

VII

SIC MUR AD ASTRA

EDITORS
GERGELY GOSZTONYI
IMRE KÉPESSY
DUNJA MILOTIĆ

Collection
of papers
on **Hungarian**
and **Croatian**
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Antal Zoltán MASASON: A mysterious case or the criminal procedural characteristics of the blood libel trial at Tiszaeszlár

Eötvös Loránd University, Faculty of Law

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1. Introduction

Until the 19th century, some judicial proceedings were based on blood libel in Hungary.¹ Among those, the so-called Tiszaeszlár-case became the most notorious. Many people, even abroad, consternated: how was a *blood libel trial* possible in the Golden Ages of the Austro-Hungarian Monarchy? The trial sent shockwaves through the Hungarian society, and it sparked interest in many European countries. Since the case also demonstrated the need for a modern code on criminal procedure, I will analyse the contemporary rules of criminal procedure, focusing mostly on its shortcomings.

To understand the case better, it is crucial to review the events of 1st April 1882, since the blood libel was based on the mysterious disappearance of a young girl. Eszter Solymosi, a fourteen-year-old domestic servant, who had been working at that time in the village called Tiszaeszlár (located in Szabolcs county), was sent by her employer, Andrásné Huri (who was also her „*distant relative*”² from her mother’s, Jánosné Solymosi’s side) to buy some paint for her and for her neighbour, so that they could paint the atriums of their houses for upcoming Easter.³ Eszter Solymosi and Andrásné

¹ KÖVÉR, György: *A tiszaeszlári dráma. Társadalomtörténeti látószögek [The Drama of Tiszaeszlár. Perspectives of Social History]*. Budapest, 2011, Osiris Kiadó, pp. 331–350., 519–559.

² KÉPESSY, Imre: The Case of Eszter Solymosi from Tiszaeszlár: The Notorious Blood Libel Trial through the Eyes of Gyula Krúdy. In AMOROSI, Virginia – MINALE, Valerio Massimo (ed.): *History of Law and Other Humanities*, Madrid, 2019, Dykinson, p. 408. DOI: doi.org/10.2307/j.ctvr7f8t1.29

³ KÖVÉR, *op. cit.*

Huri lived in the smaller part of the village called Tiszaeszlár-Újfalu, therefore, the young domestic servant had to walk this Saturday to the other part of the village (called Tiszaeszlár-Ófalu) to a shop owned by a Christian shopkeeper, since the shops owned by Jewish shopkeepers in Tiszaeszlár-Újfalu were closed on sabbath.⁴ This journey took approximately forty or forty-five minutes in one direction. Although there were many people who saw Eszter that day (for example her schoolmate, János Jakab, her elder sister Zsófi Solymosi or the miller called József Papp), the young girl did not arrive home: she went missing on her journey between Tiszaeszlár-Ófalu and Tiszaeszlár-Újfalu around noon or early in the afternoon. Meanwhile the Jewish population of Tiszaeszlár was preparing for the feast of unleavened bread (Passover, Pesach). That Saturday, which was called Sabbath Hagadol, the community held an election for the position of the cantor and the kosher butcher. There were many contestants⁵ from the village and even from the region. They gathered in the synagogue at Tiszaeszlár-Tótfalu (in the middle part of Tiszaeszlár), which was located beside the pathway where Eszter probably walked that day. In the afternoon, Eszter's employer notified Eszter's mother about her disappearance, and later that day, József Scharf, the clerk of the synagogue told Eszter's mother that the Jews did not have anything to do with the girl's disappearance and the girl would definitely go home.⁶

Unfortunately, Eszter never turned up. Shortly after, rumours began to spread about the circumstances of her alleged death. The story originated from József Scharf's five-year-old son, Samu. He told a twelve-year-old girl that he had seen his father, elder brother and the kosher butcher bringing a young girl into the synagogue, whose name he did not mention. According to Samu's tale, the kosher butcher „cut the girl's leg”.⁷ This rumour reached Jánosné Solymosi as well who reported the disappearance

⁴ *Ibid.*

⁵ *Ibid.*

⁶ *Ibid.*

⁷ KÉPESSY, *op. cit.* p. 411. The aim of this treatment was to get the patient back to a conscious state and was pretty risky medically at that time. Cutting the leg causes a loss of blood, which indicates the decrease of blood pressure. Because of this, the human body begins to produce adrenaline which makes the patient wake up. The main risk of the treatment is basically bleeding out.

of her child to Gábor Farkas, the town clerk on 3rd April. However, he did not carry out⁸ any official action, only sent the mother to the district administrator. The district administrator did not order „the search in the synagogue”,⁹ even though the mother asked for it. After that, Solymosiné went to the president of the District Tribunal at Nyíregyháza (Ferenc Korniss), but this did not help either: the official investigation began only a month later, right after Solymosiné visited the district administrator again.¹⁰

During the investigation, testimonies of witnesses were taken which referred to the event as „ritual murder”.¹¹ (Samu Scharf stated in his testimony at this time that the people he had seen had sliced the girls throat and had taken her blood. He held up his testimony later for the inquiry judge as well.) After that, the actions of preliminary investigation and the inquiry followed, led by the appointed inquiry judge called József Bary who wrote a book later about the whole procedure from his viewpoint. During the preliminary investigation and the inquiry, other witness testimonies were gathered. Móric Scharf, the fourteen-year-old elder son of József Scharf, became the key witness of the state. He was interrogated and separated from his family and acquaintances. On the 18th June the corpse of a young girl was found in the river Tisza near the village Tizadada¹². The relatives of Eszter Solymosi and other people who knew her could not determine without any reasonable doubt, whether the

⁸ STIPTA, István: A tizsaeszlári per és a korabeli büntető eljárásjog [The lawsuit at Tizsaeszlár and the contemporary law of Criminal Procedure]. *Jogtörténeti Szemle [Review of Legal History]*, No. 4, 2012, pp. 22–34.

⁹ *Ibid.*, p. 27.

¹⁰ *Ibid.* István Stipta emphasises the role of the town clerk according to leading Solymosiné to other assigned organisations further. This active role made Tamás Kende think about Gábor Farkas as the „game leader” of the blood libel. See: KENDE, Tamás: *Vérvád. Egy előítélet működése az újkori Közép- és Kelet-Európában [Blood libel. The functioning of a preconception in Modern Central and Eastern Europe]*. Budapest, 1995, Osiris Kiadó, p. 127.

¹¹ STIPTA, *op. cit.*, p. 27.

¹² KÖVÉR, *op. cit.* Earlier at the end of May, another corpse, found and fished up the river Tisza on 28th April, had been examined after disinterment but it had not been determined as Eszter Solymosi as well. See: *Ibid.*

corpse was the dead body of the young domestic servant, even coroners gave different opinions according to the autopsies performed by them¹³.

The main trial took place in the summer of 1883 at the District Tribunal of Nyíregyháza. There were sixteen accused – all of them were Jewish people – who were defended by attorneys Károly Eötvös, Sándor Funták, Bernát Friedmann, Ignác Heumann and Miksa Székely. The representative of public prosecution was deputy chief prosecutor Ede Szeffert, moreover, Károly Szalay entered the trial as the representative upon the motion of the aggrieved party, Jánosné Solymosi. The press reported frequently about the trial. At the end of trial, all suspects were discharged and neither the Regional Court of Appeal at Budapest nor the Hungarian Royal Curia have changed that judgement.¹⁴

2. Procedural peculiarities of the case

Through this case we can look into a special era of the Hungarian legal system when there were some legal fields where codification was not completed. Phases of investigations and the inquiry before the main trial and the trial itself took place in the years of 1882 and 1883, including redresses. In contrast to this, the first modern code which gathered all rules of criminal procedure was the Act 33 of 1896 on Criminal Procedure. At the time of the trial, the so-called Yellow Book was used by courts as a „normative rule”¹⁵ which had been created as the bill on criminal procedure by Károly

¹³ BLUTMAN, László: *A rejtélyes tiszaezlári per [The mysterious case of Tiszaeszlár]*. Budapest, 2017, Osiris Kiadó, pp. 117–149. The clothes on the corpse were pretty similar to the clothing worn by Eszter Solymosi at the time of her disappearance.

¹⁴ KÖVÉR, *op. cit.*

¹⁵ MEZEY, Barna (ed.): *Magyar jogtörténet [Hungarian Legal History]*. Budapest, 2007, Osiris Kiadó, p. 444. The bill had been submitted to the Parliament by the Minister of Justice called Boldizsár Horváth but the legislature had been deliberating that too long and had not come to a decision. The person who had given out the text of the bill as a decree had been the next Minister of Justice called István Bittó. See: KÖVÉR, *op. cit.*, pp. 442–444. Special normative judgements of the Royal Curia of Hungary from the first years of the 1880-ies have influenced the judicature as well.

Csemegi. It was never enacted, but the draft had been given out later in 1872 as a decree by the Minister of Justice.

The document was not an appropriate source of law for regulating the criminal procedure. Moreover, it did not adhere to the modern procedural principles. At that time, *the principle of oral proceedings* and *the right to be heard* was not realised during the criminal procedure; and *free preponderance of evidences* was clearly impossible. All phases of investigation and inquiry were secret and the rights of the suspects' attorneys were pretty limited.¹⁶ Before trial, the investigation and the inquiry was led by the Royal Prosecutor's Office and by the inquiry judge of the locally competent District Tribunal. In case of a technical dispute between the public prosecutor and the inquiry judge, the latter's opinion counted as decisive.¹⁷ In contrast to this, public charge at the main trial was represented by the Royal Prosecutor's Office which could file motions to the District Tribunal in case of direct citation, arraignment, and termination of procedure. At trials of courts acting in the first instance there was an oral and *adversarial process*, including the authentication of testimonies. The tribunal could find the accused guilty even in case of a motion of acquittal filed by the public prosecutor. Courts acting in higher instance generally came to their decisions based on the written documents of the inquiry as well as on the transcripts of the main trial.¹⁸

The deficiencies of criminal procedure appeared in our case too and they led the suit even to the phase of trial, even if the mysterious events could not be made clear by reconstructing the facts.¹⁹ During the investigation organised by Gábor Farkas, the real timeline and happening of events were not set up, moreover, no palpable evidences were collected, only a few testimonies of witnesses instead. The second investigation was in horrible lateness: actions took place a whole month after Eszter's

¹⁶ KÖVÉR, *op. cit.*, p. 444. Providing defence for suspects was obligatory only in „capital cases“ and attorneys were able to meet the defendants and take a look into the documents of procedure only exceptionally.

¹⁷ *Ibid.*

¹⁸ MEZEY, *op. cit.*

¹⁹ STIPTA, *op. cit.*

disappearance, which made it nearly impossible to collect any palpable evidence. This one month distorted the reminiscence of the witnesses in a selective manner too. This phase was quickly followed by the preliminary investigation. We must emphasise that József Bary, the appointed inquiry judge had not taken the bar exams necessary for his role, but more importantly, he did not have enough experience to lead this type of investigation.²⁰

The preconceptual charge of ritual murder committed by local Jewish people was based on Samu Scharf's testimony, who was five years old and made his confession without the presence of his personal representatives, his parents. Móric Scharf became separated from his family and from the other suspects; after that, he was examined as a witness and made a confession against the other suspects on 21st May 1882 under objectionable circumstances. The examination took place in a civil house owned by the local gendarme at Nagyfalva, during the night. József Bary was not present, although he would have to write the official transcript; instead, Móric was interrogated by the gendarme called András Recsky while a clerk called Kálmán Péczeli wrote the official document. Consequently, the fourteen-year-old Móric was interrogated without the presence of any personal representative and the undated transcript of his testimony contained several expressions – like „*duress, scene*”²¹ – which he had not used or had said differently. The boy, who became the key witness of the main trial, said that „*he had been watching through the keyhole of the synagogue's door*” when the Jewish suspects killed Eszter Solymosi who was walking home and had been invited by József Scharf into his house to move some candles.²²

²⁰ *Ibid.*

²¹ *Ibid.*, p. 28.

²² KÉPESSY, *op. cit.*, p. 413. The explanation to this could be that moving candle counted as working which is forbidden during the sabbath for Jewish people. Meanwhile, the dead body of the girls was not found yet; the inquiry judge became desperate because he even asked a sybil about the exact location of the corpse and interrogated an innkeeper based on that „*advice*”. See: KÖVÉR, *op. cit.*, p. 557. It was crucial that Móric defined his role in his testimony otherwise like Samu had described earlier (accomplice – eye witness), and altered the role of his father (accomplice – he had just invited Eszter into his house and a Jewish man from the synagogue got Eszter out. See: KÖVÉR, *op. cit.*

The truth of the statements made by Móric Scharf became quickly challenged by other witnesses' testimonies collected during the inquiry by József Bary. These confessions tried to determine Eszter's path and the timeline of events on 1st April.²³ Some written testimonies, which supported the accusation, were all collected from illiterates. Therefore, these documents were signed only with crosses and it is debatable whether they had been read for the witnesses. Moreover, many witnesses changed the content of their testimonies during the phases of preliminary investigation and the inquiry and on the main trial frequently. This could be motivated based on certain aspects. Firstly, recalling their memories about the events again and again distorted their reminiscence.²⁴ At the same time, there were not any reliable methods available for measuring time, so the basis of testimonies was often weak and vague. (As an example, it seemed rather difficult for József Bary to support the charges based on the confession of Móric Scharf when a witness called Borbála Feketéné stated that when she had been walking home from the Catholic church after mass on 1st April, she heard sounds of crying from the synagogue and she had seen two Jewish men at the door of the building. Therefore, Móric would have not been able to see the events happening in the synagogue through the key hole because then he would have been seen by Feketéné as well²⁵.)

Moreover, there were other peculiarities such as the spontaneous uniformity of some testimonies. Some even tried to influence or even „train”²⁶ witnesses. Confessions became homogeneous in case of the accused Jewish people at the main trial and from the perspective of the people who had (partially) identified the corpse at Tizadada. The accused could be led by an internal urge that as members of a small and solidary community their testimonies should be similar, otherwise prosecution could confuse and suspect them successfully based on these differences. Likewise, the

²³ KÖVÉR, *op. cit.*

²⁴ BLUTMAN, *op. cit.* „Supplementing” memories generally shows the intention of the person wanting to recall the real events, like „realization”.

²⁵ KÖVÉR, *op. cit.*, p. 539.

²⁶ BLUTMAN, *op. cit.*, p. 122.

distant relatives and acquaintances of Eszter Solymosi, who had taken part in the first coroner's inquest, had stated that there were some similarities between the corpse and Eszter, however, they changed their testimonies later because identifying the corpse as the dead body of Eszter Solymosi seemed unreasonable and impossible for them, according to the fact that neither the mother nor the closer relatives stated that.²⁷ Yet, some witnesses were influenced also in favour of the accused and the charges as well. Influence in favour of the accused was usually bribery (for example one witness had got some money from a Jewish person before confession), in favour of the charges it was usually use constraint and abuse, although those did not become proved²⁸.

The most famous „*witness*” of the trial was Móric Scharf, who was kept separated from his family and the other suspects right after being taken into custody until the main trial. The opinion of Károly Eötvös²⁹ was quite extreme because he thought that the situation itself could lead Móric Scharf to make a harsh testimony against the accused. Móric could have realized that his small community probably would not take him back after he was the key witness of the prosecution and had made a testimony against the members of the community during the preliminary investigation. He might see the option of cooperation with the prosecution at the main trial as a sole opportunity. Another source of his motivation could have been that he broke away from the closed world of the small village and got to know the more developed (semi-)urban milieu at Nyíregyháza which could offer more opportunities for him, therefore he might find it more attractive³⁰.

During the blood libel trial at Tiszaeszlár, it was the main trial where the procedural deficiencies and instigated emotions culminated. Ede Szeffert, deputy

²⁷ *Ibid.* Only Julcsa Szakolczay stated at the first coroner's inquest that the corpse at Tiszadada belonged to Eszter Solymosi. One of the main deficiencies of that inquest was that it was not held right after the dead body had been found.

²⁸ *Ibid.* The suspicion of abuse emerged by the Rutenian raftsmen from county Máramaros who were accused of „*smuggling the corpse*”. See: KÖVÉR, *op. cit.*, p. 549. However, the defence exaggerated the idea of abuse.

²⁹ BLUTMAN, *op. cit.*, p. 122.

³⁰ KÖVÉR, *op. cit.* p. 552.

chief prosecutor stated on the first day of the trial that according to him, the accused had not committed the crimes (premeditated murder, complicity, abetment) which were included in the charges. Therefore, he proposed the discharge of accused. Consequently, (public) charge was not represented by anybody in this lawsuit.³¹ As usual in that era, the suit had followed a *mixed procedural system*, including a *written inquisitorial process* (phases of investigations and inquiry) and an *oral accusatorial process* (main trial) in contrast. At the main trial literal, stenographic transcripts were written because the prosecution and the defence both wanted to record everything appropriately.³² Some witnesses, as we mentioned, altered their testimonies quite often, even during the trial itself. The tribunal did not authenticate those confessions (via taking an oath) and did not take them into account when rendering the judgement. For witnesses who did not speak Hungarian there were not always interpreters available for helping making testimonies so the truth of their confesses during the investigation and the trial seemed questionable. The defence often referred to the inappropriate regulation of the position of the inquiry judge and to the mistakes made by József Bary who did not have the necessary experience to hold his position. Moreover, they tried everything to prove that the corpse found at Tizadada belonged to Eszter Solymosi. At the same time, prosecution upon the motion of the aggrieved party (and the inquiry judge as well) wanted to prove that the corpse was not the dead body of the young domestic servant.³³

The press also followed the main trial, representing filo-Semitic and anti-Semitic opinions as well. At the end, all of the accused were discharged and the corpse was determined not belonging to Eszter. The Regional Court of Appeal and the Royal Curia

³¹ *Ibid.*, BLUTMAN, *op. cit.* Attorneys at Nyíregyháza who were in connection with the defence wrote even a letter about this peculiarity to the Minister of Justice. Although the demand for punishment of the accused was represented by Károly Szalay, attorney on the motion of the aggrieved party, the accusatorial quality of the suit was quite weak.

³² STIPTA, *op. cit.*

³³ From the perspective of the charge, blood libel would have been incorrect if the corpse had been determined as the dead body of Eszter Solymosi because no signes of incision had been found on the neck of the corpse. Therefore, the raftsmen from Máramaros had been suspected at first with „*smuggling the dead body*”. See: KÖVÉR, *op. cit.*, p. 549.

of Hungary did not change the judgement of the District Tribunal in the process of redresses, although they criticised the deficiencies and contradictions of the transcripts written by the inquiry judge during the phases of investigations.

3. Conclusion

The blood libel trial at Tiszaeszlár was the first criminal process in the 19th century Europe in which the alleged crime included the blood libel.³⁴ Exploring the facts of the case already seemed impossible at the time of the first official investigation of authorities and the inconsistent testimonies of witnesses made the procedure more difficult. The main cause of the disappearance of the young girl stayed unclarified, even her death was not proved. The principles of modern criminal procedure which can guarantee the *prevention of unjustified suspicion* did not prevail during several phases of the process. After doubtful testimonies and actions of investigation carried out wrongly and too late, there was hardly anybody who founded the charges well-grounded, including those who had to represent the charges *ex officio*.

At the end the process reached the phase of trial, although it should have not do it, and despite the absolute discharge, it carried out both serious and significant consequences. It gave a boost to political anti-Semitism in Hungary through the strengthening of the National Anti-Semitic Party and brought out sweeping reforms in the regulation of criminal procedure. This case casted light upon the fact that reforms of criminal procedure cannot be delayed. The result of it was the enactment of Act 33 of 1896 on Criminal Procedure.

³⁴ STIPTA, *op. cit.*