

THE HOLY CROWN DOCTRINE IN HISTORY AND IN OUR DAYS

Zoltán J. TÓTH
National University of Public Service

Hungary had an unwritten Constitution, similar to the one of Great Britain, in force from the State foundation until the beginnings of 1949, when the written communist Constitution imposed by the Soviet Union was inserted in Hungary's legal structure. Hungary's historical Constitution – linked with tradition, Christian values, norms used by the Courts of Justice, and by customs derived from the regional counties – was based not only on bills and acts accepted by the Monarchs and the Royal Council, followed by Parliament (Országgyűlés, from the 13th to 20th century). The fundament of the Hungarian historical Constitution is framed in „*The Holy Crown Doctrine*”, or *Szent Korona-tan* in Hungarian. The Holy Crown Doctrine has had keynote relevance and influence in our history: our sovereignty and public life was defined by the principles of the „Rule of Law” and „Rechtsstaat” like in the history of Law and public life in Europe. For this reason the Holy Crown Doctrine still has influence in our present time, and has prompted wide discussions over the last two decades, fortunately with a highly positive effect.

A good constitution contains the basic rules by which the country's sovereignty will be protected as well as its permanent values and the liberties of its citizens living within the borders of the nation in any age. Our historical Constitution framed within *The Holy Crown Doctrine* was able to secure its objectives when Hungary was universally recognized as a great power in Europe, which it remained until the end of World War I. The same was true when Hungary, although being diminished by the Treaty of Trianon (1920), was fighting for its existence, until the Nazi and Soviet occupations, in 1944 and 1949 respectively. Finally, following a dramatic series of events, our historical Constitution was summarily wiped out once the communist dictatorship established itself at the beginning of 1949. Both the monarchy in Hungary, in all its aspects, and also the modern 19th century Hungarian Constitutional State, were based on the Holy Crown Doctrine, right up until the military invasions in 1944.

The first synthesis of the Holy Crown Doctrine is inserted in the *Tripartitum*, the compilation of the Hungarian unwritten constitution and rules by *István Werbőczy* in

1514. István Werbőczy had been the „nádor/Palatine”, the deputy of the King, elected by the Parliament (Országgyűlés). The modern review of the Holy Crown Doctrine was implemented in the 19th and during the first half of the 20th century.

Hungary was not referred to as a *Regnum* (kingdom), but rather as an *Archiregnum* (arch-kingdom). This was known and accepted all over Europe since the year 1000. „*Arche*” is a Greek word, meaning „first”, „great”, „ancient” underscoring the law of Being and the capability it being of applied it as well. The law of Being is the law of God to save individuals, communities and the Nations where these are, following God’s will. This is the law of Life.

Within this context the Hungarian King also enjoys the title *Apostle*. The first king in Hungarian history to make use of the title Apostle was Saint Stephen, founder of the Hungarian Arch-kingdom, crowned in year 1000. The Hungarian kings are not only followers of the Apostles, as all Christian kings and bishops, but *pares-inter-pares* with them. This means that Hungarian kings had joint responsibility not only for their own country in particular, but they also had moral responsibility in a wider sense for the whole of the Christian world. The Hungarian king was known as the king of Jerusalem, too. The last king of Jerusalem was the last king of Hungary, blessed Charles IV. (Charles I, Emperor of Austria). Charles IV in 1916 was the last king in the world to be crowned according to Catholic rites and traditions.

The Hungarian monarch becomes king only after being crowned with the Holy Crown, which is the highest institutional symbol of national identity. The Hungarian Holy Crown is a unique case worldwide, is holy and of divine nature, active as the central part of public law. Its origin is based on two hypotheses. The first one indicates that the Holy Crown had been created prior to the time of St. Stephen’s coronation and that its parts were made in the same place and time. The second one is that the Holy Crown was created assembling different parts, set-up in different places, and finished after the reign of St. Stephen. The first hypothesis is the traditional one. Analyzing the Holy Crown in the last 30 years confirms the traditional statements rather than those of the second one.

What are the principles of „The Holy Crown Doctrine”?

The first principle of the Doctrine is that the highest instance of power is the Holy Crown not the Monarch, nor the Nation, nor the Hungarian people (*iurisdictio vel ditio Sacrae Regni Coronae*).

What does this mean?

It means that the Holy Crown has full power. The Holy Crown is plenipotentiary, as not any human being, neither the Monarch, nor the nation, (the people) nor both together are above it! The plenipotentiarity of the Holy Crown means that the sovereignty is the Holy Crown itself. The Holy Crown and the Monarch are not the same in the Constitution. The Monarch and the Nation are together the representatives of the Holy Crown. They are parts of the Holy Crown (*membra Sacrae Regni Coronae*). The Holy Crown is like a living person with authority. Hungary’s Holy Crown is the Crown of the queen of the World, the queen of Hungary, the Virgin Mary. Through Her, Jesus Christ reigns over Hungary and all of its inhabitants. These names identify the divine provenience of Hungary: *Regnum Marianum* and *Pannonia Sacra*. Both speak for themselves.

The first constitutional and political consequence that arose are as follows: diversification and balanced power between the Monarch and the Nation, shared power between the central government and regions (counties) and self-governments (municipalities). This in turn allowed for balanced interaction between the branches. Neither the Monarch nor the Nation had total power. To gain the benefit of good management, each fraction had to act adding their power to the other. Both the Monarch and each governmental institution were subordinated to the Holy Crown. It was indeed the principle of subsidiarity that the political and administrative agenda of Hungary was based on.

The main representative of the Holy Crown's power was the Nation. It is the Nation that shares its power with the crowned monarch, not like in other European countries, where the monarch has the Nation's power, because the Monarch is the sovereign with full power. This way of practicing power, is founded on the idea of shared power, subordinated to the sovereignty of the Holy Crown, our most fundamental and oldest tradition. The meaning of 'Nation' has changed along the centuries. Between 1514 and 1848 the nation denoted the nobility, and the commonage. Being a nobleman did not depend on ethnic origin in Hungary. Not only ethnic Hungarians, but Germans, Slavs, Rumanians, etc., could become part of the Hungarian nobility, and members of the Holy Crown. The peasantry were also part of the Holy Crown, but with no, or extremely few political rights at a national level. Of course their responsibilities were much fewer than those the nobility had had in the past. The rights were in balance with the responsibilities.

The Hungarian State was founded in the 9th century by the League of tribes of Hungarian settlers. Its principal leader was Árpád, founding the Hungarian royal dynasty remaining until the 14th century. The founding League was followed by linkages with ethnical relatives of Hungarians in the Carpathian Basin and neighboring territories. Different ethnic groups were administratively structured, having the same rights as Hungarians, allowed to live in the same common area. A good example is the association with Croatia from the 11th century onwards, and with Saxons who settled in the 12th century in Transylvania (Erdély) being the first ethnic group receiving the right of self-government in Europe in 1224 (*Diploma Andreanum*). The first act referring to the rights of ethnic and national minorities, was adopted in Europe in 1848 and 1868 in Hungary. This gave minorities the full right of cultural self-government allowing them to use their native languages at national and local level.

The second consequence of the Holy Crown Doctrine is that the power of the king and the Nation, determined by the Almighty God, allowed for a balanced government. It means that the *ius*, the law accepted and used by the people (*ius positivum*) had to measure up to Natural Law (*ius naturalis*) which was divinely inspired by God. For this reason, the law accepted by the Nation should be based on justice, the checks and balances, charity, capacity of sacrifice, etc. Rights and responsibilities are to be performed in strict balance. In accordance with Natural Law, liberty, as the Holy Crown Doctrine defines it, is vested in distinguishing between good and evil as well as in the ability to choose good and evil and not in acting as one's limitless instincts might dictate.

The legal framework enables us to know and choose, based on the fact that we are supposed to recognize good and evil, so that we can repair it, if we fail. The meaning of good and evil is not a relative political category, but the objective category of God and of crystal clear conscience.

The independency and the liberty of any country, community and the person depends on its economical strength and separateness or interdependency. In the 12th and 13th centuries, monetary power has towered far above kingdoms, Nations and individuals. Commercial world governance started to influence and shape politics in Europe in the 14th century (J. Attali and others as important as him state this, too). This new kind of power, based on the mortgaging of communities and individuals by the state (by the Monarch who has the authority to do so), had dramatic consequences leading to a financial crisis by year 1347.

In the first half of the 13th century the kingdom of Hungary adopted a new rule separating the private wealth of the Monarch. The new owner of this wealth was the Holy Crown. The Monarch and communities could only take possession of this wealth, but they had no property rights over it. That wealth, these real estates, were not free to be sold in any form. The one receiving the benefit of a royal grant had to administrate their wealth serving with it the Crown and the Nation. On the other hand, in 1351, following the Act of *Aviticitas/Ósiség*, the Holy Crown became the proprietor of the huge majority of lands granted to the nobility. The nobility became the holder, but not the proprietor of the granted land. The families could keep and use these lands granted until the dying out of the family. The situation was similar with the peasantry. The Holy Crown as a proprietor (*bona et peculia Sacrae Regni Coronae; radix omnium possessionum Sacrae Regni Coronae*) could protect the economical background of the nobility and peasantry along crucial centuries until 1848 when the *Aviticitas* was set out of force. Neither the bank by mortgaging, nor political pressure could take away the land from them. These were the laws that for long centuries ensured that the unalienable income of Hungary's inhabitants could uphold the liberty of individuals and local governments as well as of the Hungarian state itself.

After the Act of *Aviticitas (save of ancient property)* in force until 1848, the land became negotiable. The first Hungarian government of the so-called modern era wanted to set up an independent Hungarian National Bank to grant loans to citizens and local companies, instead of letting foreign commercial banks do so. The loss of the liberty war in 1849 prevented this from occurring.

The key principle of the Holy Crown Doctrine is to determine whether a government is legitimate or not (*ius Sacrae Regni Coronae*). Illegitimate governance is the one which has not been installed according to the Nation's Laws and traditions. The Monarch has to be crowned with the Holy Crown, him/her accepting the norms of loyal service to the Nation. Illegitimate governance is a form of revolution violently aiming at the destruction of the legal form of the governance. In a period of interregnum, the Nation, through the institutions available, has the choice to decide to restore the legal form of governance. The governance is also illegitimate if the Nation has been under any form of foreign occupation. When the rise to power determines a break in the Nation's legitimate continuity, its result is illegitimate. The

acts and bills, political, economic, military and security related decisions, after an illegitimate period, are to be revised, documented. All procedures implemented not in accordance with the Nation's historical traditions are to be presented to Parliament and the Courts - particularly relevant in cases of human rights violations.

Hungary was under military and political occupation from March 19th 1944 until June 30th 1991. This period, due to military and ideological intervention, was clearly an illegitimate period. During these decades, the transformations of society reached unprecedented dimensions. The changes of mentality, fading out of identity had far more serious consequences than at any other previous negative stage in our history before. The confiscation and nationalization of lands, of real estates, of huge, big or of small size all had to serve the consolidation of communism in Hungary, creating a new order, a new man. All took place under the management of a minority of communists serving the invading forces of the Soviet Union. The transition from communist dictatorship to democracy in 1989 to 1990 also happened under local communist control. The communist Parliament made its decisions regarding the acts of transition with no consultation at people's level. This was natural considering their interest to keep control in democracy as well. Only in 2011 did citizens have the chance to revise the legal constitution and gain the benefit of a new framework with communism finally truly fading away. The new Constitution has been in force since January 1st 2012.

The basis of the constitutional and the legal order after 1989/1990 is relativism, not values (the natural law). The communist Constitution of 1949 was changed meeting the requirements of democracy, but in essence it kept its validity, further legitimizing the illegitimate period of communism and the Soviet occupation. The new democratic political system kept the constitutional continuity with the communist legitimacy of 1949, not with the legitimate political system present until the occupations starting in 1944. thereby keeping the former communist nomenclature in control all along our territory, to manage directly and indirectly our legal, public, economic life, managing privatization for their own purposes. The immediate result of this was the consolidating of an oligarchic governance, of the new rich man. The vacuum of real justice allowed that crimes against humanity, in which communist responsables took part, cannot be prosecuted in Court due to the term of limitation. A further consequence of this direct or indirect control, is that the aristocracy and the nobility have not recovered their due place in the tissue of society, not speaking of their wealth lost, which in many cases was what had been once granted to their families by the Holy Crown.

With the exception of a few people having connection to the circles of power, the huge majority could not recover anything, except a minor and symbolic compensation. The Act was investment for political capital for the government, yet failed to settle the problem in a satisfactory way.

The good news is that the new constitution in force since 2012 adopted both that the constitutional period of the Nazi and Soviet occupations were illegitimate, as well as the breakdown of the historical constitution. The intention of the legislator is a commitment towards a real new democratic order based on the values of the historical constitution, and the values of fairness and justice, too. The values of the historical

Constitution are the values of the Holy Crown Doctrine. A good interpretation and implementation of Law could save the Nation, their citizens, and the constitutional order. We do hope that each Hungarian, understanding the need to reshape continuity, will push in the same direction, to a final reign of real justice.