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*Tracking the felons in the  
transylvanian counties - XVII<sup>th</sup> century*

(PhD thesis)



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Key words: *History of Transylvania, principality, legislation, poterie, felon*

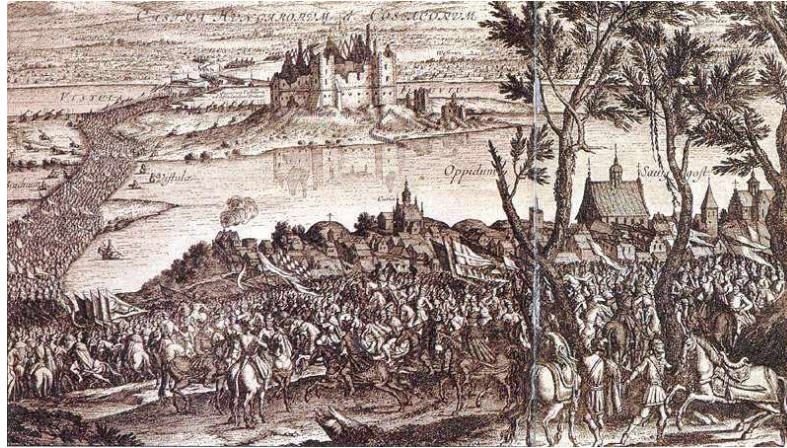
Looking retrospectively this thesis is a sum of information, some having a character of novelty for the romanian historiography, about the procedure of tracking the felons in the XVII-th century Transylvanian counties, during a time when most of the juridical institutions of the state are being in the process of crystallization and becoming effective. All the six chapters of the thesis, the bibliography and the annexes sum up a work of gathering the proof that sustain the theories and the hypothesis the author launched and which offers to the historical-juridical research a certain personality.

For the beginning, the thesis introduces the reader into the history of a state formed in the middle of the XVI-th century by enriching the transylvanian principality with parts of the hungarians counties that consent to take part to the new political construction after the dissipation of the hungarian kingdom into the Mohács coal mines. The formation of the Transylvanian Principality was not at all easy, because of the conditions of internal and international crisis, in a period of *interregum*, searches, empty ambitions and dashed illusions. Important political figures like Ioan Zápolya, Soliman Magnificul, George Martinuzzi, Isabela and her son Ioan Sigismund Zápolya, Ștefan Majláth, Petru Petrovici and others, were actors that left a printmark, more or less, upon the history of the beginning of this autonomous state, which was under the suzerainty, sometimes restrictive, sometimes protective of the Ottoman Empire.

With the ascension to power of the Báthory dynasty, the political regime becomes relatively stable, especially in the period of time when prince was the illustrious Ștefan, who became king of Poland. Báthory's Transylvania knew also periods of instability which were sometimes very bad handled by the sovereigns, two of them, Andrei și Gabriel being victims of some plots. We cannot fail to mention the meteoric appearance of Mihai Viteazul on the transylvanian political stage, scene that produced effects on long term in the conscience of the romanian people that lived there.

By electing on the throne of Alba Iulia some authoritarian sovereigns like Gabriel Bethlen or Gheorghe Rákóczi I the principality faced a period of european glory and the victorious involvement in the 30 year War brings the territorial extension into the space of the Superior Hungary. Internally, a series of economical,

juridical, tax, military and cultural reforms revive a society that is closer to the model of the western states. But the tone was nothing but an delusion. The unfortunate initiative of Rákóczi the 2nd, a complicated mixture of the trasylvanians, helped by moldavians and mountains contingents, as well as polish troops in the tragic events from Poland, throw the state into crisis and chaos. It follows a period of instability, when Transylvania faces the horrors of civil war, the humility of the ottoman occupation, new territorial losses and the tragedy of three princes.



**Transylvanian army crossing Vistula in its way to Warsaw**

After glory, decay. An Ottoman Empire more vigilant regarding the transylvanian political life, an aggressive nobility, that was always on contrary sides and a weak sovereign, led by his counsels and by an unhealthy wife, here it is „the perfect recipe” for a latent crash down. In front of the Habsburgs ambitions whom did not gave up the hope to unite Transylvania to the central european empire, the transylvanians had no choice but to open up the gates of their cities. The epic of Francisc Rákóczi the 2nd, known in history under the name of “The rebellion of the Curuți” was just „the swan song” of the relatively independent statehood, of a century and a half, of Transylvania.

In such political circumstances, internal life had to unfold normally, meaning that the principality’s institutions had worked full time. This aspect is fully analyzed in the second chapter of the thesis. During middle ages the history of the sovereigns identify itself, many times, with the history of the state, and Transylvania was not an exception from this rule. The sovereign is always present in the documents of the age: chronicles, journals of war, donations, different types of letters, judgments of the courts, etc. The transylvanian prince is the center of the political, social, cultural

or even economical universe of the state, and the principality institution had an evolution through time. The way the head of the state was elected and appointed, the role of *dieta* and of the turkish in the election and confirmation, the ceremony of crowning, the oath and the prerogative the head of the state was invested with, are aspects that were analytically researched. Of course, there were situations when the sovereign was seconded by a deputy, especially in times of crisis, he had a principality court, a palace in the capital with public and private spaces, an archive and a library, according to the european models. A principality council, meaning an administrative and advisory structure, was present in the transylvanian institutional landscape, as well as *cancellaria maior and minor*, through them the sovereign practically ruled the country.

Into this chapter I emphasized the Meetings of states or *dietas*, because this superior institution belonging to the privileged states from the principality, this political deliberative gathering, this parliament that functioned in an unicameral system, had a very important role in country's life. Structure, working procedures, functions, relationships with the sovereign, all of these are reflected into the decisions of those 299 transylvanian *dieta*, organized and held in the principality era, documents that had been gathered in the impressive work *Monumenta comitalia regni Transylvaniae*, printed during the second half of the XIX-th century, by care of the historian Szilágyi Sándor.

The army, a military corpus enough, organized based on the principle *Unio Trium Nationum*, which proved effective many times on the battle fields, completes the transylvanian institutional spectrum. From the defensive tactic point of view, a chain of fortifications protected toward west and north the principality, while the east and the south were protected by the Carpathian Mountains, thanks to the cities that were built on the entries and exits of the ravines. But *ruina exercitus Transylvaniae* and its decay thanks to the internal crisis that followed the polish episode from 1657, the alteration of its capacity to defend itself first of all because of the fact that the turkish occupied Oradea city and because of the economical bankruptcy were, except the devastating external interventions, the main causes for de decay of the autonomous transylvanian state.

The third chapter theorize the notion of penal law and its evolution, as a written law, in the context of the general legislation of the hungarian kingdom, with practical application on the principality's territory, and afterwards in the universe of the rules of law issued during the transylvanian principality. Before these, there had

been drawn some consideration upon the european legislation in criminal matters, as an effort of the author to identify elements that had been borrowed and good practices that served as role models for transylvanians lawyers. It is the case of the *parish police* or *community police*, that guard during the day and night the anglo-saxons cities, practice that was taken by the transylvanian administration during the XVII-th century. We believe that elements of penal procedure had as an inspiration source the european fundamental works *Practica rerum criminalia*, published at Leipzig, in the year 1635, *De poena Homicidi*, written in 1543 by Andrej Frycz Modrzewski, known in Europe as Modrevicius or *Maleus maleficarum* (*Der Hexenhammer*), a famous treaty of witchcraft written by Heinrich Kramer, inquisitor of Catholic Church and Jakob Spenger.

Analyzing the sources of transylvanian law we can identify first of all *the habit* or the *custom*, unwritten sources, preserved in the mental of local community. We have in mind first the romanian customary law (*jus valahicum*), that descended from the roman law, preserved in the common conscience of the romanians from Transylvania, Moldavia, Romania Country and Hungary, then the customs of the transylvanian hungarian ethnics, a form of feudal law with tribal reminiscence but enriched, surely, because of the contacts the hungarians had with other nations over the centuries, as well as the saxon customs brought by the teutonics from the western parts, a law generally urban, influenced as well by the roman law. The evolution of custom into written law was slow and graduate, as the principality's offices appear and *capitluare* institutions. A key role in promoting the written rules of law have had the hungarian kings, starting with Ștefan the Holly, then Coloman Cărturarul or Andrei the 3-rd and all the sovereign that followed to the throne.

The decrees of the hungarian sovereigns are completed, in a so called „list of the written law sources” with *Opus Tripartitum* of Ștefan Werbőczy, with the decisions of the transylvanian principality dietas from XVI-XVII centuries, with the treaty *Specimen juridici processus* belonging to Gabriel Bethlen from 1619, with the works *Approbatae* and *Compilatae Constitutiones Regni Transilvaniae et Partium Hungariae eidem annexarum* from the second half of the XVII th century, with the counties legislation (status, protocols, instructions, decisions), with the judicial precedent reflected in the decisions of the central and local courts, with the international treaties signed between the transylvanian state and its neighbors, as well as with *Edictum militare* issued during the reign of prince Mihail Apafi in 1671.

Since the formation of the princely state the penal facts existed in the customary law, being later on included in the hungarian kings decrees. Crimes are studied and grouped into *Tripartitum* and are the objects more and more of the dietas decisions in the XVI-th century. In exchange, the two biddies of law from the XVII-th century, *Approbatæ* and *Compilatæ* represents the apogee of the efforts to legislative codification from the middle history of Transylvania, the penal law and the penal procedure being, finally treated relatively distinct. The study of law collections and of the documents issued by the dietas show the authorities preoccupation to keep under control the crime rate, to maintain the law and order in the state by creating institutions that had modern and effective juridical mechanisms.



**Prince Gabriel Bethlen among his scientists**

If they succeeded or not, only the documents that have been or will be studied can confirm or not. Certainly is the fact that the sources mention about thieves that had been caught, executed or condemned to many years in prison, about mobile goods or fortunes that had been seized as an extreme measure, about people that were quarreled with the law, put under surveillance, about poteries organized by *comiți*, *vicecomiți* or *noble juzi* in order to clean the regions of the villains or about fake coins discovered in markets or even upon itinerant placers. There are realities that prove that the transylvanian justice functioned, that the penal law was applied and that the public order was provided, with the exception of wars, natural calamities or tatar invasions.

Chapter four deals with the analysis of the Transylvanian juridical institutions during XVII-th century at different levels, most of them tributary to the principality's



era. We find out that in the XVI-th century these reminiscence are omnipresent, but gradually, new institutions appear, fit for the new state: *the prince, princely board, princely council, meetings of the states*, all of them with attributions in legal plan as well. We can say that only in the next century, when the courts were crystallized, when there was a relatively separation among the lowers and the central or local administrative body, when some collections of legal works appeared, when an effective tracking felons system and an incarceration one were well organized, the transylvanian justice gain personality and strive to be a modern one, closer to the western models.

Studying the superior institutions of the state we find out that the sovereign could judge, being the last appeal forum, a series of facts such as betrayal or *nota infidelitatis*, he could also chair the judgment meetings on his estates, on fiscal matters, on *Fundus regius* or on any other space belonging to the country where hid prerogatives in criminal matters gave him this right. The dieta had also the right to discuss the cases of high treason against the state, reality that is proved by the examples, some of them memorable for the history of medieval Transylvania. (to see Diosisie Bánffy matter or the process of the *sabatari*). But both the prince and the parliament were political institutions, and the political interference into the act of justice could often have negative effects. The supreme and the most professional court of the principality was the princely Board, a successor, more or less legitimate of the hungarian *tabula regia iudiciaria*. Once it appeared in the middle of the XVI-th century, the board becomes the main supreme transylvanian court, only exceptions and we indicate here the high treason cases that could be judged by the dieta or the prince. The superior court judged in appeal sessions the cases the states, the saxon lands, as well as those that were part of the Partium had brought in front of it. The saxons id not appear in front of the board because they had, in their trails, the right to appeal directly to the prince, while the free cities addressed themselves only exceptionally to this forum.

The principality's political diversity had determined also a sensitive diversity of the local courts, in different parts of the state. That's why I analyzed the institutional juridical structures from the states, as well as those that functioned on saxons lands and in urban areas, more or less privileged. The courts of the states were composed of *officiales: comitele suprem, vicecomitele, judele nobiliar, vicejudele, notary and advisors*. Each of these officers had a distinct role in the judicial landscape. The full court judged within *court seats* or *general sedrii, partial ones, tridual ones* or *court*

seats *branches*. The smaller cases were judged by the village courts managed by *judex pagi* helped by *cojuratores*, the captain of the city judged the cases from his land, while the master lord brought justice to the level of dominated courts.

Intending to give the thesis a practice-applicability character I described the procedure of judgment starting from a concrete example that gave me the opportunity to investigate some legal institutions that existed then and still exist today: *referral, the parts involved in penal process, the lower, the witness or the jurors*. A robbery, followed by the victim's death that happened in the village of Cluj-Mănăştur recorded quite detailed by the Jesuit Ştefan Szánto gave us the opportunity to study the phase of the penal process, *prosecution, a judgment and the enforcement of the sentence issued by the court*. Also now we talked about the evidence and its role in determining guilt or innocence of the suspect and how it was managed in the process.



**15. Water sample of a woman suspected of witchcraft**

Of course, we put research into temporal space where traditions and customs still "taking the face " of modern codex, servants still shared their justice on their pleasure or the master's, local nobles were in competition with Supreme Committees to capture and trial the villains in order to seize their wealth, there were still discriminations between the privileged nations and other inhabitants of the country and the sovereign was too little interested about the complaints, that were forwarded here and there, to the country's higher courts. Despite these realities, we have found from studying sources and professional work, the trends to normalize Transylvanian

justice and the desire of the authorities to control the operational situation in the principality.

Before entering into the substance of tracking criminal offenders in Transylvanian counties, we considered it appropriate that at the beginning of chapter five to issue some considerations about the notion of *public order* and how the policies to preserve and restore it were implemented in cities, towns, villages and across states. We define public order as a condition of legitimacy, balance and peace that ensure peace, security of person, to communities and property, health and public morals, whose maintenance, according to the principles and the rule of state is achieved through coercion measures specific to the police. The gradual introduction of guard by day and night throughout the county, authorities were practically taking indirect measures against *publice pacis et tranquillitatis perturbatores* or against the felons that by their behavior affected the peace of the communities.

But maintaining public order meant also carrying out preventive activities on the line of fair trade and fairs, meant to maintain customs and border guard, meant to prevent and extinguish fires, epidemic control, weapons control and in particular the fire weapons, and other activities for which local governments have issued a series of legislative acts.

But despite their efforts, the crime rate has risen steadily throughout the history of the principality aspect shown in the documents of the dietas. In these circumstances it was felt necessary since XVI century (1545), to raise the county authorities, and district seats, in a joint effort of tracking, apprehension, trial, conviction and execution of the thieves of all kinds. So, the institution of potera appeared, named as „juzi circulatori” (*cirkál biró*) or *inquisitio generalis*. And for it to operate legally, the state endowed with a set of rules, which forms the legal basis of this institution. Thus, decisions of the *dietas* and then printed and updated form in the legislative corpus *Approbatæ* and *Compilatae Constitutiones*, instructions and orders given by the sovereign, in a private or council mandated by the Prince, the supreme commits and other officials, along with written decisions of states meetings which together established the legal framework, material and territorial powers, rights and duties of professional staff and the prohibitions, all of the above forms the Poterie law in Transylvania. Of course, when pronounce the word “Poterie”, we think of movies with outlaws and the whole range of stories and myths woven around real characters or from popular legends.

When we say "*Poterie*", our mind sometimes flies in the wild in the remote America and to the search actions organized to catch the gangs of thugs which the state put a reward on their heads and whom being caught were brought to court, interrogated, convicted and executed in the public market. We believe that the Transylvanian institution has little from each of the example stated above. Eventually *Poterie* was a state institution, which is organized under the laws and enforcement of the laws of Transylvania, having both a preventive function and a criminal investigation one. However, the presence the members of the *potera* on the field, these man hunters, "*manhunt*" create a sense of security among citizens, a sense of peace needed to carry on normal social, economic, political and cultural life.

*Poterie's* law establishes *territorial jurisdiction*, meaning the limits for officials within the team, namely: *supreme Committees*, *vicecomitele*, *solgafirăul* and other servants of the state were the exclusive representatives of the county, they were entitled to enforce the law. Our research revealed that only *juzii* acted within that administrative entity. In other words, *Poterie's* territorial jurisdiction overlaps that of officials who compose it.

General inquisition servants focused a series of tasks from which are individualized the *judicial* ones, which means the activity of tracking, catching, trial and punishment of offenders, according to territorial and materials skills, under the general law and local customary law of Transylvania. Documents talk about investigation of the *malefactorilores* and their conviction, confiscation of their property, describe the mode of action on the reigns of Tax, the way of keeping the register of tracked people, the manner of compliance with *laws and articles* of the country, the nobles given powers to punish the serfs, research skills of the supreme *comite*, activities of the economic police and other details on what we would call today "police tactics". *Poterie* had responsibilities for the purposes of collecting information about persons wanted, vital, I could say for this type of activity.

Then identify preventive powers line, in other words taking measures to prevent those crimes. We are talking primarily about the importance of patrolling the county. Even today, the number of police presence on the street has a great importance in terms of maintaining public order and peace, in which the intervention on the spot, caught in the act or making a connection directly to citizen-police are opportunities for prevention policies assumed by the state.

Finally, the county's management tasks required from Poterie's clerks show that in the seventeenth century the separation of judicial and administrative institutions was not fully realized, at least locally.

As county clerks, members of the Poterie could not remain passive to any faults found (bridges destroyed, uncultivated land or violations of socio-religious order) being required to provide accordingly.



**Robber of the northern Carpathians**

The work itself was good for cleaning counties, seat Székely and Saxon and Romanian districts of *latrones, fures, cusores, falsarum monetarum* and others *malefactores* and conservation of social peace, but at the same time maintaining livestock officials and auxiliary staff, especially when actions and raids were frequently present, meant special material efforts of the quite poor rural communities.

About the *circalașilor* rights, taxes or obligations of payment of each gateway for all activities of Poterie we learn from reading articles of the dieta, orders, instructions and other sources for research. But as the Poterie number was growing, the taxes increased also. For example, the remuneration of the Inquisitors that acted in 1641 in the County of Alba, each gate was obliged to give two florins and 33.5 dinars, while the payment of the *circalași* in the Interior Solnoc since 1680 the contribution is even more pressing: 6 and 16 florins dinars for one gate.

The difference is significant, very large amounts for a household of poor people, if we think that the value of a pack animal was in the seventeenth century, somewhere between 6 and 9 florins.

For tracking felons special registers were made, such as *Registrul cu evidența beneficiilor și fărădelegilor satelor din plasa de sus a nobilului scaun Arieș* (Extractussa Nemes Aranyas Szék Kerületében a Felső Járásban levő Faluk Beneficiumainak és Maleficiumainak), from whose reading I managed to form an opinion on the types of crimes within the competence of research and trial of the Poterie's juzi, and other elements of criminal procedure.

We found, by comparison, that the work of the Inquisition differed from a county to another, from one region to another. Institution Poterie transpires in at least two aspects: a dynamic, police, when state servants are moving through the plains and mountain areas, through remote villages or hamlets, taking steps of the *malefactori*, activity that is specific to the district and county of Maramures, Bistrita and Solnocul Interior and a static, judicial, in which the Poterie's juzii analysis, deliberate and pronounced sentences in different cause, resembling a seat itinerant court composed of professional legal staff, as was the case of Aries seat.

Transformation of the inquisition institution in the seventeenth century is clear: the court proceed from brief trial to procedural one, the Poterie becoming a first step in the preparation procedure, so that many of the processes started by the Poterie locally are finalized at the County's *serdirii*.

But such an operative activity was invalid in the absence of information. These related to practical matters related to individual offender, identity, place of residence, occupation, mode of committing the offense, type of criminal partnership, who are his accomplices, physical damage to property or products inhabitants, where stolen goods were been hidden or recovered, but mostly the place or places where they would shelter: forests, inaccessible mountain areas, border areas without any control by the authorities, villages, hamlets or isolated houses, convents and monasteries, the homes of private individuals (friends or relatives), fortresses, castles, the suburbs of urban areas, on winter or summer.

Accurate information is transformed into evidence used in criminal prosecutions. Data and information could come from both injured parties, other authorities involved in the fight against crime, as well as from informants used or, more rarely, from professional informants. Some people were obliged by law to provide information to Poterie's clerks, as was the case of village's *juzi* or shepherds in rural or mountainous regions difficult to access.

But not everyone was willing to cooperate with the authorities as this entails risks. "Qualified" informers or those that rarely did that were reluctant to cooperate

to the Poterie. We are in a period when there were no opportunities for conspiracy collaboration assurance or the protection of witnesses and informants, or perhaps it never wanted to be protected such an activity.

Some criminals were trying to leave the county or even country, along with stolen property, usually animals, action clearly easier in the absence of effective and professional border guard structures, crossing or passing through dark forests or hilly alpine pastures, the shepherds fiefdoms. Others preferred to take refuge in the territory of Ottoman power under control, where Poterie penetrated hard.

Accompanying the Poterie of Aries seat, we could realize the extraordinarily large volume of trial processes and the variety of facts claimed. Its work ended after 12 days, during which officials actually worked Monday to Friday and discussed the cases presented by the City of Unirea and other 19 townships that belonged to Plasei de Sus of Aries noble seat, judging over 300 facts from simple swearing to robberies and murders.

Chosen itinerary is short: nine localities were called to the residence of the administrative-territorial unit and the other 11 were strolled through Stejeris the village, where *circalași* have established residency for a week. The situation differs from Maramures County where in late May 1677 the Poterie acted not from the office or courtroom tepid ad-hoc, but tracking the thieves in the border villages of the Iza Valley, Budești, Botiza Șieu and Rozavlea. From Hunedoara county we also hear news about the work of the Poterie. Thus, two raids are recorded in January and December 1673. Judgments are traveling from village to village, with witnesses, with prompt sentence, often delayed or forwarded the appropriate forum, according to the use for the second half of the seventeenth century. Poterie from January was done in 17 seats and the one from December in 12 places. Have been raised not less than 70 cases required by the injured parties, 13 sentences with corporal punishment were applied, fines of 1008.50 41 guilders, a huge sum for that period. On top of the prevailing crime of violence and acts of immorality are swearing and stealing, quite numerous. A murder committed at Hațeg detaches.

Studying archival documents we were able to determine which were broadly the categories of persons who have been prosecuted, providing examples of practice identified in the criminal justice records. These are *proven criminals*, escaping *suspects* and *hosts of the offenders*, *arsonists*, *vagrants*, *beggars* or *unknown aliens*, the *serfs* who left the estate, the *missing persons* in suspicious circumstances, or *women and children* that flee from their homes.

Regarding the goods pursued, they were mainly objects stolen or looted from the homes by the high road *lotrii*, but mostly riding or burden animals, goods of high price, because stealing horses or cattle could cause serious economic disruptions in poor families.

Therefore the law was very harsh with animal thieves, they finally being hung in the gallows. On a crime rate map of the principality best known "roads of thieves" were in the north, northeast and east. In the south was somewhat difficult for the *latroni* as there were Saxon lands and in part to extremely stringent measures, although treaties between the mountains rulers and the Transylvanian princes talk about extradition of the felons that were circulating on both sides of the Southern Carpathians. And about thieves in the occupied territories by the Turks in western principality have information, they prefer, as places of refuge, the Apuseni Mountains or the highlands of Banat, which give the society damned shield, regardless of political system.



**Transylvanian peasants with cattle grazing (XVII)**

We have noticed how vulnerable upland areas were in Maramures, Bistrita area and how the authorities had poorly guarded borders of Transylvania with Moldova and Poland. Here, the court documents speak about the large number of *malefactors* who were not afraid to attack and best preserved of the Greek merchants caravans or to stole animals to smuggle across the border. Unfortunately, officials have often proved impotent in the face of gangs of *lotrii*, so the dieta disposed on several occasions, a General Poterie, forcing to cooperate two or three counties or districts. In the late seventeenth century, due to political instability, even the Austrian army of occupation was called to pacify the area.

The final chapter is the so-called "virtual criminal code" of the principality of Transylvania, in fact a gathering and ordering of criminal acts committed during the



targeted time after the current model penal code. Our approach can be useful to those who desire to better understand the mechanisms of medieval criminal investigation, trying to put into reality in which we live. Comparing systems of criminal law, I merely offer legal expertise and I customize, with examples, how the crimes were fitted, with the purpose of procedural steps.

I spoke in the general part of the thesis about the criminal law that means all the so-called "criminal law" elements as defined by jurists of the Transylvanian XVI th and XVII th centuries. In the terminology of medieval times crime is often called *malefacere, violence or delictus*.

Stephen Werbőczy performed for the first time in legal history of Transylvania, a classification of offenses. Considering the social dangers of these facts, he subdivided them into: *major crimes*, where authors can answer with the head or *minor offenses* that can be resolved in the county's courts. In the first category are betrayals (*note infidelitas*), a crime subject to capital punishment (*sententia capitalism*) and deeds of great violence, and in the second, smaller acts of violence (*actus potentiari minores*).

The noticeable progress, *Approbatae Constitutiones* talk about ... the five *big cases of violence (Major potentia)* and *less violence (minor potentia)*, and *premeditated murder, equip, supplies parafernale, those on quartalități, guardianship, mortgages, agreements obligations, deposits and libels, false denunciation, restitution issues that requires the letters and documents falling into foreign hands in any way, and runaway serfs and servants, in others indicated specifically in the country's laws in this regard*.

*Major potentia* means five facts of "high violence": penetration by force in the noble house (*invasio*), seizure (theft) of noble's property, arrest (duress) of nobleman, assault or injury to noble person (*vulneratio*) and killing noble (*Homicide*), for which the punishment was capital. *Minor potentia* offenses are those "low violence" ones with a lower social risk: abuses committed by or against the ordinary people: attack, assault, deprivation of liberty (*invasio, vulneratio, incaptivatio*), deprivation of certain movables, processes relating to estates, legacies, partition, restitution of *zălogiri*, insults and other acts for which only fines were applied that could climb up to the sum of 200 florins.

Now are also reviewed *the stake, the causes which removes the criminal nature of the crime* and the *punishment*, identifying in the punitive spectrum of

Transylvania the death penalty, physical punishments(corporal) and as well as the fine.

The methods and instruments to take the life of prisoners differ from one county to another, from one city to another from one social status to another. For example, for infidelity to the country and sovereign traitorous nobleman was beheaded, beheading is considered a milder form of execution, cavalier and less humiliating. Criminals are hand cut the hand which killed after they were beheaded or stoned, like those convicted of storming the noble's house. Halter was reserved for the thieves, an infamous method of execution, or stake, as well as those that hide things of information, while wizards and witches, as heretics were burnt. New baby born killers were buried alive in soil mixed with thorns or drowned in the Somes or Mures rivers, others escaped only with beating for unproven guilt, while *raptus* authors received the same punishment: death.



**26. Beating the feet (1686)**

Far more numerous and more varied than executions, corporal punishment, imposed for less guilt, meet both the preventive and corrective (humiliating) of the law. Many convicted criminals were beaten with a rod or, more rarely, with the stone pin, in public places, coupled with the pillory or imprisoned in the so-called *caladău* or yoke, suffer for their acts: assault, abusive occupation of property, May petty theft, drunkenness, slander, generally *minor potentia*. Such corrections were applied, for example, to those who gave false oath at trials, and executioner does nothing but to enforce the judge's decision: to haircut the convicted in order to humiliate them or to beat them until *they are between life and death*.

For encouraging offenders, the authors, if somehow escaped the stake, were mutilated by cutting ears like adulterous woman, still crippled by the executioner

with red iron on the forehead and cheeks, once, previously, had been beaten by three rows of rods in presence of an audience asked to see but not do like him. For the insult of the Lord, first the author was beaten with a rod, if the act is repeated, they cut him a piece of tongue and the third time he would be stoned.

The sentence to prison and how it was enforced in solitary confinement cities or in cities treasury was filled with detailed and comprehensive suggestive examples. The prison is a correctional institution in which convicted persons serving sentences to imprisonment by a decree issued by judicial bodies that remains final. In a second sense, the term refers to building a secure, locked place and keep those who are sentenced to custodial sentences and those detained on remand, the terms are synonymous with *prison, jail, arrest, trapped or gherlă*. In the landscape of Transylvania county prison justice life, the jail is another end point of the legal action rather than the scaffold and place of the execution of sentences. It is also an effective tool for strengthening the safety of local communities.

Finally, safety measures taken by the court to remove the status of social danger and to prevent the acts provided by the criminal law, meaning the prohibition to be in a particular locality or seizure, as it was perceived at that time, were supplemented by presenting cases from criminal liability or consequences of conviction: *amnesty, pardon and prescription*.

The special part was reserved for crimes, starting with those against state security (*note infidelitatis*), continuing with the acts committed against the person, detailed in (*homicide, infanticidum, vulneratio, incaptivatio, raptus, invasio, threats, rape, adulterum, insult, diffamatio*), then with crimes against property (*fures, robbery, destruction, arson, possession disorder*), with crimes affecting public activities or other activities regulated by law (*abuse in office, corruption, perjury, encouraging the offender, escape, counterfeit currency*), and other crimes affecting relations on social cohesion (*duas habentes abandonment of the family, witchcraft, bestialitas*). All these were analyzed and compared, Transylvanian corresponding rules were identified, offering significant examples.

Looking back at the amount of historical information and legal work presented in the chapters of the thesis I found that during the seventeenth century, and generally in the age of the principality in Transylvanian counties crimes have been committed, they were judged by courts and authors have received punishments. Those who escaped the arm of the law have opted for life on the run, but in their case the state had built special legislation and institutions so as to control public

order and peace in all quarters of society. Transylvanian medieval state's legal structures, in this case investigation bodies and courts, including general inquisition or *Poterie's* institution, with organized legal framework to an acceptable level, could achieve justice in good conditions, in a principality that always faced political and social problems, always crushed by Ottoman assaults, viewed with the greed of the Habsburgs or engaged in the dangerous alliance of state and military projects, but always oriented towards the West from where progress and modernity came.

# S

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