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A Brief Overview of the Research Methods – and Their Effectiveness – Used in Domestic Legal Consciousness Research in the Period Before the Regime Change

ABSTRACT

In the late 1960s, legal sociologist Kálmán Kulcsár assessed that members of Hungarian society are most familiar with the rules of criminal law among the norms that apply to them. Is this statement still true today? Over nearly a century of research into the Hungarian legal consciousness, researchers have tried to explore the legal consciousness of the Hungarian people using various research methods. In this paper, I will examine these methods and try to draw conclusions about their effectiveness.

Keywords: legal consciousness ■ criminal law ■ research methods ■ empirical research

I. THE FIRST PHASE

In 1965, after the socialist theoretical foundations had been laid, Kálmán Kulcsár began a nationwide survey of citizens' experience of legal knowledge. A tabular summary of the research based on questionnaires and interviews was finally published in 1967 under the title *The Study of Legal Knowledge*, edited by the Academy's Institute of Legal Studies. Kulcsár was basically aiming for 'qualitative' research by selecting a small number of residents from Budapest, urban, and rural areas and categorizing them by their occupations (intellectual, physical, agricultural). However, this approach obviously weakened the representativeness of the material. The author argues that the aim of the research is not specifically to explore legal literacy in Hungary in general but to present and evaluate the differences between the groups studied. The basic ideas of the research point to a set of concepts and conditions that also define the main framework of political thinking.^[1]

[1] Fekete – H. Szilágyi, 2014, 8.

According to Kulcsár, the research, analysis and evaluation of legal knowledge is justified by the fact that “the governance of society through legislation requires its research”. This idea is now rather “trite”, but in the mid-sixties it was considered an unavoidable scientific problem.^[2]

Kálmán Kulcsár considered legal consciousness to be a broader category than legal knowledge, essentially as a set of people’s “concepts of the law in force”. According to him, legal knowledge is only one element of legal consciousness, which is shaped by specific interests and social factors.^[3]

The research questions were composed of questions on constitutional law, criminal law, civil law and procedural law, the content of which was naturally drawn from the “new”, “socialist” legal field. The main strengths and results of the research were as follows:

- the programme explored a range of concepts without prior practical experience that clearly went beyond the official academic framework of the “Kádár era”,
- the research results clearly illustrate the relationship and distinction between legal knowledge and legal awareness,
- the correlation between social stratification and the level of legal knowledge is empirically verifiable,
- the linking of legal knowledge to information processes has made the material a tradition-builder and a starting point for future research,
- it has been found that the level of legal knowledge is highest in the intellectual professions and lowest in the agricultural professions, particularly in the field of criminal law, where it has also been found that the highest correlation between knowledge of the law and legal awareness is found,
- the research also revealed that the level of legal knowledge in the field of administrative law is the lowest in all the target groups studied,
- it was not surprising to find that men had a higher level of legal knowledge than women, as the weaker sex was politically under-represented in socialism,
- the researchers also pointed out that there was a significant difference in legal literacy between the urban and rural populations, which they explained by lower educational attainment and cultural underdevelopment,
- in addition to the impact of the press, the research emphasised that interpersonal relationships and work in social organisations can also have a significant impact on legal literacy.^[4]

The sample could otherwise have been representative of the whole country in terms of the number of items, as 1217 questionnaires were processed after

[2] Fekete – H. Szilágyi, 2014, 9.

[3] Kulcsár, 1967, 10.

[4] Fekete – H. Szilágyi, 2014, 7-13.

the data were collected. However, the representativeness of the sample was undermined by several factors, some of which Kulcsár himself mentions in his summary. One is that the survey included only those who were earning (active) and excluded those who were not. He divided the earners into three categories - 'intellectual occupations', 'physical occupations' and 'physical occupations in agriculture' – and did not consider it necessary to further disaggregate them. Another problem was the spatial imbalance of the sample, as respondents were selected from three large cities – Budapest, Pécs and Szeged - and four surrounding villages – Görcsöny, Pécsudvard, Balástya and Pusztaszer. Kulcsár himself was therefore aware of the skewed structure of the sample, and he moderated the survey's objective in view of this: the survey cannot provide a representative picture of the legal knowledge of the country's residents, but it can be used to identify differences between the groups surveyed.^[5]

Although Kulcsár himself did not consider the study to be a scientific exploration of the research, the 1965 study is still praised by the field today, mainly because the methods used were not taught anywhere at the time. Many praised Kulcsár for the way he presented his methodology, the reconstructibility of the data and the fact that the material offered a solid theoretical background for future generations, to the extent that György Gajdusчек and Balázs Fekete still considered a partial repetition of the study a possible and meaningful undertaking in 2013.^[6]

II. THE 1970S

The background of the research on legal consciousness in the 1970s was provided by the Institute of Legal Studies and Sociology of the Hungarian Academy of Sciences, which focused on the study of social consciousness, thus broadening the scope of legal knowledge to the field of legal consciousness and beginning the move away from dogmatic legal theory. András Sajó took over the baton of empirical research from Kálmán Kulcsár, who had been working at the Institute of Legal Studies of the Hungarian Academy of Sciences since 1972, but the legal knowledge dimensions of his research concerned only certain social groups, not the entire population.^[7]

Imre Szabó, in his *The Foundations of Legal Theory*,^[8] published in 1971, devoted a special chapter to the theoretical issues of legal consciousness, especially from a Marxist point of view. With this work, Szabó set the direction for the research on legal consciousness that was to take place in the following two

[5] Kulcsár, 1967, 12-14.

[6] Gajdusчек – Fekete, 2015, 13.

[7] Gajdusчек – Fekete, 2015, 12.

[8] Szabó, 1971, 197-300.

decades, a direction that could be applied and varied for the new generation of socialist legal theorists. Sajó was no exception to this rule, and a decade later, in 1980, he devoted more than half of his work entitled *Legal Compliance and Social Behaviour*^[9] to retracing the path set by Szabó. At the same time, Sajó's studies have been at the forefront of establishing the sociological foundations of these studies.^[10]

In the 1970s, the development of research was not only influenced by sociological factors but also by the practical needs of theory building, as it became clear from the study of legal knowledge that lay people had minimal knowledge of areas of law that they rarely encountered in everyday life, and this was particularly true of procedural law. On the other hand, the need to theorise has led to a desire to extend the research to explore the factors influencing legal knowledge.^[11]

During this period, the focus was on criminal law studies, which also involved criminological issues, such as:

- the experience of audience research for the criminal television programme “Blue Light” in 1974,^[12]
- a study on the legal awareness of manual workers in 1975,^[13]
- research on the legal views of economic managers in 1977,^[14]
- the determinants of the legal and moral consciousness of janitors in 1979,^[15]
- the study of the relationship between crime prevention and criminal law values in 1978,^[16]
- the issue of victimisation in 1982.^[17]

A public opinion poll conducted in 1973 examined the impact of the Blue Light programme on viewers. Questionnaires were sent out by post to a sample of 1.724 people, but the sample was not representative because of the skewed sample structure. The main result of the study was, however, to confirm the relationship between anxiety and the need for punishment, which had been previously hypothesised in social psychology and the sociology of law, and thus to contribute to the exploration of the structure of individual legal consciousness. This research has also highlighted the impact of mass media on the sense of entitlement. It was found that the anxiety generated by interviews with crim-

[9] Sajó, 1980.

[10] H. Szilágyi, 2021, 38-39.

[11] H. Szilágyi, 2021, 37.

[12] Dankánics – Erdősi, 1974.

[13] Sajó – Székelyi – Major, 1977.

[14] Sajó, 1981, 608-638.

[15] Sajó, 1981.

[16] Vigh – Tauber, 1983, 64-111.

[17] Korinek, 1985, 10-14.

inals overwhelmed the impact of news reports, which mostly emphasised the strength of public safety and the effectiveness of law enforcement. On the issue of legal knowledge, the survey also confirmed that while the majority of the respondents were relatively familiar with substantive criminal law, they were almost unfamiliar with procedural rules.^[18]

The 1975 survey on the rights of manual workers was the definitive study of the 1970s. The aim of the study was to investigate three theoretical issues in an integrated way: first, the impact of social structure on individual legal consciousness; second, to explore the individual and socio-psychological factors in the development of individual legal consciousness; and third, to extend the Kulcsár study of legal consciousness. The study sample included 301 manual workers in Budapest and 136 manual workers in agriculture. The sample was divided into 12 groups based on age, gender and education for comparative stratification. The questionnaires were completed by interviewers in a guided interview. A control survey was carried out in the autumn of 1975, during which 50 law students were interviewed, followed by 40 skilled workers from the previous sample in the summer of 1976. The main sociological characteristics of the basic sample reflected the effects of forced industrialisation and socialist 'rural development' policies: a significant proportion of the workers in the sample were of rural origin. The researchers investigated the impact of legal experience on legal consciousness from two perspectives, one at the societal level and the other on the impact of direct, individual experience. At the societal level, researchers have found that current experiences "rewrite" the past. In examining individual legal experiences, the impact of experiences of contact with the courts and administrative authorities was explored separately. It was concluded that the influence of experiences in the courts outweighs the influence of experiences of contact with administrative authorities. However, the most interesting observation made in the study of individual experiences was the discovery of a specific knowledge gap in relation to the law. While formally accepting the law, the interviewees tried to evade it. The most important part of the research was the study of legal awareness, for which the researchers developed a method that allowed both the measurement of legal awareness and the characterisation of the sample's legal awareness.^[19]

The methodology developed earlier for studying the legal consciousness of manual workers was applied in the 1976–1977 survey conducted under the direction of László Boros and Sajó, extending the sample to the entire population, i.e. to all adult age groups and occupational groups. No significant difference was found in the conformity indicator developed to examine respect for the law compared with the values measured for manual workers a year earlier. Of the 2.860 meaningful responses processed, 56% of respondents were found to be compliant and 32% non-compliant. Results were broadly similar to previous surveys

[18] H. Szilágyi, 2021, 40.

[19] H. Szilágyi, 2021, 42-45.

in the area of legal knowledge. Here, knowledge of criminal law was the highest and was largely independent of educational attainment. It was in the context of knowledge of and attitudes towards criminal law that experts first noticed the phenomenon of normalisation, i.e. the fact that social practice can undermine the behavioural regulative power of legal rules.^[20]

In addition to questionnaire data collection, interviewing and document analysis were used, so it can be said that the research was conducted in a methodologically professional manner. One aspect of the new theory building was to define the relationship with socialist legal theory. However, it is also clear from the literature that legal knowledge of constitutional law and administrative law did not receive much attention during this period. The development of the research theme was mainly explained by the political circumstances of the experts in the field, who saw the greatest achievement of this period in the fact that, in addition to the increasingly wide-ranging studies of legal knowledge in various areas of law, they also sought to explore the factors that shaped and influenced legal knowledge. In the 1970s, research no longer covered the population as a whole, but only certain groups of the population, but used interviews and documentary analysis in addition to questionnaires. From a methodological point of view, the main advantage of the research, in addition to the study of individual groups, was the study of legal awareness, which allowed the measurement of legal knowledge and the analysis and evaluation of the legal awareness of the sample.^[21]

III. THE 1980S

In the following decade, legal studies gradually lost momentum. This is partly related to the fact that in the second half of the 1980s, Kálmán Kulcsár and Sajó also turned their interest towards the study of socio-legal changes associated with modernisation. This is also shown by the fact that the material of the last nationally representative survey of the 1980s, conducted in 1983, on the perception of civil law, remained partly unprocessed, and its results can only be deduced from the references in Sajó's 1986 volume.^[22]

The summary of the 1982 research conducted by Pál Léderer and Sajó, which aimed to investigate legal socialisation, also remains unpublished. In the study, students (263) and available parents (406) of one fourth grade class of 10 secondary schools in Budapest and Pécs were asked about their perception of various morally highly coloured facts (abortion, medical gratuity, needy bribe taker). The two-step interviewing technique used in previous stratified surveys was

[20] H. Szilágyi, 2021, 47.

[21] Fekete – H. Szilágyi, 2014, 14-21.

[22] H. Szilágyi, 2021, 51.

supplemented by a third step. First, the respondent was asked whether the act presented would be punishable by law, second, whether the respondent thought the act would be punishable, and third, the respondent's opinion was asked again after the respondent had been informed of the actual legal provision. The third question, if the person changed his or her previous opinion, was used to infer the effect of the authority of the substantive law. Almost 40% of the respondents had changed their value judgement after being informed of the law.^[23]

The 1984 research by Mária Neményi and András Sajó, which assessed the legal awareness of the letter writers and examined their general thinking on legal issues based on the content analysis of the letters written by viewers for the television programme *Legal Cases*, can be considered innovative. Two important findings from this research are highlighted in the literature. The first points to the significant distorting influence of mass media, and the second assesses the relationship between morality and law, in that in the letters sent in the programme, moral and legal consciousness appear independently of each other, side by side. The sample was randomly selected from a total of 2538 letters to the 26 most popular broadcasts of previous years, the content analysis of which was carried out by law students under the guidance of university professors. The selected programmes with the highest viewer activity were mainly family law, civil law and, to a lesser extent, labour law cases.^[24]

In 1986 Sajó published a book entitled *Appearance and Reality in Law*. The volume is a kind of synthesis of the various fields of law, in fact, a vision of the legal system of the Kádár era. In chapter 7 of the book, the author undertakes a theoretically demanding reconstruction of legal consciousness, summarizing the results of legal consciousness research conducted in the last two decades on the theoretical plane. According to his evaluation, the influence of law is less in the minds of Hungarian people, because Hungarian culture is law-ignorant. Sajó identifies three elements in his model of legal consciousness: legal knowledge, emotional-will elements and evaluative elements. He has examined these separately and in isolation from domestic research and foreign literature, and for this reason, this chapter occupies a prominent place in the evaluation of socialist-era legal consciousness research. Sajó found the concept of legal knowledge difficult to reconcile with other social sciences. He also pointed out that legal literacy research faces many problems. One of these is that the acceptance of law by citizens depends on several factors such as the extent to which they accept law as a standard for their own actions, for a given situation, or for the actions of others. Another important issue in the study of legal consciousness is the examination of emotional elements, which, according to Sajó, cannot be ignored, since emotions shape opinions about the law, can lead the legal subject to take action and, last but not least, have an impact on the reception of knowledge. The author also points out that in research it is not enough to examine specific forms of

[23] H. Szilágyi, 2021, 51.

[24] Neményi – Sajó, 1984, 208-244.

consciousness, but that we must also pay attention to their interconnectedness, and on this basis, he distinguishes between bipolar and open thought structures. Regarding the evaluation of the results of legal awareness surveys, Sajó argued that data should be used with caution, as there can be a large gap between actual action and opinions on the law. Nevertheless, Sajó argued that there is a value and value in legal studies, as they provide a better understanding of the functioning of the legal system and the role that law plays in people's understanding of reality. Sajó has repeatedly expressed the view that the Hungarian legal consciousness is illegitimate, because the legal system is not integrated into people's everyday lives, and people turn to the law to resolve some conflict. Another problem, he said, was that the socialist legal system consistently prevented the exercise of subjective rights, especially in cases where people were confronted with the authorities in a state body. Sajó also found, based on his studies, that knowledge of the law is not easy to apply in everyday life, since knowledge of the law is only one element of action, and emotional forces are just as important, which can exclude the application of knowledge of the law or even motivate people to oppose the law.^[25]

In 1986, following a survey conducted by the Institute for Social Research, Sajó analysed and assessed the population's sense of entitlement. The results of this research also revealed that the legal culture of socialism was far from being based on the assertion of citizens' entitlement as the basis for the functioning of law. In the end, this research was not published either.^[26]

IV. SUMMARY

As regards the methodology of the research, continuous professionalisation and experimentation can be observed. In addition to survey-type quantitative data collection on a relatively small representative sample, qualitative research based on small samples, interviews and documentary analysis has also emerged. Crucially, however, some of these studies, despite their occasional methodological uncertainties, have provided an opportunity to establish longitudinal studies after the change of regime in Hungary in 1989. At the same time, researchers of the time were already aware of the importance of the possibility of international comparisons, which would have been essential for the evaluation of research results. In the decades before the regime change, experts in the field prepared the theoretical perspective in which the concept of legal consciousness was increasingly interpreted. At the same time, the studies of rights before the regime change shed light on the social changes of the Kádár era, from its consolidation in the 1960s to the fall of the regime. The study of contemporary materials re-

[25] Sajó, 1986.

[26] Sajó, 1988-1989, 145-174.

vealed a gradual albeit slow levelling out of legal knowledge, a weak sense of entitlement, unconditional submission to power, alienation from law and fellow human beings, a perception of equality based on the denial of excellence and virtue, and an inward turn of Hungarian society.^[27]

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[27] H. Szilágyi, 2021, 62.



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