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“Married the sister of his late wife”: The negotiation of kin-marriages in Renaissance Hungary

Abstract: The study examines the social practices and cultural attitudes concerning kin-marriages of both the aristocracy and the common man. The analysis of lay petitions handed in to the papal curia asking the dispensation of kin-marriages highlights the dynamic relationship of social practices and official norms and reveals changing attitudes and practices to marriage, kinship and law from the 15th to the 17th century.

Key words: kin marriage, papal dispensation, secular and ecclesiastical regulation of marriages, use of law, social practices,



László Hunyadi, count of Beszterce and Erzsébet, daughter of Ulrich, count of Cilli handed in a petition to the papal curia in May 1455. They related that they wanted to marry, for which, however, they needed the pope's dispensation, since the 13-year-old brother of László, Matthias, had married Erzsébet when he was 12 years old, which is therefore to be considered rather legally as a betrothal due to the young age of Matthias. Since Erzsébet was never carnally known or approached by Matthias, now they ask the pope that notwithstanding these circumstances they can marry and have legally born children.¹

¹ „Ladislaus Johannis de Hunid comes Bistricensis laicus Transilvanen. dioc. et Elisabeth filia Vlrici comitis Cilie mulieris Zagrabienensis diocesis [petunt] ut matrimonium, quod ex certis rationabilibus causis desiderarent matrimonialiter copulari, tamen quia Mathias, frater carnalis dicti Ladislai tunc in XII, nunc autem in terciodecimo sue etatis anno constitutus matrimonium seu verius sponsalia cum dicta Elisabeth per verba sonantia de presenti, licet re vera propter defectum etatis dicti Mathie essent sponsalia de futuro, contraxit, quaquidem Elisabeth ab ipso Mathia incognita penitus nec in aliquo attemptata fuit, eorum itaque in hac parte desiderium adimplere non potest: quare supplicat etc. ut non obstante matrimonium inter se libere contrahere possint et post contractum licite remanere prolemque etc. de gratia speciali.”

The marriage policy of the aristocracy in the 15th-century has been analyzed by Erik Fügedi, who applied the most modern methodological tools of the time. In his monograph published in 1970 he concluded that aristocratic marriages functioned as political strategies and elite marriage policy in general served to delineate the aristocracy as a social group. The primary way to achieve this was marriage among kin and repeated marriages among families. As a result, Fügedi argues, kin relations within the aristocracy formed a subtle labyrinth, a complicated network difficult to detect even for contemporaries. Since, however, on the one hand, both church and secular law forbade marriage among kin until the fourth degree; and, on the other hand, it was important for them to contract legal marriages, it resulted that the practice of asking papal dispensations for kin-marriages was very widespread. As it cost a lot, however, this luxury could only be afforded by the social elite.²

The present study will demonstrate that social realities were more complex and varied than that. First of all, individual aristocrats applied different strategies when handling their marital affairs in front of authorities. Second, I will argue that the use of courts and law in the process of negotiating kin-marriages did not stop at the borders of the social elite, but as the petitions negotiated at the Apostolic Penitentiary show, the ordinary man was also capable of using canon law and ecclesiastical institutions in the process of transforming their illegal marriages into legal ones.

Historiography of in-marriages

It is a generally held thesis of marriage and kinship studies that consanguinity, the endogamous marriage pattern was the rule across various social strata in medieval and early modern Europe. Historical sociology also argues that the Western European marriage pattern in the late Middle Ages included that women married late, in their late twenties and some never married, which was accompanied with a strong tendency to local endogamy.³

The best known medievalist of the topic, George Duby presented a dichotome model of medieval marriage in the context of North-French aristocracy in the 12th century. He argued that the aristocracy, running contrary to the

Archivio Poenitentiarum Apostolica, Registra Matrimonialium et Diversorum (hereafter: APA) vol. 6. fol. 174^v-175^r.

² Erik FÜGEDI: *A 15. századi magyar arisztokrácia mobilitása* [The social mobility of the Hungarian aristocracy in the fifteenth century]. Budapest, 1970. p. 86ff.

³ Wally SECCOMBE: The Western European Marriage Pattern in Historical Perspective: A Response to David Levine. *Journal of Historical Sociology* 3 (1990), p. 50-74, here: p. 53.

model propagated by the church, married without emotions in the interest of patrimony and celebrated marriages by public ceremonies.⁴ Church regulation of exogamy was formulated in the 8th-century. It extended Roman law, which originally prohibited marriage between partners closer than the fourth degree of consanguinity, to the seventh degree, and added prohibited relations between in-laws (affinity) and between godparents and godchildren (spiritual kin). The prohibition was narrowed again at the Fourth Lateran Council (1215): Innocent III decreed that marriage to first, second and third cousins of oneself or of a deceased spouse or sexual partner were out of bounds. In the kinship terminology of the high medieval church this was a ban on marriage in the first four degrees of consanguinity and affinity.⁵ This marriage regulation survived unchanged into the late middle ages and early modern period. The Council of Trent had confirmed incest prohibitions with the exception of relaxing kinship rules established through godparenthood and extra-marital affairs.⁶

It is difficult to account for the strictness of ecclesiastical regulation, since it far extended the culturally universal ancient taboos of close-kin, mother-son, and sister-brother incestuous relations. The anthropologist Jack Goody proposed that the forbidden degrees prevented families from using endogamy to consolidate blocks of family land, with the consequence that it went to the church instead. This has been refuted by arguing that the definition of consanguinity and affinity went hand in hand with the definition of inheritance rights. In other words, the people who have a right to inherit are the people one cannot marry. It has often been considered as an instrument of power: forbidden degrees were defined so as to make powerful laymen depend on the pope for favours. Against this runs the point that dispensations became a general practice centuries later than the rules were formulated. Since the rationale is difficult to account for, it has even been suggested that the papal regulation of kinship was simply and arbitrarily based on the aesthetic of symmetry and symbolism.⁷

A recent comparative analysis of marriage cases from all over Europe is also informed by the above dichotome model of church and laity. Based on

⁴ Georges DUBY: *Medieval Marriage. Two Models from Twelfth-Century France*. Baltimore – London, 1991. p. 1–22.

⁵ David D’AVRAY: Lay kinship solidarity and papal law. In *Law, Laity and Solidarities. Essays in Honour of Susan Reynolds*. Ed. Pauline SPUFFORD – Janet L. NELSON – Jane MARTINDALE. Manchester – New York, 2001. p. 188–199. (hereafter: D’AVRAY 2001)

⁶ Jutta SPERLING: Marriage at the Time of the Council of Trent (1560–70): Clandestine Marriages, Kinship Prohibitions, and Dowry Exchange in European Comparisons. *Journal of Early Modern History* 8 (2004: 2), p. 67–108. (hereafter: SPERLING 2004)

⁷ See the overview of D’AVRAY 2001.

Penitentiary records the present study suggests that endogamous marriage was a very deep-rooted and widespread social practice of the 15th–16th centuries, and church politics shifted in matters of matrimony significantly only after Trent towards a greater tolerance of “cousin marriages”, which is indicated by a rising number of kinship dispensations.⁸

This generally and centrally indicated European crisis of the marriage market (in other words, the lack of exogamous reciprocity) is also reflected by local sources. A microanalysis of peasant marriage strategies – based on local material and numerous papal dispensations – in the mountainous Comasco region has shown how the more well-to-do peasant families used consanguineous marriage as a tool to keep family patrimonies intact or establish a joint property management by kin.⁹ As argued by the same author, the “love of lineage” above individual bonds was also a decisive factor in the making of cousin marriages, which ranked as high as 30% of first marriages in many regions of Italy even in the 19th century. In the peasant world, individuals were considered kin to the same limit set by the church, to the fourth degree of consanguinity.¹⁰ Statistical analysis of Swedish parish record books back to the 17th century testify to a high level of kin-marriages (21%).¹¹ The only exception to the general rule seems to be England, where an analysis of royal dispensations after the break of Rome measured a surprisingly low level of consanguineous marriage, including a lack of first-cousin marriages.¹² Case studies based on the Penitentiary material also argue for a marriage market dominated by kin-marriages. The analyses of the peasants of the hilly villages of Northern Italy, Scottish men of all sorts in the 15th and 16th centuries, as well as the nobility of the Ragusan Republic all conclude: in very different social groups the general practice of endogamous marriage formed part of a range of strategies of family politics and inheritance.¹³

⁸ SPERLING 2004. p. 74.

⁹ Raoul MERZARIO: *Il Paese Stretto. Strategie Matrimoniali nella Diocesi di Como, XVI–XVIII secolo*. Torino, 1981.

¹⁰ Raoul MERZARIO: Land, Kinship, and Consanguineous Marriage in Italy from the Seventeenth to the Nineteenth Centuries. *Journal of Family History* 15 (1990:4), p. 529–546, here: p. 538, 540.

¹¹ A. H. BITTLES – I. EGERBLADH: The Influence of Past Endogamy and Consanguinity on Genetic Disorders in Northern Sweden. *Annals of Human Genetics* 69 (2005), p. 549–558.

¹² M. T. SMITH – R. M. ASQUITH-CHARLTON – L. M. BLODWELL – C. M. CLEMENTS – C. J. ELLAM: Estimating inbreeding from the Faculty Office Registers, 1534–1540. *Annals of Human Biology* 20 (1993), p. 357–368.

¹³ Paolo OSTINELLI: *Penitenzieria Apostolica. Le suppliche alla Sacra Penitenzieria Apostolica provenienti dalla diocesi di Como (1438–1484)*. Milano, ca 2003; Irene FURNEAUX: Pre-Reformation Scottish Marriage Cases in the Archives of the Papal Penitentiary. In: *The Long Arm of Papal Authority. Late*

Sources and Aims

Contrary to the above described European crisis, the marriage market functioned in early modern Hungary, as argued by Katalin Péter, more effectively. Contrary to the practice in Western Europe, not only did all men and women marry, but the high geographical mobility of the common man is supposed to result in the practice of non-related marriages.¹⁴

The present study will reflect on the marriage practices and the use of law of both the aristocracy and the common man in Hungary from the 15th to the 17th century. The analysis is, on the one hand, based on the petitions that had been handed in to the office of the Apostolic Penitentiary before or after the making of the marriage.¹⁵ The Penitentiary was perhaps the most dynamically growing institution of the Roman Curia in the late Middle Ages due to the increasing lay demand and consumption of papal pardon for heinous crimes and canonically outlawed social practices. From the Kingdom of Hungary, ca. 150 marriage cases were recorded in the register books of this papal tribunal in the period between 1439–1559. The majority of them (93 cases) asked a papal licence for marriage among kin within the forbidden degrees of kinship. Since after 1559 there are no more petitions handed in from the Kingdom of Hungary to the Penitentiary, my reflections on the 17th century will be based on local sources.

Marriage among kin both in the circles of the social elite and the ordinary man, as will be argued below, was a common social practice. The question of whether kin-marriages described in petitions represent underlying social practices and norms or rather exceptional behaviour is closely linked to the legal quality of the texts at our hands. Petitioners did not include in their supplications the motivations and reasons of their acts described. Their silence must be attributed to their adaptation to the expectations of canon law, which judged on the basis of circumstances rather than reasons. The myriad of individual cases presented to the curial lawyers were therefore

Medieval Christian Peripheries and their Communication with the Holy See. Ed. Gerhard JARITZ – Torstein JØRGENSEN – Kirsi SALONEN: Bergen – Budapest – Krems, 2004. (Medium Aevum Quotidianum, Sonderband XIV – CEU Medievalia 8) p. 60–70. and Ana MARINKOVIĆ, Social and Territorial Endogamy in the Ragusan Republic: Matrimonial Dispenses during the Pontificates of Paul II and Sixtus IV (1464–1484). In: *ibid.* p. 126–144.

¹⁴ Katalin PÉTER: *Házasság a régi Magyarországon* [Marriage in old Hungary]. Budapest, 2007. (hereafter: PÉTER 2007) p. 44–45, 73–77.

¹⁵ On the activity of the Penitentiary in general see: Kirsi SALONEN-Ludwig SCHMUGGE, *A sip from the 'well of grace': medieval texts from the Apostolic Penitentiary*, Washington 2009 (Studies in medieval and early modern canon law 7).

smoothed into a Latin legal text typifying individual situations into a few patterns of legal thinking.

One of my arguments for the widespread practice of in-marriages is the reoccurrence of the secular prohibition, which criminalized kin-marriages in accordance with ecclesiastical rules. According to secular legislation passed during the reign of Matthias Hunyadi in 1462, it was defined as a crime of treachery „if someone committed incest and seduced women in their families until the fourth degree of consanguinity, and if the person is publicly dismissed and proscribed for it.¹⁶ The prohibition was repeated at the diet of 1495, and the issue was picked up again in the Tripartitum in 1514.¹⁷ Werbőczy made a further distinction, which also coincides with ecclesiastical concerns: “if a couple had married ignorantly of their kinship, even if they are separated, their children are legal as far as inheritance is concerned; when, however, they married knowingly and in the face of other family members protesting, their children will be illegal, and neither the king nor the pope can make them legal”.¹⁸ We should also notice the important distinction between the public and the private: kin-marriages are criminalized if they come to light causing a public scandal. While later in the 16th century Protestant churches in Hungary followed Catholic ways, it was finally Joseph II who thought that it was unreasonable and narrowed the kinship impediment to the second degree and obliged bishops to give dispensations.

Politics and marriage: the Hunyadi brothers and their wife

The marriage contracts of the Hunyadi family, similarly to the marriage policy of late medieval royal dynasties, fit into a range of political strategies. Their primary function was to stabilize the very shaky peace treaties between families in their rivalry for power and influence. The consecutive marriage plans and betrothals of either Hunyadi sons with Erzsébet of Cilli, daughter of Ulrich of Cilli and granddaughter of the despot of Serbia, George Branković, were meant to seal political agreements at certain moments of a decade long political fight between the two most influential magnates during the reign of the young king, Ladislas V: John Hunyadi and Ulrich of Cilli, ban of

¹⁶ *Corpus Iuris Hungarici. Magyar Törvénytár 1000-1526*, ed. Dezső Márkus, Budapest 1899, , 1462/2. paragraph.

¹⁷ Werbőczy István Hármaskönyve, Budapest 1897, (reprint Pécs 1989). (hereafter: *Tripartitum*), I. 107.

¹⁸ *Tripartitum*, 1/106, 109.

Slavonia, uncle of the king.¹⁹ Besides her powerful relatives, Erzsébet was also a splendid party as she had no brothers and was therefore a very probable heir of the Styrian and Slavonian lands and castles of his father.

Vilmos Fraknói and some other scholars more recently have already tried to reconstruct the marriage plans and the contracts that were tied to political treaties.²⁰ The first groom of the wealthy and princely bride was the senior brother, László. In 1448, after his defeat against the muslims, Hunyadi as captive of the despot was forced to make peace with him and Cilli, which was confirmed by a betrothal between Ladislav and Erzsébet.

Since this was, however, followed by years of hostility between the families, which annulled earlier marriage plans, in 1451 another political alliance and marriage plan took shape: this time it was Matthias to marry Erzsébet with a betrothal following in two years, in December 1453, when Erzsébet would be of canonical age, 12 years old. The contract allowed the would-be bride to continue practising her orthodox faith of her mother (Brankovič Catherine, daughter of the despot) and to keep orthodox priests in her court.²¹

According to the well-known sequence of events finally they got married in August 1455 with a church celebration, although consummation was further postponed. Their initially quoted petition handed in to the Papal Curia in May 1455 does not fit into this picture. Here it is stated that Matthias and Erzsébet married by an oral exchange of vows in the present tense (*matrimonium [...] per verba sonantia de presenti*) without consummation in 1454 (“a year earlier”). Moreover, she was going to marry in May 1455 László again. The contradictions inherent in the petition and the historical narrative based on local sources can be harmonized if Erzsébet and Matthias indeed celebrated their marriage not only in August 1455, but as was in 1451 originally planned, at the end of 1453, beginning of 1454. When later, however, László was chosen again to marry Erzsébet, several excuses were presented in order to annul her earlier bond to Matthias. Be it as it may, the

¹⁹ In more detail see Tamás PÁLOSFALVI: *A Nándorfehérvárra vezető út* [The Road to Nándorfehérvár (Belgrade)]. www.balkancenter.hu/pdf/palosfalvi.pdf.

²⁰ Vilmos FRANKÓI: *Hunyadi Mátyás király 1440–1490* [King Matthias Hunyadi 1440–1490]. 3rd chapter; Tamás FEDELES: „...Néha szerelembe keveredett egy-egy nőcskével...” Mátyás király és a szebbik nem [“Occasionally he entangled into a love affair” King Matthias and women]. *Pécsi Történeti Katedra*. Ed. Zoltán CSABAI – Anna DÉVÉNYI – Ferenc FISCHER – Péter HAHNER – Gergely KISS – József VONYÓ. Pécs, 2008. p. 237–250; Orsolya RÉTHELYI: *King Matthias on the Marriage Market: Diplomatic and Ceremonial aspects of marriage Contacts and Marriage contracts of Matthias Corvinus*. Paper presented at the Matthias Hunyadi conference at ELTE, 2008.

²¹ The marriage contract (7 August 1451) is published in: József TELEKI: *A Hunyadiak kora Magyarországon* [The Age of the Hunyadi Family in Hungary] I–XII. Pest, 1853–1857. X. p. 305–312

Hunyadi family would have surely been more content with two Cillei girls, thus enabling them to bind the two families with the widespread practice of multiply marriages. In addition, Erzsébet died unexpectedly in December 1455, leaving the Hunyadi boys alone.

As for the rhetorical strategies of the annulation, the first excuse was the underage of Matthias, although the 1451 marriage contract did not bother with his age, but referred only to the young age of Erzsébet (10 years), which made it necessary to postpone their marriage until 1453, when she reaches the age prescribed for girls (12 years). A further excuse was that their relationship was never confirmed by consummation. This was a strategy to reinterpret the earlier marriage into an unwed betrothal, which was in legal practice possible to dissolve.²² The third *post factum* argument for annulation derived from the fact that the subsequent betrothals and marriages of the Hunyadi brothers with the same girl were canonically considered illegal. It was called the impediment of “public honesty” to marry close blood-kin, for example the brother or sister of one’s earlier husband, wife or fiancée.²³

Hunting for rich widows: the kin-marriages of George Kanizsai

The marriage and petitioning of György Kanizsai, grand-cup-bearer (*főpohárnok*) and ban of Slavonia and Klára Rozgonyi is one of the six aristocratic marriage cases that had been handled at the Penitentiary in a 100 year period. This very low number comes short of explaining our proposed thesis that kin-marriages were socially accepted and generally practiced. The scarcity of dispensations also seems to run opposite the argument of Fügedi that the aristocracy was rule-oriented and always asked for papal dispensations in case of irregularity. Even if we have to take into consideration that magnates preferred to turn to another curial office and papal legates had also authority for issuing marriage dispensations, I am inclined to question Fügedi’s claim,²⁴ It rather seems to me that petitioning to Rome became a routine only by the 17th century. But who were then those

²² On the medieval debate on the role of consummation in effectuating a valid marriage see *Marrying and its Documentation in Western Christendom, 400–1600*. Ed. Philip L. REYNOLDS – John WITTE, Jr. Cambridge, 2007. p. 6–14.

²³ It was also called quasi affinitas, a subsequent affinity. See Willibald M. PLÖCHL: *Geschichte des Kirchenrechts*. Bd. II. Wien – München, 1955. p. 285–286.; *Die Supplikenregister der päpstlichen Pönitentiarie aus der Zeit Pius’ II (1458–1464)*. Ed. Ludwig SCHMUGGE – Patrick HERSPERGER – Béatrice WIGGENHAUSER (Bibliothek des Deutschen Historischen Instituts in Rom 84) Tübingen, 1996. p. 73.

²⁴ See for example the authority of Thomas Bakócz as legate: Ervin ROSZNER: *Régi magyar házassági jog* [Old Hungarian marital law]. Budapest, 1887. (hereafter: ROSZNER 1887) p. 480–484.

who, contrary to the silent majority, did make the effort and ask for dispensation, and what were their motivations?

In April 1496 György Kanizsai referred to family interests: “in order to keep up justice and friendship among his kin and affines, he would like to marry a woman bound to him by third degree consanguinity or affinity”.²⁵ His words must be read cautiously. We are witnesses to a rhetorical game: the papacy explicitly confessed that the primary aim of its extended regulations far outweighing universal social taboos was to increase friendship and social solidarities.²⁶ The Hungarian magnate seems to be appropriating the papal rhetoric. The actual motive of his petitioning must have rather been the opposite, namely his relatives protesting against his marriage.

His marriages seem to have gone sharply against social expectations. At the beginning of 1496 he married Klára Rozgonyi, the widow of László Egervári, who had died only a few months earlier. György Kanizsai acted very purposefully on the aristocratic marriage market. He looked very watchfully for rich widows. Klára Rozgonyi, who inherited all her first husband's wealth, was already his second catch. In 1493 he married Erzsébet Bánffy, another well-off widow, with similar quickness following the death of the previous husband, János Rozgonyi (+1492).²⁷

We do not know who was his denouncer at the court of the vicar of Veszprém, but it made him a lot of trouble. The petition to the Penitentiary in April was followed by another to the Apostolic Datary in December 1496. He handed in his second petition together with Klára, who is called his wife. Here they claim that they married and had sexual intercourse although they had been aware of their second degree of affinity: the young second wife was the niece of the first one. „Since, however, their divorce would entail a huge scandal and would leave Klára with no hope to find another spouse,” they asked the legalization of their marriage otherwise celebrated legally.²⁸

The second and more detailed petitioning allows the assumption that their marriage was under attack. And since the dispensation of the Penitentiary asked in advance seems not to have been effective enough, second time he asked for a letter by the pope's hand to silence his opponents. Contrary to him, however, the more bashful majority, who acted with more

²⁵ APA 45 162^v, 26 April 1496.

²⁶ D'AVRAY 2001.

²⁷ Iván NAGY: *Magyarország családai czímerekkel és nemzedékrendi táblákkal* [The coat-of-arms and genealogical tables of the families of Hungary], Budapest 1857–1868, VI, 67–68.

²⁸ *Monumenta Romana Episcopatus Wesprimiensis*. I–IV. Ed. Vilmos FRAKNÓI–Nándor KNAUZ–József LUKCSICS. Budapest, 1896–1907. IV. p. 73–74.

discretion and rather refrained from damaging the interests and emotions of relatives when marrying their second or third cousins or far-off in-laws, managed to live peacefully in their kin-marriages.

The circumstantial contradictions of the two petitions, as well as their factual differences compared to local sources provide an important lesson of historical methodology. The sources at hand were recorded and archived not with the intention of the parties to record what has happened, but rather in order to achieve, to prove, to mask or falsify something in a legal process. In this respect, the document, the dispensation we have at our hands, is not a repository of historical evidence but rather itself a historical agent that was supposed to perform something.²⁹ Therefore I propose that the circumstantial contradictions of the petition and the local sources are to be explained similarly in the case of the Hunyadi-Cillei marriages.

²⁹ See the approach of Jacques DERRIDA to documents kept in archives: *Archive Fever: a Freudian Impression*. Transl. by Eric Prenowitz. Chicago, 1996.

The kin-marriages of the ordinary man

As opposed to the six aristocratic requests, in the period between 1439–1550 there are 141 marriage petitions of ordinary people: peasants, petty nobles and townsmen. The great majority (106 cases) out of these are petitions for the validation rather than the annulment of marriages. 82% (87 cases) of these are requesting dispensation for different kinds of kinship impediments. Almost half of these ask concessions for consanguineous marriage partners (39 cases). Almost all couples stated, similarly to elite petitioners, to have been second or third degree cousins. Benedict Ratt of Bernau and his wife, Margareth, the daughter of George Vnger were however first degree cousins, since „the mother of Benedict was the sister of Margareth’s mother”.³⁰ Twelve couples were bound by kinship via marriage, they were in-laws related by the third or fourth degree. Quite a big group (17 cases) is comprised of cases where the affinity of the spouses is created by the affinity (or occasionally blood kinship) of subsequent spouses, most frequently a rather close kin relationship of first and second wives (13 cases). This marriage strategy, practiced also by the elite, is generally considered to serve the protection of the unity of family lands. However, its emotional basis, created by the everyday contact or cohabitation, with the young couple most often moving to the groom’s house, should also be considered. In seven cases the woman chosen as a second wife was the sister of the late first wife or bride. These second close-kin matches are described as a kind of family compensation of the groom by a younger sister for an initiated, but never finished marriage process with the elder sister, who died before consummating (and as stated in one case, before the church ceremony)³¹ the marriage.

A couple from Helmec (diocese of Eger), Márton Kovács and Zsófia, the daughter of Mackó György claimed for example in 1470 that although they had been aware of the impediment of their marriage, since Barbara, the late bride of Márton was the sister of Zsófia, they married publicly and had children.³² In another end of the country, in the diocese of Pécs, Gergely Geiche and his wife, Erzsébet Geiche were in a similar situation, in a long

³⁰ From the diocese of Győr in 1471 (APA vol. 19, fol. 121v). Another couple mentioned a fifth degree consanguinity. *Ibid.*, vol. 43, fol. 65r.

³¹ APA vol. 6, fol. 219v (1456).

³² „[...] alias sponsalia de futuro cum quadam Barbara soror carnalis dicte Sophie prefatus exponens contraxit et ea incognita diem suum clausit extremum; primum ipsum impedimentum scientes matrimonium inter se publice coniunxerunt prole exinde subsequuta, quare petunt cum ipsis dispensari, ut impedimento publice honestatis iustitie, quod ex premissis provenit, non obstante in eorum sic contracto matrimonio remanere possunt cum legitimatione prolis susceptae et suscipiende.” APA vol 18, fol. 8f.

time ago contracted marriage with children. They however stated that the sister of Erzsébet, Ilona was the wife of Gergely, but died before sleeping with his husband.³³ It seems that non consummation was the customary “strong” excuse for very close-kin matches, since it was also used by Máté Ádám and Magdalena the daughter of the late Simon, who wanted to marry, “but Máté once betrothed Anasztázia, the daughter of Magdalena, but without knowing her carnally she had died, but they had by now known each other by fornication”.³⁴

Couples with more distant affinity, where subsequent wives were first, second or third cousins, rather referred to the ignorance of the bond (which would not have been a very plausible argument in the above cases of sister-wives). The words of János Darabos of Királyfalva however refers to the considerations of family politics behinds his second choice: “once he married Ilona, the niece of his deceased wife at the counsel of his kin/brother”.³⁵ In these instances it is not clarified, but nevertheless it seems plausible to assume that the first marriage was a long-standing relationship, as opposed to the betrothals interrupted by unexpected deaths followed by the “sister-marriages”.³⁶

Finally, 19 couples asked papal licences for their marriages crossing the prohibited bonds of spiritual kinship, either created by the rite of baptism (13 cases) or by the rite of confirmation (6 cases). Contrary to this, it was not a habit among the aristocracy to ask for dispensation for spiritual bonds. Petitions of the common men however show that the mother- or father-in-laws

³³ „[...] olim scienter, quod quidam Helena soror dicte Helizabethe matrimonium publice cum dicto Gregorio coniunxerat, qui ab eodem incognita diem suum clausit extremum, matrimonium per similia verba de presenti coniunxerunt et consummarunt et prolem procrearunt, quatenus petunt, ut in eodem remanere possint.” APA vol. 15, fol. 21^r (1467).

³⁴ „[...] cupiunt contrahere matrimonium, sed alias Matheus sponsalia de futuro cum quadam Anastasia filia dicte Magdalene contraxerat et ea incognita etc. dicti exponentes sese actu fornicario carnaliter cognoverunt, quare petunt dicti exponentes a reatu incestus huiusmodi [...] absolvi ac impedimento publice honestatis iustitie, quod ex premissis provenit non obstante matrimonium inter se contrahere possunt cum legitimatione prolis suscipiende”. APA vol. 19, fol. 21^v (1471) diocese of Esztergom.

³⁵ „[...] ipse olim fretus consilio cuiusdam fratris Elenam nepotem carnalem uxoris sue defuncte matrimonialiter copulavit et matrimonium huiusmodi carnali copula consummavit [...]”. APA vol. 47, fol. 325^v (1499) Diocese of Nyitra.

³⁶ „Oswaldus filius Janti de Enos et Anna filia condam Jacobi Vethesi [...], [petunt], ut in matrimonio, quod olim ignorantes se tertio affinitatis gradu esse coniunctos per verba de presenti contraxerunt carnali copula subsecuta, ex eo proveniente, quod dictus Osialdus primo matrimonium contraxerat cum quadam Margarita qui cum tertio consanguinitatis gradu erat coniuncta predicte Anne, non obstante predicto impedimento affinitatis libere et licite remanere possint de gratia speciali [...]”. APA vol. 6, fol. 174^v (1455) diocese of Transylvania.

were often (11 times) the god-parents of their son- or daughter-in-laws. Péter however married an obviously much older woman, Margit, the daughter of Jakab Lederer, who had earlier baptised him as a baby. Miklós Varga also married his god-mother and contrary to Péter even acknowledged to have been aware of the prohibition.³⁷

It was a common practice to make an excuse out of the ignorance of the bond of spiritual kinship just as much as of the couples being second or third cousins (in approximately one-third ratio). But there was only one couple who presented themselves as being ignorant of the fact that kinship in baptism was officially banned.³⁸ The credibility of excuses is difficult to test. There is another striking example of considerable confusion: Bálint Tren’s father was the god-father of his wife called Anna, which they mistakenly called the impediment of public honesty.³⁹ Diocesan synods from 1460 onwards kept repeating in great detail the rules on the ban of the first spouse’s kin and of spiritual kinship.⁴⁰ The long explanation suggests that these rules were difficult, if not entirely impossible, for people to understand. There is, moreover, ample evidence that the lesser clergy also had to make considerable efforts in order to comprehend and remember the intricate rules of kinship, which they were expected to teach the laity from the pulpit.⁴¹

But what was the popular knowledge of and attitude towards the realities of kinship by and large? Even if we read the brief texts of the petitions very closely paying attention to all little details, it is difficult to identify what social practices and attitudes are represented by them. People tended to make excuses in cases of spiritual kinship and public honesty while petitions of third and fourth degree consanguinity were uncommented. Does it reflect any difference in attitudes, namely the popular norm of the latter, or the difference can rather be accounted for at the level of official expectations and recording practices? For example, there is no such case when a woman

³⁷ APA vol. 28, fol. 24^{r-v} (1478) diocese of Transylvania; Ibid. Vol. 22, fol 46^r (1474) dioceses of Eger.

³⁸ APA vol. 6, fol. 226^r (1456), diocese of Esztergom.

³⁹ APA vol. 43, fol. 78^r (1494) diocese of Esztergom. Another couple asked dispensation for a fifth degree consanguinity. Ibid., vol. 43, fol. 65^r.

⁴⁰ The synodal decretals are summarized by Dániel BÁRTH, *Esküvő, keresztelő, avatás. Egyház és népi kultúra a kora újkor Magyarországon* [Marriage celebration, baptism, ordinance. The Church and popular culture in early modern Hungary]. Budapest, 2005. (hereafter: BÁRTH 2005) p. 66; ROSZNER 1887. p. 212–215.

⁴¹ See the notebook of the later archbishop of Esztergom, László Szalkai, which he wrote during his years at the school of Sárospatak (between 1486–1490), which contains a tree of consanguinity, affinity and spiritual kinship. Published by Erik FÜGEDI: *Az Elefánthyak* [The Elefánthy family]. (Osiris Mikrotörténelem) Budapest, 1999. p. 25, 29, 33.; For ritual books and agendas helping the clergy see BÁRTH 2005. p. 67.

marries the brother of her deceased husband, as it often happened with bereaved husbands.⁴² Does it represent the lack of such kind of marriages or we should rather assume that such situations were handled otherwise? There are some cases of husbands marrying the sisters of their late brides or wives. Was it an act of family interest or love, we do not know. Was it a common practice with general acceptance or our cases are the stigmatized exceptions to the norm? I suggest below three aspects to consider that can at least partly answer some of these urging questions.

First, we have to consider the nature of contemporary court procedures. What was already mentioned in relation to litigation of the elite, also holds for the common man: at church and secular courts alike, lawsuits were primarily initiated by the personal charges and action of denunciators, as opposed to the *ex officio* court procedures which became more widespread only in subsequent centuries.⁴³

Active or possible denunciators, and the fear of being denounced is also reflected by the wording included in some of the petitions: “nonnulli simplices et iuris ignari ac ipsius exponentis forsan emuli asserere possent [...]”. But in most cases there is no hint whatsoever on the reasons that triggered the act of petitioning. While it is a probable assumption that there were lawsuits going on, it can be detected with great certainty only in a few cases. Miklós Fugi and his wife Elena Fugi petitioned twice in quick sequence. First they asked on the 22 April 1463 a dispensation for their marriage contracted in the fourth degree of affinity. Twelve days later they reformulated their request: they claimed that the father of the husband, Benedict was the godfather of one of the sons of the wife from her earlier marriage to the late Bálint Fugi; and since “some could argue that they are bound by spiritual kinship and could not remain in their marriage, therefore in order to refute such claims they ask [...] a letter declaring that no impediment exists between them”.⁴⁴

Even if the couple was insecure about the official definition of their kinship impediment, and it was most probably clarified by the curial lawyer commissioned by the Fugis, they kept track of their rather distant kinship bond. And when marrying couples did not, their denunciators still did. Therefore it seems reasonable to assume a general interest in keeping track of kinship bonds and also a widespread familiarity with official expectations and bans on kinship relations. The repeated and modified petitioning of the

⁴² There are three cases when the first and the second husbands are cousins of one another.

⁴³ *Magyar Jogtörténet* [Hungarian legal history]. Ed. Barna MEZEY. Budapest, 2007. p. 357–358.

⁴⁴ APA vol. 11, fol. 61^r and vol. 11, fol. 269^v, diocese of Várad.

Fugis is a telling sign of the urgency of the case, of an already ongoing or envisioned lawsuit: the lawyer helped them to ask for a more favourable kind of apostolic letter that could be presented with greater efficacy at the local church court.

The words of András Csorba from Alsóborsa is a more explicit representation of the local family conflict: he complained that based on false informations the vicar’s courts of Esztergom is incessantly molesting him and his wife, Magdalena the widow of Miklós from Tankháza. Their enemies malignantly reported the vicar that he had actively taken part at the confirmation ritual of Magdalena.⁴⁵ Can we conjure then that the officially prohibited kin-marriages were widely practiced and accepted, and the few cases with written evidence are those exceptional instances when the marriage came to be debated?

The circumstance that the majority of kin-couples (65 cases) have lived for decades peacefully, is a further trace of social norms, since it follows that the marriage among kins did not disturb their kin and neighbours. The aristocracy was more rule-oriented only to the extent that they asked for licence in advance. As opposed to this, András Csorba said that they had contracted their marriage “a long time ago”, living probably for decades undisturbed. We can occasionally read of marriages contracted 16 or 20 years before.⁴⁶ After so much time had passed, the petitioning was probably triggered by the parental concern for securing the smooth inheritance of their growing offsprings.

Finally, the positive attitude towards kin-marriages is indirectly reflected by the fact that it was not customary to invalidate marriages due to kinship impediments. Although legally it was a possibility before church authorities, people did not use this as an excuse. It must have seemed them implausible. The most common argument for the dissolution of marriages was the coercion of parents of their underage sons and daughters into marriages. The borderline between affinity deriving from a sexual relationship and generally stigmatized incest can also be glimpsed occasionally. Petitions of marriage annulments due to the sexual relationships of spouses and step-children, mother-in-laws and son-in-laws signal the social stigmatization of such relationships.⁴⁷

⁴⁵ APA vol. 57, fol. 667r (1512).

⁴⁶ See for example Pál LUKCSICS: *XV. századi pápák oklevelei, II, V. Jenő pápa és V. Miklós pápa* [The breves of 15th century popes, vol. 2., Eugen V and Nicholas V.]. (Olaszországi Magyar Oklevéltár 2) Budapest, 1938. Nr. 743, 751.

⁴⁷ APA vol. 8, fol. 212v–213r; vol. 20, fol. 102v–103r; vol. 54, fol. 480r.

Kin-marriages and the confessional churches of the 16th century

The taboo of kin-marriages of third cousins survived into the confessional era. Although Protestant regulations in Europe loosened kinship impediments to the second degree of consanguinity and first degree of affinity,⁴⁸ Protestant agendas in Hungary insisted on old Catholic rules.⁴⁹ Even the very complicated impediment of “publica honestas” (the consanguinity of subsequent marriage partners) continued to be controlled by the new Churches.⁵⁰ The only exception to the general regulation was the agenda formulated by Péter Méliusz Juhász that spoke of a third degree of consanguinity.⁵¹ Since it diverged from secular legislation, which remained unchanged and obviously Protestants also had better consider it, it must have been difficult if not impossible to enforce it in practice. The examples below suggest that Protestant laymen themselves considered the old regulation relevant. But what seems at first glance rather peculiar, Catholics and Protestants alike asked the pope, whom Luther had called the Antichrist, to legalize their irregular marriages and offsprings.

The magnate Péter Perényi, comes of Temes and Klára Székely wanted to marry although bound by a third degree of consanguinity. Although Perényi will be a leading figure of the early Reformation in the 1530s, as their petition is dated 1522, this case leaves little trouble.⁵² Their elder son, Gábor (1532–1567), however, found himself in a peculiar situation. In 1548 his father urged him in his testament “to support the pure faith on his estates and defend the evangelical teachers”, which he did in following years at Sárospatak. At the same time, in 1550, when he was 18, he turned to the head of the Catholic church to legalize his marriage already contracted and consummated with Ilona Ország in third degree of consanguinity. As a Protestant, he had to ask

⁴⁸ Mónika MÁTAY: *Törvényszéki játszmák. Válás Debrecenben 1793–1848* [Power games at court. Divorce in Debrecen]. Debrecen, 2006. p. 16.

⁴⁹ There was only one difference concerning a valid and regular marriage between Catholics and Protestants. The debate about marriage was instigated at the Council of Trent in 1545 by a letter of Luther, in which he stated that parents could dissolve the marriages of their sons and daughters if entered against parental will. His Catholic contemporaries at Trent – bound by the old dogma that marriage is created by consent alone and is undissolvable – therefore concluded in 1563 that parental consent was not a condition for a valid marriage. Katalin PÉTER – Gabriella ERDÉLYI: *A titkos házasságról a 15–16. században* [Clandestine marriage in the 15-16th centuries]. In: *Acta Historiae Litterarum Hungaricarum*, ed. Zs. Font-P. Eötvös, Szeged 2011, 115-121.

⁵⁰ See the example of the Calvinist Borbála Pethő and Sándor Kapy, who were separated by church authorities on this ground in 1620. Quoted by PÉTER 2007. 60.

⁵¹ PÉTER 2007. 60.

⁵² APA Armadio XXXII, vol. 61, 673^v.

for his absolution for incest and penitence for his sins according to Catholic penitential practice. The Penitentiary decided that if they contracted their marriage in awareness of the impediment, they were to be separated for a time with a permission to remarry.⁵³ Catholic ways, among them the rite of justification must have been much stranger to him than they had been to his father a generation earlier. Péter was born Catholic and converted out of free choice, and was familiar with both ways of believing and practicing religion. In 1531 for example he went on a pilgrimage to the Virgin of Loreto.⁵⁴ Gábor was, however, born into the new Church and faith.

Even if we do not suppose that people lived in completely coherent worlds, we have to look for contexts which made it possible for Protestant magnates to behave in certain situations according to Catholic ways. In the same year a Catholic couple, John Alapy of Nagykemlek together with Erzsébet of Frangepán, daughter of Wolfgang, acted the same way as their Protestant contemporaries in order to legalize their contracted and consummated kin marriage.⁵⁵ Both magnates served a Habsburg ruler, Ferdinand I and lived in different regions of the same state.⁵⁶ As we have seen, in the secular regulation of marriage, irregular marriages could either be legalized by the pope or the king. The new protestant Churches did not have a church hierarchy with such spiritual and profane authority and prestige. While Catholics arranged their affairs in the pompous and international court of the head of Western Christianity, Protestant aristocrats should have gone to consult the responsible authorities in little villages and towns in the countryside. The act of Protestants petitioning to the pope therefore should also be considered as an act of self-fashioning and self-representation.

17th century practices

Kin-marriages, third and fourth degree of affinity and consanguinity of couples, notwithstanding centuries of state and church prohibitions, were considered normal and practiced widely across social strata. Even so there

⁵³ APA vol. 126, fol. 161^v (1550).

⁵⁴ Marino Sanudo, *Naplójegyzetek*. [Diaries] 26 September 1531, quoted in Mihály SZTÁRAI: *História Perényi Ferenc szabadulásáról* [A story about Ferenc Perényi's escape]. Ed. Imre TÉGLÁSY. Bp. 1985. (www.mek.oszk.hu/06200/06205/html/sztarai0503/sztarai0503.html) (15 sept. 2009).

⁵⁵ APA vol. 126, fol. 258^v–259^r, the second wife was related to the first (7 October 1550).

⁵⁶ Gábor Perényi was urged by Miklós Oláh in 1550 to go and serve in the Viennese court. (GÉZA PÁLFFY, *Szent István Birodalma a Habsburgok Közép-Európai Államában* [The empire of St Stephen in the Central European State of the Habsburgs], p. 96). In 1556 he left Ferdinand I and joined John Sigismund.

were kin marriages that transgressed social expectations and arouse antipathy and open conflict. Such was the case when the otherwise accepted purpose of winning wealth by marrying for example a rich widow was too extreme or transgressed in its accomplishment general customs. Some of the petitions to Rome – as showed by the example of George Kanizsai – represent these exceptional instances.

The practice of securing a papal dispensation, in other words, of negotiating the marital situation with governing authorities, differed according to character and situation that can be summed up in a few characteristic strategies. There were many who lived for decades a peaceful family life, and only later at some time, having an eye on their departure from this world, sought to ensure the unbothered heirship of their offsprings. The problems the aristocratic woman Zsófia Bánffy had to face when her second husband died, reflects their considerations. Zsófia and her second husband, Imre Czobor (lord steward of the royal household [*főudvarmester*], 1622–1640) lived together “do not bothering about the manifest impediment of affinity” that bound them, as the judgment of the vicar of Esztergom states, who started an investigation when the son of the late husband from his first marriage, Bálint Czobor started a suit in order to annul the second marriage of his father.⁵⁷ Obviously, the interests of the son crossed those of the second wife with regard to inheritance. He reached his goal by presenting the table of genealogy and other documents proving affinity, although – as the vicar expressed – their kinship was “very much known and notorius in front of everybody, the elite of this country of both sexes”. This very notorius affinity (canonically again the impediment of “public honesty”) arose from the fact that the first husband of Zsófia was the cousin (“*unokanagybácsi*”) of her second husband.⁵⁸

Imre Czobor and his third wife, representing the highest echelons of society, did not bother at all to legalize her marriage asking the dispensation of the pope. Their negligence seems to have been primarily influenced by the ways Imre Czobor handled his affairs. His first marriage to Éva Révay was also attacked in the royal court by the cousin (*soror patruelis, unokanagynéni*) of the wife, Judit Révay due to “their rather close consanguinity”.⁵⁹

⁵⁷ The judgment of the vicar is published by ROSZNER 1887. Nr. 45, p. 376–379.

⁵⁸ Their relationship was called the mixed [“*kevert*”] consanguinity of second and third grades: János Devecseri Csoron was the grandfather of the first husband, Liszti János, and the great-grandfather of Imre Czobor. ROSZNER 1887. p. 377.

⁵⁹ The letter of Ferdinand II in 1623 is published by ROSZNER 1887. p. 487–491.

But individuals used the power of governing authorities and their laws in different ways to negotiate their problems. Others, the rule-oriented, rule-honouring ones, or those with envious relatives and neighbours, asked the permission of authorities already before their marriage. As charters granting royal grace for aristocratic kin-marriages, which are extant in a considerable number from the 1630s, suggest,⁶⁰ this was the strategy of more prudent and careful aristocrats. “The palatine is a cute man, I know that he would have handled the case in advance” – wrote János Homonnai Drugeth on 7 January 1644 to Ferenc Nádasdy. The case in question was the marriage of Nádasdy to Esterházy Júlia, the daughter of the palatine, which was just about to take place after the groom had already converted to Catholicism in the fall of 1643, the celebration of the marriage following on 6 February. From the letter it stands out that in the last moments of the marriage process the issue of a possible consanguinity was publicly debated, but for the young groom neither the governing rules of kinship nor his actual kin relations to the 14 year old bride were evident. Therefore the letter writer, who was his elder brother-in-law, gave him a good counsel: “you should have your genealogy deduced well from both sides, and send it to me [...] I cannot see any closer kinship (*atyafiság*) bonds which would necessitate a dispensation”.⁶¹

It is important to note that we are speaking about the peak of 17th-century aristocracy. Nádasdy will be lord chief justice (*országbíró*) for 15 years with outstanding abilities and a tragic fate.⁶² The uncsciousness of the importance of genealogy and kinship affairs of the the grand-grand son of palatine Thomas Nádasdy is quite astonishing. All the more so as her mother, Judit Révay seems to have acted very consciously in marital affairs. As mentioned above, she was the denunciator of Imre Czobor. Moreover, in 1639 she asked for an apostolic dispensation already prior to marrying Ádám Forgács, her second husband, who was her second cousin (third degree consanguinity).⁶³ In order to receive the dispensation, the Roman church set as a precondition that she – as his son did it at the instigation of his would-be father-in-law – converts to the Catholic faith. As similar cases show, Rome was able to use marital affairs for the advancement of Catholicism in Hungary – negotiated locally by the nuncio – as the apostolic approval of kin marriages was the

⁶⁰ Some documents published by ROSZNER 1887. Appendix, Nr. 74–79, 84–88, discussed on p. 197–199.

⁶¹ Published in Béla RADVÁNSZKY: *Magyar családélet és háztartás a 16. és 17. században* [Family life and household in 16th and 17th century Hungary] I-III. Budapest, 1879. III. p. 32.

⁶² See: Katalin TOMA: *Gróf Nádasdy Ferenc országbíró politikusi pályaképe (1655–1665)* [The political career of count Ferenc Nádasdy, chief royal justice]. Budapest, 2006. (PhD dissertation).

⁶³ ROSZNER 1887. p. 438–439, Nr. 83.

precondition of issuing royal grace. In lack of royal approval of a forbidden marriage, by the 17th century not only envious relatives but the fiscus itself could initiate a suit and the loss of all properties, obviously upon information coming from willing informants.⁶⁴ Therefore it was vital that the marrying young were warned by their elders of possible calamities.

By the 17th century Protestant magnates had no real choice if they wanted to legalize their kin marriages, since it became an exclusive royal prerogative.⁶⁵ The “envious enemies” could attack irregular marriages at the fiscus, which could and did itself initiate suits based on rumour.⁶⁶ The explicit precondition of royal grace was the dispensation of the head of the Catholic church. The close interwining of the Baroque state and Church enabled the Catholic church to use marriage dispensations for the promotion of faith: dispensation was conditioned on conversion. Big changes have taken place since the 15th century, the point of departure of our survey of kin-marriages: the 1451 Cillei-Hunyadi marriage contract contained that the bride could stay in her orthodox faith in the entourage of her priests. In conclusion, therefore, I suggest that a considerable change has occurred in the time span envisaged: while in the 15th century people lived happily in their consanguineous and undisputed marriages, by the 17th century a growing number of people learned how to use the law and power of authorities for their own ends.



⁶⁴ For such a case see ROSZNER 1887. p. 195. (Tamás Nádasdy and Zsuzsanna Pethő, married in 1601).

⁶⁵ Some documents published by ROSZNER 1887. Appendix, Nr. 74–79, 84–88, discussed on p. 197–199.

⁶⁶ For such a case see ROSZNER 1887. p. 195. (Tamás Nádasdy and Zsuzsanna Pethő, married in 1601).