

Law and Culture

1. Introduction

The easiest way to apprehend the form of the connection between law and culture is to grab the relation of the *part and the whole*. I take the term “culture” to refer to an interpretive horizon, composed of sets of symbols and categories of thought, out of which meaning can be given to experience. “It is a system of background understandings that inform, and the process by which we generate, our interpretations of our world. When, through the law, we examine our experiences and the events that take place in our world, we do so within an already-meaningful context. This meaningful and meaning-giving context is culture. It comprises the context and process of understanding, as well as the resulting expressions” (Berger, 1996: 17). Consequently we can handle the relation of these phenomena (culture and law) as the relation of the part and the whole.

Law is not the only normative domain in our culture; morality, religion, social conventions, *inter alia*, also guide human conduct in many ways which are similar to law. Therefore, part of what is involved in the understanding of the nature of law consists in an explanation of how law differs from these similar normative domains, how it interacts with them, and whether its intelligibility depends on such other normative orders, like morality or social conventions.

In my recent work I would like to show (introduce) and catalogue the feasible ways of connection between the two given notions. But before that listing I have to add some preliminary remarks referring to the context of the relationship between the law and culture. Culture as a whole is deeply determined by those historical, political and economic features of the given society that shape the ways of thinking: how we relate to our culture, how we construe cultural differences and clashes. I feel obliged to fix the main characteristics of the contemporary European – and within that Hungarian – cultural environment:

Up to now the great majority of scientific works issued within distinct fields of social sciences – examining the given object of any specific research – *took the continuous or at least sustainable growth and prosperity* (as the dominant element of the external social space, external environment) *for granted* (even if these works contained a short chapter on crisis-management). On the grounds of the relative peace of the last 65 years we assume that economic or social changes in the near future must shown up as smaller or bigger deflections producing a calculable average also.

This attitude has become ordinary within jurisprudence (legal sciences) as well; the illusion of “perpetual peace” and the uninterrupted flare of catalogue of (human) rights made them unguarded towards the constant urge for justification of the existing legal institutions. It has resulted in the extreme relativity, neutrality (Vila, 2008: 313) and plurality of values with reference to the theories of law and the content of existing legal enactments. *These relativistic and nihilistic approaches try to adjust and misrepresent the totality of the existing social phenomena as if they were all natural values; moreover, they tend to show them as if they were appropriate or even desirable models or standards as well.*

In consideration of the recent economic crisis and the shortage of limitless economic resources (i. e. global soil assets, fossil fuels, etc.) the researches related to different fields of social sciences progressively fade in those topics that connect states, societies and particular groups or individuals not on the basis of economic growth and commercial exchange but on the grounds of cultural assets – whatever it means. We can predict that this kind of culture (cultural exchange) will rely much more on moral foundations and “roots”.

2. Law and culture as law and public sphere

In our days the functional differentiation of society, or rather the growing autonomy of the subsystems of law, politics, economy, science or even religion is one of the most serious challenges for social sciences when they have to analyse our acentric world (Cs. Kiss, 1994: 7-8). Analysing the reasons why the weakening of social cohesion and solidarity took place, the category of “role” or “social roles” evolved (Pokol, 1992: 218). *In premodern societies, Simmel argued, man typically lived in a very limited number of relatively small social circles.* Such circles, whether kinship groups or guilds, towns or villages, tightly surrounded the individual and held him firmly in their grip. The total personality of the individual was immersed in this group life. Thus, medieval organizational forms “occupied the whole man; they did not only serve an objectively determined purpose, but were rather a form of unification englobing the total person of those who had gathered together in the pursuit of that purpose.” Moreover, subordination in premodern society typically involved domination over the entire personality of the subordinate. *The principle of organization in the modern world is fundamentally different: an individual is a member of many well-defined circles, none of which involves and controls his total personality.* “The number of different circles in which individuals move, is one of the indices of cultural development.” Modern man’s family involvements are separated from his occupational and religious activities. This means that each individual occupies a distinct position in the intersection of many circles. The greater the number of

possible combinations of membership is, the more each individual tends toward a unique location in the social sphere. Although he may share membership with other individuals in one or several circles, he is less likely to be located at exactly the same intersection as anyone else. Human personality is transformed when membership in a single circle or in a few of them is replaced by a social position at the intersection of a great number of such circles. The personality is now highly segmented through such multiple participation.

This fragmentation and compound form of the existence of our societies and our individuals leads to – at least – two consequences:

1) Up to now the classic proportion of the individuals' rights and obligations has become unbalanced (Ortega y Gasset, 1995: 187). The accentuation of different rights played down the individual legal obligations and accountability for the community, shifting many of the "old-type" responsibilities as well (weakening the families and other old-fashioned communal forms). (Csermely et al., 2009: 11)

2) The paper aims at reviewing the most important aspects of the emerging literature on the European public sphere. The vivid academic debates on democratic deficit, the low level of legitimacy and the lack of European demos show that the European Union suffers from serious problems in connecting its publics. I attempt to summarize how political scientists approach the importance of public sphere in the European integration. The main points of the most influential paradigms, theoretical backgrounds and definitions will be presented such as the total rethinking of Habermas's public sphere conception in the context of the EU and the deliberative supranationalism which is currently one of the most coherent ways to conceptualize the European public sphere.

In *The Structural Transformation of the Public Sphere: An Inquiry into a Category of Bourgeois Society* Jürgen Habermas developed the influential concept of the public sphere, which emerged in the 18th century in Europe as a space of critical discussion, open to all, where private people came together to form a public whose "public reason" would work as a check on state power. Habermas argues that prior to the 18th century, European culture had been dominated by a "representational" culture, where one party sought to "represent" itself on its audience by overwhelming its subjects. Habermas argued that the essential characteristic of the *Öffentlichkeit* culture was its "critical" nature. Unlike "representational" culture where only one party was active and the other passive, the *Öffentlichkeit* culture was characterized by a dialogue as individuals either met in conversation, or exchanged views via the print media. In contrast with Habermas' early concepts Fraser proceeds to present an argument in favour of a multiplicity of publics in stratified societies instead of a single public sphere (Fraser, 1992). The problem of Habermas's notion is not only that it idealises the liberal public sphere, Fraser argues, but also that Habermas fails to examine other, nonliberal,

nonbourgeois, competing public spheres. Revisionist historiography demonstrates that the bourgeois public was never *the public* (italics in original), rather a heterogeneous space of public spheres. A host of counterpublics which contested the exclusionary norms of the bourgeois public arose simultaneously, elaborating alternative styles of political behaviour and alternative norms of public speech (Habermas, 2005). Fraser sees that counterpublics can partially offset, although not wholly eradicate, the unjust participatory privileges enjoyed by members of dominant social groups in stratified societies. What then needs further examination is the interpublic discursive interaction that is of primary value (Szabó, 2010: 98). The newest scientific works do all speak about fragmented “spheres of publics” as well (Szabó, 2010: 99). The EU project, as well as the increasingly substantial effects of globalization in general, raises the question of changing patterns in the public sphere also.

Among other theories we have to stress the concept distinguishing public spheres in which identity-formation and formation of social solidarities figure more prominently and those in which reasoned debate and public choice are more prominent though the former mechanism is always a significant part of the latter (Turner, 1996).

3. Law and culture as law and enactment of social customs and practices – Law and culture as neocultural approach to law

This point considers a renewed emphasis on culture within law and development scholarship and practice what well-known researchers term the “turn to culture.” In the 1980s and 1990s, rule-of-law projects, comprising a multi-billion dollar development effort devoted to strengthening legal institutions outside the USA, produced many disappointing results (amongst others in Hungary).’In the wake of sobering assessments of the effects of these projects, a number of committed law professors proposed turning away from the purely institutional or technical elements of rule-of-law promotion and towards an exploration of the cultural and ideological forces underpinning social change. More specifically, they invited law and development scholars and practitioners to consider whether changing local cultures could contribute to achieving development and the rule of law (Cohen, 2009: 511-512).

Neocultural interventionists argue that transplanted laws, rules, and institutions are unlikely to produce their intended social effects in divergent social contexts or, for that matter, to produce any effects at all. And they suggest changing the hearts and minds of ordinary people in order to make these institutional reforms more determinate and effective (Cohen, 2009: 512). Both academic and programmatic versions of this project agree that development programs should inculcate a “rule of

law culture” not only among legal elites but in the everyday users of the legal system: “culture” must change so that it perpetuates a readiness to turn to law and legal institutions for solutions to conflict, an expectation that law will be decisive, consistent, and fair, and a willingness to abide by legal outcomes even when they fall short of what might be imagined possible through violence (Cohen, 2009: 512). Cao advocates *a shift from law to culture*: from law as an acultural and instrumental technique to law as an intrinsic product of culture ("the repository of social meaning") as well as from law as an instrumental technique to culture as an instrumental technique of its own (Cao, 2004: 1044).

Due to the lack of the above elements of legal culture serious discrepancy has evolved between the real contents of pregnant social consensus and the contents of the legal enactments (substantive functioning of legal institutions) related to these issues in the last 20 years in Hungary and in many Central-Eastern European countries. One of the reasons of these tendencies is the fact that new Central-Eastern European democracies didn't build their political systems on the momentous participation of social actors or on comprehensive institutions of coordinative processes: rather they interpreted parliamentary democracy as parliament's monopoly of policy-making. While within stable (and older) western(ized) societies notions and institutions of law and culture coexist in a close symbiosis: it's hard to imagine that within our democratic societies any legal enactment can totally overwrite moderate consensus of social life or on the contrary: established customs and conventions can notably diverge from the enacted rules of the lawmakers.

What are the obstacles to the unified, coherent, consistent and transparent system of social norms within our society?

- 1) A key obstacle is that legislators, lawyers, judges, and law professors have been enculturated to hold a set of attitudes, beliefs, and expectations about law marked by a high degree of formalism. As a result, these actors produced, defended, and expounded upon laws by referring to abstract and rigid internal rules that were out of touch with social needs and that were, consequently, often ignored. As first-wave law and development scholars perceived it, this state of affairs is/was paradigmatically not modern (Cohen, 2009: 517). In David Kennedy's telling: “Blind rule following and unimaginative bureaucratic habits were preventing law in the books from realizing its potential in action. The solution was to build a more pragmatic and antiformalist local legal culture...” (Kennedy, 2006: 95; 112)
- 2) From the perspective of social sciences one of the most significant risks of making any mistake in reference to the over- or underestimation of the importance of social affairs is mixing up legal norms and facts of reality. If we can't avoid this confusion we will assume that changes of legal

enactments are necessarily signs of substantive social changes. Law cannot itself promote social change: “Although law does have an expressive function and thus certain laws make certain statements which could in turn influence social norms, this capacity to affect preferences and beliefs through law is questionable in countries where the rule of law is itself weak. For those countries, law is insufficient and culture change will be needed.” (Cao, 2004: 1044)

- 3) The main theories of contemporary economics agree on the “best form of social solidarity” which is to promote and facilitate the general growth of the given economy that leads – indirectly – to the well-being of all. This theory can be called as the concept of the “leaking of well-being”. In line with this concept I pose the notion of “leaking of law” which refers to those – above mentioned – ambitions and efforts that try (tend) to transform social behaviour exclusively through new legal enactments and institutions.

Neocultural interventionists also configure culture as a behavioral domain. They reason that conscious values and beliefs can produce a set of self-disciplining rules that shape the individuals’ behavior, their social relations, and their social practices in reasonably (although not uniformly) predictable ways. I call this *culture as lawlike rules*. Culture, in this second sense, is a grid of prescriptions guiding behavior. This imagines culture to be like law: culture is the set of lawlike rules that condition people to have respect for and comply with the rules of law themselves (Cohen, 2009: 513).

4. Law and culture as law and religion

4.1.

As it was already mentioned in the *Introduction* the point is that both religion and law consist in a rich system of understandings and symbols that inform how the world is interpreted and what meanings are derived from experience. It is in this way that law and religion share a fundamental similarity – both are cultural systems (Berger, 2006: 19).

As early as 1977 the Harvard Sociologist Daniel Bell contested Max Weber’s view of secularization understood in terms of *Entzauberung/disenchantment*; he predicted “the return of the sacred.” (Bell, 1980: 324) As time passes by, this prediction has proven to be sustained by the rise of political movements based on religion. Over the turn to the new century the return of the sacred vindicates the hypothesis of a global de-secularization (Biggar and Hogan, 2009: 58) that has become visible

as a most powerful phenomenon on all levels, locally, regionally and also world politically. This return of religion is, however, not an indication of an increased religiosity, as much as it is a return to the public space closely associated with strong political claims and a demand for a new order for polity and society determined by religion (Tibi, 2010: 1). In addition the intense spread of Islam and especially of “fundamental Mohamedanism” confronts and interferes with several global theories of secularization. Since Islam – and in a different way Judaism – finds it difficult, if not impossible, to view religious beliefs, customs and practices as belonging exclusively to the private sphere, this poses a dilemma on two levels: first, to societies which view themselves as Islamic, but also impacts the lives of Moslems (and Jews) living in Western, liberal and post-Christian societies (Avineri, 2010: 5).

Islamic and other legal systems still seem to be in the state of “mutual incomprehension” towards each other’s legal concepts in many aspects, whilst Saría’s political and legal concepts raise up more and more practical questions in Europe as well (Ladeur, 2010: 9). Islam can only with difficulties accept the religious freedom of the individual because it is much more firmly founded on the concept of the law than even the Jewish religion. It understands itself as the symbolic order that constitutes the essence of both man and the humanity as such. This close relationship between symbolic order and the law in Islam and its inscription into the subjectivity itself is also the reason why the loss of faith for a Muslim can have a much more disturbing and desintegrating affect than in both Jewish and Christian religion that seem to allow for the split of religion and culture in a more open way and mitigate the consequence of the disturbing effects of loss of faith for the individual. Education, art, philosophy or technical competence can take over a constitutive role for the construction of the unity of the self and can make the loss of faith much less dramatic than in Islam. As a reverse Islam gives a much stronger sense of identity and certainty to its subjects by the integration of individuals into the community as is the case in the other monotheistic religions (Ladeur, 2010: 9-10).

4.2.

The relationship between law and religion in contemporary (civil) society has been a topic of increasing social interest and importance in many countries in the past many years. We have seen the practices and commitments of religious groups and individuals become highly salient on many issues of public policy, including the nature of the institution of marriage, the content of public education, and the uses of public space, to name just a few. “As the vehicle for this discussion, I want to ask a straightforward question: When we listen to our public discourse, what is the story that we hear about the relationship between law and religion? How does this topic tend to be spoken

about in law and politics what is our *idiom* around this issue – and does this story serve us well?” (Berger, 2006: 15) Though straightforward, this question has gone all but unanswered in our political and academic discussions. We take our approach to speaking about and, therefore, our way of thinking about – the relationship between law and religion for granted. “In my view, this is most unfortunate because this taken-for-grantedness is the source of our failure to properly understand the critically important relationship between law and religion.” (Berger, 2006: 15)

So how do we normally speak about the relationship between law and religion? Think back to the newspaper articles, radio shows, and court decisions that have addressed this newly invigorated relationship in different countries of the world and especially in Hungary. “Upon reflection, what you might notice is that almost everyone – and particularly politicians and the courts – speak in a very particular and amazingly stable idiom. The story tends to go like this: when law and religion meet in contemporary society, the task is simply for the law to accommodate, tolerate, or make space for the particular religious/cultural claim among the variety of such cultural claims in this highly pluralistic (...) society. This account holds that, in a polity in which constitutionalism and legal liberalism have become so entrenched, the primary means by which this task can be achieved is by properly defining and balancing the rights in issue.” (Berger, 2006: 15)

Two features of this story deserve remark. First, note that this idiom treats law and religion as fundamentally different phenomena. Whereas religion is a culture, law sits above it, seeking to integrate religious claims among the many cultural claims that it oversees. Second, note that the main message of this story is a fundamentally hopeful one: that the goal of accommodation and appropriate balancing can be achieved. “On this account, properly defining rights or making space for religion is not necessarily an easy task, but one that simply requires attention and effort to achieve. In this way, the story that most of us tell and hear about the relationship between law and religion places enormous faith in law’s ability to resolve the cultural claims, and resulting tensions, that it encounters. Law – constitutional law in particular – will do the job if one just keeps working at it. In short, this understanding of the problem assumes the existence of a solution.” (Berger, 2006: 15)

The underlying problem with the way that we currently approach the interaction of law and religion lies in the implicit conception of law upon which this current understanding is founded. *In this story, the meeting taking place is between law as something given and standing above the fray of culture, on the one hand, and a cultural claim called religion, on the other. The law is tasked with making room or space within it for the culture; law is called upon to accommodate or tolerate cultures to adjust in a way that harmonizes the competing cultural views for which it is responsible* (Berger, 2006: 16). The unspoken understanding of law in this story is that law is a functional adjunct to a properly working state and, essentially, a mechanism for maintaining social stability

and implementing government aims. “On this view, law is an instrument, albeit a particularly impressive one. Law is seen as endlessly malleable and perfectly adaptive. The vision is that law shall be able to create a coherent social system. Whatever difficult cultural claims are made within a society, law can meet the challenge by adapting to accommodate or make space for these claims properly. Thus, where there is a clash of rights, let us say a clash between freedom of religion and the right to equality or freedom to associate, coherence is a tenable possibility; all turns on the *law as an instrument* making the right fine-tuning adjustment. It is apparent how this vision of law supports the conventional story that we tell about law and religion. Constitutional law is simply a given system of social ordering – an instrument – as opposed to religion, which is a culture. The law is not intrinsically committed to any particular goods or social ends and, as such, nothing should stand in the way of this instrument adapting to accommodate culture. The problem, to the extent that one exists, is simply one of finding the right configuration for the system so that it can make space within itself for this particular cultural commitment.” (Berger, 2006: 15)

So, from this point of view law serves as a framework for religious and other contents. Actually, the relationship between the law and religion is mostly presented as a one-way process in which jurisprudence and enacted legal institutions are responsible for ensuring of proper legal guarantees for freedom of religion, *but in which religion or religious values, thoughts are not allowed to influence legal institutions*. It’s hard to decide or predict yet whether the allusion to God’s person in the preamble of one of the newest Hungarian laws (Preamble of the Act XLV. of 2010 on “National Togetherness”: “We, the Members of the Parliament of the Hungarian Republic, who believe that God is the Lord of the history...”) or mention of the religious heritage within EU documents are just residual and symbolic acts of these legal systems or they are/become substantial tools of changing the way of thinking and transform culture in its economic, political, and social dimensions through unfolding Christian practices and beliefs (Rothchild, 2008: 489). Moreover, from the perspective of theology at the very centre of the scientific intercorrelation of theology and culture or theology and law stands the question of how theology is becoming able to exceed its original and fundamental method, which “moves back and forth between two poles, the eternal truth or its foundation and the temporal situation in which the eternal truth must be received.” (Tillich, 1951: 3) The question is how theology is going to involve interdisciplinary methods, practices and other external aspects to reach substantive results in reference to the influence on cultural and legal entities and institutions. In addition, we have to pay attention to the fact, that a new methodological direction within the teaching of legal subjects – invented in the USA a few decades ago (Pryor, 2005) – has also evolved in the last few years in Hungary, examining the legal entities, legal practices and the behaviour of the representatives of legal professions (Gantt et al., 2006) in the light of Biblical verses (Rixer: 2010; Tóth, 2010).

4.3.

It can't be overemphasized that there are several conceptual challenges of the complexity of culture, which, according to theologian David Tracy, include "a diminishment of belief in the possibility of authentic civic discussion in the community." *'This diminishment of belief in discussion on a broader civic level has also contributed to facile assumptions about the unlikelihood of interdisciplinary conversations between law and religion.'* Despite these challenges, the prospects for these conversations remain promising. The sustained focus on constitutional issues (e.g. religious freedom) and the role of religion in the public square will continue to foster conversations, but future work in law and religion must also adopt new lenses for comparative analysis (Rothchild, 2008: 475-476).

A dialogue concerning the interplay between law and other forms of knowledge can only proceed from a genuinely interdisciplinary point of departure. Especially, considering that law – being one of society's most powerful discourses in both its secular and religious forms –, has become increasingly influenced by competing discourses in ethics, politics, cultural anthropology and even religious sciences.

Rothchild submits that the identification and interrogation of analogous frameworks can create the conditions for an intelligible, interdisciplinary dialogue that confronts the complexity of system but neither explains away the other nor forestalls critical and constructive exchange between law and religion. "For example, one can analyze the function of penance, forgiveness and grace in a theologian's work and the role of contrition, atonement, and clemency in a legal theorist's system. Could a theological account of God's gratuitous grace help transform current practices of clemency in capital cases? Or, debates about amnesty options for irregular migrants in legal circles could be compared with models of hospitality in a theologian's discussion of the orphan, widow, and outsider. Would legal and political structures contest the use of such theological models of hospitality?" (Rothchild, 2008: 476) Rothchild's method of comparison cannot be considered to be a purely structuralist one because Rothchild recognizes the danger of reductionism as well as the importance of poststructuralist critiques. He therefore also endorses the nuanced approach of Pierre Bourdieu, whose work on symbolic structures acknowledges the distinct interests, and therefore the relative autonomy of the compared fields. Rothchild contends that the identification of frameworks conducive for engaging law and religion with each other requires attention to several criteria: 1) an interdisciplinary method; 2) a systematic structure; 3) a coherent rationale for this method and structure; and 4) an account of continuity and change within the system. Rothchild's methodology

“stipulates that conversations between law and religion cannot be reduced to a lower (perhaps the lowest) common denominator, that is, a diminished articulation of law or religion that simply accords with generic or universal understandings of either discipline.” (Rothchild, 2008: 476) Rather, in contrast to what John Rawls envisions as a “thin” description of primary goods as the basis for social consensus and in contrast to legal theorists such as Richard Posner (Posner, 2001; Posner, 2002) who promote interdisciplinary conversations but limit or eschew the contributions of normative forms of discourse, Rothchild affirms those “thick” descriptions, that are construals of law and religion necessarily laden with deeply normative assumptions, are necessary to engage the interrelation of law, religion, and culture. Questions about the legality of the Ten Commandments in courthouses for example, provide a specific instance of this debate about “thick” and “thin” descriptions of theological beliefs and the separation of church and state. Rothchild tries to attend to law and religion as “thick” systems in order to engage both the particular and, as much as system can represent, the whole (Rothchild, 2008: 477). Systems facilitate comparison because, as Kathryn Tanner observes, “what matters for comparative purposes is the internal organization of different systems.” (Tanner, 2005: 10) The internal organization of system provides insight into a system’s complexity and contingency as well as its constitutive correspondence to other systems: As Niklas Luhmann notes, “two systems reciprocally make each other possible by each bringing its preconstituted internal complexity into the other.” (Luhmann, 1984)

Rothchild – in advocating for dialogue between law and religion – also developed and proposed four norms for comparative analysis: 1) the norm of epistemic humility; 2) the norm of intellectual rigor and innovation; 3) the norm of consideration for complexity, coherence, and contingency; and 4) the norm of social justice (Rothchild, 2008: 481).

5. Law and culture as teaching (role) of law

Some new ways and methods of teaching different legal subjects in Hungarian law faculties have been serving as a proof for the cultural nature of law: the former Prussian-type ways of teaching are to be changed in many other ways as well, one of which is the concept of “literature and law” that explains and interprets various legal entities through the examination of legal and moral problems appearing in well-known masterpieces of (polite) literature (Kiss, 2009).

Furthermore, the topic of this point could be interpreted in a much broader context, also: “Before literacy rates in the English speaking world reached their apex (and long before they dropped into the trough they are now thought to occupy), before we commoners read newspapers (and long before we wrote ’blogs), before autobiographies crowded book shelves (and long before reality

television created celebrities out of rather mean raw material), our cultural forebears appointed a rather singular individual to preserve for their children a record of their values, rituals, institutions, and assumptions: the bard. The bard told stories. But the bard didn't tell just any stories. The bard told stories drawn from the fabric of which his culture consisted. The bard's stories, while entertaining, also served a much more lasting purpose, that of teaching, and in teaching, affirming, what choices his society valued. In particular, by reading the bard's stories one can identify which virtues (always courage and love, sometimes charity and chastity) the bard's society honoured and which vices (always cowardice and cruelty, sometimes intemperance) it condemned. The bard extracted from his culture's fabric samples representative of the whole. In short, the bard reinforced for his contemporaries and identified for his successors what choices and cultural commitments his society considered right and good." (MacLeod, 2008: 11)

Today the bard lives on as a movie screenplay writer. The historian Paul Johnson has observed that from early in the life of Hollywood, "...movies stressed patriotism, loyalty, truth-telling, family life, the importance and sanctity of religion, courage, fidelity, crime-does-not-pay, and the rewards of virtue. They also underpinned democracy, Republicanism, the rule of law, and social justice." (Johnson, 1997: 696)

A society's laws function in much the same ways. The law contains a narrative, which has two aspects, (1) preservation of an account of human choices and cultural commitments, which reflects the culture's values and (2) instruction that informs and shapes future choices. In other words, the law's narrative preserves samples of a cultural fabric for the benefit of contemporary and future generations, and in turn teaches which individual and cultural choices are just (MacLeod, 2008: 12). Lawmakers and interpreters of the law begin their deliberations by reading the law's narrative about the past. Informed by this narrative, they proceed to pass new judgments on choices currently at issue. More directly to the point, nonlawyers look to the law to teach them what choices they ought to make, and for what reasons they ought to make them (MacLeod, 2008: 13). Choices informed by the law's narrative then combine to create or reinforce components of a culture – relationships, institutions, practices. Thus culture shapes the law and the law reciprocates. For these and other reasons, Francis George has observed: "The many components of our culture largely are united by law, not by blood, not by race, not by religion, not even by language, but by law. It's the one principal cultural component we all have in common. ... In [the United States, at least] law is more important in teaching or instructing us than it is in directing us." (George, 2003: 135) We can add to the latter that the functioning of this *teaching role* of law requires some respect towards social institutions and individuals representing them. Moreover, we have to acknowledge that the curriculum and the daily practice of Hungarian law faculties – both of which contain basic, professional and elective studies (Fekete, 2010: 71) – barely deal with the role of ethics and moral

obligations of a lawyer, even if there are some subjects formally engaged in these issues. These are crucial points when many observations refer to the fact that general legal obedience is at stake.

It's out of question that the civil law tradition has had a decisive influence on the training of lawyers and on the formalist attitude of judges in Hungary (and in other countries as well). This influence has led to a legal conception that reduces law to texts and codes, conceiving legal reasoning as a mere interpretation of general preexisting rules, and understanding the judicial function as an activity of mechanical and neutral application of law (Vila, 2008: 313).

6. Legal profession: task of social leadership

There are some common characteristics of representatives of different legal professions: high exactitude, notional consistency and closing of directions of reasoning (Jakab, 2010: 85). Nevertheless if that profession wants to be more than just a career then it has to have its own scale of values that are both cultural values and values of legal culture. "The growth, diversity, and mobility of today's legal profession make the task of leadership for any group, especially the academy, very problematic. The discussion of law school leadership tends to focus on the profession's professed interest in law school curricula, especially in the area of professional responsibility. However, there may be other ways, perhaps even more effective than a mandatory course, to reach the same result – so called "perspectives days" or "bridge weeks" are employed by some schools in the USA; others (...) have adopted a pervasive approach; still others teach ethics through their clinical programs." (Elman, 2009: 93) Focusing on either curriculum reform or research and scholarship, this will all be for nought if "we do not operate our institutions and individually conduct ourselves in a manner that clearly indicates to our students that we take professional responsibility and professional ethics seriously and that we conduct our affairs based upon the principles of "ethical lawyering". If we do not conduct ourselves – individually and institutionally – in an ethical manner, the students will get that message and it will undermine any message of ethical lawyering we hope to instil in them through the curriculum (Elman, 2009: 93).

7. Law and popular culture

The application of law – proceedings in Courts of Law and their decisions – has entered the realm of popular culture and media. It is impossible to tell whether law has gone pop or pop has gone law (Sherwin, 2000), but it is now clear that there is a crucial relation between the two. In popular

culture law has become the source of plots, the center of dramatic tension, the butt of jokes, and the ultimate narrative resolution. This explosion of “lexitainment” (Friedman, 2000) has engendered a proliferation of studies focused on law and popular culture. Some may even argue that the line between law and popular culture never existed. However, the distinction between law and popular culture is institutional rather than essential (Sielby, 2002: 154); a look at their institutional structures reveals that law and popular culture have been distinct and it is possible that the distinction is now eroding (Goodman, 2006: 761). And, somehow, we face the same distinction between the notions and contents of high and popular culture. Even if one does not agree with the institutional difference between high and popular culture, we can recognize the very different set of hermeneutic skills needed for reading (legal) literature and those needed for attending to popular culture (goodman, 2006: 761). Like popular culture, high culture radically separates producers and consumers, develops products that are decontextualized and therefore polysemic, is concerned with distribution, and is seen as property and must be purchased (DiMaggio and Powell, 1991). The primary difference is that gatekeeping in high culture involves a select cultural elite that carry core values and norms of a specialized art world (Becker, 1982), whereas gatekeeping in popular culture involves all of the commercial concerns described by Hirsch (1972), and Peterson (1976).

Geertz’s states: The study of law and the study of culture should not be brought together to form a new hybrid, he argued. Rather, there should be “a hermeneutic tacking between two fields, looking first one way, then the other, in order to formulate moral, political, and intellectual issues that inform them both.” (Clifford, 1983: 170) Referring to Geertz, Asimow and Mader use popular culture to illuminate such legal topics as constitutional rights, alternative legal systems, rules of ethics, and the actual daily life of lawyers (Goodman, 2006: 762).

As such, we have now reached the point at which it is useful to begin to categorize different approaches to the subject of law and popular culture. Scholarship on law and popular culture can be classified into three general approaches: (1) semiotic; (2) transmission; and (3) institutional (Goodman, 2006: 758). To give a brief impression of how these terms will be used, *semiotic* refers to approaches that study the proliferation of the diverse meanings of law found in popular culture; *transmission* identifies approaches based on the model of a transmission of messages about the law from producers to receivers through the media of popular culture; and *institutional* refers to those approaches that study the intersection of the underlying organizations and institutions producing, transmitting, or receiving law and popular culture. These approaches are not mutually exclusive and are often mixed, although I will argue that promiscuous combinations can cause problems. Despite this danger, to understand what happens to the law as it enters popular culture all three approaches are required: an analysis of the proliferation of meanings, an understanding of the messages that are transmitted, and an appreciation for the institutional structures that produce both law and popular culture (Goodman, 2006: 758).

7.1. Semiotic approach

This subpoint examines how the concept of 'law' is culturally defined and constructed in popular culture. The term 'law' has many possible meanings, not just in legal institutions (where it can refer to positivist law, natural law, Indigenous law or police powers) but also in the wider culture. Law, it seems, is a malleable concept, its definition often depending upon the context in which it is found (Bainbridge, 2006: 153). Despite this, legal and cultural theorist Steve Redhead notes that conventionally 'in jurisprudential and political theory', law is taken as a given – 'we assume that we know what it is and where to find it, and also what it does'. Redhead goes on to suggest that this is in fact 'a powerful (legal) fiction which may be crucial to the exercise of political power and legal authority across many different fields, especially the cultural'. (Redhead, 1995: 10)

One possible starting point for understanding how law is culturally defined is through Swiss linguist Ferdinand de Saussure's notion of semiotics, the study of communication (De Saussure, 1983). Adopting a structuralist approach to communication, de Saussure breaks down communication practices into a series of units called signs. A sign is anything that produces a meaning. Each sign is comprised of a physical component (the signifier) and a mental concept associated with that physical component (the signified). The relationship between the signifier and the signified is called signification, the process by which meaning is made. Thus, when we are confronted with a statue of justice, an image of a courtroom, or the figure of a lawyer or a policeman, we can understand them all as the physical signifiers of the mental signified-law (Bainbridge, 2006: 154). It is suggested the the popular cultural signifier of law has slid further and further away from the modern rule of law towards an increasingly transcendent and interventionist pursuit of justice, pushing the boundaries and promoting debate over what law can and should be. Saussurean semiotics is therefore useful because it provides a set of tools to describe how law is culturally constructed. It permits an analysis of culture without the imposition of value judgements (based on artistic or moral merit) and, unlike empirical sociology, can focus on individual texts rather than large-scale patterns (Bainbridge, 2006: 154).

Furthermore, the semiotic approach to law and popular culture provides many of the same benefits as the study of law and literature (Goodman, 2006: 760-761). Of course, it does not contribute the same "craft values" in writing and rhetoric that Posner lauded (Posner, 1988), but it does give the lawyer a way to contemplate the nexus between law, justice, and power, which is removed from the mundane concerns of legal practice. Like literature, popular culture can provide lawyers with an appreciation for the perspectives and experiences of others and, in some cases, provide insight into the human condition (Goodman, 2006. 761).

We must also add to this subpoint that stereotypes are essential elements of popular culture, and they offer information on the popular culture of both the users and the objects of the given stereotype. Consequently, legal entities' and institutions' interpretation by popular culture is also built on (the totality of) specific beliefs, topoi and presumptions,

7.2. Transmission approach

There are many versions of the transmission model, but the most influential example is Lasswell's five-part model, which can be expressed as the following question: Who/ says What/ in what Channel/ to Whom/ with what Effect? (Lasswell, 1948) Presenting popular culture as the transmitter of messages about law, this model suggests that we ask who are producing the messages about law in popular culture, what are the contents of those messages, what media are being used to disseminate the messages, who is receiving them, and what is the effect on their view of the law. These and related models are enormously helpful for directing research, from studies of the individuals and organizations that produce media representations, to content analyses of images of law and crime in popular culture, to comparisons between different media, to audience ethnographies, to measuring effects. When applied to popular culture, the transmission model commonly appears as a *manipulation* model: much of the research using the transmission model has focused on the use of media to manipulate the audience (Goodman, 2006: 765).

Although simplistic, it is useful to contrast the semiotic and the transmission model as the difference between meanings and message. Semiotic models are concerned with meanings, but not with a message. In comparison, the transmission model focuses on a message, its stages, distortions, receivers, etc. The semiotic focus cannot be on the message, since it assumes there is no single message or even a delimited set of messages. Semiotics is more interested in multiplying the plurality of meanings and the relations between signs, codes, and contexts that allow meanings to be apprehended. These different questions do not make the two approaches incompatible. Research into what messages are produced, transmitted, and received often requires some formulation of what meanings are possible. In addition, the semiotic proliferation of meaning can be enhanced by research into actual messages that might exceed the imagination of even the most "postmodern" semiotician (Goodman, 2006: 766).

The transmission model is an important and potentially fruitful approach to understanding the relation between popular culture and law. However, it calls for difficult and frequently labor-intensive methods of empirical analysis. To understand the message that is being produced requires

access to some of the most powerful and closed institutions. To understand the message that is being received requires audience research (Goodman, 2006: 774).

7.3. Institutional approach

The institutional model is the third general approach to the relationship between popular culture and law. Rather than looking at the proliferation of meanings or the transmission of a message, the approach focuses on the institutional structures involved. This approach may assume that meanings are being proliferated or that messages are being transmitted, but the analysis centers on the underlying institutions and their systemic capacities and tendencies. It is at the institutional level that we see the distinction between popular culture, mass culture, and folk culture. Much of the work in the sociology of culture has analyzed the institutional structures involved in cultural production, looking at such things as reward systems, market structures, and gatekeeping systems (Goodman, 2006: 775). Other research has focused on the institutions underlying the media that distribute popular culture or looked at the social structure of reception.

The expansion of communication infrastructures and services can be seen as the result of a crisis of control in the economy and in society in general, many researchers state. There are numerous signs that such a crisis has reoccurred in the last three decades.

While electronic networks certainly open up possibilities for the decentralised circulation of information, it does not follow that cyberspace and the digital highway are going to ensure universal access, peace, democracy, equality or any other component of Enlightenment humanist ideology. Despite all the promises and possibilities being articulated onto this new communications infrastructure, all the indicators of the actual implementation of this electronic infrastructure actually point away from the universality, equality and democracy promised by governments and academics alike.

8. Law and culture: approach of prevention and retribution

The existence of the validity of any particular legal norm *mostly* depends on the sanction attached to it. In addition, sustainability of that validity turns upon the existence of the collective consciousness of a kind and solidarity within the given society. And so, the lack of that type of consciousness and solidarity transformed – in many aspects – contemporary law into a position (state) that lacks the *general preventive effect* to a certain extent.

The spread of pseudo-pluralism that wants to comfort all the “cultural” expectations and tries to

meet all the requirements evolving in the society causes even demolition of several legal guarantees.

The main guarantees are the *general preventive effect* of laws (legal enactments) and the most important role of the laws: being a typical moral standard. We lack both of them under the mantle of some nihilistic and relativistic legal enactments. Under these circumstances, self-sufficient, closed systems of law are increasingly rendering themselves *empty, ductile and unstable, the general preventive effect of which has totally vanished*. It's an obvious "criterion" of our atomised society that nowadays even inhabitants of the same village or block of flats do not obtain knowledge of legal conviction of their neighbours...

Rights, earlier seen as absolute, indivisible, and inalienable have become relativized by the permanent interest-balancing so characteristic of contemporary legal-process.

Foucault states that spectacles of law and punishment have been replaced by disciplinary surveillance (Foucault, 1977: 225). Foucault argues that modern law no longer relies on such public dramas of transgression and retribution. Instead of ritualized communal spectacles, the law is supported by obscure microtechniques of surveillance and control. These "disciplinary" mechanisms both support law's social order and subvert its goal of universal norms (Goodman, 2006: 778). While promising equality before the law, the disciplines, which support this modern legal regime, categorize and individualize "introducing insuperable asymmetries and excluding reciprocities." (Foucault, 1977: 225)

9. Law and culture as law and justice

A central consideration in analysing the way law is culturally constructed is the relationship between law and justice. However, as Bary notes: "Despite more than 2000 years of political theorizing the notion of justice still has no settled meaning: it is the paradigm case of an essentially contested concept. It is not simply that there are fundamental disputes at the normative level (...) it is the fact that there is so little agreement as to what the concept stands for that causes serious problems". (Bary, 2000: 135)

Jacques Derrida claimed that, since justice transcends the legal system, it can never be wholly immanent. Following Plato, Derrida views justice as something 'beyond' the legal system, something quite apart from legal rights and remedies (Derrida, 1992: 10). Justice can therefore be categorised in two ways: as procedural justice (relating to fairness and ensuring that the proper

procedures have been followed); and as substantive justice (relating to getting the 'right' or 'correct' result, even at the expense of some procedural fairness). The classification reveals justice's relationship with the law. Procedural justice is subordinate to the law. Here justice remains just another aspect of the law, with fairness and closure remaining the true aims of the legal system. In contrast, substantive justice is the aim of the law. Other aspects of the law (like fairness or closure) may necessarily be suspended or ignored to achieve it (Bainbridge, 2006: 156).

The act of seeking justice itself shapes the law, creating instability in the law and resulting in at least two different forms of law, what many thinkers have termed *modern law and pre-modern law* (Bainbridge, 2006: 157):

a) The Rule of Law is defined by contrast with the 'rules of man' – arbitrary, ad hoc decisions. Its most basic requirements are consistency, through rules fixed in advance, and public knowledge and fairness, through neutral application. *The modern ideal of law* is therefore based around rationality. It aims to provide due process, ensuring fairness and equality. To a certain extent, it also seeks to provide reassurance that the legal system is the best forum for dealing with criminal and civil issues as it ensures objectivity and impartiality. In modern law, then, justice remains procedural in that it is just another aspect of law, to be considered and balanced against these other requirements.

In addition, the validity of the present-day positive law is due to its *self-referential closedness (system-autonomy)*. This self-referencing of the legal system means that within its insular system legal processes are applied in institutionalized and professionalized forms on the results of other legal processes. In this regard moral or ethical urge of justification occurs as an exclusively legal problem (e. g. by reference to the practice of the Constitutional Court) within the overall superstructure of the legal system. However, recent societal and legal developments should increasingly call our attention to the applicability of law instead of dwelling on aspects immanent to the system itself.

b) *In contrast, a pre-modern ideal of law* privileges justice over equality, and emotion over rationality, with emotion often viewed as a conduit to the truth. This ideal of law is pre-modern in the sense that it has a connection to the 'sacred', the (pre-modern) forms of church law or divine law in ancient societies. Here, kings or clergy were said to have a direct conduit to the will of the divine and therefore came to personify the law themselves. In pre-modern law, justice is clearly substantive in that it is the aim of law, overriding concerns of due process or equality.

The increasing prevalence of the 'state' as the signifier of law in popular culture parallels the increasing intervention of the 'state' in the real world, particularly post-September 11 and particularly in the area of proactive law. There has been a notable expansion and concentration of

power in the executive and a move towards interventionist justice.

In the United States, there is therefore a shift towards a pre-modern ideal of law which requires new methods to achieve increasingly nebulous ideas of substantive justice. Indeed, this shift toward the pre-modern is articulated by a number of sources. The pre-modernity of the state's approach is underscored by the frequent restatement of the US administration's aim to 'bring terrorists to justice for their crimes', which deliberately highlights 'justice' rather than 'trial'. As noted earlier, in all of these sources, justice and preventing terrorism are equated as being one and the same. Perhaps, the greatest irony is that, as German notes: "Terrorist groups almost never refer to themselves as terrorists, but rather as soldiers, revolutionaries, holy warriors" (German, 2005: 11); therefore, terrorists themselves are enacting a pre-modern form of law, with clear links back to the sacred and the belief that substantive justice is on their side (Bainbridge, 2006: 171). First, they make mutability of law as term visible. Second, popular culture promotes debate about the relationship between law and justice and the balance involved in preserving human rights while protecting security interests.

10. Some conclusions

The modern and postmodern social theories and concepts mostly still ignore the philosophical and moral nature of mankind, trying to avoid the theoretical foundation of the social order (Frivaldszky, 2007: 382). To give an example: the ethical and legal concept of "multiculturalism is more or less blind for moral questions." (Avineri, 2010: 6)

Thus recent legal systems – with a measure of simplification – resemble a scallop-shell, the thickness of which expands, but which does not contain a sole grain of sand, i. e. the thickness of the stratum of fundamental rights permanently expands, whilst the shell still waits for the thing to be hosted by it to produce a pearl. The question is what the forthcoming idea or ambition will be that enables the shell to turn out the pearl of continual development and – at least spiritual – welfare within the EU.

What are those things that can fulfill that vacuum resulted by the effects mentioned above? What are the possible scenarios for the near future? On the one hand there can be a durable crisis of legal institutions in connection with the infantilization of the majority of societies, etc. It means that recent processes can persist. On the other hand new theories could rise up, especially new forms of former natural law concepts.

It's obvious that we should outline new models of (political) morality that are able to reconcile the dual tendency the modern world is experiencing to both a more wide-ranging universalism and an

increasing revival of local loyalties, cultural claims and moral requirements. It is crucial to find a solid theory of political and legal legitimacy for a globalized world (Vila, 2008: 312). Moreover, we must come up with *a new postulate, proposing an institutional approximation of morality and law*, which is the only possible solution to the crisis of the legitimacy of modern law.

Bibliography

- Avineri, S. (2010). *Transcending Christian and Post-Christian Notions of Relations between Religion and Public Space*. CEU, Budapest.
- Bainbridge, J. (2006). Lawyers, Justice and the State. *Griffith Law Review*. **15**, 153-176.
- Bary, N. (2000). *An Introduction to Modern Political Theory*. Macmillan, London
- Becker, H. (1982). *Art Worlds*.: University of California Press, Berkeley
- Bell, D. (1980). *The Winding Passage*. Basic Books, New York
- Berger, B. L. (2006). Understanding Law and Religion as Culture: Making Room for Meaning in the Public Sphere. *Constitutional Forum* **15**, 10-31.
- Biggar, N. – Hogan, L. (Eds). *Religious Voices in Public Places*. Oxford University Press, Oxford
- Cao, L. (2004). The Ethnic Question in Law and Development, *MICH. L. REV.* **102**, 1044-1103.
- Cohen, A.J. (2009). Thinking with Culture in Law and Development. *Buffalo Law Review*. **57**, 511-586.
- Cs. Kiss, L. (1994). Bevezetés [Introduction]. In: Cs. Kiss, L. – Karácsony, A. (Eds). *A társadalom és a jog autopoietikus felépítése [Autopoietical System of Society and Law]*. Tempus, Budapest
- Csermely – Fodor – Joly – Lámfalussy (2009). *Ajánlás a nevelés-oktatás rendszerének újjáépítésére és a korrupció megfékezésére [Recommendation on the Reconstruction of Education and Restraint of Corruption]*. Bölcsék Tanácsa Alapítvány, Budapest
- De Saussure, F. (1983). *Course in General Linguistics*. Duckworth, London
- Derrida, J. (1992). Force of Law. In: Cornell – Rosenfield – Carlson (eds), *Deconstruction and the Possibility of Justice*. Routledge, London
- DiMaggio, P. and Powell, W. (1991). Introduction. In: DiMaggio, P. and Powell (Eds). *The New Institutionalism in Organizational Analysis*, University of Chicago Press, Chicago:
- du Gay, P. (1997). *Doing Cultural Studies: The Story of the Sony Walkman*. The Open University, London
- Elman, B. P. (2009). Creating a Culture of Professional Responsibility and Ethics: A Leadership Role for Law Schools. *Windsor Review of Legal and Social Issues* **27**, 80-104.

- Fekete, B. (2010). Practice Elements in the Hungarian Legal Education System. *Acta Juridica Hungarica* **51**, 65-76.
- Foucault, M. (1977). *Discipline and Punish: The Birth of the Prison* (trans. Alan Sheridan). Pantheon Books, New York
- Fraser, N. (1992). Rethinking the Public Sphere: A Contribution to the Critique of Actually Existing Democracy. In: C. Calhoun (Ed). *Habermas and the Public Sphere*. The MIT Press, Cambridge, 109-142.
- Friedman, L. M. (2000). Lexitainment: Legal Process as Theatre. *DePaul Law Review* **50**, 539-559.
- Frivaldszky, J. (2007). Klasszikus természetjog és jogfilozófia [Classical Natural Law and Philosophy of Law], Szent István Társulat, Budapest
- Geertz, C. (1983). Local Knowledge: Fact and Law in Comparative Perspective. In: *Local Knowledge. Further Essays in Interpretive Anthropology.*: Basic Books. New York
- George, F. (2003). Law and Culture in the United States. *Jurisprudence* **48**, 112-164.
- German, M. (2005). Squaring the error. Law as War: Conference Report, **11**; <http://www.carlisle.army.mil/ssi>; 11. 11. 2010.
- Goodman, D. J. (2006). Approaches to Law and Popular Culture. *Law & Social Inquiry* **31**, Issue 3, 750-776.
- Habermas, J. (2006). Religion in the Public Sphere. *European Journal of Philosophy* **14**, 1-25.
- Habermas, J. (1991) Excursus on Luhmann's Appropriation of the Philosophy of the Subject through Systems Theory. The Philosophical Discourse of Modernity. In: *Studies in Contemporary German Social Thought* (Frederick Lawrence trans.) MIT Press, 370-410.
- Hirs, H. (2008). Weathering the storm. *Business Hungary*, **19**, 3-11.
- Jakab, A. (2010). Ki a jó jogász, avagy tényleg jó bíró volt-e Magnaud? [What makes a good lawyer? Was Magnaud indeed such a good judge?] *JEMA* **1**, 83-89.
- Johnson, P. (1997). *A History of the American People*. Weidenfeld & Nicolson, London
- Kennedy, D. (2006). *The 'Rule of Law,' Political Choices, and Development Common Sense*. Trubek & Alvaro Santos, New York
- Kiss, A. (2009). Bűnbe esett irodalmi hősök. [Heroes in Crime] Publicitás Art - Média Kft., Budapest
- Ladeur, K. (2010). Religious Fundamentalism as a Challenge to the Constitutional State. Hamburg (manuscript)
- Lasswell, H. (1948). The Structure and Function of Communication in Society. In: Bryson, L. (Ed). *The Communication of Ideas*. Harper, New York
- Luhmann, N. (1984). *Soziale System*. Suhrkamp, Frankfurt
- MacLeod, A. J. (2008). The Law as Bard: Extolling a Culture's Virtues, Exposing its Vices, and Telling its Story. *The Journal of Jurisprudence* **1.**, 5-38.

- Natt, G. L. O. – Oates, C. H. – Menefee, S. P. (2007). Professional Responsibility and the Christian Attorney: Comparing the ABA Model Rules of Professional Conduct and Biblical Virtues. *Regent University Law Review* **19**, 3-92.
- Ortega y Gasset, J. (1995). *A tömegek lázadása* [The Revolt of the Masses]. Pont, Budapest
- Peterson, R. (1976). The Production of Culture: A Prolegomenon. *American Behavioral Scientist* **19**, 669-684.
- Pokol, B. (1992). *A professzionális intézményrendszerek elmélete* [Theory of Professional Social Institutions]. Felsőoktatási Koordinációs Iroda, Budapest
- Posner, R. (2002). *The Problematics of Moral and Legal Theory*. Harvard University Press, Cambridge
- Posner, R. (2001). *Frontiers of Legal Theory*. Harvard University Press, Cambridge
- Posner, R. (1988). *Law and Literature: A Misunderstood Relation*. Harvard University Press, Cambridge
- Pryor, C. S. (2006). Consideration in the Common Law of Contracts: A Biblical – Theological Critique. *Regent University Law Review* **18**, 1-48.
- Reddy, N. (2010). Importance of Moral Values in the Present day Situation. <http://www.ezinearticles.com/?Importance-of-Moral-Values-in-the-Present-day-Situation&id=382706>; 11. 01. 2010.
- Redhead, S. (1995). *Unpopular Cultures: The Birth of Law and Popular Culture*. Manchester University Press, Manchester
- Rixer, Á. (2010). Isteni jog és emberi törvény Káin és Ábel történetében. [Justice of God and Law of Men in the story of Cain and Abel] In: Rixer, Á.: *Religion and Law – Vallás és jog*. KRE ÁJK, Budapest, 168-181.
- Rothchild, J. (2009). Law, Religion, and Culture: The Function of System in Niklas Luhmann and Kathryn Tanner. *Journal of Law and Religion*. **10**, 469-491.
- Sherwin, R. (2000). *When Law Goes Pop: The Vanishing Line Between Law and Popular Culture*. University of Chicago Press, Chicago
- Silbey, J. (2002). What We Do When We Do Law and Popular Culture. *Law and Social Inquiry*. **27**, 41-71.
- Straw, J. (2007). *The Changing Role of the British State*. *Speech to NLGN February 21*. <http://www.nlgn.org.uk/public/keynote-speeches/the-changing-role-of-the-british-state/>
- Szabó, G. (2010). Az európai nyilvánosság mibenlétéről. [Concepts of the European Public Sphere] *Politikatudományi Szemle* **19**, 94–112.
- Tanner, K. (2005). *Economy of Grace*. Fortress Press, Minneapolis
- Tibi, B. (2010). The Islamist Shari'atization of Polity and Society. A Source of Intercivilizational Conflict? Paper submitted to the Conference "Religion in the Public Space" CEU, Budapest

- Tillich, P. (1951). Systematic Theology. *Reason and Revelation, Being and God* **1**, 2-28.
- Tóth, M. (2010). *Az Ószövetségtől a Pink Floydig. [From the Old Testament to Pink Floyd]* Dialóg Campus Kiadó, Budapest (2nd edition)
- Turner, B. S. (Ed) (1996). Social Theory and the Public Sphere. *The Blackwell Companion to Social Theory*. Blackwell, Oxford (UK)/Malden (MA), 429-470.
- Vila, M.I. (2008). The Interplay Between Law and Culture: Open Questions. *Rev. Jur. U.P.R.* **77**, 206-315.