius* by the authors with the open aim of exploiting the disagreements between the Hungarian nobility and the Saxons. Of its five points, three concerned only the Romanians living in that region. The plea submitted in 1837, like the one submitted three years earlier, lacked the historical introduction related to the social contract. The most important difference was that even the elements functioning as norms disappeared from the plea, and their place was taken by a positivist legal approach. The only legal source here is the codified acts of law.⁵⁷ In addition to references to these acts, instead of allusions to natural truths, the authors introduced elements in the plea that played important roles in the coming years, such as morality and culture. This theme appears at the beginning of the document, in a part clarifying the role of the clergy:

All the clergy of a religion, consequently also the not united Greek clergy, are considered educators and promoters of religion, morality, as well as evanescent and eternal happiness, and for this progressive force to have the desired effect, they must have the necessary authority to educate the common people.⁵⁸

In the citation, the clergy is presented as the leading group of social life. According to the authors, the role of the clergy is to educate the common people and be a “progressive force” through religion and morality. They are the ones who guide the people in the direction of evanescent and eternal happiness.

56 Endre Arató, *A magyarországi nemzetiségek nemzetiségi ideológiája* (Budapest: Akadémiai Kiadó, 1983), 181. The plea was first published among the documents of the 105th assembly of the diet under number 77, with the title “The Plea of the Not United Greek Bishop,” in the documentary book of the Diet: *Erdély Nagyfejedelemség 1837^{ik} esztendőben Aprilis 17^{én} N. Szében szabad királyi várossában ki-bírdertt országgyűlésének iromány könyve* (Szében: Hochmesiter Márton, n.d.) 203–11. The Romanian translation of the text was published in the 1840 volume of the journal *Foaie pentru minte, inimă și literatură*.

57 Georg G. Iggers, *The German Conception of History* (Middletown: Wesleyan University Press, 1983), 14–17.

58 Vasile Moga, “Rugamintea episcopului Grecesc neunit,” part 1, *Foaie pentru minte, inimă și literatură* 3, no. 44 (1840): 345.

If we read this plea while considering the future positions at which it is aiming and the intended manner of reaching these goals, the citation is significantly different from what we have seen previously. Both its goals and the concepts describing the processes that will lead to them have changed. The goal of *innaintare* (progress), as opposed to the concepts of restoration and reestablishment, is not a concrete concept anymore, hidden behind the restoration of an imagined ideal state, as it was in the case of the earlier pleas, the goal of which was to achieve equal legal status and legal rights. This has been replaced by the state of evanescent and eternal happiness, which is at a transcendent distance. At the same time, some new key elements emerge that are, purportedly, essential to the quest to reach future positions, such as morality and culture, the spread of which is a prerequisite of progress. All of this points to the appearance of the humanistic ideal of Herder and the impacts of historicism. Herder described nations as human beings with a soul and a limited lifetime. However different they are, they each bear a universal humanity and some kind of nobility and dignity. The aim of their existence is to improve their humanity, which can be achieved via improving morality and culture.⁵⁹ The requests of the authors served this purpose as well. Improving the living conditions of the clergy meant, in their eyes, the promotion of morality and culture. That is one of the reasons why they request the establishment of an Orthodox Seminary in Nagyszeben (Sibiu) and the release of clergy from the onerous burdens of corvee, tithe and taxa. They also wanted the clerics to receive *canonica portio*, and they requested that the Orthodox clerics in Fundus Regius should be entitled to allowances from the *cassa allodialis*. Their last request was that the Romanians in Fundus Regius have the right to hold public office, learn trades and be accepted by guilds.⁶⁰

The authors defined the above requests based on the “justice and rights of the poor Romanian people.”⁶¹ Their public legal argumentation is similar to that of the 1833/34 plea, leaving speculative legal interpretations behind. They refer accurately to acts and rescripts in each case. 32 of the 34 acts referred to in the plea were created after 1791. In addition to all of the above, securing progress through culture also appeared as an aim in the justification of the requests. The

59 Iggers, *The German Conception*, 61–73. The ideas of Herder have been present in the cultures of the Hungarian Kingdom and Transylvania since the end of the eighteenth century. For the responses to these ideas see: János Rathmann, *Filozófia és irodalom határán* (Budapest: Kalligram, 2014), 135–45.

60 Moga, “Rugamintea episcopului Grecesc neunit,” part 1, 345–46.

61 Idem., “Rugamintea episcopului Grecesc neunit,” part 2, *Foaie pentru minte, inimă și literatură* 3, no. 45 (1840): 353.

document supports the request for the release of the clergy from the burden of paying the tithe with the 60th *Articulus Novellares*⁶² of the year 1791, and argues that the Romanians are superior in numbers within the population and that their request concerning the tithe is in accord with the monarchial will, that is, with “improving the culture of the people through the clergy.”⁶³ They use the same arguments for the entitlement to allowances from the allodial funds as well: the Saxon villages finance their clerics, teachers and village schools from the allodial funds, from the incomes of allods, mills, taverns, lands and funds. According to the authors of the plea, the Romanian communities in *Fundus Regius* must do the same, and their investments will be paid off by in the form of cultural progress: “but those as beatific consequences would fall back to them because of the proper talent of the clergy, and through the progress of culture,”⁶⁴ they write. Since according to the authors of the petition the Romanian people did not or (for an unspecified reason) could not consider this goal significant enough, such support must be ordered by the government.⁶⁵

Thus, the petition of 1838 differs from the earlier ones both in form and legal argumentation. In comparison to the *Supplex Libellus Valachorum* and the petition of 1833/34, the greatest change can be found in its legal philosophical foundations. The references to social contracts, natural laws, and phenomena functioning as norms are replaced by a positivist legal approach. The authors cite concrete acts of law and monarchial orders. They support their requests with exterior, not legal, but moral and religious arguments, such as the preponderance of Transylvanian Romanians and the need to spread morality and culture. Parallel with the shifts in the arguments, the aim of the plea changed as well. The main goal was not to secure rights, although this still played an important role, but rather to establish the right circumstances for the development of an organic nation.

62 The person preparing the legal argumentation of the plea cites the first sentence of the 60th *articulus novellares* of 1791 (*De libero religionis Graeci ritus dis-unitorum exercitio*) only partially: “*Religio orientalis graeci ritus non-unita, quae juxta leges hujus provinciae hactenus inter tolleratas religiones recensita fuit*” and referring to its past tense, it considers the Romanians as a people of accepted and not just tolerated religion. The whole of the article does not say that Orthodoxy is an accepted religion, but it supports the Orthodox people in their free practice of religion and orders that they must be treated properly according to their feudal state. Concerning public taxation and other services, they should not be encumbered more than others. Kolosvári and Óvári, *Magyar törvénytár: 1540–1848. évi erdélyi törvények*, 546.

63 Moga, “Rugamintea episcopului Grecesc neunit,” part 2, 353.

64 *Ibid.*, 354.

65 *Ibid.*

Shortly after beginning the discussion of the plea, the diet of 1838 established a committee to examine the document. It had a mandate until the next diet to clarify the grievances of the Romanian people. The Saxon Universitas used the time thusly won to begin collecting materials as early as June, 1838 in order to refute the arguments of the plea, so by January, 1842, when the plea was presented to the new diet, they had a complex argument against it. The only declaration of the committee appointed by the previous diet, which was in favor of the Romanians, was related to the practicing of trades. It recommended rejection of the request for tax exemption for the clergy and advised that the document itself be handed over to the *Systhematica Deputatio*. This decision meant that the plea had failed.⁶⁶

The opportunity for a further plea came with the draft bill of 1842, which aimed to change the official language of Transylvania to Hungarian, and the debates concerning it.⁶⁷ Bishop Vasile Moga wanted to exploit the disagreements between the Saxons and the Hungarians, and he hoped to get the support of the Hungarian estates for his plea. The compilation of the document was started by Aron Budai,⁶⁸ who belonged to the circles of Moga. The first version of the plea produced at the time was sent to the Greek Catholic bishop Ioan Lemeni by Moga. Lemeni commissioned Alexandru Bohățel, a lawyer in Kolozsvár (Cluj), to finalize the document. It was presented on 20 January, 1842.⁶⁹

This plea differs from the others in many aspects. Its subjects are defined as the citizens (*cetățenii*), and it is addressed to the diet, not the monarch. The context of its preparation included in the text is also different compared to the earlier pleas. The authors put major emphasis on the question of the changing of times. This served as the starting point of their argumentation as well. They considered their own age as an age of the extension of rights, and they based the whole plea on this idea. “Now, when the voice of freedom and liberty is heard in the whole enlightened world,” the authors characterize their age, “people not free are liberated, and those who were outside of the shield of the constitution

66 Gyémánt, *Mișcarea națională a românilor din Transilvania între anii 1790 și 1848*, 256–59.

67 The draft itself was met with an intense response among Romanians. Several of the most important Romanian program articles of the first part of the nineteenth century were formulated at this time, for example the *Românii și maghiarismul* by Barițiu and the *O tocmeală de rușine și o lege nedreaptă* by Simion Bărnuțiu.

68 Aron Budai was the secretary of the Gubernium, the central government of Transylvania. He also served as a notary of the Romanian Orthodox Diocese of Nagyszeben (Sibiu). His brother was Ioan Budai-Deleanu, a prominent figure of the Transylvanian Romanian Enlightenment. *Annalile Societății Academiei Române: Sesiunea anului 1870* (Bucharest: Noua Typographia a Laboratoriloru Romani, 1871), 3:115.

69 *Ibid.*, 259–62.

will be taken in.”⁷⁰ In the age of an extension of constitutional rights, the writers of the plea referred to “the holy voice of freedom” as well, the words of which, in their view, should be understood by the lawmaking establishment.⁷¹

The concept of freedom, which is a focal part of the argumentation, played a key role in the Romanian literature of the period. Gheorghe Barițiu, the most influential Romanian publicist of the 1840s, stated in one of his early program articles, entitled *Scriptori classici* (*Classical Authors*), that cultural development is the measure of the state of a nation. Thus, when writing about classics, he went beyond its interpretation as the highest stage of literature and described it as the desirable state of nations. Using Herder’s analogy, he saw it as the adulthood of the nation, which he considered to be a living entity, and the pinnacle of its development. He declared freedom to be the most important precondition of achieving this state, which made the “development of the forces” and the work of the genius possible. Considering this from the opposite point of view, he interprets the loss of freedom as the extinction of the medium providing for the flourishing of the nation and as the starting point of the nation’s death.⁷²

The authors of the plea see the state as the depositary of freedom interpreted in this way. The diet, as a “representative establishment,” has the task of guaranteeing this to the people governed by forming law and order and contributing to the material and intellectual welfare of the people,⁷³ which is the most important long-term aim of the plea itself. The authors also consider that its task is to bind outsiders to the country and lift up people who have been deprived of their rights to the status of active practitioners of rights. They think that acting this way ensures that all of the people can enjoy the benefits of the constitution and the delights provided by it, which indirectly strengthens the security of the homeland.⁷⁴

One finds another positive legal argument in the plea, in addition to the one concerning the spirit of age and freedom. This one is a method familiar from the *Supplex Libellus Valachorum*, referring to existing but neglected rights. The authors of the plea of 1842 were also asking for the restoration of these rights and, through this restoration, the improvement of the situation of the Romanians.

70 Ioan Lemeni and Vasile Moga, “Rugămintea episcopilor Moga și Lemeni,” in T. V. Păcățian, *Cartea de aur* (Sibiu: n.p., 1902), 1:159–60.

71 Ibid., 150–51.

72 G. Barițiu, “Scriptori clasici,” *Foaie pentru minte, inimă și literatură* 1, no. 16 (1838), 123–28.

73 Similarly to the plea of 1837, in this document the contention is also made that the spread of morality and culture and the “intellectual welfare” of the people are the key to the nation’s development.

74 Lemeni and Moga, “Rugămintea episcopilor Moga și Lemeni,” 151, 154–55.

The real difference between the two documents is that in the plea of 1842 the demand for the restoration/reestablishment of rights is not an integrated part of the framework of a social contract anymore. The authors simply used the trope according to which the Romanians of Fundus Regius, as the oldest inhabitants, had these rights when the Hungarians invaded the Carpathian Basin as a historical argument. This situation, according to their interpretation, was not changed by the Hungarian conquest of the Carpathian Basin or by the arrival of the Saxons. Their rights were confirmed upon the arrival of the Hungarians and the Saxons, so they considered all privileges on the land of Fundus Regius valid for the Romanians as well. They interpret the *Andreanum* of Andrew II in this way, but they also refer to several monarchial decrees from the eighteenth century.⁷⁵

Based on all of this, the authors question even the notion that Fundus Regius should be called Saxon Land. They support this idea with the argument that according to the census of 1838, most of the inhabitants of the region were Romanians, and the privileges of the territory had not been granted exclusively to the Saxons by Andrew II. They also tried to annul the argument of the Saxons, according to which, although they only rule one-sixth of the country, they pay one-third of its taxes. The authors consider it a false argument, since most of these taxes were paid not by Saxons, but by the Romanians of Fundus Regius.⁷⁶ Thus, they introduce the Romanians as legal equals to the Saxons, but superior in numbers and representing greater economic power.

On the basis of this, they request that they be repositioned into their existing civil liberties, which had been taken away from them by some “egotist elements”⁷⁷ of the Saxon nation. As opposed to earlier pleas, the authors do not simply avoid mentioning the deprivation of rights; there is no discussion of

75 Ibid., 151, 153–54. Moga started to collect the legal arguments in 1840, when he asked the Orthodox clergy to send all old documents that could be used for national purposes to the archives of the commissary. Gyémánt, *Mișcarea națională a românilor din Transilvania între anii 1790 și 1848*, 140.

76 The question of the economic roles and influence of the Saxons was brought up by the Saxons during the debate concerning the official national language in 1842. The authors were reacting to this. Ibid., 260. For example, David Prodan presents the commercial data of the period between 1830 and 1832 to demonstrate the role of the Romanian traders. In this period, the Romanian and Greek traders paid seventeen and a half times as much in tolls as the whole Saxon trading community. Prodan, *Supplex Libellus Valachorum*, 429.

77 Egotism as a concept also appears later in the article *Unele pregătiri* of Gheorghe Barițiu. In this work, the author names rationality as the only source of just law and the foundation of the relationships among people. Egotism is the counter-concept of a just law. It is “*a passion outside of the realm of the intellect.*” Georgie Bariț, “*Unele pregătiri*,” part 2, *Foaie pentru minte, inimă și literatură* 7, no. 5 (1844): 33–35.

the corruption of acts either, the only problem supposedly being the execution of these acts. As a consequence, when the administration acknowledges these rights again and ensures their execution, the situation of the Romanians will be reestablished.⁷⁸

What practical steps did they consider taking in order to reestablish the status of the Romanians? One of the aims of the plea was to solve the administrative and religious representation of the Romanian inhabitants, since the Romanians did not delegate any of the representatives of *Fundus Regius* to the Diet. The gravity of this issue derived from the privileged role of the representatives of interests. The authors, as was noted at the beginning of the plea, considered the representatives to be the depository of the financial and intellectual welfare of the people through their ability to establish justice, law and order, which were seen as the preconditions of the flourishing of an organic nation. Without representation, their “misfortunes” would not be heard, and no one would attempt to remedy them. According to the petitioners, the Saxons, who were in control of the political and administrative institutions, worked only to secure their own interests. Their aim was to reap all the benefits of the administration and, since there were no proper regulations, to exclude the Romanians from every level of administration, even including the administration of the villages.⁷⁹ Although according to the authors of the plea the Romanians had a youth “properly trained for all intents and purposes,” they were never given access to positions within the administration. Like the sons of lesser nobility, they were not welcomed by the Saxons to work with their magistrates. The administration tried to discourage them from pursuing professions, and if they do not succeed, there is no hope of any kind of magisterial promotion.⁸⁰

The other significant question for the Romanians was the matter of the county and town bursaries. Since the Saxons reserved the right to manage these institutions themselves, the incomes of the bursaries were used for the benefit of the financial and intellectual welfare of the Saxons. They helped further the education of Saxon students with scholarships from these bursaries, and they also came to the aid of the Saxon churches with significant amounts of

78 Lemeni and Moga, “Rugămintea episcopilor Moga și Lemeni,” 151–54.

79 Ibid., 154–55.

80 Ibid., 156–57; in the 1840s, it resulted in serious responses when the Saxon authorities declined the application of three young people from Brasov, who graduated from the Piarist Lyceum of Cluj, for an internship, referring to the state of their religion as “tolerated.” Ambrus Miskolczy, *A brassói román levantei kereskedőpolgárság kelet-nyugati közvetítő szerepe* (Budapest: Akadémiai Kiadó, 1987), 140.

money, while the Romanians were excluded from these benefits. According to the Romanians, this was done deliberately in order to ensure that the Romanians remained uneducated. Education, they believed, was the only path to cultivation, which was important for the development of the nation. The authors thought that this was motivated by fear: “If they are denied ways to earn their bread, then the great things born of the genius, the spirit, go into a deep sleep. A dream falls over them, and they are suffocated if their body has no ailment.”⁸¹ Thus, according to the authors of the plea, the Saxons were afraid of the awakening national consciousness and national spirit of the Romanians. From the Romanian point of view, funds were available to finance education, and the development and spread of culture would lead to works of genius so that the nation would be able to fulfil its fate and reach its classical state.

These demands were justified with the mention of several other financial grievances. According to the authors, this fear is the reason why the Saxons excluded the Romanians and the Hungarians from the guilds, and this is why the Romanians of *Fundus Regius* did not have the right to engage in forestry or tavern keeping and had no share of the yields from the common lands.⁸² Another disputed issue in the plea is the question of the tithe, since the Romanians had to pay the tithe to the Saxon clergy instead of their own Orthodox clerics. The latter had to do their own husbandry, and, as the plea puts it, even the Greek Catholic clerics get only a small amount of money as a favor.⁸³ Similarly, the issue of boundaries arose after the agricultural transformations of the age. The bishops complained that the Saxons held back the related documents, and in cases of disputes, the Romanian communities could not prove that they had owned certain lands for several generations. According to them, the Saxons used legal acts to take away these lands, thus stealing the ancient heritage of the Romanians. As far as the petitioners knew, the Saxons established special committees to control the boundaries and drive away the Romanians or impoverish them in *Fundus Regius*. In their assessment, this practice was possible because the first level of jurisdiction was in Saxon hands, as was the highest judiciary forum.⁸⁴

The fate of the document did not differ much from the fate of the earlier documents. It was sent to committee after a short debate at the diet; the committee asked the Saxons to give an assessment, and the Saxons refused to

81 Lemeni and Moga, “Rugămintea episcopilor Moga și Lemeni,” 157.

82 *Ibid.*, 156–58.

83 *Ibid.*, 159.

84 *Ibid.*, 160.

discuss the plea. It surfaced again in February, 1843. This is when it was sent to the *Systematica Deputatio*, which rejected it.⁸⁵

If one examines the pleas side by side, the key concept in each of them, with the exception of the plea of 1838, was repositioning (reponere, repositione, repunere), but the meaning of this concept changed significantly over time. In the case of the *Supplex Libellus Valachorum*, the argumentation based on social contracts and the customary law definition of feudal rights was replaced with a positive legal argumentation built on actual acts of laws. On the other hand, in the plea of 1838 the concept of handling nations as living beings is unmistakably recognizable, together with the idea of their rise through civilization and culture. This change of paradigms caused a change in the aims of the pleas as well. Eventually, their main aim was not merely to secure rights, but to establish auspicious circumstances for the development of a nation conceived of as a living being. The goal became to prepare for cultural development and establish the conditions necessary for culture to flourish.⁸⁶ Thus, although at first glance the argumentations of the documents seem to have a lot in common, in fact one can clearly discern how the community-related concepts of Transylvanian Romanian Romanticism started to gain ground, while at the same time the tropes appearing in the *Supplex Libellus Valachorum* started to undergo a transformation.

Together with the conceptual changes, significant changes can be detected both in the structure of Transylvanian Romanian society and in its relationship with the public spheres. By the end of the 1830s, a clerisy had been formed, which was low in number, but together with the foundation of the Transylvanian Romanian press, it acquired significant cultural influence. Beginning in the 1820s, the Transylvanian press began to quicken, and with the establishment of the Hungarian *Erdélyi Híradó* in 1831, a liberal newspaper came into existence, which aimed not only to report news, but also to form public opinion. The Romanians followed this trend with a bit of a delay. In 1837, after the unsuccessful attempts of Ioan Barac, George Barițiu founded the papers *Foaie pentru minte, inimă și*

85 Gyémánt, *Mișcarea națională a românilor din Transilvania între anii 1790 și 1848*, 262–68.

86 The primarily literal and cultural programs and ideas that aim to build the foundations of the national culture are very prevalent among the Romanian intellectuals of the period. These are present in the press until 1848. A non-exhaustive list of examples: A din Ungaria, “România în privința literaturii,” *Foaie pentru minte, inimă și literatură* 6, no. 25–26 (1843); Barițiu, “Scriitori clasici”; Barițiu, “O încercare de traducție,” *Foaie pentru minte, inimă și literatură* 8, no. 33 (1845); Timotei Cipariu: “Critica și redactorii,” *Organulu Luminarei* 1, no. 2 (1847); Ioan Rusu, “Ceva despre ortografia latino-românească,” *Foaie pentru minte, inimă și literatură* 1, no. 10 (1838); Ioan Rus, *Icoana pământului sau carte de geografie*, vol. 1 (Blaj: Tipografia Seminarului, 1842); J. J. Mány, “Idei despre creșterea poporului,” *Gazeta Transilvaniei* 9, no. 57 (1846).

literatură and *Gazeta de Transilvania*, which soon became the central media of the Romanian clerisy. The importance of the two newspapers is eloquently illustrated by the fact that at its first appearance the former had about one hundred subscribers, but by 1842 this number had grown to 630 and by 1848 it had grown to 820.⁸⁷ The press became a part of everyday life and the most important opinion shaper by the 1840s, as was true in the case of Hungarian politics. Organs of the press involved groups of people in political life who earlier had had only shallow contact with it; with the establishment of new genres, it altered the frameworks of the expression of political opinion; and by furthering the emergence of a new terminology, it changed the linguistic elements of politics as well.⁸⁸ In this aspect, the two Romanian papers of Brassó (Braşov) can be considered exemplary. Thanks to the work of Bariţiu, these papers added huge intellectual energies to some of the political debates. Their significance is further enhanced by the fact that through translation of the most important Hungarian and Saxon writings, the papers created opportunities for Romanian intellectuals to join these debates in their own language. As intellectuals were beginning to gain ground in this way, the influence of the bishops as political leaders was weakening, and with the publicity of the press, the role of the pleas as the only forum for the demonstration of public political opinion was over. In light of all this, the 1830s bore witness to radical changes in the ideological foundations of political thinking, in the ways and scope of political activity, and in the social status of the participating entities. Taking this into consideration, we can say that although the Transylvanian Romanian political movements of the 1790s, 1830s and 1840s are intricately intertwined, they cannot be discussed as part of a single movement or period.

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88 For further information on the Hungarian context see János Veliky, “A programalkotó politikai viták nyelvi-kulturális kerete a reformkor második évtizedében,” *Irodalomtörténet* 42, no. 3 (2011): 291–320.

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Vlasta Švoger

Political Rights and Freedoms in the Croatian National Revival and the Croatian Political Movement of 1848–1849

Reestablishing Continuity

Based on an analysis of chief programmatic texts from the period of the Croatian National Revival and the Croatian Political Movement of 1848–1849, as well as articles published in Zagreb liberal newspapers, this paper illustrates how the Croatian intellectual elite advocated political rights and freedoms in the first half of the nineteenth century. Following the tradition of the Enlightenment, the elite interpreted them as natural rights. While the focus in the first decades of the nineteenth century was on the idea of enlightening the people and the right of the people to nurture their native language, in the 1840s other rights were also included. In the revolutionary year of 1848, the formulation of political rights and freedoms was most complete.

Keywords: political and civil rights and freedoms, Croatia, first half of the nineteenth century, Croatian National Revival, Croatian Political Movement of 1848–1849, Zagreb liberal newspapers

Introduction

This paper presents the manner in which the idea of natural law was received and then gradually concretized through the advocacy of political and civil rights in Croatia in the first half of the nineteenth century. Leaning on the political ideas of the late Enlightenment and debates of Enlightenment philosophers and thinkers on the concept of natural law, the Croatian liberal intellectual elite introduced political and civil rights and freedoms as an important subject of political discourse in 1830s and 1840s, a period marked by the movement called the Croatian National Revival (in Croatian, *Hrvatski narodni preporod*) and the Croatian Political Movement (*Hrvatski politički pokret*) of the revolutionary years 1848–1849. Both movements thus reestablished the continuity of the discourse on social reforms in Croatia after several decades of quiescence.

The Croatian National Revival (also known as the Illyrian Movement) was a national, cultural and political movement in Croatia, the main stage of which was the period between the launching of the newspapers *Novine hrvatzke* (Croatian Newspaper) and *Danica hrvatzka, slavonszka y dalmatinzka* (Croatian, Slavonian

and Dalmatian Morning Star) in 1835 and the outbreak of the revolution in the Habsburg Monarchy in 1848. The movement emerged out of the political, social and economic development that had been underway in the Croatian lands since the late eighteenth century and was related to the nation-building processes in Europe, in particular the shaping of Slavic nations and the Hungarian nation. The initial stage of the Croatian National Revival can be associated with the political, social and cultural influence of Enlightened intellectuals in several Croatian lands around 1790, including Maksimilijan Vrhovac, Nikola Škrlec Lomnički, Ivan Lovrić, Josip Voltić, Tomo Bassegli (Baseljić) and Antun Mihanović. At the time, Croatian lands were politically divided between the Habsburg and Ottoman Empires, the Venetian Republic and the Republic of Ragusa. Although united by the beginning of the nineteenth century under Habsburg rule, Croatian lands remained subject to various jurisdictions in the Austrian (Dalmatia, Ragusa and Military Frontier) and Hungarian parts of the Monarchy (Croatia and Slavonia). Thus, in decades following 1790, the political and social discourse of the Croatian intelligentsia, especially in Croatia and Slavonia, which at the time was considered the main integrative factor, was imbued with the political disintegration of Croats living in the Monarchy. The specific political position of Civil Croatia within the Lands of the Hungarian Holy Crown was defined by the so-called municipal rights (*iura municipalia*). According to these rights, Croatia was entitled to a certain degree of autonomy, which included its own legislative and administrative bodies, i.e. the Croatian Diet, the Banus (governor), and the county administrations and courts. Since the Hungarian Diet of 1790, as a result of the experiences of absolutistic rule under Emperor Joseph II, Croatia became more dependent on the Hungarian public administration and tax system, which exerted a considerable influence on Croatian-Hungarian political relations in the first half of the nineteenth century. In that period, the Croatian nobility was faced with pressure exerted from two sides: centralistic and even absolutistic tendencies of the Court in Vienna on the one hand and the efforts of the Hungarian nobility to build a strong Hungarian national state within the Monarchy on the other. In this complicated situation, the Croatian nobility was not able to create and implement its own policy, and gradually it gave way to the Hungarian policy of social, political and cultural reforms, concerning in particular the introduction of the Hungarian language into civic life and educational institutions. In the 1830s, a generation of young Croatian intellectuals emerged, mostly of common origin, which started the movement that was originally oriented around various cultural issues as integrative factors

of the Croatian nation (standardization of the Croatian language, newspapers on the Croatian language, cultural societies), but later grew into a comprehensive national and political movement. The Croatian language was initially intended to be standardized under the Illyrian name (hence the Illyrian movement). This name was chosen in an effort to overcome local particularisms and create literary unity among Croats, which at the time was undermined by the wide array of dialects, as well as the similar languages and similar dialects of other Southern Slavic peoples. The idea was formulated by Ljudevit Gaj in his book *Kratka osnova horvatsko-slavenskoga pravopisanja* (*A short draft of Croatian-Slavic orthography, 1830*). A group of young intellectuals gathered around Gaj, and with the support of Count Janko Drašković became a leading group in the Croatian National Revival.¹

By the spring of 1848, the movement achieved its main goals: the integration of different social groups in the Croatian nation (although this process was not complete in all Croatian regions or among all social groups), the adoption of Croatian as the official language in Croatia, and the organization of various cultural, economic and political institutions regarded as necessary for the transformation of a feudal society and economy into a civil society and capitalist economy. In the revolutionary years of 1848 and 1849, most of the Croatian political elite—Banus and Banus' Council (in Croatian Bansko vijeće), Croatian politicians, officials and intelligentsia gathered around liberally oriented Croatian newspapers, with the exclusion of so-called *mađaroni* or pro-Hungarians—supported the politics formulated in 1848 in the document *Zabtijevanja naroda* (People's Demands) and consequently in the Croatian Diet. Its main goals were the territorial integrity of the Croatian lands, an independent Croatian government, wide autonomy within the Monarchy, transformation of the Croatian Diet into a modern parliament, and federalization of the Habsburg Monarchy with all nations enjoying equal political rights. Some members of the political elite, especially the intellectuals gathered around liberally oriented Croatian newspapers, requested the legislation of political and human rights.

1 For more on the Croatian National Revival cf. Nikša Stančić, ed., *Hrvatski narodni preporod 1790–1848: Hrvatska u vrijeme Ilirskog pokreta* (Zagreb: Muzej za umjetnost i obrt, 1985) and Jaroslav Šidak, Vinko Foretić, Julije Grabovac, Igor Karaman, Petar Strčić, and Mirko Valentić, *Hrvatski narodni preporod – ilirski pokret* (Zagreb: Školska knjiga–Stvarnost, 1990).

In Croatian historiography, this phenomenon is called the Croatian (Political) Movement of 1848–1849.²

The analysis of the discourse on political rights and freedoms in the Croatian National Revival and the Croatian Political Movement of 1848–1849 is based on the most influential programmatic writings of the period in question (the document *Zabrtjevanja naroda* from 1848 being the most important one), as well as the articles published in the Zagreb liberal newspapers *Novine dalmatinsko-hèrvatsko-slavonske* (Dalmatian-Croatian-Slavonian Newspaper), *Danica horvatska, slavonska i dalmatinska*/*Danica ilirska* (Croatian, Slavonian and Dalmatian Morning Star/Illyrian Morning Star), *Agramer Zeitung*, *Saborske novine* (Parliament Gazette), *Slavenski Jug* (The Slavic South), *Südslawische Zeitung* and *Jugoslavenske novine* (The South-Slavic Newspaper) in the late 1840s and early 1850s. I have a few reasons for having chosen these newspapers as the focus of the analysis. Before 1848, the few journals that were published in Croatian lands were not politically colored and were allowed to publish only articles previously published in some of the censored newspapers of the Monarchy. In 1848, due to increased interest in political events, twelve new journals were published in Croatia, though they lasted only a few months. Most of them were locally-oriented and did not address the issues discussed in this paper. Some newspapers that had been published earlier (for example, *Agramer Zeitung* and *Novine dalmatinsko-hèrvatsko-slavonske*) began to write on political issues. Unlike other journals published in the late 1840s in Croatia, the newspapers on which I focus in this paper were political newspapers with a wide range of topics and were distributed all over Croatia. They advocated Croatia's territorial integrity and broad autonomy, equal status of all nations in the transformed, federalist Habsburg Monarchy, and the implementation of moderate liberal ideas in Croatia. Editorial boards and contributing authors of these newspapers argued for the implementation of constitutionalism and parliamentarianism, as well as the affirmation and

2 For more on this political phenomenon cf. Nikša Stančić, “Das Jahr 1848 in Kroatien: Unvollendete Revolution und nationale Integration,” *Südost-Forschungen* 57 (1998): 103–28; Tomislav Markus, *Hrvatski politički pokret 1848–1849: Ustanove, ideje, ciljevi, politička kultura* (Zagreb: Dom i svijet, 2000); Tomislav Markus, *Hrvatski politički pokret 1848–1849. godine: Izabrani dokumenti na njemačkom* (Zagreb: Hrvatski institut za povijest, 2009).

protection of political and civil rights.³ They exerted a relatively strong influence on the views of the politically involved public in the Croatian lands.⁴

The ideas of Enlightenment thinkers, and in particular the idea of natural law,⁵ the notion of the people as the source of power in a state, the right of the people to rebel against the authorities with whom they were discontent, and the principles of separation of power, constitutionality and parliamentarianism, were made concrete in the early liberalism of the first half of the nineteenth century, and had considerable impact on political thought in the countries of Western, Central, and South-Eastern Europe.⁶ Also important was the idea of universal prosperity and the conviction of (some) Enlightenment thinkers that all people are born equal; this idea, together with the idea of natural law, became the basis for an understanding of the natural rights of humankind: the right to life, liberty, property, and the pursuit of happiness. Natural rights are inalienable and universal, valid for all people, regardless of their race, gender,

3 On the newspapers under discussion cf. Josip Horvat, *Povijest novinstva Hrvatske 1771–1939*, ed. Mirko Juraj Mataušić (Zagreb: Golden marketing–Tehnička knjiga, 2003), 58–156, and Vlasta Švoger, *Zagrebačko liberalno novinstvo 1848–1852. i stvaranje moderne Hrvatske* (Zagreb: Hrvatski institut za povijest, 2007).

4 The politically involved public in Croatia (including politicians, officials, members of the intelligentsia, officers and clergy) mostly came from urban areas. It is, however, worth mentioning that many teachers and priests acted as promoters of (political) ideas among their illiterate countrymen in rural areas (*inter alia*, by reading them newspapers), and that one copy of the newspaper was read by not only by the owner, but by at least a few other people. On the influence of the liberal newspapers in the Croatian public cf. Švoger, *Zagrebačko liberalno novinstvo*, 151–5, 167–75. In the eighteenth century the term “public opinion” meant the opinion shared by many people. However, in the *Vormärz* period, this term was ideologized by the liberal bourgeoisie and interpreted as the oppositional voice of educated citizens of common origin demanding to be represented in the parliament. They identified their own interests with the public interest in a constitutional monarchy and demanded freedom of the press. During the revolution 1848–1849, they legitimized their political demands by relating to public opinion. Lucian Hölscher, “Öffentlichkeit,” in *Geschichtliche Grundbegriffe: Historisches Lexikon zur politisch-sozialen Sprache in Deutschland*, ed. Otto Brunner et al. (Stuttgart: Klett-Cotta, 1978), 4:413–67. Andreas Schulz defined the public at the middle of the nineteenth century as the educated, politicized and elitist public, who, with the help of education, intend to become a general civil public. Andreas Schulz, “Der Aufstieg der ‘vierten Gewalt’: Medien, Politik und Öffentlichkeit im Zeitalter der Massenkommunikation,” *Historische Zeitschrift*, no. 270 (2000): 65–97.

5 Karl-Heinz Iltting, “Naturrecht,” in *Geschichtliche Grundbegriffe*, 4:245–313.

6 On the influence of the Enlightenment in Central and South-Eastern Europe cf. László Kontler, “The Enlightenment in Central Europe?,” in *Discourses of Collective Identity in Central and Southeast Europe (1770–1945): Texts and Commentaries*, vol. 1, *Late Enlightenment. Emergence of the Modern ‘National Idea’*, ed. Balázs Trencsényi and Michal Kopeček (Budapest–New York: Central European University Press, 2006), 33–44; Paschalis M. Kitromilides, “The Enlightenment in Southeast Europe: Introductory Considerations,” in *ibid.*, 45–53.

mother tongue, religious belonging, social background, or other differences.⁷ After World War II, the concept of human rights as a synonym for natural rights came into everyday usage. There is no universally accepted definition of human rights, but the most common is a division by French jurist Karel Vasak, who divided human rights into three generations. Each generation is related to one of the concepts deriving from the chief motto of the French Revolution. Of relevance to this article is the first generation of human rights, i.e. civil and political rights, which he links to the concept of *liberté*: the right to life, liberty, the security of the individual, freedom from gender, racial or other forms of discrimination, freedom from slavery or involuntary servitude, freedom from torture or inhuman and degrading punishment, freedom from arbitrary arrest and exile, the right to a fair and public trial, freedom from interference in privacy and correspondence, the right to resistance and asylum from persecution, freedom of thought, conscience and religion, freedom of opinion, the right to free assembly and association, and the right to participate in government, directly or through free elections. Linked to the concept of *égalité* are economic, social, and cultural rights, and in Vasak's classification the term *fraternité* refers to various group or solidarity rights.⁸ The first American codifications of political and civil rights in the 1776 Declaration of Independence⁹ and declarations of rights (the 1776 Virginia Declaration of Rights and the 1791 Bill of Rights), which influenced the French Revolution, and the revolutionary codification of political and civil rights in the 1789 Declaration of the Rights of Man and of the Citizen, had a direct or indirect impact on all subsequent codifications of political and civil rights.¹⁰ However, negative aspects of the French Revolution (primarily related to various forms of violence) added negative connotations to the concepts of natural rights and brought about some form of regression. Accordingly, in the 1799 French Constitution, there was no explicit reference to natural rights or the rights of man. Similarly, there were no references to natural

7 Micheline Ishay, *The History of Human Rights: From Ancient Times to the Globalization Era* (Berkeley–Los Angeles–London: University of California Press, 2004) 3.

8 Encyclopaedia Britannica, accessed December 5, 2014, <http://www.britannica.com/EBchecked/topic/275840/human-rights>.

9 Only life, liberty and the pursuit of happiness were mentioned in the 1776 American Declaration of Independence as the inalienable rights of human beings.

10 Gerd Kleinheyer, "Grundrechte: Menschen- und Bürgerrechte, Volksrechte," in *Geschichtliche Grundbegriffe* (Stuttgart: Klett-Cotta, 1975), 2:1061–82; Dalibor Čepulo, "Francuska revolucija i Deklaracija o pravima čovjeka i građanina 1789. godine: problemi političke demokracije," *Časopis za suvremenu povijest* 21, no. 1–3 (1989): 161–78.

rights in the constitutions of German states drafted in the first decades of the nineteenth century. Instead, references were made to the rights of subjects, or rights of citizens.¹¹ Revolutionary turmoil in the spring of 1848 marked a great comeback of civil and political rights on the political scene.

Enlightenment Ideas in Croatia at the End of the Eighteenth Century and the Beginning of the Nineteenth

Concepts developed by thinkers of the Age of Reason questioning the existing social order and proceeding from the ideas of liberty, reason, a return to nature, the enlightenment of people, universal prosperity, the concept of natural law and the principal ideas of the French Revolution also had a significant influence in Croatia. Based on (not very extensive) research conducted thus far, it can be stated that the ideas of thinkers of the Enlightenment and French revolutionaries were, in Croatian lands, known to a relatively small circle of intelligentsia from within the ranks of the nobility and the wealthy citizenry, in spite of tightened censorship and a ban on distribution of texts promoting revolutionary ideas. These ideas were disseminated by individuals who were either studying abroad or for some other reason spent time beyond the borders of the Habsburg Monarchy for longer periods, those who secretly read prohibited and smuggled papers and newspapers, and in coastal areas sailors who heard of them during their voyages. The breakthrough of revolutionary ideas in the Habsburg Monarchy coincided with a U-turn in the conservative trend of the home policy following Emperor Joseph II's death (1790), who, under very complex political, diplomatic, and military circumstances and pressured by the nobility, had had to withdraw practically all of his reforms. The strengthening of reactionary forces in ruling circles, and the Monarchy siding in the war against revolutionary France provoked on the one hand stricter censorship with respect to manuscripts intended for publication, while on the other it encouraged the activities of secret societies, mainly Freemasons (which had previously existed in Croatia), striving to pave the way for progressive ideas in the Hungarian and Croatian societies. Former Franciscan friar Ignác Martinovics founded two secret societies in Hungary. Among their members were individuals from Croatia (Chamber auditor Josip Kralj), officer in the Military Frontier Baron Siegfried-Heribert Taufferer and others; even the Bishop of Zagreb Maksimilijan Vrhovac was mentioned as a

11 Kleinheyer, "Grundrechte," 1070–75.

member). Two songs appearing in Zagreb in 1794 and 1796 called for equality among people in the common fight with the French in spreading revolutionary ideas. In Dalmatian towns, resistance was growing among individuals against the monopoly of the nobility to govern the Dalmatian communes. It is in this context that one should interpret three satires appearing in Split public places in 1792, which, following the French model, invited common people to join an armed struggle against the nobility and the clergy.¹² In Croatia, the ideas of the Enlightenment were propagated by learned individuals who promoted them in their works; for example Nikola Škrlec Lomnički, Ivan Lovrić, Josip Voltić, Tomo Bassegli (Baseljčić), and they can, in this regard, be considered precursors of the Croatian National Revival. Škrlec, the *spiritus movens* of Croatian politics in the last decades of the eighteenth century, contributed to laying the foundation for the subsequent, more concrete advocacy of political and civil rights in Croatia through his theoretical and practical work. His contribution in particular referred to advocating the principle of natural law and ideas of the Enlightenment in public welfare. He proposed a gradual reform of the feudal system based on the marginalization of all particular interests and the introduction of universal rights including the protection of state institutions, education, public health services or fair trial.¹³

In the last decades of the eighteenth century, Ivan Drašković VIII, founder of the Freemasonry in Croatia, promoted the idea that all people are by nature equal, regardless of social status and origin (but not before the law, and for this reason, members of the fraternity were encouraged to do humanitarian work). In Masonic lodges he founded principles of social equality, and national/

12 Cf. Vaso Bogdanov, *Jakobinska zavjera Ignjata Martinovića* (Zagreb: Novinarsko izdavačko poduzeće, 1960); Olga Šojat, “O dvjema revolucionarnim kajkavskim pjesmama s kraja osamnaestog stoljeća,” in *Croatica* 1, no. 1 (Zagreb, 1970): 211–36; Šidak et al., *Hrvatski narodni preporod*, 7–57; Jaroslav Šidak, “Hrvatske zemlje u Vrhovčevo doba 1790.–1827,” in Maksimilijan Vrhovac, *Dnevnik*, ed. Dragutin Pavličević (Zagreb: n.p., 1987), 1:9–51; Dragutin Pavličević, “Maksimilijan Vrhovac: Život i djelo,” in Maksimilijan Vrhovac, *Dnevnik*, 1:52–79; Josipa Dragičević, “Maksimilijan Vrhovac i slobodno zidarstvo u 18. stoljeću,” *Croatica Christiana periodica* 66 (2010): 49–60. On the Enlightenment in Croatian Lands cf. Teodora Shek Brnardić, “Intelektualni razvoj,” in *U potrazi za mirom i blagostanjem: Hrvatske zemlje u 18. stoljeću*, ed. Lovorka Čoralić (Zagreb: Matica hrvatska, 2013), 195–218; Ivan Golub, ed., *Barok i prosvjetiteljstvo*, vol. 3. of *Hrvatska i Europa: Kultura, znanost i umjetnost* (Zagreb: Školska knjiga, 2003).

13 For their work cf. Eugen Pusić et al., *Nikola Škrlec Lomnički 1729–1799*, 4 vols. (Zagreb: Hrvatska akademija znanosti i umjetnosti, Pravni fakultet Sveučilišta u Zagrebu, Hrvatski državni arhiv, 1999–2007) and papers by Teodora Shek Brnardić on Lovrić, Voltić, and Bassegli in Balázs Trencsényi and Michal Kopeček, *Late Enlightenment: Emergence of the Modern ‘National Idea’*, vol. 1. of *Discourses of Collective Identity in Central and Southeast Europe (1770–1945): Texts and Commentaries* (Budapest–New York: Central European University Press, 2006), 57–61, 223–27, 312–15.

ethnic and religious equality were implemented because their members belonged to different social groups (peers, military officers, Catholic and Orthodox priests, as well as Jews and common people), such as servants of peers who were members of the fraternity. Following the disclosure of Martinovics's conspiracy and the arrest of its leaders, the ruler put a ban on all secret societies in 1795, thus terminating the work of Masonic lodges in Croatia.¹⁴

The reforms of Enlightened absolutism paved the way for the rise of the middle social groups (citizens), in particular on the basis of education, placing the educational system under state jurisdiction. In Croatian Lands, they took advantage of new opportunities for education and the king's bursaries, and the late eighteenth century saw the emergence of educated citizens. They could take part in the political life of the towns in which they lived, and the educated and well-off individuals from among them, the so-called "honorati" (from the German Honoratioren), were able to participate in politics informally through their professional advice and other, similar means.¹⁵ It was at this time that the citizens demanded that their representatives take part in the work of the Croatian Diet. In 1790, the citizens of Zagreb claimed this right from Emperor Leopold II.¹⁶ However, after Emperor Joseph II, under coercion, withdrew his reforms, political life in the Habsburg Monarchy in the following decades was characterized by conflicts between the monarch's Absolutist government practices and the nobility's endeavors to preserve not only its privileges, but also a special political status. Consequently, in 1791, the Lands of the Hungarian crown were defined by the Estates as a free and independent kingdom within the Monarchy, enjoying its own laws and customs. In such a political atmosphere, a positive climate for implementing the idea of political participation of commoners could not emerge until the 1840s, even among the (few) liberally oriented peers in Croatia, and even distinguished representatives of the intelligentsia did not advocate it. It was only in 1844 that commoners were given the right to be employed by public bodies by resolution of the Hungarian Diet (1843/44:5). An 1845 debate in the Croatian Diet on the criteria for selecting deputies for the Croatian Diet from the

14 Ivan Mužić, *Masonstvo u Hrvata*, 6th amended edition (Split: Laus, 2001), 17–23; Dragičević, "Maksimilijan Vrhovac," 53, 59.

15 On "honorati" cf. Stančić, "Hrvatski narodni preporod," 4–7.

16 Emilij Laszowski, "Zagrebački građani traže god. 1790 pravo glasa na saboru," *Vjesnik Kr. Državnog arhiva u Zagrebu* 6 (1934): 201–04.

Royal Academy of Science in Zagreb testifies to the fact that the implementation of this decision did not go smoothly.¹⁷

Political and Civil Rights and Freedoms in Croatia in the First Half of the Nineteenth Century

In the first decades of the nineteenth century, the political and social climate in Croatia was strongly marked by the resistance of the Croatian aristocratic elite (together with the Hungarian nobility) to conservative politics of the Court of Vienna on the one side and Hungarian endeavors to spread the use of the Hungarian language to Croatia and Slavonia on the other. Under such circumstances, the Croatian nobility acted defensively, and their political work was oriented mostly towards the protection of their own privileges. This situation was reflected in the major programmatic texts of the Croatian National Revival in the 1830s and 1840s, written mostly by young educated men of common origin. For this reason, most political texts by Croatian authors appearing in the periods mentioned contained only slight indications of Enlightenment ideas, primarily the awareness of the need to enlighten broad social groups and reason as the chief method with which to evaluate human progress and achievements. The idea of the need to enlighten the population and nurture the native language as a reflection of the nation's spirit in accordance with Herder's ideas,¹⁸ as a natural right of the people and, at the same time, a prerequisite for progress and development in the political, economic, social, and cultural sphere was a *Leitmotif* of all of the texts under discussion here from the period of the Croatian National

17 Proposals concerning the election of "einen adeligen Deputirten" in the Academy were dismissed during the debate and, pursuant to the new law, it was decided that the Academy should be requested to send "den Würdigsten." *Die Vollständigen Landtagsverhandlungen der vereinigten Königreiche Kroatien, Slavonien, Dalmatien im Jahre 1845 nebst dem Operat über Turopolje und der neuesten königlichen Resolutionen an das Agramer Comitát*, compiled by J. P. Jordan (Leipzig: Expedition der slavischen Jahrbücher, 1846), 32. This fragment is based on a paper of Ivana Horbec, "Arme Diener des Königs und ihre (verpassten) Chancen: Existentielle Herausforderungen des kroatischen Kleinadels im 18. Jahrhundert," presented at the conference *Soziale Abstiegsprozesse im europäischen Adel*, Tübingen, September 17–19, 2014.

18 On the acceptance of the idea of the German philosopher and writer Johann Gottfried Herder in Croatia cf. Nikola Ivanišin, "J. G. Herder i ilirizam," *Radovi Filozofskog fakulteta u Zadru* 2, no. 2 (1963): 196–225; Wolfgang Kessler, "Die Südslawen und Herder: Einige Anmerkungen," in *Festschrift für Wolfgang Gesemann*, Beiträge zur slawischen Sprachwissenschaft und Kulturgeschichte, 3 (Munich: Hieronymus Verlag Neuried, 1986), 157–75; Vlasta Švoger, "Recepcija Herdera u hrvatskome narodnom preporodu na temelju Danice ilirske," *Časopis za suvremenu povijest* 30, no. 3 (1998): 455–78.

Revival written in Croatian,¹⁹ with the exception of the brochure *De municipalibus iuribus et statutis*,²⁰ which enumerates Croatian municipal rights in detail. All these writings came into being primarily as a response to contemporary political controversies on the Croatian political scene, which largely determined the conflict between Illyrians—members of the Croatian Revival Movement (the Illyrian Movement)—and *mađaroni* (pro-Hungarians)—members and supporters of the Croatian-Hungarian Party,²¹ which closely collaborated with the Hungarian liberal opposition during the reformist period²²—and the conflicts on the Hungarian political scene and in the Hungarian Diet. Their authors primarily responded to current political disputes and did not present a comprehensive view on important political and social issues. An exception in this regard was *Disertacija* (Dissertation) by Janko Drašković from 1832, the first political paper written in the Croatian Štokavian dialect and the single programmatic text of the Croatian National Revival containing a comprehensive program of development of the Croatian society in the political, economic, cultural, and social spheres, frequently following reform models implemented in Hungary at the time.

Like other members of the Croatian National Revival and their precursors in the late eighteenth century, Count Janko Drašković in his *Dissertation* advocated enlightenment of the people, and the right of the people to nurture

19 Maksimilijan Vrhovac, “Poziv na sve duhovne pastire svoje biskupije,” (originaly in Latin, 1813) in *Hrvatski preporod: Temeljni programski tekstovi*, compiled by Ivan Martinčić (Zagreb: Erasmus naklada, 1994), 1:29–33; Antun Mihanović, “Reč domovini od hasnovitosti pisanja vu domorodnom jeziku,” in *Hrvatski preporod*, 1:42–56; Ivan Derkos, *Genius patriae super dormientibus suis filiis, seu folium patrioticum, pro incolis regnorum Croatiae, Dalmatiae, & Slavoniae in excitandum, excolendae linguae patriae studium* (Zagreb, 1832; reprint: Karlovac: Matica hrvatska, 1996); [Janko Drašković], “Disertacia iliti razgovor, darovan gospodi poklisarom zakonskim i budućem zakonotvorcem kraljevinah naših, za buduću Dietu Ungarsku odaslanem, držan po jednom starom domorodcu kraljevinah ovih,” (original printed in Karlovac in 1832), in *Hrvatski preporod*, 1:96–141; Janko Drašković, *Ein Wort an Iliriens hochberzige Töchter* (Zagreb: K. p. ilir. Nat. Typographie von Dr. Ljudevit Gaj, 1838); Dragutin Rakovac, “Mali katekizam za velike ljude,” in *Hrvatski preporod: Temeljni programski tekstovi*, compiled by Ivan Martinčić (Zagreb: Erasmus naklada, 1994), 2:9–28; Ljudevit Vukotinović, “Ilirizam i kroatizam,” in *Hrvatski preporod*, 2:33–44; Bogoslav Šulek, *Šta namjeravaju Iliri?* (Belgrade: n.p., 1844).

20 [Josip Kušević, Valentin Kirinić, and Ladislav Žužić], *De municipalibus iuribus et statutis Regnorum Dalmatiae, Croatiae et Slavoniae* (Zagreb: Typis Franc. Suppan, 1830).

21 Arijana Kolak Bošnjak, “Horvatsko-vugerska stranka 1841–1848” (PhD thesis, University of Zagreb, 2012).

22 For political activities of the leading Hungarian reformist politicians in the nineteenth century, in particular in the context of their relationship to Austria, cf. István Fazekas et al., *Széchényi, Kossuth, Batthyány, Deák: Studien zu den ungarischen Reformpolitikern des 19. Jahrhunderts und ihren Beziehungen zu Österreich* (Vienna: Institut für Ungarische Geschichtsforschung in Wien, 2011).

their mother tongue and literature in that tongue,²³ claiming explicitly that no nation is entitled to impose its language on another nation; he proposed that the right to work for public institutions be based on education and intellectual capacity, regardless of origin or social affiliation, and believed that raising the quality of public education was a prerequisite; he advocated improvements to the material and political position of Orthodox priests, but this was not actually a step towards the introduction of religious equality, since he supported the ban on Protestant settlement in Croatia.²⁴ He advocated that the noblemen treat serfs more humanely (as Škrlec had done in the eighteenth century) and proposed reforms to the feudal social system whereby the ruler would raise educated and honorable commoners to the rank of nobility at the proposal of peers (something similar was proposed by Tomo Bassegli in the late eighteenth century in Dubrovnik),²⁵ whereas peers convicted of crimes would lose their status and privileges.²⁶ In his view, this was the way to preserve the feudal system while introducing some elements of civil society. This was a program for the “conservative modernization” of the Croatian society,²⁷ which was at first only partially accepted by the Croatian nobility, but was accepted by younger intelligentsia, which turned it into a program of the Croatian National Revival Movement.

Some ideas of Drašković were more precisely formulated in the National Party’s Draft Manifesto written by Ljudevit Vukotinović in late 1846, which was not officially accepted for reasons that have yet to be fully researched.²⁸ In this document emphasis was placed on defining the state, legal, and political position of the Triune Kingdom of Croatia, Slavonia, and Dalmatia within Hungary.

23 To this issue, he dedicated a special piece of writing to Croatian women inviting them to raise their children in their mother tongue. This was the brochure entitled *Ein Wort an Iliriens hochberzige Töchter*.

24 One of the major constants in Croatian politics of the first half of the nineteenth century and earlier was the insistence on the right of the Croatian Diet, as provided for by Article 1608:5, to determine its religious policy as one of the municipal rights; this policy was manifested in maintaining the ban on the settlement of Protestants in Croatia. Behind it, *inter alia*, was the fear of the Croatian nobility from the possible settlement of Hungarians, who would have represented strong competition for domestic nobility when competing for positions in the public institutions and offices.

25 Šek Brnardić, “Tomo Bassegli.”

26 Drašković, *Disertacija*, 109–10, 130–31, 138–40. He advocated gradual amendment of obsolete laws following the English model and opposed precipitate changes that happened in France in the several decades prior to it. *Ibid.*, 125.

27 Nikša Stančić, “Disertacija Janka Draškovića iz 1832. godine: samostalnost i cjelovitost Hrvatske, jezik i identitet, kulturna standardizacija i konzervativna modernizacija,” *Kolo* 17, no. 3 (2007): 137–67.

28 Jaroslav Šidak, “Stranački odnosi u Hrvatskoj prije 1848,” in J. Šidak, *Studije iz hrvatske povijesti XIX. stoljeća* (Zagreb: Sveučilište u Zagrebu, Institut za hrvatsku povijest, 1973), 146–50.

Invoking constitutional freedom, the Manifesto called for the equality of Croatia and Hungary and for the achievement of Croatia's territorial integrity; it announced the introduction of Croatian as the official language, and demanded reciprocity in accepting official documents written in Hungarian and Croatian, as well as the implementation of political and social reforms "in a peaceful and legal way," in particular the introduction of parliamentarianism, and the separation of the administration from the judiciary. The Party objective was the achievement of "overall national prosperity," expansion of constitutional freedoms to all members of the nation, universal taxation, the adoption of laws on education of the people, abolition of the corvée upon redemption, and adoption of better laws on universal civil rights.²⁹

The spread of the revolutionary wave in the spring of 1848 and a revival of the French revolutionary motto "Liberté, Egalité, Fraternité" encouraged the emergence of more concrete demands for the introduction of civil and political rights in Croatia. Demands for civil and political rights and freedoms culminated in Croatia in 1848 as well. This was evident in the *Želje naroda* (The People's Wishes), which was adopted by the Great Assembly of the City of Zagreb on 22 March 1848. In addition to state and legal requirements, it also contained the following political rights: freedom of the press, the right to political participation for all social groups, equality before the courts, introduction of public, oral and jury trials, universal taxation, and repurchase of serfs' levies by the state.³⁰ In the most notable programmatic text of the Croatian Political Movement of 1848–1849—*Zabijevanja naroda* (The People's Demands), which was adopted by the National Assembly on 25 March 1848 in Zagreb—the list of civil and political rights was much broader. In addition to various state and legal, political, cultural, and economic demands, there were also demands for freedom of the press, religion, instruction and speech, the right of political participation based on equality without social distinction, introduction of universal taxation, equality before the courts, public and oral court proceedings, jury and accountability of judges, abolition of corvée and servitude, introduction of the right of assembly, association, and submission of petitions, introduction of equal rights and freedoms for the (male) population in the Military Border as enjoyed by

29 Tihomir Cipek and Stjepan Matković, *Programatski dokumenti hrvatskih političkih stranaka i skupina 1842–1914* (Zagreb: Disput, 2006), 118–20, citations on 119 and 120.

30 Jaroslav Šidak, "'Narodna zahtijevanja' od 25. ožujka – program hrvatske Četrdesetosme," in J. Šidak, *Studije iz hrvatske povijesti za revolucije 1848–49* (Zagreb: Institut za hrvatsku povijest, Centar za povijesne znanosti, 1979), 46–47.

the residents in Civil Croatia, and the introduction of the native language in church affairs. (In October 1847, the Croatian Diet issued a resolution on the introduction of the Croatian language, the “native language,” as the official language in schools, administration, and the judiciary.)³¹ The *People’s Wishes* and the *People’s Demands* were formulated under the influence of the *People’s Wishes* from Pest, however, adjusted to Croatian political, social, and economic circumstances.³²

“Liberté, Egalité, Fraternité” was the chief motto and starting point in debates on contemporary political and social affairs in Croatia during the revolutionary years of 1848–1849. In his brochure *Hèrvati Madjarom* (Croats to Hungarians), Ivan Mažuranić demanded equality of all nations, states, languages, and religions recognized by law under the Hungarian Crown, using as a starting point the concept of natural rights and the aforementioned motto. He drew a link between personal and collective/national freedom, considering that one is not complete without the other.³³

Acting in a similar fashion, the Croatian political elite, assembled around liberally oriented Zagreb newspapers, linked the idea of liberty from the French Revolution to the ideas of the Enlightenment and made them the basic starting point in their campaign for the introduction of civil and political rights and freedoms. The starting premise was that the natural rights of man are inalienable, moral, and above the law. They are rights, rather than an act of the ruler’s grace. They were most frequently referred to as “fundamental rights” (*Grundrechte*) or freedom-loving institutions of the West, and very rarely as civil and political rights.

The concept of “fundamental rights” was used for the first time in German speaking countries in 1848, and from there came into use in Croatian political culture. In German lands, fundamental political and civil rights and freedoms were first codified in 1848. The Constitution of the German Confederation, adopted on 20 December 1848 in Frankfurt am Main, made a reference to “the fundamental rights of the German nation” (*die Grundrechte des deutschen Volkes*), which were elaborated in detail and were supposed to serve as a standard when

31 Ibid., 51–52; Dalibor Čepulo et al., ed., *Croatian, Slovenian and Czech Constitutional Documents 1818–1849*, vol. 9 of *Constitutions of the World from the late 18th Century to the Middle of the 19th Century: Sources on the Rise of Modern Constitutionalism*, ed. Horst Dippel (Berlin–New York: De Gruyter, 2010), 39–46.

32 Dalibor Čepulo, “Razvoj ideja o ustroju vlasti i građanskim pravima u Hrvatskoj 1832–1849,” *Pravni vjesnik* 16, no. 3–4 (2000): 44.

33 Ivan Mažuranić, “Hèrvati Madjarom: Odgovor na proglaše njihove od ožujka mieseca i travnja 1848,” in *Hrvatski prepород*, 2:75–76, 79–85.

the individual German lands adopted constitutions.³⁴ The Constitution of the Austrian Empire of the same year, the so-called Pillersdorf Constitution of 25 April 1848, provides for “civic and political rights of countrymen” (*staatsbürgerliche und politische Rechte der Staatseinwohner*).³⁵ The draft of the Austrian Constitution made by the Constituent Assembly in Kroměříž (in German Kremsier, today in the Czech Republic) in late December 1848 and early January 1849 defined “the fundamental rights of the Austrian People” (*Grundrechte des Österreichischen Volkes*).³⁶ This Draft Constitution differs from the other aforementioned

34 The fundamental rights of the German nation were as follows: freedom of immigration and emigration; equality before the law; the abolition of all privileges, public services were made accessible according to abilities, equal military service was introduced; personal freedom was guaranteed (there were detailed provisions for cases where a person can be deprived of freedom); the death penalty as well as the punishments of clubbing and branding were abolished; inviolability of the home was guaranteed (search of the home permitted only with a court warrant), as was the secrecy of correspondence; freedom to express thoughts in words, in writing, in pictures, or in the press; freedom of the press must not be restricted by measures such as censorship, concessions, restrictions on the work of printing-houses or shops selling the press, prohibition of distribution through the post or similar; complete freedom of religion and conscience was guaranteed, as well as the public profession of faith, civil marriage was introduced, and it was provided that public registers would be kept by civilian authorities; freedom of research and teaching was proclaimed, the right to free choice of one’s profession, the state took over control of the school system, and teachers in public schools were put on an equal footing with civil servants; furthermore, the freedom of assembly and association (even in the army and the navy, if this is not contrary to military discipline regulations); inviolability of property, every form of servitude is abolished (some taxes and obligations were abolished against no compensation, others against compensation); the entire judiciary was placed under jurisdiction of the state, equality of all before the courts was introduced, as well as public and oral court proceedings, trials by jury for serious criminal offences and for all political offences, the administration was separated from the judiciary, and the final court judgements of German courts were valid in all German lands. Cf. “Die Grundrechte des deutschen Volkes,” *Wiener Zeitung (WZ)* no. 345, December 28, 1848, 1514–15 and no. 346, December 29, 1848, 1527–28.

35 The first Constitution of the Austrian Empire/Habsburg Monarchy provided for the following civil and political rights: complete freedom of religion and conscience was guaranteed to all citizens, and the right of worship was recognized to all Christian religious communities recognized by law, to Jews, personal freedom was guaranteed (arrest was regulated by law), freedom of speech and the press, secrecy of correspondence; the right to petition and association; freedom of emigration; free access to services; freedom of land acquisition and practice of crafts permitted by law; equality before the law, in taxation and military service; public and oral court proceedings as well as jury trials for criminal offences. Cf. “Staatsbürgerliche und politische Rechte der Staatseinwohner,” *WZ* no. 115, April 25, 1848, 551.

36 The Constitutional Draft provided for the following fundamental rights of the Austrian nation: equality before the law, abolition of all privileges; universal accessibility of public services; guarantees of personal freedom; abolition of privileged and extraordinary courts, public and oral court proceedings, jury trials were provided for criminal offences, political, and press offences; abolishment of death penalty for political crimes, as well as the punishments of participation in public works, branding, corporal punishment, deprivation of property, as well as the loss of civil and political rights; inviolability of the home (search of a house and seizure of documents were possible only with a court warrant); secrecy of correspondence; the

codifications of civil and political rights in that it explicitly introduced the principle of the sovereignty of the people and the principle that all people have equal, inborn, and inalienable rights, and these rights are the right to self-preservation, personal freedom, honesty, and advancement of one's own spiritual and material welfare. This Draft Constitution was never adopted because the Constituent Assembly was dispersed by military force and the Emperor issued the Constitution by decree on March 4, 1849. The Austrian March Constitution Issued by Decree did not make any reference to fundamental civil rights and freedoms. In paragraph 5 a reference was made only to the fundamental right of nationalities (*das Nationalitätengrundrecht*), free movement of persons (*das Recht auf Freizügigkeit*), equal access to public services (*gleiche Ämterzugänglichkeit*), and the abolition of servitude (*Aufhebung des Untertänigkeitsverbandes*). The catalogue of “political rights”—narrowed down in comparison with the political rights provided for in the 1848 Constitution and the Kremsier Draft Constitution—was promulgated in the form of a special patent³⁷ applicable to the lands represented in the Austrian Parliament. “Fundamental rights” were mentioned only two years later in the New Year's Eve Patent (*Silvesterpatent*), when they were abolished.³⁸

right to petition; freedom of assembly and association; freedom of religion and public profession of faith, equality of all religious communities; introduction of civil marriage; freedom of movement for persons and property within state borders, freedom of emigration; freedom of research and teaching; compulsory primary school education at the state's expense; freedom of expression of one's thoughts verbally, in writing, in pictures as well as in the press; this freedom was not to be restricted by censorship, concessions, bails, or restrictions on printing and distribution of printed matter or any other restrictions; equality of all national groups, each national group was entitled to nurture its own nationality and language; equality of all languages that were customary in the state (*landesüblich*) in the school system, administration, and public life; inviolability of property; freedom to dispose of one's property by testament; universal taxation and universal military service. Cf. “Entwurf der Grundrechte des österreichisches Volkes,” *Extra Blatt zur Abend-Beilage der Wiener Zeitung* no. 238, December 23, 1848, [1–3].

37 Wilhelm Brauner, “Die Verfassungsentwicklung in Österreich 1848 bis 1918,” in *Verfassungsrecht, Verfassungswirklichkeit, zentrale Repräsentativkörperschaften*, ed. Helmut Rumpler and Peter Urbanitsch, vol. 7., bk. 1 of *Die Habsburgermonarchie 1848–1918* (Vienna: Verlag der Österreichischen Akademie der Wissenschaften, 2000), 127. The Patent guaranteed the following political rights for nationals: personal freedom (arrest possible only with a court warrant or during the commission of an offence), complete freedom of religion, religious communities recognized by law were granted the right of free practice of faith, freedom of research and teaching, the right of national minorities to nurture their language, the right to freely express one's thoughts in oral or written form and in pictures, freedom of the press which was not to be restricted by censorship, secrecy of correspondence, freedom of assembly and association, inviolability of the home (the search of a flat was allowed only with a court warrant). *Südslawische Zeitung (SZ)* no. 29, March 9, 1849.

38 G. Kleinheyer, “Grundrechte,” 1047, 1079.

In the late 1840s and early 1850s, the Zagreb press referred to civil and political rights and freedoms as “civil, public, and people’s rights” (*Novine dalmatinsko-hèrvatsko-slavonske*);³⁹ “free institutions, which other free nations considered life-saving” (*Saborske novine*);⁴⁰ “human and civil rights” (*Slavenski Jug*);⁴¹ “Western political ideas” (*Slavenski Jug*);⁴² “freedoms and political rights” (*Slavenski Jug*);⁴³ “March achievements” or “fundamental rights” (*Südslawische Zeitung*)⁴⁴ and freedom-loving institutions of the West.⁴⁵ In the newspaper *Jugoslavenske novine* civil rights were discussed as belonging to one of four categories: human rights, rights of a man as a member of a municipality, as a member of the state and as a member of a nation.⁴⁶

In the Zagreb newspapers *Novine dalmatinsko-hèrvatsko-slavonske*, *Danica ilirska/Danica horvatska, slavonska i dalmatinska*, *Agramer Zeitung*, *Saborske novine*, *Slavenski Jug*, *Südslawische Zeitung* and *Jugoslavenske novine*, one could not find a precise definition of what was understood under fundamental rights, or civil rights and freedoms. The rights and freedoms most frequently referred to as such were personal freedom and freedom of property, freedom of opinion and expression of thoughts in oral or written form, freedom of the press, freedom of research and teaching, freedom of assembly and association, equality before the law, religious and national equality, the right to nurture one’s mother tongue and nationality, and development and preservation of one’s identity, personal security and security of property, as well as self-government of municipalities.⁴⁷ These rights and freedoms were not systematically enumerated within the same article, rather individual rights were mentioned in different articles, or were generally referred to as the “March achievements” or “freedom-loving institutions,” which turned out to be the basis of a free state in the West. When the March

39 I. S., “Današnje stanje pravah dèržavnih,” *Novine dalmatinsko-hèrvatsko-slavonske* (NDHS) no. 53, May 27, 1848.

40 “Vèroizpovèdanje,” *Saborske novine* (SN) no. 1, June 6, 1848.

41 [Dragutin (Dragojlo) Kušlan], “U Zagrebu 22. svibnja,” *Slavenski Jug* (SJ) no. 61, May 24, 1849.

42 B. Š. [Bogoslav Šulek], “Mèrznja Zapada,” *SJ* no. 80, July 4, 1849.

43 Gustav Dollhopf, “Narodnost i Demokracija,” *SJ* no. 16, September 10, 1848.

44 *SZ* no. 146, September 15, 1849.

45 *SZ* no 89, July 7, 1849.

46 “Obćine. I,” *Jugoslavenske novine* (JN) no. 105, August 12, 1850.

47 In his book *Prava građana i moderne institucije: Europska i hrvatska pravna tradicija* (Zagreb: Pravni fakultet Sveučilišta u Zagrebu, 2003), Dalibor Čepulo analyses political rights in Croatia in the nineteenth century and puts them in a broader European context. He makes a detailed analysis of the right to citizenship and the right to domicile, the right to vote, the right to public assembly, the right to association and petition, freedom of the press, jury trials and equality of religions. See: 73–180.

Constitution Issued by Decree was promulgated, an anonymous author in the *Südslawische Zeitung* wrote that stable political institutions could not exist if civil rights and freedoms were not guaranteed; he proposed that Croats should demand that the so-called Grundrechte, i.e. a catalogue of political rights promulgated by means of a special patent on March 7, 1849, be promulgated in Croatia as well.⁴⁸ Editorial boards of the Zagreb liberal newspapers considered that civil rights and freedom played an important role in the development of political culture and civil society. This is indirectly witnessed by the fact that in late 1848 some of the aforementioned newspapers published a list of civil rights and freedoms from the Austrian Draft Constitution, the Patent on Political Rights of Austrian Citizens promulgated on 7 March 1849, and a speech of the Czech deputy in the Austrian Parliament named Ladislav Rieger on the debate on fundamental rights, who emphasized the sovereignty of peoples.⁴⁹ While presenting the program of the newly established newspaper *Saborske novine* in its first editorial, its editors Eduard (Slavoljub) Vrbančić and Nikola Krestić emphasized activities on the introduction of civil and political rights and freedoms as its constituent part:

We believe in the almighty spirit of our age, and therefore we shall struggle for all those opinions, which will direct it so that social and political relations in our Homeland be established on the basis of equality, liberty, and fraternity. We declare that the state organism of our lands is rotten and decayed and requires a life force to refresh it and strengthen it. Therefore, we shall fight for the free institutions which other free nations have considered life-saving. We believe in the unlimited freedom of the press, the right to assembly, and the right to self-government as the sole foundations of the freedom of the state. We declare that we shall struggle for these abovementioned principles

48 “Grundrechte (Constitution) der östr. Staatsbürger,” *SZ* no. 1, January 3, 1849 and no. 3, January 8, 1849;

49 Patent of March 7, 1849 about political rights in Austrian countries represented in the Parliament in Kremsier, *SZ* no. 29, March 9, 1849; Editorial, *SZ* no. 89, July 7, 1849; “Unsere Lage,” *SZ* no. 146, September 15, 1849. Rieger’s speech in the Parliament was published in several instalments: “U Zagrebu 26. Siečnja,” *SJ*, no. 12, January 27, 1849, “Riegerov govor o souverenstvu naroda,” *SJ* no. 13, January 30, 1849, no. 14, February 1, 1849, no. 15, February 3, 1849 and no. 16, February 6, 1849. The civil rights and freedoms this paper deals with were relatively fully formulated in just three articles. Those were: “Věroizpovědanje,” *SN* no. 1, June 6, 1848, “Was ist eigentlich die Konstitution?,” *SZ* no. 214, September 18, 1850, and no. 215, September 19, 1850, and “Občine. I,” *JN* no. 105, August 12, 1850.

and do everything possible to ensure that these principles be preserved until the end of time.⁵⁰

Although civil and political rights and freedoms were not presented in their entirety in any of the newspapers under discussion in a single article, it is beyond dispute that part of the Croatian public assembled around these newspapers considered civil freedoms and rights the basis for progress in all fields of life. The public saw an inseparable link between the freedom of the individual and the freedom of the nation, in other words between individual and collective rights and freedoms, and considered them to be complete only if guaranteed by law. The concept of a free individual as the basis of society was transferred to nations and, in doing so, emphasis was placed on the protection of rights and freedoms of nations as collective bodies made up of free and legally equal individuals.⁵¹ Croatian liberals resolved the dilemma as to whether individual or collective rights and freedoms should have priority on the basis of the German model—the idea of a state based on the rule of law. According to this concept, the basic interest of the state is to protect and develop a community, rather than individuals. The state is only relatively restricted by the subjective public rights of its citizens, which are aimed at satisfying the individual interests of citizens, and the basic interest of the state is to protect and develop a community, not individuals. Rights of citizens are not put before the state, but rather derive from it, and therefore one of the most important functions of the state is the legal and actual protection of the civil and political rights of individuals.⁵² Members of the National Party accepted the idea of the state based on the rule of law as a basis for the legal regulation of rights and freedoms of citizens, and other modern constitutional and legal institutions in Croatia, which were (partially) accomplished in the second half of the nineteenth century.

50 “Věrujemo u svemogući duh vėka našega, i zato će mo se boriti za sva ona mnėnja, koja će ju tamo smėrati, da se na temelju jednakosti, slobode i bratinstva osnuju društvena i politična otnošenja domovine naše. Izpovėdamo, da je dėržavni organizam zemaljah naših gnjio i trul, i da trėba životvorne snage, da se okrėpi i učvėrsti, zato će mo se boriti za sve one slobodne inštutucie, koje su kod inih slobodnih narodah za spasonosne nadjene. Věrujemo u neograničenu slobodu tiska, pravo sdruženja, pravo sebe sama vladanja (selfgovernment), kao u jedite poluge slobode dėržavne. Izpovėdamo, da će mo se za ova višestavljenja načela boriti, i sva moguća učiniti, da ona mejdan odėrže, na vėke vėkovah.” “Vėroizpovėdanje,” *SN* no. 1, June 6, 1848.

51 This is also visible in “Manifest naroda hrvatsko-slavonskoga,” which was adopted by the Croatian Parliament in early July 1848. Printed in Tomislav Markus, “Hrvatski politički pokret 1848–1849: Izabrani dokumenti,” *Fontes* 12 (2006): 116–23.

52 In his work *Prava građana*, 31–36, Čepulo presents the process of shaping the idea of a state based on the rule of law in German political-legal theory and literature.

The Croatian liberal elite advocated the introduction of religious freedoms and implementation of religious equality,⁵³ as well as freedom of private and public practice of faith for members of all religious communities in the Monarchy, including Protestants, although they were not strictly mentioned. At that time there was no unique attitude among the politically involved Croatian public or members of political life toward some religious communities. As already mentioned, in March 1848 the document *Zahitjevanja naroda* codified the demand for the freedom of faith and equality before the law, regardless of religion. But only two months later, the electoral law for the Croatian Diet granted passive suffrage only to members of legally recognized religious communities (the Catholic and the Orthodox Church). That meant that the members of all others religious communities, including Protestants and Jews, were denied the right to vote. The legal position of some religious communities improved after 1849, especially after the promulgation of the Octroyed Constitution and the introduction of the respective Austrian legislative regulations. The imperial edict issued on 1 September 1859 defined Protestants as a legal religious community with autonomy in religious and educational affairs and it strictly abolished Article 26 of the Croatian Diet of 1791, which limited the rights of the Protestants in Croatia and Slavonia. Legislative regulations considering civil and religious rights of the Protestants in Hungary were introduced in Croatia, Slavonia and the Military Border by the same edict.⁵⁴ The social and political discrimination of the Protestants in Croatia was then abolished for the first time. In the context of advocating of religious equality, one needs to underline efforts for granting civil and political rights to Jews, including the right to the free practice of their faith.⁵⁵ It should be mentioned here that, at least until the second half of the nineteenth century, the discrimination endured by the Protestants in Croatia had more to do with their political orientation or/and nationality than with their religious beliefs and could be regarded as a more

53 Advocacy of religious equality as one of the prerequisites for realizing a constitutional Habsburg Monarchy was most clearly expressed in two articles published in *Südslawische Zeitung*: sr, “Klagenfurt, den 5. Juni 1850,” *SZ* no. 131, June 10, 1850; A.[ndrej] E.[inspieler], “Der national- und religiös-indifferente Staat,” *SZ* no. 120, May 27, 1850 and 121, May 28, 1850.

54 Čepulo, *Prava građana*, 167–68.

55 “Věroizpovědanje,” *SN* no. 1, June 6, 1848; “Bratinstvo,” *SN* no. 12, July 4, 1848, no. 13, July 10, 1848 and no. 14, July 18, 1848; “Zagreb 27. ožujka,” *NDHS* no. 27, March 29, 1848; “Agram. 28. März,” *Agramer Zeitung (AZ)* no. 31, March 28, 1848; “Offenes Sendeschreiben an die Israeliten Kroatiens, insbesondere der Gemeinde zu Warasdin,” *AZ* no. 51, May 13, 1848; *SJ* no. 32, March 15, 1849; A. T. B. [Andrija Torkvat Brlić], “Iz Zagreba,” *SJ* no. 20, January 24, 1850.

or less direct consequence of the complex and dynamic Croatian-Hungarian political relationships. Slovak Protestant Bogoslav Šulek could be mentioned here as an example. Šulek came to Croatia in early 1840s and became one of the prominent publicists of the Illyrian Movement. He then became a political writer and the most distinguished lexicographer in nineteenth-century Croatia. Because of his political orientation, his religious beliefs did not obstruct his professional success or public acceptance. Even more, in February 1850 he was proclaimed the honorable citizen of Zagreb.⁵⁶ The situation with Jews was similar, and their social position was strongly influenced by their political views. Some of the Croatian Jews became distinguished members of Croatian society in the first half of the nineteenth century. One of them was Moritz (Mavro) Sachs, the first Croatian Jew to graduate in medicine at the University of Vienna. He became a city physician in Zagreb, military doctor of the Banus Josip Jelačić's army 1848/49, and then professor of forensic medicine at the University of Zagreb. He was the first Jew to become a citizen of Zagreb (in March 1850).⁵⁷

The Croatian liberal elite advocated the implementation of reforms within the Catholic Church in the spirit of liberal Catholicism⁵⁸ and vehemently opposed the privileged position of the Catholic Church in the Habsburg Monarchy, the absolute power of hierarchy over lower clergy, and the strengthening of its influence on the school system.⁵⁹ Some of the Croatian liberals advocated similar liberally orientated reforms within the Orthodox

56 Državni arhiv u Zagrebu [State archives in Zagreb], HR-DAZG-1 Poglavarstvo Slobodnog kraljevskog grada Zagreba, Knjige građana, Protokoli, no. 24, February 4, 1850.

57 Vladimir Dugački, "Dr. Mavro Sachs (1817–1888) – prvi medicinski docent zagrebačkoga sveučilišta," *Acta Medico-Historica Adriatica*, 8, no. 2 (2010): 377–80.

58 Jedan iz kola mladih svetjenikah, "Iz Zagreba," *NDHS* no. 39, April 25, 1848; B.[ogoslav] Š.[ulek], "Cerkva i naša doba," *NDHS* no. 88, August 17, 1848.; [Adolfo Weber Tkalčević], "Robstvo duhovnikah," *NDHS* no. 64, June 22, 1848; [Adolfo Weber Tkalčević], "Odgovor na dvanaest lažih opovèrgnjenih," *NDHS* no. 90, August 22, 1848, no. 91, August 25, 1848. For liberal Catholicism in Croatia in the mid-nineteenth century cf. Mirko Juraj Mataušić, "Odnos Katoličke crkve prema novim idejnim strujanjima u hrvatskim zemljama 1848–1900.," *Bogoslovska smotra* LV, no. 1–2 (1985): 196–215; Iskra Iveljić, "Katolička crkva i civilno društvo u Hrvatskoj 1848. godine," *Časopis za suvremenu povijest*, 25, no. 2–3 (1993): 19–42; Vlasta Švoger, "Liberalni katolicizam u Hrvatskoj i Strossmayer," *Zbornik 7. i 8. Strossmayerovih dana* (Đakovo: Grad Đakovo, 2011), 77–123.

59 *SJ* no. 23, February 22, 1849 and no. 26, March 1, 1849; *SZ* no. 40, February 18, 1850; A., "Die geistlichen Gerichte," *SZ* no. 102, May 3, 1850; "Die Kirchenfrage," *SZ* no. 101, May 2, 1850; "Die Kirchenfrage," *SZ* no. 104, May 6, 1850; "Stimmen über die neuesten Regierungsordonanzen in Angelegenheit der katholischen Kirche," *SZ* no. 106, May 8, 1850; [Imbro Ignjatijević Tkalac], "Politische Rundschau. III," *SZ* no. 109, July 31, 1849.

Church.⁶⁰ Other religious communities were not discussed among the politically involved or interested Croatian public.

Of all the political rights and freedoms analyzed in Croatian liberal newspapers in the mid-nineteenth century, freedom of the press was the one that was given the most scrutiny. This is understandable because following the abolition of (preventive) censorship in March of 1848, it was necessary to regulate the new situation by law. The majority of Croatian liberal journalists in Zagreb newspapers advocated freedom of the press and its legal regulation as a prerequisite for the effective functioning of institutions of civil society—civil and political rights and freedoms, constitutionality, and parliamentarianism. Freedom of the press was, as a rule, associated with freedom of thought, speech, and expression of thoughts in writing, and these freedoms quickly merged into the concept of freedom of the press and were only rarely referred to separately. The freedom of the press was associated with the principle of publicity and interpreted as protector of liberal constitutional institutions and guarantor against abuse and violation of civil and political rights of individuals and nations.⁶¹

Freedom of the press and the phenomenon of publicity related to it were treated most comprehensively in a series of articles published in *Danica horvatska, slavonska i dalmatinska*. In two articles published in several successive issues of the paper, an anonymous author analyzed—in a systematic and well-argued way—the function of the general public and of public opinion in political and social life, and freedom of the press, with all its positive and negative aspects. He corroborated his views by invoking, *inter alia*, relevant French and German authors. His starting premise was that freedom of the press was closely associated with freedom of thought and expression of thought, and that these freedoms were elements of non-transferrable and inalienable natural rights of man as an individual and community member. In his text, he analyzed the pros and cons of freedom of the press and determined that the benefits of freedom of the press were incomparably greater than the potential risks of abuse of the press. He concluded that freedom of the press was one of the cornerstones of constitutional states, an important tool in enlightening the people and also in the fight against mediocre laws and abuse by civil servants, and the indicator of the

60 *SJ* no. 73, June 21, 1849 and no. 77, June 30, 1849; “Prošnje i želje klera eparkie pakračke,” *NDHS* no. 46, May 11, 1848.

61 Vlasta Švoger, “Zagrebačko liberalno novinstvo o slobodi tiska i društvenoj ulozi novina od izbijanja revolucije 1848. do uvođenja neoapsolutizma 1851. godine,” *Povijesni prilozi*, 30 (2006): 204–23.

people's mood. Therefore, the author advocated complete freedom of the press and opposed its restriction by means of special laws on the press or censorship. He clearly opted for the regulation of press offences in civil and penal laws with public and oral trials and juries.⁶²

Most authors writing about freedom of the press in the Croatian newspapers under discussion felt that an individual has a natural and inalienable right to express his opinion freely orally, in writing, or in the newspapers, and advocated unrestricted freedom of the press. However, there were other views as well. Dragutin Kušlan, editor of *Slavenski Jug*, in his commentary on Ferdinand Žerjavić's article in issue no. 63 expressed the view that there can be no unrestricted freedom of the press in civil society, just as there is no unrestricted freedom of the individual, because such freedom is restricted by the freedoms of others. In an article written just before the promulgation of the Provisional Press Law (enacted by Banus Josip Jelačić in early May 1849), Kušlan reiterated this view, but opposed the adoption of a special law on the press because he believed that freedom of the press had been regulated by civil and penal laws. In his view, special laws on the press in fact restricted freedom of the press and reintroduced censorship under a new name. An anonymous author of the article entitled *Političke iskrice* (Political Sparkles) also advocated regulation of freedom of the press through civil and penal laws, like Bogoslav Šulek, editor of *Novine dalmatinsko-hèrvatsko-slavonske*. The only Zagreb newspaper in favor of adopting a special law on the press in the spring of 1849 was *Agramer Zeitung*. In the course of 1850, the editorial boards of *Südslawische Zeitung* and *Jugoslavenske novine* championed the adoption of a quality law on the press, which would have put an end to arbitrary acts of official authorities towards the press. This view was a consequence of deteriorating political circumstances and conditions under which the press operated in the Habsburg Monarchy and Croatia, as well as the failure to implement Jelačić's Press Law (except its provisions about bail).⁶³

62 "Sloboda štampe," *Danica horvatska, slavonska i dalmatinska (DHSD)* no. 44, October 28, 1848, no. 45, November 4, 1848, no. 46, November 11, 1848 and no. 47, November 18, 1848.; "Javnost," *DHSD* no. 49, December 2, 1848, no. 50, December 9, 1848, no. 51, December 16, 1848, no. 52, December 23, 1848 and no. 53, December 30, 1848. Petar Korunić wrote about publicity and freedom of the press as foundations of the civil society in "Osnovice građanskog društva u Hrvatskoj za revolucije 1848–49. godine," *Radovi – Zavod za hrvatsku povijest*, 32–33 (2001): 69–104.

63 A. Z., "Niekoliko riečių o namienjenom nam štamparskom zakonu," *SJ* no. 61, December 23, 1848; F. Žerjavić, "Niekoliko riečių o slobodi štampe," *SJ* no. 63, December 30, 1848; Einladung zum Abonnement auf die Südslawische Zeitung, December 14, 1848, National and University Library in Zagreb, Manuscripts and Old Books Collection, R VII.-2^o-6.; [Avelin Čepulić], "Iz Hrelin-gradà 22. svib.," *JN* no. 50, June 7,

Although Croatian journalists in the mid-nineteenth century were aware that freedom of the press could be abused, according to prevailing opinion its positive aspects were more important: it played an important role in enlightening the people, in furthering acceptance of democratic models of conduct and modern institutions, as a tool in the defense against poor quality legislation and cases of abuse in the public service, and as a tool with which to establish trust between the government and the people.⁶⁴

The following quotation by Dragutin (Dragojlo) Kušlan, editor of *Slavenski Jug*, illustrates how in the mid-nineteenth century the Croatian liberal press understood the role of civil rights and freedoms:

As nations gradually began to develop their conscience and remove the fetters which had been put on them by some individuals and a crowd of their courtiers solely for their own personal benefit, human and civil rights were gradually being introduced. They belong to man by nature, and they are for example: freedom of thought and religion, freedom of speech, of the press, of trade, crafts and teaching, personal freedom, and freedom of property etc. Yet, rulers, still holding some power in their hands, supported either by the aristocracy or by military force, struggled for power, and whatever freedom they gave to the people was granted bit by bit, and much more out of necessity than of their own good will. Therefore, they first granted the people only those freedoms, which somehow ensured personal freedom and freedom of property.⁶⁵

1850; editorial, *JN* no. 186, November 18, 1850; “U Zagrebu 22. svibnja,” *SJ* no. 61, May 24, 1849; A. Z., “Političke iskricе,” *SJ* no. 58, December 16, 1848; B.[Bogoslav] Š.[Šulek], “Najprčiji zakoni,” *NDHS* no. 56, May 10, 1849; “Das Preßgesetz,” *AZ* no. 54, May 5, 1849; Stephan Moyses, “Agram, 13. Mai,” *AZ* no. 58, May 12, 1849; “Iz Zagreba,” *JN* no. 136, September 19, 1850 and leading article, *SZ* no. 33, February 9, 1850. The 1849 Law on the Press as well as related laws on court proceedings in cases of press offences was published by Tomislav Markus, “Dokumenti o hrvatskom pokretu iz 1849. godine,” *Časopis za suvremenu povijest*, 30, no. 3 (1998): 577–95.

64 F. Žerjavić, “Niekoliko riečių o slobodi štampe,” *SJ* no. 63, December 30, 1848; “Od Drave 18. lip.,” *JN* no. 71, July 3, 1850; “Iz Pariza 9. sèrp.,” *JN* no. 84, July 18, 1850.

65 “Kada su se narodi pomalo počeli osvješćivati i skidati okove u koje ih sapeše pojedini ljudi sa družbom dvorjanika svojijeh, jedino svoje osobne koristi radi, onda su se sve pomalo uvadjala prava čovječja i građanska, koja idu čovjeku po naravi, kao što su: sloboda mnjenja i vjerozakona, sloboda govora, štampe, trgovine, zanata i naučanja, sloboda osobe i imetka i.t.d. Ali vladari, imajući još ponešto sile u rukuh podkrijepljeni koje aristokraciom, koje vojničkom silom, otimali su se koliko moguće za vlast dojakošnju i što su godj davali slobode narodom, to je išlo sve kap po kap i više s nevolje no s dobre volje. Zato i nijesu oni izprva narodom rado davali do jedino onakove slobode, kojima se je nekako osigurala sloboda osobe i imetka.” [Dragutin (Dragojlo) Kušlan], “U Zagrebu 22. svibnja,” *SJ* no. 61, May 24, 1849.

Conclusion

Following the ideas of the Enlightenment propagated by Croatian thinkers of the late eighteenth century and the positive reception of the ideas of moderate liberalism in Croatia, the concept of civil and political rights of individuals gradually spread among educated people in the first half of the nineteenth century and reached its culmination in 1848. During the first three decades of the nineteenth century, the Croatian nobility (as the only representative of official Croatian politics) was faced with the strengthening conservative politics of the Court of Vienna on the one side and the pressures of Hungarian politics on the other. Under these circumstances, the nobility acted defensively, and their political work was oriented mostly towards the protection of their own privileges. The social changes were not in the focus of political discourse at the time. The situation, however, changed in 1830s with the emergence of a young generation of educated intellectuals, mostly of common origin, who introduced various topics of social and cultural reforms into the political discourse. Within the framework of the Croatian Revival Movement and the Croatian Political Movement of 1848–1849, the Croatian liberal intelligentsia considered civil and political freedoms and rights—freedom of the press, of opinion and speech, the right to assembly and association, the right to petition, personal safety and security of property, freedom of learning, and equality of religions, nations, and languages, equality before the law, oral and public court proceedings and jury—prerequisites for the creation of a constitutional monarchy and the foundations of civil society.⁶⁶ The intelligentsia demanded political and civil rights which were somewhat less ambitious in scope than the “fundamental rights” formulated in the German and Austrian Constitutions of 1848 and in the Kremsier Draft Constitution. They advocated the concept of a state based on the rule of law and believed that the role of the state was to ensure the rights and freedoms referred to, but also to control the exercise of these rights and freedoms under the law and in line with the freedoms and rights of others, placing emphasis on collective rights and freedoms.⁶⁷ In practice, however, the same political elite did not respect the personal rights and freedoms of those who did not share their political views. This became most evident in their relationship towards pro-Hungarians (*mađaroni*) during the revolutionary years of 1848/49 and the

66 Korunić, “Osnovice građanskog društva,” 69–104 and Švoger, *Zagrebačko liberalno novinstvo*, 470–86.

67 These principles were most clearly formulated by the anonymous author of the article “Was ist eigentlich die Konstitution?,” *SZ* no. 214, September 18, 1850 and no. 215, September 19, 1850.

propaganda war waged then.⁶⁸ Advocating the idea of natural rights, civil and political freedoms, other liberal ideas, and ideas of the Enlightenment, the Croatian liberal political elite, acting as a part of the European liberal movement, reestablished the temporarily lost continuity in the spiritual heritage of the Enlightenment and laid the groundwork for the development of civil society in Croatia. In spite of the fact that many of those advocating the introduction of civil and political rights participated in the work of the Croatian Parliament of 1848 (and in later Parliaments) and that the Parliament's work was based on the *People's Demands*, the emphasis of the Parliament's work was on the creation of a state and legal framework for the modern autonomy of Croatia within the Habsburg Monarchy. Due to this and an early cessation of the Parliament's session in July of 1848, these ideas—except for the abolition of serfdom and introduction of equal taxation⁶⁹—were implemented in legislation only at the time of far-reaching legislative activities on modernization during the rule of Banus Ivan Mažuranić (1873–1880).⁷⁰

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68 Arijana Kolak, "O Mađarima i mađarskoj politici u javnosti banske Hrvatske 1848–49" (MA thesis, University of Zagreb, 2006), 80–93 and Švoger, *Zagrebačko liberalno novinstvo*, 320–30.

69 Articles 1848:27 and 1848:29, in Čepulo et. al., ed., *Croatian, Slovenian and Czech Constitutional Documents* 105–12.

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Sara Lagi

Georg Jellinek, a Liberal Political Thinker against Despotic Rule (1885–1898)*

Georg Jellinek is commonly thought of as one of the most prominent representatives of German legal positivism. In this article I look at Georg Jellinek not only as a legal theorist, but also as a political thinker of liberal inspiration. In this sense, I seek to show some key continuities and connections between the fundamental aspects of his legal, positivistic theory and his political vision of liberal inspiration, and between his stay in Vienna and his move to Germany.

Keywords: legal positivism, liberalism, sovereignty, fundamental rights, limits of power.

Georg Jellinek as a Political Thinker: Introducing the Personage

“We hope and believe that society will be able to find and implement something that can preserve it from the lowly moral and spiritual leveling: the recognition of the rights of minorities!”¹ This quote, which one might easily attribute to John Stuart Mill or Benjamin Constant, is taken from the work of Georg Jellinek (1851–1911), a legal theorist who deserves the attention of scholars of the history of political thought. In this essay, I examine how this prominent thinker,² commonly associated with German legal positivism and the positivistic

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1 Georg Jellinek, *Das Recht der Minoritäten* (Vienna: Hölder, 1898), 47.

2 The literature on Jellinek is vast. See: Christoph Schönberg, *Das Parlament im Anstaltsstaat: Zur Theorie parlamentarischen Repräsentation in der Staatsrechtslehre des Kaiserreichs (1871–1918)* (Frankfurt am Main: Klostermann, 1997); Stephan Breuer, *Georg Jellinek und Max Weber: Von der sozialen zu soziologischen Staatslehre* (Baden: Nomos Verlag, 1999); Stanley Paulson, ed., *Beiträge zu Leben und Werk* (Tübingen: Mohr Siebeck, 2000); Jens Kersten, *Georg Jellinek und die klassische Staatslehre* (Tübingen: Mohr Siebeck, 2000); David Kelly, “Revisiting the Rights of Man: Georg Jellinek on Rights and State,” *Law and History Review* 22, no. 3 (2004): 493–529; Andreas Anter, *Die normative Kraft des Faktischen: Das Staatsverständnis Georg Jellineks* (Baden: Nomos Verlag, 2004); Olivier Jounjan, *Le pensée juridique en Allemagne* (Paris: Presses universitaires de France, 2005); Christian Keller, *Victor Eberhard und Georg Jellinek: Briefwechsel des 19. Jahrhunderts* (Frankfurt: Vittorio Klostermann, 2005); Klaus Kempster, *Die Jellineks 1820–1955: Eine Familienbiographische Studie zum deutschjüdischen Bildungsbürgertum* (Düsseldorf: Droste Verlag, 2005); Massimo La Torre, *La crisi del Novecento: Giuristi e filosofi nel crepuscolo di Weimar* (Bari: Edizioni Dedalo, 2006); Realino Marra, *La religione dei diritti: Durkheimer, Jellinek, Weber* (Turin: Giappichelli, 2006); Dagmar Drüll, *Heidelberger Gelehrtenlexikon 1803–1932* (Berlin–Heidelberg: Springer Verlag, 2012); Reut Y. Paz, *Constructing a Gateway between a Distant God and a*

foundation of the law, can be seen and considered as a political thinker of strong liberal inspiration.

With this purpose, I analyze the period between 1885 and 1898,³ when Jellinek published a series of scholarly works on legal and political theory and the history of political ideas in which he identifies two capital (legal and political) problems: the problem of granting fundamental rights and the problem of neutralizing and combating despotic rule, notably the tyranny of the majority. These are both issues belonging to the tradition of European liberalism. John Gray proposes a general definition of liberalism, observing that

common to all variants of the liberal tradition is a definitive conception, distinctively modern in character, of man and society [...] [i]t asserts the moral primacy of the person, [...] it confers on all men the same moral status, [...] it affirm[s] the moral unity of the human species and [...] [i]t is *meliorist* in its affirmation of the corrigibility and improvability of all social institutions.⁴

Yet when focusing our attention more precisely on the nineteenth century, we observe that the “map” of liberalism at the time was complex. When we use the term, we are referring to a complex tradition of political thought characterized by a variety of authors, approaches, and shades of nuance: from Benjamin Constant to Alexis de Tocqueville, from Madame de Staël to Sismondo de Sismondi, from J. S. Mill to T. H. Green, from the German state-centric liberalism to the English one.⁵ Nonetheless, within this variety, we can identify some key “shared principles.” As D. J. Manning clearly explains in his popular work on *Liberalism*,

the liberty that the nineteenth-century liberal believed his intellectual ancestors to have secured for the citizen, indeed, the liberty that made a man a citizen, is liberty defined in law. Liberty is the creation of legal restraint. It is to be found where restraint is justly imposed on government by constitutional law. [...] Liberty thus understood is not

Cruel World: The Contribution of German-speaking Scholars to International Law (Leiden–Boston: M. Nijhoff Publishers, 2013).

3 Between 1879 and 1889, Jellinek lived and taught in Vienna. From 1889 until he died in 1911, he lived and taught in Germany.

4 John Gray, *Liberalism* (Suffolk: Open University Press, 1986), X.

5 Ibid.

a power over others [...] the power of a master over his slave. It is security from interference which makes a man free.⁶

This implies a view of power as limited in order to protect individual freedom, minorities and “society’s dynamism.”⁷ At the same time, Manning reminds us that nineteenth-century European liberalism also thought that “individualism and the energy it generates were threatened by the tyranny of social conformism.”⁸

A particular vision of power and a kind of fear begins to emerge, for example, in the writings of people like Constant, Mill, and Tocqueville. In his reflections on the French Revolution Constant clearly criticized the crowd and the conforming masses. Both Tocqueville and Mill denounced the “tyranny of prevailing opinion” and the issue of “massification.”⁹

Thus, the question arises, in what sense can Jellinek be situated within nineteenth-century liberalism? He was a liberal thinker because he believed in the necessity of limited power—in the necessity of establishing boundaries of governmental power by means of a constitution and guarantees of public law in order to avoid despotic rule—and he feared social conformism and the negative implications it could have in terms of social progress and development.

The attention Jellinek paid to the problem of limited power and the issue of social conformism represents a point of political and ideological affinity between him and thinkers such as Constant, Tocqueville, and Mill, an affinity Jellinek recognized himself. In all his works, including for instance *Das System der subjektiven öffentlichen Rechte* (*System of Subjective, Public Rights*, 1892), *Die allgemeine Staatslehre* (*General Theory of State*, 1900), *Die Erklärungen der Menschen und Bürgerrechte* (*The Declaration of the Rights of Man and of the Citizen*, 1895), and *Das Recht der Minoritäten* (*The Right of Minorities*, 1898), he referred to the ideas of these three prominent authors, whom he regarded as personal, important points of reference.¹⁰

6 David J. Manning, *Liberalism* (London: J. M. Dent & Sons Ltd, 1976), 15.

7 Ibid.

8 Ibid., 18.

9 This is an aspect of political liberalism stressed by Manning, *Liberalism*, 17–18. Benjamin Constant, *Des réactions politiques* (Paris: n.p., 1797); Idem, *Des effets de la Terreur* (Paris: n. p., 1797); Alexis De Tocqueville, *De la Démocratie en Amérique*. 2 vols. (Paris: C. Gosselin, 1835–1840); John Stuart Mill, *On Liberty* (London: John W. Parker, 1859). See also: John Plamenatz, ed., *Readings from Liberal Writers: English and French*, Everyday Handbooks (London: Barnes & Noble Inc., 1965).

10 See: Georg Jellinek, *Das System der subjektiven öffentlichen Rechte*, 1892, 2nd ed. (N.p.: n.p., 1905); *Die allgemeine Staatslehre*, 1900, 2nd ed. (N.p.: n.p., 1905); 3rd ed. (N.p.: n.p., 1914).

As Manning writes, the protection of fundamental rights is central to nineteenth-century liberalism, a protection which is based on the “existence of legal restraints.” This is true for Jellinek too, in the sense that in all his works, and notably in his *Das System der subjektiven öffentlichen Rechte*, he delineates a system of legal protection of fundamental rights: legal protection which implies, as I will illustrate, a particular way to establish and justify conceptually fundamental rights within a theory of law and state which is positivistic.

This means that Jellinek’s liberal inspiration and belief cannot be separated from his legal reflections on the nature and components of the state and law. In other words, it cannot be separated and isolated from his idea that sovereignty belongs to the state alone. How did Jellinek balance his belief in a power that had to be limited with his idea of sovereignty? And what kinds of connections exist between Jellinek’s liberal inspiration (according to the definition of nineteenth-century liberalism outlined above) and his legal positivistic theory? In order to respond to this question, I will begin with a discussion of the period Jellinek spent in Vienna.

Jellinek in the Austro-Hungarian Empire (1879–1889): The Problem of Minorities

Georg Jellinek (1851–1911) was born in Leipzig into a Jewish family of German culture and language. His father, Adolf Jellinek, was a rabbi and one of the most important scholars of Jewish theology of his period. Georg Jellinek studied history, philosophy and law in Germany. In 1879, he became associate professor at the University of Vienna, where he lived and taught until 1889, when he decided to resign because of growing anti-Semitism and personal hostility towards him. In 1891, he moved to the University of Heidelberg, where he “inherited” the Chair of International Law, previously held by Johann Kaspar Bluntschli.¹¹

In Heidelberg Georg Jellinek published his most relevant and innovative works on the doctrine of law and the state, while also paying attention to politics and political changes in Germany and in the Austro-Hungarian Monarchy. Even after Jellinek moved to the University of Heidelberg, he kept studying the Austro-Hungarian political and juridical system.¹²

11 Christian Keller, *Viktor Ehrenberg und Georg Jellinek im Spiegel ihres Briefwechsels 1872–1911*, in idem, *Viktor Ehrenberg und Georg Jellinek*, 22.

12 In the 1880s and the 1890s, Jellinek wrote and published relevant works on the legal structure of the Austro-Hungarian Monarchy, and more specifically on the Settlement of 1867, while focusing on the

Jellinek spent intense and problematic years in Vienna, where he had firsthand experience of the complex political reality of the Austro-Hungarian Monarchy. Here he was particularly struck by the numerous and often violent political contrasts characterizing the Austrian Imperial Council. Jellinek dedicated to this particular issue an interesting essay entitled *Ein Verfassungsgerichtshof für Österreich* (*A constitutional court for Austria, 1885*), with the declared purpose of understanding how better to stabilize the Cisleithanian part of the Empire after the Settlement of 1867.¹³

In his opinion, the crucial component of the contrasts was the unsolved Austrian national question (*Nationalitätenfrage*) and, more precisely, the fact that the Austrian parties residing in the *Reichsrat* were not political but “national.”¹⁴

Jellinek stresses how most of the Austrian political parties embodied precise and defined national identities. Behind these parties there were specific national groups whose interests often conflicted.¹⁵ The Austro-Hungarian Monarchy was in fact a multinational state, made up of Germans, Hungarians, Czechs, Poles, Ruthenians, Romanians, Italians, Croats, Serbs, Slovaks, and Slovenes. As a result of the Settlement of 1867, the Habsburg Empire became the Austro-Hungarian monarchy. The Settlement was between two states which remained, respectively, “united” as political entities, though people of numerous different nationalities resided in each.¹⁶

In Jellinek’s opinion, the national connotations and attachments of the Austrian parties made the relationship between parliamentary minority and majority particularly controversial and difficult. The impact of this complicated

Hungarian half of the empire. These works included: *Die rechtliche Natur der Staatenverträge: Ein Beitrag zur juristischen Konstruktion des Völkerrechts* (1880); *Das rechtliche Verhältnis Kroatiens zur Ungarn: Mit einem Anhang das ungarisch-kroatische Ausgleichsgesetz enthaltend* (1885); *Ungarn und die österreichische Verfassung* (1897); *Ungarisches Staatsrecht* (1897).

13 Georg Jellinek, *Ein Verfassungsgerichtshof für Österreich* (Vienna: Alfred Hölder, 1885), 35.

14 Ibid., 6–8 ff. In the use of the term “national party” as opposed to “political party,” he claimed to have been inspired by Adolf Fischhof’s work on the Austrian national question. Jellinek, *Das Recht der Minoritäten*, 35. Adolf Fischhof, *Österreich und die Bürgschaften seines Bestandes* (1869).

15 Jellinek, *Ein Verfassungsgerichtshof für Österreich*, 6–8 ff.

16 Aviel Roshwald, *Ethnic Nationalism and the Fall of Empires* (London–New York: Routledge, 2005), 8–11. On the history of the Austro-Hungarian Monarchy and notably on the complex relationships between its nationalities there is a vast body of scholarly literature. Richard J. Evans, *Austria, Hungary and the Habsburg: Central Europe 1683–1867* (Oxford: Oxford University Press, 1979); Alan Sked, *The Decline and the Fall of the Habsburg Empire 1815–1918* (London–New York: Longman, 1989); Mark Cornwall, *The Undermining of Austria-Hungary: The Battle for Hearts and Minds* (London: MacMillan Press, 2000); Idem, *The Last Days of Austria-Hungary* (Exeter: University of Exeter Press, 2001); Maureen Healy, *Vienna and the Fall of the Habsburg Empire: Total War and Everyday Life in World War I* (Cambridge: Cambridge University Press, 2004).

situation on the legislative process was often disastrous. Sometimes a minority felt mistreated or abused by the majority, and sometimes the majority vehemently opposed bills that would have given more rights or freedoms to a national minority.¹⁷

In legal terms, in Jellinek's opinion, the Austrian Imperial Council, which was the main and most important legislative body of the Empire, was characterized by widespread instability and "parliamentary illegality" (*Unrecht*).¹⁸

As a professor of law living in Vienna, Jellinek identified the *Verfassungsgerichtshof* (the Constitutional Court) as a perfect, *legal* solution to that problem. Jellinek's proposal can be better understood and clarified if we briefly take into account the Habsburg legal-political tradition embodied by the Imperial Court (*Reichsgerichtshof*).

The Imperial Court was officially established in 1867 on the occasion of the Settlement, which transformed the Austrian Empire into the Austro-Hungarian constitutional dual monarchy. The Imperial Court was given relevant powers and tasks. It served to protect the rights of citizens, although it was not a court of cassation, i.e. it was not charged solely with the task of verifying the interpretation of the law given by a court of lower instance. It acted to neutralize potential conflicts between the *Länder* (the crownlands) and the central authority, and it could act to supervise the boundaries between administrative and judicial authorities, as well as between regional and state administrative authorities.¹⁹ According to Jellinek, the main challenge was to improve the traditional Austrian Imperial Court by transforming it into a true Constitutional Court.

He called for a Constitutional Court to make decisions about: 1. potential conflicts of competences between ordinary legislation and constitutional legislation; 2. conflicts of competences between the imperial legislation and the legislation of the crownlands.²⁰

17 In the 1880s, for example, the Austro-German deputies residing in the Austrian Central Parliament violently opposed decrees aimed at giving more "linguistic rights" to the Bohemian community. Gerald Stourzh, "Ethnic Attribution in Late Imperial Austria: Good and Evil Consequences," in *The Habsburg Legacy: National Identity in Historical Perspective*, ed. Ritchie Robertson and Edward Timms (Edinburgh: Edinburgh University Press, 1994), 71–74.

18 Jellinek, *Ein Verfassungsgerichtshof für Österreich*, 6.

19 See: Sara Lagi, "Hans Kelsen and the Austrian Constitutional Court (1918–1929)," *Co-herencia* 9, no. 16 (2012): 275–77.

20 Wilhelm Braunerder, *Österreichische Verfassungsgeschichte: Einführung in Entwicklung und Struktur* (Vienna: Manzsche Verlag, 1992), 38–739.

More precisely, as far as the potential conflict of competences between ordinary and constitutional legislation was concerned, Jellinek clearly proposed an interesting legal mechanism which would impact, for example, one of the most important twentieth-century jurists and scholars of constitutional law, Hans Kelsen.²¹

Jellinek's plan for an Austrian Constitutional Court recognized the right of a minority to submit bills to the Constitutional Court that could be considered detrimental to the constitutionally granted minority's rights and freedoms.²² In this sense, Jellinek's plan for a Constitutional Court had two main purposes: it aimed at improving and enforcing the division of competences between the imperial and crownlands authorities (which Jellinek judged to be utterly unclear and insufficient) and, moreover, it aimed at better defending the constitution from potential excesses and transgressions committed by the parties, parliamentary organs and, more notably, aggressive majorities. Through better protection of the constitution, better protection of minorities could be granted, and in Jellinek's opinion this was particularly useful and vital within the complex context of the Austrian Imperial Council, which was characterized by tensions between conflictual national parties.²³

Jellinek's plan for a Constitutional Court was based on a substantial mistrust of the legislative body, in this specific case the Austrian Imperial Council, because the majority residing in the legislative body could abuse its power by imposing its will to the detriment of the minority. In this sense, the transformation of the Imperial Court into a Constitutional Court was the only way, in Jellinek's opinion, to make the Austro-Hungarian monarchy a solid "constitutional state." The idea itself is perhaps not groundbreaking, but one truly interesting aspect is to observe how profoundly *political* this plan was.²⁴

In his 1885 work, Jellinek sought to arrive at a *legal solution* to an eminently *political problem*. This problem dealt with the protection of minorities from potentially illiberal laws wanted and pushed by the majority: the danger represented by a tyrannical majority was one of the major political issues with which Jellinek grappled all his life. As previously mentioned, in 1891 he moved to

21 Sara Lagi, *El pensamiento político de Hans Kelsen: Los orígenes de "De la esencia y valor de la democracia"* (Madrid: Biblioteca Nueva, 2007).

22 Jellinek, *Ein Verfassungsgerichtshof für Österreich*, 8 ff.

23 Ibid.

24 Elisabetta Palici di Suni, *Introduzione* to Georg Jellinek, *Una Corte costituzionale per l' Austria* (Turin: Giappichelli, 2013), 1–35.

Heidelberg to teach international law. In Germany he continued to reflect on the problem of minorities; a problem that he had experienced firsthand in Austria. If in the Austro-Hungarian monarchy Jellinek mainly focused on the concept of minorities with a *national and ethnic connotation*, in Germany his attention shifted to *political minorities*. Yet, a fundamental political problem remained: to Jellinek, the protection of minorities was profoundly connected with the question of granting fundamental rights in order to combat any form of despotic rule.

Jellinek in Germany: His Jus-political Vision and His Rejection of Despotic Rule

While living in Vienna, Jellinek was struck by the effects of having a parliament made up of many different national groups. This complex reality might have stimulated his interest in the problem of minorities. He never forgot the Austrian experience, which is apparent in his work *Das Recht der Minoritäten*, in which he referred to the national component of the Austrian parties and the instability of the Austrian Imperial Council.²⁵

Jellinek's focus on minorities and the importance of providing them with concrete and efficient protection recalls nineteenth-century liberalism. Like many other prominent liberal thinkers, such as Constant, Tocqueville, and Mill, Jellinek considered the protection of minorities (both national and political) as a value *per se*, as prerequisite of every truly liberal society based on respect for personal and human dignity and recognition of a "space of freedom" that no government could abuse or limit.²⁶

In terms of the history of political thought, Jellinek's concern with the problem of minorities and their protection (which in my view must have been influenced by his Austrian experience) was profoundly connected with his idea of *Selbstbeschränkung* (self-limitation), which is the core concept of his theory of law and the state.²⁷ What were the political foundations of this theory, and might we better understand these foundations if we take into account the definition of nineteenth-century liberalism given above?²⁸

25 Jellinek, *Das Recht der Minoritäten*, 35–36.

26 Ibid., 17–40.

27 Massimo La Torre, *Constitutionalism and Legal Theory: A New Paradigm for the Concept of Law* (Dordrecht: Springer, 2007), 20.

28 On the concept of "self-limitation" see: Jens Kersten, *Georg Jellineks System: Eine Einleitung zu Georg Jellinek, System der subjektiven öffentlichen Rechte*, 2. Auflage von 1905, ed. and intr. Jens Kersten (Tübingen: Mohr Siebeck, 2011); Jens Kersten, *Georg Jellinek und die klassische Staatslehre* (Tübingen: Mohr Siebeck, 2001);

In 1892, when Jellinek was in Heidelberg, he published one of his major works: *Rechtslehre: Das system der subjektiven öffentlichen Rechte*. On the one hand, Jellinek proposed the classical concepts previously elaborated by Carl Friederich von Gerber and Paul Laband.²⁹ Like his predecessors, Jellinek recognized sovereign power as belonging to the state alone. Also, he reaffirmed that only positive law exists. At the same time, he distanced himself from the traditional German legal doctrine when he wrote that the state limits itself by recognizing and providing fundamental rights.³⁰ To better understand the difference between Jellinek's legal conception and that of his predecessors it is worth noting that Gerber considered "individual rights as 'objective' reflections of the legal order," and Laband defined rights and more precisely as "rights to liberty" and "norms for state power, which the state gives itself [...] but they do not establish subjective rights of the citizens."³¹ In other words, both Gerber and Laband actually theorized the principle that rights had to be understood correctly and considered a mere "reflection" of "the state-determined legal system."

Unlike Gerber and Laband, Jellinek envisioned the state as a subject capable of limiting itself and, consequently, capable of granting a "space of freedom" to individuals by establishing "subjective rights."³² In his works on legal theory, and most notably in *Das System der subjektiven öffentlichen Rechte*, Jellinek elaborates a compromise between the sovereignty of the state and fundamental rights by theorizing the legal protection of such rights by means of an act of state self-limitation with regards to individuals. In doing so, Jellinek conceptually ends up situating one of the capital principles of nineteenth-century liberalism within a legal positivistic theory, according to which these rights "are regarded and secured because of the existence of the state as the personified sovereign."³³

Michael Stolleis, *Geschichte des öffentlichen Rechts in Deutschland*, vol. 2 (Tübingen: Mohr Siebeck, 1992). Also: Diego Quaglioni, "Sovranità e autolimitazione (Rileggendo la Dottrina generale dello Stato di G. Jellinek)," in *Crisi e metamorfosi della sovranità: Atti del XIX Congresso nazionale della Società italiana di filosofia giuridica e politica. Trento 29–30 settembre 1994*, a cura di Maurizio Basciu (Milan: Giuffrè, 1996), 276 ff; Massimo La Torre, *Disavventure del diritto soggettivo: Una vicenda teorica* (Milan: Giuffrè, 1996), 144–45.

29 See: Carl Friedrich von Gerber, *Grundzüge eines Systems des deutschen Staatsrechts* (1876); Paul Laband, *Das Staatsrecht des Deutschen Reichs* (1876–1882).

30 Fabrizio Fabbrini, *Fundamental Rights in Europe: Challenges and Transformations in Comparative Perspective* (Oxford: Oxford University Press, 2014), 17–18.

31 Peter C. Caldwell, *Popular Sovereignty and the Crisis of German Constitutional Law: The Theory and Practice of Weimar Constitutionalism* (Durham–London: Duke University, 1997), 30–31.

32 Jellinek, *Das System der subjektiven öffentlichen Rechte*, 67 f.

33 Fabbrini, *Fundamental Rights*, 17.

In this sense, there is profound link between Jellinek's liberal spirit and his legal doctrine. I insist on this point because I think that even his work *Das system der subjektiven öffentlichen Rechte* (1892) can be considered, from the perspective of the history of political thought, a work of political theory and an excellent example of Jellinek's political thought and attitudes.

While living and teaching in Austria, Jellinek proposed a legal solution to an eminently political problem. As we have seen, this particular solution, consisting in the creation of a Constitutional Court, had a clear and undeniable liberal connotation because it was based on the idea that minorities should be respected and protected. The Constitutional Court, in Jellinek's view, could be a perfect antidote to the tyranny of the majority. In *Das system der subjektiven öffentlichen Rechte*, Jellinek theorized a positivistic foundation of fundamental rights based on the idea that the state was capable of limiting itself. In both cases, i.e. in his work on the Constitutional Court and his work on the *subjektiven öffentliche Rechte*, Jellinek was convinced, as a legal theorist and a political thinker, that granting and preserving fundamental rights implied protecting minorities and individuals from the abuses of despotic rule.

The central role played by this kind of problem in Jellinek's intellectual and academic production is also clear in three of his writings dedicated to the history of political ideas and published in the 1890s, namely *Hobbes und Rousseau (Hobbes and Rousseau)*, *Adam in der Staatsrechtslehre (Adam in the theory of the state)* and, primarily, *Die Erklärungen der Menschen und Bürgerrechte (The declaration of the rights of man and the citizen)*.³⁴

In the first two essays, Jellinek critically analyzed the tradition of natural law and its impact on European political thought and state organization, whereas in the third work he made a direct comparison between the Bill of Rights and the Declaration of the Rights of Man and of the Citizen. Despite evident differences in terms of content, all these essays shared the same questions: "is

34 Georg Jellinek, *Die Erklärungen der Menschen und Bürgerrechte: Beitrag zur Geschichte des Verfassungsrechts* (Munich–Leipzig: Duncker & Humblot, 1895). In this article, because the original text was unavailable, I refer to the Italian translation: Georg Jellinek, *Le dichiarazioni dei diritti dell'uomo e del cittadino*, ed. G. Bongiovanni (Rome–Bari: Laterza, 2002). And also Georg Jellinek, "Die Politik des Absolutismus und Radikalismus (Hobbes und Rousseau): Vortrag gehalten in der Aula des Museums zu Basel am 10. Februar 1891," in idem., *Ausgewählte Schriften und Reden* (Berlin: 1911), vol. 1 (Aalen: Scientia Verlag, 1970); Idem, "Adam in der Staatsrechtslehre: Vortrag gehalten in der historisch-philosophischen Verein zu Heidelberg (1893)," in idem., *Ausgewählte Schriften und Reden* (Berlin 1911), vol. 1 (Aalen: Scientia Verlag, 1970); Idem, *Allgemeine Staatslehre* (Berlin: O. von Häring, 1905).

state power unlimited?” and “does the majority have absolute power?” I examine how Jellinek responded to these crucial questions.

In the first of the three abovementioned works, Jellinek outlined a history of political and juridical concepts with a strong focus on the tradition of natural law. As a positivist, Jellinek was vehemently anti-jusnaturalist, but the truly interesting aspect emerging from his analysis, particularly from his work on *Hobbes und Rousseau*, is that he considered natural law mere philosophy, a *Weltanschauung*, a dream, a vision, with no historical basis, and characterized by undeniable elements of despotism.³⁵

The tradition of natural law had elaborated and justified the idea of state organization through the “paradigm” of the state of nature and the concept of a “contract” by means of which men would establish and legitimize political institutions. First and foremost, Jellinek criticized the tradition of natural law as a product of the imagination. He stressed that all natural law arguments were false because they were not based on historical experience.³⁶

Yet, in Jellinek’s opinion there was something even more dangerous in the teachings concerning natural law than their “falsehood.” He thought that they would inevitably “open the door” to despotic rule as a necessary and logical consequence of the idea that the only way to leave the state of nature with all its dangers and lack of safety is to give up one’s fundamental rights and liberties to a “third subject,” which is the state itself. From the perspective of the history of political ideas and ideologies, there was no difference between the author of *Leviathan* and the father of the Social Contract. Their use and legitimation of the “paradigm” of the state of nature inevitably would lead, in Jellinek’s assessment, to an illiberal, despotic political system.³⁷

His critique of the natural law tradition of thought was functional to his foundation and legitimation of law and the state in positivistic terms. But if jusnaturalism was nothing but a “philosophy,” a potentially dangerous dream, how could one explain his attachment to the Bill of Rights and the Declaration of the Rights of Man and of the Citizen, which seemed to have been inspired by the tradition of natural law? As a legal theorist and political thinker, Jellinek responded to this question in his work *Die Erklärungen der Menschen und Bürgerrechte*. In this essay, Jellinek offers his reply to those who contended that the Bill of Rights and the Declarations of the Rights of Man and of the Citizen were the

35 Jellinek, “Die Politik des Absolutismus und Radikalismus.”

36 Ibid., and idem, “Adam in der Staatsrechtlehre.”

37 Ibid., chiefly Georg Jellinek, “Die Politik des Absolutismus und Radikalismus.”

logical consequences of the intellectual tradition of natural law by explaining how, for example, the Bill of Rights—which he considered the “source” of the Declaration of the Rights of Man and of the Citizen itself—were nothing but the “historical product” of the very particular, unique American experience, characterized by the development of small communities of people who moved to the New World to profess their religious beliefs freely.³⁸

Despite his Jewish background, Jellinek studied Christian theology and the history of Christianity in depth.³⁹ His main interest was the history of the Reformation and Protestantism. In his essay *Die Erklärungen der Menschen und Bürgerrechte* he also emphasized the religious roots of the Bill of Rights in America and the influence that the Protestant spirit and culture had had on the history of the former British colonies. His idea was that some of the fundamental freedoms included in the Bill of Rights had a religious—and more precisely a Christian—origin.⁴⁰

Over the years, according to Jellinek, Americans had created a society based on the values of freedom and emancipation, and when they had gathered to establish a new political order against their former motherland, they had written the Bill of Rights in order to ensure protection of the freedoms and rights they had experienced before the revolution against England had broken out.⁴¹

As far as the Declaration of the Rights of Man and of the Citizen is concerned, Jellinek stressed the “debt” that the French revolutionaries owed to the American Bill of Rights. He also denounced the French revolutionaries, who—unlike the American revolutionaries—had been inspired by the tradition of natural law and more exactly by Rousseau and his theory of *volonté générale*, for having applied the philosophical concept of “people’s sovereignty” to the French political reality without seriously analyzing whether or not this kind of concept could be successfully transformed into a functioning political institution.

The “sin” of the French Revolution had been to apply the very abstract and intrinsically absolutistic political concepts elaborated by the tradition of natural law—and notably by Rousseau—to the French reality, a reality whose complexity, in Jellinek’s opinion, went beyond “natural law philosophy.” The American revolutionaries had been successful because they had established

38 Georg Jellinek, *Le dichiarazioni dei diritti dell'uomo e del cittadino*, 44.

39 Jellinek converted to Christianity a few years before his death. Klaus Kempster, *Die Jellineks 1820–1955: Eine Familienbiographische Studie zum deutschjüdischen Bildungsbürgertum* (Düsseldorf: Droste Verlag, 2005).

40 Georg Jellinek, *Le dichiarazioni dei diritti dell'uomo e del cittadino*, 44–50.

41 Ibid.

their new independent political institutions on historical experience. The French revolutionaries had been unsuccessful because they had wanted to break radically with the past, introducing a totally new political system based on ideas and values people had never seriously experienced before.

In other words, under the French revolution one passed from a despotic rule embodied by the king to a despotic rule embodied by the people, and the people, as Jellinek stresses, meant the state.⁴²

Some questions arise: is there any connection between these works of the 1890s (*Hobbes und Rousseau; Die Erklärungen der Menschen und Bürgerrechte*) and, for example, Jellinek's essay on the Austrian Constitutional Court? Moreover, what can we learn about Jellinek's political views from his reflections on the American and French revolutionary legacy? First, I am convinced that a sort of intellectual continuity does exist between Jellinek's essay of 1885 and the works he published when he was already in Germany. This continuity consists in the fact that his plan for the Austrian Constitutional Court and his writings on and against the tradition of natural law, the Declaration of the Rights of Man and of the Citizen, and the comparison between the American and French revolutions share the conviction that there is a profound difference between "good rule" and "bad rule": a good rule is based on an intrinsically limited power, constitutional guarantees, and rights—that is, on a "space of freedom" that is to be protected—whereas bad rule is the opposite: it is despotic rule consisting of an unlimited kind of power and, according to Jellinek, this unlimited kind of power can sometimes be used in the name of the people.⁴³

All the writings I have discussed so far contain clear elements of a truly classical liberal political view according to the definition of liberalism I offered in the first paragraph of this paper. Jellinek emphasized the importance of limited power, a concept he elaborated further in *Das Recht der Minoritäten*.

Here Jellinek clearly drew a connection between individual rights and minority rights: the protection of minorities within and outside of legislative organs was functional to the protection of individuals and fundamental rights. Nonetheless, the protection of minorities and individual rights embodied an excellent limit to despotic rule, and the guarantees of the rights of minorities and individuals could also prevent the process of "massification" and growing social conformism, which in Jellinek's opinion was characteristic of modern democratic societies.⁴⁴

42 Ibid.

43 On this last aspect see: Georg Jellinek, "Die Politik des Absolutismus und Radikalismus".

44 Idem, *Das Recht der Minoritäten*, 42–44.

Jellinek directly and openly referred to Tocqueville when writing about the dangers of massification and social conformism within a democratic system. Tocqueville was always one of the main points of reference for the German jurist. Like Tocqueville, Jellinek spoke about the tyranny of the majority, and like Tocqueville, Jellinek thought that an efficient way to neutralize despotic majorities (inside and outside the legislative body) was to create and develop a political system based on fundamental rights, minority rights, efficient limits to power, and the creation and preservation of a lively civil society.⁴⁵ Jellinek concluded his work on the Rights of Minorities by mentioning Tocqueville's *Democracy in America*.⁴⁶

There is a common thread linking Jellinek's work on the Austrian Constitutional Court, on the one hand, and his writings published in the 1890s: the connection is his focus on the problem of minorities and liberty. In Austria and in Germany Jellinek always examined ways in which to avoid despotic rule.

Some Concluding Remarks on Jellinek's Liberal Political View

If we take into account Jellinek's intellectual trajectory from the 1880s until the publication of *Die allgemeine Staatslehre*, we can observe how the principle of limited power was central and crucial both to his legal doctrine and to his political view.⁴⁷

In terms of legal thought, Jellinek affirmed the pillars of legal positivism, while elaborating the idea that the state had both “a sociological and legal character.” In his *opus magnum*, *Die allgemeine Staatslehre*, he distanced himself from Gerber and Laband. Whereas Gerber and Laband had tried to develop a merely legalistic understanding of the state, Jellinek insisted on the two-sided nature of the state: it should be considered not only a legal construct but also a “social fact,” and therefore it had “legal functions” and “social functions.”⁴⁸

The two-sided conception of the state implied a two-sided theory of the state. *Staatslehre* had to be divided into a “social theory of the state” and a “legal theory of the state.”⁴⁹ From a social perspective, the state—as it was conceived by Jellinek—relates to individuals by limiting its own will and therefore establishing

45 Ibid.

46 Ibid., 46–47.

47 Idem, *Allgemeine Staatslehre* (1900), 3rd ed. (Darmstadt: Wissenschaftliche Buchgesellschaft, 1960), 180.

48 Ibid.

49 Ibid.

fundamental rights. From his work *System der subjektiven öffentlichen Rechte* to his *Allgemeine Staatslehre*, Jellinek continuously sought to present a balanced idea of the state which did not reduce the state to “the ruling subject, and there is nothing else to be said.”⁵⁰ As Peter M. R. Stirk correctly stresses,

His [Jellinek’s] opposition to any veneration of power is evident in his approach to the concept of sovereignty and in his theory of the autolimitation of the state. Jellinek argued that the concept of sovereignty was too often treated as a claim to unconstrained power rooted in the idea of sovereignty as ‘*summum imperium, summa potestas*’.⁵¹

Against any sort of hypostatisation of the state, Jellinek emphasized that sovereignty does not mean “lack of limitation,” but rather the capacity for self-limitation.⁵²

This continuous conceptual and legal framework which took shape between the 1880s and the early 1900s has to be taken into account when discussing Jellinek as a political thinker, because his defense of fundamental rights and minority rights is connected with his legal and political idea of state self-limitation.

Nonetheless, if we focus on Jellinek’s political view and spirit as it takes shape and emerges from the writings discussed so far, we observe how the defense of minority rights and individual freedoms seems to represent a value to protect and preserve *per se*, because, as Jellinek states in *Das Recht der Minoritäten*, some of the best innovations in human history were initiated by minorities, and minorities can exist and contribute positively to the development of society only if individual rights and freedoms are granted. These rights and freedoms, in Jellinek’s view, can act as a powerful bulwark against massification and social conformism.⁵³ At the same, granting minority rights represents a capital issue not only within society, but also within the legislative body. It is in this sense that we can better understand why, once again in *Das Recht der Minoritäten*, Jellinek dedicates so much attention and such thorough analysis to the American insistence on the importance of the protection of fundamental rights. This attitude, as Jellinek

50 Andreas Anter, *Max Weber’s Theory of the Modern State: Origins, Structure and Significance* (New York: Palgrave Macmillan, 2014), 50.

51 Peter M. Stirk, *Twentieth Century German Political Thought* (Edinburgh: Edinburgh University Press, 2006), 22.

52 Jellinek, *Allgemeine Staatslehre*, 180.

53 Idem, *Das Recht der Minoritäten*, 26.

stressed, was based on the centrality of the Constitution, and it was characterized by “the hypertrophy of constitutional legislation, since when a provision was included in the constitutional text, the parliamentary minority is provided with a powerful tool to prevent the majority from abusing its legislative power.”⁵⁴

Jellinek’s sensitivity to the questions of fundamental rights and the rights of minorities may well have been due in part to his having been part of a minority and also to the years he spent in the Austro-Hungarian monarchy, a multinational state made up of numerous ethnic minorities. His life-experience might have had an influence on his *Weltanschauung*, and his personal sensitivities, but the aforementioned works demonstrate clearly how, behind Jellinek’s interest in minority rights, liberty and fundamental rights, there was an actual attempt to understand how to avoid despotic rule, how to avoid the tyranny of the majority, how to establish a constitutional state, and how to create a true “liberal society.”

In this sense, from the perspective of the history of political thought, I agree with the distinguished European scholar of the history of political thought, the Italian Salvo Mastellone, who decided, in his book on *Storia del pensiero politico europeo (History of European political thought)*, to include Jellinek among the “spiritual fathers” of nineteenth-century European liberalism.⁵⁵

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54 Ibid.

55 Salvo Mastellone, *Storia del pensiero politico europeo: Dal XV al XVIII secolo* (Turin: UTET, 2004), 167.

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András Cieger

National Identity and Constitutional Patriotism in the Context of Modern Hungarian History

An Overview*

Since the end of the eighteenth century, Hungarians have considered themselves a nation of the “millennial constitution” and a “nation of lawyers.” What meanings, identity-founding values, and interpretations of the past are associated with the concepts of constitution and constitutionalism in Hungarian public thinking and scientific discourse? Furthermore, to what extent is there any consensus concerning principles, and how coherent is the context of Hungarian constitutionalism as a product of national history? In this overview, I show how the political program of constitutionalism underwent a transformation from an elite-project to a common emotional foundation of constitutional patriotism in 1848. I also examine how, after the Austro-Hungarian Compromise of 1867 and in the interwar period, the emotional bonding of citizens to their political institutions weakened and several myths of the Hungarian exceptionalism gathered strength in scientific and political discourses. Four decades of socialism extinguished almost completely any sense of constitutional consciousness, already only flickering, among the people, as well as their trust in the world of politics. Finally, the many examples of embittered debates on symbolic questions after the regime change in 1989/90 and the much-criticized circumstances of the drafting of a new constitution in 2011 demonstrate convincingly that a constitutional patriotism based on broad societal consensus has not yet formed in Hungary. The successive political regimes used constitutional values and the memory of the struggles for constitutionalism only as symbols or slogans to reach their short-term political aims. The political elites in Hungary utilized the constitutional consciousness of the society instead of working to strengthen it.

Keywords: constitutional patriotism, national identity, Hungarian history, symbolic politics

Constitution, Identity, and History

The expression *constitutional patriotism* associated with Jürgen Habermas has undergone a number of modifications since it was coined in the 1970s, giving rise to significant professional and public debates. Originally, the term was meant

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to play a role in the formation of the new German national identity after World War II, flourishing again in the early 1990s in the countries of the former Soviet bloc in Central Eastern Europe and frequently used in the public discourse of the mostly leftist intelligentsia in connection with the processes of European integration and constitution-writing. Rather than examining the history of the uses of this term, I wish only to note that recently it has played a role in peeling the identity of the political community away from traditional national consciousness, imbued with nationalism and damaged multiple times, and linking communal identity to universally accepted human rights, democratic values, and constitutional institutions as integrational bases, thereby strengthening civic participation in public life and the development of tolerant, self-critical civic attitudes (a political culture of a citizenry).¹ Habermas also linked this concept with the idea of forming a cosmopolitan solidarity, a “multicultural citizenship” (e.g. in the future European federal state).² Later, however, he emphasized instead that “[d]espite a very common misunderstanding, ‘patriotism linked to the constitution’ means that the citizens wholeheartedly accept the principles of the constitution, not only in their abstract substance, but very specifically out of the historical context of the history of each nation.”³

What is important in the context of this inquiry is the fundamental hypothesis of the concept: “In a pluralistic society, the constitution expresses a formal consensus. The citizens want to regulate their living together according to principles that are in the equal interests of each and thus can meet with the justified assent of all.” That is to say, there exists a commonly accepted system of norms for constitutionality, a common stock of concepts and words, as well as an image of the past both in the actual political community (polity) and on a larger, for example European, scale.⁴

Interestingly, the conservative philosopher Roger Scruton, who firmly rejects the ideas described above and insists on the importance of preserving national identity, also believes in the existence of common constitutional values inspiring the English nation, and the patriotism linked to them. That in his writings he worries about the cracking of the centuries-old cohesive force of the British

1 Jan Werner Müller, *Constitutional Patriotism* (Princeton: Princeton University Press, 2007), 15–45.

2 Jürgen Habermas, “Citizenship and National Identity,” in idem, *Between Facts and Norms* (Cambridge, Massachusetts: MIT Press, 1996), 491–515.

3 Jürgen Habermas and Joseph Ratzinger, *Dialectics of Secularization: On Reason and Religion* (San Francisco: Ignatius Press, 2006), 33.

4 Habermas, “Citizenship and National Identity,” 496.

system of legal and political institutions caused by the spread of consumer culture and not least the “patronage” of the European Union is another issue.⁵

Given the relevance the concept has acquired in contemporary political and theoretical discussions, it would seem justified to consider the meanings, identity-founding values, and interpretations of the past that have been and are associated with the concepts of constitution and constitutionality in Hungarian public and academic discourses. To what extent is there a consensus concerning principles, and how coherent is the context of Hungarian constitutionality as a product of the national history that the “old” and “new,” as it were, identities of the political community can both rely on?

Naturally, one cannot give precise answers to these questions, but rather can only venture conjectures, since exciting factors in political life such as loyalty, trust, pride, and identification are difficult to measure. Moreover, the available sources mostly allow only glimpses into scholarly debates and discourses defined by the political elite, and are usually silent about the political attitudes of society.

The Formation of Constitutional Consciousness as of the Second Half of the Eighteenth Century

The political program, starting from above, of building the nation and the development of the “national sciences” in the service of this project, and, later, the building up of the bourgeois state were processes that gradually, during the long nineteenth century, pushed autonomous legal life on the local level and various customary laws into the background through codified customary law and “official” written legislation, while, through the channels of education and the forums of the old and the new public spheres, new political values, sentiments, and interpretations, which could later be folklorized, were attached to this legal material. Thus, a general system of norms, a common stock of concepts, and shared ways of thinking came into being that could later serve as the basis for a wider communal identity associated with constitutionality.⁶ Naturally, a consciousness of this kind was basically shaped by the thinking, the public behavior and the political objectives of the prevailing political elite, especially

5 Roger Scruton, *England: An Elegy* (London: Chatto, 2000); Roger Scruton, *The Need for the Nations* (London: Civitas, 2004). For this, see also: Michael Kenny, *The Politics of English Nationhood* (Oxford: Oxford University Press, 2014), 66–72.

6 Barna Mezey and Janka Teodóra Nagy, eds., *Jogi néprajz – jogi kultúrtörténet* (Budapest: ELTE Eötvös Kiadó, 2009); Attila Paládi-Kovács, ed., *Magyar néprajz* (Budapest: Akadémiai Kiadó, 2002), 8:693–99.

in a country like the Kingdom of Hungary, which was very divided ethnically, culturally, and in terms of property. Still, as a result of these complex processes, which are difficult to map, a (self)image has taken deep roots, according to which the nation-building and state-building Hungarians are characterized, through their incessant struggle for independence, by strong public legal traditions and a legal turn of mind, adhering often perhaps to an irrational extent to its legal fictions (Hungarians are usually seen by foreigners as an ungovernable, rebellious people). Since the nineteenth century, Hungarians have often associated their national character with the terms “millennial constitution” and “nation of lawyers.” In 1939, a famous Hungarian poet, Mihály Babits, wrote the following in his tableau on the Hungarian character:

A similar ideal constant is the constitution, the moral territory and property, as it were, of Hungarians. This is again a fixed point in the universe. The constitution can be violated a thousand times, and it is possible to govern without it or against it. But even if this goes on for centuries, a true Hungarian will nevertheless regard the constitution as living and valid.⁷

The clearly perceptible strengthening of constitutional consciousness is basically linked with the intellectual impact of the Enlightenment and the struggles between the Hungarian Estates and the Habsburgs in the second half of the eighteenth century.⁸ Emperor Joseph II (1780–1790) broke with the centuries-old customs of dealing with the Estates: he did not have himself crowned king of Hungary, he did not summon the national assembly (Diet), etc. He set out to implement a program of modernization along the ideas of the Enlightenment, but the means he employed were absolutistic. The Estates opposed his efforts, in their struggle relying heavily on the arguments of the thinkers of the French Enlightenment. The works of Montesquieu, Rousseau, and Voltaire, soon after they had been written, became favorite readings (in the original, but often in Hungarian translations, too) of the political elite, providing the Estates with a far too practical set of arguments in their wrestling with the enlightened absolutism represented by Joseph II.

7 Mihály Babits, “A magyar jellemről,” in *Mi a magyar?*, ed. Gyula Szekfű (Budapest: Magyar Szemle Társaság, 1939), 70.

8 Of course, the roots of patriotism based on constitutional consciousness go back to earlier times, see e.g. Balázs Trencsényi and Márton Zászkaliczky, eds., *Whose Love of Which Country: Composite States, National History and Patriotic Discourses in Early Modern East Central Europe* (Leiden–Boston: Brill, 2010).

They set the model of representative constitutionalism still organized on the basis of Estates against the theory of centralized state. In their numerous plans, the Estates argued, drawing on the theory of natural law, that since the monarch had violated the ancient “social contract” with them, a totally new contract was needed. Referring to the principle of popular sovereignty (by people they meant themselves, of course) and the spirit of laws, they demanded that the Diet be summoned, and under the influence of the events in France they decided to make a written constitution which would significantly limit royal power. In 1790–1791, approximately five hundred pamphlets were published putting forth proposals for changes to the political situation and the constitutional conditions of the country.⁹ Furthermore, the ideas of the French Enlightenment concerning the division of powers, the social contract, and human rights appeared not only in official proposals and political pamphlets, but in popular plays and school verses as well.¹⁰

However, this Hungarian Enlightenment was rather peculiar, indeed, since as Ferenc Eckhart observed, “it held Montesquieu and Rousseau in one hand and the *Tripartitum* in the other.”¹¹ That is to say, the Estates wished to apply only those principles of modern constitutionality to Hungarian conditions which upheld their privileges. And to support this effort, they used the *Tripartitum*, a work by István Werbőczy, who in addition to reviving and summarizing the cardinal laws and definitive legal customs of the country in 1514, complemented his work with the theory that the king and the (legally and politically equal) nobility are present together in the Holy Crown of Hungary, that is to say, they together practice sovereign power.¹²

The constitution-making fever, especially as a result of the increasingly frightening news from France and the countermeasures of the new king, Leopold II (1790–1792), soon abated, the monarch and the Estates returning to the time-honored rules of the game of the constitutionality of the estate system. It is undeniable, however, that a few important elements of modern-day constitutionality, which in the perception of both the Hungarian Estates and the

9 See, for example Henrik Marczali, “Alkotmánytervezetek 1790-ben,” *Budapesti Szemle* 125, no. 351 (1906): 393–422.

10 Sándor Eckhardt, *A francia forradalom eszméi Magyarországon* (Budapest: Franklin, 1924).

11 Ferenc Eckhart, *A Szentkorona-eszme története* (Budapest: MTA, 1941), 254. For this, see also: M. István Szijártó, *A Diéta: A magyar rendek és az országgyűlés 1708–1792* (Budapest: Osiris, 2005), 29–43.

12 Eckhart, *A Szentkorona-eszme története*, 290–91.

sovereign could be reconciled with their interests and which did not violate the dualist system of the Estates, would become part of the Hungarian legal system.

New words were added to the vocabulary of Hungarian politics in these decades. In the 1780s, the Latin *constitutio* and the Hungarian *alkotmány* and *alkotmányozás* began to be used with their present-day jurisprudential meaning.¹³ The Hungarian word *alkotmány* also appeared for the first time in Corpus Juris in Act 1791:X. According to studies in intellectual history, it was also during the constitutional struggles of the late eighteenth century that references to ancient, thousand-year-old constitutionalism became part of a definitive mode of discourse. According to this argument, there exists an ancient (legal and political) system of customs, handed down by generations, which would outline the nine-hundred-year old and, later, thousand-year old, organically and continuously developing unwritten constitution of Hungary. And this constitutional development was essentially identical with the history of the nation, which at that time meant only the political community taking part in governance, that is, the nobility. Thus, the protection and complete preservation of constitutional customs, rights and privileges was seen as a duty and a fundamental prerequisite of national existence. “The slogan, almost second to none in its ability to make Hungarian hearts beat more rapidly, was born.”¹⁴ So constitutionality became part of the national consciousness and a source of national pride, though only keeping in mind the following:

[A] number of identity variations interpreted themselves in the symbol of the Homeland, thus the patriotism of those days was a set of different and diverging phenomena and the use of the term patriotism in the plural would seem to be justified. This is the moment of coming into being, the time of narratives and symbols being reordered and organized into a new unity.¹⁵

13 The rapidity of the change is indicated by the fact that the augmented edition in 1767 of the dictionary of Ferenc Pápai Páriz did not include this new meaning of *constitutio*. Ferenc Pápai Páriz, *Dictionarium Latino–Hungaricum et Hungarico–Latino–Germanicum* (Budapest: Universitas, 1995), 142. For the expansion of the meaning of the word *alkotmány* (constitution), see Loránd Benkő, ed., *A magyar nyelv történeti-etimológiai szótára* (Budapest: Akadémiai Kiadó, 1967), 1:134.

14 Marczali, “Alkotmánytervezetek 1790-ben,” 397.

15 Attila Debreczeni, “Nemzet és identitás a 18. század második felében,” *Irodalomtörténeti Közlemények* 105, no. 5–6 (2001): 552.

Although there was a clearly perceptible shift in the meanings of the words *haza* (homeland), *nemzet* (nation), and *alkotmány* (constitution) in the nineteenth century, these concepts were put to a diverse array of political uses. The reference to ancient constitutionality, depending on the actual political interests, was invoked to serve either the maintenance of the stability of relations among the Estates and the given political structure, as in the case of the conservatives during the Reform Age (1825–1848), or it was used to justify the liberal program of the extension of rights and the uniting of interests, showing after significant reinterpretation the democratic spirit it represented. Or, finally, it was used to serve the aspirations for independence against Vienna. Those who, like the centralists of the Reform Age, did not wish to speak the language of the ancient constitutionality and preferred to use arguments of natural law to emphasize the need to create the conditions for civilization, progress and, within that, codification (of a scientifically constructed written constitution) found themselves playing a marginal role in Hungarian political discourse.¹⁶

The suggestion of a parallel between British and Hungarian constitutional developments had an important role in deepening the feeling of constitutional pride.¹⁷ By then, the view that with regard to rank and age the Hungarian constitution could be compared to British constitutionality had become a widely held conviction. Indeed, Lajos Kossuth, one of the leaders of the Hungarian liberals, thought that “Hungarian civic institutions are not only similar to, but in some respects better, more glorious than, those of Great Britain.”¹⁸

The proximity of two important dates in British and Hungarian constitutional history offered an attractive parallel to support this contention: the Magna Carta issued in 1215 and the Golden Bull in 1222. By the second half of the nineteenth century, another argument had been made: by that time Great Britain and Hungary were the only countries in Europe with no written constitutions.

16 More details: Iván Zoltán Dénes, “Political Vocabularies of the Hungarian Liberals and Conservatives before 1848,” in *Liberty and the Search for Identity: Liberal Nationalism and the Legacy of Empires*, ed. Iván Zoltán Dénes (Budapest–New York: CEU Press, 2006), 155–96; Tamás Dobszay, “‘Szokjon gyapjas fülök az ezután már gyakrabban hallható igazság szavához.’ A politikai élet verbális közegének átrendeződése a reformkorban,” *Századvég* 47 (2008): 113–50.

17 About the discovered kinship with the ‘English’ constitution see: Győző Concha, “Az angolos irány politikai irodalmunkban a múlt század végén,” in idem, *Hatvan év tudományos mozgalmi között* (Budapest: MTA, 1928), 1:213–27; László Péter, “The Holy Crown of Hungary, Visible and Invisible,” in idem, *Hungary’s Long Nineteenth Century: Constitutional and Democratic Traditions in a European Perspective. Collected Studies* (Leiden–Boston: Brill, 2012), 86–93.

18 Lajos Kossuth, “Megyei hatóságokr,” *Pesti Hírlap* January 6, 1842.

Although the British-Hungarian parallel generated by the national pride of the elite cannot be supported by facts of legal development, it has become part of the school curriculum and public consciousness.¹⁹

As was the case in so many other countries of Europe, the political system in Hungary was placed on new foundations in 1848. However, the liberal elite, upon coming into power, deliberately would not undertake open and comprehensive constitution-making in the midst of revolutionary events and limited itself to temporarily regulating the system of political institutions. They wished to leave the task of writing a constitution to a subsequent, popular representative parliament. This objective, however, was thwarted on account of the defeat of the war of independence. Nevertheless, the acts passed in April, 1848 came to be regarded, both with a view to the legal system and in a symbolic sense, as the fundamental laws of the country on the level of national memory, and that is how these acts are still discussed in Hungarian jurisprudence. The communal experience of 1848/49 and its subsequent memory created a common emotional basis, the integral parts of which were, on the one hand, the sense of freedom coming from laws (the introduction of general sharing of taxation, the abolition of socage and tithe, the termination of manorial courts, etc.) providing for equality before the law and, on the other, the pride and trust experienced in connection with newly created or renewed political institutions (such as responsible government and a representative parliament). The language of the April acts also clearly indicated the widening of the borders of the body politic: the old expressions of the estate system were replaced in Hungarian laws with terms like “all the inhabitants of Hungary,” “the whole Hungarian people,” “the citizens of the country,” and “fellow citizen.” These communal sentiments came to be symbolically embodied in the date of the Hungarian revolution of 1848: March 15. The differing interpretations with regard to the

19 For example, the doctrine of the relationship between the Golden Bull (“The letters patent including the Constitution of Hungary”) and the Magna Carta was published first in 1849, in the extremely popular schoolbook, which was published in seventy editions, of István Losontzi. István Losontzi, *Hármas kis tükör* (Pest: Tratner and Károlyi, 1849), 41–42. For this, see also: András Cieger, “A pecsét sok oldala: Az Aranybulla mint emlékezeti hely,” in *Megtalálható-e a múlt? Tanulmányok Gyáni Gábor 60. születésnapjára*, ed. Zsombor Bódy, Sándor Horváth, and Tibor Valuch (Budapest: Argumentum, 2010), 403–13. Parallel with the spread of this doctrine, the translation of the works of English political philosophy (e.g. Bentham, Mill) also began in the Reform Age: Béla Mester, “Mill magyarországi recepciója és a 19. század magyar politikai gondolkodása,” in *Közéletések a magyar filozófia történetéhez: Magyarország és a modernitás*, ed. Béla Mester and László Percz (Budapest: Áron Kiadó, 2004), 351–91.

contemporary event were pushed into the background, and that date became the day of freedom and modern constitutionality.²⁰

The Weakening of Patriotism and the Strengthening of the Myths of Hungarian Constitutionalism (1867–1945)

After the defeat of the war of independence, constitutional patriotism became even stronger because the unwritten constitution absorbed and represented several well-known values (the desire for independence, anti-Habsburg habits, constitutional resistance) and new symbols (Kossuth's cult, commemorative rituals of the 1848 revolution, etc.) during the period of Habsburg absolutism. However, the Austro-Hungarian Compromise of 1867 met with significant social rejection despite its rational political program. People were not enthusiastic about the new political system, yet in time the majority would prove loyal to it. But an extension of legitimacy that went beyond mere passive endorsement would have needed emotional identification and enthusiasm expressed in symbols. However, fifty years were not long enough for that change: the ruling powers failed in their attempt to create new community-forming symbols that would strengthen the established political regime, and they were prevented by the written and unwritten rules of the Compromise of 1867 from identifying with the symbols preserved by the nation. Thus, mutually exclusive traditions came into existence after the Compromise: a centrally formed state patriotism, relying on a measure of loyalty by the citizens on the one hand, and, on the other, a national patriotism with its own rites, surviving in the social public.²¹

It is also obvious that both traditions had reached a crisis by the early twentieth century. On the one hand, the legitimacy of the constitutional system of the Compromise, which was uncertain to begin with, had become considerably worn-out: the complicated legal and political system struggled with serious functional problems, constitutionality and individual rights never emerged, the prestige of the parliamentarism declined, and so on. On the other, the opposition forces regarding themselves as the true heirs to the legacy of 1848 had over the course of the decades gradually abandoned the program of consolidating constitutionality, their activity amounting increasingly to little

20 András Gerő, *Imagined History: Chapters from the 19th and 20th Century Hungarian History of Symbolic Politics* (New Jersey: Center for Hungarian Studies and Publications, 2006), 137–51.

21 Péter Hanák, "Die Parallektion von 1898: Fünfzig Jahre ungarische Revolution und fünfzig Jahre Regierungsjubiläum Franz Josephs," *Österreichische Osthefte* 27, no. 3 (1985): 366–80.

more than empty show and ritual. And, finally and not least, throughout the period, the set of citizens who could legally (through their right to vote, for instance) participate in political decision-making remained very small: only six percent of the population could vote during the entire period. These factors had destructive effects on the pride felt for constitutional conditions and parliamentary institutions. It would seem that during the five decades of the dualist regime, various constitutional myths attempted to replace the political functions of the nearly unified interpretation of history and the legitimizing symbols. Harping on the millennial constitutionalism of the country, they tried to support the legitimacy of the compromise with Austria, and, on the other hand, they emphasized Hungarian supremacy in opposition to the political demands of national minorities.

While its cult was growing in the second half of the nineteenth century, constitutionality increasingly survived in memories. Constitutional institutions were not established and there were not real attempts to adapt to European norms. Rather, taking refuge in alleged national traditions became the rule. This is clearly indicated by the development of jurisprudential education in Hungary, which turned—comparatively late, but all the more belliciously—into a propagation of constitutional myths. As late as in 1874, Hungarian constitutional and legal history was made an independent subject for primary examination in legal studies (prior to the Compromise, instruction in that subject was forbidden), and in 1892 it had a department of its own in Budapest only. Imre Hajnik, first commissioned to teach the subject, supported the idea of a parallel presentation of universal and Hungarian legal developments:

Thus legal historians must elevate themselves to a European standpoint when lecturing on the development of Hungarian legal life, following the changes and the significance of European ideas of the age, examining when and how and through the confluence of what factors these ideas influenced statal and social life of Hungary.²²

By the turn of the century, however, in the wake of long internal discussions, the views of the so-called historical-nationalist legal school had triumphed. According to the leading professor of this school, Ákos Timon, “the Hungarian people arrived at the pure concept of statehood, of real public power before other European state-forming peoples,” and so it is not on the processes of reception

22 Imre Hajnik, *Magyar alkotmány- és jogtörténelem*, (Pest: Heckenast, 1872), 1:17–18.

but on the study of the independent organic development that attention must be focused; “we must have the national direction of legal history” prevail here, too.²³ As a result of this attitude, the department of European legal history was terminated at the Budapest law school in 1912.²⁴

Given all this, it is no wonder that the cult of Werbőczy flourished without interruption. The importance of his work survived in modern constitutional thought. The political message of his *Tripartitum* is perfectly summarized in the preface: it is to the credit of Werbőczy’s work that it stressed the importance of the cooperation of the crown and the nation, justified the monarch’s right of patronage, and enhanced “in the national consciousness the sense of public liberty, independence, and constitutionality.”²⁵ The cult of this work, useful for political purposes in many ways, and of its writer in the nineteenth century is precisely indicated by that fact that after *Tripartitum* had been professionally translated under the aegis of the Hungarian Academy of Sciences in 1844, biographies of Werbőczy were published, a street was named after him in Budapest, and a statue of him was erected in a public square in 1908.²⁶ Finally, in his two-volume work of legal history, Béni Grossschmid connected the two most important myths of Hungarian constitutionalism: he demonstrates at some length the relationship between British (proprietary) law and the Hungarian notion of law as recorded in *Tripartitum*.²⁷

By the turn of the nineteenth and twentieth centuries, the new building of the Hungarian Parliament had been built in Budapest. It was modeled after Westminster, and its architect, Imre Steindl, called it “the Temple of Constitution.” It was intended as a proclamation of respect for Hungarian constitutionalism and parliamentarism. The politics taking place within, however, were less and less able to meet the values suggested by the building. It is sufficient to mention only the series of scandals in the early twentieth century that shook the Hungarian

23 Ákos Timon, *Magyar alkotmány- és jogtörténet*, 3rd ed. (Budapest: Hornyánszky, 1906), IV.

24 Zoltán József Tóth, *Magyar közigazgatási hagyományok és nemzeti öntudat a 19. század végétől napjainkig* (Budapest: Szent István Társulat, 2007), 61–73.

25 Sándor Kolosvári and Kelemen Óvári, “A fordítók előszava,” in *Werbőczy István Hármaskönyve* (Budapest: Franklin, 1897), XXXII.

26 For Werbőczy’s cult in second half of the nineteenth Century Hungary: Katalin Gönczi, “Werbőczy’s Reception in Hungarian Legal Culture,” in *Custom and law in Central Europe*, ed. Martyn Rady (Cambridge: Univ. of Cambridge, 2003), 87–101; László Péter, “The Irrepressible Authority of the *Tripartitum*,” in idem, *Hungary’s Long Nineteenth Century*, 134–52; Iván Bertényi, Jr., “Állt 37 évet: Werbőczy István budapesti szobra,” *Történelmi Szemle* 56, no. 2 (2014): 203–30.

27 Béni Grossschmid, *Werbőczy és az angol jog* (Budapest: Franklin, 1928).

Parliament, which consequently gradually lost its dignity. “It is as if the traditions of Hungarian constitutionality had been lost during the move,” Ferenc Herczeg, a famous Hungarian writer and member of the Parliament, wrote in his memoirs.²⁸

The communist ideology and political arrangements of the Hungarian Soviet Republic of 1919 brought about a sharp and spectacular break. Its leaders wished to create the ideal communist state, transcending nations and classes, by means of the dictatorship of the proletariat. This attempt, however, lacked broad social support, so lasting loyalty could not develop in favor of the new political regime. The leaders of the Soviet Republic, following the Leninist example, applied open terror and used the means of “monumental propaganda” to deepen the civic consciousness of the working class and propagate communist constitutionalism.²⁹

The bourgeois legal order of earlier days was immediately restored after the fall of the communist regime. Creating a real civic constitutional patriotism, on the other hand, proved much more difficult because the losses of territory, citizenship, jobs, family ties (and so on) on account of the Trianon peace treaty caused a general identity crisis on national, local and individual levels. Prime Minister István Bethlen, the emblematic figure of the interwar period, made an attempt during his term in government to recreate constitutional consciousness. He made the following remarks in his speech outlining the program of his government:

The Hungarian nation lived retired into its own shell, so to speak, in the Hungarian globe, allowing itself to be led by self-delusion regarding its strength and tasks. There was another consequence: it developed a practically one-sided legal turn of mind. In accordance with this legal turn of mind, we have come to regard the whole world as if we were able to combat every difficulty holding the *Corpus Juris* and a bunch of contracts. [...] We have overestimated state life in the role of the national life.

According to Bethlen, the way out of the crisis could be through a careful democratizing of nineteenth-century parliamentarism (suffrage reform, and the

28 Ferenc Herczeg, *A gótikus ház*, 2nd ed. (Budapest: Singer and Wolfner, 1940), 174.

29 By having the monuments of the previous regime covered and rebuilt, the communists endeavored to erase all signs referring to the millennium-old history of the country. In detail: Boldizsár Vörös, “*A múltat végképp eltörölni?*” *Történelmi személyiségek a magyarországi szociáldemokráta és kommunista propagandában, 1890–1919* (Budapest: MTA Történettudományi Intézete, 2004).

reform of the Upper House, etc.), and especially through the strengthening of national self-consciousness and cohesion.³⁰ One small slice of that program was the integration of more modern knowledge of the constitution in the system of education. This meant, on the one hand, more efficient teaching of civics in public education, and, on the other, breaking the hegemony of the historico-nationalist legal school in training lawyers. The aim of the first effort was “to plant” “civic sentiment in the soul of the next generation,” the formation of civic behavior, which was conscious, socially sensitive, and loyal to the established regime.³¹ Reforms to the teaching of legal history at the university aimed at critically reviewing pseudo-scientific dogmas, which were nevertheless deeply embedded in the national consciousness. Ferenc Eckhart, appointed head of the department of legal history in Budapest in 1929, declared war on the legal historical view which insisted on the existence of an ancient Hungarian constitutional genius. He rejected the myth of millennial constitutionalism which traced the roots of modern legal and political institutions to the ancient homeland. He later wrote:

I conceived it to be my calling to have the completely chauvinistic Hungarian legal history, according to which Hungarian legal and state development is something quite special, replaced with teaching legal history based on economic and social development. And since the economic and social development of the neighboring Slavic peoples are similar to the people of Hungary, in the discipline and the teaching of legal history a comparison with the Slavic peoples instead of British analogies should serve as the basis.³²

At the same time, the lengthy public debate over the scholarly position of Ferenc Eckhart indicates that there was no consensus at the time concerning the interpretation of constitutionalism.³³ On the one hand, the regime itself encouraged a number of cults reinforcing national pride and the community of fate, closely linking them to the widely supported program of revisionism (in

30 For Bethlen's speech in 1921, see István Bethlen, *Válogatott politikai írások és beszédek*, ed. Ignác Romsics (Budapest: Osiris, 2000), 118.

31 Gyula Korniss, *Kultúra és politika* (Budapest: Franklin, 1928), 319. Korniss was the Secretary of State for Public Education from 1927 to 1931.

32 Eckhart's manuscript quoted in Barna Mezey, “Utószó,” in Ferenc Eckhart, *Magyar alkotmány- és jogtörténet* (Budapest: Osiris, 2000), 411. On his scientific program, see Ferenc Eckhart, “Jog és alkotmánytörténet,” in *A magyar történetírás új útjai* ed. Bálint Hóman (Budapest: Magyar Szemle Társulat, 1931), 269–320.

33 The discussion analyzed, e.g. Tóth, *Magyar közjogi hagyományok*, 17–61.

order to regain the millennial borders, for instance). The elite in power practically used (and reinterpreted) everything from the glorious past that could serve that purpose. The significance of symbolic politics increased even compared to the second half of the nineteenth century, as is evidenced by the number of commemorative laws for national heroes, holidays and historical events: their number prior to 1848 was one, during the five decades of the dualist monarchy, thirteen, but between 1920 and 1944, fifteen such acts were passed and included in *Corpus Juris*.

However, by the late 1930s, references to constitutional traditions tended increasingly to provide arguments for restricting equality before the law and parliamentarism. The glorious past of Hungarian political life and ancient Hungarian laws were equally suitable as justifications for stripping the Jewish citizens of the country of their rights³⁴ or for that matter introducing a corporate, authoritarian state model promising a new estate system. Prime Minister Pál Teleki justified his proposal for a constitutional reform in the following way:

Europe's form of life in terms of world power, democratic liberalism, has ceased to exist along with its public, political and parliamentary forms. Our parliament, despite the changes, is still like that, and cannot meet the requirements. It discusses too much and too long, gets lost in details, lives its life in party struggles, and is a workshop of spectacle and not life. What is more, its form is not originally Hungarian.³⁵

This kind of argument went so far that a number of authors began to question whether the liberal achievements of the revolution of 1848 could be included among the constitutional traditions of the Hungarian nation, since they believed that the sudden introduction of legal and political constructions in a revolutionary situation, borrowed mostly from abroad, went against organic Hungarian legal development. Therefore, parliamentary government, according to this idea, must be replaced by a model of a corporate state.³⁶

The first pioneers of the so-called populist movement (*népiek*) turned sharply against the interpretations discussed so far when formulating their relation

34 For instance, István Egyed refers to the Laws of King (Saint) Ladislas I in connection with the anti-Jewish measures: István Egyed, *A mi alkotmányunk* (Budapest: Magyar Szemle Társulat, 1943), 158.

35 Teleki's constitutional proposal from 1940, in *Válogatott politikai írások és beszédek*, ed. Balázs Ablonczy (Budapest: Osiris, 2000), 444.

36 See, e.g. Gábor Kemenczy, *Vissza az ősi alkotmányhoz* (Budapest: Egyetemi Nyomda, 1936); Zsuzsanna Boros, ed., *Parlament, pártok, választások a Horthy-kori Magyarországon: korabeli nézetek, viták, tanulmányok*, vol. 1 (Budapest: Rejtjel, 2002).

to the constitutionalism of the past. Breaking with the dominant discourse, they denied that the millennial constitutionality formed and mythicized by the political leadership at the time was an integral part of the identity-consciousness of Hungarians. István Győrffi elaborated, after Károly Tagányi, the program of a comprehensive study of Hungarian legal life in local legal affairs because he believed that only the customs of pure, unimpaired Hungarian peasant culture could represent a true national legal system, in contrast with foreign, alien laws, which were tolerated under the pressures of necessity. Their more distant aim was to use their conclusions to lead “legislation separated from the popular outlook” back to true national traditions, and thereby create “more Hungarian law.”³⁷ The same idea was formulated in literary terms by Dezső Szabó, for instance, who provided a new interpretation of Hungarian history by identifying Hungarians with peasants—enslaved, exploited, but bearing pure Asian character:

[T]he past thousand years has been a chamber of tortures for Hungarians [...] And it was this past that created the glorious ancient constitution, which has been a procurative and protective mechanism for all those who created the Hungarian people from themselves. It is precisely this past and this ancient constitution that we want to make history irreversibly, and build in its place a totally new world, new constitution, new law and order.³⁸

Thus, those who expressed their views between the World Wars seemed to have agreed that there was no palpable unified civic consciousness and no constitutional patriotism, but they significantly differed with regard to the causes and the potential solutions. The general identity crisis typical of the period caused serious problems in interpreting constitutionalism and history.

The Period of Constitutional Ignorance – The Age of Socialism

The four decades of socialism almost completely extinguished the constitutional consciousness of the people, which was uncertain anyway, and their trust in the world of politics. When the Constitution of the Hungarian People’s Republic (Act 1949:XX) had been made, an era of flagrant defiance of laws began. Although the communist constitution stipulated that “all power belongs to

37 Szabina Bognár, “Tagányi Károly: A hazai élő jogszokások gyűjtéséről – a jogszokásgyűjtés tudományos programja,” in Barna and Nagy, *Jogi néprajz – jogi kultúrtörténet*, 292–309.

38 Dezső Szabó, “Toborzó,” in idem, *Az egész látóhatár* (Budapest: Püski, 1991), 1:83.

the working people,” securing broad social and cultural rights for citizens in principle, the violation of human rights assumed massive proportions, and the rule of law no longer functioned. In this period of pseudo-constitutionalism, it made no sense to refer to the text of the constitution, and it was dangerous to evoke constitutional values.³⁹

In the parliamentary debate on the constitution, which lasted hardly two days, the participants, surprisingly, often mentioned the millennium-long history of Hungary favorably. “We, Hungarian communists and the people’s democracy with us, guard and nurture with the utmost possible care all the living traditions of the thousand-years-old history of Hungary, capable of development,” said the General Secretary of the Hungarian Workers’ (Communist) Party, Mátyás Rákosi, for instance.⁴⁰ However, as secretary of state for public education Géza Losonczi said, “Hungary has two pasts.” “We regard ourselves as the successors and inheritors not of Zápolya, but Dózsa, not of the Habsburgs but of Rákóczi and Kossuth, not of Bethlen and Horthy, but of Ságvári and Bajcsy-Zsilinszky.” That is to say, while the constitution broke with the history marked by exploiters and traitors, it professed to have a fate in common with heroes representing revolutionary traditions of independence.⁴¹

The comments quoted above notwithstanding, the Preamble of the final text of the 1949 constitution did not include any reference to the traditions of the Hungarian people. Instead, the text marks a deliberate and sharp break with the past. The socialist constitutionalism’s own “time,” according to the introduction, began in 1945, with the liberating maneuvers of the Soviet army, and there is only one brief reference, by way of precedent, to the experiences of the Hungarian Soviet Republic of 1919.

In the propaganda publications of the Rákosi era (1948–1956) and the early Kádár period, the constitution appeared not as a catalogue of rights, but rather

39 Actually the pseudo-constitutional era had already begun in Hungary at the end of the 1930s (eg. with anti-Jewish laws). After World War II, the rule of law could be restored only for a few years until the communist takeover.

40 For Mátyás Rákosi’s speech on August 19, 1949, see *Az 1949. évi június hó 8-ára összehívott országgyűlés naplója* (Budapest: Athenaeum, 1950), 1:178–79.

41 For the speech of Géza Losonczi see *ibid.*, 181. According to the politician János Zápolya/Szapolyai (Hungarian king, 1526–1540), the Habsburg rulers (1526–1918), István Bethlen (prime minister, 1921–1931), and Miklós Horthy (Regent of Hungary, 1920–1944) represented the dark (feudal, repressive etc.) side of the Hungarian history, but György Dózsa (leader of the peasants’ revolt in 1514), Ferenc II Rákóczi (leader of the war of independence, 1703–1711), Lajos Kossuth (leader of the war of independence, 1848/49) and Endre Ságvári and Endre Bajcsy-Zsilinszky (martyrs of the anti-Nazi movement) symbolized the progressive traditions of the Hungarian past.

as a system of obligations. Propaganda materials highlighted the ideologically important passages in the constitution, while denouncing the earlier political regime and legal system of Hungary. In the 1950s, it was the responsibility of party activists and librarians singled out for propaganda activities to distribute publications popularizing the principles of the constitution in workers' hostels and waiting rooms at railway stations, build "constitution corners" in libraries and factories, and organize literary readings in connection with the constitution.⁴²

August 20, the celebration of the first King of Hungary, Stephen (Saint) I, was desacralized and appropriated. The new constitution, passed on August 20, 1949, was regarded as a second foundation of the state, as the beginning of the building of the ideal communist state. According to the memoirs of a communist cultural politician, József Darvas:

[the decisive factor in picking the date was] to demonstrate the historical will to break with, to dispute, to turn against the state ideal of Saint Stephen, which over the course of the centuries has been distorted and become reactionary, the state ideal, which in its own time, a thousand years ago, was progressive, yes it was progressive because it helped Hungarians survive and find a place in Europe, but this state ideal has become an instrument against progress in the hands of the ruling classes, [...] an instrument in the oppression of the Hungarian people and the other peoples living in the territory of Hungary at the same time.⁴³

Overt propaganda from the 1960s, the period of consolidation of the Kádár regime, was replaced by a conspiracy of silence about the fundamental values. Knowledge of the constitution had grown threadbare. The celebration of the constitution on August 20 had gradually turned into a nondescript public festival. The "soft" dictatorship of Kádár no longer wished to change the old traditions completely. Rather paradoxically, a reference to the thousand-year-old history of Hungarians found its way into the introductory text when the constitution was amended in 1972: "Hungary has been kept alive and sustained

42 The thematic anthologies compiled in Szabó Ervin Library (Budapest) were meant to provide assistance for this. See e.g. Andor Tiszay, *Alkotmányunk tiszteletére, a terv teljesítéséért*, (Budapest: FSZEK, 1953); *Alkotmányunk ünnepe: Ajánló bibliográfia* (Budapest: FSZEK, 1953).

43 József Darvas' speech in Parliament on April 19, 1972 (Session 8), *Az 1971. évi május hó 12-ére összehívott országgyűlés naplója* (Budapest: Athenaeum, 1972), 1:583–84. More on the political use of August 20: György Gyarmati, "A nemzetudat-hasadás ünnepi koreográfiája: Augusztus 20. fél évszázada," *Mozgó Világ* 21, no. 8 (1995): 87–99.

by the people's work, by their willingness to make sacrifices, and by their society-forming power.” (Act 1972: I.) According to a later account, the changes were made because they wished to transcend the old, communist interpretation of the past, according to which Hungarian statehood had essentially come into being only in the wake of the liberating military maneuvers of the Soviet army.⁴⁴ It was at this time that the word “citizens” replaced “workers.”

At the same time, civic knowledge concerning constitutional values and institutions continued to fade. A survey in 1965 already indicated that the legal knowledge of the population was rather uncertain, especially with regards to the field of constitutional law.⁴⁵ Even official propaganda did not try to hide this deficient knowledge in the late Kádár era. In 1986, people in the street were asked as part of a television program, in connection with August 20, about what the constitution said, what the function of the national assembly was, and what the form of government of the country was. In general, people either gave ill-informed replies or embarrassed smiles.⁴⁶

Contradictory Traditions of Constitutionalism after 1989

After the transition in 1989/90, long and desperate debates began within the new political elite on alternative interpretations of the past and parallel historical traditions in connection with, for instance, the new coat-of-arms of Hungary, the new state holidays and the legal standing of the president of the republic, and, later, the reburial of various figures of history.⁴⁷

To sum up these debates one could say that despite the immense energies which collided, no coherent or consensual historical concept of Hungarian constitutionality emerged, leaving us with vying and to some extent conflicting interpretations of history. At the same time, even public figures speaking the same political language could rely on significantly differing traditions when justifying their positions. This is especially true of the language of “national history.”⁴⁸

44 István Kovács, “Az alkotmányfejlődés elvi kérdései,” in *Alkotmány és Alkotmányosság*, ed. István Kovács (Budapest: Akadémiai Kiadó, 1989), 45.

45 Kálmán Kulcsár, *Társadalom, politika, jog* (Budapest: Gondolat, 1974), 231–61.

46 Alkotmányunk. Budapest, MTV. [1986] OSZK Történeti Interjúk Videótára, VMA 607.

47 See, e.g. Tóth, *Magyar közjogi hagyományok*, 228–99; Heino Nyssönen, “Contested traditions? The usage of three national holidays in contemporary Hungary,” in *Democracy and Myth in Russia and Eastern Europe*, ed. Alexander Wöll and Harald Wydra, 169–85 (London: Routledge, 2008).

48 Zoltán Gábor Szűcs, “‘Historiai jogi alapra helyezkedtünk.’ Diszkurzív politológiai esettanulmány az 1946: I. törvény szerepéről az 1989–90-es köztársasági elnöki vitában,” *Politikatudományi Szemle* 17, no. 4 (2008): 35–53.

Nevertheless, the fact that the political elite of the Kádár era was unable expunge this discourse from public discussion and imagery clearly indicates its deep roots (one need only see the debate on the constitution in 1972). Neither have public figures today managed to shed this discourse, though they definitely do not wish to speak this language. They sometimes produce texts that refer (with evasive vagueness) to the “close texture of constitutional customs.”⁴⁹

In 1996, it became obvious that the plan of the regime-changing forces to return to the program of making a constitution after the disturbed and transitional period of the transformation had failed. The new constitution, having been promised many times, had not materialized in the political meetings or in the codification process, and the moment of grace of the change of regimes had passed in that respect, as well. The parliamentary parties could not work out a consensus on certain issues and values (e.g. constitutional symbols, historical traditions), thus no final draft was prepared.⁵⁰

The collective identity associated with constitutionality did not develop in Hungary after the democratic transition. As András Arató claims,

[w]e have a constitution and a Constitutional Court, but the constitution has failed to become the focus or have the political consciousness of the people and the political class organized around it, thus constitutional patriotism has failed to develop.⁵¹

In the decade following the change of regimes several of the “founding fathers” who had created the new political setup shared this view: “Since the change of regimes, respect for the constitution, which was weak in the first place, has been gradually weakening,” philosopher János Kis wrote.⁵² Political analyst Péter Tölgyessy explained this with his contention that “Hungarian parliamentarism is

49 László Majtényi, “A jogállami forradalom történeti alkotmánya,” in *És mi lesz az alkotmánnyal?*, ed. László Majtényi and Zoltán Miklósi (Budapest: Eötvös Károly Intézet, 2004), 71–80.

50 István Somogyvári, “Az alkotmányozás két évtizede,” in *Formatori iuris publici. Ünnepi kötet Kéleány Géza professzor hetvenedik születésnapjára*, ed. Barnabás Hajas and Balázs Schanda (Budapest: Szent István Társulat, 2006), 399–420. The antagonistic interpretations of history have been clearly visible in the parliamentary debates of recent years. The political weight of these debates is enhanced by the fact that the issues in question hide the differing views of the political figures on the constitutionalism. See e.g. Tóth, *Magyar közjogi hagyományok*, 238–84; Zoltán Gábor Szűcs, “Napok romjai: Diszkurzív politikatudományi esettanulmány a ‘Köz társaság napjáról,’” *Politikatudományi Szemle* 19, no. 4 (2010): 109–32.

51 András Arató, “Kelet-Európa: Az alkotmányozás harmadik modellje,” in Majtényi and Miklósi, *És mi lesz az alkotmánnyal?*, 29.

52 János Kis, “Az alkotmány véglegesítése,” in Majtényi and Miklósi, *És mi lesz az alkotmánnyal?*, 50.

difficult to like.”⁵³ Even those few who stood firmly for upholding constitutional conditions unchanged were obliged to speak of a certain deficit of legitimacy and place their trust, for want of a better alternative, in “invisible constitution-making,” i.e. in the normative function of the Constitutional Court.⁵⁴

Thus, most critics think they have found the main cause of the lack of constitutional patriotism in the script of the change of regimes in 1989. The main cause of the lack of social consensus, according to the interpreters, was that the political transformation and the shaping of the constitutional framework took place essentially way above the head of society and was realized through a compromise between the feebly legitimate old and the new political elite, and there was no symbolic act of social approval, such as a referendum. The method of a political settlement chosen at the time, that is, the much-praised bloodless, negotiated transition, made a sharp confrontation with the past impossible and even accepted a certain legal continuity with the previous regime.⁵⁵

The former political leadership never had to answer for what it had done, and no restitutions were made in terms of property or information, an approach that was justified with reference to the values of continuity in the rule of law and the practical considerations of the manageability of the state. In the years following the transition, the Constitutional Court supported this script with its interpretations of law in the name of reconciliation. These measures were probably in accordance with constitutional norms and could be justified with rational arguments, too (it is customary to point a finger here to the state of the budget as well as to national security considerations), but they greatly hindered emotional identification with the new constitutional structure.⁵⁶

Constitutional identity was not reinforced by the passing of the new Hungarian fundamental law in the spring of 2011, either, although the legislators attached a lengthy preamble to it, which can be interpreted as a catalogue of national pride and constitutional patriotism. The Avowal of the National Faith evokes the Christian and European roots of the country, its alleged freedom-fighting tradition, and the “outstanding intellectual achievements of

53 Péter Tölgyessy, “Túlterhelt demokrácia,” in *Túlterhelt demokrácia. Alkotmányos és kormányzati alapszerkezetünk*, ed. Csaba Gombár (Budapest: Századvég, 2006), 123, 144–45.

54 See, e.g. László Sólyom, “A jogállami forradalomtól az EU-csatlakozásig: Az alkotmányfejlődés keretei,” in Majtényi and Miklósi, *És mi lesz az alkotmánnyal?*, 9–24.

55 Comprehensively András Körösnéyi, “Mozgékony patthelyzet,” in Gombár, *Túlterhelt demokrácia*, 7–49.

56 Renáta Uitz, *Constitutions, Courts and History: Historical Narratives in Constitutional Adjudication* (Budapest: CEU, 2005), 256–67.

the Hungarian people.”⁵⁷ It emphatically mentions the “achievements of our historical constitution” and the Holy Crown, which is expressive of the ancient history and legal continuity of the Hungarian state, but at the same time the legislation sharply separates its “own past” from the months of occupation by Nazi Germany and the decades of communism (1944–1990). However, this hasty constitution-making was not preceded by any serious social, professional or political discussion. The final text is not the result of compromises and thus cannot be haloed by any broad consensus. Several social and political groups have regarded certain formulations in the National Avowal and the Fundamental Law as direct assaults against them,⁵⁸ and a large section of the legal profession felt insulted, and pointed out a number of assumed and/or real faults in the document. The politicians celebrating the new fundamental law in the Hungarian State Opera were obliged to leave through the back door because thousands of people were protesting against the fundamental law in the street. The fundamental law, described as “hard as granite,” has been amended five times since its passage, which “did not really enhance the social legitimation of the Fundamental Law under attack by the opposition anyway.”⁵⁹ Even commentators looking upon the circumstances of the birth of the new fundamental law with understanding eyes are obliged to admit that the text is struggling with a legitimation deficit, and they can only hope that in practice it could be made acceptable for as large a part of society as possible by “refined interpretative maneuvering” and “creative constitutional interpretation.”⁶⁰

Conclusion: The Period of Private Constitutionalism

This essay has discussed only one apparently small, symbolic question among the many complicated problems of constitutionalism and constitution making. The sketchy survey above, however, wished to point out how inextricably the

57 “Avowal of the National Faith,” in *Constitution for a Disunited Nation: On Hungary’s 2011 Fundamental Law*, ed. Gábor Attila Tóth (Budapest–New York: CEU Press, 2012), 380–82.

58 The Transitional Provisions of the Fundamental Law made the Hungarian Socialist Party, the biggest party of the opposition, responsible for the crimes of communism. The Constitutional Court repealed these passages on formal grounds in 2012.

59 László Trócsányi, *Az alkotmányozás dilemmái: Alkotmányos identitás és európai integráció* (Budapest: HVG–ORAC, 2014), 91.

60 András Jakab, *Az új Alaptörvény keletkezése és gyakorlati következményei* (Budapest: HVG–ORAC, 2011), 168; Ferenc Horváth Hörcher, “A Nemzeti hitvallásról,” in *Alkotmányozás Magyarországon és másból*, ed. András Jakab and András Kőrösi (Budapest: MTA TK PII–Új Mandátum, 2012), 292.

issue of the past is interwoven with the relationship between constitutionality and identity. For the image formed of the past affects the actual program of constitution making, interfering with the respective arrangements of power factors, with the choice of legal solutions relating to political institutions, and so on.

This works in reverse, too: someone who discusses individual legal or political scientific issues of constitution making will often express opinions on national history (looking for institutional precedents, siding with old values, or rejecting certain traditions).

If there is not at least a minimum of consensus regarding the interpretation of the past and fundamental constitutional values, this will eventually weaken the democratic political system.

The gaps between the different interpretations are rather wide even today: the various political forces from time to time leave traces of the constitutional principles to which they adhere in parliamentary documents, the legal code (in the form of resolutions, proposals, memorial acts), or as part of official ceremonies, but these gestures are not backed up by the constitutional patriotism of the political body in the larger sense.

The content of constitutional patriotism is always shaped definitively by those above, through, for example, education, certain cults or the public discourse thematized by them. At the same time, the above survey has shown that the interpretations concerning the constitution, from its taking shape in the eighteenth century, have never been unified, thus constitutional patriotism could derive its force from a number of traditions. That patriotism, however, had finally disintegrated by the early twentieth century at the latest. It had become dishearteningly polyphonic, and was then centrally withered for decades. After the democratic transition, the new content of constitutional patriotism has not crystallized. What we have instead is a chaotic mixture of traditions and values.

It would seem that as long as there is no rapprochement on the level of political elites and the functioning of Hungarian constitutional institutions continues to falter it is hopeless to expect a consolidation of the constitutional knowledge of society at large and the development of conscious civic mentality. More precisely, this consciousness is capable of revival in situations of crisis: on such occasions, the individual citizen or assorted smaller groups of society will conjure up their incompletely acquired and confused knowledge of the history of centuries of constitutional struggles and will attempt to apply the experiences drawn from them to the political happenings of the present. Thus, Hungarian

constitutional consciousness is not progressing toward the post-national level envisioned by Habermas, nor is it going to find renewal in the national framework desired by Scruton, but instead survives on a local level, in the form of the “private constitutionalism” of associations, civic movements, occasional organizations, and petition drives. And then it speaks not the language of pride, but rather that of discontent.

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BOOK REVIEWS

Das Preßburger Protocollum Testamentorum 1410 (1427)–1529, Vol. 1. 1410–1487. Edited by Judit Majorossy and Katalin Szende. (Fontes rerum Austriacarum, 3. Abteilung, Fontes iuris 21/1.) Vienna: Böhlau, 2010. 535 pp.

Das Preßburger Protocollum Testamentorum 1410 (1427)–1529, Vol. 2. 1487–1529. Edited by Judit Majorossy und Katalin Szende. (Fontes iuris, Geschichtsquelle zum österreichischen Recht, 21/2.) Vienna: Böhlau, 2014. 572 pp.

The use of late medieval testaments as sources in the study of legal issues, economy, culture and everyday life has been popular for some time now. In noble, ecclesiastical and urban settings, this type of source material offers a large pool of information on everyday life, economic and social ties, religious piety, understandings of the afterlife, provisional mechanisms, etc. In recent decades, a good number of collections of last wills originating from Bohemia and Moravia, Hungary, Austria and Dalmatia have been edited and analyzed. Apart from Hungary, intensive research has also been conducted in Bohemia and Moravia, where the last wills from the cities of Prague, Olomouc, Pilsen and Tabor were edited and analyzed. Well-preserved testament collections of Dalmatian cities such as Zadar, Split, Trogir and Dubrovnik are all frequently consulted by scholars. In Austria, the evaluation of late medieval wills has been intensified with the editions of the collections of Vienna, Wiener Neustadt and, recently, Korneuburg. In the 1980s, Gerhard Jaritz, member of the Institute of Medieval Material Culture in Krems and professor at the Central European University in Budapest, initiated the edition of the collection of legal instructions known as *Wiener Stadtbücher*, which also contain a large number of wills. This has been used as a reference for the current edition of the Pressburg (Pozsony in Hungarian, today Bratislava in Slovakia) *Protocollum Testamentorum*. In close cooperation with the Commission for Austrian Legal History (Austrian Academy of Sciences, Vienna), four volumes have been published so far.

The manuscript kept in the Bratislava Municipal Archive is the first of a series of testament books kept by the city of Pressburg until 1872. In close cooperation with the Austrian Academy of Sciences and the Archive, two prominent Hungarian urban historians, Katalin Szende and Judit Majorossy,

prepared this two-volume edition of the first volume of the *Pressburger Protocollum Testamentorum*. A third volume, an extensive index, is in preparation. They fundamentally worked on the material in terms of formal auxiliary science. The editors prepared a full-text edition, in which all parts of the text were reproduced in full. A register at the beginning of each entry provides short information on the types of documents involved, the dates of their genesis, and the people involved. In addition to the recent editorial work, which has been underway for more than a decade, they also carried out extensive research on the history of Pressburg and its position in the changing social, political and economic environment. Pressburg became one of the Hungarian “free royal cities” at the beginning of the fifteenth century, as it gained more and more influence under the rule of King Sigismund. He preferred Pressburg to Buda, as it was located further upstream on the River Danube and closer to the Holy Roman Empire.

In the following I highlight some elements of the 844 wills preserved in the testament books and edited by Majorossy and Szende. “Recorded my last will” – many burghers of Pressburg used this phrase in order to express their personal and independent will as testators. Declarations of will have survived in many European cities. This form of transmission is the result of the need to express and preserve the last will in a legally secured way. Municipal governance provides the basis for this. The competence of the civil community to assure independently the legal rights of its members is a particular feature of late medieval urban communities in the region. The recording and archiving of these legal documents in an accurate way was one of the most important priorities of a municipal administration.

From an economic point of view, an interesting element of the estates of Pressburg, frequently referred to in the wills was their vineyards. In the Danube region, vineyards were not only the most common form of land ownership for the townspeople, they also enjoyed a special legal status because of the labor-intensive cultivation that they involved. Thus, they became easily accessible capital, as we can see in the testaments, where wine is treated more like a substitute for money than a consumer product. The foreign relations of the merchants of Pressburg also had effects on individual dispositions: monetary and material debts are evidence not only of the usual practice of trade on commission, but also of regional and national business contacts: Vienna, Bruck an der Leitha, Enns or Nuremberg, Landshut and Cologne belonged to the regional trading area of the local merchants. A prominent example for the social range of monetary debts is preserved in a testament: the Austrian duke Albrecht

VI (†1463), was indebted to a merchant of Pressburg. As an illustration of the usefulness of the testaments published in the volumes as sources that offer far more than mere insights into economic history let me refer to the testament of Liebhard Egkenfelder, town chronicler of Bratislava. Egkenfelder's will contains a detailed inventory of his partly acquired, partly self-compiled library and his mobile and immoveable property, the intended use of which after his death he specifies.

Information on individuals and their economic, religious and social environments can rarely be gathered in such detail on the basis of other types of sources. Social relations have been activated – but also deactivated – through the exchange of material and the negotiation and production of intangible resources, such as social prestige or access to social networks. The various forms of relationships that could exist between two burghers are clearly discernible in the various last wills. The executives of last wills themselves were chosen on purpose. The group affiliations and other social connections are all very well reflected in testaments. Even the nomination of a trustee is an expression of the significance of the relationship to that person. Sometimes wills gave people opportunities to give expression to existing relationships or even fashion new ones.

The edited testaments of Pressburg offer perfect ways to get information about heredity practices, as well as the forms in which religious and social affiliations found manifestation over a long period. They also offer insights into the cultural processes and practices of an ever-changing urban community.

Elisabeth Gruber

Sopron. Edited by Ferenc Jankó, József Kücsán, and Katalin Szende with contributions by Dávid Ferenc, Károly Goda, and Melinda Kiss. (Hungarian Atlas of Historic Towns, 1.) Sopron: Győr-Moson-Sopron Megye Soproni Levéltára, 2010. 87 pp.

Sátoraljaújhely. Edited by István Tringli. (Hungarian Atlas of Historic Towns, 2.) Budapest: MTA Történettudományi Intézet, 2011. 81 pp.

Szeged. Edited by László Blazovich et al. (Hungarian Atlas of Historic Towns, 3.) Szeged: Csongrád Megyei Honismereti Egyesület, 2014. 155 pp.

With the publication of these three fascicles (text and maps), Hungary has joined the European Historic Towns Atlas project. As is outlined in the introduction to the first volume, this project was set up by the International Commission for the History of Towns in the aftermath of World War II with the aim of encouraging comparative studies of European towns that would be based on large-scale (cadastral) maps. The principal map for each town was to be the same in scale, 1:2,500. There are now eighteen countries involved in this project, and atlases of more than 500 towns have been produced so far.

The Hungarian Atlas of Historic Towns started in 2004 under the auspices of the late András Kubinyi, a prominent urban historian. It was continued by Katalin Szende, who took responsibility for the Hungarian project. Towns were selected in order to represent different settlement types and different geographical locations. A very important asset of these three fascicles is that all the explanatory texts and keys to the maps (unfortunately not the topographical gazetteers) have been translated into English, opening up a brave new world about which English speakers knew very little previously.

The cadastral surveys of the second half of the nineteenth century served as the basis for the 1:2,500 maps showing the preindustrial topography of the three towns in question. The original names were kept. In the case of Sopron, the names of public buildings are in German, but in the case of the other two towns, the names of the buildings are in Hungarian. It would be very helpful if an English translation of the functions of public buildings could be provided as part of the key. The surroundings of the three towns under discussion are shown on selected sheets of the 1st and 2nd Military Surveys, rescaled to 1:50,000. A reproduction of an early twentieth-century plot-level survey, at a scale of 1:50,000, and large-scale aerial photographs show the modern expansion of the towns. In fact, the Hungarian Atlas provides more original research for the

transformations of towns in the nineteenth and twentieth centuries than other European atlases, which were designed in their time not to go beyond 1900. The International Commission formulated their recommendation that the atlases should continue into the twentieth century only at their meeting in Prague in 2012.

In the three Hungarian volumes the cadastral and related maps constitute Series A, which is obligatory for each fascicle. Series B compliments these maps with cartographic representations of recent research on the morphology and social topography of the towns in question. Series C contains reproductions of early maps and prospects depicting topographically relevant features. Like the Irish Historic Towns Atlas, the Hungarian Atlas includes a thematically arranged topographical gazetteer. This is a most welcome addition, as the historical data compiled in the gazetteer greatly facilitates comparative work. In one important methodological aspect the Hungarian atlas differs from its European counterparts: there is no comprehensive growth-map. Instead, there are a series of growth-maps arranged side by side on one sheet. No doubt this method allows for greater accuracy in the representations of the individual growth-phases. Perhaps a composite growth-map at a greater level of abstraction might be added to the individual ones in the future in order to help the reader.

As a scholar of urban history working at the far western end of Europe, I found reading the above three volumes a demanding but very worthwhile venture. The challenge when looking at the three Hungarian volumes (and this is true of the European Historic Towns Atlas project as a whole) is that you look at primary source material. When you study the principal maps of the three towns, you are struck by the differences. Sopron is surrounded by a massive wall (inherited from antiquity), while the other two towns have no town walls at all. In Sopron the individual house plots are built side to side. In other words, houses are contiguous, while in Sátoraljaújhely and Szeged gable-sided houses cover only part of the plot. In all three towns irregular market places appear to be an open space associated with the earliest church. They are not comparable with the rectangular market places that we know from medieval town foundations in the area east of the Elbe, modern Germany, Poland, and the Czech Republic.

Sopron originated as a trading post on the former Roman Amber Road. On the basis of archival sources and topographical and archaeological evidence, Szende shows that the early layout of the town in plots occurred simultaneously with the arrival of the Franciscans. In other European countries Franciscan friaries were only set up once the towns were well established. I believe that this very

early division of the town into plots is not found in any of the other European atlases. The archaeologists made a particularly significant contribution to the Sopron Atlas with reconstructions of the former Roman town and the eleventh to mid-thirteenth-century *ispán* castle (the castle of the royal representative). The transformation from the *ispán*'s castle to the royal town in the mid-thirteenth century coincided with the arrival of the Order of the Knights Hospitallers, who were settled in Sopron by Béla IV in 1247. There are parallels in other countries: the Hospitallers arrived in Kells (Ireland) at the time of the foundation of the town by an Anglo-Norman lord.

Sátoraljaújhely was planned as part of the effort to rebuild the kingdom of Hungary after the Mongol Invasion. Its charter dates to 1261 and is detailed, portraying an advanced civil society with more rights for the citizens than citizens appear to have enjoyed later in the landlord period of the sixteenth and seventeenth centuries. In the Middle Ages, the town was home to a parish church, Saint Emeric, a Pauline Monastery dedicated to Saint Giles, and the Saint Stephen's Augustinian Friary. The history of the town between 1526 and 1711 was strongly influenced by the nearby presence of the Ottomans. The Ottomans never entered the town, but the Crimean Tatars did in 1566, and they burned down 86 percent of the houses and took denizens of the town as slaves. After the town was no longer in royal ownership, it became part of the estates of various aristocratic or noble families over time, including the Pálóczi, Perényi, Dobós, and Rákóczi families, who demanded services and taxes from the citizens.

A special characteristic of Sátoraljaújhely is the formation of districts which segregated areas of the town according to the ruling landlords. The aristocratic Perényi family was Lutheran, and the Újhely church became Lutheran until 1567, when the inhabitants took up Calvinist doctrines. In 1554, the Augustinian friary was dissolved and the lord integrated the street in which the friars had owned property into his domain. The Pauline monastery survived until the end of the sixteenth century and only reappeared as part of the Catholic Restoration of the 1640s. By the end of the seventeenth century, the population was divided among three religious traditions: Roman Catholics, Greek Catholics, and Calvinists. In 1789, the Calvinists built a new church. By the end of the nineteenth century, Judaism had become the fourth major religious denomination. In 1940, there were 4,960 Jewish residents in Sátoraljaújhely. Tragically, by 1949 only 360 remained.

The maps showing the surroundings of Szeged, adapted from the 2nd Military Survey, provide a lively picture of the Tisza River, with all its meandering bends,

that flooded parts of the town whenever the waters rose. Szeged was occupied by the Ottomans. Its fascicle contains a fascinating thematic map showing the social topography of Szeged in the sixteenth century on the basis of two tax registers, one from 1522 and the other from 1548, i.e. before and shortly after the Ottoman occupation. The map shows that in the suburb east of the castle (the so-called Palánk), judges, scribes and master craftsmen resided. North of the castle we find farmers, flock owners, and vineyard owners. The reader will wonder where the merchants were. My Hungarian colleagues tell me that local merchants were subsumed into the categories of flock-owners and vineyard-owners, because cattle, sheep, and wine were the main export articles both before and during the Ottoman period. Merchants specializing in other goods (spices, textiles, etc.) were usually not local residents, but rather people who traveled through the town.

The map also shows important buildings, including churches. It is interesting to learn how long into the period of Ottoman occupation churches survived. Only the Franciscan friary in the so-called Alsóváros part of the town remained and provided pastoral care to the surviving Catholic population. Otherwise, all the other Catholic churches were turned into mosques. The Ottoman occupation lasted from 1543 to 1686, but no buildings from that period have been preserved. In Szeged Sokollu Mustafa's palace was situated in the marketplace in a building that most probably had been there prior to the Ottoman occupation. One wonders if it is still standing. It would be helpful if the atlas also gave indications of the dates at which buildings were demolished, redesigned, or put to other uses.

The presentation of the history of the three towns is done chronologically. Therefore, Szeged is discussed as a royal town between 1247 and 1543. The thematic map showing medieval churches and associated settlements vividly portrays the churches as focal points, which were surrounded by the houses of the wealthiest families. During the period specified in the next heading, "16th to 18th centuries: the late medieval city and Ottoman rule," the town stagnated and became a military assembly point. According to an Ottoman tax register, in 1548 there were 1,203 heads of household in the city, 300 fewer than in the census of 1522. The Ottomans converted the Saint Demetrius Church into a mosque and built a minaret next to it. One interesting aspect of the period is that many churches fell into ruins, but cemeteries survived. The same observation applies to Ireland after the dissolution of the monasteries by Henry VIII in the sixteenth century. Under the Ottomans, the town was divided into different

quarters along ethnic lines. From 1554 to 1560, the Turks expelled the entire Christian population from the central town-quarter, which was called Palánk. The wealthier among them abandoned the city. This process is reminiscent of what happened in former Roman towns along the Rhine when the Roman Empire collapsed in the fifth century.

The suggestion is made that in the post-Ottoman period there was no consolidated bourgeoisie in Szeged. Bad floods and epidemics were responsible for the fact that the number of inhabited plots fell by 50 percent by the middle of the eighteenth century. In the latter part of that century, life began to improve in Szeged due to an economic revival. After 1711, Szeged again became the nationwide center for salt storage. In the context of the Counter-Reformation, prominent buildings were built in the baroque style. The nineteenth century was a time of modernization, which bore witness to the construction of new squares, new public buildings in a neo-classical style, and improved infrastructure. The reconstruction of the town that followed the disastrous floods of 1879 turned Szeged into a modern city with a circular layout of roads reminiscent of Frankfurt am Main, where boulevards follow the line of a former medieval wall, as shown in the Szeged Atlas in order to further comparison.

These three fascicles are a tremendous achievement. While there is an editorial board, there is as of yet no host institute. The editors had to rely on sponsorship from archives and museums. Without the tenacity of the senior joint editor, Katalin Szende, that would hardly have been possible. The lack of a permanent hosting institute and an executive officer has deprived the Hungarian series in some instances of a unified approach. For example, the introduction to the Sopron volume contains an outline of the role of the Commission as founder of the series and a discussion of the importance of cadastral maps and the military survey for the production of the core maps. It would be helpful for readers of later fascicles if this information were repeated. Why is it that only the Sopron volume includes a CD with a PDF version of the publication? This situation will most likely improve in the near future, as a full-time researcher and coordinator has been appointed, who will streamline the project and iron out any inconsistencies. As of 2016, the Institute of History of the Hungarian Academy of Sciences has been hosting the project.

Judging from the bibliography, a large amount of research had been done in Sopron and Szeged before the work of compiling the atlas was undertaken, while in Sátoraljaújhely a lot of research had to be undertaken by the author himself. The bibliography for Sopron consists of 340 entries very few of which

have been published in Latin (medieval sources), German, or English, and works by archaeologists like János Gömöri in Sopron or medieval historians who work in a pan-European context, like Mozdioch, Piekalski or Szende. If one takes into consideration the fact that a vast amount of research has been incorporated into the atlases and thereby made available, along with primary source material in the form of maps, illustrations, taxation records and fieldwork, then we begin to appreciate just how important these atlases are for researchers in Hungary but also for urban historians from other parts of Europe and beyond. We owe a debt of gratitude to our colleagues who took on this meticulous work. On some occasions, the authors of these volumes point towards comparative urban studies and tempt the reader to think of more comparisons with other towns that are part of the European Historic Towns Atlas project.

These three beautifully produced volumes open the door to Hungarian urban history. They are essential for defining the typology of Hungarian towns, and they will facilitate comparative urban studies on a European scale. Furthermore, they will enable scholars and instructors to teach the history of Hungarian towns on a much wider scale than has previously been possible.

Anngret Simms

Egy székely két élete: Kövendi Székely Jakab pályafutása [Two lives of a Székely: The career of Jakab Székely of Kövend]. By Bence Péterfi. (Sziluett. Korszerű történelmi életrajzok.) Pécs: Kronosz, 2014. 165 pp.

Hungarian medievalists are to some extent exceptionally lucky. I know of hardly any country where the surviving medieval documentary evidence can be more easily accessed than in Hungary. Thanks to the digitalization projects undertaken by the Hungarian National Archives, more than one hundred-thousand legal documents can be accessed online with ease. This database provides a sufficient foundation for research on virtually any aspect of the history of the Hungarian Middle Ages. However, there are a number of topics for which the scholar is compelled to consult further archives. One of these topics is the study of someone who was involved in the political life of more than one country or court, such as Jakab Székely of Kövend, the focus of a new book by Bence Péterfi.

The book is a biography of a medieval self-made man who hailed from Transylvania. The Székely (Szekler) family of Kövend (present-day Plăiești in Romania) may not have belonged to the richest class of the Székely society, the *primores*, but by the time Jakab Székely died in 1504 he had become a frequent visitor at the imperial court of Maximilian and owner of a number of major estate complexes, both in the Hungarian Kingdom and the Holy Roman Empire. His career was extraordinary, even in the Middle Ages. The book explores the ways in which a nobleman in the second half of the fifteenth century was able to achieve such a position.

Jakab Székely was born around 1445–1450, but we hardly have any information about him before 1472, when he and his family were given a number of estates in the Székely Lands and also in other areas of Transylvania. But it is more telling that from the mid-1470s Jakab Székely was frequently to be found in the entourage of King Matthias I. Székely was among the numerous delegates who went to Naples in 1476 to accompany the future wife of Matthias, Beatrice of Aragon, to Hungary. In addition to the roles he played at the court, it was his military service that allowed him to rise rapidly in the social hierarchy. During the war against Frederick III in the 1480s, he was one of the most important leaders of the Hungarian army, as indicated by the fact that he became the captain of two of the most important captures, the wealthy trading centers of Ptuj and Radkersburg for more than a decade. From the mid-1480s, he served as chief commandant of the Hungarian army in Steiermarkt, while István Szapolyai, later palatine of Hungary (and father

of János Szapolyai, future king of Hungary), served the same position for Austria. Székely's positions suggest that he was in command of a considerable proportion of the means spent on the war against the Habsburg territories. During these years, he acquired even more estates. His growing importance is clearly illustrated by the fact that he had enough power to marry a woman from a baronial family, the Szécsi family, which was thanks to his efforts in negotiating the settlement of a dispute between the family, Miklós Szécsi, and King Matthias I.

After the death of Matthias in 1490, the political situation in Hungary became increasingly complex. There were a number of claimants to the Hungarian throne (Beatrice, John Corvin, the natural son of the late Matthias, Maximilian, the son of Frederick III and king of the Romans at the time, as well as two members of the Jagiello family, Władysław II, king of Bohemia and John I Albert, later king of Poland). In this period, it was difficult for a landlord to navigate successfully between the claimants, but as Péterfi demonstrates, by turning to the Habsburgs as early as July 1490, Székely managed to do so. In this period, however, he had to hand over some of his castles to Frederick, but he was able, in the meantime, to put his hands on others. The civil war, which lasted for more than a year, came to an end with the treaty concluded at Pressburg between Frederick, Maximilian and Vladislaus II in 1491. According to the treaty, Székely, along with others who had managed to occupy castles, had to hand them over to their lawful lords. This treaty has been familiar to scholars for some time now, but Péterfi is the first historian to draw attention, both in recent publications and in this book, to the fact that some of the treaty's conditions were never implemented. In consequence, along with a number of other families, the Székelys became permanent landlords in two realms, the Holy Roman Empire and the Hungarian Kingdom. After the treaty was concluded, he never changed political sides again. He remained loyal to the Habsburgs, which turned out to be a rather prudent decision, as in the long run he not only managed to keep most of his properties in Hungary but also was able to leave a number of castles and their furnishings to his heirs in the territory of the Empire. Péterfi shows that Székely's incomes from his possessions in Steiermarkt may have been more significant, but even taking into account only his income from lands in the Hungarian Kingdom, by the end of the fifteenth century he had emerged as one of the major landlords. Because of his loyalty to the Habsburgs, he was generously rewarded both materially and symbolically in the Empire. The author shows that Székely's seal-usage as well as his title as knight banneret (*Bannerher*) were both signs of his strong position in Frederick's and later in Maximilian's

court. Péterfi discusses Székely's military and diplomatic missions in the second half of the 1490s, which increasingly were against Italy and France, rather than the Hungarian Kingdom. The monograph does not conclude with the death of Jakab Székely in 1504. Rather, it also includes a summary of the history of the family from the execution of Székely's lost last will and testament to the extinction of the male line of the family in 1643.

The book offers a thorough analysis of the surviving narrative sources (Bonfini, Unrest, Tubero etc.) that concern the political events of the 1480s and 1490s, combined with other documentary – mostly archival – evidence from Hungarian and Austrian archives. The biography is more than a mere presentation of an undeniably splendid career. It is a well-chosen example of the ways in which a talented member of the lesser nobility in the second half of the fifteenth century could rise to become a member of the higher classes of society. The secondary literature on the history of the period contains examples of a few people who had similar careers, both laymen and members of the clergy, but we nonetheless know very little about the strategies that were used in order to achieve these successes. It is also a well-chosen example because of the insights it offers into the ways in which a nobleman with estates in two realms (“amphibious nobility,” as the author calls it) could prosper. Finally, it provides a concise overview of the political history of the period around the death of King Matthias, in particular with regards to the events that took place at the border region between the Habsburg territories and Hungary.

The work was published in a new series launched by a lesser known publisher, *Kronosz*, which aims at presenting grey eminences of Hungarian history to a wider audience. It is of course not the reviewer's task to question the legitimacy of the publication of Jakab Székely's biography in this series, but it is reasonable to wonder about the extent to which the book will reach the intended readership. Because of the decision by the publisher to attempt to reach a wide audience, the book includes only a few endnotes and a rather limited bibliography. On the one hand the attempt to demonstrate to the wider public that the study of medieval Hungary is more than the study of kings and political history is of course to be welcomed. However, perhaps the most self-evident and possibly the most eager readership, historians of the Middle Ages, will have to grapple with difficulties when using the book, since much of the valuable information, which is the result of extensive archival work on the part of the author, is hard to track down.

András Vadas

Towns and Cities of the Croatian Middle Ages: Authority and Property.
 Edited by Irena Benyovsky Latin and Zrinka Pešorda Vardić. Zagreb:
 Hrvatski institut za povijest–Croatian Institute of History, 2014. 534 pp.

This volume, which is the product of an international conference entitled *Towns and Cities of the Croatian Middle Ages: Authority and Property* (Zagreb, November 2010), consists of 22 studies dealing with topics ranging from Late Antiquity to the beginning of the Early Modern Period. Geographically, the studies focus on the Eastern Adriatic and Central Europe. This volume attempts to answer questions regarding the relationships between urban authorities and the urban space by analyzing cities which are underrepresented in modern historiography. The articles are not organized in chronological order, but rather in thematic groups, with an introduction that outlines the theoretical background of the volume.

The first group of articles deals with the question of public and private property in the cities and the surrounding areas, drawing mainly on the example of Istria (pp.35–114). The studies in this group analyze the transition that cities underwent between the fifth and the tenth centuries by highlighting the process of ruralization of urban centers and its long-term consequences. In this period, the privileged elites began to associate themselves with the municipality, blurring the borders between public and private. The cities underwent significant expansions, amassing greater areas of arable land, and this led to new territorial organization of the municipality. The expansion of ownership also affected the relationship between the authorities, members of the nobility, and the Church.

The studies in the second group observe the development of urban centers and their relationships with the local nobilities (pp.115–271). As addressed by these authors, the lack of written sources does not indicate a lack of developed urban centers in the Early Middle Ages, and the use of archaeology can cover the gap left by the scarcity of written sources. Most of these studies draw attention to the connections between kindred groups and cities and the effects that kindred control had on urban development. The studies in this section consider the administrative and economic developments of cities, analyze the trade networks established between the oligarchs and the cities, and compare the development of the urban centers with the models of premodern cities promoted in the works of Max Weber and Fernand Braudel. The conclusion

is reached that urban centers tended to develop as a means of protecting and controlling trade.

The third group of studies examines the status of urban elites and the mechanisms with which the elites increased their lands and their influence over the city and its districts (pp.273–437). The nobility in medieval Dalmatian and Italian cities had a privileged position in building towers but also greater obligations in the organization of the defense of the city. While the property in the hands of the nobility of Dubrovnik was constantly expanding through the appropriation of new city quarters, the growth of the property and influence of the confraternities led to attempts by the city authorities to introduce regulations. The articles in this group make particular use of notary and judicial sources, as well as material remains. This enabled authors to study the fate of the lands in Venetian Dalmatia that were originally owned by key members of the nobility of Trogir (Ana Plosnić Škarić), as well as to observe fluctuations in the real estate market and its functions in the late medieval community of Split (Tonija Andrić). The last article moves away from the coastal towns and introduces prosopography in the research concerning the owners of luxurious palaces in Gradec (Zagreb) in the fifteenth century.

The fourth group deals with the rights of marginal groups, namely women and foreigners (pp.439–68). The work of Marija Karbić looks at the right of women to own and sell property. Karbić examines the ways in which women could become citizens (*cives*) in the medieval urban centers of Gradec and Varaždin. The second chapter, by Ante Birin, examines city statutes from the late Middle Ages and analyzes the decisions that regulated the position of foreigners (*forenses*) and their ownership of town properties.

The fifth group examines the legal regulations and procedures concerning the ownership and management of property in medieval Dalmatia (pp.469–508), mainly by focusing on urban laws and how they regulated daily life in the city. These laws dealt with a number of issues, including business transactions, regulations of testaments, pledging, forcible taking of property, thefts, and fines. The last work in this group, by Nella Lonza, compares the work of the legal institution of Dubrovnik with its statute in order to uncover differences between “common” and “heavy” burglaries.

The last article in the volume did not fit in any other group. Trpimir Vedriš (pp.509–34) analyzes symbolic ownership based on the theories of capital by Pierre Bourdieu. Vedriš moves away from the definition of property as an actual material thing and observes the role of the *translatio* of the relic of

Saint Chrysogonus to Zadar and the social memory attached to the relocation. By comparing the *translatio* with several donation charters, Vedriš detects the existence of “social knowledge,” and he comes to the conclusion that the population of Zadar viewed the preservation of the memory of the burial of the saint as an important way of building communal identity.

Beyond the variety of topics it contains, this collection’s most novel contribution is the application of recent or less frequently used theories and approaches in medieval scholarship. Despite the variety of topics addressed in the volume, there are some absences, such as articles dealing with the relationship between the Church and urban ownership. This is a key issue, since in many of the Dalmatian and Istrian communes discussed in the articles the Church had considerable land holdings, both in the enclosed areas of the cities and in the hinterlands. However, this shortcoming does not detract from the generally positive qualities of the book or its scholarly importance. The volume as a whole is a valuable contribution to the study of urban history, presenting, in English, the latest developments in research concerning the medieval lands of present-day Croatia and the surrounding areas.

Mišo Petrović

Customary Law in Hungary: Courts, Texts, and the Tripartitum. By Martyn Rady. Oxford: Oxford University Press, 2015. 266 pp.

In nineteenth-century Hungary, the history of Hungarian law was often compared with the history of English law. The contention was made that in both places local tradition maintained its primacy. Roman law was not slavishly adopted, and both countries had strong parliamentary traditions. After all, the observation was made, the Magna Carta and the Golden Bull, the foundations of English and Hungarian constitutional law respectively, both dated to the same era, 1215 in the case of the Magna Carta and 1222 in the case of the Golden Bull. In the twentieth century, German historian Fritz Kern, one of the founders of the comparative study of the history of constitutional law, drew a parallel between the history of the Hungarian and the English parliaments in his typology of European parliaments. Today, we speak of this question from different perspectives. The phrase “adoption of Roman law” became another one of the many outdated historical concepts that proliferated at the turn of the century. Hungarian law in the late Middle Ages and *Jus commune* were so intertwined that it is both pointless and impossible to speak of an opposition between them. The Magna Carta had no influence whatsoever on the Golden Bull. Today, we know significantly more concerning the mechanisms of European parliaments than was known one-hundred years ago. That we are unable, our increasingly detailed stock of learning notwithstanding, to compose the kinds of broad statements that were made at the end of the nineteenth century and the beginning of the twentieth is another question entirely. Today, no one would expect a British historian to provide a comparative study of the history of English and Hungarian law. So we are left with synthesis. The book by Martyn Rady, the first study of Hungarian customary law in English, is just that.

Rady offers a focused examination of Hungarian customary law. The so-called *Tripartitum*, the first summary of Hungarian customary law, is at the center of his inquiry. The *Tripartitum* was written by István Werbőczy, one of the magistrates in the royal court of justice and a man who later had an influential career as a politician. He completed the *Tripartitum* in 1514, and three years later he submitted it to a printing press. The *Tripartitum* is not technically a book of statutes for two reasons. First, it is not a summary of previously existing laws, but rather a collection of the norms of customary law at the time. Second, it never actually became law. It was simply a legal work that had been

compiled by a private individual for practical use. Rady is one of the most highly esteemed scholars on medieval history in Hungary and Central Europe. He has innumerable publications, including a book on Buda in the Middle Ages and the medieval Hungarian nobility. This book, which is in no small part the fruit of earlier research and publications, was conceived when Rady participated in the translation and publication of laws from the Jagiellonian era and the *Tripartitum* for a series entitled *The Laws of Hungary*.

Until the twentieth century, legal tradition in Hungary was dominated by customary law. Rady's book certainly does not stop at 1514, when Werbőczy wrote the *Tripartitum*. He examines the history of Hungarian law until 1959, when the first code of Hungarian civil law was proclaimed. In his assessment, it was not until 1959 that the rule of *consuetudo* in Hungary came to an end. As a characteristic example, he refers to the publication of the *Tripartitum* in 1897 (as part of the celebrations marking the millennial anniversary of the arrival of the Hungarians in the Carpathian Basin in 896), in which the editors used bold typeface to set off sections that they regarded as prevailing law (as was done at the time when any Hungarian book of laws was published). In the case of the *Tripartitum*, some 70 pages of the text, i.e. more than one-third, were regarded as statutes in force (the document was 160 pages, not including the 25-page Prologue). According to Rady, however, this practice was little more than an "empty fiction." Rady reflects on the contentions that were made in the nineteenth century concerning the similarities between the English and the Hungarian constitutions. In his view, this was a "spurious parallel" (p.240). As this ascertainment exemplifies, Rady's conclusions are simple. When he finds something too artificial, he does not adopt even a century-and-a-half old concept like H.S. Maine's widely used concept of "fiction."

The organization of the book is logical. The historical introduction and a section in which Rady clarifies what he means by customary law are followed by a presentation of the *Tripartitum*. This is followed by a presentation of the sources of common law: charters, legislation, and a description of the courts. There is a separate chapter on the intricate interconnections between the nobility and the king, as well as a separate chapter on crimes and a presentation of medieval rules of procedure. These chapters are followed by sections dealing with the Early Modern Era and the Modern Era, including the political and institutional changes in the new era, processes of codification that took place after *Tripartitum*, and a presentation of jurisdictions in the eighteenth century. The book concludes with a chapter entitled "Custom and Law in the Modern Period."

Rady's assessment of customary law is founded on the most up-to-date literature on legal history. He does not content himself with the repetition of an opposition between law and custom, an opposition used even by Werbőczy himself. On the contrary, he provides a very precise, understandable presentation of the complex relationship between written law and customary law (p.8).

Rady's task was not made much easier by Hungarian historians. Following the socialist reorganization of the sciences, the study of the history of governments and systems of government continued to thrive, but the study of the history of law faltered. The sections of Rady's book that address topics that other historians have already examined are the most thorough and convincing. Like the vast majority of Hungarian legal historians and historians, Rady attributes considerable significance to a few of the tracts from the *Tripartitum*. However, apart from the preface and the sections that are of political and social significance, he only writes in detail on the *titles*, which concerned the rules of inheritance. Rady provides a short and clear description of the courts of the royal presence (p.51), as well as a convincing section on processes of codification after the *Tripartitum* (chapter 10), in which he presents the essence of the Early Modern works. There is no description, however, of the royal court system in the period between 1541 and 1691. This is not a mere matter of chance. To this day Hungarian historians have failed to address the subject adequately. In 1541, Hungary was divided into three parts: the middle swath of the country was occupied by the Ottomans, Transylvania became an independent principality, and a slender strip in the west and the north remained under the rule of the Habsburgs as the Hungarian kings. In this part of the country the old court system remained in place, though by the time the country was liberated of Ottoman rule in 1691 the courts had undergone major transformation.

Rady's book, however, is by no means a simple abridgment or collage of the existing secondary literature. He raises new questions and examines the conclusions of the works he consults, comparing them with the primary sources. He uses both published and archival sources. His description of the relationships between witch trials and public prosecution represents a very important contribution to the history of criminal law in the Early Modern Era (p.119). He also makes the accurate observation that the contention according to which the barons blocked the passage of the *Tripartitum* into law because it did not recognize the superiority of the rights they enjoyed over the rights of the lesser nobility is unpersuasive (p.18). This contention is as widespread as it is unconvincing.

Rady writes in a clear, comprehensible style. He avoids complicated modern legal terminology and words that are fashionable in some of the tendencies in the writing of legal history, even though they often obscure the point of an inquiry. There are some small mistakes, but they do not undermine the essence of the book. For instance, the Magyars and the Onogurs were not two peoples who melted together. Rather, the two terms were used to denote the same people (p.1).

Customary Law in Hungary is far more than a new monograph on the history of old Hungarian law. Rady's use of sources is original and does not get lost in the details. He adheres consistently to his initial goal: how and why did customary law remain the decisive thread of Hungarian law until the twentieth century? By adopting this approach, he sets a high standard for those who seek to follow in his footsteps. Any attempt to characterize old Hungarian law without consulting this book would be quite unthinkable.

István Tringli

Geschichte schreiben im osmanischen Südosteuropa: Eine Kulturgeschichte orthodoxer Historiographie des 16. und 17. Jahrhunderts. By Konrad Petrovsky. (Balkanologische Veröffentlichungen: Geschichte, Gesellschaft und Kultur in Südosteuropa, 60.) Wiesbaden: Harrassowitz Verlag, 2014. 272 pp.

It was the fate of the pre-modern states that were inhabited by numerous peoples to be presented by the national histories of the successor states, which later came into existence in competition with one another and were based on notions of a unified linguistic and cultural space, in a fragmentary manner. This is as true of the Habsburg Monarchy as it is of the Ottoman Empire. In the case of the Ottoman Empire, an additional consideration is the simple fact that the historiography on the realm, which first began to be written in the Renaissance, has been studied with greater duration and depth than the practice of writing history in the Ottoman-Orthodox cultural and communication space itself. We know very little about the multilingual Orthodox chronicles, annals, and other historical texts of the Early Modern Era in southeastern Europe. This is where the monograph (originally submitted to the Faculty of Philosophy at Humboldt University as a doctoral dissertation) by Konrad Petrovsky comes in. Petrovsky is not concerned with providing a conventional narrative of the Orthodox Christian historiography in southeastern Europe under Ottoman rule, nor does he offer an assessment of the historiographical texts, which for the most part were written in Greek, Church Slavonic, and Romanian. He is far more interested in the shifting relationships between these texts and social constellations, as indeed the subtitle of his book suggests. He seeks to further a deeper understanding of “the social and communicational preconditions of the writing of history” and provide “a dense contextualization of historiographical practices” (p.12).

Petrovsky takes the multilingual nature of southeastern Europe and the accompanying diversity of its traditions of writing, which inevitably hinder any attempt to offer an integral study of the historical texts of the Ottoman Empire that embraces the multiplicity of languages, as a challenge. He is quite at home in the languages that are used in the primary sources (Greek, Bulgarian, Serbian, and Romanian), whether printed or handwritten texts, much as he is at home in the many languages of the relevant secondary literature. He offers persuasive arguments in support of his choice of sources, and the spatial and temporal frameworks of his inquiry also seem reasonable. This is particularly true of his

decision to ignore the writing of history in Transylvania and Veneto, where the forms and practices adopted by historians differed strikingly from the practices used in the neighboring territories.

The ambitious goals that Petrovsky has set for his treatise and, therefore, his own praxis as a scholar, become clear in the dense introduction, which is rich with ideas and provides an exemplary presentation of the subject of the inquiry. The book, a well-informed inquiry, is eloquent and persuasive from the first page to the last. One has little difficulty following his argument, thanks in large part to the clear and balanced structure. The introductory chapter on trends and tendencies in social and cultural developments in Ottoman southeastern Europe between 1500 and 1700, in which Petrovsky offers a sketch of the interrelationships among political, administrative, cultural, social, and religious processes of exchange, is followed by a chapter that focuses on the Orthodox historiography. He is concerned with the circulation of knowledge in the Early Modern Era: education and the relevant backdrop and paths, the safeguarding and dissemination of knowledge, and finally the role of book printing. Petrovsky then presents “the craft of history writing between the spoken, written, and printed word.” He is concerned with the specific circumstances of the transmission of individual texts, phenomena such as the limited written culture of southeastern Europe, evidence of a shifting understanding of writing, and the gradual rise of the vernacular in the seventeenth century. While the first half of the monograph is focused on the constraints and preconditions of historiographical practice, the two chapters that follow bring questions of content, discourse, and models of history to the fore. For instance, Petrovsky discusses the meaning of the Byzantine tradition for the Orthodox Christian writing of history, and he presents various narrative models and distinctive regional characteristics.

The conclusions of this inquiry, which is persuasive both in its methods and erudition and in its ideas and argumentation, are manifold. Petrovsky convincingly demonstrates that “the Orthodox written culture of southeastern Europe remained throughout the period in question closely tied to the religious sphere or at least under its strong influence. [...] In the area in which the south-Slavic languages prevailed, the writer, the place of writing, and the place of printing remained more strongly bound to the field of the Church than they did in other Orthodox regions and language areas” (p.229). In addition to presenting this finding, which he supports with numerous examples, Petrovsky offers insights into the relationships between political context, social diversification,

educational migration, the transfer of knowledge, and Orthodox concepts of history and the writing of history. The same is true of his observations concerning content. Thus, for instance he determines that Islamic history writing is given no reception whatsoever in the texts that are in the center of his inquiry. It is quite clear “that the existence of a large space in which intercommunication was possible, such as the space that was undoubtedly created by the space of Ottoman rule, did not always mean permeability and actual exchange” (p.232). This inquiry, which far surpasses the standards set by other treatises submitted to complete academic requirements for historians in Germany, constitutes a significant contribution to other, quite varied disciplines in the humanities. This is true not only for the departments and institutes that deal with the culture and history of southeastern Europe, but also for scholars who are interested in the early modern intellectual history in Central and Western Europe.

Joachim Bahlcke

A gyulafehérvári hiteleshely levélkeresői (1556–1690) [The requisitors of the Gyulafehérvár place of authentication (1556–1690)]. By Emőke Gálfi. (Erdélyi Tudományos Füzetek, 283.) Kolozsvár: Erdélyi Múzeum Egyesület, 2015. 235 pp.

In the Middle Ages and the Early Modern Era, there was a network of institutions in Hungary known as the “*loca credibilia*,” which were chapters or convents that served as places of authentication. The functions of these places of authentication included serving the role of notary public. In recent years, historians have begun to realize that the documents that were produced by these places of authentication, which have traditionally been used as sources in the study of diplomatic and institutional history, are also indispensable in the study of the history of Early Modern society. In the decades following the defeat of the Hungarian army at the hands of the Ottoman Turks at the Battle of Mohács in 1526, the development of the institution began to take a different turn in Transylvania than in the Kingdom of Hungary, where it continued to function. In 1556, the places of authentication in Transylvania became secular, and the tasks relating to the maintenance of records were taken over by secular scribes, so-called requisitors, who begin to be mentioned in the sources in 1559.

The goal of Emőke Gálfi’s monograph is to examine the lives and careers of the officials of the place of authentication of the chapter of Gyulafehérvár (today Alba Iulia in Romania) and the history of the institution, from its secularization in 1556 to the end of the principality, from the perspectives of governmental and social history. Gálfi has divided the monograph into three longer chapters. In the first, she presents the evolution of the office of the requisitor and, in this context, the secularization of the Transylvanian chapter (one of the consequences of the Reformation) and the functions and roles of the first requisitors. In the second chapter, she examines the social strata of the intelligentsia represented by the requisitors. She begins with the process according to which they were appointed and the tasks with which they were entrusted (which were the traditional tasks of the archivist) and then provides subchapters on their incomes and estates. As the reader learns from these subchapters, on the basis of their estates and the number of serfs belonging to their estates, most of them were members of the medium-sized estate-owning nobility. It is worth noting that roughly half of them were not originally from Transylvania. Rather, their families had fled to Transylvania from regions of the country that had fallen under threat from the Ottoman Turks. Regarding their social backgrounds, eleven of them had come from urban settings

or market towns. Four of them belonged to the middle nobility. One of them was a serf and two were Székelys. The rest either were members of the lesser nobility or of an indeterminate background. However, by the end of their lives, thanks to the roles they had played in these offices, all of them were able to achieve noble rank. Sources indicate that at least fifteen of them had had thorough schooling. From the perspective of their denominational makeup (they were Unitarians and Calvinists), it is quite clear that almost exclusively people belonging to Protestant churches were regarded as suitable for this important position. Indeed this factor determined to a large extent the network of their relationships. They were closely tied to the Calvinist elites. They also seem to have adopted very deliberate strategies with regards to marriage. They strove to improve their circumstances by marrying women who either were of equal social position and wealth or of higher social position and wealth. The 32 wives on whom information is available of 22 requisitors (the difference is due to some of the man having had more than one wife) were mostly of noble origins. Only men from more humble social backgrounds chose wives from among the burghers.

The third chapter, which examines the documents and data concerning the requisitors, is the most expansive. Gálfi offers a detailed presentation of the social backgrounds, educations, careers, and material and familial relationships of 38 requisitors in chronological order on the basis of thorough knowledge of the primary sources and secondary literature. The appendix is an important complement to this chapter. It contains *in extenso* supplements concerning the requisitors, including certificates, correspondence, last wills and testaments, letters regarding the division of properties, inventories of assets, etc.

Gálfi's monograph addresses what has remained something of a blank spot in Hungarian historiography. The publication of the book is important from at least two perspectives for scholars. First, the history of the institution itself, the *loca credibilia*, has hardly been a subject of much interest among historians. Her book may well serve to draw attention to its significance in the larger context of institutional history. Second, it is admirable for the thoroughness and nuance with which it examines the functions and social composition of the Transylvanian requisitors, who represented an institution essentially unfamiliar in Hungary. Thus, Gálfi has enriched the field with a monograph that addresses an important subject and constitutes a significant contribution to our knowledge of the period in question. It may well prompt further inquiries into the history of the roles of *loca credibilia* in the Early Modern Era.

Irén Bilkei

Török szövetség – Habsburg kiegyezés: A Bocskai-felkelés történetéhez [Ottoman alliance – Habsburg compromise: On the history of the Bocskai uprising]. By Sándor Papp. Budapest: Károli Gáspár Református Egyetem–L’Harmattan, 2014. 398 pp.

The anti-Habsburg movement led by István Bocskai, which took place between 1604 and 1606, has always been given a place of prominent importance in Hungarian historiography. There are several reasons for this. As the first piece of legislation concerning the religious freedoms of the Hungarian estates was the result of the peace treaty that was signed at the end of this uprising, Bocskai was quite obviously seen as a hero of the Reformation by the Protestant historiography of the nineteenth century. This denominational perspective—canonized at the International Monument to the Reformation in Geneva, where Bocskai’s statue is the only one representing the region—was paired with another political message very popular in nineteenth-century historiography, namely that Hungary’s repeated attempts to achieve independence represented one of the most important threads in its history. As this uprising was the first occasion on which the Hungarian estates had taken weapons in hand to defend their liberties against their legitimate king, Rudolph of the Habsburg House, Bocskai was an obvious choice for a national hero, who represented not only religious freedoms but also the struggle for independence. After 1945, the uprising became canonized as a “szabadságharc,” an ambiguous term that can refer to a fight for (political or religious) liberties (which the uprising beyond any doubt was), but also has the connotations of a struggle for national independence, especially since it is used to refer to the Revolution of 1848.

It was the latter connotation and everything that it entails in respect to narratives of long-term historical developments that prompted a revisionist interpretation ten years ago, on the occasion of the publications of a massive quantity of writings produced for the anniversary of the uprising. One of the most important arguments presented by historian Géza Pálffy in his critique of interpretations of the Bocskai uprising as a fight for independence was that its leader, István Bocskai, was, in the course of the events, not only elected prince of Transylvania, a tributary state of the Ottoman Empire, but also enjoyed the sultan’s military support. Thus, he had no chance of emerging from the fight as a ruler of a Hungary independent of the two neighboring empires. One of the most important reference points used by Pálffy was the early studies by Sándor

Papp on the Ottoman contacts of the Bocskai uprising, which brought forth many novel results and has now grown into a monograph, a dissertation that secured its author the title of Doctor of the Academy of Sciences.

Having acknowledged the ideologically heavily loaded character of his field of research, Papp promises to make a thorough reconstruction of the chronology and causal connections between the various moves of different actors in this complex game of politics and war based on the broadest possible selection of primary sources. This is a promise he fulfills to the letter. He draws on his philological skills in Ottoman Turkish paleography to provide documents to enrich his reader's understanding of the Ottoman perspective on an unprecedented scale and also dedicates longer sections to the meticulous study of sources long familiar and long misunderstood. With his keen aptitude for detail, Papp at times risks jeopardizing the coherence of his inquiry because of his meticulous focus on the close study of primary sources. Some sections have little to do with the main topic of the book, such as the painstaking reconstruction and critique of the sources related to the alleged poisoning of Bocskai in 1606 (which Papp ultimately finds unlikely ever to have taken place). It may have been prudent to have published such sections as separate articles. In most instances, however, Papp's method yields important insights into the questions he posed as the most important focus of his research.

The Bocskai uprising took place in the very last phase of the Long Turkish War at the turn of the seventeenth century (or the Fifteen Years War, as it is known in Hungarian historiography), a fact that has been acknowledged by all authors writing about this historical event, though no one has taken it as seriously as Papp has. He begins his narrative several years before the uprising, and he provides an account of the various attempts at peacemaking between Habsburgs and Ottomans, a prehistory of Bocskai's campaign. It is thus immediately apparent why the Hungarian uprising was met with such a hearty welcome from the Ottoman side and why the grand vizier found it important to issue in the name of the sultan an inauguration document for Bocskai as king of Hungary only some months after his initial successes. A rare collection of correspondence between Bocskai and the Ottoman dignitaries and also among the sultan's office-holders involved in the Hungarian campaign enable Papp to trace the steps in the process of coordination between the parties. This material shows that the details of military cooperation were continuously discussed, and Grand Vizier Lala Mehmed expected a great deal from Bocskai's activities. It is also clear that the Ottomans tried to keep Bocskai and his Hungarian supporters

interested in not concluding a final settlement with the representatives of the king of Hungary until there was a chance to reach an agreement on the questions debated at the Ottoman–Habsburg peace negotiations that led eventually to the Treaty of Zsitvatorok.

One of the most important focal points of Papp's narrative is the personal meeting between Grand Vizier Lala Mehmed and István Bocskai (who by that time had been elected prince of Transylvania and Hungary) at Rákosmező on the November 11, 1605. On this occasion, Bocskai was given a crown by the Ottoman dignitary. Apart from clarifying the origins of this crown (and identifying it as a Byzantine jewel, which had been renovated in Constantinople for the occasion), Papp also provides convincing arguments against one of the widely familiar myths concerning the Ottoman relationship to the Bocskai uprising. On the basis of the apologetic contemporary description of Johannes Bocatius, Hungarian historiography for centuries has claimed that Bocskai accepted the crown only as a jewel, not as royal insignia, and that he did not seek to challenge the right of Rudolph, the legitimate ruler, to the Hungarian throne. A close reading of Bocatius' narrative has persuaded Papp that such an insult would not have been possible at an audience staged by the second most important person in the Ottoman Empire for a prince who had been in subordinate position towards the sultan. Recently discovered Ottoman and Hungarian sources also support this conclusion.

All in all, the thorough source analysis, paired with an interest in the wider political context, make Papp's monograph a valuable contribution not only to a more realistic understanding of Hungarian history, but also to a more nuanced grasp of the history of the Ottoman Empire and its relationships to its tributaries.

Gábor Kármán

Bécs vonzásában: Az agrárpiacosodás feltételrendszere Moson vármegyében a 19. század első felében [In the pull of Vienna: The preconditions of the development of the agrarian market in Moson County in the first half of the nineteenth century]. By Gergely Krisztián Horváth. Budapest: Balassi, 2013. 695 pp.

Gergely Krisztián Horváth's new monograph is a masterpiece of Hungarian economic and social history, both of which are undergoing a refreshing revival. It offers a thorough picture of the economic processes of the protoindustrial period, the various effects they had on society, and the responses (which showed varying degrees of flexibility) that were given to the challenges that arose, all of which led to a gradual loosening of the hierarchical feudal social order in the region before 1848. In order to present the economic processes that were taking place in the first half of the nineteenth century and loosening the existing social structure, Horváth chose to examine Moson County, which lies in the western corner of Hungary, at the gateway of Vienna.

The book is structured around a gradual approach to its subject. The introduction, in which Horváth raises the fundamental questions of his study, acquaints the reader with the conclusions in the available secondary literature and clarifies the theoretical framework of the inquiry. This is followed by a presentation of the structural characteristics of the region. Here, Horváth adopts a gradual approach, beginning on the regional level (the relationship between Vienna and Moson County at the beginning of the industrial revolution in Austria, which led to deindustrialization as a complementary process) and then examining local circumstances (the social structures of the villages). This is followed by a description of the system of natural and geographical preconditions of the development of an agricultural marketplace and a discussion of the ways in which this was influenced by anthropogenic factors. The archducal estate of Moson County and the county itself are presented separately as independent agents with diverging interests, as are the social factors (from work done in the service of a landlord to schooling) that shaped peasant farming and determined the surplus quantity that could be sent to market. This is followed by other factors that influenced trade, including border and customs policy and conflicts involving transportation. Finally, Horváth provides a quantitative analysis of exports, including their composition and the roles they played in the provision of supplies for Vienna and the living conditions of the peasantry. The book

follows a logical structure in which the various elements build clearly on one another, while at the same time the many case studies and comparisons offer an array of information.

Horváth adopts primarily an analytical approach. The best example of this is perhaps the chapter in which he examines the relationships between demographic, social, denominational, and ethnic differences (how did religious affiliation affect family size and economic influence, and was it a decisive factor in the success of adaptation strategies) and the extent of the influence of this on economic development (was there a connection between the size and production capacity of a plot of land and the social or ethnic background of its owner). The map appendix, which illustrates natural and social-economic processes and regional differences in these processes, helps orient the reader.

Horváth's decision to focus on Moson County proved fortuitous. Influences arriving from the West and the interregional division of labor (industrial goods for agricultural goods) hit this region first in Hungary. Thus, the effects they had can be examined directly. Because of the geography of the land and the potentials this created for transportation, the region profited from the situation. The production and social indicators of the county, which were comparatively favorable on the national level, were as much consequences as they were preconditions of this process. According to Horváth, of the favorable conditions one of the most significant was the ratio of livestock to serfs, which was remarkably high in comparison with the rest of the country, as well as the literacy rate and the ethnic makeup (it was the only county in Hungary with a German-speaking majority, and thus there were no real obstacles to communication with Austria). The presence of the archducal estate in Mosonmagyaróvár was also a favorable circumstance: the concentration of capital helped solve problems that were in principle the responsibility of the county, but the administration was unable to address them because of lack of will and lack of sources. Individuals were no better able to solve these kinds of issues, since at the time, i.e. in the early days of the emergence of a burgher middle class, they did not have the necessary financial resources or the forums for self-organization. Large estates played a significant role in the development of higher education, the modernization of farming, the spread of industrial and agricultural innovation, and protective measures against floods, which threatened people's livelihoods and sustenance. Thus, the dynamic development of the region was not due so much to its natural and geographical features as it was to the economic and social structures that emerged relatively early here in comparison with other parts of the country.

It is worth asking why the region, which lay near to an industrial center, was not itself able to embark on the path towards industrialization (Horváth examines this in the chapter entitled “Protoindustrialization contra the Agrarian Market”). According to classical interpretations, the explanation for this lies in the relative prosperity enjoyed in the field of agriculture, which was a consequence of the division of labor that had emerged. It led to a decline in small industry in the region that served the industrial center because of competition with the manufacturing industry. However, the turn for the better in “terms of trade” and the growth in agricultural exports (according to theory, this in general leads naturally to deindustrialization, since it is more profitable to invest in agriculture) created an accumulation of capital that could have been invested in industry (instead of this, the consumption of imported industrial goods was on the rise). The explanation for why this did not take place lies in the absence of social structure as an institutional background and the hindering effects this had. In Horváth’s assessment, the fact that Moson County often was more rigid than a given estate, village, or social stratum in its responses to the challenges that arose (the problems of drainage and the regulation of waterways to protect the marshlands of Hanság from flooding and create more arable land or the economic problems concerning customs duties on the internal Austrian-Hungarian border) was a clear sign of the disintegration of the traditional frameworks. In contrast with the county administration, the estates, villages, and social strata found back doors in the system, gradually cracking its frameworks at the beginning of the nineteenth century.

The book is a work of both economic history and social history. It relies on a number of methodologies, including microhistorical analysis, cliometric methods used in quantitative economic history, and an array of methods used in sociology, as well as agrarian history and ethnographic observations. This is complemented with a critical analysis of the writings of Anton Wittmann and Andreas Grailich, two proponents of modernization. Their work makes it possible to determine the labor productivity among peasants and compare it with productivity in other territories. The book is pioneering from the perspective of methodology as well, and not simply because of its statistical approach (Horváth examines the proportions of Hungarian exports, Viennese imports, and production on the county level, each of which places a different aspect of the complex interrelations in the foreground), but also because of the conclusions the author draws. Thus, it will be of interest and use to historians, specialists in agriculture, geographers, and economists. The importance of geography is always at the fore, as natural

problems were clearly often in the background of social phenomena. The book even contains theories and arguments that draw on the natural sciences (for instance, arguments concerning plans for the regulation of the Hanság marshlands). Thus, it will also be informative and interesting to geographers and specialists in water engineering, and it provides insights into economic interests that exerted an influence on regulation plans and projects. We are even given a kind of archetype miniature of the debate concerning the regulation of the Tisza River and the social groups and organizations that took part in this debate, each of which had diverging interests. The importance of geographical considerations is palpable even in the discussion of principles of economics. As far as Horváth is concerned, the administrative borders of Moson County were not congruent with the actual borders of the economic spheres of the county or even individual settlements. He takes the regrettably rare and all the more admirable step of considering not how the different institutions were supposed to function according to the law (whether we are speaking of an institution of agricultural education, an assessment of taxes, the closing of a border, the issuing of a passport, the manner in which a plot of land was used, etc.), but actually how these institutions did function. This enables him to assess the disintegration and transformation of the nobleman's county and hierarchical feudal society.

Given the breadth and depth of his inquiry, Horváth had to familiarize himself with an array of written sources. He seems to have consulted almost every available archival source, from notices of loss to requests for remittance of tax debts to schematics on schooling. His ability to organize the data he uncovered in the course of his research is eloquent testimony to his knowledge of theoretical questions and his practical gift as a writer. His descriptions offer a clear grasp of the ways in which the systems functioned, and the book will be an indispensable crutch for scholars pursuing research on local or regional history. Horváth has used every assessment of taxes and source of information in order to compile as much data as possible, and anyone who has ever attempted to compare data from different eras and based on different units of measurement in order to create a coherent kind of database knows what a daunting task this is, full of snares. One of his strengths is his ability to use soft variables alongside hard variables in order to draw subtle conclusions, and he does a good job alternating dense and focused description with looser narrative. His holistic approach allows him to flirt with the idea of writing a "total" history.

Horváth also provides a critical analysis of the existing secondary literature, including the comparatively few works on Moson County and works that

examine the region in general. He reflects on some of the traditional views found in Austrian and Hungarian works on economic history, sometimes adopting a contrary standpoint and throwing into question the plausibility of the contentions that have been made. Both the reliability of scales, measurement units, and theories about the significance of the double customs border in the development of Hungary are discussed. Someone seeking to provide an assessment of another county or region according to a similar set of perspectives must confront the fact that the phenomena described in this book are not necessarily of general applicability. Thus, the most important virtue of the work is not that it can serve as a general handbook (of collected methods), but rather that it demonstrates persuasively that it is possible to reconstruct, in addition to the basic functional mechanisms of power and administration, the economic substance of regulations and units of measurement and thus to further an understanding, alongside sources of conflict, of social capacities to assert interests. Furthermore, Horváth offers on the micro-level a sketch of the successes of the various strategies of economic (dairy farming, grain production, transportation, viticulture, providing provender) and social adaptation (breaking the law, tax evasion, education) and compares these strategies.

Gábor Demeter

Pánszlávok a kastélyban: Justh József és a szlovák nyelvű magyar nemesség elfeledett története [Pan-Slavs in the manor house: József Justh and the forgotten history of the Slovak-speaking Hungarian nobility]. By József Demmel. Bratislava: Kalligram, 2014. 284 pp.

Social history and the history of mentalities, which began to become increasingly popular subjects of study in East Central Europe after the fall of communism, are unquestionably among the most dynamic areas of the field of history today. As far as national and political identity of noble families is concerned, it has been a subject of interest in writings on Hungarian history since the Middle Ages. Half of the Hungarian noble families lived in the northern region of pre-World War I Hungary (what today is Slovakia), where the population was primarily Slovak-speaking. They enjoyed privileges, they were also obliged to fight in defense of the country, but none of this meant that they had to speak Hungarian. Until 1844, the language of state in Hungary was Latin, and much of the written culture of the region in question was in German or Czech. The nobility of the territory regarded itself as part of the Hungarian nation politically and socially, but ethnically it identified with the Slavic nation (broadly understood). With the rise of the modern concept of linguistic nation and nation state in the late eighteenth and early nineteenth centuries the non-Hungarian-speaking nobility was expected to accept ethnic Hungarians as the ruling nation. This demand did not encounter major resistance, and gave rise to a prevalent optimism at the time and even in later assessments of the period. Research projects and initiatives that were launched in the 1970s confirmed this view. These inquiries asserted the claim that one finds, in the mentality of the era, a mass tendency towards spontaneous assimilation, thus presenting the reader with an image of the country as a kind of melting pot. The repeal of feudal privileges in 1848 did not slow the process. Thus, an 1878 pamphlet, for instance, read “ambitious Slovaks raise their boys to be Hungarian gentlemen. In their minds, the word ‘Slovak’ and the word ‘gentleman’ are mutually exclusive” (Béla Grünwald, *A felvidék: Politikai tanulmány* [1878], 29).

In contrast, the nationalist Slovak elite of the nineteenth century, which was active in parallel or, more precisely, in opposition to the Hungarian elite, condemned these noble families for their “betrayal”, though these families were expected to take their place at the vanguard of the fight for Slovak equality. Pamphlets and speeches emphasized that, in earlier centuries, the Slovak nobility had played a leading role in the protection of the borders and rights of the

country and Slovak had been used in public and Church affairs. According to this elite, these nobles could only be members of the Slovak nation, which was of the same status as the Magyar nation.

To this day, the question of dual Slovak-Hungarian identity has not been the subject of any serious research projects. József Demmel's new work breaks from the ideological and normative approach. In the introductory chapter Demmel offers a persuasive presentation of the ways in which a dual identity functioned by drawing on the examples of specific individuals. An aristocrat in the second half of the nineteenth century on the one hand resolutely opposed the Slovak national movement, while on the other he felt himself as Slovak in the company of Hungarians and wrote fine poetry in Slovak in the solitude of his manor house. At the middle of the century, relatives of Lajos Kossuth living in Turóc (Turiec) County wrote much of their correspondence and discussed the economic affairs of the family for the most part in Slovak, in spite of the fact that Kossuth himself, as perhaps the most recognized figure of Hungarian politics, was always a staunch opponent of the Slovak national movement. According to Demmel, this was all quite natural, given the linguistic environment in which the child of a noble family grew up in the region. Family members spoke German and Slovak, the larger community spoke almost exclusively Slovak, and the children only began to use Hungarian (and Latin) in school. Thus, these people did not choose dual identities, but rather inherited these identities as part of the legacy of the multilingual communities in which they lived. They regarded themselves as part of the noble Hungarian nation (the *Natio Hungarica*), but in many of the most important spheres of their lives they used Slovak (and in writing for a long time Czech) as the dominant language. Demmel, however, does not simply content himself with his observation concerning this nuance. He analyzes the trends in local politics in Turóc County (the population of which was entirely Slovak-speaking) by putting the county in the larger context of the party struggles and conflicts of the 1830s and 1840s, showing persuasively that the national struggle between the liberals and the conservatives provided a background for the local struggles between the leading families of Turóc County and their political supporters. The family of the person whom Demmel has chosen as the focus of his inquiry, József Justh, had been locked in a struggle for centuries with another influential family of the area for the leading role in the community. In the 1840s, Justh's faction supported the policies and goals of the liberal parties, which meant opposition to the use of Slovak and Latin in public life and support for the use of Hungarian. Thus, he had support on the national level, while

the conservatives, who were being pushed from local positions of influence, began to support the Slovak national movement in its struggle against efforts to make Hungarian the language of public affairs. These leading figures of this movement, however, proved too liberal for their inclinations, and they soon distanced themselves from them. It is one of the ironies of history that the debate between the two camps took place for the most part in the columns of the newspaper of the Slovak national movement, as this was the forum in which the two sides were best able to express their views.

Gradually, József Justh became a leading figure of liberal politics in Hungary on the national level. In 1847, he became a delegate of the national assembly, and during the 1848 revolution he was made commissioner of Turóc County and the leader of a neighboring county. He was charged with the task of keeping a watchful eye on the Slovak national movement and harassing its leaders. As the military constellation began to shift, he was taken prisoner by the pro-Habsburg Slovak troops that occupied Turóc County. However, his political inclinations and responsibilities notwithstanding, he maintained his ties to the Slovak community. In the 1840s, he defended one of the leaders of the Slovak national movement, Jozef Miloslav Hurban, who was accused in a Church affair of anti-Hungarian activity, and though in 1849 he himself was Hurban's prisoner, the two men maintained respect for each other throughout their lives. After the Revolution, Justh maintained his friendship with Ľudovít Štúr, the leader of the Slovak nationalism (whom Justh had been supposed to apprehend in 1848), and in the 1850s he supported (though unsuccessfully) Štúr's plan to create an institutional framework for secondary schooling in Slovak. His sons were educated for years at a time by people who openly supported the Slovak nationalist movement (as indeed the title of the book, *Pan-Slavs in the manor house* indicates). The zenith in his political career came in 1861, when a memorandum demanding local autonomy was accepted at the national assembly of the Slovak nation. Justh took part in the drafting of this document and even agreed to serve as a member of the delegation that was to be sent to the national assembly in Budapest. What might have prompted him to take part, quite openly, in the struggle for equal recognition for the Slovak nation? As Demmel suggests, Justh had had a chance to experience, during the Revolution, the power of the Slovak national movement. He had born witness as the leaders of the movement had managed to mobilize all of Turóc County in support of their aims. The statements they made in the 1850s and 1860s convinced him that the Hungarians regarded the non-Hungarian peoples of the country as equal partners (in this he

was mistaken). However, the attacks that were leveled against the Memorandum made plain to him the fact that the Hungarian leaders continued to espouse and labor in support of a notion of a single, unified Hungarian nation and Hungarian state. He immediately did an about-face (he withdrew from the delegation) and from then on distanced himself from the political aspirations of the Slovak community. He remained an influential representative of liberal Hungarian politics. He continued to serve as the delegate of Turóc County. In 1869, he was elected to serve as president of the governing liberal party under Ferenc Deák, and he was celebrated by his contemporaries as a staunch opponent of “Pan-Slavism,” i.e. the Slovak national movement. In the course of the election campaigns, he did indeed come into conflict with candidates who represented the aims of the Slovak national movement. He used corrupt tactics to ensure victory in these skirmishes (which was perfectly common at the time), but in the background, “as a kind of silent Slovak” (to use Demmel’s characterization), he supported Slovak institutions (the savings bank, printing press, comprehensive school, casino, and *Matica slovenská*, the society for public education).

Justh’s political and personal life fell to pieces in the mid-1870s. As Demmel shows, he was unable to represent effectively in Turóc County the aims of Hungarian nationalist circles, at least not to the satisfaction of these circles, who saw him as someone all too willing to reach compromises with local Slovak groups. He had lost many of his supporters and his financial resources had dwindled, and he and his remaining group were regarded as an obstacle to the termination of the Slovak comprehensive schools and *Matica slovenská*.

Demmel rejects the notion of archetypes and resolutely remains within the theoretical framework of micro-historical analysis, focusing on individual cases as individual cases, rather than as examples. Nonetheless, his selection of a prominent figure of history seems to have been a perfect choice as an illustration of his thesis. Justh’s career and life show the major turning points in the politics and ethnic relations of the nineteenth century and, more narrowly, the process of Magyarization, which was by no means an unbroken, uncontested development.

Barna Ábrahám

In Search of the Budapest Secession: The Artist Proletariat and Modernism's Rise in the Hungarian Art Market, 1800–1914. By Jeffrey Taylor. Saint Helena, CA: Helena History Press, 2014. 260 pp.

Jeffrey Taylor's book covers the emergence of the modern art market in Hungary, locating the evolution of Hungarian artists' groups, organizations, and exhibition venues from the early nineteenth century to World War I within the international developments of the era. Taylor interprets the *fin-de-siècle*, one of the richest periods of Hungarian art, from a hitherto underexplored angle, placing the intricate mechanisms of the art market in the focus of his investigations. Protagonists like the Nagybánya group or The Eight and major modern artists like József Rippl-Rónai or Lajos Tihanyi thus appear in an unusual light, portrayed not only as pioneering artists but also as conscious actors in the art trade and inventors of groundbreaking (self-)marketing strategies.

The author is currently assistant professor of arts management and entrepreneurship at Purchase College, State University of New York, and for a long time has been an active participant in the art business himself. Thanks to his practical expertise, Taylor knows the art market from the inside and from the outside: he is intimately familiar with the mechanisms of the art trade in a way in which very few academic art historians are. The great strengths of Taylor's book stem from the author's multi-faceted knowledge: his hands-on experience on the one hand, and his academic erudition on the other.

The book's introductory chapter outlines the emergence of European art markets and points to the dispersion of models, originating in France and the Netherlands but adopted also by the European peripheries in the course of the nineteenth century. During the process of what Taylor calls market pluralization, the intermediaries of art (exhibition venues and organizations) would multiply, beginning with breakaway movements which challenged the monopoly of dominant national organizations and continuing with an ever-increasing number of private galleries and splinter organizations, which created rival forums for the art trade. After outlining the pan-European models, Taylor briefly marks out the position of Hungarian art organizations within the international trends, indicating (at this point, only in an introductory manner) the similarities and differences between the core countries of Europe and a peripheral state like Hungary.

The question raised by Taylor in the introduction as one of his chief problems involves the dating and identification of the Secession in Budapest:

his question concerns which particular group or movement can be characterized as equivalent to the well-known Secessions of Central Europe, i.e. the Vienna Secession, the Munich Secession, or the Berlin Secession. But “Secession” as a term is not used by Taylor exclusively to designate movements and organizations which have gone down in art history by that name. He interprets Secession as a movement which shatters the market monopoly of a formerly hegemonic organization and therefore has key importance in the development of modern art markets. By tracing the evolution of nineteenth-century and early twentieth-century art organizations in Hungary, he sets out to devote his book to the quest for the Hungarian Secession.

Chapters 1 and 2 deal with the evolution of the art market in nineteenth-century Hungary. Chapter 2 presents the emergence of a major national art organization, the National Hungarian Society of Arts (*Országos Magyar Képzőművészeti Társulat*), and analyzes the role its exhibitions, modeled on the Paris Salons of the period, played in a period in which the art market in Hungary was just in the making.

Chapter 3 discusses the history of the National Salon, a second large art organization in Hungary founded in 1894, which was the first significant formation to challenge the former monopoly of the National Hungarian Society of Arts. At the beginning of the chapter, Taylor formulates an excellent reading of what *Nemzeti Szalon* was all about, interpreting the new institution from the point of view of market logic and competition within the profession, rather than explaining its emergence by aesthetic differences. In his introduction of the pre-World-War-I history of the National Salon, Taylor offers excellent close readings of the conflicts, struggles and rivalries within the Hungarian art world. In this chapter, Taylor also examines the problem of the artist proletariat, going deep into the roots of the issue. According to Taylor’s thesis, the emergence of the free art market and the late-nineteenth-century proliferation of exhibition opportunities gave rise to an artist proletariat, steadily increasing in numbers as the nineteenth century drew to a close; out of that mass, only a narrow elite (which Taylor terms “the labor aristocracy of established artists”) was able to make a living off the arts as a profession.

In Chapter 4, Taylor traces the evolution of private galleries in Hungary, following the process of specialization from the mixed profiles of early dealers to the specialized art galleries of the early twentieth century. Taylor introduces the five par excellence modern art galleries that operated in Budapest in the early 1900s, and he introduces the reader to their business models. By presenting a

number of their exhibitions, Taylor shows the importance of the roles played by new galleries in shaping the new canon; analyzing their activities, Taylor also identifies various new types of exhibitions, such as “solo-type shows” or traveling exhibitions accompanied locally by social events, emphasizing, very aptly, the marketing strategies at work behind the staging of the shows.

Taylor’s main question in the book is what one should identify in Hungary as the equivalent of European Secessions; which institution or splinter group bears the closest resemblance to the well-known European models of the era.

Taylor’s preoccupation with capturing the Hungarian Secession, however, may have diverted his attention away from other equally important achievements of his own work. Is the main issue *really* which group or institution we should call secession? The story Taylor tells is actually more exciting: he interprets the relatively well-known history of turn-of-the-century Hungarian art from an unconventional and highly original point of view. Taylor’s close examination of various interest groups and their behind-the-scene struggles provides the reader with hitherto undiscovered perspectives, offering a richer understanding of the special logic of art as an economic field.

Power struggles within the art world are interpreted in Taylor’s book not as competing aesthetics and credos of “schools,” but as acts of competition for better sales opportunities. Taylor’s highly ingenious interpretations throw the milestone exhibitions of the period, steadily fixed in the hagiographies of Hungarian artists and described hundreds of times by the creators of the modern canon, into an entirely new light. The reader will understand that the rise of certain groups, such as the Nagybánya painters, depended at least as much on their successful strategies of protest and marketing as on their artistic novelty, especially compared to unsuccessful group formations in the same period.

Having acknowledged the unquestionable merits of the book, I would make a few critical observations as well. One of the major shortcomings of the book is already apparent in the introductory chapter, and it runs through the entire volume. One assumes, and the reviewers quoted on the back cover of the book also assume, that Taylor’s potential audience will consist of readers from all around the world, ranging from non-Hungarian art historians to art collectors, people who are not experts in fin-de-siècle Hungarian art but wish to acquaint themselves better with it. The critical observer, however, cannot avoid the impression that Taylor in fact did not really clarify to himself who his book’s target audience would be. The issue here is not one of content but one

of communication. Taylor seems implicitly to suppose that his readers will be familiar with the artistic movements and institutions he discusses in the book; even the introduction is written in this spirit. Taylor makes insider references to movements, groups, and institutions without sufficiently introducing them to his readers. Hungarian names of groups and venues, as a rule, are only translated into English at their first occurrence, but then are used in their original Hungarian forms throughout the book. Hungarian is an esoteric language to most foreign readers, and one cannot presuppose any degree of familiarity with the meanings of Hungarian words (unlike in the case of French, Italian, Spanish, or German texts). To most native English readers, *Nemzeti Szalon* (National Salon) and (a more striking example) *Magyar Képzőművészeti Társulat* (Hungarian Society of Fine Arts) will appear undecipherable at best and intimidating at worst. The frequent use of such Hungarian names, although of course understandable from the point of view of accuracy, makes reading comprehension difficult for non-Hungarian readers and unnecessarily burdens Taylor's otherwise excellent and very readable style. It may have been more prudent to use the English versions of the names of the various art groups and venues throughout the book, with the Hungarian originals given at the first occurrence.

The second problem is that Taylor does not sufficiently introduce the milieu about which he intends to write. Again, the implicit assumption seems to be that the reader will know all the basics about the Hungarian art world of the fin de siècle and he or she will not need any orientation. That assumption is most probably wrong, unless the author's intention was to address his book to the professional circle of Hungarian art historians; otherwise, a thorough introduction to the circumstances of the art world in Hungary, including its structures, groups, and institutions, would have been not only beneficial but a must at the beginning of the book.

Maybe as a consequence of the book's general strategy, the broader context (e. g. society and politics) is not discussed at all. One would of course not expect the author to paint a broad canvas of turn-of-the-century Hungary, but Taylor should have included at least some examination of the interactions between art, society, and the political sphere. An understanding of societal forces is strikingly absent from Taylor's main arguments. "The expanding stream of young men and women throwing themselves into the profession of artist" (p.xi), and, hence, producing the artist proletariat, according to Taylor's thesis, is a phenomenon that requires much more complex explanation that is not limited to market mechanisms and exhibition facilities: much of the explanation should deal with

conditions that lie *outside* the world of art, e. g. with the growing social prestige of art as a profession at the end of the nineteenth century.

Other factors may be directly related to art but external to Hungary. Near Munich, one of the undisputed art centers of the region until the end of the nineteenth century and a city with its own academy of fine arts, was an art market far superior to Budapest because of the presence of foreign customers; Munich offered very attractive sales opportunities and probably motivated several talented young Hungarians to embark on a career as an artist in the last decades of the nineteenth century.

As far as the embeddedness of the art market is concerned, contextualization is not among the virtues of *In Search of the Budapest Secession*. New Cultural History and New Art History do not seem to have influenced Taylor's approach very much, although his highly ingenious, market-oriented focus clearly sets him apart from conventional art histories as well. In general, he scarcely deals with the other side of the art market, namely customers and the public at large, unless in the abstract as part of the demand side of the art trade. Neither are the contemporary habits of exhibition attendance (as an element of emerging bourgeois lifestyles) discussed in depth, nor is the social prestige of membership in partially lay art societies analyzed.

Apart from these shortcomings, however, the book offers a refreshingly new reading of the Hungarian fin-de-siècle. I can heartily identify with Taylor's pragmatic approach, and I fully appreciate Taylor's insights as well as his erudition. The body of primary sources on which he draws is truly impressive, as is his synthesis of the secondary literature. *In Search for the Budapest Secession* will be indispensable reading for anyone interested in the birth of modern art in Hungary and a good introduction to the evolution of market models in nineteenth-century and early twentieth-century Western art.

Erika Szívós

Anti-modernism: Radical Revisions of Collective Identity. Edited by Diana Mishkova, Marius Turda, and Balázs Trencsényi. (Discourses of collective identity in Central and Southeast Europe (1770–1945): Texts and Commentaries, 4.) Budapest–New York: Central European University Press, 2014. 452 pp.

Although nationalism and collective identities remain highly debated topics throughout Central and Eastern Europe, collective endeavors focused on generating complex working tools for research on these two subjects are surprisingly rare. Thus, the current volume, edited by historians Diana Mishkova, Marius Turda and Balázs Trencsényi and consisting of contributions from more than a dozen scholars, is a significant addition, which provides a wide range of primary sources never before presented on this scale to an English-reading audience.

This is the fourth and final installment of a praiseworthy scholarly undertaking that lasted more than a decade and published its first volume in 2006, which focused on the late Enlightenment and the emergence of the modern “national idea.” It is a treasure trove of primary sources, which are meant to enhance readers’ understandings of the period between 1880 and 1945, an age of regenerative projects and rebellious explorations of alternative paths to modernity, which has been appropriately labeled an “age of anxiety.”

The volume is divided into five thematically designed chapters dealing with salient issues, such as integral nationalism, the crisis of the European conscience, the search for a national ontology, conservative redefinitions of tradition and modernity, and the anti-modernist revolution. Each chapter contains relevant primary sources pertaining to the aforementioned topics, with excerpts from the works of influential intellectuals, politicians and other public figures. The chapters also include useful biographical and contextual information. This format does a great deal to foster and facilitate a nuanced understanding of the issues at stake.

The texts were carefully selected and include some of the main public voices from the anti-modernist camp that were relevant in Central and Southeast Europe in the first half of the twentieth century. Even if the national(ist) landscape of this region was fragmented by claims of *authenticity* and *uniqueness*, by reading these texts side by side one can discern certain common traits concerning the preference for a collectivist-organicist national model, as well

as a critical attitude towards fin-de-siècle liberalism, which was regarded by many as the source of all evils.

The introductory chapter by Sorin Antohi and Balázs Trencsényi convincingly explains the structure of the volume and the relevance of the chosen themes, while also highlighting the theoretical approach to the hitherto less-explored issue of anti-Modernism. Defining anti-modernism as “(a) the negative double of modernism and (b) the critique of modernism within modernism, not outside of or separated from it,” the authors emphasize that it differs from its double because it displays a string of characteristics such as negativism, authoritarianism, the cult of violence, cultural pessimism and biopolitical exclusion (p.3). The way in which anti-modernism is defined is useful because it helps the reader grasp it from the inside out, thus ensuring a higher explanatory power with respect to the success it garnered in various social quarters in the first half of the twentieth century.

For most of the protagonists of this collection of texts, the Great War was the end of all illusions. New alternatives were to be explored in order to arrive at solutions to the perceived existential crisis of modernity and its politics. The first chapter acquaints the reader with some of the early anti-modernist and nationalist discourses that emerged in various conservative circles across the region. Some of the relevant figures presented in this chapter include Georg von Schönerer and his Pan-Germanism and Josef Tiso, the leader of the Slovak People’s Party and a voice for the Slovak autonomist movement, which was authoritarian in its political goals. Among these early anti-Modernist discourses one also encounters the writings of Dezső Szabó. Szabó, a Hungarian nationalist writer, emphasized ethnocentric politics and the abandonment of Hungarian ambitions in the region in favor of a mission to organize the nations of Eastern Europe and the Balkans into a union and to proclaim “to these young nations the message of the new democracy and a new culture revived through their peasants” (p.114). In his case, the influence of Charles Maurras was significant, given that the ideas of the French ideologue were also present in other countries from the region, such as Romania.

The post-World War I pursuit for alternatives to the perceived crisis of European conscience is illustrated in the second chapter by texts such as *Spiritual Itinerary*, written by Romanian intellectual Mircea Eliade. This was Eliade’s intellectual program for the young interwar Romanian generation, which he regarded as “the most blessed generation, the most promising of all that have existed in this country.” Eliade argues in support of the primacy of the spirit

(p.131). He saw the present as an unprecedented window of opportunity for his generation, with no immediate national goals to fulfill, free to experiment and determined to create products of universal value in the cultural realm. However, one cannot help noticing that Eliade's itinerary, which seemed apolitical at the time, gathered around it a generation that in the 1930s would be partially seduced by the growing appeal of the extreme right. Hungarian writer Mihály Babits reaffirmed the universalist tenets of nationalism and pleaded against the racialized, totalitarian way of thinking that gained traction in the 1930s: "My calling is to safeguard my people's purest moral traditions and not to allow the spirit of justice to become obsolete. To keep awake the smarting anxiety of the conscience amidst notions of humanity, the honor of the spirit and freedom. These are the real sacraments of the nation" (p.155).

There were also public figures in the region who offered diverse solutions in order to bypass the state of crisis by promoting the reshaping of the "national being" of their respective nations. Ion Dragoumis showcased the vision of a new civilization for Greece, the Hellenic Civilization, a synthesis of what the East and the West have to offer and also a construction different from the past Macedonian and Byzantine models. Nikolaj Velimirović promised the Serbs a more privileged place in Heaven, a Great Celestial Serbia that would come about as a result of the people's sufferings and faith (p.225).

The fourth chapter provides several examples of how conservative discourses were adapted throughout the region in the troubled interwar context. Gyula Szekfű espoused an anti-liberal conservative critique. He lamented the failure of the process that was meant to assure that "the Hungarians would be able to preserve and extend their supremacy through the peaceful means of their higher spiritual and material culture" (p.254). Karel Kramář developed a neo-Slavic discourse from a conservative perspective, with a declared non-aggressive stance and justified as a means to protect the Czech nation against the perceived threats of Germanism and Magyarism (p.286).

A revolution with an anti-Modernist ideological core fascinated politicians and thinkers throughout the region, and examples of this kind of thinking can be found in the final chapter of the volume. One of the most relevant examples is that of Ioannis Metaxas who, under fascist influence, promoted ideas such as national regeneration, organic nationalism, the nation as a homogenous organism, and the rejection of foreign influence, all while emphasizing the importance of the Hellenic tradition. The text selected for the current volume eloquently illustrates the characteristics of the regime he imposed in August

1936: “A people now unified, not divided into parties and factions, a people constituting a whole, a solid body and a single will, having at its head the King, as the carrier of the national will [...] a Leader who belongs to the whole of the Nation and who deals with its needs as a unified whole, a Leader who is supported by the undivided and absolute trust of the people” (p.353). This new regime was labeled “the Third Hellenic civilization” in an attempt to match Metaxas’ ambitions.

Anti-modernism: Radical Revisions of Collective Identity, as well as the entire four-volume enterprise, is an invaluable tool for those who want to do comparative work on the region but do not know where to start. The relevant and diverse selection of primary sources leaves the reader craving for longer excerpts (which in all likelihood were kept short simply because of space constraints). The book certainly paves the way for future, similar projects by setting such a high standard. The potential audience for this volume goes beyond the academic realm. It would be ideal for undergraduate and graduate classes on comparative modern European history. It can be read to great avail by anyone interested in the evolution of Central and Eastern Europe between the 1880s and 1945 and the shaping of collective identities in this region, which involved processes that continue to have historical consequences to the present day.

Valentin Săndulescu

Holy Legionary Youth: Fascist Activism in Interwar Romania. By Roland Clark. Ithaca: Cornell University Press, 2015. 288 pp.

Holy Legionary Youth by Roland Clark is an outstanding piece of scholarship on the Romanian fascist movement known as the Iron Guard. Following in the footsteps of reputed researchers such as Armin Heinen, Bela Vago, and Radu Ioanid, Clark joins the younger generation's chorus of new voices in the study of Romanian Fascism led by Constantin Iordachi, Oliver Jens Schmitt, and Valentin Săndulescu. Distancing himself from the "palingenetic" twist introduced by Roger Griffin or George L. Mosse's cultural turn, Clark's book boldly concentrates on the social underpinnings of the Romanian fascist movement and the collective dynamics of different professional groups (painters, priests, writers, intellectuals) listed in the Iron Guard's rank-and-file. Working from the perspective of the history of the everyday life (*Alltagsgeschichte*), Clark seeks to show "fascism as an everyday practice" and to consider "how legionaries performed fascism and how being fascist marked legionaries socially" (p.6). In his depiction of the "illiberal subjectivities," Clark also investigates "the emotional energy they [the legionaries] invested in political activism and the extent to which they allowed legionary discipline to shape daily routines" (p.6) in order to clarify the social extent of legionary activism and the sheer obsession of legionaries with almost ascetical discipline. Bridging gaps in conflicting historiographical approaches and relying on a sophisticated theoretical underpinning ranging from the historiography of Fascism to systematic and liturgical Orthodox theology, Clark's book offers the reader a subtle yet comprehensive narrative account of what it meant to be a member of the Iron Guard in interwar Romania.

One of the strong points of the book is the overwhelming and indeed unmatched amount of archival research undertaken by the author in Romanian archives, both central (Arhivele Nationale Istorice Centrale, Arhiva Consiliului National pentru Studierea Arhivelor Securitatii) and regional, as well as in the generous archival funds held by the United States Holocaust Memorial Museum and the National Archives in Washington D.C. Together with these valuable archival documents, the large collection of interwar publications (newspapers, books, propaganda leaflets, etc.), oral history accounts, and a large array of memoirs penned by former legionaries masterfully convey a complex and broad picture of the Iron Guard's everyday life from bottom to top and the fascist, anti-Semitic developments from the early 1920s up to the early 1950s in Romania.

The book's structure is well balanced and the chapters provide both a clear-cut analytical framework and empirical analysis of the archival sources, the contemporary press, and the secondary literature. Among the most original chapters are "Youthful Justice" (pp.28–62), "Elections, Violence and Discipline" (pp.95–121), and "Salvation and Sacrifice" (pp.184–215). The first two discuss the early stages of the ultranationalist young generation's anti-Semitic build up from early 1920s up to the early 1930s and the social construction of its appeal to the masses. The third focuses on "clerical activism" (pp.190–193) and describes the biographies of a few legionary clergymen and their ties to the movement. Addressing the question of why Orthodox clergymen and theologians got embroiled in the violent, xenophobic turn beginning in the early 1920s, the author emphatically states that, "because of the political leanings of their professors, theology students were at the forefront of anti-Semitic agitations" (p.190). Nevertheless, one question arises concerning the 1930s fascist activism of the Orthodox clergy: apart from the infectious influence of charismatic university and seminary professors, such as Grigore Cristescu (1895–1961), Nichifor Crainic (1889–1972), and Dumitru Iliescu-Palanca (1903–1963), what other explanations are there for the fact that the Orthodox priests and theologians mentioned by Clark publically supported the Iron Guard? Was it for the socio-cultural reasons that appealed to all the Orthodox clergymen, or were there local and individual dynamics? Also, following the argument presented in the theoretical framework envisaged by the author in the introduction, one is prompted to ask what sort of social practices these clergymen engaged in when performing as fascists, in addition to familiar case-studies of public funerals of legionary martyrs, religious commemorations of the dead (*parastase*), and the blessing of crosses erected by the legionaries. Did they behave as regular fascists or did they act differently from other legionary professional groups because of their constant self-awareness of their clerical vocation?

When writing about the logic of self-sacrifice in the context of the funeral of Ion Moța and Vasile Marin (Iron Guard leaders killed in the Spanish Civil War in 1937), the author makes a compelling argument concerning the complex relationship between legionary martyrdom and Orthodox rituals: "Legionaries not only stated that church and nation were identical communities that were represented most perfectly by their movement; they enacted these relationships by using Orthodox funerary rituals to commemorate legionaries as national heroes. Legionary nationalism did not replace religious communities with national communities. Through ritual commemorations it reinforced the Orthodox Church as national, and the nation as Orthodox" (p.210). Although these ideas, which involved a symbolic overlap

of the nation and the Church, were actually present in the Transylvanian context in the nineteenth century, Clark makes a valuable and original remark related to the symbiotic relationship between legionary and religious nationalism in interwar Romania. As noted by the author, in their search for public legitimization and as a means of augmenting their mass-appeal, the legionaries engaged in rituals that were shared with the Orthodox clergy, even when these public ceremonies were funerals and commemorations for the dead. This bolstered the social relevance of the Orthodox Church for both the members of the Legionary movement and the wider public. The legionaries behaved in this way towards the Orthodox clergymen in order to recall and to reemphasize the importance of so-called organic (what might in other contexts be referred to as native) tradition, the popular religiosity of the Romanian people, and the constant referral to religious rituals and Orthodox symbols in the social memory of the Romanian nation, an initiative favoring the Iron Guard's utopian dreams of totalitarian political power.

Clark's assumption that the nineteenth-century Orthodox Church from the Principalities of Wallachia and Moldavia supported the spread of nationalist movements (p.12) finds little support in the secondary literature on the subject. A more vigorous effort on Clark's part in his discussion of the alleged precursors of the fascist movement in Romania would perhaps have been necessary in order to present some of his claims more persuasively. Some of his contentions remain unsupported and hypothetical. For the scholar of European Fascism, the absence of a historiographical essay in the introduction is a regrettable shortcoming. Although the author offers insights on the secondary literature on Fascism by shifting his attention towards the works of Roger Griffin, George L. Mosse, Michael Mann, and others, he fails to provide the reader with an analytical assessment of the secondary literature, both foreign and Romanian, on the Iron Guard. He does not make clear how his inquiry builds upon previous research and monographs or how, in its search for originality, the present work relates critically to previous undertakings in the field.

A relevant contribution to the field of fascist studies, *Holy Legionary Youth* opens new research avenues for students of European Fascism and Eastern European history. Highly interdisciplinary, analytically comprehensive, and informed by a prodigious array of both primary sources and secondary literature, Clark's book is a much-awaited reading for researchers, university professors, and students alike. It will serve as a useful teaching tool for undergraduate and graduate classes on the interwar history of Eastern Europe, the genesis of interwar anti-Semitism, and everyday life under totalitarian regimes.

Ionuț Biliuța

Siebenbürger ohne Siebenbürger? Zentralstaatliche Integration und politischer Regionalismus nach dem Ersten Weltkrieg. By Florian Kühner-Wielach. Munich: De Gruyter, 2014. 419 pp.

Writing in 1991 at the end of his career, the Romanian historian David Prodan waded into the resurgent ‘militant history writing’ on Transylvania. In *Transylvania and again Transylvania*, Prodan dismissed Hungarian national histories of Transylvania as ‘unscientific’ emotional stories. His own study, firmly encamped on the Romanian side, by contrast, purported to tell a dispassionate history of the region. By the late 1980s and early 1990s, Transylvania was a hot topic again. A growing nationalist mood among Hungarians and Romanians culminated in violent clashes in Târgu Mureş in March, which left six dead, hundreds injured, and blinded the poet András Sütő in one eye. Academic disputes, generally ‘so bitter because the stakes are so small’ (as Kissinger famously put it), this time actually mattered.

Florian Kühner-Wielach intervenes in a long-standing debate about Transylvania and Transylvanian identity which has long been dogged by competing nationalist master narratives. In his book *Siebenbürgen ohne Siebenbürger? Zentralstaatliche Integration und politischer Regionalismus nach dem Ersten Weltkrieg*, Kühner-Wielach examines, often in meticulous detail, the complex web of interwar integration, regionalism, and competing identity politics. His book focuses on Transylvanian Romanians and in so doing tells a different story to those told through the Hungarian or German lens: instead of a narrative of decline, Kühner-Wielach’s book tracks a group in the ascendancy.

Kühner-Wielach opens with an impressive historiographical and methodological section (pp.16–45), situating his work within a cutting edge paradigm of identity studies, *Transfersgeschichte*, regionalism and spatial history. His review of a range of scholarship places his work in a broader framework in an attempt to ‘deprovincialise’ Transylvanian history, though there are some gaps in the bibliography and in practice the focus of the book remains largely regional. He then introduces his readership to a complex history of Romanians in Transylvania, their relationship to the Habsburg Empire/Hungary, their connections to Romanians from Wallachia and Moldova as well as differences to other Romanian minorities, such as in the Banat or Bessarabia. The book explains the historical context, beginning in the late seventeenth century, and

builds up to the dissolution of the Habsburg Empire and subsequent inclusion of Transylvania into the Greater Romanian state of the interwar period.

Kührer-Wielach treats us to an institutional and political history of the integration of Transylvania into Greater Romania. It is striking that the main clashes of opinion documented in this study are not between Romanians and Hungarians, but between Romanians themselves. As Kührer-Wielach points out, the integration of Transylvania in the interwar period was perceived by many Transylvanian Romanians as setting back Transylvania to a ‘Wallachian’ level (p.15). Indeed, despite the initial euphoria, Romanians collided on a number of issues. The school system was a particularly divisive issue (pp.139–56). Much of what was enacted from Bucharest in Transylvania had been designed to reverse the Magyarization processes of the previous regime. In that sense, the book details the conventional story of Hungarian-Romanian battles for Transylvanian education. Yet the efforts to centralize and harmonize Greater Romanian schooling also became evident in other ways. Politicians in the Regat were concerned that years of Hungarian control had ‘de-nationalized’ Romanian children (p.140). Combatting such developments demanded lateral solutions. Some politicians even suggested school exchanges between secondary schools in the Old Kingdom and Transylvania, particularly in hotspots such as the Szekler land (p.141). Disagreements also occurred between advocates for the nationalization of schools and the defenders of religious schools. Clerics and religious teachers resisted centralization due to their profound difference on the role of the church in education (p.146). One commentator believed that church schools had been crucial for the ‘racial struggle’ in the Habsburg period, but had lost their *raison d’être* in unified Romania (p.146). Some educational problems were, however, more mundane: Transylvania faced a shortage of qualified teachers, which central government sought to redress as a matter of urgency (pp.154–56).

Religion played a crucial role in the battle for Transylvania in the interwar period. Romanians who were not Orthodox bore the brunt of central government’s attempts to create a unitary nation-state. Talked up as being the ‘most important institution of Romanians in Transylvania’ (p.160), the Orthodox church assumed a role that was at odds with other established religious institutions in the region: the Greek Catholics, the Catholics, and of course the reformed churches. The Greek Catholic confession was a particular thorn in the side of the more assertive centralizers due to this religion’s secondary allegiance towards Rome (pp.163–70). The interwar period witnessed a full-blown ‘confessional war’ in

which politics and religion mingled to create a toxic mix. Likewise, Transylvania also faced a messy ‘war of monuments’ after unification with Romania (pp.180–87). As Maria Bucur’s 2009 study of memory in interwar Romania highlighted in great detail, this was not always a straightforward affair. Instead, local grievances often dictated memory battles, and Kührer-Wielach backs this up in his brief section on monuments and memory.

All these battles conducted in different arenas pointed to one central issue, which Kührer-Wielach addresses in the book’s second substantial section: the identity of Transylvania in a post-imperial setting. Romanian politicians in Transylvania still retained a transnational character formed during their studies and stays in Vienna, Budapest, and elsewhere in the Habsburg Empire (pp.265–67). Even after unification, Romanian Transylvanian thinkers and politicians insisted on their Transylvanian difference. They were more ‘western’, they insisted, and tended to ‘orientalize’ their Wallachian and Moldovan counterparts (p.275). The Old Kingdom was viewed as ‘oriental’ and ‘Venetian’ (p.278). This stance, Kührer-Wielach demonstrates, contributed towards a strengthening of a regional Transylvanian identity, which in turn provoked Romanians from the Regat to paint a disrespectful picture of Transylvanians: they were ‘less smart’, ‘lazy’, and ‘ill-tempted’ (p.276). This was far removed from a picture of Greater Romanian unity. To counter this factionalism, a new wave of Romanian scholarship sought to place Transylvania at the heart of the Romanian master narrative. Transylvania formed the final nexus of symmetry for Romania (p.286). Historical and ethnographic arguments were deployed more aggressively to prove continuity to the Daco-Roman period (p.287). Burebista’s Dacian Empire in the first century BC corresponded, helpfully, with the borders of the Greater Romania. Yet as Kührer-Wielach asserts in the rest of the book, these efforts to integrate Transylvania continued to sit at odds with the strong remnants of regional forces. Transylvania retained its position as a contested borderland, torn between federalism, regionalism, and nationalism.

It is interesting to place this book in a broader historiography on Transylvania which is still largely divided. On the one hand, since the large scale emigration of Romanian Germans from Romania (mainly from Transylvania and the Banat), German scholarship on Transylvania especially among these émigrés, has burgeoned. A once insular and self-referential group of Romanian German émigrés writing in a Cold War anti-communist milieu has since turned into an active and inclusive environment with numerous groups, conferences, and publications. From *Studium Transylvanicum* – an academic network aimed at

younger audience of scholars and members of the general public – to institutes such as the Institute of German Culture and History of Southeast Europe in Munich (where Kühner-Wielach is based), there has been an impressive amount of activity around the issue of Transylvania. At the same time, there has been a distinct Hungarian and Romanian vein of scholarly interest in Transylvania. Romanian publications on Romania and Transylvania in particular have been in dialogue with the aforementioned German interest in all things Transylvanian. This is, in part, due to a movement within Romanian scholarship away from the polemics of the late Cold War. Scholars such as Lucian Boia, Sorin Mitu and others have introduced a far more critical edge to Romanian scholarship by unpacking the very discourses that confine national historiography as a tool of politics. In so doing, there has been a vibrant interchange between Romanian and German language writing on Transylvania in the last two decades.

Yet there is a further field of a lively and growing scholarship on Transylvania in the ‘Anglo-American’ sphere. Transylvania has featured in a recent spate of publications on post-Habsburg regional contests and developments. Holly Case’s *Between States: The Transylvanian Question and the European Idea during World War II* (Stanford, 2009) is a major highlight of the new Anglo-American historiography on Transylvania. The work of Maria Bucur, Roland Clark, Tahra Zara and others has all dealt in some form with questions of identity and politics in the Habsburg Lands in the first half of the twentieth century, and Transylvania and Romania have either featured as a central component (Bucur, Clark) or as a comparative element within that body of scholarship. Yet these two scholarly worlds – the ‘German’ and the ‘Anglo-American’ – have rarely been brought into fruitful dialogue. Despite excellent and thoughtful publications on both sides, the lack of interaction is striking, and despite its many merits and obvious value the book under review has also missed the opportunity to bridge the gap.

James Koranyi

Mapping Jewish Loyalties in Interwar Slovakia. By Rebekah Klein-Pejšová. Bloomington: Indiana University Press, 2015. 194 pp.

Rebekah Klein-Pejšová offers readers perhaps the first attempt at a comprehensive view of the development of Jewish identities in connection with declarations of political allegiance to the interwar Czechoslovak Republic in 1918–1938. Although the title of the book suggests that the author focuses primarily on the region of Slovakia, in fact the book deals with a broad spectrum of socio-political, historical, and demographic factors which influenced the Jewish communities not only in the interwar period, but also during the last decades before the collapse of the Austro-Hungarian Monarchy.

The book consists of five chapters. In the introduction, the author provides the necessary historical, demographic, and other kinds of statistics related to the history of the region and the status of the Jewish population within the Austro-Hungarian Monarchy. This information provides an understanding of the initial state of the community and its future prospects in the newly formed state of Czechoslovakia. The author focuses on the concept of the Jewish nationality as a category created by the state in an effort to resolve national issues, issues which involved not only Jewish citizens but also large German-speaking and Hungarian-speaking minorities. This hypothesis is analyzed in detail and further supported in the following chapters.

The chapter “From Hungary to Czechoslovakia” contains more or less familiar historical facts. Particularly interesting are the different approaches of the Austrian and Hungarian parts of the monarchy to the Jewish war refugees from neighboring countries who were seeking protection first in these two lands and later within the borders of Czechoslovakia. This chapter in the history of East European Jewry influenced the formation of Jewish identities in the successor states. In each chapter the author examines the fate of the Jews in Slovakia by introducing partial stories of individuals.

The chapter entitled “Nationality is an Internal Conviction” examines the period in which the Jewish community was integrated into the Czechoslovak state and a search was underway for the “right path” regarding the territory of Slovakia and its majority population, which took place alongside similar efforts to shape Jewish and Czechoslovak identities. The author has mapped opinion movements and expert discussions led by prominent people, including sociologists, statisticians, and demographers, about the definition of nationality

for the census in 1919 and 1921. She demonstrates how important the question of nationality was (not only) in the Jewish population in Czechoslovakia from the perspective of the international negotiations at the Paris Conference. She explains the international position of Czechoslovakia, the insecurity among the citizenry of the new country which was due in large part to the dramatic political changes, and the instability of the political border with Hungary. Under many pressures, including pressures from Hungary, not only Jews had to decide on their ethnicity and nationality, questions that were of vital importance to their civil and political futures in the new state. Klein-Pejšová analyzes the elections in 1920 and the formation of Jewish political parties and public spaces in which Jews could pursue national politics. She supports her findings with an in-depth analysis and interpretation of statistics, accompanied by clear tables.

The chapter “Contested Loyalty” solves a specific problem faced by the Neolog community in Slovakia, which was from a historical point of view close to the Hungarian Neolog movement and Hungarian culture. The author cites several examples to demonstrate the process of drawing attention and sentiment away from the Budapest Neolog center and the gradual reorientation to the geopolitical changes in Europe, which contributed to the creation of a new collective self-understanding among members of the Jewish community as “Slovak Jews.” Klein-Pejšová addresses several aspects of the issue, including the pressure exerted by the Czechoslovak state and politicians not to use the Hungarian language, various manifestations of loyalty (including the enforcement of loyalty), and the arguments of representatives of civil and political life from within the community to its members about their civil orientation in Czechoslovakia. Klein-Pejšová also includes into her analyses the pressures that were put by Hungarian irredentist policies on the Neologs in Slovakia, which, according to her, ultimately proved counterproductive.

In the chapter “Between the Nationalities” Klein-Pejšová focuses on the pressures that were put on Jews who had already found “the right path” to Czechoslovakia by Hungary and Germany in the 1930s. She draws attention to the important fact that the existence of a political construct of “Jewish nationality” at the same time limited the linguistic and cultural rights of the Hungarian and German minorities, which were tied to the proportion of a given minority (at least 20 percent) in an electoral district. This problem is also reflected in the 1930 census, in which Jewish nationality was again used as a category regardless of mother tongue. The chapter focuses on discussions throughout the political and national spectrum and also abroad, concluding with

an analysis of the Slovak autonomy policies against Jews. Klein-Pejšová analyzes the reasons why these policies were rejected by the majority society, beginning with the exclusive pro-Christian policy of the Slovak autonomist movement. At the same time, the book explains why Jews were important from the perspective of the territorial integrity of Czechoslovakia and also why Slovak autonomists failed to win widespread support within Jewish communities.

Klein-Pejšová refutes the frequently mentioned stereotype according to which Jews were Hungarians (or people who had been “Magyarized”), which is often found in the Slovak literature. She presents the ways in and means with which the Jewish communities of Slovakia negotiated their identities and their relationships to the Czechoslovak Republic in the interwar period, as well as the differing opinions and attitudes with respect to these identities and the consequences of “belonging” and not “belonging.” Klein-Pejšová argues persuasively in support of the conclusion that the Jewish communities living in Slovakia were loyal to the Czechoslovak Republic.

Klein-Pejšová has worked with an array of archival and statistical material and secondary sources, which she analyzes and interprets with precision. She has made substantial contributions to Judaic studies in Slovakia. In particular, I appreciate her efforts to put the topics in the broad international context of the interwar period, which is unfortunately a rare undertaking in Slovak historiography. At the same time, the work could have offered deeper insight into the situation of the Slovak Jewry. For instance, the sometimes tense relationships between the Orthodox, the Neolog and the “status quo ante” communities could have been discussed in more details. The reader gets the impression that the Neolog community was predominant in Slovakia, whereas in fact, the Orthodox were superior in number. The work also lacks the context of works by other scholars, e.g. Peter Salner, who has studied Jewish identity and community transformations in the nineteenth and twentieth centuries, Robert Büchler, one of the editors of the four-volume *Encyclopedia of Jewish Communities, Slovakia* (2009–2014), and Hugo Gold, one of the editors of a compilation of the archival materials on Bratislava’s Jewish community from the 1930s. Had she taken such precautions, Klein-Pejšová would have avoided including some inaccurate and incomplete data.

In conclusion, Rebekah Klein-Pejšová’s monograph is a significant contribution to our understanding of the history of the Jews in Slovakia during the interwar period, a history that has only barely begun to be told. It provides an essential starting point for more detailed analyses of Jewish identities, loyalties,

and life strategies on the regional and local level. I believe that in a short time a Slovak translation will be available, and it will perhaps contribute to the gradual elimination of deep-rooted stereotypes regarding this community.

Ivica Bumová

Priest, Politician, Collaborator: Jozef Tiso and the Making of Fascist Slovakia. By James Malice Ward. Ithaca: Cornell University Press 2013. 362 pp.

The life and work of Jozef Tiso, the leading politician of the Hlinkova slovenská ľudová strana (Hlinka's Slovak People's Party, HSĽS) during the First Czechoslovak Republic and the president of the Slovak Republic between 1939 and 1945, have not previously been made the subject of systematic inquiry. Apart from books with an "apologetic" intention (Milan S. Ďurica, *Jozef Tiso, 1887 – 1947: Životopisný profil* [2006]), until now only conference proceedings from 1992 (Valerián Bystrický, ed., *Pokus o politický a osobný profil Jozefa Tisu*) and the biographical essay of the Slovak historian Ivan Kamenec (*Tragédia politika, kňaza a človeka: Dr. Jozef Tiso, 1887 – 1947* [1998 and 2013]) were available. In light of this, James Malice Ward's dissertation from 2008 at Stanford University marked a real breakthrough in the research on the life and personality of Jozef Tiso, especially with respect to its broad focus and inclusion of new sources.

Ward's book on Tiso is shorter than his doctoral dissertation, but the structure, basic thesis, and conclusions remain unchanged. The volume is divided into eight chronological chapters, which deal with Tiso's activity during the Hungarian era before 1918, his entry into politics and his successful career in the First Czechoslovak Republic, his controversial rise to the position as head of the wartime Slovak state, and his fall, political trial, and execution for treason after World War II. The closing remarks are devoted to the emergence and continuance of Tiso's cult and attempts that have been made to offer critical interpretations of this cult.

James Ward reconstructs the formation of Tiso's *Weltanschauung* in the context of Political Catholicism or, more precisely, the Christian socialism with which he became familiar during his studies at the prestigious Pazmáneum College in Vienna. Ward examines the beginnings of Tiso's pastoral activity and the important moment of the Great War, which Tiso experienced as military chaplain on the Eastern Front in Galicia. As it did for so many others, for Tiso this experience foreshadowed the brutalization of politics in interwar Europe.

The chapters on Tiso's role during the "revolutionary" events of 1918 and 1919 are essential with regard to Ward's thesis. Ward investigates Tiso's metamorphosis from a rather apolitical loyal Hungarian citizen to a Slovak nationalist who made an important contribution in a local context to the

establishment of the new Czechoslovak state. Still, the downside of this development was political radicalization and the search for an “enemy”: it was the first time that Tiso used aggressive anti-Semitism to rally against “Jewish Magyarones” and “Judeobolshevists.”

In view of such a political inauguration, it is confusing to note that Tiso became the most important figure of the moderate HSLS faction in the 1920s. Ward explores Tiso’s strategy according to his Catholic philosophy as a desire for compromise between spiritual and secular power. This offers some explanation as to why Tiso remained a moderate as long as the political circumstances required moderation, whereas during “revolutionary” times the very same desire led him to adopt more radical positions. According to Ward, it was the same Catholic dilemma that prompted Tiso to refrain from exploiting anti-Semitism in the 1930s. Tiso’s reputation was tarnished immediately after the so-called Munich Agreement in 1938, when the European powers legalized Hitler’s annexations at the expense of Czechoslovak integrity. As a consequence, the autonomy of Slovakia was proclaimed, and Tiso became the chairman of the Slovak autonomous government, which was dominated by the HSLS. Tiso’s radicalization was again accompanied by anti-Semitism. He bore responsibility for the deportation of thousands of “unwelcomed Jews” to the new Slovak-Hungarian borderland in revenge for alleged Jewish support for the First Vienna Award, which made southern Slovak territories with largely Magyar-speaking inhabitants part of Hungary.

In March 1939 Czechoslovakia was finally destroyed and a new Slovak State was established. Tiso was elected Head of State later that year. His presidency, especially his responsibility for the so-called “solution of the Jewish question,” remains a matter of controversy. The HSLS regime deprived tens of thousands of Jewish citizens of their basic rights, expropriated them, and in 1942 deported a large majority of them to German-occupied Poland, where almost all of them were murdered.

After 1938, Tiso increasingly turned away from the principles of so-called natural law and moderate nationalism. As Head of State, he subordinated Slovak and Christian socialist interests to German and National Socialist interests. He would eventually silence his radical opponents within the HSLS by taking over their arguments. Especially concerning the “Jewish question,” he was sometimes the driving force behind their activities. This was true last but not least regarding the Hlinka Guard, the paramilitary group within the HSLS. Tiso and his office submitted proposals for “solutions to the Jewish question,” and Tiso sometimes made concessions to members of the Hlinka Guard.

No less controversial were Tiso's actions after the so-called Salzburg negotiations in the summer of 1940, which strengthened the radical faction within the HSEŠ, led by Prime Minister Vojtech Tuka and Interior Minister Alexander Mach. Tiso never distanced himself from the building of so-called Slovak National Socialism, and he used it for his own benefit or at least made efforts to reconcile it with his own ideology of Christian socialism. Contrary to the nostalgic clichés of the "prosperous Slovak State," neither a large-scale housing and electrification project nor land reform measures were implemented. In this case too, the social question was overshadowed by the "Jewish question." In particular, Tiso defended and even promoted "Aryanization," in accordance with his old argument about the necessity of building a "Slovak middle class," in effect succumbing to the temptation of rampant corruption.

Beginning in the autumn of 1941, Tiso became more and more radical. Despite criticism from the Vatican, he was unable or not even willing to distance himself from the racist principles of the so-called "Jewish Code," which summarized the Slovak anti-Jewish acts. On the contrary, after the return from the Eastern front in October 1941, he rediscovered the slogan of "Judeobolshevism." In January of 1942, Tiso called for the adoption of more "effective measures" against the already completely disenfranchised and deprived Slovak Jews, several weeks after the conclusion of the agreement with the Nazi Germany regarding the deportation of Slovak Jews. Tiso thus agreed with the deportations, even before he (ex post) confirmed them by signing the constitutional law of May 1942. It makes no difference that Tiso simultaneously sanctioned exemptions from the Jewish Code, which applied mostly to converts, Christians by birth, and economically "irreplaceable" and "assimilated" Jews. It was no coincidence that Tiso shortly afterwards declared himself Vodka (Leader), who was "always right."

Nevertheless, as of mid-1944 Tiso began losing control over his state, and after the outbreak of the Slovak National Uprising he completely subordinated himself to his Nazi protector. The end of Nazi rule in Europe thus also marked the end of Tiso's career and life. The new Czechoslovak rulers sentenced him to death and executed him, and in doing so contributed to the inauguration of his cult as a "national martyr." In the last chapter of his book, Ward describes how after 1989 Slovak emigrants tried to revive Tiso's cult in Slovakia.

In his biography, Ward charts new territories both in Slovak history and in the historiography of Slovakia. He pays particular attention to the intellectual influences which fueled Tiso's ideology. He does not content himself with vague

and controversial categories such as “authoritarian conservatism” or “clero-fascism.” However, terms such as “modernization” and “revolution,” which Ward uses to describe Tiso’s radicalization in 1918–1919 and 1938, respectively, are no less problematic. One would expect a more precise conceptualization of these key terms. References to a distinguished scholar of Fascism, Roger Griffin, suggest that Ward inclines towards Griffin’s interpretation of Fascism as a variant of “Modernism.” However, this should be more closely linked to the understanding of historical figures in the “age of Fascism” (cf. Roger Griffin, “Political Modernism and the Cultural Production of ‘Personalities of the Right’ in Inter-War Europe,” in *The Shadow of Hitler: Personalities of the Right in Central and Eastern Europe*, ed. by Rebecca Haynes [2011]).

Notwithstanding these objections, James Malice Ward has written a book for which both the Slovak public and historians have been waiting for decades. Hopefully it will soon be published in Slovak translation.

Miloslav Szabó

Jewish Resistance to “Romanianization”, 1940–44. By Stefan Cristian Ionescu. *Palgrave Studies in the History of Genocide*. New York: Palgrave Macmillan, 2015. 267 pp.

Although he is treading on well-worn paths in Holocaust and genocide studies, in his book Stefan Cristian Ionescu offers several new insights into a topic which might be regarded as having already been made the subject of exhaustive study. Not only does the work provide a coherent and comprehensive overview of the manner in which the Romanianization process unfolded during the years of World War II, which is in itself a new enterprise (so far, no other expert has attempted to provide such a thorough overview of the facts), it also offers the reader a clear picture of the historical (political, social, and economic) background from which these development emerged.

Divided into eight chapters and a conclusion, Ionescu’s book reveals the author’s thorough familiarity with both older and more recent specialized literature. His readings are impressive and cover a variety of perspectives and sources from several countries. For instance, the chapter focused on the fate of Bucharest’s Jews in 1940–44, which opens the volume (“Introduction: World War II Bucharest and its Jews”), gives the reader a balanced overview of the main historical events of the time and interpretations of these events by the most important scholars in the field (Jean Ancel, Dennis Deletant, Armin Heinen, Carol Iancu, Mihai Chioveanu, Radu Ioanid, etc.). It also provides an interesting comparison with previous nationalization policies of the Romanian state, which constitutes a new and welcome contribution to the subject. The introduction additionally bases its interrogation of the process of Romanianization on local theoretical grounds, showing that this process had deep and strong Romanian intellectual roots and was not an import or imitation of another model (which does not mean, however, that the Romanianization process was not well part of larger trends at the time, as Ionescu rightly mentions). Ionescu clearly underlines the goals and targets of this process, and he does not neglect mention of the Roma as one of the targets. Furthermore, the use of carefully selected and verified interviews, letters, diaries, memoirs, and court rulings as research sources alongside the usual statistics, archival documents, and materials from the press is an original and innovative approach in tackling the wartime condition of the Jews of Bucharest, especially since their situation was quite different from that of their coreligionists in the rest of the country, with its three component parts

(the former Principalities of Wallachia, Moldova, and Transylvania), as Ionescu indeed reveals by adopting a comparative perspective.

Ionescu's thorough effort to trace the roots and evolution of the Romanian anti-Jewish legislation and analyze this legislation in relation to similar laws passed in the neighboring and allied countries, in particular Germany (Chapter 2, "Romanianization Legislation: Concepts, (Mis)interpretations and Conflicts"), constitutes another contribution to the field, especially in regard to "the burden and ambiguity of ethnicity during the Antonescu regime: the problematic concepts of ethnic Romanian, Jew and German" and the "state institutions' complaints against the formalities of Romanianization legislation and the misinterpretations of these laws by courts and public agencies." Neither of these topics has been given much attention by other experts in the recent past. Similarly useful and welcome is Ionescu's original review of two particular cases of exemptions from Romanianization and their respective outcomes: that of the foreign Jews (with all the implications and subsequent, sometimes beneficial complications that the notion entailed) and that of the Jews who converted to (various types of) Christianity.

Ionescu analyzes another rather neglected aspect of the process in the third chapter, "The Romanianization Bureaucracy." This gives him an opportunity not only to describe the structure and roles of the bureaucracy, but also to document what is considered "common knowledge" but has not really been addressed in detail, i.e. the fact that the enterprise, the Romanianization of the bureaucracy, was doomed to fail from its inception due to the ways in which Romanians sabotaged it from the inside through nepotism, intentional and unintentional poor management, and bribery, to which the author adds as his own contribution a new and persuasive argument: the lack of consistent state policy.

In its turn, in addition to giving a thorough review of the various categories of people and organizations that benefited, directly or indirectly, from the process, whether in cash (bribery) or in kind (real estate), and as a result of more or less determined (at times even aggressive) competitive pursuit, the chapter on "The Beneficiaries of Romanianization" allows Ionescu to originally ponder a number of intellectuals' sometimes shocking lack of understanding of the psychological implications of their participation in theft, such as Camil Petrescu, who built his literary career on a (Jewish) Hillel scholarship (1914–19), or Alice Voinescu, who was otherwise very sympathetic to Jewish plight.

Another interesting contribution to the field is Ionescu's insight into "Romanianization versus Germanization" (chapter 5), which brings to the

forefront the subject—which has been largely overlooked—of local and foreign German competition for Romanian Jewish properties and the negative reactions it prompted both among the state officials and the general public. Ionescu thus analyzes the reactions of the Germans to the different treatments to which they were subjected by the Romanian authorities: the properties of the Germans who left Romania to join the Waffen SS were Romanianized, while Germans who remained in Romania were allowed to preserve their assets, to the dissatisfaction of the majority; however, no German, whether local or foreign, was permitted to obtain any benefit from the properties confiscated from the Jews, much to their dissatisfaction.

In regard to “Deportation and Robbery: The Roma Targets of Romanianization” (chapter 6), relying on published and unpublished documentation made available by Romanian and foreign experts, Ionescu draws some interesting conclusions of his own, not without merit. He sketches a series of new social and racial nuances in the interpretation of the reasons behind the deportation process, and he rightly underlines the differences between Jewish and Roma victimhood, both in the eyes of the authorities and in the eyes of the majority population.

By and large, “Jewish Legal Resistance to Romanianization” (chapter 7) is a valuable account of the struggle to fight the state with its own means. Drawing heavily on recently discovered archival documents and the existing secondary literature, Ionescu manages to come up with a clear picture of the chaos ruling the wartime Romanian legal system, which complicated the Romanianization process and allowed a number of Jews to outwit it, thus giving a new dimension to the analysis, which so far has dealt more with the Jewish initiatives and acts and less with their results.

Finally, based almost exclusively on recently discovered archival material and diaries, “Sabotaging the Process of Romanianization” (chapter 8) proposes an entirely new approach to the subject from a rare perspective. This chapter constitutes Ionescu’s main personal academic contribution to the historiography of World War II Romania. This is undoubtedly the book’s strongest point.

All in all, the variety of sources, innovative approaches, and original insights make the volume a significant contribution to the historiography of the Romanian Holocaust. Its only downside is that while it is called *Jewish Resistance to Romanianization, 1940–44*, only two of its eight chapters deal with Jewish resistance. The rest are devoted to the various aspects of the Romanianization process itself. This is not to say that the six chapters dealing with the process

were not necessary or should have been shorter. On the contrary, the book should perhaps have been longer and also should have included more discussion of other forms of resistance among Jews (educational, cultural, spiritual, etc.), which Ionescu mentions but does not dwell upon. However, this does not make the book any less important as a very useful tool for both researchers and students in the field of Holocaust studies.

Felicia Waldman

Magyar megszálló csapatok a Szovjetunióban, 1941–1944: Esemény – elbeszélés – utóélet [Hungarian occupation forces in the Soviet Union, 1941–1944: Event, narrative, afterlife]. By Krisztián Ungváry. Budapest: Osiris, 2015. 468 pp.

In most accounts of the Second World War, the role attributed to the Hungarian Army is often reduced to that of cannon fodder for the Wehrmacht, due above all to the military disaster at the Don River in early 1943. It is much less widely known that Hungarian units were also deployed as occupying forces in the Soviet Union, where they were charged with the task of controlling territories about twice the size of their home country. In Hungary itself, in the 70 years that passed since the war, there has been no scholarly discourse and very little awareness of the role of these units. So what were their tasks, how did they adapt to the situation, and to what extent were they responsible for war crimes or even genocide? In his well-researched book, Krisztián Ungváry addresses these questions.

Ungváry's book begins with a description of the Germans' occupation policies after their attack on the Soviet Union in June 1941. Despite some general—and extremely drastic—ideas laid down in the *Generalplan Ost*, the Germans were far from prepared for a prolonged war on the territory of the Soviet Union. As a consequence, they were constantly improvising, and hardly ever gained full control of the territories they occupied. Often villages would not be visited by a single representative of the occupiers for months. Moreover, there were constant internal conflicts concerning how to deal with the local population: while the political leadership in Berlin, above all Himmler's Reich Security Main Office (RSHA), was issuing orders to suppress the local population by all means and was pushing for the murder of Jews, Roma, prisoners of war, and hospital patients, some senior officers of the Wehrmacht were trying to maintain viable relations with the local population, if only out of self-interest.

The second chapter is dedicated to the origins and the structure of the partisan war in the USSR. Ungváry's description closely follows recent German studies, notably those of Christian Gerlach and Bogdan Musiał, who have shown how the Soviet partisan movement, while largely ineffective from a military point of view, was a constant menace to the local population, fueling the spiral of terror wherever they were active.

It is in this context that Hungarian forces, about 40,000 troops in total, were deployed as auxiliary forces of the Germans. They were subordinate to the

Wehrmacht's command, but communication between the two armies was not always smooth. In some instances, Hungarians pursued different policies towards the locals, for example by protecting ethnic Poles from Ukrainian nationalists. Often, the relationships with the inhabitants varied according to the ethnicity of the soldiers in Hungarian uniform: in many cases, the army deployed large numbers soldiers belonging to ethnic minorities who hardly spoke the language of their superiors but were able to communicate with the locals.

There were two main zones of Hungarian deployment, and they were fundamentally different from each other: the western zone in western and central Ukraine remained largely quiet throughout the war, while the eastern zone in eastern Ukraine, reaching into Belarus and Russia, was right at the center of the partisan war.

Large segments of the book are dedicated to detailed accounts of military operations against supposed partisans. They are based mainly on the reports of the Hungarian units, sometimes juxtaposed with the German data. Ungváry urges the reader to be cautious with the numbers: while data about losses on the side of the organ providing the data tend to be credible, data concerning losses allegedly inflicted on the enemy are not only often inaccurate, in many cases the term “enemy losses” is simply a euphemism for the murder of civilians during an operation.

Another long and persuasively documented section is dedicated to the complicity of Hungarian troops in the Holocaust. Beginning with the end of the summer of 1941, the *Einsatzgruppen* and several other specialized units systematically murdered the Jewish population in the Soviet Union. As Ungváry shows, Hungarian troops were very often involved in the process, particularly in the western zone. The evidence suggests that in most cases their task was to drive the victims to the shooting pits or to stand guard during the murders. Occasionally, Hungarians were also among the gunmen. Quoting private correspondence from the lowest to the highest ranks, Ungváry proves that as early as 1941, there was general knowledge of the murder of the Jews not only in the army ranks, but also in the political leadership, up to Horthy himself. More shockingly, the mass murder of Jews seems to have been regarded as normal by most of the men involved. During the last year of the war, news was spreading in the opposite direction too. In other words, Hungarian soldiers were well aware of the deportation of Hungarian Jews in 1944. Asked about their motivation to carry on, many soldiers expressed their hope that they would receive chunks of confiscated Jewish property upon returning home.

In conclusion, Ungváry states that the conduct of the Hungarian occupying forces varied greatly according to the situation on the ground, especially with regards to the intensity of partisan warfare. He maintains that—except for their obvious involvement in the murder of the Jews, which took place predominantly in the western zone—there can be no talk of a genocide against the local population committed by the Hungarian occupying forces. Still, the overall behavior of the troops was appalling, especially in the eastern zone. Ungváry argues that while there was plenty of room for individual decision-making, the overall record of the Hungarian army often tends to be even worse than that of the Wehrmacht: “Poor equipment, insufficient training, minority complexes leading to overcompensation, and the irresponsibility resulting from the ‘guest role’ all had a radicalizing effect on the behavior of the Hungarian officers and soldiers” (p.436).

The last chapter of the book deals with the judicial afterlife. That the authorities in the post-war era were neither able to uncover nor interested in uncovering the truth in a systematic manner is not unexpected. However, the fact that after 1990 Hungarian courts in several cases rehabilitated officers who had been convicted of war crimes without even bothering to cite the evidence is somewhat depressing.

Unfortunately, the book does have its weaknesses. For instance, there is no map showing the entire theater of operations. Photographs are often placed in an inexplicable context. This is particularly true of the rather misleading cover picture of a Ukrainian woman greeting friendly Hungarian officers with flowers. Ungváry also tends to overemphasize the importance of discipline inside the Wehrmacht, while not devoting enough attention to other German and auxiliary units which spread unprecedented terror on the ground. These preconceptions concerning supposed German perfectionism are especially irritating when it comes to the detailed descriptions of mass shootings. The same authors that Ungváry quotes do not fail to point out that this type of mass murder was brutal, bloody and chaotic, but Ungváry chooses to ignore that.

Still, this is an important and indeed groundbreaking book. The lively public debates and the unusually large number of copies sold show that there is a genuine need in Hungarian society to come to terms with these widely unknown chapters of its past. Ungváry’s book is a major step forward and will hopefully inspire other researchers to uncover more on the everyday reality of life and death behind the front lines.

Ádám Kerpel-Fronius

A jelenkori magyar társadalom [Contemporary Hungarian society]. By Tibor Valuch. Budapest: Osiris, 2015. 300 pp.

The “change of regime” and “post-socialism”¹ have been catchwords which have produced a voluminous literature since the collapse of “actually existing” socialism both internationally and nationally in the Eastern and Central European regions. The capitalist modernization project received ideological support from transition theory, which dominated the discourse on transformation in the first few years after 1989–1991. Since the adoption of Western institutions ranked high on the political agenda in the East-Central European countries, the main focus of the literature was political science and other “timely” issues, such as privatization and economic restructuring. Social history lagged behind, in spite of the fact that, as the events of the 1990s showed, the prognosis of transitology—according to which the newly established democracies would soon catch up with the consumption levels of the advanced Western countries—was not accurate.

In Hungary, this consensus changed in the second half of the first decade of the new millennium, when well-known sociologists published a number of studies in which they contended that the new societies had taken forms that differed from the prognoses (or illusions) of the dissident intellectuals who actively participated in the change of regime. These differences became manifest in the field of social policy as analyzed by Zsuzsa Ferge, the appearance of a new Hungarian underclass as shown by János Ladányi, and the whole work of the left-wing sociologist Erzsébet Szalai, who envisaged a society closer to the Latin American type, characterized by large social and economic inequalities, than to the often idealized Western model.

One important merit of Tibor Valuch’s book is that it is the first synthesis which provides a remarkably balanced picture of contemporary Hungarian society both for academics and the wider audience. Valuch has consulted an impressive amount of secondary literature. Moreover, he systematizes a very diverse array of materials from two perspectives, that of a sociologist and that of a historian, because he is a leading expert of post-World War II social history of Hungary. Given the fact that the post-socialist era serves as a battlefield for various competing ideologies and paradigms, his discussion of the interpretations of the change of regime and the diverse secondary literature on which he bases

1 To be sure, some authors already speak of post-postsocialism.

his inquiry merits unambiguous praise. In the secondary literature coming out of Hungary, critical theories, especially those which share affinities with Marxism, often fall victim to a conspiracy of silence. Valuch's book, in contrast, will be enjoyable and revealing reading to anyone who prefers facts to historical myths and political ideologies.

Hungary's situation was unique in the Eastern Bloc because, as Valuch writes, "the late Kádár-regime, in its essence, was a period in which concessions and greater freedoms were granted to all segments of the population in order to preserve political rule. Dissent had no real social basis and the extension and spread of the second economy in itself hindered active participation in the work of the opposition" (p.26). Disappointment with the change of regime and the building of a new, capitalist society reinforced hopes for a distinctive "third way," neither socialist nor liberal, in Hungary. It was in this social context that the introduction of the so-called autocratic meta-democracy took place in 2010 (p.20), and its consolidation continues today. It is perhaps worth noting that the so-called third way is an important political metaphor in the rhetoric of the far-right wing party Jobbik.

The volume gives a similarly objective and detailed but not exhaustive overview of the physical and mental map of contemporary Hungary from the perspectives of demography, regional economics, the ethnic makeup of the regions, social stratification, political activity, national consciousness, social policy, and various forms of deviance. The structure of the book is logical. The individual chapters provide answers whether we are examining specific, focused questions or are interested in larger trends, which provide daily fodder for the public media. One such issue is low birth rates in contemporary Hungary. The birth rate was decreasing in the socialist period, but it was in 1998 that it first fell below 100,000 births a year, and it has remained below this level ever since. There are many explanations for this decline in the number of births: interrogation of gender roles just as traditional gender roles are largely reinforced by mainstream politicians, an increase in the number of single people, emigration to the West (one should not forget that it is typically young people of childbearing age who leave the country), and the impoverishment of large segments of the population. The unstable job situation (flexible employment, public work, informal work, etc.) can be also a frequent cause of childlessness. It is worth mentioning here that Stefano Bottoni, who investigated the post-1944 history of Eastern Europe, considered the emigration of members of the younger generations as one of the most important challenges that the East

Central European societies and governments would have to face and to which they have to find a political answer (Stefano Bottoni, *A várva várt Nyugat: Kelet-Európa története 1944-től napjainkig* [2014]).

The second, similarly neuralgic point is the large inequality that characterizes Hungarian regions. The underclass is concentrated in small settlements, where the lack of job opportunities leads to other inequalities. These inequalities include the lack of quality educational opportunities, the lack of health care, the lack of public transport, and the failure of the majority society to encourage or allow the populations of these settlements to integrate. Thus, whole regions lag behind and/or lose contact with the Hungary of the twenty-first century. The main characteristic of the underclass is precisely this cumulative deprivation, and as a result, the opportunities for the generations growing up in these settlements have also been cumulatively deteriorating. New poverty does not mean that there is not enough clothing for the needy, but rather that there is no chance for upward social mobility. The children of the poor (and the majority of the Roma population is poor) are effectively segregated in ghettoized settlements, in part due to ineffective social and educational policy, which, indeed, is so ineffective in addressing social inequalities that one is tempted to think that it is meant to preserve rather than challenge the status quo.

The chapters on social stratification and the transformation of the elite are especially illuminating in part because Valuch examines the ways in which Hungarian society differs from the Western ideal. Without going into detail concerning the inequalities that existed under state socialism, one can safely state that the new capitalist society in Hungary has produced much greater inequalities. As Zsuzsa Ferge concludes, post-1989 Hungarian social policy could not counterbalance these negative trends effectively. Furthermore, in certain cases it reinforced existing inequalities because it primarily favored the middle class (Zsuzsa Ferge, *Vágányok és vakvágányok a társadalompolitikában* [2012]). I have only one critical comment regarding these chapters: the issue of integration into the job market would have merited more emphasis, since membership in the middle class today presupposes a job and job security. It is important to remember that the specific and distinctive aspect of social change in Eastern Europe is precisely the fact that, while in Western Europe we can still speak of a large middle class (in spite of the crisis of 2008), in Eastern Europe neither wages nor employment security developed in a way that would have led to the emergence of a middle class of a similar position and size. We can also add, on the basis of the research of Erzsébet Szalai, that the national elite is divided: the interests

of the so-called national middle class often differ from the aspirations of the international elite, which is linked to global capital. The book would have greatly benefitted from a more analytical discussion of the reasons behind the manifest differences between contemporary Hungarian society and the Western model as envisaged by the liberals of the post-socialist era. This critical observations, however, does not influence my general opinion that the book is highly worth reading for anyone who seeks to understand post-socialist Hungarian society based on objective indicators.

In order to understand the post-socialist social milieu, it is essential to have a deep and less ideologically biased knowledge of state socialism, which remains a challenging task both for historians and sociologists. The “conspiracy of silence,” by which I am referring to the aspiration to exclude the socialist era from Hungarian history or present it as a regime which was simply thrust upon the country, is little more than a gross repetition of the academic policy of the Rákosi regime, which sought to equate the whole Horthy era with Fascism. Valuch’s book shows that it is possible to include competing narratives in a book on national history while also fostering real academic debate about the meaning and content of state socialism and the change of regime.

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