

ESSAYS ON LAY AND ECCLESIASTICAL COMMUNITIES IN AND AROUND THE MEDIEVAL URBAN PARISH

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COORD.



**THE LEGAL EXPERTISE OF THE PARISH CLERGY
IN LATE MEDIEVAL TRANSYLVANIA
(LATE FOURTEENTH TO
EARLY SIXTEENTH CENTURY)**

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Abstract: The intellectual agency of the parish clergy in Late Medieval Transylvania – an area now encompassing the central and western parts of Romania, but in the Middle Ages, until 1526, the easternmost province of the Hungarian Kingdom – has long been a neglected topic in local historiography, hampered in part by a passive stance towards documentary sources and an interpretative inertia. The present paper intends to discuss the role of legal education and expertise of the clergy at the parochial level and its impact on the shaping of clerical careers in the urban, legally aware, communities of the Transylvanian Saxons. As generally known, they were colonists of German origin inhabiting since the mid-twelfth century certain parts of the region mentioned above. These ‘German’ parishes from Southern and Northern Transylvania, with freely elected priests and exempted from the local diocesan control, formed churchly congregations (chapters, *capitula*) that exercised their authority in various contexts. Therefore, this research will highlight several details pertaining to Saxon clergymen from ca. 1370 to the 1530s and their

legal environment: academic education, ownership and use of specific literature, or involvement in the administration of the law.

Resumo: A ação intelectual do clero paroquial na Transilvânia tardo-medieval – uma área que abrange atualmente as partes central e ocidental da Roménia, mas que na Idade Média, até 1526, era a província mais oriental do Reino Húngaro – tem sido um tema há muito negligenciado na historiografia local, prejudicado quer pela postura passiva em relação às fontes documentais, quer pela inércia interpretativa. O presente artigo pretende discutir o papel da educação jurídica e da especialização do clero a nível paroquial e o seu impacto na formação das carreiras clericais nas comunidades urbanas, juridicamente conscientes, dos saxões da Transilvânia. Como é do conhecimento geral, tratavam-se de colonos de origem alemã que habitavam, desde meados do século XII, certas partes da região acima referida. Estas paróquias "alemãs" do Sul e do Norte da Transilvânia, com sacerdotes livremente eleitos e isentos do controlo diocesano local, formavam congregações eclesiásticas (cabidos, *capitula*) que exerciam a sua autoridade em vários contextos. Por conseguinte, esta investigação destacará vários pormenores relacionados com os clérigos saxões de ca. 1370 a 1530 e o seu ambiente jurídico: formação académica, posse e utilização de literatura específica ou envolvimento na administração da lei.

Introduction

An undated and anonymous letter from the Transylvanian city of *Sibiu* (*Hermannstadt*, in German, *Cibinium* in Latin)¹ – the adminis-

¹ The place names used throughout this paper are the current, Romanian ones, followed by their German and sometimes Latin historical equivalents; see also Hermann Fabini, *Atlas der siebenbürgisch-sächsischen Kirchenburgen und Dorfkirchen*, vol. I (Hermannstadt: Monumenta, 1998); Harald Roth (ed.), *Handbuch der historischen Stätten Siebenbürgen* (Stuttgart: Alfred Kröner Verlag, 2003).

trative centre of the Western colonists, mostly of German origin, inhabiting since the mid-twelfth century certain parts of this easternmost province of the Hungarian Kingdom² – informs the modern reader how legal advice has been informally drafted in a borderland of Medieval Latinity (see Map 1). The slightly simplified translation of the Latin note, written sometime in the fifteenth century, reads as follows: ‘in that matter, do read the glosses of Iohannes Andree, on insults and prejudices; should the masters of the chapter not be satisfied with it, then jump over the court of Sibiu and make an appeal straight to the archbishop of Esztergom’³. In an extremely concentrated manner, the unattributed text mentioned here accurately describes several key elements in the organization of the Church of the colonists (see Map 2), generally known as ‘Transylvanian Saxons’: (partially) exempted from the authority of the local Transylvanian bishop and placed under the jurisdiction of the Archdiocese of Esztergom, these ‘German’ parishes (with freely elected priests) formed churchly congregations (chapters) that exercised their authority in various contexts, including legal matters⁴. The particularly quarrel-

² Thomas Nägler, *Așezarea sașilor în Transilvania* [The Settlement of the Saxons in Transylvania] (București: Kriterion, 1992); Konrad G. Gündisch unter Mitarbeit von Mathias Beer, *Siebenbürgen und die Siebenbürger Sachsen* (München: Langen Müller, 1998); Adinel C. Dincă, “Die Siebenbürger Sachsen im Mittelalter. Höhepunkte der Gründung eines kulturellen Erbes” in *Eine europäische Erfahrung – Das historische und kulturelle Erbe der Deutschen in Rumänien*, ed. by Raluca Mălăncioiu, Oana Ilie, Cornel-Constantin Ilie (București: MNIR, 2019), 22-25.

³ Arhivele Naționale ale României, Serviciul Județean [Romanian National Archives, County Branch, hereafter SJAN] Sibiu, Magistratul orașului și scaunului Sibiu, Colecția de documente medievale, Serie U. III, no. 253; Gustav Gündisch, † Herta Gündisch, Konrad G. Gündisch, Gernot Nussbächer, *Urkundenbuch zur Geschichte der Deutschen in Siebenbürgen*, vol. VII (București: Ed. Acad. Rom., 1991), doc. 4379; Adinel C. Dincă, “Scrisori private din Transilvania medievală în context local și european” [Private Letters in Medieval Transylvania within the Local and European Context], *Anuarul Institutului de Istorie «George Barițiu» din Cluj-Napoca, Series Historica*, 59 (2020): 372, footnote 47.

⁴ Friedrich Teutsch, *Geschichte der ev. Kirche in Siebenbürgen. 1150-1699*, vol. I (Hermannstadt: Krafft, 1921); Georg Eduard Müller, *Die deutschen Landkapitel in Siebenbürgen und ihre Dechanten, 1192-1848. Ein rechtsgeschichtlicher Beitrag zur Geschichte der deutschen Landeskirche in Siebenbürgen* (Hermannstadt: Archiv des Vereins für Siebenbürgische Landeskunde, 1934-1936).

some parish communities and their spiritual shepherds⁵ generated not only a surprisingly vivid judicial activity of the local secular and churchly administration and a frequent appeal to the higher authorities of the Hungarian archbishop or of the Holy See, but also draw a particular attention to those members of the secular clergy who had received university-level legal training.



Map 1. The Voivodship of Transylvania and Central Europe around 1500
 [© Andrei Nacu].

It is therefore the purpose of this paper to investigate a specific aspect, involving the intellectual agency of the parish church in Late Medieval Transylvania⁶, more exactly, the role of the legal education

⁵ A general overview, focused rather on the Lutheran period, in Richard Schuller, *Der siebenbürgisch-sächsische Pfarrer: eine Kulturgeschichte* (Wien-Köln-Weimar: Böhlau, 2003).

⁶ The Voivodship of Transylvania, now encompassing the central and western parts of Romania, was in the Middle Ages, until 1526, the Easternmost province of the Hungarian Kingdom, inhabited by Eastern-rite Christians (Romanians or Vlachs) together with Hungarian-speaking (including Szeklers) and German-speaking members of the Latin Church, who later adopted the Reformed (Lutheran, Calvinist, e.a.) confessions, see Pál Engel, *The Realm of St Stephen: A History of Medieval Hungary*

and expertise of the clergy at the parochial level and the impact of this form of ‘savoir utile’⁷ both in the existence of the local, legally aware, community, and in the shaping of clerical careers. The projected study (refined through suggestions and comments of the attendees at the Coimbra conference⁸) will analyse sequences of parish priests who served in the most important Transylvanian urban and rural settlements from ca. 1370s to the 1530s, highlighting legal details (such as education, ownership and use of legal literature, or involvement in legal procedures and activities), discussing them in their specific local, or more general contexts. Exploratory rather than a conclusive contribution, this survey will focus on the conceptual understanding of the breadth and applications of the legal education received by Transylvanian parish priests.

This early stage of the research reveals a certain predisposition of important and rich settlements for choosing and promoting highly trained legal experts as their *plebani*, just as much as a university degree in law was a strong premise in a successful churchly career. Around 1500 a doctoral title in Canon and/or in Civil Law becomes a clear label for social and professional success, a keystone in the

895-1526, (London; New York: I. B. Tauris, 2001); Ioan-Aurel Pop, Thomas Nägler, *The History of Transylvania (until 1541)* (Cluj-Napoca: Center for Transylvanian Studies, 2005); Nora Berend, Przemyslaw Urbanczyk, Przemyslaw Wiszewski, *Central Europe in the High Middle Ages: Bohemia, Hungary and Poland c. 900 – c. 1300* (Cambridge: Cambridge University Press, 2013).

⁷ Jacques Verger, *Men of Learning in Europe at the End of the Middle Ages* (Notre Dame, Ind.: University of Notre Dame Press, 2000), especially the chapters ‘Social Utility or General Culture?’ and ‘The Social Scope of Knowledge: Challenge or Inclusion?’. See also Helmut G. Walther, “Learned Jurists and their Profit for Society – Some Aspects of the Development of Legal Studies at Italian and German Universities in the Late Middle Ages”, in *Universities and Schooling in Medieval Society*, ed. by William J. Courtenay, Jürgen Miethke, David B. Priest, (Leiden-Boston: Brill, 2000), 100-126.

⁸ International conference *Urban Parish Communities in Medieval Europe, 1049-1545* organized by CHSC – University of Coimbra, IEM – NOVA University of Lisbon & CITCEM – University of Porto, December 2-4, 2021, Coimbra, Portugal. I would also like to express my gratitude towards the anonymus reviewers who read and commented upon an earlier draft of this text.

strategy of the families that formed the urban elite in Transylvania of that time⁹.

The parish environment presents itself accordingly, especially in towns¹⁰, as expression of intellectual mobility, linking cultural and spiritual centres (papacy and universities) to peripheries, contributing to the forging of a unified Latin cultural landscape before the Protestant Reformation. Yet, what sets apart the German cultural space in Transylvania is a cosmopolitan behaviour of the secular clergy, mostly in those market towns and villages situated at the outskirts of the regional urban centres. This typical conduct had several causes: first of all, the large majority of parochial clergymen were descendants of middle class urban families, educated abroad, who sought to settle close to their hometowns; while the regional capitals could absorb only a reduced number of candidates within their ecclesiastical structures, the countryside – with its parochial churches acting as strategic military bulwarks against Ottoman raids and communal storage houses for food supplies – offered a viable alternative, and was certainly a prerequisite stage for a successful career. Rural parish priests, preachers, chaplains, altar rectors, and other clerics in wait for an urban position carried out constructive initiatives, acted as patrons of art, composed, collected, and transferred written texts, or subsidized the education of young students. The complex Transylvanian

⁹ Konrad G. Gündisch, *Das Patriziat siebenbürgischer Städte im Mittelalter* (Wien-Köln-Weimar: Böhlau, 1993); Konrad G. Gündisch, “Educație universitară și ascensiune socială în Transilvania Evului Mediu târziu” [University Education and Social Ascension in Late Medieval Transylvania], *Anuarul Institutului de Istorie «George Barițiu». Series Historica*, Supplement, 54 (2015): 199-206. A topic further discussed in Adinel C. Dincă, “«Utrumque ius» nella Transilvania tardo medievale. Una prospettiva tridimensionale sulla genesi di una mentalità giuridica”, in *Tradizioni e istituzioni religiose nello spazio culturale italo-romeno tra Medioevo e prima età moderna (Atti delle Giornate di Studio «Rosa del Conte», Università Cattolica del sacro Cuore, Milano, 24-25 ottobre 2019)*, ed. by Alvisè Andreose, Massimo Miglio, Iulian Damian, Antonella Dejure, Christian Grasso, (Roma: Istituto Storico Italiano per il Medio Evo, 2022), 107-128.

¹⁰ The close relationship between secular literacy and the ecclesiastical environment in Transylvania is highlighted by Adinel C. Dincă, “Urban Literacy in Medieval Transylvania” in *Between Public and Private: Writing Praxis in Transylvania during the 13th-17th Centuries*, ed. by Susana Andea, (Cluj-Napoca: Argonaut, 2016), 71-186.

scrutinized canon¹², Roman¹³, and customary law¹⁴, with similar concern for the blending of civil, canon and feudal law in what was called *ius commune*¹⁵. Closely related topics were discussed in the field of medieval textual production¹⁶, or university history¹⁷, with a general conclusion that, due to the Hungarian judiciary system based on the customary law which could be acquired by practitioners without a university degree, there was a rather limited need for superior legal education. Such valuable studies have only marginally included the Transylvanian material, neither have they taken a closer look at the historical contexts surrounding the surviving sources, as has been internationally done for Erfurt¹⁸, or Leipzig¹⁹. A special mention is reserved in this brief overview to the activity of the ‘Fraknoy research group’ from Budapest²⁰, which has published extensively

¹² Péter Erdő, “Der Stand der kanonistischen Forschung in Ungarn”, *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte, Kanonistische Abteilung* 80 (1994): 451-463.

¹³ György Bónis, “La pénétration du droit romain dans les pays slaves et hongrois”, *Recueils de la Société Jean Bodin pour l’histoire comparative des institutions* 25 (1967): 77-86.

¹⁴ Martyn Rady, *Customary Law in Hungary. Courts, Texts, and the Tripartitum*, (Oxford: Oxford University Press, 2015).

¹⁵ Gábor Béli, e.a. (eds.), *Institutions of Legal History with Special Regard to the Legal Culture and History*, (Pécs: Faculty of Law University of Pécs, 2011); Mia Korpiola, “Customary Law and the Influence of the ‘Ius commune’ in High- and Late-Medieval East Central Europe” in *The Oxford Handbook of European Legal History*, ed. by Heikki Pihlajamäki, Markus D. Dubber, Mark Godfrey, (Oxford: Oxford University Press, 2018), 427.

¹⁶ Kinga Körmendy, “Kanonistische Handschriften aus dem Bestand vor 1543 der Kathedralbibliothek Esztergom (Gran) und zwei Belege für das Pecien-System im Rahmen des universitären Unterrichtes in der Österreichischen Nationalbibliothek” in *Proceedings of the Thirteenth International Congress of Medieval Canon Law: Esztergom, 3-8 August 2008*, ed. by Péter Erdő, Szabolcs Anzelm Szuromi, (Città del Vaticano: BAV, 2010), 699-706.

¹⁷ Andor Csizmadia (ed.), *A 600 éves jogi felsőoktatás történetéből 1367-1967* [From the 600 Years History of Legal Higher Education 1367-1967], (Pécs: Pécsi Tudományegyetem Állam- és Jogtudományi Kara, 1968).

¹⁸ Robert Gramsch, *Erfurter Juristen im Spätmittelalter: die Karrieremuster und Tätigkeitsfelder einer gelehrten Elite des 14. und 15. Jahrhunderts* (Leiden: Brill, 2003).

¹⁹ Marek Wejwoda, *Die Leipziger Juristenfakultät im 15. Jahrhundert vergleichende Studien zu Institution und Personal, fachlichem Profil und gesellschaftlicher Wirksamkeit* (Stuttgart: Steiner, 2012).

²⁰ <https://institutumfraknoi.hu/kiadvanyok/cvh> [consulted on 13.10.2021].

medieval papal letters, offering thus a better understanding of the juridical connections between the Holy See and the Hungarian kingdom.

Transylvania's legal culture is closely related to the Western colonists – of Walloon, Flemish, German origin – generally called by the historical sources *hospites Theutonici* or *Saxones*, who settled in the mid-twelfth century in the provinces of Sibiu/Hermannstadt, Țara Bârsei/Burzenland – both geographically located in the south and in the south-eastern parts of Transylvania – and Bistrița/Bistritz, in the central part²¹. The peaceful establishment of diverse groups at the invitation of the Hungarian kings generated privileged pockets of population with a special juridical status, granted exceptionally by the royal authority. More than any other ethnical groups inhabiting the province, the Transylvanian Saxons were promoters of urban-type development, mostly due to their awareness and experience with the set of Central European (German-Flemish) privileges known as the 'Magdeburg rights'²² and their close commercial ties with German and Austrian towns²³. So far, the few and isolated studies dedicated to the legal history of Transylvania before the 1550s – carried out

²¹ Harald Zimmermann, "Hospites Theutonici. Rechtsprobleme der deutschen Südostsiedlung", in *Siebenbürgen und seine Hospites Theutonici. Vorträge und Forschungen zur Südostdeutschen Geschichte. Festgabe zum 70. Geburtstag*, ed. by Konrad G. Gündisch, (Wien-Köln-Weimar: Böhlau, 1996), 46-68; Piotr Gorecki, "The Historiography of the So-Called East Colonisation and the Current State of Research", in *The Man of Many Devices, Who Wandered Full Many Ways... Festschrift in Honour of János M. Bak*, ed. by Balázs Nagy, Marcell Sebök, (Budapest: CEU Press, 1999), 654-667.

²² Katalin Szende, "Iure Theutonico? German Settlers and Legal Frameworks for Immigration to Hungary in an East-Central European Perspective", *Journal of Medieval History* 45, no. 3 (2019): 360-379, who specifically underlines that in some East and South-East European colonization regions *ius Theutonicum Magdeburgense* was not a specifically urban model, but an adapted and symbolic model for re-organisation of settlements. See also Katalin Gönczi, "Der Transfer des sächsisch-magdeburgischen Rechts in das Königreich Ungarn", in *Kulturelle Vernetzung in Europa. Das Magdeburger Recht und seine Städte. Wissenschaftlicher Begleitband zur Ausstellung «Faszination Stadt»*, ed. by Gabriele Köster, Christina Link, Heiner Lück, (Dresden: Sandstein Verlag, 2018), 115-125.

²³ Katalin Szende, "Towns Along the Way. Changing Patterns of Long-Distance Trade and the Urban Network of Medieval Hungary", in *Towns and Communication*, vol. 2: *Communication Between Towns*, ed. by Hubert Houben and Kristjan Toomaspoeg (Lecce: Mario Congedo, 2011), 161-225.

mainly by the local German jurists around 1900²⁴ – have overlooked entirely the contribution of the parish environment in colonization areas, in urban or rural communities alike. The only recent study dedicated to the legal urban setting in Transylvania²⁵ offers a limited summary of the previous research and ignores any direct contact with the original sources. One must not overlook the valuable (but severely outdated) contributions of local scholars, both in terms of university education²⁶, and the office of the notary public²⁷. The evaluation of the current scholarship mirrors a striking gap between the refined and research-based international output and the outdated, limited, and repetitive textuality concerning the juridical texts and contexts from late medieval Transylvania.

²⁴ Such as Friedrich Schuler von Libloy, *Siebenbürgische Rechtsgeschichte*, Hermannstadt, 3 vols., 1867-1868, or Georg Eduard Müller, *Die sächsische Nationsuniversität in Siebenbürgen. Ihre verfassungs- und verwaltungsrechtliche Entwicklung 1224-1876. Ein rechtsgeschichtlicher Beitrag zur Geschichte der ältesten organisierten Minderheit der Gegenwart*, Hermannstadt, 1928.

²⁵ Dirk Moldt, *Deutsche Stadtrechte im mittelalterlichen Siebenbürgen: Korporationsrechte, Sachsenspiegelrecht, Bergrecht* (Wien-Köln-Weimar: Böhlau, 2009).

²⁶ Sándor Tonk, *Erdélyiek egyetemjárása a középkorban* [University Attendance of Transylvanians in the Middle Ages] (Bukarest: Kriterion, 1979), supplemented by Anna Tüskés, *Magyarországi diákok a bécsi egyetemen 1365-1526 / Students from Hungary at the University of Vienna 1365-1526* (Budapest: Eötvös Loránd Tudományegyetem Levéltár, 2008); Péter Haraszti Szabó, Borbála Kelényi, László Szögi, *Magyarországi diákok a prágai és krakkói egyetemeken 1348-1525 / Students from Hungary at the Universities of Prague and Krakow 1348-1525*, vol. I-II (Budapest: Eötvös Loránd Tudományegyetem Levéltár, 2017); Péter Haraszti Szabó, Borbála Kelényi, *Magyarországi diákok francia, angol, itáliai és német egyetemeken a középkorban, 1100-1526 / Students from Hungary at the Universities of France, England, Italy and Germany in the Middle Ages 1100-1526* (Budapest: MTA ELTE Egyetemtörténeti Kutatócsoport, 2019).

²⁷ Sándor Tonk, "A középkori közjegyzőség Erdélyben" [The Medieval Notary Public in Transylvania], in *Művelődéstörténeti Tanulmányok* (Bukarest: Kriterion, 1980), 36-62, re-published in bilingual edition (Hungarian/Romanian) ed. by Rokolya Gábor (Budapest: Közjegyzői Akadémiai Kiadó, 2019), supplemented by Adinel C. Dincă, "Notaries Public in Late Medieval Transylvania. Prerequisites for the Reception of a Legal Institution", *Anuarul Institutului de Istorie «George Barițiu». Series Historica* Supplement 54 (2015): 33-47; Adinel C. Dincă, "Das öffentliche Notariat bei den Siebenbürger Sachsen im Mittelalter. Ein aktualisierter Überblick", *Zeitschrift für Siebenbürgische Landeskunde* 43 (2020): 77-105; Adinel C. Dincă, "Mentalità e pratica legale ai confini dell'Europa latina medievale: notai pubblici in Transilvania (XIV-XVI secoli)", *RiMe. Rivista dell'Istituto di Storia dell'Europa Mediterranea*, 9/1 (2021), special issue: *Il Notaio nella società dell'Europa mediterranea (secc. XIV-XIX). The Notary in the Mediterranean European Society (14th-19th centuries)*, ed. by Gemma T. Colesanti, Daniel Piñol, Eleni Sakellariou, 249-286.

The suggested approach could be considered a new and innovative one – because it aims to discuss the complex role played by the literacy and written communication within the parochial system of pre-modern Transylvania – if there was an established field of research that investigates systematically the institutions and traditions connected with the local parish system. This direction simply does not exist, despite all the best effort done in the last years²⁸. Even the accomplishments in this respect in the historical writing from Hungary remains far behind the results of the investigation conducted in the last decades in Poland, the Czech Republic, in the Nordic/Scandinavian states, or the impressive scholarly achievements from Germany, France, Italy, and the United Kingdom²⁹, where the birth and evolution of the parish networks have been explored systematically. The methodology taken into account follows two complementary directions: on the one hand, the integrative approach of socio-cultural anthropology that contextualizes the factors of relationship, adaptation, norm, symbolism within a given group, on the other hand *une «relecture» des sources documentaires*³⁰ with the help of palaeography, which allows a broadening of the work base by further identifying letters, drafts, concept statements, unsigned notes.

²⁸ Adinel C. Dincă, “Medieval Literacy in Transylvania. Selective Evidence from the Parish Church”, *Transylvanian Review* 24, no. 1 (2015): 109-121; Adinel C. Dincă, “The University and the Parish. The Medieval Books from Heltau/Cisnădie”, *Philobiblon: Transylvanian Journal of Multidisciplinary Research in Humanities* 24, no. 2 (2019): 337-352; Adinel C. Dincă, “Dorfkirche und Schriftlichkeit in Siebenbürgen um 1500”, in *Common Man, Society and Religion in the 16th century. Piety, morality and discipline in the Carpathian Basin / Gemeiner Mann, Gesellschaft und Religion im 16. Jahrhundert. Frömmigkeit, Moral und Sozialdisziplinierung im Karpatenbogen*, ed. by Ulrich A. Wien, (Göttingen: Vandenhoeck & Ruprecht, 2021), 39-53.

²⁹ Suffice it to mention here well-known long-term endeavours as ‘Germania sacra’, various national projects of the ‘Fasti ecclesiae’ type, or the collaborative initiative *Warwick Network for Parish Research* (<https://warwick.ac.uk/fac/arts/history/research/parishnetwork/>) [consulted on 13.10.2021].

³⁰ Anna Adamska, “L’évolution méthodologique de la diplomatique médiévale en Europe centrale”, *Bibliothèque de l’école des chartes* 160, no. 2, (2002): 535.

Acquiring knowledge

Students from the medieval Hungarian Kingdom have been the subject of several studies over the last decades, most of them based exclusively on matriculation books: the latest results estimate at about 13000 the number of students belonging to the *natio Hungarica* to have attended European universities up to 1526³¹, however the number of students of Transylvanian origin has not yet been updated accordingly: results published almost 4 decades ago³² assessed about 2500 individuals. The survey also revealed the place of origin of these students, mainly urban Saxon communities such as Sibiu/Hermannstadt, Braşov/Kronstadt, Cluj/Clausenburg, and Sighişoara/Schäßburg.

The interest towards an increased and specialized legal framework increased over time, especially during the fourteenth century, as a requirement of the evolution of German-populated urban settlements and their institutions³³, in parallel with the reforms of the Anjou dynasty and the establishment of Central European universities: Prague, Vienna and Krakow³⁴. The main local beneficiary of all these factors was the church, more precisely its basic unit, the parish, whose clerical staff was recruited from the ranks of middle and upper social classes from urban areas, where young men had access to

³¹ Borbála Kelényi, "Students from the Medieval Hungarian Kingdom at Italian Universities: Initial Stage of Research: Sources and Possibilities", in *Crossing Borders: Insights into the Cultural and Intellectual History of Transylvania (1848-1948)*, ed. by Carmen Andraş, Cornel Sigmirean, (Cluj-Napoca: Argonaut, 2016), 48; László Szögi, "On University Historiography in Hungary: An Overview of the Past 25 Years", *CIAN-Revista de Historia de las Universidades* 20, no. 1 (2017): 224.

³² Tonk, *Erdélyiek egyetemjárása*.

³³ Andrea Fara, "Consuetudine orale e tradizione scritta nella prassi giuridica delle comunità sassoni di Transilvania (secc. XII-XVI)", *Istros* 17, no. 1 (2011): 317-368; Adinel C. Dincă, "Codex Altemberger", in *Codex Altemberger. Primul cod de legi al saşilor din Sibiu*, ed. by Ginel Lazăr, (Bucureşti: MNIR, 2019), 24-50.

³⁴ Andrea Fara, "Sassoni di Transilvania nelle Università d'Europa tra XIV e XVI secolo", *Annuario dell'Istituto Romeno di Cultura e Ricerca Umanistica di Venezia* 8 (2006): 119-133.

education, mobility, and versatility in using the written word³⁵. It should be emphasized that legal studies became during the second half of the fourteenth century an important impetus for a relevant career, with the parish priests as the most visible exponents of this cultural and occupational trend. They got their training either in the Central European academic environment (the matriculation registers of the Faculty of Law in Vienna nominate about 50 enrolled Transylvanians), or in the Italian institutions of higher education. Those who returned to their native province seem to have pursued mainly ecclesiastical careers, as their names resurface in various Transylvanian settlements in religious contexts. It is important to emphasize the modest percentage of laypeople who practiced law in the province³⁶. Even public administrative offices, like town notaries and scribes³⁷, were primarily filled by clergy, and the local secular justice system also employed churchmen as advocates³⁸.

Besides matriculation books, there are also a wide range of documentary sources (charters, tax registers compiled by local ecclesiastical or secular authorities, or even by the Apostolic See, ownership notes on various books, protocols of religious administrative structures, personal records, testaments, letters, etc.) accompanied by indirect evidence (mostly epigraphic and visual/artistic: inscriptions,

³⁵ Friedrich Müller, "Gleichzeitige Aufzeichnungen von Thomas Wal, Johannes Mildt und einem Heltauer aus den Jahren 1513-1532", *Archiv des Vereins für siebenbürgische Landeskunde* 15 (1879): 45-60; Adinel C. Dincă, "Începuturile scrisului istoric în Transilvania medievală (până la mijlocul veacului al XVI-lea)" [The Beginnings of Historical Writing in Medieval Transylvania (until the mid-16th century)], in *Scris, scriitură, text în Țările Române: (secolele XV-XVIII)*, ed. by Monica Dejan, (Suceava: Ed. Karl A. Romstorfer, 2020), 137-166.

³⁶ Laymen from the lower and middle classes who couldn't afford a university degree usually acquired their literacy and legal knowledge from older, more experienced legal practitioners, and formularies, see György Bónis, "Men Learned in the Law in Medieval Hungary", *East Central Europe*, 4, part 2 (1977): 181-191.

³⁷ Dincă, "Urban Literacy in Medieval Transylvania", *passim*.

³⁸ Sigismund Jakó, "Les débuts de l'écriture dans les couches laïques de la société féodale en Transylvanie", in *Nouvelles études d'histoire. Présentées au Xe Congrès de Sciences Historiques, Rome 1955* (Bucarest: Ed. de l'Académie, 1955), 209-223. The legal professionals in the entire Kingdom of Hungary were mostly educated clergymen, see György Bónis, *A jogtudó értelmiség a Mohács előtti Magyarországon* [The Legal Elite in Hungary before Mohács] (Budapest: Akadémiai Kiadó, 1971).

personal insignia on different kind of objects, tombstones, mural or panel portraits, etc.)³⁹ that allow not only the reconstruction of names of clergymen who have occupied the position of parish priest in various Transylvanian settlements, urban or rural, but also their legal formation. Former students shared a common elite consciousness based on their higher education and on the social network established during their academic sojourns, which they underlined even in informal circumstances, as many times as the occasion arose: such is the case of an anonymous copyist (probably *Magister Vdalricus de Weyssenburga* or Ulrich Czand †1436) who records in a manuscript codex⁴⁰ his canon law licence exam, held in Vienna together with his colleague, *domino Anthonio de Septemcastris* [Transylvania] *plebano venerandi in Mülpack* [parish priest in the town of Sebeş/Mühlbach from 1408 to 1439⁴¹]. In his personal diary written on a printed almanac⁴², Thomas Wal from Sibiu/Hermannstadt wrote in 1516: *inscriptus sum in matriculam facultatis iuridice*, an information also confirmed by the university's matriculation register⁴³; upon his return home, he became parish priest in Şelimbăr/Schellenberg in 1523, a settlement situated at the outskirts of Sibiu/Hermannstadt. Furthermore, in a

³⁹ Zsolt Simon, "Financing Culture in the Middle Ages: the Transylvanian Saxon Towns' Municipalities", *Anuarul Institutului de Cercetări Socio-Umane «Gheorghe Şincai», Târgu-Mureş* 14 (2011): 255-269; Ciprian Firea, "Evidence of Patronage in Late Medieval Transylvania. Saxon Priests as Promoters of the Arts", *Annales Universitatis Apulensis. Series Historica* 16, no. 2 (2012): 149-172; Ciprian Firea, "The Parish Priests of the Saxons as Patrons of the «Arts». A contribution to an Ecclesiastical Prosopography of Medieval Transylvania", *Transylvanian Review* 21, Supplement 3 (2012): 511-532.

⁴⁰ München, Bayerische Staatsbibliothek, Clm 14280, see Friedrich Helmer unter Mitarbeit von Hermann Hauke und Elisabeth Wunderle, *Katalog der lateinischen Handschriften der Bayerischen Staatsbibliothek München. Die Handschriften aus St. Emmeram in Regensburg*, vol. 3: *Clm 14261-14400* (Wiesbaden: Harrassowitz, 2011), 70-74.

⁴¹ Kurt Mühlberger (ed.), *Die Matrikel der Wiener Rechtswissenschaftlichen Fakultät*, vol. I: *1402-1442*, (Wien-Köln-Weimar: Böhlau, 2011), 35, from 1427.

⁴² Sibiu, Brukenthal Museum Library, V. II. 618.

⁴³ Thomas Maisel, Johannes Seidl (eds.), *Die Matrikel der Wiener Rechtswissenschaftlichen Fakultät / Matricula Facultatis Juristarum Studii Viennensis*, vol. II: *1442-1557* (Wien-Köln-Weimar, Böhlau, 2016), 85.

fragment of a letter⁴⁴ penned around the second quarter of the sixteenth century and addressed to a certain parish priest, Doctor of Law, Lucas (parish priest in Biertan/Birthälm between 1522-1547 and dean of Mediaş/Mediasch Chapter) recounts a lunch meeting with *dominus doctor Petrus Cras*. Despite the informal character of the source, the parties involved in the account address each other by using the distinctive designation with reference to their social position and higher education degree.

The Transylvanian students were also supported in their academic endeavours by members of the clergy, a firm tradition⁴⁵ illustrated by the donations and testamentary legations in favour of young scholars: *Martinus de Biertan*, parish priest in *Walldorf Inferior* (a settlement near Bistrița/Bistritz, today a suburb of the city) bequeathed in 1502 his theology, canon and civil law books to the Chapel of St Michael the Archangel in Bistrița/Bistritz for the use of devoted and intellectually gifted pupils willing to achieve higher education⁴⁶, while the testament of *Mattheus* of Rupea/Reps (†c.1503), parish priest in Dealu Frumos/Schönberg, conditioned the amount of money left to his nephews by their dedication to studying⁴⁷. This context is an excellent example of how the individuals and the community – both in urban and rural settlements – understood their responsibility in creating a new generation of intellectual elite, a custom that would last over

⁴⁴ Discovered in a 1504-printed book preserved at Brukenthal Museum Library, Sibiu, v. V. 74. See also Dincă, *Scrisori private*, 377-378, 382.

⁴⁵ Ciprian Firea, “Last Wills of Transylvanian Saxon Parish Priests on the Eve of the Reformation (ca. 1500-1580). Some Thoughts about their Meaning”, in *Common Man*, ed. by Ulrich A. Wien, 191-202.

⁴⁶ SJAN Cluj, Primăria orașului Bistrița, no. 338: *cum omnibus libris meis tum sacre theologie, iuris canonici et civilis pro studere volentibus*.

⁴⁷ Budapest, Magyar Nemzeti Levéltár Országos Levéltára / Database of Archival Documents of Medieval Hungary (hereafter MNOL), DL 21091: *Item pecuniam repositam in ladula apud conventum predicatorum in Cibinio, videlicet 24 florenos in auro et in moneta pecuniaria in nepotibus meis Stephano et Andree pro studio ipsorum elgo et non ut vanitatibus consumant... Similiter et ipso Martino Iohannis dentur de eadem pecunia in pixide rubea 20 floreni, ut et ipsi ad universitatem pro studio proficiscerentur, lego*.

the next centuries, even after the German communities replaced the Latin rite with the Lutheran confession⁴⁸.

One exceptional academic path needs to be mentioned in this context: that of Martin Capinius or Kapp from Sibiu/Hermannstadt, who receives his doctoral degree in canon law in February 1505 in Bologna⁴⁹. Two months later he is a member of the Faculty of Law in Vienna and is elected dean in October the same year⁵⁰, and two more times in 1510 and 1516. Martin was in close relation to his home province, where he had been appointed to the office of parish priest in Cisnădie/Heltau⁵¹; yet his ecclesiastical path is soon abandoned for political involvement and a superior secular position as mayor of Vienna.

Reading and collecting law books

The acquiring of legal expertise by the Transylvania parish clergymen is documented not only by tracing back those who studied abroad at law schools, but also by putting together the fragments of the libraries owned in the later Middle Ages by the parish churches. *Decretum Gratiani*, *Liber extra*, *Liber sextus* or *Clementinae constitutiones*, *Codex Iustiniani*, *Speculum iudiciale* etc., together with many other important names of the medieval legal theory (among others Baldus de Ubaldis, Guido de Baysio, Iohannes Calderinus, Iohannes Andree, Iohannes Petrus Ferrariis, Franciscus de Zabarellis, Panormitanus) are available in the medieval libraries in Transylvania in

⁴⁸ SJAN Sibiu, Capitlul evanghelic C. A. Bistrița, no. 373, see Konrad G. Gündisch, Adinel C. Dincă, "Studiendarlehen für siebenbürgische Studierende im Reformationseitaler. Eine kaum bekannte Bistritzer Quelle aus den Jahren 1565-1626", *Studia Universitatis Babeş-Bolyai. Historia* 64, no. 1 (2019): 59-86.

⁴⁹ A concise biography in Haraszi Szabó, Kelényi, *Students from Hungary at the Universities of France, England, Italy and Germany in the Middle Ages*, no. 305.

⁵⁰ Maisel, Seidl (eds.), *Die Matrikel der Wiener Rechtswissenschaftlichen Fakultät* vol. II, 72.

⁵¹ Dincă, "The University and the Parish", 341-342.

considerable number, some even copied locally. A special case of parish library, preserved *in situ*, belongs to Saint Walpurgis' church in Cisnădie/Heltau (a market-town situated in the outskirts of Sibiu/Hermannstadt), which had around 1500 at least 25 books, if one takes into account the 12 manuscripts and 4 incunabula preserved locally and the other manuscripts and printed books that can now be found in various libraries from Sibiu, Cluj-Napoca (Romania), and Budapest (Hungary). About canon law, the most representative text is Ms D. 14: *Casus Legum Sive Suffragia Monachorum*, copied before 1417 most probably in Transylvania, a text originating in the Parisian university ambiance and seemingly commissioned by Martin of Cisnădie, parish priest in Sânpetru/Petersberg and former student of Canon Law in Vienna⁵². In the same library of Cisnădie, the annotations made around 1509 by *Valentinus Apoldiensis* on the blank pages of an *incunabulum*⁵³ summarise matrimonial provisions, remarks regarding the validity of testaments according to Justinian's *Institutes*, and canonical clauses of the ecclesiastical burial.

Various parish accounts, some compiled before the conversion to the Protestant Reformation (mid-sixteenth century), others after this date, contain statements regarding their book holdings: St Mary parish church in Sibiu/Hermannstadt had quite an impressive inventory⁵⁴, *Matricula Plebaniae Cibiniensis*, recording in 1442 a list of 154

⁵² *Expliciunt suffragia legum super quinque libros decretalium, empte (!) per dominum Martinum Heltnansis (!) plebanum in Petersberg, anno Domini Millesimo CCCC^o XVII^{mo}*. See Adinel C. Dincă, “«Casus legum» im spätmittelalterlichen Siebenbürgen (Handschrift D. 14, Kirchengemeinde Heltau / Cisnădie)”, *Transylvanian Review* 25, Supplement 1 (2016): 312-317. On the importance of this particular work for the ecclesiastical legal practice, see Martin Bertram (with Marguerite Duynstee), “Casus legum sive suffragia monachorum. Legistische Hilfsmittel für Kanonisten im späteren Mittelalter”, in Martin Bertram, *Kanonisten und ihre Texte (1234 bis Mitte 14. Jh.)*, (Leiden: Brill, 2013), 37-90.

⁵³ [St Walpurgis] Evangelical church Cisnădie, Inv. 1355: Guido de Monte Rocherii, *Manipulus curatorum*, Straßburg: Printer of „Legenda aurea”, 30.VIII.1483, [ISTC ig00586000], bound together with *Gesta Romanorum*, Straßburg: Printer of „Vitas Patrum”, ca. 1484/1486 [ISTC ig00287000].

⁵⁴ Alba Iulia, Batthyaneum Library, Ms II.135.

books⁵⁵. The legal texts are well represented (*Decretum Gratiani, Liber sextus, Clementinae*, etc.) together with liturgical manuscripts, biblical texts with or without comments, sermons, theological literature, and even classical literature⁵⁶. Some of the manuscripts mentioned in the *Matricula* can still be found today in a local repository in Sibiu/Hermannstadt. In the 1544 inventory of Ghimbav's parish church assets (a village situated near Braşov/Kronstadt, the capital of Țara Bârsei/Burzenland region), the priest Michael enumerates a papal indulgence and some useful legal texts: decrees, works of Pope Clement V (*Constitutiones*) and the alphabetical compendium of ethics and canon law of the Dominican Silvestro Mazzolini da Priero (1456-1523): *Summa summarum que Sylvestrina dicitur*⁵⁷. Such books were used in the same manner as in other European contexts, not as bibliophile values but as instruments of administration and juridical praxis. The need for juridical knowledge was self-explanatory for the medieval parish priests who operated constantly with practical aspects derived from the interdependence of canon law and civil law.

Legal proficiency seems to have been a prerequisite for a parish priest career in the German communities of Late Medieval Transylvania. Important churches, mostly in urban centres, but in rural settlements alike, must have had a special preference for lawyers-priests, like Sibiu/Hermannstadt or Biertan/Berthalben⁵⁸, a tendency that, after

⁵⁵ Adinel C. Dincă, "Der Buchbesitz der Marienkirche in Hermannstadt um die Mitte des 15. Jahrhunderts", *Zeitschrift für Siebenbürgische Landeskunde*, 41 (2018): 17-32.

⁵⁶ Some other book lists redacted before 1500 in relation to the parish church were focused on theological and liturgical texts.

⁵⁷ ŞJAN Braşov, Primăria oraşului Braşov. Colecţia Socoteli şi impozite ale satelor din Țara Bârsei, Pachtet XXX/1: *Item, des Bapst decret myth den decretalen der ablas in das erst, das ander, das dryth, in das 4, 5, 6 decretalen bucher, auch die Clementina und dy Silvestrina*.

⁵⁸ A survey of the Latin rite parish priests documented in Biertan – a locally relevant market town that would be the administrative capital of the Transylvanian Saxons' Lutheran Bishopric from 1572 to 1867 – between 1283-1547 counts 14 individuals, half of them being graduates of law schools. In Sibiu, between 1424 and 1536, 8 successive parish priests have also acquired higher academic titles at law faculties abroad. The chronological sequence of the church personnel was reconstructed as

1500, would expand over most parishes of the province. Anyway, there are some fortunate contexts in which small collections of legal texts owned by priests are still preserved, at least partially⁵⁹. One such library belonged to *Martinus Pillades Cibiniensis* – documented activity between 1501 and 1540 as parish priest in Amnaş/Hamlesch 1501-1514, Şura Mare/Großscheuern 1514-1521, Sibiu/Hermannstadt 1521-1531 and Richiş/Reichesdorf 1531-1540 – counting at least 3 printed books on legal matters⁶⁰.

Other collections of legal literature related to the Transylvanian Saxons' parish environment have only survived in circumstantial instances, such as the mentioning of some *libros iuris canonici* belonging to *Mattheus* from Rupea/Reps († c.1503), parish priest in rural settlement Dealu Frumos/Schönberg, bequeathed to the Dominican convent from Sibiu/Hermannstadt⁶¹. Simon (†1501) parish priest in the village Hărman/Honigberg (near Braşov/Kronstadt), also cites in his testament several legal texts among the books passed on to his church⁶²: a *summa Astexani* [the canon law treatise *Summa*

part of the project *Fasti Ecclesiae Transsilvaniae* I, developed by Ciprian Firea and Adinel C. Dincă, additionally supported by David M. Smith.

⁵⁹ Further examples quoted in Dincă, “Medieval Literacy in Transylvania”.

⁶⁰ Sibiu Brukenthal Museum Library, v. V. 89: *Clementis papae V, Constitutiones una cum apparatu Ioannis Andree*, Venetiis, 1502; v. V. 82: *Geminiano Dominicus de Sancto, Prima (et secunda) lectura super sexto libro decretalium*, Venetiis, 1502; v. V. 53: *Iohannes de Imola, Super clementinis*, Venetiis, 1502. This information is provisional, based on the current state of research in domestic institutions of memory.

⁶¹ MNOL DL 21091, the testament of Mattheus from Rupea, issued on February 2nd, 1502: *Item omnes libros meos, videlicet: Totum corpus iuris positum cum scritis super libros decretalium. Practicam novam. Vocabularium iuris. Institutiones. Margaritam deoce et alios libros iuris canonici. Item Bibliam. Summam Reyneris, que alias Pantbeloya intitularur 20 ... continentem. Sancti Thome: Rationale divinatorum. Mariale Bernardini ordinis Minorum et alios duos libros, videlicet Thomam de veritate et Contra gentiles et plures alios libros, tam in theologia, quam in iure canonico...* See also Karl Fabricius, “Geschichtliche Nebenarbeiten. III. Das Testament des Schönberger Plebans Mattheus von Reps aus dem Jahre 1502”, *Archiv des Vereins für siebenbürgische Landeskunde* 12 (1875): 373-378.

⁶² Braşov, Archive of the Evangelical Church, Ms. I. E. 144: *Liber Promptuarii*, f. 54r, a 1506-transcript of Simon's testament. Another donation made in 1483 by Simon, copied in the same registry at f. 179r, does not mention these books, see Gernot Nussbächer, “Ein Nachtrag zu Band VII des Urkundenbuchs zur Geschichte der Deutschen in Siebenbürgen”, in *Saşi şi concetăţenii lor ardeleni: Studia in honorem Dr. Thomas Năgler* [The Transylvanian Saxons and Their Neighbours: Studies in honorem

de casibus conscientiae by Astesanus of Asti † c.1330], and *clementinas* [*Constitutiones* by Pope Clement V, 1314]. Considering the contextual evidence surrounding those books, such pieces of ‘savoir utile’ – reusing the term coined some time ago by Jacques Verger – must have been purchased during academic sojourns, while getting the law degree in Vienna (*Mattheus ex Ruppes, iuris pontificii baccalarius*), Krakow (possibly *Simon Nicolai de Corona*), or Bologna (*Martinus Pillades*)⁶³.

Legal practice

Parish priests acted more than once as legal representatives of their communities in various disputes, most of them boundary- or income-related⁶⁴, that would be presented before all ecclesiastical tribunals, up to the highest judicial authority, the Holy See. Even if the importance of legal education and erudition had triggered a process of professionalization within the *Latinitas* since the twelfth century⁶⁵, its effects on ecclesiastical customs were visible in Transylvania mostly from the 1400s onwards. Marcus Polnar, eventually parish priest of the rather important urban community of Sighișoara/Schäßburg, provides us with an unambiguous example of social mobility due to legal education⁶⁶. Although we are informed about Marcus’ title as doctor in canon and civil law only from his official correspondence (*Marcus, legum doctor* acting as the judge of an

Dr. Thomas Nægler], ed. by Ioan M. Țiplic, Konrad G. Gündisch, (Alba Iulia: Altip, 2009), 91-94.

⁶³ Tonk, *Erdélyiek egyetemjárása*, no. 1529, 2166, 1465.

⁶⁴ Various “Hattert-Processe” during the 16th century are mentioned by Franz Zimmermann, *Das Archiv der Stadt Hermannstadt und der sächsischen Nation in Siebenbürgen* (Hermannstadt: Verlag des Archives, 1887), 21.

⁶⁵ James A. Brundage, *The Medieval Origins of the Legal Profession. Canonists, Civilians, and Courts* (Chicago: University of Chicago Press, 2008); Thomas J. McSweeney, *Priests of the Law: Roman Law and the Making of the Common Law’s First Professionals* (Oxford, Oxford University Press, 2019).

⁶⁶ Marcus attended the University in Vienna, see Tüskés, *Students*, no. 2888 and 4070. Further details on his career in Adinel C. Dincă, “Marcus Polnar (†1506): A Bright Star in the Constellation of a Transylvanian Family”, *Specimina nova*, XI, 2021, pp. 145-166.

ecclesiastical tribunal⁶⁷), as there are no university-issued sources to further support this uncontested statement, another indirect source – the personal correspondence of the influent Italian family Capodilista⁶⁸ – signals his presence as student at the Law Faculty in Padua in 1472. By 1493 Marcus held the elite position of dean (*decanus*) of Saschiz/Kydz Chapter and was a founder of the local confraternity of the Kalands Brothers. Documentary records place him between 1503-1505 in the position of ecclesiastical judge⁶⁹ and proctor for the town of Mediaș/Mediasch (nominated together with other Saxon parish priests with legal education)⁷⁰, an expertise that attests to his legal proficiency. Basically, Marcus' involvement in spiritual matters was focused on the social elevation and patrimonial enrichment of his family, who dominated the secular administration of Sighișoara/Schäßsburg for a few decades.

Parish priests frequently served as delegate judges (*iudices delegati*); for example, in 1446⁷¹, the archbishop of Esztergom assigns *Nicolaus* from Cislădie/Heltau, and *Valentinus*, the priest from Vurpăr/Burgberg, together with a few chaplains, to deliver a summons to the mayor of Sibiu/Hermannstadt. The following year Michael, parish priest in Cristian/Grossau and head of the local churchly congregation (*Capitulum Cibiniense*), is appointed delegate judge⁷² by the same prelate, the direct hierarchical superior for the Chapter of Sibiu/Hermannstadt.

⁶⁷ SJAN Sibiu, Colecția de documente medievale, U. V, no. 35.

⁶⁸ Elda Martellozzo Forin, "Conti palatini e lauree conferite per privilegio: l'esempio padovano del sec. 15", *Annali di Storia delle Università Italiane* 3 (1999): 109, the information has been identified in the Archivio di Stato di Padova, Notarile, 232, f. 105v, where Marcus Polnar is mentioned as a Hungarian student who needed to return a debt and a book to his professor of law.

⁶⁹ Appointment as delegate judge in 1503 by cardinal Pietro Isvalies †1511, legate for Hungary, Poland and Bohemia, see Karl Fabritius, *Urkundenbuch des Kisdler Kapitels vor der Reformation und der auf dem Gebiete desselben ebendem befindlichen Orden* (Hermannstadt: Michaelis, 1875), docs. CLVIII, CLIX and CLX.

⁷⁰ SJAN Sibiu, Colecția de documente medievale, U. V, no. 1879.

⁷¹ Gustav Gündisch, *Urkundenbuch zur Geschichte der Deutschen in Siebenbürgen*, vol. V (București: Ed. Acad. Rom., 1975), doc. 2529 and doc. 2531.

⁷² Gündisch, *Urkundenbuch zur Geschichte der Deutschen in Siebenbürgen*, vol. V, doc. 2567.

Since the fourteenth century, some deans of Transylvanian Saxon chapters have served as archbishopric vicars and judges in situations involving ecclesiastical justice (particularly disputes between parish priests over tithes)⁷³. Historical sources identify most of these elected deans (the highest position a local clergyman could climb on the ecclesiastical ladder) as jurists and canon law experts: *Franciscus decretorum baclarius (sic!) ac decanus Brasschouiensis necnon plebanus in castro Marie* in 1398⁷⁴, *Michael baccalaureus in decretis, plebanus in Insula christiana, decanus Cybiniensis* in 1447⁷⁵, *Georgius, decretorum licentiatu plebanusque in monte sancti Petri necnon decanus Braschowyensis* in 1454⁷⁶, *Petrus de Cibinio, artium et decretorum doctor venerabilisque capituli Cibiniensis decani plebanus in Wyzakna* in 1481⁷⁷, *Iohannes is iuris pontifici doctor, plebanus in Czeyden, almi capituli Braschouiensisque decanus* in 1483⁷⁸, just to quote a few of them. *Anthonus decretorum doctor, plebanus Cybiniensis* and canon of the Transylvanian bishopric is even awarded the title of *vicarius in spiritualibus* from 1442 to 1444⁷⁹.

On the other hand, the boundaries between secular and ecclesiastical matters were blurry: the town council of Sibiu/Hermannstadt complained about the dean's engagement in secular matters in a

⁷³ Franz Zimmermann, Carl Werner, Georg Müller, *Urkundenbuch zur Geschichte der Deutschen in Siebenbürgen*, vol. II (Hermannstadt: F. Michaelis, 1897), doc. 638: *Nos Christianus decanus Cybiniensis plebanus de Magno horreo iudex et vicarius reverendi in Christo patris domini archiepiscopi Strigoniensis...*

⁷⁴ Franz Zimmermann, Carl Werner, Georg Müller, *Urkundenbuch zur Geschichte der Deutschen in Siebenbürgen*, vol. III (Hermannstadt: F. Michaelis, 1902), doc. 1416.

⁷⁵ Gündisch, *Urkundenbuch zur Geschichte der Deutschen in Siebenbürgen*, vol. V, doc. 2567.

⁷⁶ Gündisch, *Urkundenbuch zur Geschichte der Deutschen in Siebenbürgen*, vol. V, doc. 2933.

⁷⁷ Gündisch e.a., *Urkundenbuch zur Geschichte der Deutschen in Siebenbürgen*, vol. VII, doc. 4396.

⁷⁸ Nussbächer, "Ein Nachtrag zu Band VII des Urkundenbuchs zur Geschichte der Deutschen in Siebenbürgen", 91-92.

⁷⁹ Gündisch, *Urkundenbuch zur Geschichte der Deutschen in Siebenbürgen*, vol. V, doc. 2441, 2473.

letter from 1443 addressed to the archbishop of Esztergom⁸⁰ – *Cristianus*, parish priest in the village Gușterița/Hammersdorf and dean of the local chapter at that moment, was a graduate of the Faculty of Law in Vienna⁸¹ and specifically nominated as a doctor in the said letter. On another occasion, in 1451⁸², the town council of Brașov/Kronstadt was reprimanded by the ecclesiastical overseer from Esztergom for interfering with the ecclesiastical jurisdiction over testamentary matters. These instances suggest a complex relationship between the parish priests and the lay authority, especially involving legal claims over the management of financially related affairs.

The letter mentioned in the introduction of this paper serves as evidence for legal advice and counsel provided by an anonymous jurist familiar with the proceedings of the local ecclesiastical court of justice and the channels of appeal. Such consultative contexts are, however, rare occurrences within the Transylvanian documentary corpus, although various forms of written juridical assistance (provided a legal fee was paid) were common in relation to smaller ecclesiastical courts throughout Europe⁸³.

Indirect arguments indicate the legal formation of the auxiliary clerical body as well: *Paulus*, a provost of Sibiu/Hermannstadt, completes his doctoral studies at the Pécs Faculty of Canon Law in 1369⁸⁴, the parish preacher *Iohannes* from Cluj/Klausenburg is

⁸⁰ Gündisch, *Urkundenbuch zur Geschichte der Deutschen in Siebenbürgen*, vol. V, doc. 2468.

⁸¹ Mühlberger (ed.), *Die Matrikel der Wiener Rechtswissenschaftlichen Fakultät*, vol. I, 45, 48, 49.

⁸² Gündisch, *Urkundenbuch zur Geschichte der Deutschen in Siebenbürgen*, vol. V, doc. 2748.

⁸³ James A. Brundage, *Medieval Canon Law*, (Abingdon: Routledge, 1995), 66-67; Brundage, *The Medieval Origins of the Legal Profession*, 407; 456-459.

⁸⁴ Tamás Fedeles, “in dicta civitate Quinque Ecclesiensi de cetero sit studium generale». Short History of the Medieval University of Pécs”, in *University and Universality – the Place and Role of the University of Pécs in Europe from the Middle Ages to Present Day. (International University History Conference – 12-13 October 2017*, ed. by Ágnes Fischer-Dárdai, István Lengvári, Éva Schmelczler-Pohánka, (Pécs: PTE Egyetemi Könyvtár, 2017), 91-92.

appointed around 1444 legal representative (*procurator*) in a case⁸⁵, while another preacher from Sighișoara/Schäßburg, *Marcellus* acts in 1509 as mediator-judge in a case involving the common boundary of two adjoined parishes⁸⁶. Later, in 1523 *Georgius*, a preacher in Cristian/Grossau (near Sibiu/Hermannstadt), acted as the *procurator* of his brother, a parish priest, in a case tried by the dean of the Sibiu Chapter⁸⁷, as did a chaplain from Sibiu, *Martinus Ffoelker*⁸⁸ (also a notary public and later notary of the Sibiu chapter). *Georgius Reichersdorffer*, a graduate of the University of Vienna in 1510⁸⁹, a notary public and town notary of Sibiu/Hermannstadt between 1521-1525⁹⁰, arbitrated as a layman on behalf of Sibiu chapter a dispute between two inhabitants of the city⁹¹. *Michael Molitoris*, notary public, *baccalaureus*⁹² and *presbiter*⁹³ in Sibiu/Hermannstadt, also acts on countless occasions as a *procurator* around 1520-1530.

Many notaries public in Transylvania during the Middle Ages were also parish priests or belonged to the secular clergy in the parish environment; even if there are only a few examples from the first half of the fifteenth century, the number of *clerici – notarii* increases later, especially in the first decades of the sixteenth century⁹⁴. Moreover, it was assessed that at least 60% of the notarial instruments

⁸⁵ Zsigmond Jakó, *A kolozsmonostori konvent jegyzőkönyvei, 1289-1556* [The Protocols of the Cluj-Mănăștur Convent], vol. I: 1289-1484 (Budapest: Akadémiai Kiadó, 1990), no. 500; MNOL DL 36406. p. 26, no. 2.

⁸⁶ 1509.VII.11; Fabitius, *Urkundenbuch zur Geschichte des Kisder Kapitels*, doc. CLXXV.

⁸⁷ SJAN Sibiu, *Protocollum Capituli Cibiniensis*, I, f. 9v.

⁸⁸ SJAN Sibiu, *Protocollum Capituli Cibiniensis*, I, ff. 4v, 67v, 97r, 119v.

⁸⁹ Tüskés, *Students*, no. 6391.

⁹⁰ Dincă, "Urban Literacy in Medieval Transylvania", 127-128.

⁹¹ SJAN Sibiu, *Protocollum Capituli Cibiniensis*, I, f. 13v.

⁹² Tüskés, *Students*, no. 6369.

⁹³ SJAN Sibiu, Fond Capitlul evanghelic C. A. Sibiu, Acte cu instrumente contemporane de evidență, no. 71.

⁹⁴ Several examples are quoted in Dincă, "Mentalità e pratica legale".

issued in Transylvania had to do with specific aspects of the parish⁹⁵. It is worth mentioning the case of *Stephanus Heynczimanni*, parish priest in Râșnov/Rosenau (near Brașov/Kronstadt), who, acting in his secondary quality as notary public, compiled a public instrument in 1388 that, together with another parchment sheet containing a fourteenth-century text of civil law, ended up in the binding – probably executed locally – of a contemporary Italian-copied legal manuscript, *Decretalium liber sextus, cum apparatu Ioannis Monachi*⁹⁶.

Judicial misdemeanours produced by various members of the secular clergy are mirrored by an important number of archival texts that document the activity of parish churches and deaneries as courts of justice in matters involving clerical discipline, disputes over tithes or parish boundaries, matrimonial issues of the parishioners, etc. Such are, for instance, the manuscript *Protocollum Capituli Cibiniensis* I, covering the period 1523-1540, preserved at the Sibiu County Branch of the Romanian National Archives and comprising decisions and sentences issued during the ecclesiastical trials of the Sibiu Chapter, or the *Liber promptuarii Capituli Brasschowiensis*, a manuscript now preserved in the archive of the “Evangelischen Kirche A. B.” in Brașov.

The first quoted manuscript is a compilation of court hearings in form of summaries, specifying the nature of the cases, the testimonies of plaintiffs, defendants and their lawyers, witnesses, as well as recording the issued sentences. In some instances, the cases were further referred to the superior ecclesiastical see, that of the Archdiocese of Esztergom, or even to the Apostolic See, while on other occasions the case was referred to the secular court. This unique Transylvanian historical source, not yet published, reflects the three-dimensional relationship between legal theory, practitioners and the social encounters around a court of justice, exemplified by cases of

⁹⁵ Tonk, “A középkori közjegyzőség”, 42.

⁹⁶ Austria, Sankt Florian Abbey, *Codex San-Florianensis* III, 3; see also Albin Czerny, *Die Handschriften der Stiftsbibliothek St. Florian* (Linz: Ebenhöch, 1871), 238-239.

sexual misconduct, dissolution of marriages and dowry disputes (canon family law heavily influenced by Roman jurisprudence), property and inheritance claims (especially pertaining to the shared parish patrimony), and excommunication for crimes (cases of clerical discipline that might be appealed to the Apostolic court). In this tribunal, testimony from witnesses is frequently used as evidence, merging regional oral traditions with the procedural requirements of the *ius commune* (minimum number of witnesses, their age, incompatibility issues, social status, etc.).

The latter manuscript, a cartulary of mixed content, covers the fifteenth- and sixteenth-century statutes of the Țara Bârsei/Burzenland Chapter⁹⁷, a Saxon ecclesiastical unit that was also exempt, similar to Sibiu/Hermannstadt, and under the jurisdiction of the Archbishop of Esztergom. It contains an enumeration of the types of cases tried before the local ecclesiastical court, compiled in 1452 by the dean of the Chapter, *Georgius* († 1465), an alumnus of the Vienna University⁹⁸ and a *decretorum licenciatus artiumque baccalaureus*. The jurisdiction of this ecclesiastical unit, wider than that of other Hungarian deaneries of the time, followed the provisions of the *corpus* of canon law: *Decretum Gratiani* (ca. 1140), *Liber Extra* of Gregory IX (1234), *Glossa ordinaria* to the *Liber extra*, *Liber Sextus* of Boniface VIII (1298)⁹⁹, and even had some references to emperor Justinian's sixth-century *Novellae Constitutiones*, pertaining to the corpus of civil

⁹⁷ A brief description of this manuscript in Adrian Papahagi (coord.), Adinel C. Dincă and Andreea Mârza, *Manuscrisele medievale occidentale din România: Censur [A Census of Western Medieval Manuscripts in Romania]*, (Iași: Polirom, 2018), no. 302. A full edition of the text has not yet been published.

⁹⁸ Tüskés, *Students*, no. 1906.

⁹⁹ Péter Erdő, *Die Quellen des Kirchenrechts. Eine geschichtliche Einführung* (Frankfurt am Main: Peter Lang, 2002); Péter Erdő, *Kirchenrecht im mittelalterlichen Ungarn: gesammelte Studien* (Berlin: Frank&Timme, 2005); Eltjo Schrage, Harry Dondorp, *The Sources of Medieval Learned Law*, in *The Creation of the Ius Commune. From Casus to Regula*, ed. by John W. Cairns, Paul J. Du Plessis, (Edinburgh: Edinburgh University Press, 2010), 7-56.

law¹⁰⁰. However, the volume does not record real judicial actions, such as lawsuits, hearings of witnesses or relevant sentences, but only theoretical aspects of a legal nature, as well as documents concerning the internal organization of the chapter.

Conclusions

Beyond its major characterization as a frontier society, Transylvania was indeed – repeating the title of a seminal book¹⁰¹ – a land «of colonization and cultural change». Thus, the reception and actual application of the written law in this periphery of the European Latin world can be best apprehended and described in the case of the German communities in Transylvania, who were deeply aware of their legitimate identity, as a phenomenon of legal acculturation between the customary-based Hungarian law and the Central European juridical model. The legal literacy fostered by the German parish church in late medieval Transylvania must be understood primarily as a typical consequence of an urbanized society and as an episode of intellectual history, with a far greater significance, however, due to the importance of the sacred space for pre-modern society. Becoming a parish priest was considered a career-path full of material and intellectual satisfactions for young Transylvanian Saxons, whose theoretical education, encompassing theological and legal expertise, emphasized pragmatic uses that shaped their professional skills and cultural production. They served not only as agents for the transfer of knowledge, but also as

¹⁰⁰ Szilvia Somogyi, *A brassói dékánság Kézikönyvénekegyik kánonjogi jegyzete. Adalékok az egyházi bíráskodás illetékességi körének történetéhez* [A Canonical Text in the Medieval Handbook of the Deanery of Braşov. Additions to the History of the Ecclesiastical Jurisdiction], in *Micae Medievales VII. Fiatal történészek dolgozatai a középkori Magyarországról és Európáról*, ed. by Csaba Farkas, András Ribí, Kristóf György Veres, (Budapest: ELTE BTK Történelemtudományok Doktori Iskola, 2018), 149-165.

¹⁰¹ Robert Bartlett, *The Making of Europe: Conquest, Colonization and Cultural Change 950-1350* (London: Penguin, 1994).

the link between urban and rural settings, more mobile than any other contemporary professionals. As a result, both the important municipal centres and the smaller agrarian settlements gravitating around them preserve traces of an advanced legal mentality: significant archival collections and solid indications of the existence of parish libraries. Much more than any other group in late medieval Transylvania, the German secular clergy reflect through their geographical and social mobility the unparalleled historical significance of the parish landscape as a contact zone between trans-regional values and elements of a local cultural environment. It emerges spontaneously in what sociology refers to as a “knowledge community”¹⁰², a socio-professional group with shared characteristics, defined by the accumulation, generation, and dissemination of knowledge or scholarly content. The contribution of parish priests to the reception and spread of civil and canon law in medieval Transylvania has not been yet sufficiently emphasized, a research topic to be soon investigated thoroughly.

If the available historical material seems to favour those who occupied the office of parish priest, documentary sources also reveal clues concerning the legal education and praxis of other members of the secular clergy (such as preachers, chaplains, schoolteachers). Although university matriculation books do not always allow the identification of all clergymen nominated in internal sources, the indirect evidence provided by the legal actions in which they were involved suggests that the number of individuals who studied law but did not, for various reasons, reach the top position in the parish organization, was higher than the one anticipated so far in the dedicated literature. A further scrutiny of university matriculation books, especially the Italian ones from Bologna, Padua, and Ferrara, coupled with the systematic study of internal resources: documents,

¹⁰² A discussion in Tjamke Snijders, “Communal Learning and Communal Identities in Medieval Studies Consensus, Conflict, and the Community of Practice”, *Horizontal Learning in the High Middle Ages: Peer-to-Peer Knowledge Transfer in Religious Communities*, ed. by Micol Long, Tjamke Snijders, Steven Vanderputten, (Amsterdam: Amsterdam University Press, 2019), 30-32.

manuscript and printed books, active careers, and pursuits in the field of justice administration, may refine the local historiographical landscape and its interpretative dispositions. In particular, the study of those fragments of medieval legal texts of a certain Italian origin (primarily Bolognese) present in various archives and libraries on the territory of Romania, could completely rewrite the history of cultural exchanges between the Central European and current Romanian historical spaces.

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