

New Results of Hungarian Legal Ethnography

Guest Editors' Foreword

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More than two decades ago, a review of the volume of studies edited by Alison Dundes Renteln and Alan Dunes aimed at reviewing international research in legal ethnography was published in the columns of this journal (NAGY 1996:324–327). Hungarian legal ethnography was represented in the volume by an essay on the history of research (*Results and Task of Legal Ethnology in Europe*) by Ernő Tárkány Szücs, who had already gained recognition in European legal customs research (TÁRKÁNY SZÜCS 1994:161–186). In light of the rich and boldly diverse essays carefully selected by the editors, the reviewer at the time formulated the following question: how is the research topic of Hungarian legal ethnography — rather limited by bordering disciplines — evolving and changing, and can it be further expanded? Today, we attempt to answer this question in this thematic issue with essays that unveil the latest research results of Hungarian legal ethnography.

At the time of the previous review, the research of legal folklore in Hungary was nothing more than a research tradition that, like a hidden stream, emerged from time to time, was passed around, and consisted largely of individual accomplishments. The establishment of the *Tárkány Szücs Ernő Legal Cultural Historical and Legal Ethnographical Research Group* in 2011 brought about a significant change in this. The Research Group has been operating for the past ten years as an institutionalized scientific workshop of Hungarian legal cultural history and legal ethnographic research with more than thirty members. The Research Group's ten published volumes of *Legal Cultural History and Legal Ethnographic Small Library* and a series of conferences indicate that its members — ethnographers, legal historians, historians, university lecturers interested in the research topic, researchers, doctoral students, students, practicing jurists, museologists, archivists, librarians — have broadened and deepened the topics of Hungarian legal ethnography.

The Research Group celebrated a dual anniversary in 2021: the 100th anniversary of the birth of its namesake and the 10th anniversary of its establishment (NAGY et al. 2021). At the

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anniversary conference, the community advocated the strengthening and expansion¹ of existing international relations. Within the framework of this thematic issue, the reinterpretation of the work of Ernő Tárkány Szücs — an active participant in European legal customs research and a dominant personality of the research field in Hungary — as well as an overview of the latest results of Hungarian legal ethnography serve this purpose. The essays offer not a unilinear, static chronological, or thematic point of view but a multi-dimensional, complex approach; after all, the development of Hungarian legal ethnography can be considered neither organic nor linear.

The first part of our thematic issue (*New Results of Hungarian Legal Ethnography in the Light of the Oeuvre of Ernő Tárkány Szücs*) discusses the results related to the oeuvre of Ernő Tárkány Szücs.

Many of Ernő Tárkány Szücs' research plans were preserved in manuscript, and they can offer valuable reference points for European legal ethnography. That is why his early 1980s English manuscript on international legal customs research (*Administering Justice — without State Courts*) is being published herein.

In his study, ethnographer, museologist, university professor, full member of the Hungarian Academy of Sciences, and between 1986 and 2004 director of the Ethnographic Research Group and Research Institute of the Hungarian Academy of Sciences, *Attila Paládi-Kovács* discusses how Ernő Tárkány Szücs's research was incorporated into the fabric of Hungarian ethnography, how it became an integral part of it, and by now the starting point of social ethnographic research (*The Contribution of Ernő Tárkány Szücs to Hungarian Ethnography*).

In order to discuss the research results of Hungarian legal ethnography, the awareness and assessment of European and Hungarian research history is indispensable. Even in this regard, the focus is on the academic career of Tárkány Szücs and the "bridge role" he assumed: in his role as intermediary between generations of researchers, countries, disciplines, and points of view, he considered it his scientific mission to process the results of legal folklore research between 1939 and 1948, which marked the heyday of Hungarian legal ethnography. Ethnographer, legal historian, professor at the University of Pécs, and president of the Research Group, *Janka Teodóra Nagy* presents this process in her study (*Hungarian Legal Ethnography in the Light of the Oeuvre of Ernő Tárkány Szücs*).

Ernő Tárkány Szücs was not only a point of reference in Hungarian legal ethnography but also a shaper of European legal customs research. Although it was only in the latter part of his life that he was able to get involved in the Hungarian and international institutional system of ethnography, his entire scientific career was characterized by research with an international outlook, including during the period of socialism. In her essay, jurist and ethnographer, senior research fellow at the Institute of Ethnology of the Research Centre for the Humanities, and secretary of the Research Group, *Szabina Bognár* considers the connections that put the results

¹The members of the Research Group also participate in the work of international scientific professional organizations (e.g., Commission on Legal Pluralism, International Society for Ethnology and Folklore). They established successful research collaborations (International Commission for the History of Representative and Parliamentary Institutions, The European Society for History of Law, Deutsch-ungarisches Strafrechtsgeschichtliches Seminar, Universität Augsburg, Kriminalmuseum Rothenburg ob der Tauber, COIGCI, Vladykavkaz, Russia, National Scientific Library of RNO-Alania, Vladykavkaz, Russia, Babeş-Bolyai University, Transylvanian Museum Association, Cluj, Romania, Uniwersytet Jagielloński, Krakow, Poland, İbrahim Çeçen Üniversitesi Ağrı, Turkey).



of Hungarian legal ethnography on the map of international research (*Ernő Tárkány Szücs's Legal Ethnographic Research and International Ethnography [1967–1994]*).

Traditionally, in line with international trends, Hungarian legal ethnography also has close links with history, different fields of law, sociology, and anthropology. Reflecting the peculiarities of Hungarian legal ethnography, further essays in the first part of our thematic issue, written by eminent representatives of legal history, historiography, legal theory, and legal anthropology, summarize the latest research results.

Contemporary Hungarian legal ethnographic research is characterized by the strengthening of the cooperation between ethnography and legal history through the multi-faceted, intensive connection of legal ethnography and legal cultural history. In the early 1990s — primarily influenced by Austrian legal cultural historical research — the cooperation and scientific theory and scientific organization activities of István Kajtár, Barna Mezey, and Mária Homoki-Nagy, professors of legal history at the universities of Pécs, Budapest, and Szeged, respectively, facilitated a paradigm shift in legal history in Hungary. Gernot Kocher, distinguished scholar of Rechtsarchäologie and professor of legal history at the University of Graz, defined legal history as an interdisciplinary science and called for broad co-disciplinary cooperation — explicitly naming legal ethnography in this process (KOCHER 1992). In Hungary, István Kajtár's monograph, which can be considered a genre pioneer of legal cultural history (KAJTÁR 2004), was also a turning point in the research history of legal ethnography as it included in its scope of investigation a number of issues that were previously traditionally part of European legal ethnography but could not find their place in domestic disciplines (KAJTÁR 2004). Also worth mentioning among the symbolic milestones of Hungarian legal cultural history is the volume of studies published in 2009, edited by Barna Mezey and Janka Teodóra Nagy, which established the long-term interdisciplinary cooperation of legal cultural history and legal ethnography in Hungary (MEZEY – NAGY 2009). Among the common research topics of legal ethnography and legal history and legal cultural history, legal historian, department head, doctor of the Hungarian Academy of Sciences, between 2000 and 2008 dean of the Faculty of Law at Eötvös Loránd University, between 2010 and 2017 rector of ELTE, co-chairman of the Research Group, and the most prominent representative of Hungarian legal history and legal cultural history, *Barna Mezey* examines the “legal customs” located at the intersection of legal historical (“customary law”) and ethnographic (“customs”) concepts that in their historicity determine the lives of the vast majority of the population. His conceptual and disciplinary synthesis, constructed from dogmatic micro-analyses, is an ammunition of Hungarian legal ethnography on which research can continue to build in the future (*Right of the “Above” and the “Below”. On the Border of Customary Law and Custom: Legal Customs*).

Hungarian legal ethnography took its first steps with the effective assistance of practitioners of historiography: the first scientific research program was launched by historian-archivist Károly Tagányi (1858–1924) (TAGÁNYI 1919, 1922). The founding members of the Research Group also include several historians. In 1961, Ernő Tárkány Szücs summarized the ethnographic and legal historical lessons of peasant testaments in Vásárhely in an independent monograph (TÁRKÁNY SZÜCS 1961). In connection with this, the Research Group is conducting intensive testamentary research, complemented by source research and publication (cf. HOMOKI-NAGY 2018). Historian-librarian *József Horváth*, founding member of the Research Group and one of the most experienced Hungarian scholars in the field, summarizes the monumental four-decade research history of the field (*The Last Four Decades of Research on Wills in Hungary*).



When examined from the perspective of European legal ethnography, the lack of a strong foundation in legal theory and legal philosophy is conspicuous in Hungarian research (cf. BOGNÁR 2016). Legal customs research related to legal modernization in Europe, distinct in their stated goals and the forms of state involvement — depending on their historical characteristics — was also very different in terms of theoretical foundation: pragmatic research linked to imperial administration, helping the formation of the Russian and later the South Slavic national state, differed significantly from the research of the German historical school of law, for example (NAGY 2021). From the last third of the 19th century, Spanish legal customs research, with a stated goal of social modernization and the indispensable unification of law, also had strong sociopolitical and theoretical connections and clearly defined social, dogmatic, and philosophical foundations (NAGY – MATLA 2021). Legal philosopher *Csaba Varga*, professor of legal theory and legal philosophy at Pázmány Péter Catholic University, who for a long time was the only one in Hungary to undertake the legal theoretical foundation of legal ethnographic research, contributed a legal theoretical essay that can be considered fundamentally significant in terms of Hungarian legal ethnography (*Hungarian Legal Ethnography from the Perspective of Theoretical Legal Thought*).

The peculiarity of Hungarian legal ethnography is its connection to legal history, the overrepresentation of investigations with a historical dimension. In Hungary, the research of contemporary social problems — in relation to law, legislation, and culture — was undertaken by legal anthropology. The Hungarian publications of Ernő Tárkány Szücs are also essentially historical, but in a peculiar way, in the process of revitalizing European legal customs research, his studies related to contemporary research have a legal anthropological approach. The study by Balázs Fekete, professor at ELTE and senior research fellow at the Institute for Legal Studies of the Centre for Social Sciences, and Márton Mattyasovszky-Német, assistant professor and research assistant, supplements the research history of Hungarian legal ethnography with the findings of Hungarian legal anthropological research; their analysis also draws attention to the paramount importance of scientific communities, the absence of which also determined the situation of Hungarian legal anthropology (*Traces of Legal Anthropology in Hungary in the 20th Century. An Attempt to Define the Folk Concept of Law*).

Members of the Research Group authored the case studies in the second part of the thematic issue (*Case Studies from Hungarian Legal Ethnography*): the authors — ethnographers, legal historians, and historians — are all distinguished scholars in their fields. Their studies examine the primary legislative role of local law in Hungarian ethnographic regional units and autonomous administrative areas.

Mária Homoki-Nagy, jurist, legal historian, and department head at the University of Szeged, is a founding member of the Research Group. In examining the history of private law, she considers the research of archival sources indispensable, and among them the examination of a special source group from the 18th-19th centuries related to the legal folklore of the market towns of the Southern Great Plains of Hungary. In her study, she describes the customs of local regulations regarding orphan children in the market town of Szentes in the late 18th century. The case study, going far beyond the examination of legal folklore, shows the interrelationship of legal ethnography, legal history, and historiography, and in its source interpretation, it also presents the mutually reinforcing and complementary methodological possibilities of the individual disciplines (*The Situation of Orphaned Children in the World of Serfs and Peasants*).



Transylvania, as one of the most archaic Hungarian ethnographic regional units, is represented by two studies. The case study written by legal historian *Béla P. Szabó*, an expert on Roman law and department head at the University of Debrecen, is about a special chapter of Hungarian legal ethnography and legal cultural history, the autonomous community law of the Transylvanian Saxons. About the book of law called *Eygen-Landrecht* (1583), which supplemented the “native” legal traditions and customs with the institutions of community law (*ius commune*) and, as an extremely enduring local regulatory system, fundamentally determined the community’s everyday life for more than two hundred years, independent of national, central legislative changes (*Legal Reform Efforts and the Legal Traditions of the Transylvanian Saxons up to the End of the 16th Century*).

In an essay in line with the best traditions of Hungarian historical ethnography, ethnographer and retired museum director *János Bárth* presents the archaic, autonomous organizational form of Transylvanian villages known in the 17th-19th centuries as the *székely tizesek* [Szekler Tenths], based on his own archival research and on-site collections. The issue of popular self-government has been a “stepchild” of Hungarian legal ethnography, and even Ernő Tárkány Szücs was only able to address the topic in the last period of his research career. That is why *János Bárth*’s case study of the Szekler *Tizes* as an autonomous village district and neighborhood community is particularly exciting in the reinterpretation of the historical and contemporary findings of legal ethnographic research (*The Szekler Tizes as an Autonomous Village District and Neighborhood Community*).

In her study, based on rich archival material and decades of experience in source research, historian-archivist, retired director of the Kiskun Museum, and doctor of the Hungarian Academy of Sciences *Erzsébet Bánkiné Molnár* examines the surviving legal customs of the *Jász* [Jassic] and *Kun* [Cuman] ethnic groups, organized into an independent administrative unit (*Jászkun* district), and their particular customary law recognized by Hungarian national law until 1876. She addresses the socio-historical and socio-ethnographic characteristics of *Jászkun* autonomy, presenting the legal life of the *Jászkunság*, as well as its effects that circumscribe the everyday life of late descendants in more than one respect (*Legal Customs and Customary Law in the Jászkun District 1682–1876*).

In addition to the monographic historical-ethnographic synopsis of traditional agricultural communities, ethnographer and museologist *Tivadar Petercsák*, doctor of the Hungarian Academy of Sciences and professor of ethnography at Eszterházy Catholic University, paid special attention in his research to the history of local organizations and their juridical norms and community legislation as a special manifestation of “folk law.” In his case study, he presents the eras, function changes, organizational frameworks, symbols, and various forms of the social networks of the *fertálymester* [district warden] profession in the cities of Northern Hungary. The district wardens, who have been inscribed on the UNESCO National List of Intangible Cultural Heritage, were the link between city authorities and local society, taking on a major role in maintaining the law and order of their district (*District Wardens in the Cities of Northern Hungary in the 18th to 21st Centuries*).

Next in the series of case studies is the report of jurist and ethnographer *József Gelencsér* on the lessons from his legal ethnographic fieldwork within the ethnographic-historical research carried out since the 1980s in the Káli Basin of the Balaton Uplands. Due to its subject matter (the autonomous, local customs that regulated the life of the petty nobility), his case study primarily emphasizes the legal competencies and legal and historical contexts necessary for legal



ethnographic research. He provides an insight into the way of life and customary laws of the petty nobility living in curial villages, who, according to national law, largely lost their privileges and birthright in the middle of the 19th century, yet still practiced some of them in the form of customary laws up until the middle of the 20th century. The study addresses the role of certain legal customs that are contrary or complementary to the law (*contra legem, praeter legem*) (*Legal Folklore among the Petty Nobility of the Káli Basin*).

The book reviews in our thematic issue primarily provide an insight into the work of the members of the Research Group — supplemented by the new findings of minority research in Hungary. We bring you expert reviews of the anniversary volume of István Imreh, who studies Szekler village laws; the publication of József Gelencsér's collections from the Káli Basin forty years earlier; a source publication reevaluating the marriage contracts (promissory letters) of serf peasants; the dual anniversary volume referred to earlier; as well as a volume of selected foreign language publications and correspondence of Ernő Tárkány Szücs, also produced by members of the Research Group.

Our hope is that the studies and book reviews published herein will make the encouraging results of Hungarian legal ethnography tangible for a wider professional audience. Professional connections and collaboration opportunities are bound to open new avenues for our authors and the Research Group, who, building on the work of predecessors who undertook the summarization of European research history and methodology — primarily Károly Tagányi and Ernő Tárkány Szücs — would be happy to take on the support and coordination of European legal customs research.

We would like to thank our authors for summarizing the latest results related to legal ethnography in their own fields of expertise, so that our report on the current situation of Hungarian legal ethnography could be based on the latest research results. We are grateful to the editor-in-chief of *Acta Ethnographica Hungarica* for suggesting the idea and providing the opportunity for a special issue on legal ethnography, and thanks are also due to the editorial staff, who helped bring this issue to fruition through respectable expertise and a good dose of determination and patience.

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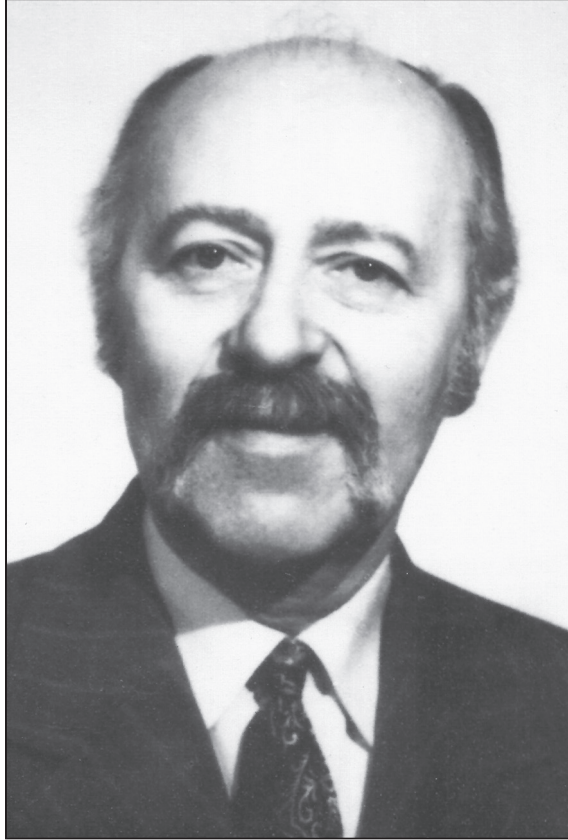
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Ernő Tárkány Szücs
(1921–1984)

