

# Hungarian Legal Ethnography in Light of the Oeuvre of Ernő Tárkány Szücs

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## ABSTRACT

Ernő Tárkány Szücs (1921–1984) was a researcher who created a synthesis of Hungarian legal ethnography, a mediator of his results for European legal ethnographic research, and his scientific work is still an essential part of Hungarian research history. During the most intensive period (1939–1948) of Hungarian legal folklore research — which was delayed compared to European legal customs research — he became a lawyer and a researcher of Hungarian legal ethnography along with legal history professor György Bónis from Kolozsvár (nowdays Cluj-Napoca). Although in the next phase of his life (1950–1975), during the decades of socialism in Hungary, as a practicing lawyer, he could not professionally engage in legal ethnographic research, when he finally had the opportunity to do so in 1975 in the Ethnographic Research Group of the Hungarian Academy of Sciences, he presented a series of results of Hungarian legal ethnography. One of the most important of these was the publication of a monograph (TÁRKÁNY SZÜCS 1981), which is still considered to be the fundamental work of Hungarian legal ethnography, the conceptual and methodological foundation of the research field, the summary of research findings and at the same time its legitimization. Although the institutionalization of legal ethnographic research had not yet taken place at that time, Hungarian ethnography recognized Ernő Tárkány Szücs's research on legal folk customs as a “one-man” research field. During his research career, Tárkány Szücs continued to take an active role in international scientific life. He always considered it his task to make the findings of European legal ethnography known throughout Hungary, as well as to publish the findings of Hungarian legal ethnographic research in international scientific forums. The 2021 jubilee professional programs and publications of the Tárkány Szücs Ernő Legal Cultural Historical and Legal Ethnographical Research Group — an interdisciplinary research workshop established in 2011 with the aim of processing and enriching his research legacy and publications — were an opportunity to publish new research findings and formulate the ongoing tasks of Hungarian legal ethnography, beyond the evaluation of his research career and Hungarian legal ethnography from the dogmatic and methodological perspective.

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## KEYWORDS

Hungarian legal ethnography, Ernő Tárkány Szücs, Hungarian legal folklore research (1939–1948), European legal customs research

## INTRODUCTION

After the death of Ernő Tárkány Szücs,<sup>1</sup> (Fig. 1) the career of the ethnographer and his research findings related to several scientific fields were praised by Imre Katona, a fellow Hungarian ethnographer, who also published a list of his works (KATONA 1985); Tamás Hoffmann also lauded him (HOFFMAN 1985). On his eightieth birthday, Attila Paládi-Kovács and Janka Teodóra Nagy took stock of his research career (PALÁDI-KOVÁCS 2003; NAGY 2003). The research results and further tasks were reviewed by the legal historians, ethnographers, and historians of the Tárkány Szücs Ernő Legal Cultural Historical and Legal Ethnographical Research Group in the volumes related to his scientific oeuvre, published on his ninetieth (NAGY 2014) and then on his hundredth birthday (NAGY et al. 2021). In *Társadalom* [Society], the 8th volume of *Magyar Néprajz* [Hungarian Ethnography], which summarizes the results of Hungarian ethnography, three chapters referred to Ernő Tárkány Szücs's research as part of social ethnography: Mihály Sárkány in his overview from folk law to legal folk customs (SÁRKÁNY 2000), Gyula Kocsis in the field of self-government and public administration (KOC SIS 2000), and Miklós Szilágyi in the area of laws, customary laws, and legal customs (SZILÁGYI 2000). In addition to these evaluation summaries, as recently reviewed by Janka Teodóra Nagy, a large number of ethnographic, historical, legal history, legal sociology, and anthropological studies and articles refer to his research history and specific research results (NAGY 2018b, 2021a).

Through the oeuvre of Ernő Tárkány Szücs, the study describes and evaluates the research history of Hungarian legal ethnography, its scientific characteristics, dilemmas, research results, and formulated perspectives determined by historical and social circumstances. Since an important part of Tárkány Szücs's scientific work was the research history of European legal customs/legal ethnography/legal anthropology, and the definitional questions related to its subject and methodology, the study first deals with the most important directions and practitioners of European legal folk customs research from the point of view of Hungarian legal ethnography. After that, the history of Hungarian legal customs research is discussed until Ernő Tárkány Szücs became involved in legal folklore research (1939–1948), then focusing on the “bridge” role, detailing the research of Tárkány Szücs that determine the results of Hungarian legal ethnography. The study primarily examines the influence of Tárkány Szücs on Hungarian legal ethnography — a survey of his scientific career related to international ethnography is not its subject (BOGNÁR 2014, 2016, 2021b, 2022) — then it attempts to assess the situation of the research area and to define its tasks.

The oeuvre of Tárkány Szücs, in addition to his research results in individual scientific fields, represented the continuity of Hungarian legal ethnographic research, a researcher who assumed the role of a “bridge” and was also recognized in international scientific life. The “heyday” of Hungarian legal folklore research represented a kind of continuity both in his person and in his

<sup>1</sup>The detailed biography of Ernő Tárkány Szücs was published recently, on the centenary of his birth (NAGY 2021e).





**Fig. 1.** The young Ernő Tárkány Szűcs (1940s)  
(Photo from the Estate of Ernő Tárkány Szűcs)

academic work (the legal folklore research carried out between 1939 and 1948) and between the scientific era following the Second World War. He kept it on the agenda and emphasized the necessity and importance of clarifying the basic theoretical and methodological concepts of legal ethnography. His problem-solving, thinking, approach, and research results, based on interdisciplinarity, offered — and continue to offer — opportunities for connection to other scientific fields. As a scientific organizer and researcher, he was an emblematic representative of domestic and international legal ethnography, providing a point of reference for Hungarian research. While his publications in foreign languages enriched European legal ethnographic research, his monograph, *Magyar jogi népszokások* [Hungarian Legal Folk Customs] (1981) is a summary of historical, theoretical, and methodological research results of the 18th–20th centuries. The entirety of his scientific work is the formulation of the tasks of European and Hungarian legal ethnographic research (NAGY 2014).

## THE VIEWPOINTS OF EUROPEAN LEGAL CUSTOMS RESEARCH THAT DEFINE HUNGARIAN LEGAL ETHNOGRAPHY

In the first period of European legal customs research, both the motive and the approach were sharply separated between the basically theoretically motivated and the pragmatic collection of



legal customs, primarily linked to the requirements of imperial governance and codification. This was also reflected by the differences in the scientific fields of the research: while the historical-legal point of view, e.g., in the German territories, clearly linked the research of legal customs to the history of law, in the case of the Russians, for example, the pragmatically rooted social view considered legal customs as part of “living law.”

The historical-legal school, which represented a theoretical starting point and was associated with the work of the outstanding jurist *Friedrich Karl von Savigny* at the beginning of the 19th century, attached great importance to folk culture present in all manifestations of folk culture (e.g., folk tales, proverbs, songs) and folk law, which was situated within the scope of customary law. Jacob and Wilhelm Grimm collected the “legal antiquities,” *Josef Kohler*, who considers legal customs as part of comparative jurisprudence, undertook the exploration of parallels, and Albert Hermann Post developed the quantitative methodology of collections in this same spirit. When Savigny, the founder of the historical-legal school, who initiated research with the goal of understanding folk law, was entrusted as Minister of Justice with the task of managing the work on the uniform German Civil Code (1842–1848), it was also possible to enact legal folk customs (NAGY 2011a, 2011b).

Unlike the English and French studies of legal customs, which were primarily useful in the colonies, the Russian state collected the legal customs of the distant peoples of the empire and recognized the right of conquered peoples to act for themselves in their own affairs according to their own legal customs. From the beginning of the 19th century, more and more importance was attached to the collections of customs specifically related to law. Among them, we can mention, among others, the customary law census (1822) linked to the name of Count Mihail Mihajlovicz Speranskii, or the points of the Russian Czarist Geographical Society’s questionnaire on legal customs. The collection of the “living customary law” of the Caucasian peoples gained special importance, because after the first collections between 1836 and 1844, the book collected in 1878 and published in French by Maxim Maximovich Kovalevsky, a teacher of the Moscow Department of Comparative Law who considered himself a student of Henry Sumner Maine, and the linguist and ethnographer Vsevolod Fedorovich Miller, made the results of their research directly accessible to European science (STAMMLER et al. 2022; GUTNOV 2012; NAGY 2011a, 2020).

During the period of becoming a nation, among the other collections of European legal customs realized in the 19th century, the collections initiated in 1867 by the South Slavic Academy in Zagreb, mainly on the Russian model, had a prominent role, which were published in 1874 by Baltazar Bogišić, using both German and Russian research results. Later, as Minister of Justice, he used these results during the preparation of the Civil Code of Crna Gora (BOGNÁR 2011). The Polish Boleslaw Grabowsky (1889) can also be linked to this period, as can the collection of legal customs carried out by the Bulgarian Stefan Bobchev (1897), and Lajos Thallóczy published the first collection (1895, in Hungarian) of the customary laws of the Albanian tribes and some parts of Croatian customary laws (TAGÁNYI 1919:51; TÁRKÁNY SZÜCS 1967).

In the spirit of the codification efforts related to legal modernization, Joaquín Costa’s collection of legal customs carried out on the banks of the Aragon River in the 1880s, in preparation for the codification of Spanish private law, fit into the process of collecting legal folk customs in some European countries (Italy, Portugal, etc.), then the research of Altamira y Crevea in Alicante (1905) and Carreras y Artau in Catalonia (1908) at the turn of the century,



which the Hungarian Károly Tagányi wrote about in 1919 as an exception among “western nations that barely collect the legal customs of their own people” (TAGÁNYI 1919:52; NAGY – MATLA 2021).

Hungarian legal ethnographers, mainly through the mediation of Tagányi, also monitored Russian and South Slavic research until the 1920s; however, between the two world wars, French and German research clearly exerted the most direct influence. Paul Sébillot and Pierre Saintyves considered *folklore juridique* a part of folklife, while René Maunier’s conceptual and methodological foundation determined the entire European legal ethnographic research. Maunier distinguished between legislative law and the oral, fixed law accepted and applied by the people, and he considered only the latter to be the object of legal ethnography. In his historical summary of European legal ethnography, Tárkány Szűcs mentioned the works of E. Jobbé-Duval and legal sociologists George Gurvitch and Henri Lévy-Bruhl among the important results of French research (TÁRKÁNY SZÜCS 1967).

In the German territories, theoretical questions and the connection to legal history were still decisive, but special attention was also paid to fieldwork and collection. Thanks to the prolific work of Adolf Bastian, Johan Bachofen, Albert H. Post, Josef Kohler, and Leonhard Adam, a new scientific field emerged: comparative ethnological jurisprudence (*ethnologische Rechtsforschung*, *Ethnojurisprudence*). Raimund Kaindl and Eberhard Künssberg, who later had a significant impact on Czech, Polish, and Austrian research in addition to Hungarian, are among those who developed criteria for research and collections covering the entire German-speaking area, with questionnaires based on scientific aspects and requiring serious scientific organization activities; additionally, Karl Fröhlich and Karl Siegfried Bader were also excellent practitioners of *rechtliche Volkskunde* between the two world wars. In the discussed period, the most outstanding representative of *Rechtsarchäologie*, also closely related to the history of law and with significant results in the German, Austrian, and Swiss territories, was primarily Karl von Amira, then Claudius von Schwerin, and finally Hermann Baltl (NAGY 2021a).

The fact that the 1932 congress of the Académie Internationale de Droit Comparé in the Hague, which undertook to summarize research findings, included among its tasks the examination of the popular legal customs of European countries confirmed that legal ethnography, as the new field of research mainly aimed at the research of legal folk customs (or legal folklore) had already consolidated in many European countries prior to World War II. This was confirmed by Ernő Tárkány Szűcs’s overview of European research history — first published in *Ethnologica Europaea* in 1967, summarizing the results and tasks of European legal ethnography with a broad perspective and a brief presentation of the legal ethnographic research of individual European countries (*Results and Task of Legal Ethnology in Europe*) — published in 1994 in *Folk Law*, a monumental collection of the most important publications in the field of folk law in Europe and beyond the continent, edited by Alison Dundes Renteln and Alan Dundes (TÁRKÁNY SZÜCS 1967, 1976b; DUNDES – DUNDES RENTELN 1994:161). More recently, *The Oxford Handbook of Law and Anthropology* (FOBLETS et al. 2022) did the same by providing an overview of research in legal anthropology along similar premises, not only within the traditional national framework but also with a scientific analysis of traditional and enduring topics.

Subsequently, the history of Hungarian legal customs research is discussed until Ernő Tárkány Szűcs’s involvement in legal folklore research (1939–1948), then focusing on his role as a “bridge,” it details Tárkány Szűcs’s research that defined the findings of Hungarian legal ethnography. The present study primarily examines the influence of Tárkány Szűcs on



Hungarian legal ethnography — it is not intended to provide a picture of his scientific career related to international ethnography (BOGNÁR 2014, 2016, 2021b, 2022) — and it attempts to assess the situation of the research area and define its tasks.

## RESEARCH HISTORY OF HUNGARIAN LEGAL ETHNOGRAPHY BEFORE HUNGARIAN LEGAL FOLKLORE RESEARCH (1939–1948)

Based on the above, the question can be rightly formulated: why did Hungarian scholarship get involved in European customary law research only in the early 20th century? Examining the antecedents, already at the end of the 18th century, in line with the practical governmental requirements of enlightened absolutism, the collection of popular legal customs took place. Joseph II collected “living legal customs” and popular jurisprudence related to a particular life situation prior to legal regulation. In the civil reform process of the first third of the 19th century, the political and legislative efforts affecting the people (serfs and peasants) were primarily related to public law. Less attention was paid to, for example, communications about territorially different “living legal customs” related to inheritance. In the second half of the 19th century, neither of the two major changes defining the basic legal institutions of Hungarian civil society needed the legitimating power of the collection of legal customs. During the period of neo-absolutism, when the Austrian code was partially introduced and applied in Hungarian territories (1850–1861), there was no need to learn about folk law. And the legal modernization following the Austro-Hungarian Compromise of 1867 — considering anything “folk,” “rural,” and “country” outdated and backward from the legislative point of view — sought to eliminate this backwardness and catch up to Europe in terms of civil economic and social development, as well as the development of law. The modern legal institutions of Hungarian civil society were laid down in such a way that the process of private law codification, for example, dragged on into the early 20th century (HOMOKI-NAGY 2001, 2018a).

It was only in 1901, in the context of a debate on succession laws surrounding the draft of the unified act on private law, that it was raised that, just as Savigny — who directed the work of the German Uniform Civil Code between 1842 and 1848 — made room for enacting legal customs into law, it would be worthwhile to learn about the legal customs of succession among the Hungarian peasantry as well. As a result, Miklós Mattyasovszky’s study on “the first collection of Hungarian legal customs” was born (as well as the work of János Baross at almost the same time on the same topic). This was the first time that the concept of “legal customs of the people” was articulated in Hungarian law and public discourse (MATTYASOVSZKY 1904; BAROSS 1905; BOGNÁR 2016).

Familiar with the results of European research between the two world wars, several researchers went so far as to develop a research program and a call for collections. Károly Tagányi as a historian, Győző Bruckner as a legal historian, and Ákos Szendrey as an ethnographer drew attention to the importance of getting to know legal folklore and the importance of questionnaire research (TAGÁNYI 1919; BRUCKNER 1926; SZENDREY 1936). These were not long-term, organized, institutional, communal research accomplishments, however, but individual, isolated, contingent ones, usually one publication at a time.

In some respects, the series of publications by historian and archivist Károly Tagányi (1858–1924) was an exception, who, as president of the Hungarian Ethnographic Society (1920–1924),





formulated his research program, which can also be considered the scientific foundation of Hungarian legal customs research. In addition to an extensive survey of the research history, his comparative material on family law and succession law reflected the latest findings of international customary law research, combining a historical, ethnographic, and ethnological approach with contemporary research. He was the first to report on Russian legal customs research, as well as the legal customs collection program of Baltazar Bogišić — considered one of the founders of European legal ethnography — that combined the results of the German historical legal school and the English historical school, his 352-point questionnaire, and the results of his collection. Nonetheless, the German research, and primarily the work of Kohler, was a model for him as well. Although his call for collections published in both Hungarian and German remained unanswered, he encouraged the formulation of new research programs (Bruckner Győző, Szendrey Ákos) (NAGY 2021a, 2013b).

The purpose, theoretical background, and methodology of the collection of legal customs between 1939–1948 (legal folklore research) were determined by the fact that the research was initiated by ethnography professor István Györffy (1884–1939) and supported by the Ministry of Justice. Legal historian György Bónis, on behalf of the team proposing the research of legal customs, emphasized its ethnographic, legal historical, and legal political significance. “The benefit of our work will be threefold: we will get to know the Hungarian people from a different side, the history of our law will be more visible to us through tradition, and our jurisprudence will become more Hungarian” (BÓNIS 1939:122). After Györffy’s death, with the change in the management of the collection, the research goals also changed. Bónis continued to highlight the legal historical ties, while Györffy’s former colleague, lawyer and ethnologist László Papp, in the spirit of the professor’s ideal of culture, considered the possibility of getting to know Hungarian folk culture and civilisation more thoroughly and its social utilization to be important. “Our legal system is still developing today, and our private law is on the verge of being codified” (GYÖRFFY 1939; PAPP 1939b:77). The representatives of the ministerial position (István Antal, Gábor Vladár, J. Miklós Hofer) highlighted the importance of legal policy and the legislative side. The Minister of Justice’s invitation to participate in legal folklife research also emphasized “getting to know the national spirit manifested in written laws, legal customs, and folk traditions” (NAGY 2018b).

For a short time, the professional, methodological, and partially institutional background of legal folklife research was provided by Professor István Györffy, the head of the Institute of Ethnography at Pázmány Péter University in Budapest, and the National Landscape and Folk Research Institute operating within it. For his initiative, Györffy — like Miklós Mattyasovszky before the turn of the century — requested support from the Ministry of Justice, experts versed in collection, and volunteers. Following the request, the minister issued a call, emphasizing the pertinence and necessity of the project both from a general and from a legislative and judicial perspective. He also agreed that *jurists* should be involved in the collection of legal customs and folk traditions.

After Györffy’s unexpected death, the organization and management of the research, which became a government program, was entirely left to the ministry. In the new call issued in 1940, the Minister of Justice modified the original professional expectations in his own authority based on the experience of the first reports and collection results. In addition to the large-scale, scientifically prepared studies that answered each of the 95 questions or each of their chapters, the collection of data fragments experienced and heard during the fieldwork was considered sufficient.



According to the testimony of the ministerial circular issued for the third time in 1942, by the end of the year, 95 reports from more than 140 collectors covering 137 villages and 18 other administrative settlement units were returned to the ministry. Among the collectors were 22 judges, 12 land register entry officials, 5 royal prosecutors, 7 trainee judges, 3 land registrars, 5 assistant court clerks, 1 royal notary, 2 advocates, 1 other official, 4 law students, 1 priest, and 1 municipal notary. 85% of the data related to Hungarians, the rest to German, Romanian, Rusyn, Slovak, Wend, and Gypsy nationalities.<sup>2</sup>

When at the end of 1939, on the basis of the statement of the State Secretary of Justice István Antal, legal folklore research became a government program, the ministry undertook a more intensive contribution than before in order to achieve success. At the same time, after Györffy's death, the ethnographic institutions assumed a lesser role. J. Miklós Hofer wrote: "there is no ethnographic institution that collects legal folk traditions."<sup>3</sup> Two legal colleagues of the Institute of Ethnology, Bónis and Papp, took on other tasks, the National Museum also withdrew from the organization and management of the collection, and this became a disadvantage for the collection work both in terms of professionalism and operability. After all, the organization of collectors, the coordination and management of research became a ministerial task, and at the same time — as was seen in a new call issued by the Minister of Justice in 1940 — the political and legal goals that had been present from the beginning became more direct (NAGY 2018b).

The reports received were processed in 1943 by László Papp. On the one hand, he evaluated the collectors and their work; on the other hand, he prepared personal guidance for the collectors, and summarized the purpose of legal folklore research, the historical antecedents of the research, and the general and methodological lessons that can be drawn from the reports in a study. He considered the phase of the collection between 1939 and 1943 a "trial run" and submitted a plan for the theoretically and methodologically sound continuation of the research, also proposing a complete revision of the questionnaire. The events of the war prevented the realization of plans to continue the collection, but László Papp was still able to publish the first historical and methodological summary of Hungarian legal folklore research (PAPP 1948).

Material collected from the boundaries of ethnography, legal history, and legal sociology was evaluated by György Bónis from the legal history point of view and Kálmán Kulcsár from the legal sociology point of view. Legal historian György Bónis, considering the findings of the collections useful for legal history, pointed out that the research on legal customs revealed the unwritten sources of legal history, and this data expanded our knowledge of them. The research illuminated questions for legal history that can no longer be solved based on written memories alone (BÓNIS 1956). Evaluating legal folklife research from the perspective of legal sociology, Kálmán Kulcsár pointed out that the perception of legal folklore researchers was based on the concept of "folk spirit" of the historical-legal school. Like other manifestations of culture, legal folk customs were inferred from the spiritual characteristics and constitution of the people, and since the artificial opposition of foreign and Hungarian folk law was seen as

<sup>2</sup>EA 13. 300 4–6. During the entire period of the research (1939–1948), Ernő Tárkány Szűcs wrote about reports and data collected by 120 different people from 340 settlements (TÁRKÁNY SZÜCS 1981). The remaining part of the documents destroyed during the Second World War can be found in the Ethnology Archives of the Hungarian Museum of Ethnography and in document K 579 IM of the National Archives, which is being processed (NAGY 2018b).

<sup>3</sup>OL K 579 IM 17492/1943.





absolute, they wanted to make the law “more Hungarian and more social” based on “legal folk customs” that were considered a part of social reforms (KULCSÁR 1978; PAPP 1939a, 1940).

The best ethnographers, legal historians, and jurists participating in legal folklore research have produced excellent legal ethnographic publications (PAPP 1941; BÓNIS 1941; FÉL 1943; CSÁNYI 1943; TÁRKÁNY SZÜCS 1943, 1944a, 1944b). Ernő Tárkány Szücs also used the research data and source material in his monograph *Magyar jogi népszokások* [Hungarian Legal Folk Customs]. In Hungarian ethnography, however, it was only in the 1990s that studies and source reports appeared again on the research history and evaluation of legal folklore research (1939–1948), considered the “heyday” of Hungarian legal ethnography.

## ERNŐ TÁRKÁNY SZÜCS, THE “ONE-MAN INSTITUTION” OF HUNGARIAN LEGAL ETHNOGRAPHY (1949–1984)

Ernő Tárkány Szücs’s oeuvre, in addition to the research results affecting individual scientific fields, was on the one hand a guarantee of the continuity of Hungarian legal ethnographic research, and on the other hand, he was a researcher who assumed the role of a “bridge” and was recognized in international academic life.

Both in his person and in his scientific work, he represented a kind of continuity between the “heyday” of Hungarian legal folk tradition research (the legal folklore research carried out between 1939 and 1948) and the era following the Second World War. The implementation of research at universities (1942–1948) represented a distinct area and period of research on Hungarian legal folklore between the two world wars (1939–1948). György Bónis, who was appointed to Transylvania at the Ferenc József University of Kolozsvár in 1941, was part of the working group organizing and managing Hungarian legal custom research at the invitation of István Györffy. While earlier he was primarily involved in the most important enterprise of collecting Hungarian legal customs with his articles, studies, and organizational and methodological consultant roles, he came to the university with new plans: he decided to organize a collection in the summer of 1942 and 1943 in the 25 villages of Kalotaszeg in Transylvania (KÓHEGYI – NAGY 1997; BOGNÁR 2016; NAGY 2017, 2018a, 2018b, 2021b, 2021c). On the one hand, he considered it important for legal training (as an opportunity to gain direct experience for future lawyers), and on the other hand, his undisclosed goal was to realize a collection that could be considered a “model” for Hungarian legal folklore research. Between 1942 and 1944, Tárkány Szücs — now as an assistant to Bónis — became a member of the research group that undertook to explore the legal folklore of Kalotaszeg, and in 1944 he published his independent volume on the legal folklore of Mártély (TÁRKÁNY SZÜCS 1944b). The law student Ernő Tárkány Szücs, as an organizer and participant of the research, and later as a colleague of Bónis, made a lifetime commitment to legal custom research in these years. It was then that he formulated the realization that defined his further research, and was echoed later in his legal synthesis, that law “has been built from below for centuries through customary law just as it has been built from above through acts and other sources of law” (TÁRKÁNY SZÜCS 1943:68–69). And the research experience is that the legal life of settlements is greatly influenced by the close interrelationship of living law and traditions, e.g., their location, the dominant economic and social conditions, contributed to one of the major achievements of Tárkány Szücs’s life: the development of the concept of a so-called “complex method” (TÁRKÁNY SZÜCS 1981).



The Kalotaszeg collections of the Legal History Seminar of the Ferenc József University of Kolozsvár, with the support of the Transylvanian Institute of Science and the Hungarian Ministry of Justice, were not completed due to the war; however, Tárkány Szűcs still participated in one of the last Hungarian studies of legal customs organized by the University of Szeged, in the Tápé collection led by György Bónis between September 1 and October 15, 1948 (KÖHEGYI – NAGY 1995, 1998, 2003).

However, the role of “bridge” arising from the intellectual heritage of the programming collections of the 1930s also led to a lot of difficulties. A significant part of these were connected to the research field, but they inevitably determined the personal fate, career path, and scientific progress of Ernő Tárkány Szűcs. In the next phase of Ernő Tárkány Szűcs’s life (1950–1975), as a practicing lawyer during the decades of socialism in Hungary, he could not professionally engage in legal ethnographic research, which was considered part of the political course between the two world wars. However, Tárkány Szűcs did not give up: he worked as a lawyer in the Ministry of Industry and, in addition to codifying Hungarian mining law, he continuously researched and published on the topic of legal folklore (e.g., TÁRKÁNY SZÜCS 1961, 1965, 1967). For decades, he assumed the thankless and trying role of the “one-man institution of Hungarian legal custom research.” He was a bridgehead, a cross-border anchor for foreign and Hungarian researchers interested in the research field. He was an editorial board member and regular contributor to international journals, presented at conferences, and participated in the founding of the international organization for the research of legal folk customs (Commission of Contemporary Folk Law).

When in 1975 — as the sole researcher of Hungarian legal folklore — he was able to continue the research he had been forced to abandon decades earlier within an institutional framework, in the scientific workshop of Hungarian ethnography, the Ethnographic Research Group of the Hungarian Academy of Sciences, he produced a series of publications. He became one of the authors of the legal and social ethnographic articles in the *Magyar néprajzi lexikon* [Lexicon of Hungarian Ethnography], and in these years, his Hungarian and foreign language studies summarizing the results of his decades of legal ethnographic research were published (TÁRKÁNY SZÜCS 1975, 1976a, 1976b, 1977, 1978, 1979, 1980a, 1980b, 1980c, 1983a, 1983b, 1983c, 1983d). Tárkány Szűcs continued to assume the “bridge role” in the field of publicizing the researchers and results of legal folklore studies between the two world wars. From this point of view, the publication of his monograph (TÁRKÁNY SZÜCS 1981) was not only a milestone in Hungarian legal ethnography, a summary of the research results of his career, but also the conceptual and methodological foundation of the research field and the legitimization of Hungarian legal ethnography (including the results of legal folklore research between the two world wars). Hungarian ethnography has recognized the research of folklore with a legal perspective represented by Ernő Tárkány Szűcs in Hungary as a “one-man” research field.

Ernő Tárkány Szűcs kept it on the agenda and emphasized again and again the necessity and importance of clarifying the basic theoretical and methodological concepts of legal ethnography. The name of the research field epitomized by Ernő Tárkány Szűcs is also confusingly diverse in the international literature. Just a few of the best known: *rechtsgeschichtliche Volkskunde*, *Rechtsäarchaologie*, *rechtliche Volkskunde*, *folklore juridique*, *Ethnography of Law*, *Juridical Anthropology*, *Ethnojurisprudence*, *Legal Anthropology*, *Folk Law*. This terminological uncertainty characterized Hungarian research as well (e.g., folk customary law research, legal folklife



research, ethnographic legal research, legal folk customs research, legal ethnography, legal ethnology, legal anthropology).

Their use and interpretation is not clear in Hungarian research history and literature either. In my study, for example, I consistently use the broadest interpretation of the concept of legal ethnography and place legal folklore research within it.<sup>4</sup> Based on Tárkány Szűcs's repeatedly formulated definition, the concept of legal ethnography is interpreted as follows: legal ethnography is an interdisciplinary field of study which, in addition to written sources, also relies on oral tradition and tangible memories of folk culture, and using legal, historical, and ethnographic methods, undertakes the examination of the customary norms, legal customs, legal folk traditions, and legal folk customs of peasant society, also broadly understood in its historicity. After positioning itself in traditional folk culture as a whole, it explores and analyzes the structural and functional elements and determines the direction of changes using analytical and comparative methods.

And by legal folklore research we mean research with the participation of several people, taking place within an organized framework, basically using fieldwork, questionnaires, and interviews, with empirical research results (NAGY 2003, 2011b).

Following the publication of the results of the research on Hungarian legal folklife (1939–1948), László Papp made an appeal for the independence of the research field. “Hungarian legal folklore research is not an off-shoot of ethnography, social history, or legal history, even if its findings may be placed to a greater or lesser degree within one or another of these disciplines, or even converge with their material” (PAPP 1943:278).

Ernő Tárkány Szűcs was also a consistent and dedicated advocate of clarifying the theoretical and methodological issues of legal ethnography, both on the domestic and international scene. In his study *Results and Task of Legal Ethnology in Europe*, while attempting to summarize the results, research methods, and tasks of European legal ethnography, he also intended to clarify definitional and methodological issues (TÁRKÁNY SZÜCS 1967). In international forums, he took a position in favor of “legal ethnography as an independent discipline.” Contrary to the opinion of most Hungarian legal historians and legal sociologists, as well as the representatives of the increasingly dominant anthropological trend in international research, Tárkány Szűcs argued that legal ethnographic research is possible and necessary not only in primitive societies but also in European countries with a written culture. On the one hand, he gave a negative (demarcating it from jurisprudence, legal sociology, and legal history) and, on the other hand, a positive (explicit and taxative) definition of the subject of the research area (cf. KÓHEGYI – NAGY 1997; NAGY 2012; BOGNÁR 2016; VARGA 2021).

He emphasized that the creation and application of state norms is jurisprudence, the study of their specific role in society is the sociology of law, and the historical research of all these is the subject of legal history. “The examination of human behavior from all other sources, which is

<sup>4</sup>We do this with the understanding that “Hungarian legal ethnography” is a normative designation, primarily delimiting a specific field of research, and that the nature of folk law and legal customs is better captured by H. L. A. Hart’s concept of law, “legal folklore research” from the perspective of the process. We agree with the legal philosophy, legal anthropology, and legal sociology approaches of the literature (VARGA 2005; BOGNÁR 2016; FEKETE 2022). However, from the point of view of the disciplinary delimitation of the subject of our study, we found the definition of legal ethnography to be more appropriate by emphasizing that in a different context we consider the concept of “legal folklore research” defined by László Papp to be appropriate (NAGY 2012).



recognized and habitually followed by a specific community of society, provided that it falls within the legal area established by the application of fiction (together with legal traditions — J. T. N.) constitutes the task of legal ethnography” (TÁRKÁNY SZÜCS 1967, 1975, 1976b). It is unfortunate that the delimitation of the research area — just like the Hungarian language publication published nine years later in *Létünk* — remained essentially silent in Hungarian circles, apart from Csaba Varga’s review.

Explaining the “complex method” in terms of legal ethnographic research was decisive in Tárkány Szücs’s work, which, in his interpretation, is the examination of the relationship (meaning) of the form of legal ethnographic phenomena with the culture of the given community (group), its interaction (use) with state norms, its connection (function) with the socio-economic basic structure of the community, as well as its changes and migration limited to a specific place and time, in the same time period as the collection (TÁRKÁNY SZÜCS 1967, 1975, 1976b).

We must emphasize that in Hungarian legal ethnography and related disciplines, Ernő Tárkány Szücs’s definition is to this day considered the consensual definition: legal ethnography is an interdisciplinary scientific field, the subject of which is primarily, but not exclusively, the examination of the norms of peasant society (the legal type of social norm can be customary norm, legal custom, customary law, legal norm/legal institution, legal folk custom, or legal folk tradition) by applying the complex method, using oral tradition and tangible memories of legal relevance in addition to written sources (TÁRKÁNY SZÜCS 1981; MEZEY 2009; NAGY 2003, 2013a, 2013b; BOGNÁR 2016).

After positioning it in traditional folk culture as a whole, legal ethnography uses analytical and comparative methods to uncover and analyze structural and functional elements and determine the direction of changes. By thinking further and explaining more thoroughly the research findings of Tárkány Szücs, we can summarize them as follows.

The starting point, i.e., that “legal ethnography is necessary even in societies with a written culture,” is self-evident even after the new positioning of ethnography and anthropology in Western societies. Secondly, regularly reconsidering the subject of legal ethnography, it becomes evident even in Hungary that, according to the traditional interpretation, its scope of investigation is much wider than what it has formulated for itself so far.

In the development of a legal institution, several phases can be distinguished: 1) customary norm, 2) legal custom, 3) legal institution, 4) legal folk custom, and 5) legal folk tradition. Legal history basically focuses on the legal institution phase and examines the relevant aspects of the customary norm and legal custom phases from the point of view of the legal institution phase. In the examination of a legal institution, legal ethnography has a task in all five phases.

The particularly important questions of the “customary norm phase” are the examination of the structural and functional elements of folk origin (related to the socio-economic basic structure of the community), the relationship of the legal phenomenon to folk culture (its positioning in a landscape unit, its connection to a group), and the examination of the legal phenomenon as an activity.

In the legal customs phase, legal ethnography can undertake the examination of the customary practice recognized as traditional by the community, the structural and functional (related to the socio-economic basic structure of the community) elements of folk origin, the relationship of the legal phenomenon to folk culture (position in a landscape unit, connection to a group), and the legal phenomenon as an activity.



In the case of the “legal institution phase,” legal ethnography can naturally only undertake an examination of the relevant aspects of the legal institution: the examination of the structural and functional elements of folk origin (related to the socio-economic basic structure of the community), the survival of customary norms and legal customs in the legal institution phase, legal compliance: the establishment of the institution in practice (awareness of the law, knowledge of the law — paying close attention to the role of tradition), the relationship of the legal phenomenon to folk culture (its position in a landscape unit, its connection to a group), and the examination of the legal phenomenon as an activity.

The “legal folk custom phase” is the defining field of investigation of legal ethnography. This is the phase in which the legal phenomenon exists as a complementary, embellishing agent to the state and legal organization, or has a merely symbolic content. The survival of the legal institution as a legal folk custom is another important aspect of the investigation, as is the research of the relationship of the legal phenomenon to folk culture (position in a landscape unit, connection to a group), and the examination of the legal phenomenon as an activity.

Legal ethnography also examines individual legal institutions in the “legal folk tradition phase,” where legal phenomena exist only in folklore — fairy tales, songs, folktales, myths, anecdotes, true stories — or in tangible memories. In the legal folk tradition phase, legal ethnography can examine the emergence and survival of the legal institution and legal folk custom, the relationship of the legal phenomenon to folk culture (its position in a landscape unit, its connection to a group), furthermore, the legal phenomenon as an activity (TÁRKÁNY SZÜCS 1981; NAGY 2003, 2013b, 2014).

Ernő Tárkány Szűcs’s problem formulation, thinking, approach, and research results based on interdisciplinarity offered, and still offer, connection opportunities to other scientific fields. Although legal ethnography is not an independent discipline today, research is carried out in fields shared with other disciplines. The fact that in recent decades so-called interdisciplinary/multidisciplinary/synergistic research gained in importance has created a favorable situation for legal ethnography.

By recognizing folklore research with a legal perspective, represented in Hungary by Ernő Tárkány Szűcs, as a “one-man” research field, ethnography also identified its relationship to the research field. The articulation of social ethnography, as the third major field of investigation of folk culture beside tangible and intangible culture, favored legal ethnographic research. A significant part of these were previously classified as legal folk customs within folklore, so they could appear much more consistently and nuanced as part of social ethnography. This is why we cannot accept Balázs Fekete’s opinion that the legal ethnographic and legal anthropological approach he represented disappeared after the death of Tárkány Szűcs (FEKETE 2022). After all, it was the ethnographers who appeared with new publications in the field of social ethnography, who appeared with more and more differentiated articles from the nineties onward — and they obviously cannot be blamed for doing so using the historical, descriptive method of their own field of study.

In certain stages of the history of ethnography, research with a historical approach and research emphasizing present-day research were present with different emphases. Ernő Tárkány Szűcs’s work summarizing the legal traditions and folk customs of the period from the 18th century to the Second World War is also a database prepared in the spirit of a historical approach: situational assessment, summary, which is primarily based on legal historical and ethnographic data accumulated in ethnographic literature.



Linking back to the summary overview of the research history of domestic legal ethnography, it is noteworthy that, in addition to historians turning with increasing interest to the history of everyday life since the eighties, among ethnographers, the number of legal featured source publications that are also notable for their ethnographic data has also increased (e.g., marriage contracts, morning-gift letters, testaments, inventories, statutes, contracts, wine community regulations, policies) (ÉGETŐ 1985; MÁNDOKI 1987; NOVÁK 1993). It was still common to describe a legal tradition in varying detail (e.g., flogging, border violation, pawning, witch-burning, elopement, public drinking, gambling), and several ethnographers also took on the task of describing the history and formation of a legal institution (TAKÁCS 1983; SELMECZ-KOVÁCS 2001). Among the larger publications, the book of István Imreh on the village laws of the Szeklers, and the book of Olga Nagy on folk morality and folk sanctions in addition to certain actions condemned by the community, can be linked to the field of legal folk customs (IMREH 1983; NAGY 1989). In recent settlement monographs, although with varying weight and content, the investigation of legal phenomena is also appearing more and more (ÖRSI 1984). Moreover, in the synthesis-creating years of the turn of the millennium in the field of ethnography, through the summaries of Mihály Sárkány, Miklós Szilágyi, and Gyula Kocsis, legal ethnographic research was incorporated and integrated into social ethnography (SÁRKÁNY 2000; SZILÁGYI 2000; KOC SIS 2000). Source and research history articles specifically on legal ethnography were published one after another (KÓHEGYI – NAGY 1995, 1997, 1998, 2003; NAGY 1994, 1998, 2000, 2001, 2002; VERES 1997; GELENC SÉR 1983), as well as publications on legal ethnography (SZILÁGYI 1982; KOC SIS 1988; LUKÁCS 1990; FAGGYAS 1991; GRÁFIK 1992; NAGY 1993; SZABÓ 1993; PALÁDI-KOVÁCS 1994; PETERCSÁK 1996).

History, legal anthropology, and legal sociology also had to relate to legal ethnography. In the field of historical sciences, a strong shift in emphasis was also observed from the nineties: historians turned with increased interest to the history of everyday life. The discovery and publication of these sources became more and more important, and the history of local communities, learning about local cultures, including legal traditions, also gained an increasing role, which favored joint research with legal ethnography.

Most of Tárkány Szűcs's publications had a historical approach. His three books (*Mártély népi jogélete* [Mártély's Legal Folklore] 1944, *Vásárhelyi testamentumok* [Vásárhely Testaments] 1961, *Magyar jogi népszokások* [Hungarian Legal Folk Customs] 1981) can also be classified specifically in the field of historical studies. His research was not much characterized by Tagányi's self-evident "sensitivity to synchronicity." In this context, it is particularly noteworthy that Tárkány Szűcs became a well-known figure in international research through his historical review of European ethnography, but his conceptual and methodological approach in his articles, similarly to Tagányi, tried to grasp the problem of "simultaneity." Moreover, as some studies of the conference proceedings *Jogi néprajz – jogi kultúrtörténet* [Legal Ethnography — Legal Cultural History], published in 2009, illustrated, Ernő Tárkány Szűcs was no stranger to legal sociology and legal anthropological approaches either<sup>5</sup> (MEZEY – NAGY 2009; FEKETE 2022).

In the 1990s, legal anthropology was affected by the change in the relationship between history and social sciences, the shifts in the emphasis on European ethnology, the formation

<sup>5</sup>We just want to draw attention to the fact that, despite all previous critical attitudes, Kálmán Kulcsár, who participated in legal ethnographic research as a colleague of Andor Csizmadia, will write the accompanying study to Tárkány Szűcs's legal synthesis.





of social ethnography, and the narrowing of the traditional research areas of cultural anthropology and legal anthropology. Balázs Fekete clearly argued in favor of the fact that legal anthropology responded to the basic question of the research — whether historicity or sociality is the determining point of view of the investigation — by placing sociality at the forefront, and wanted to fill the research with more and more current content and social functions (FEKETE 2022).

In the spirit of contemporary research, the sociology of law — in the Anglo-Saxon-speaking areas primarily associated with the name of Laura Nader — which interprets law as a process and can potentially be considered as a starting point of legal ethnography, has attracted the research areas of the legal anthropological trend in Hungary as well. But what is even more important in the domestic context: he considered the phenomena investigated by legal ethnography as an activity revealing the state of legal awareness of a given social stratum (the peasantry) in a given historical period (two and a half centuries, from the 18th century to the middle of the 20th century) and placed it among the growing number of legal awareness surveys (FLECK 2009).

A significant change in the 1990s was the approach of legal ethnography to jurisprudence, primarily to legal history and legal cultural history.

The impact of Austrian legal cultural historical research on Hungarian legal cultural history was strengthened from the beginning of the 1990s through the work of István Kajtár, who, as department head and professor of legal history at the University of Pécs, established a two-decades-long collaboration with the Department of Legal History of Karl Franzens Universität Graz in addition to universities in Krakow, Prague, and Bratislava. Following in the footsteps of Karl von Amira, Hermann Baltl, Schwerin, and Künssberg, Gernot Kocher — a recognized scholar of Rechtsarchäologie, considered a part of legal history practiced in the German, Austrian, and Swiss territories — reformulated, with a functionalist approach, the subject and task of the research field linked to legal history, which he still defined as an unquestionably interdisciplinary science. Among the collaborating scientific fields, he also singled out the importance of legal folklore, or more broadly, legal ethnography, which examines the world of everyday and practical legal facts and processes (traditional customs) (KOCHER 1992).

In his work reviewing research in Hungarian legal cultural history, István Sipta attributed the formulation of the need for a legal history that goes beyond the history of norms and the observance of rules and has a broader perspective to Ferenc Eckhart. In 1931, the humanities professor appointed to the department of legal history at the University of Pest announced a program for the cultivation of legal history that “considers both the ideas surrounding the law — which are still in effect today — and the cultural factors that influence the development of law in the longer term” as a condition for becoming a factual science. His student, György Bónis, also represented this spirit as a professor of legal history at the universities of Kolozsvár and Szeged, and later during his archival work (NAGY 2017). However, the paradigm shift in the research of legal history and legal culture in Hungary only occurred in the early 1990s. According to István Sipta, a “thematic and methodological innovation” also emerged in the early 1990s, which “extended the scope of legal history studies to related sciences and suggested the connected institutions of cultural history as a general framework for interpretation.” In this process, he highlighted the role of professors István Kajtár and Barna Mezey (STIPTA 2016:305; KAJTÁR 1996, 2004; MEZEY 2009, 2011, 2014).



Other branches of jurisprudence also discovered legal culture. Traditional legal history considered it increasingly important to examine the legal order of societies that preceded feudalism, which were basically based on customary norms. In addition to the material of the customary laws of feudal society (mostly including the unwritten sources of law), his attention was extended to the elements of the differentiated legal order that determined the life of serfs and peasants, which were originally included in the scope of investigation of legal ethnography (particular law, traditional law, customary law, legal custom). Legal theory and comparative legal theory examined the effectiveness of law (VARGA 1993, 2021). As one of its elements, he covered the role of legal knowledge and legal awareness, including the importance of traditions and values. Moreover, some of its representatives consistently linked several issues of legal anthropology to the issues of comparative legal theory (KAJTÁR – VISEGRÁDY 1988). International law increasingly regarded the investigation of potentially important issues for legal ethnography as its task, such as the problem that originally arose at a higher level of particular law and national law with regard to the question of national law and EU law (community law), or the examination of unwritten international laws based on similarities and differences in values.

As a scientific organizer and researcher, Ernő Tárkány Szűcs was an emblematic representative of domestic and international legal ethnography, providing a point of reference for Hungarian research. While his publications in foreign languages enriched European legal ethnography, the entirety of his academic work summarized the results and tasks of European and Hungarian legal ethnography.

Ernő Tárkány Szűcs's receptivity to organizational roles was already evident in his high school years, in his hometown of Hódmezővásárhely. As a university student in Kolozsvár, he was one of the organizers of Professor György Bónis's legal ethnographic research in Kalotaszeg, and during his years in Szeged, he was an assistant in the Tápé research. During his career as a researcher, he had limited opportunities to play a role as a science organizer in Hungary, and on the international scene, his involvement began in the 1970s with conference presentations (Chicago, 1973; Liege–Lüttich, 1975; Turku 1980), editorial board membership (*Dialectical Anthropology* 1973–1977), membership in international organizations in a member of the International Union of Anthropological and Ethnological Sciences (IUAES), the Commission on Contemporary Folk Law (1978). His involvement in the research of European legal customs and his active participation in international scientific life was a chance for Hungarian legal ethnography to enter the international scene. After all, Tárkány Szűcs considered it his mission to introduce the results of European legal ethnography in Hungary, as well as to publish the results of Hungarian legal ethnographic research in international scientific forums. The connection of Ernő Tárkány Szűcs's work to international ethnography is discussed in detail by Szabina Bognár (BOGNÁR 2021a, 2021b).

Ernő Tárkány Szűcs's 1981 monograph *Magyar jogi népszokások* [Hungarian Legal Folk Customs] is a summary of the historical, theoretical, and methodological results of research of 18th–20th-century Hungarian legal ethnography. A retrospective and prospective: summary of research results and task definitions of Hungarian legal ethnography.

The place and role of Ernő Tárkány Szűcs's oeuvre in Hungarian ethnography can be defined most vividly through the interpretation and evaluation of his monograph. *Magyar jogi népszokások* [Hungarian Legal Folk Customs] is a unique and unparalleled summation of Hungarian legal ethnographic material in international literature. As Attila Paládi-Kovács put it, the volume of more than 900 pages presents a comprehensive view of the system of norms that



defined the life of individuals, smaller and larger communities, and traditional folk society, primarily through unwritten principles and rules, and then supplementing these with written sources (e.g., regulations) (PALÁDI-KOVÁCS 2003). As the author of a work that was important both for Hungarian legal ethnography and his research career, Tárkány Szücs was recognized with the degree of “Doctor of Sciences” (DSc), and in 1983 he became an honorary university professor at the Eötvös Loránd University in Budapest.

Tárkány Szücs’s monograph summarizing the Hungarian legal traditions and legal folk customs of the period from the 18th century to the Second World War is both a historical overview of research and a synthesis of the results of Hungarian legal folklore research, which has now gone through three editions. At the same time, it created an opportunity to integrate the results of research on legal customs between the two world wars into Hungarian ethnography and to legitimize the research field. The more than 900-page book attempted to comprehensively summarize the unwritten legal customs and jurisprudence of the people between 1700 and 1945, with the intention of creating a synthesis. Its legal theoretical, dogmatic, and methodological foundation is primarily based on the results explained in *Results and Task of Legal Ethnology in Europe*; the purpose of the extremely rich material was to illustrate the existence of Hungarian legal folklife, legal folk customs, and autonomous folk communities, and to indicate their common heritage.

The monograph was received with appreciation by representatives of ethnography, legal history, legal cultural history, historiography, legal sociology, and legal anthropology, and was praised in more than 30 enthusiastic reviews, both at home and abroad. Of these, it is worth highlighting Csaba Varga’s legal theory study, in which he concluded that, from the point of view of further research, the nation-, value-, and law-shaping role of legal customs that prevailed in the world of “below,” based on centuries of traditional folk thinking and mediated by traditions, was decisive (VARGA 1993). At the meeting of the State and Legal History Committee of the Hungarian Bar Association on December 14, 1981, legal historians Alajos Degré, György Bónis, and István B. Kállay praised the volume. György Bónis’s report — in which he mentions the author’s ties to legal history and calls the volume a corpus of legal folk customs — was published in *Ethnographia*, while István B. Kállay’s report was published in *Magyar Jog* and a well-known Japanese legal journal. Hungarian researchers living outside the country’s borders, such as historian István Imreh and ethnographers Olga Nagy and Olga Penavin, not only reviewed Tárkány Szücs’s book but also implemented successful research programs in the field of legal customs using the opportunity provided by his example.

This oeuvre of Ernő Tárkány Szücs was made an official part of legal history and legal cultural history by Barna Mezey, department head and university professor in the Department of the History of Hungarian State and Law at Eötvös Loránd University and co-chairman of the Tárkány Szücs Ernő Legal Cultural Historical and Legal Ethnographical Research Group. Some legal historians and legal cultural historians have made it mandatory or recommended reading for law students (professors István Kajtár in Pécs, Mária Homoki-Nagy in Szeged, István Stipta in Miskolc, and Béla Szabó in Debrecen). Barna Mezey considered the monograph to be a summary of the invaluable research carried out in the 19th and 20th centuries by ethnographers, lawyers, and historians who explored 20th-century legal customs. It was defined as a synthesis of the results of legal folklife research carried out between the two world wars, which further considered the questions raised by legal scholar György Bónis, pointing out the rules Hungarians



observed and considered binding, beyond the layer of “substantive law and official customary law” (MEZEY 2009).

The beginnings of Tárkány Szűcs’s research were connected to the legal political process which, in the early 1940s, wanted to make traditional popular rulemaking and jurisprudence a part of private law codification to create a more “Hungarian” legislation. That is why, when he finally had the opportunity to do so, he considered the summary and publication of the findings of legal folklore research organized by the Ministry of Justice between 1939 and 1948 and its integration into Hungarian legal ethnography and ethnography his most important mission. While his monograph was the foundational work of legal folklore research, he also inspired new research: in the nineties, the richness of his legacy defined the tasks of new research generations of legal historians, historians, and ethnographers in their own fields of science and research — and more and more often in connection with legal ethnography.

The merits of the summary volume also emerged from the laudatory reviews. The four decades that have passed since the publication of the monograph, the frequent circulation of the volume by representatives of related disciplines have set new expectations and designated new research tasks for the following generations. It is even more evident today that the fundamental novelty of Tárkány Szűcs’s work was his choice of subject matter. The wealth of data and literature presented in the broadly defined subject area proved the *raison d’être* of the research field and its undoubtedly impressive effectiveness. However, the author also had to deal with some fundamental difficulties: the geographic and social space, relatively difficult to define, and the fact that the nearly two hundred years chosen as the timeframe of the research made a consistently thorough analysis an almost quixotic task. The entire volume was plagued by the fact that, despite Ernő Tárkány Szűcs’s ambitious premise, a consistent methodology was not developed for the research field, so the author had to utilize the tools of other scientific fields. He basically chose the methods and tools of historiography, as well as jurisprudence and ethnography — and because of this, he had to make several compromises.

The second edition of *Magyar jogi népszokások* [Hungarian Legal Folk Customs] in 2003 and the third edition in 2021 were an opportunity to take stock of the extraordinary richness of the Tárkány Szűcs legacy and face the fact that the volume summarizing his life’s work is not only a milestone for Hungarian legal ethnographic and legal cultural history research but also an indisputable evidence of the independence of Hungarian legal folklife, its centuries-old traditions, and the viability of autonomous folk communities.

Today, the Tárkány Szűcs monograph has become the bearer of a very important message and a starting point for a few questions: to what extent can the results of legal ethnography be adapted and used in other scientific fields? To what extent does the rich material reflect the actual differentiation, social, spatial, religious, and temporal heterogeneity of customs? What are the most optimal aspects of the selection, and is the thematic and chronological organizing principle appropriate? How do the general, special, and unique levels relate to each other in terms of legal folk customs in the monograph? By lifting a custom out of its social, spatial, and temporal context, does it become arbitrary or incidental? Is it possible to differentiate the rich data according to levels of legal institution (the “legal quality” of the customs) (distinguishing customary norm, legal custom, legal institution, legal folk custom, legal folk tradition)? In other words: what will the mosaic of Hungarian legal customs depict? Does a large-scale social history tableau emerge, or, like a kaleidoscope, does it always show different patterns depending on how



we turn it? The oeuvre of Ernő Tárkány Szücs induces questions while also formulating tasks for new generations of researchers.

## SUMMARY: RESULTS, SPECIFIC CHARACTERISTICS, TASKS, AND NEW DIRECTIONS IN HUNGARIAN LEGAL ETHNOGRAPHY

Through the mediation of Károly Tagányi, Hungarian legal ethnography was introduced to the results of 19th-century European research only in the early 20th century. Apart from short and occasional detours, the dominance of the German discipline prevailed in this research field as well — especially with regard to the collections and methods of legal ethnographic research. In Hungary, the most successful legal folklore research between the two world wars (1939–1948) primarily sought to validate the fiercely national character and traits of the area based on German examples. The almost decade-long collection is an “ethnographic material collected with legal subject knowledge,” which is methodologically inconsistent but served as a suitable basis for the development of the complex method described by Ernő Tárkány Szücs. The social and legal political intention that brought the research to life was the belated direction of the European legal modernization processes that were associated with the codification of private law throughout Europe (NAGY 2021b).

In Hungary, after the Second World War, the radical transformation and systemic changes of state bodies and institutions left the research field without an organizational framework (and science policy firmly withdrew its support from legal ethnography, which was considered “alien to the system”). The monograph *Magyar jogi népszokások* [Hungarian Legal Folk Customs] and the integration of Tárkány Szücs’s oeuvre into ethnographic studies could have laid the foundation for the institutionalization of legal ethnography, but his death interrupted the process that had just begun.

In the last third of the 20th century, interdisciplinary research became a general phenomenon in the field of scientific research: looking beyond the disciplinary divisions that emerged from the 18th century in order to get a more complete and differentiated understanding of each phenomenon and scientific question. In the field of legal history, the paradigm shift that occurred in the 1990s directed attention to legal cultural history.

After the fall of socialism, at the end of the 1980s, interdisciplinary research was gaining ground in Hungary as well. In the research areas defined as „peripheral disciplines,” cooperation with related sciences has become a fundamental feature of the approach: this is how legal ethnography came into the field of interest of legal history and legal cultural history — especially in the study of everyday legal life and symbology (KAJTÁR 2004; MEZEY – NAGY 2009; MEZEY 2011).

In the meantime, the epistemological and systematic background of legal ethnography also changed radically. The pragmatic aspects that brought the research field to life were re-evaluated; codification and governance were less important for the utilization of the results of this field. As the sociality and modernity of legal ethnography receded into the background (the research competencies of which were increasingly taken over by legal sociology and, albeit only temporarily, legal anthropology [FEKETE 2022]), the historical perspective in legal ethnographic research gained strength, and the research field found common ground with legal history and legal cultural history, the subject matter of which became more broad by that time. From the end



of the 1990s, the number of studies and conferences on legal cultural history and legal symbolism continued to increase, and scientific works aiming to incorporate international results into domestic research as quickly as possible proliferated (STIPTA 2016). The need for and interest in joint research in legal ethnography was also strengthened by the new results of research collaborations in the “common zone” of jurisprudence, history, ethnography, sociology, and anthropology (BÁNKINÉ MOLNÁR, 2017; BÁRTH 2007; BOGNÁR et al. 2017; GELENCSEK 2018, 2019; HOMOKI-NAGY 2003, 2018b; HORVÁTH 2011, 2016; LANCZENDORFER 2009; MEZEY 2016; PETERCSÁK 2014; BÓDINÉ BELIZNAY 2021; MATLA 2021; MAŁECKI – FALUS 2021).

An important result of contemporary Hungarian legal ethnographic research is the establishment of the Tárkány Szűcs Ernő Legal Cultural Historical and Legal Ethnographical Research Group at the University of Pécs in 2011 (chairman: Teodóra Janka Nagy, co-chairman: Barna Mezey, secretary: Szabina Bognár, scientific assistant: Ernő Szabó), which, in accordance with its name and objective, primarily aimed to continue research related to the topics of legal ethnography and legal cultural history. Identifying with the initiative of legal historians Barna Mezey, István Kajtár, and Mária Homoki-Nagy, the scientific workshop, which formulates institutionalization aspirations, undertakes research on the basis of inter- and multidisciplinary, organizes conferences, and publishes scientific publications related to the topics of legal cultural history and legal ethnography among the legal sciences (Hungarian and universal legal history, legal theory and legal philosophy, international law), ethnography and history, as well as legal sociology and legal anthropology. It also plays a role in research topics considered to be part of its research profile in ethnography and history by organizing conferences and publishing (NAGY – SZABÓ 2021; NAGY 2021d).

In the cultivation of a field of science, scientific workshops have an important role, the effectiveness of which is indicated by research, conferences, publications, and international relations — which in the information society are complemented by digital interfaces (e.g., website, digital database). In the past ten years, at the biennial conferences of the Research Group, legal historians, practicing lawyers, historians, ethnographers, sociologists, legal philosophers, and anthropologists have given nearly a hundred lectures on the topic of legal ethnography and legal cultural history, to the guiding theme of inter- and multidisciplinary (NAGY – SZABÓ 2021; NAGY 2021d).

In addition to scientific research and workshops, over the past ten years the emphasis has always been on the teaching of legal cultural history and legal ethnography, participation in the talent management of students, doctoral students, and young researchers interested in the topic, and cooperation with experts in practice.

The mission of the Research Group is to process and enrich the research legacy of Ernő Tárkány Szűcs, and its tasks include the further exploration and publication of legal ethnographic and legal historical sources. The OTKA K 109191 tender called *A jogtörténet új forrásai: Jogi Kultúrtörténeti és Jogi Néprajzi Digitális Adattár (DDFL)/New sources of legal history research. Digital Database of Folk Law (DDFL) (2013–2018)* resulted in the digitization of the source material of Hungarian legal ethnography — and thus of the legal folklore research carried out between 1939 and 1948 (NAGY 2018). The exploration of the legal ethnographic and legal cultural history source material is currently continuing with the digitization of Károly Tagányi's collections of legal customs (among them the title material relating to land communities) in the framework of the tender called “Károly Tagányi's (1858–1924) legal customs collection program and the historical significance of his legacy,” NKFIH FK 19 132220.





In addition to commemoration and the historical, dogmatic, and methodological evaluation of his research career as well as Hungarian legal ethnography, the professional programs and publications of the jubilee interdisciplinary research workshop organized in 2021 jointly with the Institute of Ethnology at the Research Centre for the Humanities provided an opportunity to publish new research results and formulate further tasks for Hungarian legal ethnography (BOGNÁR et al. 2021; BOGNÁR – SZABÓ 2021; GRÁFIK 2021; HOMOKI-NAGY 2021; HORVÁTH 2021; MEZEY 2021a, 2021b; NAGY – BOGNÁR 2021; SZABÓ 2022; JUKIC 2021).

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Summing up the most characteristic features of Hungarian legal ethnography as a research field and dynamic research process, it can be stated that, unlike other European and North American research, it found its independent and institutional place in Hungarian academic life with great difficulty. According to the motivation of its practitioners, it sometimes collided with ethnography, sometimes with jurisprudence, or, depending on the momentary decisions of current science policy, it waited for admission to the frontiers of historical sciences and sociology (KULCSÁR 1978).

From an international point of view, the belatedness, fragmentation, isolation, and *ad hoc* nature of Hungarian customary law research (legal ethnography/legal folklore research), i.e., its attachment to researchers' oeuvres and life stages, is particularly evident. Its connection to the development of civil law was difficult to articulate, and it did not become consistent or irreproachable in the process of legal modernization. It failed to formulate its mission and make it part of the public discourse, to create its social acceptance. It faced difficulties in finding its independent and institutional place in Hungarian scientific life.

At the turn of the millennium, Hungarian legal ethnography was characterized by compartmentalization, fragmentation, deconcentration, parallelism, uneven achievements, lack of connection points, and lack of organization. As a result of the first ten years of the Tárkány Szűcs Ernő Legal Cultural Historical and Legal Ethnographical Research Group, we can state that Hungarian legal ethnography is a research field and approach with an independent subject matter, methodology, and research history, the results of which are increasing. For legal ethnography — closely related to the social ethnographic aspects of ethnography — the historical point of view is constantly supplemented by the question of sociality and synchronicity. It is still a question in legal ethnography today what responses are being provided to the social challenges taking place in Hungary today, and whether there are any responses at all. Is it possible to finally integrate the findings of Hungarian research into international scientific life? After all, this will determine whether legal ethnographic research was merely a useful detour, a historical prop of Hungarian scientific history, or whether it will become a viable and cooperative discipline with a perspective.

In the spirit of the history and results of Spanish legal customs research, which has been ongoing for a century and a half, based on Costa's legacy, for example, the task of the Tárkány Szűcs Ernő Legal Cultural Historical and Legal Ethnographical Research Group — and Hungarian legal ethnography — can also be formulated as learning, through the cooperation of several scientific fields, how the Hungarian people “understood and lived the law at different stages of its development” (MATLA 2021). In search of answers to the general questions of human society and the specific questions of Hungarian society, making the research of legal customs, “the last remnants of extremely valuable customary laws on the brink of disappearance due to the impact of new laws and the increasingly irresistible unification of social customs” (PETT 2020:242) a living and practiced research field.



Even in the late 19th century in Hungary, it was clear that good laws could only be created by understanding the customs of the people (NAGY 2013a), yet in 1981, Ernő Tárkány Szűcs had to prove with hundreds of examples the existence of legal customs among the people. Legal customs which, to us Hungarians, are the most special forms of our historical, cultural, regional, and social values, our common cultural heritage, and our “collective identity” forged over centuries.

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