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Thoughts on Protestant ecclesiastical jurisprudence in Hungary: A methodological approach to research into Protestant Church law from the perspective of legal dogmatics and public law history

Refleksje nad protestancką jurysprudencją kościelną na Węgrzech. Metodologiczne podstawy badań nad prawem kościołów protestanckich w perspektywie dogmatyki prawa i historii prawa publicznego

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Abstract: This paper seeks to map the research trajectories in church law and, more broadly, in jurisprudence concerning Protestant churches, with a particular focus on the Reformed Church in Hungary. It highlights the various unexplored areas, aspects and sources of Protestant church law. To achieve these objectives, the study employs two primary methodological approaches: a public law historical approach and a legal-dogmatic analytical method. These two methodologies are inseparable from each other due to the role that the churches have played throughout legal history. Examples from the study illustrate that both these approaches complement and presuppose each other. Ultimately, the combined use of these methods facilitates clearer definitions and aids in the interpretation of contemporary issues in ecclesiastical law.

Key words: Protestantism; Reformed Church; legal dogmatics; freedom of conscience and religion; religious community; church; state; sovereignty

Streszczenie: Celem niniejszego artykułu jest zarysowanie kierunków badań nad prawem kościelnym oraz – w szerszym ujęciu – nad jurysprudencją dotyczącą Kościołów protestanckich, ze szczególnym uwzględnieniem Kościoła Reformowanego na Węgrzech. Uwaga skierowana jest na różne nieeksplorowane obszary, aspekty i źródła prawa kościołów protestanckich. Realizując cele artykułu, wykorzystano dwa podstawowe podejścia metodologiczne: historycznoprawne w perspektywie prawa publicznego oraz dogmatyczno-prawne. Obie te metodologie są ze sobą nierozerwalnie związane ze względu na rolę, jaką Kościoły odgrywały w historii prawa. Przykłady przywołane w artykule pokazują, że oba podejścia uzupełniają się i wymagają się nawzajem. Ich łączne zastosowanie pozwala na precyzyjniejsze ujęcia oraz ułatwia interpretację współczesnych zagadnień prawa kościelnego.

Słowa kluczowe: protestantyzm; Kościół Reformowany; dogmatyka prawa; wolność sumienia i religii; wspólnota religijna; kościół; państwo; suwerenność

Introduction

This study was prompted by the presentation of Dean Sándor Gaál at the Szárszó Conference of the Reformed Church, held in Balatonszárszó, Hungary, from 10 to 13 August 2023. His presentation discussed in detail the concepts of the "popular church" versus the "confessing church." Taking a very "brave" approach by "bringing new considerations

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to the fore,"[1] the presenter addressed the "evergreen" question: "Have we turned into a *confessing church* from a *popular church*?"[2] Gaál referenced the 1995 Mission Act of the Reformed Church in Hungary, whose preamble declares, "[The] Reformed Church of Hungary is both a popular church and a confessing church."[3]

This, of course, raises the following question: what do the terms "popular church" and "confessing church" actually mean? What significance lies in distinguishing between the two, and what purpose does the discourse surrounding this terminology serve? According to Gaál, this debate – or more precisely, the ongoing need for clarification – has consistently paralleled the clerical and theological developments of the twentieth century, remaining a constant companion to both. Gaál further asserted, citing German and Dutch theologians Dietrich Bonhoeffer and Wim Dekker, that the confessing church "split off from the mainstream, many-membered church of a complex quality, and formed its own, small-membered church made up of those who joined exclusively based on their statement of faith."[4]

When considering the nature of Protestant church jurisprudence, a step-by-step approach is essential, carefully examining the notions of church, church law and church jurisprudence individually. In particular, it is necessary to define the concepts of the Protestant church, Protestant church law and Protestant jurisprudence. Obviously, this paper only scratches the surface of this topic. Nevertheless, it is important to revisit enduring questions periodically and examine them collaboratively, situating these issues within a new context. As the presentation referenced in the Introduction demonstrates, the discourse surrounding the concept of the church remains an enduring topic, even within a single denomination.

The title above identifies legal dogmatics and public law history as the proposed approaches. Both possess significant potential, with each focusing on different aspects of the interpretive challenges inherent in Protestant church jurisprudence. In what follows, we aim to outline the initial steps and direction for analysing the areas of Protestant jurisprudence that have, until now, remained largely unexplored.[5]

1. The legal dogmatics and public law history approach

To begin with a broader perspective, we can derive the conceptual elements of Protestant jurisprudence from the framework of fundamental rights. Traditionally, the focus

1 Remark by Gábor Zila following the presentation. See: Gaál, Sándor: "Népegyházból hitvalló egyház lettünk?" Presentation at the Szárszó Conference of the Reformed Church 2023, https://www.youtube.com/watch?v=SVYImyNUHmc [accessed: 31 May 2025]. Conference report has been published in *Confessio* 2023/4, https://confessio.reformatus.hu/v/nepegyhazbol-hitvallo-egyhaz-lettunk/ [accessed: 31 May 2025].

2 Gaál 2023.

3 Act II of 1995 on the Mission of Hungary's Reformed Church, https://reformatusegyhaz.hu/documents/920/1995._%C3%A9vi_II._tv._Misszioi_tv..pdf [accessed: 31 May 2025].

4 Bonhoeffer 1966, 18–32. This passage is referenced by Wim Dekker discussing the view that those awaiting the purification of the popular church see renewal in the reduction of its members. See: Dekker 2015, 35–36. This was also referenced in the presentation by Sándor Gaál (see note 2).

5 See Berkmann 2021, 195.

has been on the vertical dimension of legal relations associated with fundamental rights, where the individual (as a religious person) and the religious community (both as a collective subject of religious practice and as an institution) are the beneficiaries, while the State is obligated to guarantee the fundamental right to freedom of conscience and religion. In recent years, however, the examination of the horizontal effects of fundamental rights has gained increasing prominence in academic jurisprudence.[6] Beyond the vertical relationship with the State, the interactions among individual churches, religious denominations and individuals constitute a horizontal network of legal relationships. Today, not only large corporations but also churches and religious communities can assume obligations under fundamental rights frameworks, for instance, through the mandatory application of the General Data Protection Regulation, the management of public funds or legal responsibilities arising in labour and employment law contexts, particularly for church-run institutions that perform public duties. This refers to public education, higher education, social and health care institutions that are maintained by the Church but financed by the State from public funds in order to perform public tasks. At the same time, however, the Church may require religious teachings in the operation of these institutions. In practice, this can lead to a contradictory situation where the prohibition of discrimination must be guaranteed, but the Church wants to give preference to employees belonging to that religion in the hiring process.

It is within this context that we examine whether a detailed analysis of the Protestant concepts of church, church law and church jurisprudence – distinguishing them from those of other denominations – is warranted. The simple answer is "yes," although – given that the rationale is often shaped by historical circumstances and the prevailing balance of power – placing this analysis within the framework of public law history reveals the potential fragility of such conceptual systems. The historical evolution of these notions demonstrates how specific rights operated in different periods. For example, the church governance mandates of kings, which structured the Roman Catholic state church system, were significantly reinterpreted after the Reformation, particularly as the organisational frameworks of Protestant churches strengthened and their rights were gradually expanded. This process highlighted that church-related laws cannot be standardised, given the substantial organisational differences between Protestant churches and the Catholic Church.

In the church law literature of the pre-World War II era – both Protestant and Catholic – the rights of the state concerning religion (the church) were generally divided into two main categories. The first, *jura in sacra*, primarily referred to rights related to the internal governance of churches, some of which were allocated to the state.[7] These rights

6 "Obligations can be interpreted partly in the context of a vertical relationship (between the individual and the state) and partly in that of a horizontal one (between the individual and other members of society). The common core of horizontal obligations is the constitutional requirement to respect the rights of others, which is given special emphasis by the fact that violations of fundamental rights (harming fellow human beings) are not only committed by representatives of public powers, but also by (transnational, multinational) businesses and other organisations or individuals. […] This leads to the issue of the third-party effect (Drittwirkung)." See: Chronowski 2022, 37–38.

7 Kováts 1942, 42.

(*jus sacrorum*, Kirchengewalt) typically encompassed the church's jurisdiction over its members (*potestas ordinis et iurisdictionis*).[8] The second category, *jura circa sacra*, encompassed rights derived from the state's (or ruler's) sovereignty over religious or church matters. This concept emerged with Reformation as the notion of "sovereign rights" concerning church or religion.[9]

There was no unanimous consensus in the professional literature regarding which specific rights fell under *jura circa sacra*. However, general agreement existed on the following entitlements: a) *jus reformadi*: Multiple interpretations exist. In Luther's time, the right to reform faith belonged to German princes. Later, the church (synod) gained the right to establish doctrines of faith and enact church reforms, while the state retained the authority to set conditions for the foundation of new denominations; b) *jus supremae inspectionis: the state's right of supreme supervision* over the churches operating on its soil (Article 20 of Act XLIII of 1895 established the legal category of a legally recognised religious denomination "under the protection and supervision of the state"). Technical literature assigned into the same category *jus placeti* as well (the state's right to recognise church decrees as valid on its soil only if the king has provided prior consent to said decrees, e.g. papal bulls) and *jus cavendi* (the state will allow the establishment of a religious institution only if did not consider it dangerous, exercising a form of veto); c) *jus advocatiae:* entails state protection and support for a church that has legal personality or operates as a public body; this support may be financial or may comprise state assistance in the implementation of internal decisions; d) *apellatio ab abusu:* the right of the state to review and overturn complaints lodged against church resolutions.[10]

Unlike the rights discussed above, the classification of the right of supreme patronage (*jus supremae patronatus*) under classic sovereign rights – as explained by Péter Gyetvai – was disputed in the technical literature between the two world wars. This was because the right was actually granted by the church to the state and was exercised exclusively in connection with the Catholic Church. Essentially, it constituted a "positive right of disposition" and was therefore not considered part of *jura circa sacra*. Instead, it was interpreted as one of the so-called "defensive rights," which included nomination of church benefices and granting of benefits; church organisational decisions (e.g. creation of a new diocese, introduction of a new monastic order into the country); supervision of benefits and estates granted by the king (e.g. consent to alienation, seizure); universal patronage (the ability to grant a patronage) and other honorary rights (e.g. the "apostolic" royal majesty title). According to general interpretation, if the royal throne was vacant or the kingdom ceased to exist, this right did not pass to the Hungarian state, as the right of patronage was tied to the Holy Crown. Pursuant to Act I of 1920 (based on its explanatory notes),

8 Gyetvai 1938, 5.
9 Ibidem.
10 Kováts 1942, 41–45; Gyetvai 1938, 5–13.

this was precisely why the governor was not entitled to exercise the right of patronage,[11] particularly the associated right of appointment.[12]

Although the constitutional continuity and organic development of law in Hungary were interrupted[13] after World War II, the newly emerging political system and socialist regime sought to exploit the institution of state supervision and patronage rights – or at least their key elements. The title of the first bill of Decree-Law No. 20 of 1951 was "About the exercise of the right of supreme patronage and rights of patronage." According to the draft, the right of supreme patronage was vested in the Presidential Council and exercised by the State Office of Church Affairs (ÁEH). The draft further stated that the State of Hungary intended to exercise not only the right of state patronage but also the public and private rights of patronage.[14] Although the 1949 Constitution declared the separation of church and state, the draft decree asserted that Hungary wished to continue exercising, "as a public authority over the Catholic Church, the right of supreme patronage that is rooted in centuries of legal tradition and has been consistently declared effective by law."[15] Following formal separation, it was clear that the state could not exercise the right of patronage in principle. However, it retained a form of "prior veto," based on the rationale that the state provided substantial financial support to the church; accordingly, churchmen deemed "politically gravely objectionable" were to be barred from senior positions, and "foreign will" was not to prevail in the appointment of church officials.[16]

With the establishment of the ÁEH, the state sought to exercise supervisory rights, at least in terms of mandates. Shortly thereafter, a decree law was issued regulating the appointment to certain church positions, notably omitting the terms "right of supreme patronage" and "right of patronage." To preserve the state's influence over these appointments, the Presidential Council of the People's Republic reserved the right of "prior consent" for filling positions in the Catholic Church that had previously fallen under the right of supreme patronage.[17]

As noted above, after 1956, the party-state leadership sought to use legal mechanisms to extend its influence over senior appointments in Protestant churches as well. However,

11 Gyetvai 1938, 9–13. Ottó Bihari pointed out that the minister's reasoning to Act I of 1920 "emphasized that regardless of the conditions of transition, the state in principle retains this right, and even exercises it if necessary." See: Bihari 1984, 107. Andor Csizmadia drew attention to the disputes surrounding the right of supreme patronage as follows: "No unanimous stance emerged in the government regarding the nature and exerciser of the right of supreme patronage. Essentially, the debate revolved around the right of appointment. The question was whether the governor, as interim head of state, could exercise the power of appointment under the right of supreme patronage. […] The clash of opposing opinions resulted in the usual compromise of the ruling classes, embodied in Act I of 1920 which regulated the exercise of the head of state's powers. […] In the explanatory memorandum to the Act […] the government's stance was that owing to its legal nature, the right of supreme patronage was 'closely integrated with the sacred crown' and thus allowed for the possibility that it might be exercised during the period of governorship." Csizmadia 1966, 270–271.

12 Andor Csizmadia pointed out that the law referred to the right of supreme patronage in general, whereas in practice, this only entailed the right of appointment associated with that patronage. Csizmadia 1966, 270–271.

13 Köbel 2005, 18.

14 National Archives of Hungary, XIX-A-21-a-79/1951. See also: Köbel 2005, 39; Köbel 2017; Köbel 2019, 165–185; Orbán 1960, 281–309; Balogh 1996.

15 National Archives of Hungary, XIX-A-21-a-79/1951. See also: Köbel 2005, 39; Köbel 2017; Köbel 2019, 165–185.

16 National Archives of Hungary, XIX-A-21-d-008/1957. See also: Köbel 2005, 39; Köbel 2017; Köbel 2019, 165–185.

17 As Jenő Gergely stated, "the right of consent was a socialist 'creation.'" Köbel 2005, 40.

it faced challenges in identifying "historical" justifications for applying the institution of "prior consent by the state" to Protestant denominations. Let us now examine how the one-party state implemented the key elements of these historical church law institutions in relation to the Reformed Church and consider the conclusions that can be drawn from this experience.

In the agreement concluded between the government of Hungary and the Reformed Church in 1948, the government declared that it "recognizes and provides for the complete freedom of religious practice by all possible and necessary means," and the Reformed Church stated that "the legislature and government of the Republic of Hungary have guaranteed and protected the free practice of religion so far." The Hungarian government also stated that, with the enactment of Act No. XXXIII. of 1947 and by providing aid for the church's personnel-related and other operating expenses, they "enabled the church to maintain the existing framework of church life."[18]

In the referenced agreement, the government recognised the self-governing function of the Reformed Church, indicated in the text by the term "jurisdiction" in brackets. It is important to quote the relevant paragraph from the agreement: "The Government of the Republic of Hungary also considers *the self-governing (iurisdictio) activity of the Church to* be within the scope of the free functioning of church life, within the framework and in the manner as this activity is regulated by the church laws approved by the Head of State at any given time."[19] Furthermore, the government "acknowledged" the Reformed Church's efforts to implement the principle of a "free church in a free state." Until the implementation was completed, the government guaranteed, by the Agreement, the payment of state aid (for personnel and other expenditures) to the church until 31 December 1968, at which point "all payment of state aid shall cease."[20] Notably, the agreement made no mention of sovereignty, the (supreme) right of supervision or issues related to senior church positions.[21]

In 1957, ÁEH requested a legal opinion, presumably from law professor Andor Csizmadia, regarding the legal basis on which the state could enforce the right of prior consent – or exert influence – over the selection of senior officials in the Reformed Church. The resulting work, titled "The legal stance of the Reformed Church in the Hungarian state" and submitted to ÁEH on 4 March 1957, was a 14-page document providing a comprehensive historical overview and offering legal-dogmatic considerations for the legislation under preparation. Referencing the Carolina Resolutio of 1731, the law professor noted that when Charles III "extended his powers as head of state in exercising general supervision over the Catholic Church," he intended to "claim the same supervision mandate over the Protestants." According to the opinion, the 1734 decree supplementing the Resolutio was issued in this spirit, declaring that "both Protestant churches were entitled

18 *Hungarian Gazette*, No. 1948/227 (9.10.1948).
19 Ibidem.
20 Ibidem.
21 Regarding the agreements, Ottó Bihari explained that "the churches and denominations that signed the agreement in 1948 did not rule out the possibility of electing their officials with the state's (prior) consent" and added, "Thus an equal and normalized relationship was established between these churches." Bihari 1984, 107.

to elect four superintendents each, who were only allowed to take office after royal confirmation." The document further highlighted that although Joseph II's *Edict of Toleration* did not fully equalise Protestants with Catholics, Article 26 of 1791 "finally codified the freedom of religions in law" while sustaining the king's "right of supreme supervision" over the two Protestant churches, along with "other royal rights he possessed 'regarding the spiritual affairs of churches'" (e.g. disciplinary matters and supervision of synods). The opinion observed that, between the enactment of church policy laws in the late nineteenth century and "the end of the Horthy era, no new legislation affecting the Protestant churches can be found." Regarding the interwar period, it emphasised that "the Reformed Churches in Hungary passed laws at the fourth (1928) and fifth (1939) Budapest synods based on their right of self-government," which were "upheld and confirmed by the then head of state." The law scholar then interpreted the post-1945 situation, beginning with Act I of 1946, the Peace Treaty and Article XXXIII of 1947, describing these legal instruments as laws that "guaranteed the exercise of religious freedom for citizens," later "confirmed by the Constitution." He also referenced the "special convention" concluded between the state and the Reformed Church of Hungary in 1948.[22] The legal opinion then drew the following conclusions, which are worth quoting at length:

> The situation today is that the basic questions of the Reformed Church's religious freedom are still regulated by Act 26 of 1791. Many provisions of that act, including the ones pertaining to the state's right of general supervision, are still in force, with the only modification that said supervision is not exercised by the king and his dicasteries, but by the head of state or the competent ministry (currently the Ministry of Education). Thus, the Reformed Church may manage its religious affairs on a self-governing basis, but the head of state has the supreme supervisory power over the functioning of the self-government. As indicated by the article, this means that the Reformed Church can only hold synods with the consent of the head of state, and the laws passed there also require the head of state's approval and ratification. Consequently, the head of state may also send a delegate to the synod to oversee negotiations there. Church laws shall not conflict with the laws of the People's Republic of Hungary. In case such conflict arises, the church laws must be changed. *Concerning the state's right to intervene in personnel matters, Act 26 of 1791 does not provide for this, and expressly does not reserve this right to the sovereign. The state's right of veto over certain church appointments can be regarded as forming part of the head of state's supervisory rights referenced herein and were reserved exclusively to the sovereign.* For this right is exercised in respect of Protestant churches in several countries, including England. In Hungary, it was also granted to the state authorities pursuant to the decrees and pacts of […] 1854 and 1859, and in Transylvania this right was granted permanently regarding the bishop of the Reformed Church there, as it is expressly referenced in Part I, Section I, Article IX, Paragraph I of the Approbata Constitutio. That it was permanently effective here is made clear by Article V of the Synod that opened on 1 March 1939, which stated that the cited passage of the Approbata Constitutio should continue to be in force along with the provision that the head of state's confirmation is required for appointing the Reformed Church's bishop during the Horthy era. *I have not found any other passage of law or practical document that would specifically indicate that the state organs had a statutory right to influence appointments to church positions.* For other positions, which were otherwise dependent on church nomination, there was already evidence of state appointment or confirmation. Thus, the Ecclesiastical Act V of 1933[23] mentions that the establishment of certain departments at church

[22] National Archives of Hungary, XIX-A-21-a-80/16/1957.

[23] 1933. *A magyarországi református egyház Egyetemes Konventje jegyzőkönyve*. Budapest: Bethlen Gábor (pub.), 79–114, 121–152.

> colleges may be assumed by state bodies. In such cases, an agreement must be reached regarding the rights and obligations of the funding entity and, in case state aid is used, of the national government in respect of the faculty concerned. Similarly, state intervention is mentioned in the Ecclesiastical Act II of 1933, in the passage that provides for pastoral jobs at institutions and in the army, reserving the right of appointment to the competent authorities of said institutions /Article 90/. *It is therefore conceivable, albeit inconsistent with the principle of separation of church and state, that the state's right of veto over the filling of certain church positions may be retained or explicitly guaranteed, either on grounds of the state's statutory right of superintendence or in return for the full or partial funding of certain church positions, as the continuation of current practice.*[24]

Thus, the quoted legal opinion presented "historical" and "legal" reasons arguing for the state's right of general supervision over the Reformed Church and its right of intervening on personal matters, where the author strangely connected elements of the state's general supervisory rights from the pre-war era and certain aspects of the right of supreme supervision. This reasoning was then used to justify the aforementioned party-state decision and Decree-Law No 22 of 1957, so that the powers of the single-party state could, at least figuratively, demonstrate legal continuity with the legal institutions of the pre-World War II era.[25]

2. Dilemmas concerning concept definition in Protestant ecclesiastical literature – following the footsteps of Kálmán Csiky

To highlight the complexity of defining concepts in church law within the scope of this brief study, we draw on Kálmán Csiky's seminal work for illustration and guidance. In 1908, Csiky, a professor at the (Reformed) Academy of Law in Sárospatak, began his work titled "The Legal Concept of Church" by observing that "the definition of the notion of church is almost as diverse as the number of Christian denominations, because each one perceives the essence of the church differently." He continued his reasoning as follows:

> The jurist, however, when defining the concept of "church," either relied entirely on theology, and thus could not render a proper legal definition, or even worse, fell into one-sidedness as soon as he swore by the doctrines of a single religion, or he sought to remain exclusively in the juridical domain and dismissed the church's foundation and seal, which are undoubtedly theological in nature. The discipline of ecclesiastical law has in fact devoted little attention to exploring the concept of church correctly and has conceded this domain to theology. Although it is precisely the scholars of ecclesiastical law, a legal science, who would be best suited to shed light on the interpretation of the concept of "church," because law is anchored to reality and separates the religious thought of ideal substance from the existent, and because the jurist is better positioned to assess the findings of theological discussions in an unbiased fashion.[26]

According to Csiky, "the concept of church can be captured through understanding the concepts of faith, religion and religious denomination," while he emphasised that

[24] National Archives of Hungary, XIX-A-21-a-80/16/1957.
[25] For a deeper discussion, see: Köbel 2023, 277–305.
[26] Csiky 1908, 3.

a "religious denomination" is not yet a "church."[27] He further argued that even a legally organised religious denomination cannot necessarily be regarded as a church because "the concept of church […] is inseparably linked to Christianity" and "the fact of foundation by Christ" constitutes the "Christian basis" for defining the concept of church.[28] Csiky maintained that the theological notion of church serves merely as a foundation for the legal concept.[29] He also noted that "the essence of church was first elaborated by Catholic theology," whereas the "Protestant approach" was first articulated by Martin Luther, who argued that "contrary to the theory of the Catholic Church's visible church […] the church is the ideal assembly of all believers."[30] Csiky summarised by observing that the two concepts are "in sharp contrast" with one another: their "starting point is the same, namely that the Church was founded by Christ and is of divine origin, but the doctrines of the Catholic Church and the Protestant churches regarding the church's appearance and being are completely contradictory."[31]

József Hörk, like Csiky, distinguished between the Catholic and Protestant concepts of church, noting that both share the theological premise that the church was founded by Christ.[32] Csiky emphasised that the "Protestant approach to understanding and defining the concept of church is not based on legal considerations," because, in the reformed "perception, the church is not an externally recognizable ecclesiastical organization." Instead, the Reformed approach "puts the emphasis on the invisible church, bringing the legally intangible church into the fore rather than the legally articulated one."[33] Csiky further argued that the Reformation "created a [new] viewpoint and situation regarding the relationship between church and state." The Reformers advocated the "separation, or rather the differentiation" of the two powers, aiming to assert the secular authority's independence and autonomy from all other earthly powers. Thus, the secular authority attained a measure of dignity and respect, particularly through the work of Luther[34] Csiky underscored that Luther and the Reformers focused on distinguishing ecclesiastical tasks from secular ones, ensuring that each sphere would not interfere with the affairs of the other. Csiky also pointed out that "according to Luther, the spiritual activity of the church has no legal organization, and the church is spiritual and invisible," adding that "in the eyes of the Reformers, that which we call church government is nothing more than the preaching of the Gospel and the administration of the sacraments" – essentially, the entirety of its "spiritual" functions.[35] Csiky explained that it was precisely because of the above that "the state organisation was readily available" to provide the legal and administrative structure necessary for church operations, that "the secular government of the territorial lords seemed suitable to act as a substitute for the missing church organisation."[36] While

27 Ibidem, 4–5.
28 Ibidem, 6–7.
29 Ibidem, 7.
30 Ibidem, 9–10.
31 Ibidem, 10–11.
32 Hörk 1903, 1–6.
33 Csiky 1908, 50.
34 Ibidem, 57.
35 Ibidem, 63–65.
36 Ibidem, 65.

Luther stated that "the secular authorities have no right to interfere in the affairs of the Gospel," they were obliged to defend "the faith," giving rise to the "territorial lord's church government" (*jus reformandi*).[37] Csiky noted, however, that the Reformers quickly realised that "the church cannot exist without a legal structure" and turned to the state for organisation, arguing that the state was "obligated to support the church."[38] At the same time, Csiky highlighted that "Luther always opposed the imposition of a territorial lord's church government, protested against the introduction of law into the church," suggesting that it was, in fact, "the little faith of Luther's contemporaries" that led to the adoption of the "territorial lord's church government."[39]

Csiky's monograph also addresses the broader relationship between church and state. He wrote that "the church, as a separate social and organisational entity, came into relationship with the state, the supreme organising power in human society."[40] The State, he argued, had to recognise the church as a legal possibility and align its ecclesiastical organisation with the State's legal order. In general, the two social organisations – church and state – had to reconcile their positions and spheres of activity. Historically, this relationship took various forms depending on the nature and quality of actual interactions between the state and the church.[41] Csiky advocated the separation of church and state, noting that "even if their objectives are the same in many aspects, […] their tasks are still different."[42] He explained Hungary's early twentieth-century ecclesiastical policy as deriving from the sovereignty of the state: supreme power rests with the state, and churches are legally subordinated to this sovereignty. The church is a "public entity with a purely moral purpose (because said purpose is a religious one)"; however, the state's role extends beyond moral goals "to sustain a social order that promotes the goals of humanity and to uphold this order with power." He then added, "The church is not a public entity of power." Therefore, he stated, the church is "subordinated to the state from a legal perspective."[43]

Csiky further argued that "law only regulates external relations" and that "faith cannot be regulated by law, or where law reaches into the realm of faith, the legislative power has already exceeded its mandate."[44] He maintained that the sovereignty of the state remains in force regardless of whether it supports the churches, and therefore, this sovereignty operates even within a "free church in a free state" framework. Consequently, in Csiky's view, "the church cannot be superior to the state, nor even equal to it in respect of legal status."[45]

37 Ibidem, 66.
38 Ibidem, 68.
39 Ibidem, 69.
40 Ibidem, 126.
41 Ibidem.
42 Ibidem, 130.
43 Ibidem, 131.
44 Ibidem, 133.
45 Ibidem, 134. What Csiky is referring to here is the fact that this position does not harmonise with the Catholic view that "the Church is independent of the state, the Church is sovereign by divine mandate, and the power of the Church is even above the state power." According to Csiky, "church organization and law belong only to the ecclesiastical domain; and the purpose of the church's power is not to establish and regulate all the actions of men and all the manifestations of human social life."

Csiky concluded his paper by noting that, although the concept of church is fundamentally of Christian origin, "there may be legally organised religious denominations outside Christianity, whose status within the state may be similar to that of churches."[46] In developing his thesis, Kálmán Csiky drew on 50 source works, including the leading professional literature of his time, documents of Reformed confessions of faith and the writings of Calvin. His foreign-language sources were predominantly German. Csiky's work, grounded in a systematic and comparative approach and informed by a jurist's perspective, remains an important reference point for any further research on the subject.

I consider it important to point out why Csiky's conceptual system is so highly regarded today. Csiky developed his legal dogmatic principles in the early 20th century, where the context of the public law was such that it was common to apply a clearer distinction in the specific relationship between the State and individual churches. Today, we can use Csiky's enduring, excellent treatise as a point of reference.

Conclusion

The analytical method outlined above employs legal dogmatics and public law history as the foundation for research in the context of Protestantism and law (jurisprudence). It is also intended to guide future, more comprehensive examinations of these subject matters. The approach presented here draws on concepts and notions established in Protestant church law literature, providing a brief illustration of the rich array of concepts that may serve as key reference points in subsequent research. Consequently, the exploration and systematic classification of these notions is considered an important objective. In our view, law is uniquely capable of framing and synthesising the insights offered by various disciplines – such as theology, sociology, religious studies, history and public administration – into coherent answers to complex questions. Owing to the integrative nature of legal studies, the resulting research findings can serve as valuable reference points not only for theoretical jurists but also for legislators and legal practitioners, while also contributing meaningfully to the broader discourse on public church life. The dual framework demonstrates that ecclesiastical law is best understood as both historically contingent and conceptually structured. This duality allows contemporary scholars and policymakers to recognize how past state–church relations inform current legal debates on religious freedom and institutional autonomy.

[46] Ibidem, 139.

References

Balogh, Margit. 1996. "A demokratizálódás kudarca(i) (1945–1956)." In: *Magyarország a XX. században*, ed. István Kollega-Tarsoly, 287–302. Szekszárd: Babits Kiadó. https://mek.oszk.hu/02100/02185/html/260.html [accessed: 31 May 2025].

Berkmann, Burkhard J. 2021. *The Internal Law of Religions. Introduction to a Comparative Discipline*. London–New York: Routledge.

Bihari, Ottó. 1984. *Államjog*. Budapest: Tankönyvkiadó Vállalat.

Bonhoeffer, Dietrich. 1966. *Navolging*. Utrecht: Ten Have.

Chronowski, Nóra. 2022. *Alkotmányosság három dimenzióban*. Budapest: TK Jogtudományi Intézet. https://jog.tk.hu/uploads/files/ChronowskiNora_Alkotmanyossag_harom_dimenzioban.pdf [accessed: 31 May 2025].

Csiky, Kálmán. 1908. "Az egyház jogi fogalma". *Sárospataki Református Lapok* 6: 52–88.

Csizmadia, Andor. 1966. *A magyar állam és az egyházak jogi kapcsolatainak kialakulása és gyakorlata a Horthy-korszakban*. Budapest: Akadémiai Kiadó.

Dekker, Wim. 2015. *Tegendraads en bij de tijd: verder in het spoor van Bonhoeffer*. Utrecht: Boekencentrum.

Gyetvai, Péter. 1938. *A vallás körüli felségjogok (jura circa sacra) a magyar közjogászoknál és kánonistáknál.* Budapest: Élet-nyomda.

Hörk, József. 1903. *Magyar Protestáns Egyházjog*. Pozsony-Budapest: Stampfel Károly pub.

Kováts, István J. 1942. *Egyházjogtan. Negyedik félév*. Budapest: Budapesti Református Theologiai Akadémia Kurzustára.

Köbel, Szilvia. 2005. *„Oszd meg és uralkodj!' A pártállam és az egyházak*. Budapest: Rejtjel.

Köbel, Szilvia. 2017. "Szocialista főkegyúri jog." In: *Rubicon online plusz* 4. https://old.rubicon.hu/magyar/nyomtathato_verzio/szocialista_fokegyuri_jog/ [accessed: 31 May 2025].

Köbel, Szilvia. 2019. "A 'szolgáló egyház' törvénykönyve. Az államszocializmus hatása a református egyházalkotmányra és a református egyházi törvényekre." *Glossa Iuridica* 3–4: 165–185.

Köbel, Szilvia. 2023. "'Szeretett magyar népünk…' szocializmust építő munkája támogatására…: Az 1967. évi református zsinati törvények margójára." In: *Küzdelem a lelkekért. Pártállam és egyházak a hosszú hatvanas években*, eds. Kristóf Erdős, Rita Szuly, Gábor Tabajdi, Bernadett Diera Wirthné, 277–305. Budapest: Nemzeti Emlékezet Bizottságnak Hivatala.

Orbán, Sándor. 1960. "Az állam és a katolikus egyház megállapodása (1950)." *Historical Review* 2–3: 281–309. https://tti.abtk.hu/images/kiadvanyok/folyoiratok/tsz/tsz1960_2–3/orban.pdf [accessed: 31 May 2025].