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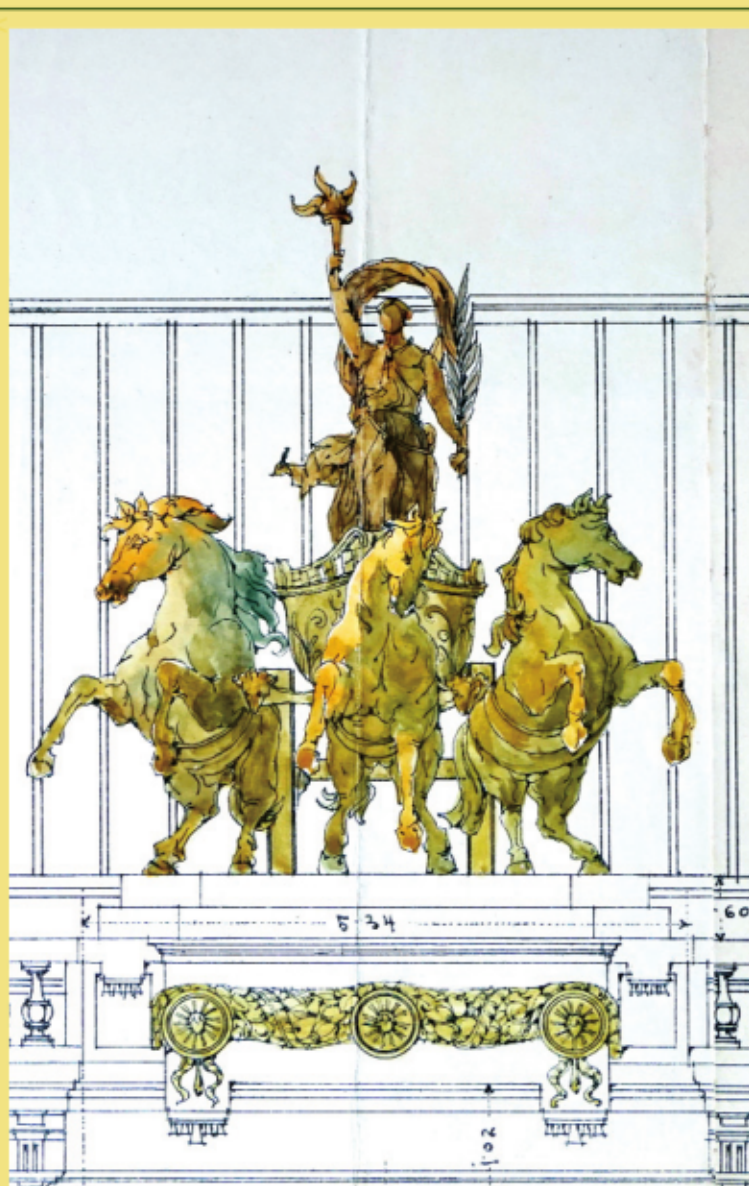
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Triga on the building of the Royal Curia, designed by Alajos Hauszmann

Sculpture (and this sketch drawing) made by Károly Senyei

Országos Bírósági Hivatal, Műszaki Főosztály Irattára [National Office for the Judiciary, Technical Department Archives]

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- ³² On Ferenc Jablonszky, see BARÁTH, Attila: *Élő kövek. Emlékek a Körömdi Járásbíróság múltjából* [Living Stones. Memories from the past of the Körömd District Court]. Szombathely, 2015. Szombathelyi Törvényszék, 26–29; MEGYER-PÁLFFI, Zoltán: A Püspökladányi Királyi Járásbíróság megszervezésének és elhelyezésének története [History of the organisation and location of the Royal District Court of Püspökladány]. In Idem (ed.): *A jogszolgáltatás története Püspökladányban* [History of Justice in Püspökladány]. Debrecen, 2021. Debreceni Törvényszék, 83–84.
- ³³ On the work of Sándor Aigner, see HORVÁTH, Zsuzsa: Aigner Sándor (1854–1907). Az Örökimádás-templom tervezőjének életműve [Sándor Aigner (1854–1907). The life's work of the designer of

the Church of the Eternal Adoration]. In ROZSNYAI, József (ed.): *Építőművészek Ybl és Lechner korában* [Architects in the age of Ybl and Lechner]. Budapest, 2015. Terc, 166–195.

³⁴ See more in PUSZTAI 1993, 33–49.

³⁵ Cf. BÓDINÉ BELIZNAI, Kinga: *120 éves az Igazságügyi Palota* [120 years of the Palace of Justice]. Budapest, 2016. HVG–ORAC Lap- és Könyvkiadó Kft.

³⁶ This article is published as part of the research project of the MTA–ELTE Legal History Research Group of the Hungarian Academy of Sciences at the Department of Hungarian State and Legal History of Eötvös Loránd University, Budapest. The Research Group is a member of the Eötvös Loránd Research Network (ELKH).



Nagy, Janka Teodóra – Matla, Gabriella

The Characteristics of Researching Legal Customs in Spain and Hungary in the Light of the Accomplishments of Joaquín Costa Martínez and Ernő Tárkány Szücs

This article is intended as a comparative analysis of research history in Spain and Hungary linked to the history of European legal custom studies in the context of modern legal development in the 19th–20th centuries, based on the scientific accomplishments of Joaquín Costa Martínez (1846–1911) and Ernő Tárkány Szücs (1921–1984).¹ Studying the two significantly different models and research paths well distinguishable in space and time may present novel information and aspects not only for Hungarian researchers less familiar with the Spanish results and findings, but also on a European level.

1. Legal custom studies in Europe

In the early days of European legal custom studies there was a sharp difference between the essentially theoretical historical-legal German approach and the legal custom surveys associated with Russian imperial government and a pragmatic approach to codification. This was reflected by the varying research disciplines as well: while the historical-legal approach of the German-speaking territories connected legal history with legal custom studies, the Russian social approach with pragmatic roots considered legal custom to be a part of living law.²

The *folk-psychological perspective*, as a theoretical starting point, associated with the early 19th-century activity of Friedrich Karl von Savigny (1779–1861) attached particular importance to folk law represented in every aspect of folk culture (e.g., folk tales, proverbs, folk songs), connected with customary law. It was in this spirit that Jacob Grimm (1785–1863) and Wilhelm Grimm (1786–1859) started to collect “legal antiques”, Josef Kohler (1849–1919), who considered legal custom to be a part of comparative law, set out to explore parallel features, and Albert Hermann Post (1839–1895) developed a quantitative research methodology.³ When Savigny, the founder of the historical school of law and initiator of folk law research, was given the task to oversee the drafting of the standard German Civil Code as Minister of Justice (1842–1848), this paved the way for the integration of legal folk customs as well.

Starting from the early 19th century, the Russian state, recognising the right of the conquered peoples to act in their own matters in accordance with their own legal customs, attached increasing importance to surveying legal customs in particular. The survey of customary law associated with Count Mikhail Mikhailovich Speransky (1772–1839) was completed already in 1822; the legal customs of Siberia were studied on the spot, “as told by the people themselves, to be drawn up and testified by the nobility”, with several parts of the 1847 survey of the Imperial Russian Geographical Society dedicated to legal customs too. For example, the Russian government conducted a survey of “living customary law” among the peoples of the Caucasus between 1836 and 1844. Maxim Maximovic Kovalevsky (1851–1916), professor of comparative law and a follower of Henry Sumner Maine (1822–1888) set out to study customary law in the Caucasian region with the renowned linguist and ethnographer Vsevolod Fedorovic Miller in 1878.⁴ (In the second half of the 19th century a series of additional monographs on judicial life were published with respect to Mordovian, Vogul, Samoyed, Sami, Kryalan, Estonian, Votian, Zuryen, Permian, Cheremis, Chuvash, Bashkir, Yakut, Kyrgyz, Kara-Kirghiz, Turkoman and Buryat peoples, among others.)

Russian government considerations as well as the publication of the survey materials encouraged further

research from the late 19th century, during the period of nation-building. The South Slavic Academy in Zagreb decided to survey the South Slavic “living legal customs” in 1867, published by Baltazar Bogišić (1834–1908) in 1874, relying on the results of German and Russian researches.⁵ (As Minister of Justice, Bogišić later used the survey materials for the preparation of the Civil Code of Crna Gora.) This period is associated with the surveying of legal customs by Boleslaw Grabowsky in Poland (1889) and Stefan Bobchev in Bulgaria (1897), as well as a publication on Albanian tribal customary law and certain elements of Croatian customary law by Lajos Thallóczy in Hungarian language issued in 1895.⁶

In the spirit of the codification efforts linked to legal modernisation, the survey of legal folk customs progressing in some countries of Europe (e.g., Italy, Portugal, etc.)⁷ incorporated the survey conducted by Joaquín Costa (1846–1911) in the Aragon region in the 1880s in preparation for the codification of Spanish private law, and the early 19th-century researches carried out by Altamira y Crevea in Alicante (1905) and Carreras y Artau in Catalonia (1908).⁸

2. The characteristics of legal custom studies and prominent researchers in Spain and Hungary

Apart from some reference in research history, the results of the Spanish legal custom studies are almost completely unknown in Hungary. A 1919 review of the results of international researches on “living legal customs” written by Károly Tagányi mentions the research conducted in Spain as an exception in “the Western cultures reluctant to study their living legal customs”. Tagányi specifically refers to Costa’s work in Aragon (1884, 1886) and his publication on Spanish rural communities (1902), and Altamira’s research of the rural communities of Alicante (1905).⁹ Unfortunately, however, Tagányi’s scientific programme dedicated to Hungarian legal custom studies published also in German received very little attention and therefore the Spanish results and efforts were unable to influence research activity in Hungary. It was only much later that the *Ethnologica Europaea*, a study by Ernő Tárkány Szűcs published in 1967 on the results and tasks of legal ethnography in Europe discussed the legal custom surveys conducted by Costa and Altamira with reference made to Tagányi, adding a supplement on the Catalanian research by Carreras (1908) based on his own study.¹⁰

In fact, however, a deeper knowledge of Spanish legal custom studies could have positively influenced Hungarian research activity in many ways. Social embeddedness, the continuity of customary law research commenced in 1883 in preparation for the codification of standard private law, and the collectivisation and institutionalisation of research activity constitute the very aspects generally listed among the unrealised goals of Hungarian legal custom studies that could help address the fundamental issues

and specificities of Hungarian research history (e.g., the delay in commencing legal custom studies, lack of institutionalisation).

Since 1880 Spanish research activity has been organised in an institutionalised framework, with targets adapted to the current social needs. In Hungary legal custom studies became more common only in 1939, and the numerous failed attempts at institutionalisation (1919, 1939–1948, 1975) led to individual research careers and accomplishments.

From the start until its institutionalisation, Joaquín Costa was a prominent figure of Spanish legal custom research. Equally qualified in law, history, and social sciences, he managed to introduce legal custom studies into Spanish public thinking through his political activity. Costa invited several renowned individuals with extensive experience and significant social and professional reputation to participate in the research and created its institutional background as well.

In Hungary there was no such dominant figure similarly learned in social policy and sciences with experience in research and research organisation activity. Károly Tagányi, president of the Hungarian Ethnographic Society who drew up a scientific programme for Hungarian legal custom studies (1919) was a historian and researcher of legal customs, primarily responsible for a literary review and situation analysis and for outlining the necessary tasks and duties. However, the accomplishment of his goals and the continuation of his work were prevented by the war as well as personal circumstances. In 1939, based primarily on the results of German legal ethnographical researches complemented with some French findings, István Györffy took on himself the collectivisation and institutionalisation of Hungarian folk law research and the conduct of surveys involving practitioners of law and ethnography, but he died without realising his ambitions. Several legal historians, ethnographers and Ministry of Justice employees attempted to complete his survey, but it remained unfinished and fragmented due to the events of the Second World War, and the current social and political circumstances. Also, the dogmatic-methodological approach taken by legal historian György Bónis and the legal ethnographical perspective applied by lawyer-ethnographer László Papp could not be carried through. Ernő Tárkány Szűcs, who himself contributed to the research of Hungarian legal customs between the two World Wars (1939–1948) was able to issue a monograph summarising the results only several decades later (*Magyar jogi népszokások [Hungarian Legal Folk Customs] 1981*), though relying primarily on German research history in dogmatic matters. In Hungary the first research group with the goal of summarising the results of previous studies on Hungarian legal folk customs as a scientific workshop for interdisciplinary research activities with institutional (university) background was set up much later, in 2011 (*Tárkány Szűcs Ernő Legal Cultural Historical and Legal Ethnographic Research Group*).¹¹

In the following chapter we review the characteristics of researching legal customs in Spain and Hungary in the

light of the accomplishments of Joaquín Costa Martínez and Ernő Tárkány Szűcs and their role as science-research organisers not only to remedy this shortcoming, but also for mutual benefit.

3. Legal custom studies in Spain and the role of Joaquín Costa Martínez

The 150-year history of Spanish legal custom research and legal modernisation is closely connected with Joaquín Costa Martínez. His legal-philosophical, dogmatic, and methodological foundations, comprehensive research programme and publications, as well their legal-social policy level utilisation (including his role as science organiser) contributed to the fact that Costa successfully integrated the results of legal custom research into Spanish legal science and legal history.

Costa received his degrees in law (1872) and humanities (1873), with a doctoral title in both (1874–1875). He pursued his career as a teacher, journalist, editor, public notary, and state attorney. Costa was actively engaged in public and political matters; he founded the *Colonial Geographical Society* (1884), the *Spanish Society of Africanists* (1884) and the *Society of Commercial Geography* (1885). To further modernisation, i.e., the Spanish “regeneration” movement, he also assumed a political role. His programme was focused on modernisation, with a view to representing the interests of the middle class and rural peasantry. His articles of social criticism condemned the landowner oligarchy and political corruption and promoted economic and social betterment.¹³ In this context it seems obvious that, for Costa, the study and sharing of legal folk customs and traditional values was also a means of expressing contemporary social criticism. As a lawyer and politician, Costa found it important to research legal customs at the time of legal modernisation, just before the codification of Spanish private law, in order to “promote the study of Spanish folk law with special significance not only for the history of our legal institutions, but also for furthering the future codification of Spanish private law”.¹⁴

Costa believed that the knowledge of folk law could also guarantee the effectiveness of the Spanish private law codification process.

*“If the specific way of life of each people is to be respected, we must begin by respecting the customs that form an integral part of that life, and integrate all of them into the Code, according to the principle of diversity within unity.”*¹⁵

He argued for the same in a publication analysing the relationship between codification and legal custom studies (*La vida del derecho*, 1876), as well as other works concerning family, property, inheritance, obligation, traditional self-governance and land communities, laying the dogmatic, thematic and methodological foundation for research activity (*Derecho consuetudinario del Alto Aragón*, 1879; *Materiales*, 1885;¹⁶ *Derecho consuetudinario y economía popular de España*, 1902).¹⁷ His referred publications, as well as his widely acclaimed monograph on the archaic traditions of rural communities (*Colectivismo agrario*, 1898) provide the pillars of Spanish legal custom research still valid today.

In literature, despite its strong legal-philosophical association,¹⁸ Costa’s research was generally considered to belong to legal history. This was due to the fact that Costa frequently quoted Friedrich Karl von Savigny, the founder of the historical school of law as a source for legal-dogmatic foundation.¹⁹ Costa himself viewed the unique laws of the 19th-century Spanish provinces as a reflection of the local folk spirit, dogmatically stating that the science of folk law (*Wissenschaft des Volksrechts*) should be created not by defining legal norms but by examin-



Joaquín Costa Martínez (1846–1911)¹²

ing legal relationships and institutions.²⁰

According to Costa, law has its roots in tradition, and every legal provision in effect originates from custom or tradition. Custom represents the actual law experienced by a community, contrary to the formal laws published through bulletins. In his words: the contrast between folk law and formal law constitutes the very feature that will distinguish the real Spain from its formal version.²¹ (Costa’s views should be compared with the definition supplied by Barna Mezey for the fundamental difference between law and legal customs (formal law versus customary law, or top versus bottom) as follows:

“Customary law is an important area of law, inherited from an ancient legal order and created in a feudal society that existed in the borderland between custom and formal law. The importance of the governed life

situations held up the institution of community coercion which gave legal effect to its rules. Eventually, it evolved in response to the regulatory matters rejected by 'formal law', in the 'bottom' sphere left intact 'from above' and, over time, gained a resilience that enabled it to maintain a rival legal system. The observance of customary law was not based on the competence, authority, legislative power or privilege of some sort of legislative body, but on the conviction of a community which recognized the need to accept the established rules."²²

The 150-year-long study of Spanish legal customs can be defined in Costa's words:

"the subject of research is presented by the customs that actually exist in a society at a given time and can be empirically proved as a social practice, the normative effectiveness of which can be verified together with other normative systems, including the state legal systems".

In the course of his surveys and field researches Costa himself sought to find appropriate explanation, justification, and legitimation.

Costa drew up a comprehensive research programme to collect legal customs, with a view to the exploration of old legal customs and living legal practices and their integration into the process of private law codification, based on the examples of Savigny and Bogišić. He pointed out the need for an institutional framework from the very beginning. In his view, raising awareness in the scientific community (lawmakers, legal experts, philosophers, and historians) about legal customs and their research was critical not only because old legal customs and living legal practices represent the "roots of a nation's life", but also because they can provide a background and source for modern Spanish law-making.²³

Based on Savigny's research methodology, Costa – whom Georg Beseler²⁴ compared to Baltazar Bogišić for the significance of his work in methodology development – issued a methodological guide together with his call for action. His guide emphasised the need for a detailed accurate description of every legal custom or practice, possibly supported with documents and sources, with detailed instructions concerning the research process.

*"Each collected custom should be described in as much detail as possible, without omitting any particulars, and not separated from, but together with their specific circumstance, as an integral element, connected with all manifestations of life."*²⁵

Costa's activity was not just limited to actual research and publication of their results. Over time, his persistence paved the way for a major accomplishment: the institutionalisation of Spanish legal custom research. Upon his proposal, the *Real Academia de Ciencias Morales y Política*, a state-funded institution established in 1897 began to issue annual calls for projects to research obsolete forms of customary law and the reasons for their "disappearance", and to conduct current

surveys.²⁶ This resulted in comprehensive researches between 1897 and 1917 covering the entire territory of Spain. The research materials reflected remarkable thematic richness with respect to the legal customs of the individual communities, including private law and public law.

In addition to establishing a new school of thought, Costa's work paved the way for the integration of Spanish legal customs into legal science starting from the 19th century. In the initial phase of the process the Department of Legal Philosophy was set up within the Central University of Madrid in 1845, overseen by Julián Sanz del Río. The department influenced by the Krausist movement and ideology specifically encouraged researches on the concept, interpretation, and role of customs, and offered optional subjects such as *Customary law: origin, foundations, and values* for doctoral training.²⁷ The training and research activities of the department had a significant influence on Costa as well. The head of the department, Francisco Giner, who wished to integrate customary law into university training raised the idea of a department dedicated to customary law in 1887 and offered Costa a position as associate professor with the opportunity to teach the subject in 1902.

The series of events taking place between 1863 and 1888 in preparation for the Spanish code of private law [*Congreso de juriscultos* (Madrid 1863), *Congreso de juriscultos aragoneses* (Zaragoza 1880–1881), *Congreso de juriscultos catalanes* (1881), *Congreso jurídico español* (Madrid 1886), *Congreso jurídico de Barcelona* (1888)] constituted important milestones in the research of legal customs as well. Costa himself took part in the Zaragoza Congress, submitted a paper for the Barcelona event, and published *La libertad civil y el Congreso de juriscultos aragoneses* in 1883 summarising the lessons learned. In 1896 the journal *Revista general de Legislación y Jurisprudencia* published an article by Miguel de Unamuno²⁸ dedicated to Vizcaya, and from 1897 a special column titled *Derecho civil y derecho consuetudinario* was launched, overseen by Joaquín Costa, about customary law. In 1901–1902 the *Ateneo* of Madrid prepared a special survey for collecting legal customs in relation to birth, marriage and death.

Joaquín Costa wanted to understand the general problems of human society and Spain's contemporary social issues through law. As such, he is considered to be the forerunner and co-founder of several disciplines of 20th-century Spanish social sciences (ranging from anthropology to economic science, history, law, sociology and education), making the research of Spanish legal customs a practice still pursued today.²⁹ Costa's heritage is still influential in the study of Spanish legal customs, and the products of the past 150-years can be accessed through a number of monographs, scientific publications and databases, as well as various research institutions and research projects. It has the power to fulfil the mission defined in the words of Ureña y Smenjaud (1852–1930)³⁰:

"Let us start by understanding how the Spanish people lived and experienced the law in the various stages of its development and gather the last remnants of our ex-

tremely valuable customary law driven to extinction by new laws and the ever-increasing desire to standardise social customs."³¹

The individual provinces of the unified modern Spain still observe their local legal customs as a manifestation of historical, cultural, territorial, and social values, common cultural heritage and *collective identity*³² forged over many centuries.

4. Legal custom studies (folk law research) in Hungary and the role of Ernő Tárkány Szücs

Considering the nature of Spanish legal custom studies and Costa's role we can rightly ask: why is it that Hungary joined the European process of researching legal customs only at the beginning of the 20th century?

Historically it is clear that the study of legal folk customs began to take place already in the late 18th century in line with the practical requirements of enlightened absolutist governance. Before introducing legal regulations governing the individual life situations, Joseph II ordered the collection of the appropriate "living legal customs" and folk practices. The political and legislative efforts of the first third of the 19th century also concerning ordinary people (serfs, peasantry) were mostly made in public law. The collection of the "living legal customs" of the individual communities, relating, for example, to inheritance, was given little attention.³³ The major events that influenced the legal institutions of Hungary's late 19th-century civil society required no legitimation by way of researching legal customs. In the neoabsolutist era, with the partial introduction of Austrian law in the Hungarian territories (1850–1861) the study of folk law was completely unimportant. Later on, with the legal modernisation following the Austro–Hungarian Compromise of 1867 all things considered "rural" were viewed as obsolete, with efforts made to catch up with the civil, economic, social, and legal developments typical across Europe, based on the foreign models and patterns regarded most appropriate. The process of establishing the modern legal institutions of Hungarian civil society was completed only in the early 20th century, including, for example, the codification of private law.³⁴ It was only in 1901, during the debate of the draft legislation on standard private law and the issue of inheritance in particular that, similar to the initiative to introduce legal customs into the standard civil code of Germany overseen by Savigny in 1842–1848, the idea that the inheritance customs of rural Hungary should be researched was finally raised. This resulted in the first study on Hungarian legal customs written by Miklós Mattyasovszky (with a similar study completed by János Baross around the same time).³⁵ It was the first time that the concept of "living legal customs in rural Hungary" emerged in the context of law and public discussion.

Based on the European results, a number of researchers managed to draft individual research programmes and initiatives between the two World Wars. Historian Károly Tagányi, legal historian Győző Bruckner and ethnographer Ákos Szendrey were particularly active, emphasising the importance of researching folk law, including surveys.³⁶ Unlike in Spain, however, in the absence of an organised institutional framework and long-term goals, these efforts remained isolated, with individual publications and accomplishments.

A series of publications by Costa's Hungarian "colleague", historian-archivist Károly Tagányi (1858–1924), is perhaps one of the exceptions; during his time as president of the Hungarian Ethnographic Society (1920–1924) he issued a research programme viewed as the fundamental basis for Hungarian legal custom studies.³⁷ Tagányi's review offered on research history, the first one to mention the research of Spanish legal customs and Costa's role, was just as important. The latest results of the international researches were also reflected in Tagányi's other publications on family law and inheritance law, combining historical approach and current research with an ethnographic-ethnological perception. Tagányi was the first one to discuss Russian legal custom studies, the accomplishments of the German and English historical schools, and the research programme initiated by Baltazar Bogišić, one of the founders of European legal ethnography, including his 352-item survey and their results. His research, however, was still based on the German model and Kohler's activity. Although Tagányi's initiative published in Hungarian and German remained largely unnoticed, his call for action encouraged the development of further research programmes (Győző Bruckner, Ákos Szendrey). Between the two World Wars the researches performed in Hungary were primarily influenced by the French and German models – the results of Spanish legal custom studies, although extensively published, were still unknown. The starting point for the study of legal customs, increasingly defined as legal ethnography, was largely based on the conceptual and methodological foundations provided by René Maunier: distinguishing formal law and folk law based on local oral tradition – it was the latter that became the focus for legal ethnography.³⁸

The purpose, theoretical background, and methodology of Hungarian legal custom research (folk law research) between 1939 and 1948 was influenced by the fact that it took place at the initiative of István Györffy (1884–1939), professor of ethnography, with support provided by the Ministry of Justice.³⁹ On behalf of the professional community, legal historian György Bónis emphasised its significance in ethnographic, legal history and legal policy terms:

*"The benefit of our work will be threefold: we will discover a different side of our people, the past of our laws will be better revealed through tradition, and our jurisprudence will develop a stronger national (Hungarian) character."*⁴⁰

After Györfly's death the research objectives changed in line with the change in management. Bónis continued to emphasise its legal historical perspective, while Györfly's former colleague, lawyer-ethnologist László Papp put focus on the possibility of cultural renewal in the spirit of Györfly's cultural ideal. "Our legal system is still evolving, and our private law is about to be codified [...]"⁴¹ The followers of the Ministry's approach (István Antal, Gábor Vladár, J. Miklós Hofer) supported the legal-political-legislative perspective. The notice issued by the Minister of Justice to encourage participation also emphasised "the understanding of the national spirit apparent in the written laws, as well as the legal customs and folk traditions".⁴²

For a while, the professional, methodological and (partly) institutional background of folk law research was guaranteed by Professor István Györfly, head of the Pázmány Péter University Institute of Ethnography and the Hungarian Institute for Regional and Folk Research. Just like Miklós Mattyasovszky before him, Györfly looked to the Ministry of Justice for support, and invited the professional community as well as volunteers to participate. Accordingly, the Minister issued a notice emphasising the appropriateness and necessity of the goal both in general terms and from the point of view of codification and judicial enforcement. He also agreed with the concept of involving *legal practitioners* in the collection of legal customs and folk traditions.

After Györfly's death the Ministry became fully responsible for research coordination and management. In a further notice issued in 1940, the Minister of Justice autonomously modified the original professional expectations on the basis of the initial reports and results. In addition to (fully or partially) completing the highly extensive professionally developed surveys originally consisting of 95 items, it was also deemed sufficient to collect fragments of data heard or experienced in the course of field research. According to the third ministerial circular issued in 1942, by the end of the year the participating more than 140 researchers returned altogether 85 reports. The received materials were processed by László Papp in 1943, summarising the goal and the historical background of folk law research and the general and methodological lessons of the exercise in a separate study.⁴³ He considered the period between 1939–1943 as a pilot phase and submitted plans for continued research in a sound theoretical and methodological framework, proposing to fully redraft the entire questionnaire as well. Although the events of the war largely prevented the realisation of these plans, the first historical and methodological account of Hungarian folk law research written by László Papp was still published. Taking account of the accomplishments and their potential usefulness, legal historian György Bónis emphasised, similar to Costa, that the study and collection of legal customs can contribute to the exploration of the unwritten sources of legal history. The research addressed a number of issues that would have been impossible based purely on the written sources.⁴⁴

Ernő Tárkány Szücs⁴⁵ was a student of György Bónis at the University of Kolozsvár (Cluj-Napoca), and his professional and research career began during a highly successful period of Hungarian legal custom studies (1939–1948). Although Tárkány Szücs is not regarded as Costa's peer or his student (he had no connection with Spanish legal custom studies other than mentioning Costa and other researchers in a review of European research history), nevertheless, due to the fragmented nature of Hungarian research and numerous unfinished projects, his synthesis of Hungarian research accomplishments between the two World Wars titled *Magyar jogi népszokások (Hungarian Legal Folk Customs)*, often viewed as a milestone in the history of Hungarian legal custom studies, and an outstanding achievement of Tárkány Szücs, should be specifically mentioned.

In researching Hungarian legal customs between the two World Wars, the studies conducted in a university framework represent a unique period (1942–1948). In this respect György Bónis should be mentioned, who was appointed as professor of legal history at the Franz Joseph University of Cluj-Napoca in 1941. At the invitation of István Györfly, Bónis joined the team in charge of organising and supervising Hungarian legal custom studies in 1939. Although his initial role in researching Hungarian legal customs involved only a number of articles and studies, as well as organisational activity and methodological consultancy,⁴⁶ he joined the university with new plans, namely to organise research in 25 settlements in Transylvania's Călatei (Kalotaszeg) region in the summers of 1942 and 1943.⁴⁷ Bónis considered it an important element of legal training (as an opportunity for the future lawyers to gain hands-on experience),⁴⁸ and also, he clearly hoped to provide a "model" for the further study of folk law in Hungary. While organising and participating in the research and working alongside Bónis, Ernő Tárkány Szücs, a law student at the time, became committed to legal custom studies for the rest of his life. His experience helped him understand the evolution of law taking place "both from below through customary law and from above through legislation and other sources of law over centuries", which provided a solid foundation for his subsequent work.⁴⁹ Also, the experience that the legal practice of a community was largely influenced, for example, by geographical location and socio-economic circumstances within a complex system of living laws and traditions contributed to his concept of "complex method", a major accomplishment of Tárkány Szücs's career.⁵⁰

Due to the war the research conducted by the Legal History Seminar of the Franz Joseph University of Cluj-Napoca and the Transylvanian Institute of Science supported by the Hungarian Ministry of Justice remained unfinished, although Tárkány Szücs managed to participate in one of the last Hungarian projects organised by the University of Szeged, overseen by György Bónis in the village of Tápé (1 September–15 October 1948).⁵¹

Later (1950–1975) he was unable to pursue a career dedicated to the processing of materials from the 1939–1948 research and to study legal customs on a full-time

basis. Indeed, Hungary's communist regime considered the research conducted between the two World Wars "undesirable" on political grounds. However, Tárkány Szücs refused to give up: in addition to his role in the codification of Hungarian mining law, he continued to research and publish materials on folk law [e.g., *Vásárhelyi testamentumok (Testaments of Vásárhely)*, 1961; *A jószágok égetett tulajdonjegyei Magyarországon (Livestock property marks in Hungary)*, 1965; *Results and Task of Legal Ethnology in Europe*, 1967]. He single-handedly pursued the challenging task of Hungarian legal custom research for several decades. He was a bastion, a fixed point in cross-border research sought by Hungarian and foreign researchers alike. Tárkány Szücs acted as editorial board member and author for various international journals, he was a regular speaker at conferences, and played his part in the foundation of the international *Commission of Contemporary Folk Law*.⁵²

Finally, from 1975 he was able to continue the study of Hungarian legal customs in an institutional framework, joining the Ethnographic Research Group of the Hungarian Academy of Sciences as the only researcher of the subject, actively pursuing research, and publication activity. He became a co-author of the Ethnographic Encyclopaedia on legal and socio-ethnographic matters, and his works summarising the achievements of several decades of legal ethnographical research were published in Hungarian and other languages [*Az élő jogszokások Európában (Living Legal Customs in Europe)*, 1975; *Die juridischen Volksbräuche der Eheschliessung bei den Ungarn*, 1976; *Jogi szokások a bányászatban (Legal Customs in Mining)*, 1978; *Jogi népszokások parasztságunk öröklési rendjében (Legal Folk Customs in the Order of Inheritance of our Peasantry)*, 1980; *A kézfogóval összefüggő jogi népszokások (Legal Folk Customs Related to the Betrothal)*, 1980; *A temetés jogrendje (The Legal Order of Funerals)*, 1980; *Fejezetek Békés társadalomnéprajzából (Chapters from the Socio-Ethnography of Békés County)*, 1983; *A jobbágyparaszti földtulajdon néhány problémája (Some Problems of the Landownership of Villeinpeasants)*, 1983; *A vásárhelyi baromgazdaság (The Cattle Farm of Vásárhely)*, 1983].

His monograph *Magyar jogi népszokások (Hungarian Legal Folk Customs)* was particularly significant in his career; in addition to obtaining his Doctor of Science (DSc) degree and honorary professor title at Eötvös Loránd University, he was widely acclaimed for creating a "one-person establishment" to study folk law with a unique legal approach.⁵³ The monograph presented an opportunity to legitimise and integrate the research results achieved during the two World Wars into Hungarian ethnographic science. The 900-page book aimed to summarise the unwritten legal customs and folk practices over the period 1700–1945. In terms of legal-theoretical, dogmatic, and methodological foundation, the book was primarily built on the topics discussed in the *Results and Task of Legal Ethnology in Europe*, aiming to verify the existence of autonomous communities and their heritage including Hungarian folk law and legal customs. The 100th anniversary of his birth was marked by numerous publications.⁵⁴

5. Conclusion

In comparing the study of legal customs in Spain and Hungary, the fragmented, isolated ad-hoc nature of Hungarian research (study of folk law/legal ethnography) marked by individual accomplishments and phases becomes apparent. With the development of the civil society, the research conducted in Hungary failed to integrate into the process of legal modernisation in a consistent, legitimate way. It failed to clearly articulate its mission, and in the absence of social acceptance it was difficult to find an independent institutional place within the Hungarian scientific community. Alternately influenced by the German and French models and practices, for a long time it was undecided which branch to join – ethnographic or legal science (or perhaps historical science or sociology, depending on the science policy decisions of the moment).

As an important achievement of current legal ethnographic research activity in Hungary, the *Tárkány Szücs Ernő Legal Cultural Historical and Legal Ethnographic Research Group* was founded at the University of Pécs in 2011 (chairwoman: Janka Teodóra Nagy, co-chair: Barna Mezey), aiming to pursue research mainly in the field of legal culture history and legal ethnography. Adopting the initiative taken primarily by legal historians Barna Mezey, István Kajtár and Mária Homoki-Nagy, and seeking to act in an institutional (university) framework, this scientific workshop is committed to research in the field of Hungarian and universal political and legal history, legal theory and philosophy, international law, as well as legal sociology and anthropology in the context of legal culture history and legal ethnography, clearly based on the principles of interdisciplinarity. It is also active in other areas, such as matters considered to belong to its research profile in the field of historical science and ethnography, as well as publishing activity, and organising conferences.⁵⁵

In the light of Spanish legal custom studies, the mission of the Research Group is essentially to explore, in the spirit of Costa's heritage, how the Hungarian people lived and experienced the law in its various stages of development, based on a collaboration of various disciplines. Seeking to address the general issues of the human society, as well as the specificities of Hungarian society, it wishes to transform the study of legal customs into a living practised area of research, to gather "the last remnants of our extremely valuable customary law driven to extinction by new laws and the ever-increasing desire to standardise social customs".⁵⁶

At the end of the 19th century, even in Hungary, it was clear that good laws could only be made by knowing the folk customs and traditions; in 1981 Ernő Tárkány Szücs had to prove the mere existence of living legal folk customs through hundreds of examples! Indeed, these customs represent the most distinctive forms of our historical, cultural, territorial, and social values, our common cultural heritage and *collective identity* forged over many centuries – also in Hungary.

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