

VII

SIC MUR AD ASTRA

EDITORS
GERGELY GOSZTONYI
IMRE KÉPESSY
DUNJA MILOTIĆ

Collection
of papers
on **Hungarian**
and **Croatian**
legal history 2024

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Eötvös Loránd University / Faculty of Law / Department of the History of Hungarian State and Law / 2024

Table of Contents

Croatian–Hungarian Legal History Summer School	1
Panna MEZŐ: The history of the Hungarian Palace of Justice	3
Kincső Johanna KESZI: Provisions of the First Amendment to the Csemegi Code	14
Máté LUKÁCS: The rights of prisoners during Hungarian civil era.....	26
Josipa SUDAR: Case against Diletta – an early case of sorcery	37
Zoe L. ŽILOVIĆ: The use and form of judicial torture in Croatian lands	47
Jakov Vojta ŽUJO: Criminal protection of marriage in the interwar Yugoslav state..	61
Bernadett MARTINEZ: The punishment of stuprum violentum in the Csemegi Code	74
Zsófia Anna GÉMES: Infidelity as a crime against the state in the Csemegi Code.....	85
Zsolt BAKOS: The person who paved the road for women to law – The life and challenges of Margit Ungár.....	103
Zsigmond SZÓGA: The regulation of prostitution in Budapest between 1867 and 1914	116
Josipa JERABEK: Regulation of prostitution in Croatia and Slavonia at the end of 19th and the beginning of 20 th century	128
Dóra KARSAI: Women’s criminality in the 19 th –20 th century	142
Botond CZIFRA: On the question of certain rights of the Minister of Justice related to the organization of the jury trial in the Austro-Hungarian Monarchy	152
Matija MATIĆ: Show Trials in Communist Yugoslavia (1945-1948) – The Staged Trial Against the Archbishop of Zagreb Alojzije Stepinac.....	160
Antal Zoltán MASASON: A mysterious case or the criminal procedural characteristics of the blood libel trial at Tiszaeszlár.....	172
Imre Farkas Küzmös: The Phenomenon and the Hungarian Law of Duels	182

Zsigmond SZÓGA: The regulation of prostitution in Budapest between 1867 and 1914

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1. Introduction

The compromise of the Hungarian political elite and the Habsburg dynasty led to the establishment of the Austro-Hungarian Monarchy in 1867. From this point, the Kingdom of Hungary began to develop at a dizzying speed, which was particularly noticeable in Budapest, created in 1873 by the merger of Pest, Buda and Óbuda. The city, thanks to the skyrocketing growth, rose to the ranks of the metropolises of Europe within few years, and was at the forefront of the Hungarian territories of the dualist monarchy in terms of liberalism, embourgeoisement, urbanization and industrialism.¹ However, the development was Janus-faced, since in addition to the indisputable advantages, the economic and social changes had also many downsides. After 1867, many new or previously less significant social problems came to surface, and among these was prostitution, which was in its “golden age” during the era.

2. The rise of prostitution in the capital

The relevant ethical, economic and social disadvantages,² which the girls, rushing to Budapest from the countryside, had to face, such as vulnerability, loss, and lack of job opportunities, forced many of them to try to make a living from their bodies, thereby

¹ ANKA, László: A budapesti prostitúció és szexpiac története a boldog békeidőkben, [The history of prostitution and sex market in Budapest during happy times of peace], *Valóság [Reality]*, No. 6., 2006.

² WALKOWITZ, Judith R.: Egy kirekesztett csoport születése: prostituáltak és munkásnők Plymouth-ban és Southamptonban [The Making of an Outcast Group: Prostitutes and Working Women in Plymouth and Southampton], In: LÉDERER, Pál (ed.): *A nyilvánvaló nők [The obvious women]*, Budapest, 1999, Új Mandátum Könyvkiadó, pp. 163–189.

increasing the number of registered or secret harlots in the capital. Favourable conditions for the rise of prostitution were created by the fact that the contemporary Hungarian society condemned only the woman for breaking the sixth commandment,³ meanwhile for men it was a common and approved practice. Many boys, when they came of age, were taken to the brothel by the father himself. The social base of the prostitution clientele was also served by a newly emerging social class, the proletariat, which had never appeared in the capital on such a large scale before.

Although the beginning of prostitution in Hungary is lost in the mist of time, after the suppression of the War of Independence of 1848–1849,⁴ it began to take on alarming proportions in Pest and Buda due to the urbanization.⁵ Even though the problem, albeit to a small extent, had always been present in the cities for centuries, the issue had not been subject to legal regulation. The state's reaction was slow, which can be explained by society's ostrich policy on the subject, the economic interests of prominent members of the political and economic elite, and the concept of the night-watchman state, advocated by most in the period.⁶

In the 1850s, during the period of autocracy, prostitution emerged from its previously typical guild-like framework and began to take on industrial scale. The neutral and sometimes supportive attitude of the Viennese government to the issue was a direct trigger at this. Over time, the scale of prostitution, which was blooming, made it impossible to neglect the problem, which is proved by the fact that just after the Austro-Hungarian compromise, a decree was issued in the capital to address the issue.

The regulation on prostitution largely depends on how the legislator views prostitutes: criminals who need to be punished, victims who need to be helped, or

³ Exodus 20:14.

⁴ GOSZTONYI, Gergely: Freedoms in the Hungarian April Laws of 1848. *Journal on European History of Law*, No. 1., 2024.

⁵ MIKLÓSSY, János: *A budapesti prostitúció története [The history of prostitution in Budapest]*, Budapest, 1989, Népszava Kiadó Vállalat, p. 28.

⁶ ANKA, *op. cit.*

employees whose interests need to be protected.⁷ Therefore, three main approaches are common: the prohibitionist, the abolitionist, and the regulationist model. In Hungary, as in most European countries at the time, except for England,⁸ the French regulationist model prevailed. This practice considers prostitution as a necessary evil that cannot be eradicated but must be controlled and regulated to ensure public morality and public health.⁹

3. The regulation of prostitution of 1867 in Pest-Buda

On 31st October 1867, the decree of Pest city council was enacted, titled the *Regulation for brothels and prostitutes* N° 33.474/1867.¹⁰ It is essential to note that during the period under review, no comprehensive law was created on the subject. Instead, apart from few scattered legal references, the city council tried to regulate the issue through decrees at municipal level.¹¹ Therefore, it is extremely important to study the decrees of (Buda)pest: on the one hand, prostitution was most influential in the capital, and on the other hand, the regulations of other municipalities were all based on the decrees made in (Buda)pest. The regulationist model served as foundation for above-mentioned decree of 1867. The decree intended to exercise police supervision over prostitution by limiting it to the brothels.

The decree set forth that the owner of a brothel could only be a woman over thirty years, with a clean criminal record and good financial background. The regulation maximized the number of brothels – evenly distributed throughout the city – at forty,

⁷ VASKUTI, Gergely: A prostitúció szabályozásának változásai Magyarországon [Alterations in the regulation of prostitution in Hungary] In: ZSÉGER, Barbara (ed.): *Válogatás a 2016-ban és 2017-ben tartott tudományos rendezvények előadásaiból* [A selection of presentations from scientific events held in 2016 and 2017], Budapest, Magyar Kriminológiai Társaság, 2017, pp. 345–346.

⁸ SIGSWORTH, E. M. – WYKE, T. J.: Prostitúció és nemi betegségek a Viktória-korban [A Study of Victorian Prostitution and Venereal Disease] In LÉDERER Pál (szerk): *A nyilvánvaló nők* [The obvious women], Budapest, 1999, Új Mandátum Könyvkiadó, pp. 138–162.

⁹ CSÉRI, János: *Budapest fő- és székesváros prostitúcióügye* [The problem of prostitution in the capital city of Budapest], Budapest, 1893, Grill Károly Cs. és Kir. Udvari Könyvkereskedése.

¹⁰ MIKLÓSSY, *op. cit.*, pp. 39–48.

¹¹ ANKA, *op. cit.*

so that no district would be overcrowded with brothels. To prevent individual prostitution, the decree stipulated that the number of courtesans could not be less than five or more than fifteen in a single brothel.

For prostitutes, the precondition for admission to a brothel was the existence of a health certificate issued by the respective district surgeon-general and the existence of a tolerance badge issued by the district police chief. The health certificate was used to filter out the much feared disease of the era, syphilis. In addition to the examination taking place upon entry, the prostitute was obliged to report to the district surgeon-general for an examination every four days at her own expense. At the same time, the madam had to check the harlot's health daily; in case of illness, she had to forbid intercourse and was obliged to take the prostitute for a medical examination.

The regulation of criminal sanctions deserve special attention. The decree treated non-compliance with its provisions as a simple contravention, after which the district police captain could impose a fine ranging from 50 to 100 Austro-Hungarian forints. Furthermore, if the prostitute violated the rules, she could be locked up in a workhouse, and if she had foreign nationality, she could even face deportation. With the consent of the city council, the brothel, whose owner violated the regulations, could even be closed by the respective police captain.

The greatest deficiency of the regulation was that, although it apparently covered all aspects of the problem, the decree was limited to only one segment of the wide palette of prostitution: to the brothel system. Although the decree also mentioned the category of private prostitutes, it did not go into details. On the other hand, the issue of the so-called secret prostitutes together with the unregistered harlots, remained a completely unregulated area, even though their number was many times higher than the number of registered prostitutes and was continuously increasing throughout the era.¹²

¹² MOLNÁR, Lajos: *Az erkölcsök a közegészség és a prostitúció [Morals, public health and prostitution]*, Budapest, 1899, Neumayer Ede Könyvnyomdája.

Although section 4 of part II stipulated that prostitution could only be carried out in possession of a license, no sanction was assigned to this provision, so its efficiency was doubtful. Furthermore, the lack of regulation of secret prostitution fundamentally undermined the success of the regulationist model. It was also problematic that the violation of the regulation was classified as a mere contravention, thus, it did not have a significant deterrent effect.¹³

Police corruption also played a significant role in the fact that the decree could not live up to the expectations. Ordinance N^o 38.191 issued by Chief of Police Elek Thaisz in 1870 modified the provisions of the decree of 1867. From that time, only the Chief of Police could personally issue the tolerance badges. Thaisz's action can be explained by the fact that the Chief of Police (whose wife Reich Fáni was the best-known madam in the capital) personally had business interest in commercial lechery. As a result of said amendment, within a few years the number of brothels exceeded the number specified in the regulation, mainly because the police turned a blind eye to the illegal businesses of the brothel owners in return for some bribe.¹⁴

Due to police corruption, it is not surprising that many provisions were not enforced in practice either. The age limit for prostitution determined at seventeen was often ignored. It was not uncommon for twelve-year-old girls to become sex workers.¹⁵ The problems of public morality could not be remedied either, as prostitutes appeared in coffee houses and clubs, even though the regulation expressly forbade prostitutes to practice their trade in public places.

¹³ MIKLÓSSY, *op. cit.*

¹⁴ HEVESI, István: Rendőrkapitány a prostitúció élén: Thaisz Elek (1820-1892) életútja [Police captain at the head of prostitution: the life of Elek Thaisz (1820-1892)], *Belvedere Meridionale*, No. 1–2., 1995, pp. 40–42.

¹⁵ MIKLÓSSY, *op. cit.*

4. The decree of council of Budapest in 1884

The unsustainability of the situation became evident when statistics showed that the number of sexually transmitted infections had doubled between 1874-1877.¹⁶ The reason for this was secret prostitution, as the number of prostitutes without health certificate was estimated to be 5–10 times higher of the registered courtesans.¹⁷

City council representative Dezső Weisz expressed his concerns about the regulation in several interpellations addressed to the Lord Mayor in 1877, requesting the reduction of brothels and prostitutes. Yet, other media outlets advocated the opening of more brothels, thus wanting to limit and control secret prostitution within legal frameworks in accordance with the principle of regulationist model.

Despite the complaints, no substantive changes were made, since Chief of Police Thaisz was not interested in tightening the regulations. Furthermore, his position as chief police commissioner proved to be unshakable, even despite his scandals, as he had patrons in the highest social circles,¹⁸ who were also interested in business-like prostitution. These circumstances also prevented his successors from taking decisive action against the brothels. Still, after nearly two decades, the law enforcement authorities also recognized the failures of the decree of 1867, which was led to the enactment of decree N° 837/1884 on the *Regulation on brothels*.¹⁹

Furthermore, after 1876, several laws aimed to regulate prostitution. Section 91 of Act 14 of 1876 stipulated that the case of commercial sexual solicitation, if it concerns public health, must be regulated by a decree. Moreover, point d. of Section 7 of Act 21 of 1881 stated that only the police could issue licenses for brothels with the permission of the capital's legislative authority.

¹⁶ *Ibid.*

¹⁷ FORRAI, Judit: Budapest világvárossá válása a prostitúció szabályozásának tükrében [The transformation of Budapest into a cosmopolitan city in the light of the regulation of prostitution], *Orvosi Hetilap [Medical Weekly]*, No. 40., 1989.

¹⁸ HEVESI, *op. cit.*

¹⁹ Cf. KAMERMAYER, Károly: *Szabályrendelet a bordély-ügyről [Regulation on the brothel case]*, 1885, Pesti Könyvnyomda Részvény-társaság.

It is also important to examine how the Hungarian criminal law responded to the issue of prostitution.²⁰ In general, one can say the Csemegi Code did not place much emphasis on the regulation of acts of indecency, limiting it primarily to rape and incest. Regarding prostitution, however, it is worth highlighting § 247, which dealt with a specific type of procuration: anyone who, as a parent or in a supervisory capacity, forced a person under their supervision to have sexual intercourse with another person, was punishable by up to 5 years in prison.²¹ § 81 of Act 40 of 1879 on contraventions also dealt with prostitution. Based on this, a harlot who did not comply with the regulations could be punished with imprisonment for one month.

The decree of 1885 made some amendments to the previous regulation. Adapting to the large number of prostitutes operating outside the framework of brothels, the lawmakers placed special emphasis on the regulation of the category of private prostitutes, aiming to suppress secret prostitution. Although the introduction of the mixed system was a development compared to the decree of 1867, it was not able to bring about significant changes, since the legislator still preferred the brothel system.²²

At the same time, significant progress was achieved in the protection of the sex workers. The decree tried to prevent prostitutes from becoming victim to the exploitation of brothel owners, and it also prohibited luring women into brothels. Furthermore, women under the age of 17 and pregnant women were strictly prohibited from participating in prostitution. The rules of the decree concerning public

²⁰ RIGÓ, Balázs: A büntetőjog történetéből II. Kora újkor – újkor. [From the history of Criminal Law II. Early modern – modern era]. In: FÖLDI, András (ed.): *Összehasonlító jogtörténet [Comparative Legal History]*. ELTE Eötvös Kiadó, Budapest, 2016, pp. 325–354; KÉPESSY, Imre: Az osztrák büntetőjog hatása a magyar büntetőjogi kodifikációra. In: *Jogi Tanulmányok [Papers on Jurisprudence]*, No. 1., 2018, pp. 260–271.; KÉPESSY, Imre: The Influence of the Austrian Laws on the Creation of the first Hungarian Criminal Code. In: GOSZTONYI, Gergely – MILOTIĆ, Dunja – BÓDINÉ BELIZNAI, Kinga (eds.): *Sic itur ad astra III: Collection of student papers on Hungarian and Croatian legal history*. Budapest, 2019, ELTE ÁJK Magyar- Állam- és Jogtörténeti Tanszék, pp. 4–12.

²¹ CSÁSZÁR, Kinga: A kéjlegésügy szabályozása a dualizmus-kori Magyarországon, különös tekintettel Somogyra [The regulation of lechery in Hungary during the dualism era, with particular regard to Somogy county], *Jura*, No 1., 2012, pp. 15–28.

²² CSÉRI, *op. cit.*

morality were like those contained in the previous one, with the addition that a brothel could only be established in an out-of-the-way street, keeping at least 200 meters away from ecclesiastical edifices or schools. The decree contained some provisions on private prostitutes. These allowed prostitutes to practice their trade not only in brothels, but also in private apartments. Only one courtesan was allowed to work in one apartment, and she could only move to another with the permission of the Chief of Police.

However, the provision still did not tackle the issue of secret prostitution adequately. Although § 24 and § 52 stipulated that prostitution without a license was prohibited, the punishment for breaking the rule was not clarified.²³ Furthermore, by delegating the execution of said provisions to respective district captains, the regulation created a decentralized system making effective administration impossible.²⁴

Health control was not regulated adequately either. Prostitutes had to pay for the mandatory two-times-a-week sanitary control themselves, which obviously did not motivate them to comply with the health regulations. Furthermore, the check-up did not provide sufficient protection against sexually transmitted diseases, which was proven by fact that all registered prostitutes suffered from syphilis by the Millennium. To fight against this venereal disease with a 7% mortality rate, Act 21 of 1898 was issued, making medical examination free of charge for prostitutes.²⁵ From this amendment, the lawmakers hoped to bring secret prostitution under medical control, as well as to avoid the infection.²⁶

The reason that the decree of 1884 failed to live up to expectations cannot be put down to the incompetence of the lawmakers. It was typical of almost all European

²³ *Ibid.*

²⁴ *Ibid.*

²⁵ FORRAI, *op. cit.*

²⁶ CSÉRI, János: A prostitúció ügy mai állása a fővárosban [The current state of prostitution in the capital] In: LÉDERER, Pál (ed.): *A nyilvánvaló nők [The obvious women]*, Budapest, 1999, Új Mandátum Könyvkiadó, pp. 320–332.

states following the regulationist model, since while the number of brothels showed a decreasing trend, the number of private and secret prostitutes increased just in the opposite direction. Slowly the prostitutes reached the conclusion that working in a brothel comes with many disadvantages. In response to the downfall of the brothel system and the extensive growth in the number of secret and occasional prostitutes, the Minister of Internal Affairs issued a decree in 1893 that required the health checks of female employees of hotels and guesthouses.

5. Rudnay's regulation of 1900

At the turn of the century, another decree was issued, still based on the liberal regulationist model.²⁷ The decree N° 49.465/1900, issued by Chief of Police Rudnay in 1900, placed greater emphasis on the regulation of forms of prostitution outside the brothel system. In addition to already existing categories of private prostitutes with tolerance badge and prostitutes working in brothels, the decree added a new category by introducing the prostitutes with health card²⁸ a.k.a. discreet prostitutes.²⁹

However, the law was incapable of having any effect because the aforementioned Act 21 of 1881, regulating the procedure of legislature between the capital's representative body and the Budapest Police, set forth that only the Chief of Police could issue ordinance concerning prostitutes together with the council of the capital. At the same time, Rudnay issued the decree without the authorization of the capital's representative body, which was therefore annulled by the Minister of the Interior.³⁰

²⁷ CSÁSZÁR, *op. cit.*

²⁸ VASKUTI, *op. cit.*

²⁹ MIKLÓSSY, *op. cit.*

³⁰ LINKA, Mór: A prostitúció rendezése Budapesten [Regulation of prostitution in Budapest], *Huszdik Század [Twentieth century]*, No. 1., 1907, pp. 245–254.

6. The decree of the council of Budapest in 1907

By the beginning of the 20th century, the decree of 1884 had become unsuitable for regulating prostitution, which became an increasingly pressing problem in the capital. In 1906, Chief of Police Boda summoned a survey with the aim of creating a new regulation that would respond to the challenges of the era. Commissioners from the capital's legal authorities, experts, feminists, and representatives of other associations dealing with the issue were invited to the conference. The conference was preceded by a study trip abroad by district police captain Emil Schreiber, with the aim of examining foreign solutions for the regulation of prostitution.³¹ As a result of the conference, a new regulation was enacted.

The decree of 1907 N° 881.1008/1907, coming into force in 1909, was still focusing on the elimination of secret prostitution.³² Furthermore, thanks to the ever-increasing activities of different women's rights movements and associations by that time, more attention was drawn to the protection of harlots. The decree divided prostitutes into three categories. They could be either a brothel prostitutes or a private courtesans, among the latter were the prostitutes with badges or identifications. The new group of harlots with identification included the occasional courtesans who pursued commercial sexual solicitation only as a side job.

As a result of the women's rights movements, a group of women was formed in the vice department of the Budapest Police, with the purpose of dissuading girls who wanted to obtain permission and interrogate them about their reasons for applying. If it was proven that the woman wanted to become a prostitute under coercion, the coercer could be sentenced to 5 days in prison and a fine of up to 100 crowns.

An interesting fact about the decree is that, in contrast to the regulation of 1884, the age limit of seventeen could be deviated from, if the "physical development" of the applicant justified it. Essentially the provisions established previously remained

³¹ *Ibid.*

³² LÉDERER, *op. cit.*, pp. 385–400.

valid for brothels, however, providing much broader protection and freedom to prostitutes than before.³³

More pressing was the regulation of private prostitution. The situation of private prostitutes with badges was not much different from that of those who worked in brothels, since brothels were replaced by police-approved prostitute-apartments and sublettings, which resembled brothels in so far as there were apartment owners renting out their apartments directly for a share of the prostitute's income. In practice, the situation of prostitutes in private houses differed from the brothel workers only in that they enjoyed a greater extent of freedom.³⁴

The prostitute with identification, on the other hand, pursued commercial sexual solicitation in a private apartment of her choice. The introduction of this category extended the locations of business-like prostitution to so-called public and private meeting places. The creation of private harlot-blocks was a novelty, just as well as allowing prostitutes to meet their clients in coffee houses and entertainment venues.

However, the innovations were still overshadowed by the particularly mild criminal sanctions. Furthermore, although the execution of the decree was not satisfactory due to the still present corruption and the lack of police personnel, district police captain Emil Schreiber called the decree humane and well-established in 1917. This was confirmed by the fact that until the outbreak of World War I, there were no further regulations issued on the subject in the capital.³⁵

7. Conclusion

By the second half of the 19th century, prostitution reached industrial proportions in Hungary, especially in the capital, therefore its legal regulation became essential.

³³ SCHREIBER, Emil: *A prostitúció [Prostitution]*, Budapest, 1917, Pátria Irodalmi Vállalat és Nyomdai Részvénytársaság.

³⁴ MIKLÓSSY, *op. cit.*

³⁵ SCHREIBER, *op. cit.*

Despite this, no comprehensive law was created in the era, so the capital's regulations were born one after another to rectify the deficiencies of the previous ones, but only to little or no avail at all.

The frequent enactment of the decrees clearly indicate the failures in the law-making. The decrees were based on the regulationist model, which sought to bring commercial sexual solicitation under law enforcement and public health control with smaller or larger innovations. However, these efforts were doomed from the very start due to deficiencies in regulations, high level of police corruption, and the influence of those directly profiting of prostitution.