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Philosophising on Law under the Umbrella of Marxism in Hungary

Abstract. From amongst legal theories of Socialisms' Marxism, Hungarian scholarship played a rather balancing role all along. Characterised by dialogue and successful mediation, it strove to take a middle-of-the-road stance within the Socialist orbit. It took the professional requirements of scholarship rather seriously within the bounds of feasibility at varying times. Under restrictive conditions and despite ideological dictates, it filled a fermentative role. All in all, it made both (1) the sociological approach and (2) the historico-comparative perspective accepted in the Socialist world by transcending legal positivism and especially "Socialist normativism", on the one hand, and by breaking out from domestic/regional self-seclusion, on the other. Moreover, it (3) introduced the ontological perspective, built upon the epistemological perspective, exclusive till then, and thereby it could attribute ontic significance to the self-explanation and self-representation of different legal cultures, usually treated as having merely an ideological importance; and (4) by developing a law and modernisation theory, it could address Central and Eastern Europe in a responsive way. The overview starting by assessing the legacy in the end of WWII concludes in a parallel characterisation of the state of scholarship and its achievements throughout the countries concerned by the end of the Soviet rule. Through and owing to all this, the Hungarian pattern offered a relatively near-to-optimum alternative, a kind of optimality in its solutions and responses.

Keywords: Marxism, Leninism, "Socialist normativism", legal philosophy and sociology, comparatism, ontology/epistemology, law and modernisation

1. Preliminaries

In the terms of the legal ideology of the Communist dictatorship, gradually establishing itself in Hungary according to Soviet patterns with Stalinian-cum-Vishinskyan inspirations after WWII, the legal philosophy as cultivated in the interwar period and renewed in the post-war period could only qualify as a remnant of the despised "bourgeois" continuity, part of a past to be done away with anyway. In a position of degradation from the outset, it soon became subject to the political attacks waged against everything coming from the national heritage, despite the fact that this legal philosophy had indeed represented an imposing culture and professional highlight, nurtured by highly valued scholars in both the interwar and the post-war short-lived coalition periods. In view of its representative output and dynamic post-war re-start, one may remember quite a few remarkable accomplishments indeed. For instance, Julius Moór—democrat and legal philosopher, the first post-war metropolitan rector—set an exemplary pattern for facing the past, formulating ethical and spiritual lessons for a new start in a sublime and inspiring way.¹ With constant efforts at

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¹ Cf. his CV and Bibliography by the present author, introducing Moór, J.: *Schriften zur Rechtsphilosophie*. (Hrsg.: Cs. Varga, Budapest), 2006. and <<http://philosophyoflaw.wordpress.com/>>, ix–xxii.

reaching a synthesis, Barna Horváth just paved a new path, opening up further theoretical prospects.² József Szabó of Szeged, having launched his career by laying the foundations of jurisprudence in the methodology of sciences, faced a multitude of new tasks, such as an understanding and at least psychological explanation of Anglo-American lawyerly mentality and a description of the ultimate motives of state jurisdiction and public administration. And, last but not least, István Losonczy of Pécs produced a summary of his so-called realistic legal philosophy (it having by then been developed into a systematic doctrine).³ Well, all this ensured the promise of a smooth continuation.

Of course, we can regard it open to question whether or not this legal philosophy (especially of Moór and J. Szabó) could have advanced from the kind of reliable, intelligent and self-critical reflexive thought that was fellow-traveller to Western European and Atlantic models, to an independent trend, ensuring an internationally pro-active presence. Well, all our respect and esteem notwithstanding, my personal answer could at most be a rather hesitating “yes”. And we may also add that in the case of some of the period’s most self-aware reformers (especially Horváth and Losonczy), the chance of a positive answer is not more secure either, as they failed, despite the considerable volume of their academic output, to surpass the stage of outlining claims, packed with sketches and improvisations, but without arriving at explications extended into full theories as tested through their application to partial problems, within the working period spanning from their professorial appointment to the Communist takeover (i.e. a quarter of a century in the case of Horváth and one decade in the case of Losonczy). Yet it can be regarded as a fact that even their disciples (on behalf of Horváth, pioneering in school-founding at Szeged, István Bibó, József Szabó and Tibor Vas,⁴ as well as Vera Bolgár who, having just launched her career, followed her master by soon emigrating, and on behalf of Moór, all along a lonely thinker who had not established a school of thought, Kornél Scholz) chose challenging paths, each of his or her own; meaning, all in all, that jurisprudence in Hungary covered practically the entire range of theoretical approaches then cultivated in Europe. Thus the uni-directionality of the 1920s (Moór), followed by the antagonism of the emerging companion (Horváth) as rival to the former, in fact ended by being replaced by a series of mutual stimulations and inspirations, matured in group discussions.

² Back in 1948, he was even planning an international symposium within the metropolitan Pázmány Péter University. Cf. Horváth, B.: *The Bases of Law / A jog alapjai*. [1948.] (ed.: Cs. Varga), Budapest, 2006.

³ Cf., as a posthumous edition, Losonczy, I.: *Abriss eines realistischen rechtsphilosophischen Systems* (Hrsg.: Cs. Varga), Budapest, 2002. For a contrasted narrative of personal dramas, cf. Varga, Cs.: *Philosophising on Law in the Turmoil of Communist Take-over in Hungary (Two Portraits, Interwar and Post-war)*. In: *The 2005 ALPSA Annual Publication of the Australian Legal Philosophy Students Association* (ed.: M. Leszkiewicz). Brisbane, 2005. 82–86. [on Moór] and 86–94. [on Losonczy].

⁴ Cf. *Die Schule von Szeged. Rechtsphilosophische Aufsätze von István Bibó, József Szabó und Tibor Vas*. (Hrsg.: Cs. Varga), Budapest, 2006.

2. Cold War Period

a) Liquidation of “Residues”

Shortly after the Communist takeover, a frontal attack started against everything with a flavour of the past, i.e. deterrence from following tradition through discrediting past thoughts and hindering their survival; in short, prevention of the national heritage from exerting any influence at all. This act of political and ideological liquidation was accomplished within one or two years. It was executed, e.g. through political measures like the mercilessly fanatic pseudo-journalism of George Lukács calling for purges or through the Communist-Party-initiated thought-police⁵ instituted as the Committee for Science Policy destined to replace the Academy of Sciences, staffed by young professionals, mostly holocaust-survivors, headed by Erzsébet Fazekas (a Muscovite historian, practically unknown until then), wife of Ernő Gerő, who all along rivalled Rákosi for number one leadership. Such a purge became manifest through dismissing the old staff, deteriorating their existential conditions, blocking their academic chances and dissociating them from prevalent professional networks (e.g., through a series of partisan debates generated by new-comer Communists such as, in law, Imre Szabó, János Beér, Gyula Eörsi and Márton Sarlós).⁶ In sum, the “new” was in fact built in utter irrelevance of and disrespect for the “old” in an inherently destructive manner, by fulfilling a political commission via administratively marshalled means—as is usual in a dictatorship.⁷

⁵ Involving mathematicians Gy. Alexits and I. Fenyő as well as historians like P. Hanák, L. Zsigmond and J. Szűcs.

⁶ See, e.g. Vas, T.: A burzsoá jogfogalom meghatározásának marxista bírálata [Marxist criticism of the bourgeois concept of law]. *Jogtudományi Közlöny*, 5 (1950), 3–6 and Földesi, T.: Hogyan használjuk fel ma Marx és Engels bírálatait a burzsoá jog- és államelméletekről? [How to use the criticism offered by Marx and Engels in the struggle against the bourgeois theories of law and state?]. *Jogtudományi Közlöny*, 9 (1954), 169–177. As the best species of intimidation, calling every ones bluff, cf. also “‘A Horthy-fasizmus állam- és jogbölcsélete’”: Az ELTE ÁJK tanácsülésén 1955. január 29-én rendezett vita Szabó Imre készülő könyvének IX. fejezetéről [Legal philosophy and theory of state of the Horthy-fascism: Eötvös Loránd University Faculty Board debate on ch. 9 of Imre Szabós book under preparation]. (ed.: Cs. Varga), *Jogelméleti Szemle*, 2004/3 in <<http://jesz.ajk.elte.hu/varga19.html>>.

⁷ For its literary outcome, see, first of all by Szabó, I.: I. V. Sztálin tanítása a nyelvtudományról és a jogi felépítmény kérdése [The teaching of I. V. Stalin on linguistics and the issue of legal superstructure]. *Az MTA Társadalmi–Történeti Tudományok Osztályának Közleményei* II (1951), 91–104 and *Jogtudományi Közlöny*, 6 (1951), 155–160; I. V. Sztálin tanítása és a jogelmélet kérdései [The teaching of I. V. Stalin and the issues of legal philosophy]. *Az MTA Társadalmi–Történeti Tudományok Osztályának Közleményei*, 2 (1950), 113–122 and *Jogtudományi Közlöny*, 6 (1951), 723–727; Vita haladó jogi hagyományaink kérdéséről [Debate on our progressive legal traditions]. *Jogtudományi Közlöny*, 6 (1951), 653–662; A szocialista törvényességről [On Socialist legality]. *Társadalmi Szemle*, 8 (1953), 796–810; Állam- és jogtudományunk elméleti alapjainak néhány fő vonása [Main characteristics of the theoretical foundations of our science on state and law]. In: *Az Eötvös Loránd Tudományegyetem Évkönyve*, 1955. (ed.: L. Tamás) Budapest, 1956. 37–43.

b) Soviet Uniformisation

In the absence of any genuine domestic preliminaries⁸ or self-generated scholarly results—which proves most obviously that the Marxism of Socialism came into being as solely motivated by direct politico-ideological considerations and was bound to remain all along alien to any mature sense of scholarship—the construction of Marxist theory in Hungary took a start through translation of pitifully crude and theoretically poor brochure-style militant pieces from the Soviet literature,⁹ which had in its time had the Bolshevik mission to replace the certainly not overly-sophisticated but didactical instruction manuals of Tsarist Russia. By supporting the Communists' putschist political hegemony, a Hungarian post-epigonism of the Soviet Stalin-epigonism became the yardstick of party-political trustworthiness, signalling its actors' deep personal and professional identification with the cause of Socialist revolutionarism.¹⁰

c) Denial of the Past

The fate of Marxist legal theorising in Socialist Hungary became strangely defined from the beginning by an overtly purposeful monograph on the overall history of legal philosophising in Hungary. This work, prepared *au pair* with the Communist takeover to fulfil (through officialised academic debates on the field of law) most of the latter's political function, had the expressed vocation to close down the past for ever. Rejecting and trampling down the values of the past by closing them back in the junk-room of an alleged pre-history, it simply condemned past achievements as harmful and, therefore, to be surpassed and forgotten, never to be resumed. No wonder that it earned its author a Kossuth-prize, the very first and highest official recognition of lawyerly intellectual accomplishment by the new regime. This book was the first Marxising grand monograph by Imre Szabó, bearing all the "stylistic" marks of Leninism–Stalinism,¹¹ which—guided by the author's intention to display his own legal-philosophical talents as well—built in fact a pile of cadavers out of his forerunners, in order to show how to "transcend" (while not staining itself with any attempt at retrospection as to the merits) and to "surpass" them (even if not troubled by genuine understanding).

It is a paradoxical after-effect (certainly neither intended nor foreseen at the time by the author) that these scarcely buried cadavers proved in fact to remain practically alive—owing to the bare fact that by being memorialised in a monograph, the past of legal

⁸ With a sole and rather miserable exception. Cf., for its overview, Varga, Cs.: Die Entwicklung des rechtstheoretischen Denkens in der Ungarischen Räterepublik. In: *Der Kampf der politisch-rechtlichen Auffassungen in der Geschichte und Gegenwart. Materialien des multilateralen Symposiums vom 16. bis 18. September 1986*. Berlin, 1988. 122–136.

⁹ Published in translation and/or reviewed by Soviet or domestic authors in *Szovjetjogi cikkgyűjtemény* [Collection of articles from the Soviet law] I–IV (1951–1954).

¹⁰ As a typical example, cf., by Vas, T.: Az állam- és jogtudományok néhány kérdése az SzKP XX. Kongresszusa után [Some questions of the science on state and law after the 20th Congress of the Soviet Communist Party]. *Jogtudományi Közlöny*, 11 (1956), 193–199. as well as Néhány állam- és jogelméleti kérdés az SzKP XXIII. Kongresszusának tükrében [Some questions of the theory of state and law in the mirror of the 23rd Congress of the Soviet Communist Party]. *Jogtudományi Közlöny*, 21 (1966), 516–519.

¹¹ Szabó, I.: *A burzsoá állam- és jogbölcsélet Magyarországon* [Bourgeois theory of state and law in Hungary]. Budapest, 1955.

theorising could earn a positive memory and reputation within the Hungarian profession up to the present day. Otherwise speaking, notwithstanding its official rejection and ideological annihilation and eradication, this very past could still be integrated into the local Marxism's background consciousness, serving as a standard to provide standing inspiration, even if in hidden forms. It was as if the author's politico-ideological service had still—albeit through detours—been counter-balanced by his own demand for true scholarship, preserved from his personal past to some extent.¹² For, by the very act of writing, through extensive research, a number of elaborate chapters on the subject, he not only expelled past achievements intentionally and *pars et totus* from the circle of official conceivability, but also described them thoroughly and comprehensively as no one had before, and, thereby, challenged contemporary scholarship by revealing the richness of the approaches predecessors had once testified to. By the same act—*nolens volens*—he reminded readers of the same theoretical problems still unresolved, and the past approach (although condemned to become extinct) that kept its relevance—while remaining unspoken and unprocessed, yet offering an alternative to the officially Sovietised neo-primitive one-sidedness.¹³

At the same time, as a mark of its politico-ideological role, canonised declarations (standing for scholarly conclusions), too, appeared in ready form in this new theorisation. Because, in the spirit of the hurriedly adopted and ruthlessly enforced creed of its new fighters, the truth that could be uttered at all actually offered no temporary rest against tormenting hesitations and meditations but served as a revolutionary action (trans)forming society, like any revolutionary target set by superior command. That is, whatever truth was presented, it took the form of a canon officially declared, taken to be valid (and, therefore, made unquestionable) until revocation, the doubting or evading of which had to be retaliated against as a species of betrayal or sabotage. This attitude survived nearly till the end of the era, even if gradually less enforceable as time passed. However, as long as it was virulent it excluded even the feasibility of scholarly debates and any collective generation of ideas with open-ended chances. Ironically enough and in a tragic manner, this same attitude eventually destroyed its main representative as well, the one who had been the first to apply it to jurisprudential life in Hungary.¹⁴

¹² The works by Szabó, written in his twenties as a member of the Hungarian minority living in the successor-state Czechoslovakia, include, e.g. A jogszociológia munkaköre [The working field of legal sociology]. *Korunk* [Kolozsvár/Klausenburg/Cluj], 10 (1935), 809–815; Jog és erőszak [Law and violence]. *Korunk*, 12 (1937), 523–527; Az időszerűtlen jogtudomány [Untimely jurisprudence]. *Korunk*, 13 (1938) 7–8, 615–618; Szellemtudomány és pozitívizmus [Humanities and positivism] *Korunk*, 15 (1940), 527–534; as well as Néprajz, jog, szociológia: Népi jogéletkutatás [Ethnography, law, sociology: research on popular living law]. *Társadalomtudomány*, [Budapest] 22 (1942), 422–427. and Népi jogéletkutatás [Research on popular living law]. *Társadalomtudomány*, 22 (1942), 483–485.

¹³ It is noteworthy that, e.g. a monograph having remained in manuscript as a juvenile opus—Szegevári, K.: *Somló Bódog* [Felix Somló]. [Szeged, 1952–53] (ed.: Cs. Varga). *Jogelméleti Szemle*, 2004/4 <<http://jesz.ajk.elte.hu/szegevari20.html>>—did not recall any ambivalence of such a kind. Applying a powerful (although, in her own way, also politicised) historico-critical method, she not only gave a theoretically high-standard summary but also could manage to accomplish it.

¹⁴ These features (along with the professional revolutionaries habit of only declaring without giving a reason) had become integrated into Imre Szabós personality so much that when he became withdrawn, widowed and struggling with illness alone, he was also abandoned by one-time subordinates as he could not change his mood of being receptive to nothing but one-sided communication. This was a personal fate in sharp contrast with that of Viktor Knapp, of a similar

Well, this is the context within which the entire legal thought of nearly a decade—including the reporting (even if with some critical distance) on the patterns that were to be taken over imperatively¹⁵—was built up, and into which the treatment of topical issues—from the main strategic debates on the law's continuity¹⁶ and superstructural character (*vis-à-vis* its economic basis)¹⁷ up to the timely issues of codification and the class-related social contents of the kind of will manifested in law—was caged.¹⁸

d) “Socialist Legality”, drawn from memory of a progressive past in Europe

For the first time, it was Imre Szabó who formulated—*pars pro toto* in his impressive monograph laying down the basics of Socialist jurisprudence¹⁹—the requirements of political Stalinism, as translated by Vishinsky into the language of legal superstructure. The author built his doctrine of Socialist legality on statutory positivism as developed in Western Europe in the middle of the 19th century, in order to generalise it as a common feature for the entire Central and Eastern European region under the aegis of Marxism, with an approach and theoretical foundation that would rigidify Marx's and Engels' science-philosophical and science-methodological presuppositions (dating back to the first half of the 19th century), by rendering them exclusive as to the domain of theoretical legal thought for long decades to come.²⁰

disposition and age, who had the luck of falling out of official favour early enough, due to his sympathy towards the Prague spring in 1968. Deprived of the post directing the Law Institute of the Academy of Sciences of Czechoslovakia, he had time enough to metamorphose into the common attitude of average beings. He behaved as a friend and almost confidential conversation partner even in relation to me, despite the rather critical tone I had used when addressing him at East–West international conferences (e.g. in roundtable discussions of the European University Institute chaired by president Werner Maihofer), and greeted me as one of his most faithful friends during his last years, at a ceremony conferring him an honorary doctorship by the Safranek University at Košice (Slovakia).

¹⁵ E.g. Peschka, V.: Vita a jogfogalomról a szovjet jogelméletben [Discussing the concept of law in Soviet legal theory]. *Jogtudományi Közlöny*, 11 (1956), 190–194. as well as, by Péteri, Z.: Az állam- és jogelmélet vitás kérdései a szovjet jogtudományban [Controversial issues of the theory of state and law in Soviet jurisprudence]. *Cikkgyűjtemény a külföldi jog köréből*, 6 (1956), 41–44. and A jogfogalom néhány kérdése a szovjet jogtudományban [Some questions of the concept of law in Soviet jurisprudence]. *Az MTA Állam- és Jogtudományi Intézetének Értesítője*, 1 (1958), 304–314.

¹⁶ E.g., Vita a jog és jogtudomány “viszonylag állandó elemeinek” problémájáról [Debate on the problem of the “relatively constant elements” in law and jurisprudence]. *Jogtudományi Közlöny*, 6 (1951), 368–377. and Szo táczki, M.: A kontinuitás és diszkontinuitás kérdése a jogfejlődésben [The issue of continuity and discontinuity in legal development]. In: *Jubileumi tanulmányok*, 2. (ed.: T. Pap). Budapest–Pécs, 1967. 359–379.

¹⁷ Cf., both as a survey and sharp criticism, Varga, Cs.: Autonomy and Instrumentality of Law in a Superstructural Perspective. *Acta Juridica Hungarica*, 40 (1999), 213–235.

¹⁸ E.g. by Szo táczki, M.: *A jogi akarat osztálytartalma* [Class contents of the will in law]. Budapest, 1959. and *Az egyéni érdek és az osztályérdek viszonya a tárgyi jogban* [Relationship between the individual and the class interest in substantive law]. Budapest, 1962.

¹⁹ By Szabó, I.: *Interpretarea normelor juridice*. [1960] București, 1964. / *Die theoretischen Fragen der Auslegung der Rechtsnormen*. Berlin, 1963.

²⁰ For the background, cf. Varga, Cs.: *The Paradigms of Legal Thinking*. [1999] enlarged 2nd ed., Budapest, 2012. and <<http://www.scribd.com/doc/85083788/VARGA-ParadigmsOfLegalThinking-2012>>.

e) Search for Scholarly Evolution

All that notwithstanding, a temporary attempt at summarisation appeared—true, concealed in lecture notes multiplied in a limited number of copies and never made regularly available again—, taking advantage of the chances before and after the Revolution of 1956, adjusted to the widest conceivable limits of a minimum conformism. For this summa promised and even achieved a reliable analysis of contemporary Western trends with thorough critical reflection, representing a unique clear moment in Hungarian Socialist legal theorising. Marked by Imre Szabó's authority, his associates could at this time commit themselves to nothing but scholarly analysis.²¹ However, not even this enthusiastic restart (only to be seen later on as a next-to-mythical memory) was given the chance of becoming the mainstream.

3. Institutionalisation and Relaxation

a) Epigonism as Scholarly Ideal

Nevertheless, the relatively high standard of academic research—carried out under the direct control of the director of the Institute for Legal Studies of the Hungarian Academy of Sciences, academician Imre Szabó,—and the fact it was imbued with genuinely scholarly ideals, remained all along an exceptional phenomenon, enclosed within the Institute's uniquely privileged ivory-tower with no practical impact upon universities.²² Within this framework of an almost antagonistic bipolarity between the *academia* and the *universitas*, the generation close to Szabó's (Tibor Vas, Sándor Feri, György Antalffy and Pál Halász²³) with the disciples of the latter two (Ignác Pap at Szeged, from whose work perhaps only a bibliographical compilation had anything of a lasting value,²⁴ and Mihály Sztóczky at Pécs, who exerted some influence in both Hungary and the Socialist orbit but allowed—despite his often constructive and even provocative questions—his solutions to waste away in the forced doctrinarism of Marxism²⁵) could not go beyond epigonism, leading to an obvious dead-end.

In consequence, the official legal theory, developed by the spirit of Communist party rank-and-file activism at law faculties, with an overwhelming dominance in both textbooks and popular writing, discredited in fact the theoretical profession on the whole, alienating from it legal practitioners and social theorists alike, as a mere ideological exercise. Such a theorisation could not exert major influence beyond its repeated ritual acts of self-commitment; it had not become truly destructive either. Ironically enough, as in a reversed

²¹ Antalffy, Gy.—Kulcsár, K.—Peschka, V.—Péteri, Z.—Samu, M.—Szabó, I.—Sztóczki, M.—Sztodolnik, L.: *Állam- és jogelmélet* [Theory of state and law]. Budapest, 1957.

²² The unbridgeable gap between the kinds of scholarship cultivated at the Academy and in universities became a legendary memory when Szabó started commissioning his disciples (e.g. Peschka) to apply genuine scholarly standards when consulting university staff (e.g. Pál Halász) who were preparing for their academic qualification, while reviewing their pre-publications, who were struck by the formers cold reflection as a personal attack, and then felt bound to react politically.

²³ E.g. Halász, P.: *A normativizmus és az elméleti jogtudomány* [Normativism and theoretical jurisprudence]. [Diss.] Budapest, 1963.

²⁴ *Magyar állam- és jogelméleti bibliográfia 1950–1980* [Bibliography of the Hungarian theory of state and law, with English and Russian titles in translation] (ed.: Lajos Nagy), Szeged, 1980.

²⁵ Sztóczki, M.: *A jog lényege* [The essence of law]. Budapest, 1970.

game, those cultivating it in such a corrupted manner were themselves pushed by aggressive indoctrination. Having contented themselves with having their careers assured in return for their political loyalty, university teachers did in fact acknowledge in peaceful (even jovial) co-existence both the cautious scholarly advancement by academician Szabó, revered and dreaded as the unquestionably number one authority (with due regard to his party, academy and university positions), and the incidental excesses by Szabó's students at the Academy.

At the same time, in a legal-political sense and within the confines of the tolerance of our *Brave New World* of “actually existing Socialism”, some inspiration to democratise practical legal life and increase economic efficiency by humanising the field of law could also finally appear.²⁶

b) Stalinism in Critical Self-perspective

Imre Szabó, who had formulated the dogmatic cardinal points of his era all along—while also involving supportive companions²⁷—, finally attempted, in a delicate manner but increasingly explicitly, a sensible separation from Vishinsky's crude and politically biased position.²⁸ Indeed, when criticising “Socialist normativism” while promising its Marxising transcendence, he dedicated a monograph to a novel quasi-ontologising realisation, hoping that he could develop a systematic magisterial oeuvre in legal philosophy. Despite succeeding in having the outcome published in both French and Russian,²⁹ he might probably have been aware of his failure, with the work hardly performing anything more than a conceptual game. His theorisation on law proper was reducible to law being a reflection of something else, as the form of some dubious contents, concluded through the usual deductive channels of the dogmatic presuppositions of Marxism, all of which was eventually bound to stop exactly where it should have concerned law as such, in an explanation of some genuinely legal context. He never reverted to its continuation, never addressed ensuing problems. Confined to mere re-stylisation while hardened in doctrinarism, he formulated again and repeatedly the spectrum of the ideological tenets of the law of Socialism in a succession of further books³⁰—rephrasing former writings (with decreasing theoretical depth) by self-dosing nothing but apologetics,³¹ at times going so far as to justify

²⁶ See, above all, by Samu, M.: *Az új gazdasági mechanizmus állam- és jogelméleti vonatkozásai* [The new economic mechanism as assessed by the theory of state and law]. Budapest, 1967. and *Politika – jogpolitika – jog* [Policy – policy of law – law]. In: *A Magyar Jogász Szövetség 8. munkaértekezlete*. Szeged, 1975. 403–417.

²⁷ E.g. Péteri, Z.: A szocialista állam- és jogelmélet néhány kérdése az SzKP XXII. Kongresszusán [Some questions of the Socialist theory of state and law at the 22nd Congress of the Soviet Communist Party]. *Állam és Igazgatás*, 12 (1962), 330–343.

²⁸ Cf., by Szabó, I.: *Sotszialiszticheskoe pravo* [Socialist law]. [1963] Moscow, 1964; *Társadalom és jog* [Society and law]. Budapest, 1964. and *Szocialista jogelmélet – népi demokratikus jog* [Socialist theory of law – peoples democratic law]. Budapest, 1967.

²⁹ By Szabó, I.: *Les fondements de la théorie du droit*. [1971] Budapest, 1973. / *Osnovy teorii prava*. Moscow, 1974.

³⁰ Cf., by Szabó, I.: *Jogelmélet* [Theory of law]. Budapest, 1977. and *A jog és elmélete* [Law and its theory]. Budapest, 1978.

³¹ Cf., as symbolic re-assertions, by Szabó, I.: *Jogi gondolkodásunk szocialista átalakulása* [The Socialist transformation of our legal thinking]. *Állam és Igazgatás*, 10 (1960), 401–414; *Jogtudományunk nemzeti és nemzetközi jellegéről* [On the national and international character of our jurisprudence]. *Jogtudományi Közöny*, 24 (1969), 213–216. and *A Nagy Októberi Szocialista*

theoretically the Bolsheviks' so-called revolutionary justice,³² the plain denial of any spirit of law. Through his re-Marxising he may have released the leftist soaring of his early juvenile self, backed by the inflexibility of an advanced age. Acting as the pioneer of Marxism's theoretical-legal renewal, he searched for additional fora to disseminate his ideas in the Socialist world,³³ arriving back, in the final analysis, at nothing but a retrograde restatement of the genuine renaissance of Marxist doctrinarism.

In the meantime, his disciples started, as detached in their methodological foundations as well, expressing explicit demands to Marxise legal thought to clear it of its random or directly politico-ideological ornaments of constraints (ascribed, even if implicitly, to its specific Russian-Soviet implementation, that is, to its Lenin-cum-Stalinist framework, which was suited to Asian political traditions). Firstly, they tried to liberate theorising from its degradation of serving as a simple auxiliary to the Communist Party's legal policy at the given time (which was practised in order to prevent scholars from interfering with actual practice).³⁴ Secondly, they separated Marxism as methodology from Socialism as a political fact imbued with ideological expectations, in order to enable the former to be freed from the latter's irrelevance to academic scholarship.³⁵ This was succeeded by further innovative efforts at clarification.³⁶

c) Diversification with New Trends

Szabó's younger students (Kulcsár and Peschka) as well as those affiliated with Tibor Vas (Péteri) or socialised in the metropolitan university (Samu and Sztodolnik) soon made their voices heard, heralding their own problem-sensitivity and facing the risk, then, of being seen as intellectually independent. Within the programmatically declared anti-pluralism of Marxism at the time—such that scholarly truth was one and indivisible, with any competition or variation amounting to subversion (to be eliminated and retaliated against at once)—, any reinterpretation of the established canon, even if inferred from Marx's texts (taken as a revelation, by the way), provoked excitement by its very existence as a supposedly wilful challenge to ideological indoctrination. This was dreaded and feared, calling for existential

Forradalom hatása a marxista jogelmélet fejlődésére [The influence of the Great October Socialist Revolution on the development of Marxist legal theory]. *Magyar Tudomány*, 22 (1977), 803–810. As an attempt at offering some contrast, see also Samu, M.: Szocialista jogszemléletünk fejlődése [The development of our Socialist view on law]. *Magyar Jog*, 22 (1975), 135–142.

³² Szabó, I.: Forradalom és törvényesség [Revolution and legality]. *Állam és Igazgatás*, 19 (1969), 199–208.

³³ Szabó, I.: *Karl Marx und das Recht* Vorträge. [1976] Berlin, 1981.

³⁴ Peschka, V.: A magyar állam- és jogtudományok és a társadalmi gyakorlat [Hungarian studies on state and law and the social practice]. *Az MTA Társadalmi és Történelmi Tudományok Osztályának közleményei*, 13 (1964), 429–441.

³⁵ Peschka, V.: Marxista és szocialista jogelmélet [Marxist and Socialist theories of law]. *Jogtudományi Közlöny*, 23 (1968), 165–172.

³⁶ As the most significant moment, cf. V. I. Lenin – Osvonopolozhnik sotsialisticheskogo prava [Lenin as the founder of Socialist law]. In: Lenin o prave [Lenin on law]. Moscow, 1969. 274–321. For their uncensored text, cf. Szabó, I.–Kulcsár, K.–Péteri, P.–Varga, Cs. in *Állam- és Jogtudomány*, 13 (1970), 3–57; and also Varga, Cs.: Lenin and Revolutionary Law-making. *International Review of Contemporary Law*. [Brussels] (1982) 1, 47–59. / Lénine et la création révolutionnaire du droit. *Revue internationale de Droit contemporaine*. [Bruxelles] (1982) 1, 53–65.

rétorsion, because this was also held to be liable to become easily multiplied and lead to unforeseeable, hard-to-control conclusions.

Two creative personalities got farthest on that road, marking the path for the development of legal theorising in Hungary. Kálmán Kulcsár's legal-sociological stand³⁷ and Vilmos Peschka's legal philosophy³⁸ were equally built on systematic foundations, the former on the harmonisation of Marxism with legal sociologising in Western Europe and the Atlantic world, the latter on re-scheming Marxist positions when confronted with contemporary (mostly German) legal philosophising. This double direction was complemented by the axiologism of Zoltán Péteri³⁹ and the criticism on the Rule of Law by László Sztodolnik.⁴⁰ As the Soviet empire stood for a monolithic bloc in which divergences could, if at all, arise unevenly—through diversion of either foreign politics (Yugoslavia, and then Albania and Romania) or ideology (Yugoslavia, and partly Poland)—, the growth of research into independent trends and schools meant not only a significant enrichment of jurisprudential thought but also a diversification of Socialist jurisprudence that could reveal latent potentialities developed from within. Notably, Kulcsár institutionalised legal sociology in Hungary in a way that disseminated its approach in the centres of orthodoxy (Moscow, Sofia and Bucharest as well). As a conceptual-analytic positivist, Peschka investigated a series of topics relevant to Marxist legal philosophising in order to build up his own Marxian orthodoxy step by step, derived critically from both Marxism and its roots in classical German philosophy, integrated with a number of insights taken from contemporary international monographic literature.⁴¹

³⁷ Cf., by Kulcsár, K.: *A jogszociológia problémái* [Problems of legal sociology]. Budapest, 1960. {rev. ed. *A jogszociológia alapjai* [The foundations of legal sociology]. Budapest, 1976.}, *A jog nevelő szerepe a szocialista társadalomban* [The educational role of law in a Socialist society]. Budapest, 1961. followed by his collections *Társadalom, politika, jog* [Society, politics, law]. Budapest, 1974. as well as *Gazdaság, társadalom, jog* [Economy, society, law]. Budapest, 1982.

³⁸ Cf., by Peschka, V.: *A jogviszonyelmélet alapvető kérdései* [The foundational issues of a theory of legal relations]. Budapest, 1960; *Jogforrás és jogalkotás* [Source of law and law-making]. Budapest, 1965; *Grundprobleme der modernen Rechtsphilosophie*. [1972] Budapest, 1974. / Gendai hōtetsugaku no kihon mondai. Kyōto, 1981; *Max Weber jogszociológiája* [Webers legal sociology]. Budapest, 1975; *Die Theorie der Rechtsnormen*. [1979] Budapest, 1982. and *Jog és jogfilozófia* [Law and legal philosophy]. Budapest, 1980.

³⁹ Cf., by Péteri, Z.: Die Kategorie des Wertes und das sozialistische Recht. *Wissenschaftliche Zeitschrift der Friedrich-Schiller-Universität Jena*, Gesellschafts- und Sprachwissenschaftliche Reihe, 15 (1966), 427–429 and Az értékek objektív megalapozásának kérdései a szocialista jogelméletben [Questions of the objective foundation of values in the Socialist theory of law]. *Állam- és Jogtudomány*, 21 (1978), 433–437 as well as Influence of Natural Law on Positive Law. In: *Études en droit comparé / Essays on Comparative Law* (ed.: Z. Péteri). Budapest, 1966. 45–60. Cf. also, by Sztóczki, M.: Jog és igazságosság [Law and justice]. *Jog és Társadalom*, 1968/2, 12–24 and A szocialista jog és igazságosság [Socialist law and justness]. *Magyar Jog*, 17 (1970), 394–399.

⁴⁰ Sztodolnik, L.: Metamorphoses of the Rechtsstaat Idea. *Annales Universitatis Budapestiensis de Rolando Eötvös nominatae*, Sectio juridica, 4 (1962), 171–191, preceded by Péteri, Z.: Sulla cosiddetta “Rule of Law”. *Democrazia e Diritto*, [Roma] (1960), 1–18.

⁴¹ For an obituary assessment, cf. Varga, Cs.: Vilmos Peschka (1929–2006). *Archiv für Rechts- und Sozialphilosophie*, 93 (2007), 253–255.

Such a substructure provided the medium for further initiatives to evolve as launched by the following generation, dedicated to a critical survey of the state of legal philosophising,⁴² clarification of its methodology and⁴³ ontological reconstruction,⁴⁴ as well as elaboration of the systemic correlations between law, language and logic.⁴⁵

d) Comparatism

The re-institutionalisation of legal comparatism—which meant, at an international level, integration of Socialist law in the legitimate world-wide families of law by having it recognised as an independent type amongst them, and in a Hungarian context, professionalisation (or rehabilitation) of law as a specific subject of cognition⁴⁶—was indeed

⁴² E.g. as a manuscript of 1966 banned by Szabó at his time, Varga, Cs.: A jogmeghatározás kérdése a 60-as évek szocialista elméleti irodalmában [Questions relating to the definition of law in the Socialist theoretical literature of the 60s]. *Állam- és Jogtudomány*, 22 (1979), 475–488, followed by his *Quelques problèmes de la définition du droit dans la théorie Socialiste du droit*. *Archives de Philosophie du Droit*, 12 (1967), 189–205.

⁴³ E.g. Varga, Cs.: Quelques questions méthodologiques de la formation des concepts en sciences juridiques. *Archives de Philosophie du Droit*, 18 (1973), 205–241. as well as Eörsi, Gy.: Jogelméleti torzó [A torso in legal theory]. *Állam- és Jogtudomány*, 23 (1980), 353–381.

⁴⁴ E.g. by Varga, Cs.: Lukács Posthumous Ontology as Reviewed from a Legal Point of View. *Acta Juridica Academiae Scientiarum Hungaricae*, 22 (1980), 439–447. and The Place of Law in Lukács Ontology. In: *Hungarian Studies on György Lukács II*. (ed.: L. Illés et al.) Budapest, 1993. 563–577.

⁴⁵ E.g. Varga, Cs.: On the Socially Determined Nature of Legal Reasoning. *Logique et Analyse*, (1973) 61–62, 21–78 and in *Études de logique juridique*, V. Publ. Ch. Perelman. Bruxelles, 1973. 21–78; Law and Its Approach as a System. *Acta Juridica Academiae Scientiarum Hungaricae*, 21 (1979), 295–319. and *Informatica e Diritto*, [Florence] 7 (1981), 177–199. as well as *Leibnitz und die Frage der rechtlichen Systembildung*. Budapest, 1986. and in *Materialismus und Idealismus im Rechtsdenken*. Geschichte und Gegenwart (Hrsg.: K. A. Mollnau). Stuttgart, 1987. 114–127.

⁴⁶ In the Communist world, the first initiative was taken by B. T. Blagojevic in the Titoist Belgrade to found an *Institut za uporedeno pravo* (1955), with a specific law to grant it the status of a scientific institute (1974). Cf. <<http://www.icl.org.yu/m7e.html>>. In the Muscovite empire, re-orientation followed slowly and gradually, as started in Czechoslovakia. Cf., e.g. Bystrický, R.: Za marxistickou srovnávací právovědu [For a Marxist comparative jurisprudence]. *Právník*, [Prague] (1962) 8, 625 et seq.; Boguszak, J.: K otázce tzv. srovnávací právovědy [To the question of comparative jurisprudence]. *Právník*, (1962) 9, 803–806; Knapp, V.: Verträge im tschechoslowakischen Recht (Ein Beitrag zur Rechtsvergleichung zwischen Ländern mit verschiedenen Gesellschaftsordnung). *Rebels Zeitschrift für ausländisches und internationales Privatrecht*, 27 (1962), 495–518; Svoboda, M.: Jště k marxistické srovnávací právovědě [Once more on a Marxist comparative jurisprudence]. *Právník*, (1963) 5, 388 et seq.; Knapp, V.: K otázce socialistické srovnávací právní vědy [To the question of a socialist comparative science of law]. *Právník*, (1963) 5, 391–402. It was followed by Zivs, S. L.: O metode sravnitel'nogo issledovaniia v nauka o gosudarstve i prave [On the method of comparative research in the sciences of state and law]. *Sovietskoe gosudarstvo i pravo*, (1965) 3, 23 et seq.; Kanda, A.: Základní problémy srovnávání právních systémů různých ekonomických soustav [Foundational problems of comparing legal systems pertaining to differing economic regimes]. *Právnícké Studie*, (1965) 4, 699–720; Tshikvadze, V. M.–Zivs, S. L.: Sravnitel'noe pravovedenie v praktike mezhdunarodnaia nautshnaia sotrudnitshestva [Comparative jurisprudence in the practice of international scientific cooperation]. *Sovietskoe gosudarstvo i pravo*, (1966) 2, 12–21; Posch, M.–Petev, V.: Vergleichung in der Rechtslehre. *Staat und Recht*, (1966) 1, 89 et seq.; by Knapp, V.: Quelques problèmes méthodologiques dans la science du droit comparé. *Revue roumaine*

a deed with momentous consequences, although, in fact, it required mere re-ideologised justification rather than reconstruction from its very roots (as in case of, e.g. legal sociology), implemented through measures of scientific organisation rather than by theoretical construction. That is, once Szabó (note it was he who had formerly expelled the discipline from legal curricula) decided to establish a section (with Zoltán Péteri as head) for the comparison of laws in his Institute for Legal Studies of the Hungarian Academy of Sciences—thereby complementing the extended documentation already compiled (serving the political establishment with up-to-date information on the laws of the Soviet Union, and of all peoples’ democracies as well as of the leading “capitalist” countries) with comparative source-compilations and monographs—, well, under such conditions Szabó’s methodological re-foundation of, with manifold initiatives in developing, a specifically “Socialist” approach to the comparison of laws soon resulted in a genuine movement permeating the whole Socialist world, the covert aim of which was clearly to have Socialist law internationally recognised as a full member within the families of law on Earth. This effort was crowned with success, so much so that, as a by-product, it also made it impossible to reject the doctrine of Socialist law on political or ideological grounds from that time on. Or, the “Marxist conception of law”, till then *a limine* ousted as a perverted ideology,⁴⁷ became transformed, with the Cold War degenerating into lukewarm Peaceful Co-existence, into a societal product prevalent in its own right, simply to be acknowledged as one of many flourishing trends, standing for “the theory of Socialist law”.⁴⁸

As a secondary effect, all this also resulted in the growing professionalisation of law, on account of the fact that comparison became widespread as a method, a pre-requisite of any genuinely academic research in law. Consequently, from this time on domestic issues had to be treated, first, in a Socialist comparative context and, second, in contrast with other

des sciences sociales, Série de Sciences juridiques, (1967) 1, 76 et seq. / Některé metodologické problémy srovnávací právní vědy. *Právník*, (1968) 2, 91 et seq. The very first scholarly stand in favour of legal comparison in Hungary is Szabó, I.: La science comparative du droit. *Annales Universitatis Budapestinensis de Rolando Eötvös nominatae Sectio juridica*, 5 (1964), 91–134; then Eörsi, Gy.: Comparative Analysis of Socialist and Capitalist Law. *Co-Existence*, (1964) 2, 139–151; followed by Varga, Cs.: Összehasonlító jog és társadalomelmélet [Comparative law and social theory]. *Állam- és Jogtudomány*, 9 (1966), 732–736. and again by Eörsi, Gy.: Réflexions sur la méthode de la comparaison des droits dans le domaine du droit civil. *Revue internationale de droit comparé*, 19 (1967), 397–418. and <http://www.persee.fr/web/revues/home/prescript/article/ridc_0035-3337_1967_num_19_2_14824>. This is the field where Péteri’s scholarly oeuvre could grow into his own direction. See, as earliest writings of that genre by Péteri, Z.: Z cinnosti Ústavu Státu a Práva Madarskej Akadémie Vied v oblasti srovnávacieho práva. *Právny Obzor*, [Bratislava] (1968), 634–639. and Some Aspects of the Sociological Approach in Comparative Law. In: *Droit hongrois – droit comparé / Hungarian Law – Comparative Law* (ed.: Z. Péteri). Budapest, 1970. 75–94. Editing national reports for the world congresses of comparative law became a constant job for him since 1966 until recently, beginning with *Études en droit comparé / Essays in Comparative Law*. Budapest, 1966. For an overview, cf. Tóth, J.: Rechtsvergleichung in Osteuropa. *Journal der Internationalen Juristen-Kommission*, [Geneva] 6 (1965), 277 et seq.

⁴⁷ See, e.g. Kelsen, H.: *The Communist Theory of Law*. New York–London, 1955; Lapenna, I.: *State and Law Soviet and Yugoslav Theory*. London, 1964. and Stoyanovitch, K.: *La philosophie du droit en U.R.S.S.* (1917–1953). Paris, 1965.

⁴⁸ Cf., as a representation, Szabó, I.: The Socialist Conception of Law. In: *International Encyclopedia of Comparative Law*, 2. (ed.: R. David). Tübingen, 1976. Ch. III, 49–84.

(“capitalist”, “bourgeois” or “imperialist”) solutions. In addition, practically all monographs in Hungary also had to be founded upon a historical sketch, outlining the particular development as leading to the contemporary present.

The question of why this innovative initiative, born at a right time, has not resulted in a scholarly accomplishment suitable to form grand theories as well—beyond some remarkable comparative historical monographs,⁴⁹ doctrinal elaborations and overviews⁵⁰—remains an enigma even now.

e) (Re)Discovery of Western Legal Philosophy

At a time when the ideological combat against “phenomena of anti-Marxism” was still at its peak⁵¹ and the indivisibility of Marxism’s truth was officially declared (ruling out even the chance that diverging directions or competitive views on its issues could be heard at all), a collection of papers, based upon some preliminaries,⁵² was eventually published as a full representation of Hungarian legal theoretical thought.⁵³ With its critical reflections on “bourgeois” trends, however, it tacitly rehabilitated the latter’s fascinating richness and methodical values, re-integrating them into its own sphere. In addition to exploratory papers treating post-war and contemporary schools (which had broken continuity in Hungary),⁵⁴

⁴⁹ Eörsi, Gy.: *Comparative Civil (Private) Law. Law Types, Law Groups, the Roads of Legal Development*. [1975] Budapest, 1979. and Varga, Cs.: *Codification as a Socio-historical Phenomenon*. [1979/1991] 2nd ed., Budapest, 2011. and <<http://drcsabavarga.wordpress.com/2010/10/25/varga-codification-as-a-socio-historical-phenomenon-1991/>>.

⁵⁰ E.g. Eörsi, Gy.: *A skandináv jogról és jogtudományról* [On Scandinavian law and jurisprudence]. Budapest, 1974. and Asztalos, L.: *Polgári jogi alaptan. A polgári jog elméletéhez* [The basic doctrine of civil law]. Budapest, 1987.

⁵¹ The assessment of social sciences from a sole “class struggle” perspective permeated so powerfully the Hungarian Academy of Sciences even in the second half of the 1960s that on the demand of József Szigeti (director of the Academy’s Institute of Philosophy, soon rewarded by becoming a member himself of the Academy), a committee (to be presided over by him) was set up to co-ordinate the fight against “phenomena of anti-Marxism”. On behalf of the Academy’s Institute for Legal Studies, Imre Szabó—the only ordinary member of the Soviet Academy of Sciences at the time to be a jurist, who preferred, if such a choice could be made, scholarship to thought police—commissioned me, a strikingly low-ranking beginner, to represent him amongst institute directors, confined to reporting on nothing but the theoretical work carried out anyway in the Institute with a critical perspective on Western trends.

⁵² E.g. Szabó, I.: A hegeli jogfilozófia tárgya és a marxista jogelmélet [The subject of the Hegelian philosophy of law and Marxist legal theory]. *Állam- és Jogtudomány*, 9 (1966), 527–537; Kulcsár, K.: Marxizmus és a történeti jogi iskola [Marxism and the historical school of law]. *Jogtudományi Közlöny*, 10 (1955), 65–85; by Peschka, V.: A magyar magánjogtudomány jogbölcseleti alapjai [Legal philosophical foundations of the civil law doctrine in Hungary]. *Az MTA ÁJI Értesítője*, 3 (1959), 37–74 and Thibaut és Savigny vitája [The debate between Savigny and Thibaut]. *Állam- és Jogtudomány*, 17 (1974), 353–381.

⁵³ *Kritikai tanulmányok a modern polgári jogelmületről* [Critical studies on modern Western theories of law]. (ed.: I. Szabó). Budapest, 1963.

⁵⁴ E.g. Peschka, V.: Das bürgerliche rechtstheoretische Denken in der ersten Hälfte des XX. Jahrhunderts. *Acta Juridica Academiae Scientiarum Hungaricae*, 19 (1977), 1–29; by Péteri, Z.: Gustav Radbruch und einige Fragen der relativistischen Rechtsphilosophie. *Acta Juridica Academiae Scientiarum Hungaricae*, 2 (1960), 113–160. and Az “újjaéledt” természetjog néhány jogelméleti kérdése a második világháború után [Some legal theoretical questions of the “revived” natural law

their major texts were translated and published in Hungarian, too, in order to serve as critical editions of study materials to extend the scope of a genuinely scholarly reflection on law⁵⁵—based on my repeated proposals and under my editorship, as a unique achievement in the Socialist empire.

At the same time, some middle-class fellow-travellers of the interwar illegal Communism—proudly preserving the scholarly and intellectual values of their civic past—also took part in this burgeoning, mostly through some precious manuscripts papers they bequeathed.⁵⁶

f) Mediator in the Region

In addition to launching *Acta Juridica Academiae Scientiarum Hungaricae* in 1957 as an English/German/Russian/French quarterly in company of quite a few monographs and national reports based on historical comparison, the Institute assumed—partly as directed toward the rigid Soviet, East German and Balkan bloc, while intending to build contacts

after World War II]. *Állam- és Jogtudomány*, 5 (1962), 469–505; as well as Kulcsár, K.: A jog etnológiai kutatásának problémái – ma [Problems of the laws ethnological research today]. *Valóság*, 21 (1978), 1–11.

⁵⁵ *Modern polgári jogelméleti tanulmányok* [Studies from the modern Western theories of law]. (ed.: Cs. Varga). Budapest, 1977. and *Jog és filozófia*. Antológia a század első felének polgári jogelméleti irodalma köréből [Law and philosophy. Anthology of Western legal theorising from the first half of 20th century]. (ed.: Cs. Varga). Budapest, 1981. The new tone such an unprecedented publication heralded was at once perceived by those of Hungarian political emigration in the West. For Hanák, T.: *Az elmaradt reneszánsz*. A marxista filozófia Magyarországon [Renaissance that failed to take place: Marxist philosophy in Hungary]. Bern, 1979. 179 and 207, “However, Hungarian philosophical life has another branch or direction as well: one searching for paths to Europe’s philosophical life and heritage. This can be observed first of all in recent [...] chrestomathies introducing to the non-Marxist philosophical world like, e.g. *Modern polgári jogelméleti tanulmányok* [...]” “The book of selected legal philosophical studies [...] is an oeuvre supplying a great want.” One should note, the contract for *Jog és filozófia* had envisaged a three-part series. The second volume was intended to overview post-war western trends, while the third one’s endeavour was even more pioneering: to be the very first in the world to represent early Soviet-Russian legal theory alongside Stalinist and post-Stalinist Soviet developments, complemented by so-called peoples democratic Socialist legal theory. Ironically enough, when the second volume had mostly been completed (only copyright negotiations being under way) and a substantial amount of funds had been raised (with materials collected) for the third volume as well, all this was slowed down and then finally stopped by the ongoing financial crisis of the Publishing House of the Hungarian Academy of Sciences. The deliberateness of such an open-hearted start was also reflected in the late 1960s when “annotations” heading in the quarterly *Állam- és Jogtudomány* for foreign reviews were introduced (1966) and the biweekly *Jogi Tudósító* for translations was launched (1970). The present author collected and republished his most-in-the-depths contributions in Varga, Cs.: *Jogi elméletek, jogi kultúrák*. Kritikák, ismertetések a jogfilozófia és az összehasonlító jog köréből [Legal theories, legal cultures: Reviews from the field of legal philosophy and comparative law]. Budapest, 1994.

⁵⁶ Outstanding in chapters dedicated to deontic logic at a time when it was practically banned, cf., e.g. Halász, A.: Szász-Schwarz Gusztáv és a jogalany. Második traktátus: A fikció [Szász-Schwarz on legal personality / tractate on fiction]. [Budapest, 1957] (ed.: Cs. Varga). *Jogelméleti Szemle*, (2005) 3 in <<http://jesz.ajk.elte.hu/varga16.html>>.

with Yugoslavia as well, which had started a politically and ideologically independent “alternative” path—a leading mediatory role to foster reconsideration of the Soviet/Socialist approach to law through the critically self-reflecting Hungarian theory.⁵⁷

4. Disintegration

a) *New Foundations for Marxism*

The ontological approach of Szabó, focusing on his return to “original” sources, idealised in fact the perspective of a hoped-to-come “renewal of Marxism”.⁵⁸ All it achieved was precisely contrary to his original intention: perfection of doctrinarism with a spasmodic insistence on setting “criteria out of principles”.⁵⁹ Reaching nothing but retrospective discreditation, he could, thereby, only achieve rigidifying his own position. Accordingly, intents to preserve Marxism’s hegemony—despite attempts at clarification at times⁶⁰—became reduced to mere verbosity.

b) *Competitions*

The conceptual-analytic positivism of Peschka initiated deepened polemics as to contemporary Western trends.⁶¹ Kulcsár’s sociologism centred, step by step, on the issue of modernisation (generalising, in order to build his own theory, mainly from American, Japanese and Indian approaches and case studies).⁶² On behalf of others, functionalist comparative-historical theorisation as an openly epistemo-ontological approach,⁶³ efforts to formulate a sociological grand theory,⁶⁴ as well as expressly methodological reflections⁶⁵

⁵⁷ E.g. *Aktuelle Probleme der marxistisch-leninistischen Staats- und Rechtstheorie*. Material der Konferenz der Staats- und Rechtstheoretiker der europäischen sozialistischen Länder (Hrsg.: Z. Péteri). Budapest, 1968.

⁵⁸ By Szabó, I.: *Ember és jog. Jogelméleti tanulmányok* [Man and law: Papers in legal theory]. Budapest, 1987.

⁵⁹ The “second, amended” edition of Szabó, I.: *A burzsoá állam- és jogbölcselet Magyarországon* [Bourgeois theory of state and law in Hungary]. Budapest, 1980. proved to be of an expressly provocative effect by its (new) Foreword (16–21.).

⁶⁰ E.g. Peschka, V.: Wider die missverständene marxistische Rechtstheorie. In: *Legal Theory – Comparative Law. Studies in Honour of Professor Imre Szabó* (ed.: Z. Péteri). Budapest, 1984. 11–18.

⁶¹ By Peschka, V.: *Az etika vonzásában* (Jogelméleti problémák az etika aspektusából) [Problems of legal theory from the aspect of ethics]. Budapest, 1980. and *Die Eigenart des Rechts*. Budapest, 1989.

⁶² By Kulcsár, K.: *Rechtssoziologische Abhandlungen*. Budapest, 1980. and *Politikai és jogszociológia* [Political and legal sociology]. Budapest, 1987.

⁶³ Varga, Cs.: *The Place of Law in Lukács World Concept*. [1985/1998] 3rd ed., Budapest, 2012. and <<http://drsabavarga.wordpress.com/2012/03/13/the-place-of-law-in-lukacs-world-concept-19852012/>>.

⁶⁴ By Sajó, A.: *Társadalmi szabályozottság és jogi szabályozás* [Regulation by society and legal regulation]. Budapest, 1978. and *Látzat és valóság a jogban* [Semblance and reality in law]. Budapest, 1986.

⁶⁵ Sajó, A.: *Kritikai értekezés a jogtudományról* [A critical treatise on jurisprudence]. Budapest, 1983.

and clearly axiological claims⁶⁶ accompanied them. Well, all these were to re-contextualise—although not denying openly the tenets of the founders’ Marxism—theoretical legal thought in a wide-ranging area of conflicting insights and views.

c) Western Legal Philosophy Acknowledged

After the end of the short-lived coalition period following World War II, in the Socialist orbit, as is well known, the discourse with both Western European and Atlantic legal thought was broken. This very discontinuation was ended definitely when basic works representing Western ideas were translated into Hungarian, with the background intention of elevating them into part and parcel of domestic literature and academic thought by their own right.⁶⁷ Thereby, a kind of *usus*⁶⁸ was also born: referring to, while moreover systematically commenting upon, the entire professional heritage within the sole bound of

⁶⁶ Péteri, Z.: Perspectives for a Socialist Axiology of Law. In: *Rechtskultur – Denkkultur* (Hrsg.: E. Mock–Cs. Varga). Stuttgart, 1989. 96–105.

⁶⁷ Cf. also *Jog és szociológia* [Law and sociology] (ed.: A. Sajó). Budapest, 1979. Later on, historical part of Bodenheimer, E.: *Jurisprudence The Philosophy and Method of the Law*. [1962] Rev. ed. Cambridge, 1974. was also translated in *Bevezetés a jogbölcséleti gondolkodás történetébe*. Miskolc, 1991. 129 et seq.

⁶⁸ It was not only the bare fact of having masterpieces on ideologically sensitive fields translated that was unprecedentedly unique in the whole span of the Socialist period, either in Hungary or elsewhere in the bloc. It also became an exclusively Hungarian pattern in the region that ambitious anthologies with quite a few papers covering given topics (introduced by analytical surveys and accompanied with comprehensive bibliographies) were published in unbroken continuation. See, from the series “Jogfilozófiák” [Legal philosophies], launched and edited by Cs. Varga, *A társadalom és a jog autopoietikus felépítettsége* [The autopoietic structure of society and law] (eds: L. Cs. Kiss–A. Karácsony). (1994), *Alkotmánybíráskodás – alkotmányértelmezés* [Constitutional jurisdiction – constitutional interpretation]. (ed.: P. Paczolay) (1995), *Joguralom és jogállam* [Rule of law and Rechtsstaatlichkeit] (ed.: P. Takács) (1995), *Jog és filozófia* [Law and philosophy] (ed.: Cs. Varga) (1998, enlarged ed. 2001), *Jog és nyelv* [Law and language] (ed.: M. Szabó–Cs. Varga) (2000), *Jog és antropológia* [Law and anthropology] (ed.: I. H. Szilágyi) (2000), *Hayek és a brit felvilágosodás Tanulmányok a konstruktivista gondolkodás kritikájának eszmétörténeti forrásairól* [Hayek and the British enlightenment: Studies from the historical sources of the criticism on constructivist thought] (ed.: F. Horkay Hörcher) (2002), *Államtan* [Theory of the state] (ed.: P. Takács) (2003), *Európai alkotmányozás* [European constitution-making] (ed.: P. Paczolay) (2003), *Természetjog* [Natural law] (ed.: J. Frivaldszky) (2004, enlarged ed. 2006), and *A jogösszehasonlítás elmélete*. Szövegek a jelenkori komparatiztika köréből [Theory of the comparison of laws: texts from contemporary comparatistics] (ed.: B. Fekete) (2006); from the series of “Philosophiae Iuris”, *Historical Jurisprudence / Történeti jogtudomány* (ed. J.: Szabadfalvi) (2000), *Scandinavian Legal Realism* (ed.: A. Visegrády) (2003); and from the series “Prudentia Iuris” published in Miskolc under the editorship of M. Szabó, *Mai angol–amerikai jogelméleti törekvések* [Present-day Anglo–American trends in legal theory] (ed.: J. Szabadfalvi) (1996), *Logikai olvasókönyv joghallgatók számára* [Reader in logic for law students] (ed.: M. Bódig–M. Szabó) (1996); and finally, from the series “Bibliotheca Cathedrae Philosophiae Iuris et Rerum Politicarum Universitatis Catholicae de Petro Pázmány nominatae”, *A jogi gondolkodás paradigmái*. Szövegek [Text to the study of the paradigms of legal thinking] (ed.: Cs. Varga) [1996] (1998). This was done with the intention partly to speed up western intellectual reception and partly in order to avoid entering into copyright procedures, plainly necessary for the translation of magisterial works *in extenso*.

critical and adaptive reflections.⁶⁹ All this having taken place under Szabó's patronage, it could already provide a basis for gradually expanding and then simply transcending the limits of tolerance of the until then completely closed, Moscow-dictated jurisprudential thought; this was also in the form of re-examining its own traditions in a more differentiated way, in parallel with (sometimes posthumous) editing of some bequeathed original texts.⁷⁰

Such a foundation was already suitable for a comprehensive reevaluation of the classical Hungarian interwar legal thought and some surviving memories as well.⁷¹

d) Hungarian Legal Theory as a National Corpus

Assisted by all this, after decades of isolation Hungarian legal philosophy became again one of the internationally reputed workshops of vivid intellectual life. Following completion of a vast synthesising summary of the entire discipline,⁷² after more than half a century and for the first time since the 1920s,⁷³ repeated encouragements came from abroad requesting a retrospective survey with political clichés replaced, from this time on, by diverging positions generated through public debates and also by attempts at self-critical evaluation in the professional press.⁷⁴ Also, a bibliographical overview was published in three languages spanning the whole Socialist period, and so-called annotations started reviewing the latest domestic developments in an international forum.⁷⁵

⁶⁹ E.g. Pokol, B.: *Komplexe Gesellschaft, Eine der möglichen Luhmannschen Soziologien*. [1990] 2., erw. Ausg., Berlin, 2001.

⁷⁰ E.g. Horváth, B.: *Forradalom és alkotmány (Önéletrajz 1944–45-ből)* [Revolution and constitution: intellectual autobiography from 1944–45]. Budapest, 1993. and Szabó, J.: *Ki a káoszról, vissza Európába* [Away from the chaos, back to Europe]. Budapest, 1993.

⁷¹ E.g. Hamza, G.–Sajó, A.: Savigny a jogtudomány fejlődésének keresztútján [Savigny at the crossroads of the development of jurisprudence]. *Állam- és Jogtudomány*, 23 (1980), 79–111.

⁷² A monument-like testimony to this process is *Állam- és Jogtudományi Enciklopédia* [Encyclopaedia of the sciences on state and law], I–II. (ed.: I. Szabó). Budapest, 1980. all through critical and self-reflective indeed, by contrasting conflicting viewpoints within an emphasisedly theoretical framework.

⁷³ Somló, F.: Die neuere ungarische Rechtsphilosophie. *Archiv für Rechts- und Wirtschaftsphilosophie* I (1907–1908), 315–323; by Moór, J.: Somló Bódog [Felix Somló]. *Társadalomtudomány*, 1 (1921), 17–40. as well as Vorwort to Somló, F.: *Gedanken zu einer ersten Philosophie* (Hrsg. J. Moór). Berlin–Leipzig, 1926. 3–17; Horváth, B.: Die ungarische Rechtsphilosophie. *Archiv für Rechts- und Wirtschaftsphilosophie*, 24 (1930), 37–85.

⁷⁴ E.g. Szabó, I.: Az állam- és jogelmélet harminc éve Magyarországon [Thirty years of the theory of state and law in Hungary]. *Jogtudományi Közöny*, 30 (1975), 129–134. and Peschka, V.: Le développement de la théorie du droit en Hongrie après la deuxième guerre mondiale. *Archives de Philosophie du Droit*, 16 (1971), 347–354. as well as Varga, Cs.: Current Legal Theory in Hungary. *Current Legal Theory*, 4 (1986), 15–21.

⁷⁵ As one of the founding members of the editorial board of *Current Legal Theory* [Leuven], Csaba Varga undertook the bibliographical and analytical presentation of the new outputs of legal theory in Hungary from the beginning up to its cessation (1983–1998), by preparing a long series of abstracts in English of Hungarian publications.

e) Balance

As soon as legal philosophy found its proper place under the sun and could explore various subjects in touch with other disciplines in a larger theoretical frame, applied research evolved, as well. From that time on, with ideological restrictions somewhat relaxed, the obvious task at hand was to develop a viable legal policy (on the basis of the given stuff of the law and by avoiding, as far as possible, the direct over-politicisation of the issues), together with searching for the ways through which the latter's conscious use could foster due protection of the law's autonomy and prestige, even under the still extant and politically forceful Socialist conditions.⁷⁶

A prerequisite to this all was elaboration of a modernisation strategy, within a scheme neither discrediting law by its degradation into a substitute stabilising force of the *status quo ante*, nor running ahead, doubling the law's normative substance, but allowing each and every step and piece of change to build on one other by becoming integrated, without gaps, as fed back within the modernisation process itself.⁷⁷

5. End-game of Legal Theorising in Substitution for State Religion

After the collapse of the political system of Socialism, Marxism as an official ideology underwent a strikingly rapid decline. Forced paths prescribed by ideological expectations and interventions had already been weakened by that time, and political changes were quasi-imminent. By this time, however, political changes happened to coincide with the most natural call for a generation change. Having reached an advanced age and withdrawn to mostly honorary entitlements, Imre Szabó was only capable of reframing earlier accomplishments without formulating any new ideas. His one-time disciples arrived at the point of publishing their own final syntheses, which they hoped were to crown their personal oeuvres.⁷⁸ Suddenly and by coincidence, all this anticipated and stood in fact for two generations' simultaneous retirement. On behalf of the next generation, a summary account of what Marxism had increasingly been and served for was formulated, in the spirit of closing the past.⁷⁹ There were also some essayistic surveys published to draw a temporary

⁷⁶ E.g. *A jogpolitika tudományos megalapozásának jogelméleti problémái / Pravogotoreticheskie problemy nauchnogo obosnovaniia pravovoi politiki / Die rechtstheoretischen Probleme von der wissenschaftlichen Grundlegung der Rechtspolitik* (ed.: M. Samu). Budapest, 1986. and Samu, M.: *Jogpolitika – jogelmélet* [Policy of law–theory of law]. Budapest, 1989. A challenging project on the borderlines was Takács, P.: *Nehéz jogi esetek*. Jogelmélet és jogász érvelés [Difficult cases of law: Theory of law and lawyerly argumentation]. [1994] Budapest, 2000.

⁷⁷ Kulcsár, K.: *Modernization and Law*. Budapest, 1992; by Sajó, A.: *Jogkövetés és társadalmi magatartás* [Law-observance and social behaviour]. Budapest, 1980. and *Társadalmi-jogi változás* [Socio-legal change]. Budapest, 1988.

⁷⁸ Kulcsár, K.: *Jogszociológia* [Sociology of law]. Budapest, 1997. and Peschka, V.: *Appendix “A jog sajátosságához”*. Tanulmányok [Appendix papers on to “The specificity of law”]. Budapest, 1993.

⁷⁹ Above all, Varga, Cs.: Introduction. In: *Marxian Legal Theory* (ed.: Cs. Varga). Aldershot–New York, 1993. 13–27.

balance.⁸⁰ For want of a proper distance in time, however, all such endeavours were mostly useful only to emphasise the need for a genuine restart.⁸¹

Having just passed the threshold of the third millennium, it is perhaps too early for us to prognosticate anything about such a legacy's future. What seems to be taken for granted is that Marxism may still have some potential to be present as an additional colour in the near future as well.⁸² Moreover, it may even strengthen its position, at least regarding its inherent elements addressing "the quest for community",⁸³ in paradoxical support of present-day Christian and other humanistic tendencies. And we can even add to the above, from the controversial legacy of Marxism's 20th-century adventure in the history of ideas, a number of still living and inspiring concepts imbued with problem-sensitivities, methodological insights and definite value-consciousness, such as the principle of historicity and the idea of social conditionality. Others include the methodological significance of the concreteness of human and social existence, the theory of alienation (with the subsequent processes of objectification and reification in societal life accomplished), the immanent criticism of Capitalism and forms of post-capitalism as a civilisational idea reduced to material production and consumption, the deconstruction of "ideological" constructs, the advocacy for indigenous rights in an anti-colonialist spirit, the traditional concern for the fate of the Third World and, thereby, also the theoretical criticism of ongoing globalisation.

6. Temporary Balance

From among the legal theories of Socialism's Marxism, *Hungarian* scholarship played a rather balancing role all along. This naturally also involved narrowing and distorting simplifications, especially in the 1950s, even if somewhat milder as compared to the rest of Stalin's "peace camp". Its domestic effect was a hardly justifiable deformation with the loss of the sense of true scholarship. However, what it might have developed into if it had followed a path similar to neighbours (from Italy via Austria to West Germany), with Hungary having been successfully saved from our destiny, may perhaps be most reliably judged by the international role Hungarian theoretical legal thought was able to play even under such conditions. Well, despite any pressure, interference or direct political control,

⁸⁰ Also formulating a definite value judgement, see, above all, Pokol, B.: A magyar jogelmélet állapotáról [On the state of Hungarian legal theorising]. *Magyar Tudomány*, 37 (1992), 1325–1334. and Szilágyi, P.: Jogbölcsélet [Legal philosophy]. In: *Magyarország a XX. században*. 5.: Tudomány, 2.: Társadalomtudományok (ed.: I. Kollega Tarsoly). Szekszárd, 2000. 39–57 and <<http://mek.niif.hu/02100/02185/html/1183.html>>.

⁸¹ Cf., retrospectively, *A szocializmus marxizmusának jogelmélete* [Legal theory of the Marxism of Socialism] (eds: Cs. Varga–A. Jakab). *Jogelméleti Szemle*, (2003) 4 in <http://jesz.ajk.elte.hu/2003_4.html> and Marxizmus és jogelmélet [Marxism and legal theory]. *Világosság*, 45 (2004) and <http://www.vilagosság.hu/>; prospectively, Varga, Cs.: Development of Theoretical Legal Thought in Hungary at the Turn of the Millennium [commented by Paksy, M.–Takács, P.: Continuity and Discontinuity in Hungarian Legal Philosophy]. In: *The Transformation of the Hungarian Legal Order 1985–2005 Transition to the Rule of Law and Accession to the European Union* (eds: P. Takács–A. Jakab–A. F. Tatham). Alphen aan den Rijn, 2007. 615–638 [638–648].

⁸² Cf., e.g. by Klenner, H.: *Recht und Unrecht*. Bielefeld, 2004. and *Historisierende Rechtsphilosophie*. Essays. Freiburg in Breslau, 2009.

⁸³ Nisbet, R. A.: *The Quest for Community*. A Study in the Ethics of Order and Freedom. San Francisco, 1990.

the path Hungarian legal philosophy took has from a relatively early period (throughout and practically without interruption) been characterised by *dialogue* (simultaneously in several directions) and successful *mediation*. For it strove to take a middle-of-the-road stance within the Socialist orbit, between the dogmatically over-ideologised Muscovite pole (represented by the Soviet Union and East Germany, accompanied by post-1968 Czechoslovakia and Bulgaria, united in politics and ideology) and the Polish pattern at the other limiting point (offering a political-rhetorical servicing of Marxism while actually bringing about a Western and Atlantic peripheral copy, with some achievements in genuine scholarship)—in addition to the former's rivalry with the Yugoslav Titoan and pre-1968 Prague directions targeting the revitalisation (or "renaissance") of Marxism, re-dogmatising it with a neo-scholastic zeal in fact but refraining from any direct criticism of the West when building its qualifiedly Marxist theory. Moreover, Hungarian theorising had attempted to take a mediator's role (in representation of the entire Socialist bloc) from the turn of the 1950s and 1960s on between the Muscovite orthodoxy and the Western world, by exporting its rich offering in academic journals and monographic productions mostly in English to the rest of the world (especially the Third World). Most Hungarians who contributed to conferences in Moscow, East Berlin and other Socialist capitals could share the almost absurd experience that they encouraged, initiated and managed the flow of the exchange of publications and pieces of information between, say, the Institute for the Theory of State and Law of the Academy of Sciences of the German Democratic Republic (located in the Otto-Nuschke-Strasse, next to the Berlin Wall) and the *Freie Universität Berlin* (some thousand steps in distance) exactly via Budapest. What is even more, the contemporary Western European and Atlantic (in Soviet terminology: "bourgeois", in East German terminology: "imperialist") intellectual influence was mostly channelled via conventionalisations brought through a Marxising filter by Hungarian legal philosophy.⁸⁴ For owing to its procession through (by tracing it back to) original Marxian sources, all this seemed to be irrefutable, and not to be neglected. At the same time, the Hungarian pattern maintained a delicate balance between avoiding scandals and maximising the positive effect it could provoke.⁸⁵

Merely conceivable phenomena do not materialise everywhere, in every circumstance. Depending upon specific conditions, even unshaken scholarly freedom in a liberal atmosphere may result in theoretical conformism, resulting in (and degenerating into) either repeated re-treatment of a single theoretical vision or dominance alternating among a few selected sub-mainstreams or schools, constantly switching over into one another. To be sure, Hungarian legal theoretical thought has shown optimum internal diversity all along,

⁸⁴ This became apparent to me through the occasions of my regular participation at the [East] Berlin *Rechtstheoretische Tagungen* organised bi-annually by K. A. Mollnau within that Institute as well as my decade-long co-operation under the auspices of the Institute for State and Law of the Soviet Academy of Sciences (with significant involvement by the Institute of State and Law of the Czechoslovak Academy of Sciences), which was initiated by V. Nersesians with the view of exploring the moment of historicity in theoretical jurisprudence. It is characteristic that neither the Yugoslavs nor the Poles took part in these. At the same time, however, Hungarians (Z. Péteri, Cs. Varga and A. Sajó) were active in contributing to a bilateral academic co-operation launched by the Belgrade legal theory professor R. T. Lukić, President of the Serbian Academy of Sciences and Arts, for nearly a decade.

⁸⁵ It was in such an atmosphere that, e.g. the collection *Rozvoj teorij a státu a právu a současnost* (Red. J. Blahož–V. S. Nersesians). Praha, 1988. was prepared, including my contribution.

from its upswing starting in the 1960s. To mention just one example, the early collection edited by Imre Szabó in 1963 already presented on behalf of all those working in the field quite an abundance of internal problems of legal Marxism, where his own critical view on Socialist normativism (once expounded by Vishinsky) was extended to a re-appraisal of legal sociologism and historical approach, legal comparatism and axiologism, natural law and the promise of the Rule of Law, and some years later this successful initiative was followed by an elaboration of the historical and theoretical foundations of human rights in a similarly diversified approach.⁸⁶ Contrastingly expressed, we might even claim that Hungarian legal theory has from the era of political relaxation proved relatively richer in trends debating and competing with each other than, say, the almost unchallenged Hart-unison in Great Britain, which had in fact been monopolistic for decades, after subordinating the variety of approaches to a single one, practically without exception.⁸⁷

Hungarian legal theorising took the professional requirements of scholarship rather seriously within the bounds of feasibility of the times. Possibly trying to neutralise the various control channels (especially by the Communist Party Central Committee Bureau, responsible for ideological issues, and the Ministry of the Interior attempts at infiltration) at all times,⁸⁸ it could attain quite a recognisably dominant position both in Hungary and the Socialist world. For it abstained from the political and ideological excesses recurrent in both the Muscovite world and Yugoslavia and Poland, thereby preventing accentuated public attention or scandals. Thanks to his over-dominance exerted through personal control, Imre Szabó could achieve the circumstance that neither the fora and personalities of *academia* and *universitas* nor theoretical trends themselves became outlawed in Hungary under the label of “anti-state activity”. Of course, this also implies that we had no emblematic scholar resorting to voluntary exile as some others had to undertake.

Such and similar features may testify to a high level of commitment, serving the cause of scholarship. A theoretical culture like this, constantly forming through internal debates, was suitable to produce significant results in a number of varied fields. All in all, under the restrictive conditions of Communist dictatorship and despite its ideological dictates, Hungarian theoretical-legal scholarship successfully filled a fermentative role, serving as a model, in at least four mutually related, basically paradigmatic and crucial fields of the theoretical cultivation of legal sciences in the second half of the 20th century:

(1) through making the *sociological approach* accepted in the Socialist orbit and, owing to its perspective, by presenting the substance of juridicity in the mirror of a new set of criteria in addition to the sole ones recognised by the mainstream positivistic approach it

⁸⁶ *Socialist Concept of Human Rights* (ed.: J. Halász). Budapest, 1966.

⁸⁷ Cf. Varga, Cs.: The Hart-phenomenon. *Archiv für Rechts- und Sozialphilosophie*, 91 (2005), 83–95.

⁸⁸ Professional socialisation at the Institute for Legal Studies of the Hungarian Academy of Sciences included, from the outset, appropriation of the linguistic and stylistic ideal of legal philosophising practised then and there. This was basically patterned on Karl Marx and Thomas Manns complexity of expression and several-times-periodic construction crammed with recurrent interpretive structures, as well as a thoroughly abstract language, made even less easily decypherable by the definitely German-originated sentence construction, while also abounding in foreign terms. So many impediments built with such a baroque verbosity may have deterred even the targeted readers. For sure, the Communist partys professional censors saved themselves not only the almost insurmountable trouble of figuring out the possible meaning of these piles of words but they actually refrained even from merely consuming them.

could “explode” the narrow-mindedness of “Socialist normativism” throughout, arriving at a theoretical transcendence that could result in conclusions also appreciable in international dimensions;

(2) through embracing the *historico-comparative perspective* as, having made it accepted generally in the Socialist world, it cultivated it with extraordinary force and reliable accomplishments;

(3) through introducing an *ontological perspective* (as against the methodology adopted in Socialism’s Marxism, exhausted by its exclusive epistemological perspective), so that it could not only give its developments a theoretical framework but—owing to the ontic explanation of the “lawyerly worldview” [*juristische Weltanschauung*] surpassing the inherent limitations implied by the merely epistemic approaches that are usual in social practices based on mere ideological forms—could also decisively contribute to breaking through any single-focus approach in jurisprudential thought; and

(4) in all of this—as a common effect in synthesis of all of the former—through evolution of a theory of *law and modernisation*, addressing crucial issues for the future elbowroom and possibilities of Central and Eastern Europe in a responsive way and with a long-run strategic sensitivity.

In conclusion, legal theorising in Hungary has sheltered the relative seriousness, pathos, scholarly commitment, ethical ambition and strategic and tactical responsibility, with the professionalism achievable under the given conditions. Through all this, the Hungarian pattern offered a relatively near-to-optimum alternative in its solutions and responses, a kind of optimality scarcely challengeable by counter-examples lived through under the almost half-of-a-century-long reign of “actually existing Socialism”.