

Legal Customs and Customary Law in the *Jászkun District 1682–1876*

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ABSTRACT

Based on archival documents and supplementary ethnographic collections, this study reviews the autonomous community customs and legal traditions of the *Jászkun* people, starting in the 17th century and autonomously evolving among the *jász* [Jassic] and *kun* [Cuman] people in Hungary for centuries and preserved in certain peculiar *Jászkun* terms and vernacular expressions up until the 20th century. In view of legal ethnography and activity-oriented social history, my study has been divided into four parts: *Kun, Jász, Jászkun; Legal customs and customary law before the Redemption (1745); The legal culture of the Jászkun District after the Redemption; The enacted customary law of the Jászkun: the Jászkun Statute*. I specifically focused on the 18th century, for at the end of it the *Jászkun Statute*, the written customary law of the district, approved by the palatine, had been promulgated. The statute incorporated the legal customs practiced by the people of the *Jászkun District* before 1799 and facilitated the long-term survival of the specific unique features of local society and the high degree of differentiation of their legal practice. The customary laws of the *Jászkun* are history now, but in more than one aspect they still affect the everyday lives of late descendants.

KEYWORDS

Jász [Jassic], Kun [Cuman], Jászkun District, Jászkun Redemption, legal customs, customary law

KUN, JÁSZ, JÁSZKUN

The horse-riding nomad Cumans (*kunok*) lived in a tribal confederation, their original homeland on the border between present-day China and Mongolia, from which they had to flee

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Chinese expansion. In the steppes of Kazakhstan, they encountered the more populous tribes of Kipchak Turks, and Kipchak linguistic influences and cultural elements came to dominate. The tribes, depleted in the battles with the Mongols between 1223 and 1238, settled in Hungary in two waves: 1239 and 1246. The rules of coexistence for hosts and asylum-seekers were laid down in the Bánmonostor Convention in 1240. The Cumans acknowledged the supremacy of the Hungarian king and, in return for their military service, were granted privileges extended to newcomers: self-governance in accordance with their own laws, and partial tax exemption. The Cumans' places of establishment and the second comprehensive regulation of their lives are contained in the charter of privilege called the "Cuman Act" (dated August 10, 1279) which is an ethnic privilege that applied to all Cumans in Hungary and was limited to a specific territory, similarly to the privileges of other ethnic communities. An important element of the privilege is that it recognized their self-governance, incorporating the customary law of Cuman society (BÁNKINÉ MOLNÁR 2002).

In the early 13th century, the Jassics (*jászok*) lived in the area between the Black Sea and the Caspian Sea and came to the territory of the Kingdom of Hungary along with the Cumans in the mid-13th century; their first written records date to 1245. Both the Jassics and the Cumans were allowed to settle on royal estates. Although the Jassic ethnic group, which was considered linguistically Indo-Iranian and once part of the Saka group of Scythian peoples — mentioned in the early records as members of the confederation known as Massagetae and later Alans — abandoned their Jassic language in the new homeland, they retained their identity to this day. A Digor (one of the linguistic dialects of the Ossetians living in the Caucasus today) linguistic monument from 1422 provides evidence that the villages of the *Jászság* had retained their own language. The Cuman language also merged with the Hungarian language by the 15th century, but there are several linguistic monuments, such as, e.g., the Cuman text of the Roman Catholic prayer "Our Father."

The 13th century is when the larger autonomous units in Hungary formed. The unique features of their autonomy stemmed from the differences in the social organization of the privileged ethnic groups. The Jassics and Cumans, who owed allegiance directly to the king and served him or paid taxes to him, lived in military-like communities. Part of their privileged status guaranteed under public law was that their judicial, administrative, and military organization was headed by a captain they elected, they could also elect their priests, and they were exempt from the thirtieth customs (*tricesima*) and other taxes. Their status under public law allowed them to organize their daily lives in their communities according to their own customs, legal traditions, and the values and mentality inseparable from these, based on their autonomy within the feudal framework (NAGY 2017).

A fundamental change came after 1519, when their privileges were lost: the right to bear arms, the obligation to do military service, and they were hereafter subjected to the payment of taxes. The Cumans were also taxed.

After 1745, the term *Jászkun* spread as the new name to describe the communities of Jassics and Cumans, representing not the ethnic coalescence of the Jassics and Cumans but their legal community, primarily in the eyes of the populations outside their territories.

Written sources provide extremely limited information on the legal practices of the Jassic and Cuman ethnic groups that came to Hungary in the early Middle Ages and lived in a tribal society, on the legal customs of their autonomous communities, and the customary law that applied within the Jassic-Cuman groups. The interconnection of their jurisdiction was granted



by Act 43 of 1630, whereby the name *Comes et Judex Jazygum et Cumanorum* was incorporated in the palatine's title under the reign of King Leopold I. In the case of the Jassics and Cumans, the administrative term "districtus," i.e., district, has only been used since the middle of the 17th century. The palatine's letter of safe conduct issued in 1682 at the Pest County Court of Law stated that the Cumans and Jassics no longer fell under the authority of Heves and Pest counties. The autonomous administrative and judicial practice, supplemented by the establishment of an independent tax district, created the political unity of Jassics and Cumans based on their rights, the public law conditions for the establishment of the *Jászkun District (Jász-Kiskun-Nagykun District)*, which existed from 1682 until 1876 (Fig. 1).

My study looks at how legal customs and customary laws prevailed and changed in the *Jászkun District*. I focused on the 18th century in particular, at the end of which, in 1799, the palatine endorsed the written customary laws of the district, called the *Jászkun Statute*. In view of legal ethnography and activity-oriented social history, I chose to examine the organized and organic structures of public administration separately. "The essence of the *Jászkun District* was defined by its organized society: its privileged social position and its organized administration. During the period under examination, the coordination of free peasant society, which was developing in the constant interaction of political and economic life, were performed by the public administration" (BÁNKINE MOLNÁR 1996:229). I found that the dominant role and popular acceptance of the organized structures in the *Jászkun District* could be achieved precisely through the organic coexistence and acceptance of the organized and organic structures. "Jászkun liberty," the totality of the district's liberties of different levels and scopes, became a symbol of a local society that did not know the concept of autonomy and reinforced their separation from those living outside the district. The local social symbol influenced the way of thinking of the people of the district, and it created the *Jászkun* organizational community and legal culture that encompassed all aspects of their lives and was based on particular law compared to national law.

LEGAL CUSTOMS AND CUSTOMARY LAWS BEFORE THE REDEMPTION

According to the chamber census of 1699, there were two market towns and 17 inhabited villages in the only just consolidated municipality on the crown land; 56 settlements had vanished. The proportion of native inhabitants was 36.2% in the *Kiskun District*, 38% in the *Jász District*, and 38% in the *Nagykun District*. The first attack on *Jászkun* liberties came in 1701, when King Leopold I revoked all the privileges that the Jassics and Cumans had been granted by previous Hungarian kings, and in 1702 the entire district was sold to the Teutonic Order for 500,000 Rhenish gulden. The sale of the crown lands (March 22, 1702) inhabited by the Jassics and Cumans fundamentally changed the situation. The Order was granted full manorial authority, and the King retained only the right to state taxation and military boarding. After decades of struggle, the people of the *Jászkun District*, who had been pushed under manorial authority, were able to redeem their freedom in 1745 with their own money. This momentous event is called the "Jászkun redemption." This regained self-determination resulted in the charter of privilege (redemptionalis) of 1745, the regulations of 1751 — the latter providing legal regulation for the organizational framework of local constitutional life — and the *Jászkun Statute* promulgated in 1799 (SZABÓ 2015; NAGY 2020).



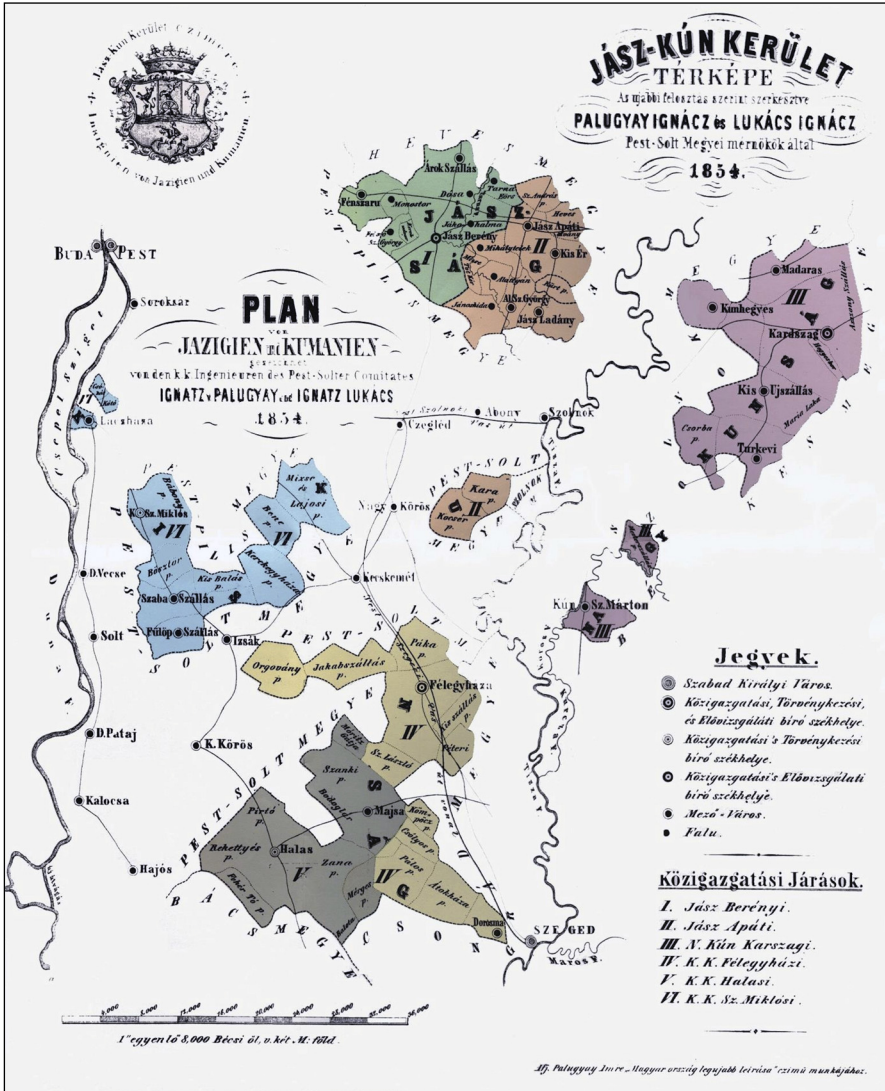


Fig. 1. Ignác Palugyay and Ignác Lukács: Map of the Jász-Kun District, 1854 (from Imre Palugyay Jr.: *Magyarország leírása* [Description of Hungary])

The period between 1702 and 1745 did not abound in written sources, but resistance to lords of the manor and the protection of *Jászkun* rights had a positive effect on the consolidation of legal customs. Relying on legal customs, local authorities maintained their relatively autonomous operation, perpetuated their own system of norms, and organized the economic and political life of their settlements according to their own rules. The most important events in the legal life of the well-organized population centered around the election of officials, the coordination



of management, and the annual accounting at both the district and municipal levels. Based on the events described in the records, the observance and practical implementation of legal customs is easily documented. In criminal matters, I found evidence of strong moral and legal obligations. Their elected magistrates' source of power was largely rooted in the confidence of their constituents. When those sworn to serve the community were found guilty of a punishable act in their private lives or abused the trust of the community, they received greater punishment than common residents. At the same time, it was incorporated into the legal culture that the leaders of the community were entitled to increased moral protection, and everyone could expect punishment for violating them. Until the 1730s, the powers of the judiciary were not sharply separated in the public's thinking: the captains of the districts were regarded with the greatest reverence, and their leadership and role as protector were irreproachable.

In the early 17th century, according to legal traditions, when someone in a village in the *Jászszág* "opened [a barrel of] wine," the captain, who then lived in Dósa (Jászdózsa), was entitled to half a pint (one icce) from each barrel. If a butcher slaughtered a cow, whether in Dósa or Négyszállás, the captain was entitled to its tongue and kidneys. One third of the eggs found on the ground in Ladány (Jászladány) also belonged to the captain. The custom of the captain's remuneration in kind applied to fish caught in the fishing waters or oxbow lakes of the Millér river, as well as loaches caught in the wetlands around *Jász* settlements. As a rule, the captain received one-third of the joint profits of the village. After catching fish or loaches, the captain's part had to be put aside first, and only then could the remaining two-thirds be distributed. The captain could renounce his share if he wanted to.

The method of thirding was practiced for a long time in criminal justice as well. In the early 18th century, the fines imposed on offenders were mostly divided into three parts, one or two of which always went to the church. When it came to domineering and dishonesty, if an offender was not sentenced to dishonesty but only a monetary fine, a third of that was used to reconcile the parties. In 1742 in Jászdózsa, a millhand had to pay three forints as a penalty for illegally cutting down a tree that grew wild. Two-thirds of the fine was given to the church, and wine was bought with the rest. In all localities of the districts, immigrants were discriminated against in terms of buying property, benefitting from shared profits, and land distributions. The mill had a special place in public property. When a mill was being built in Jászdózsa, the council adopted the decision that everyone, rich or poor, shall contribute 2 forints to the mill. Those who moved to the locality after the mill had been built had to contribute to the public fund to redeem the burden of construction based on the three locally accepted categories they belonged to: full owner, partial owner, or axe-man.

Burden-sharing created the custom of managing common property, with elected leaders reporting to and receiving reprieve from residents. I came across the custom in the records of Jászfényszaru, where every year they documented the local magistrate's accounting to the village, together with the town crier and other elected citizens; as it said: according to the customs of our sweet old forefathers. Among the entries in the records before 1742, in every accounting we find a reference to customariness that, in addition to the solemn framework and greater publicity, legitimized the event. In 1726, for example, it was recorded that accounting for the past year is being rendered according to the ancient local law and righteous custom. In Jászdózsa, it was always emphasized that the accounting took place in front of the village, so the residents who were present and listed by name granted the reprieve on behalf of the entire village.



In the vernacular, magistrates, judges, and council members were all called judges, acknowledging their superiority and authority; the respect due to the judge is also documented in the other records. In Jászjákóhalma, a statute was drawn up in 1728 to penalize those who concealed livestock to avoid taxes. At the public assembly, in the presence of the entire council and the *communitas*, a provision was introduced, according to which a sworn official who concealed livestock shall pay nine *Mariengroschen* (silver coins), while an ordinary civilian half of that. A distinction was made between the civil obligations (*vinculum*) of recidivists, too: a sworn official was fined 40 forints, an ordinary civilian 20 forints. Sworn officials were members of the magistrate and persons sworn to serve the community, while outsiders were the other residents, and the positive discrimination of sworn officials was common.

A peculiarity of *Jászkun* liberty is that it managed to maintain certain features even during the period of manorial dependency. The most important of these is that the management of the lower and secondary administrative and judicial organization, i.e., the localities and the particular (*Jász-Kiskun-Nagykun*) districts, remained independent of the lord of the manor. The Order only put a manorial administrator in place of the captain-general of the *Jászkun District* appointed by the palatine. The fact that they had their own economic resources to run the municipality — the income from the benefices — helped preserve their liberties. Although smaller royal benefits would have been part of the manorial income, due to the resistance of the local leaders, the manorial authorities could never take stock of it because the localities did not keep records of this income. Their duty exemption, rooted in the old legislation, also prevailed and was renewed by palatine János Pálffy despite the fact that he could not assume the role of Chief Justice of the *Jászkun*. The settlements were run by their elected leaders according to local customs. Important legal sources of their relative freedom were the statutes that they had drawn up and that had been adopted by the general assembly of the district. The general assembly of the *Kiskun District* in Lacháza (Kiskunlacháza) created a statute in 1737 stating that “Inhabitants are obliged to report their complaints. The Chief Justice convenes a council every Monday, notifying the jurors via the Town Cryer the previous Sunday night (...) anyone who disobeys the judge’s orders or fails to show up, shall be apprehended, put in the pillory until the time of the homily, and flogged in front of all the people. Should a judge fail to comply with the council’s orders, he must pay a fine of 6 forints” (BÁNKINÉ MOLNÁR 2005:42). Localities also adopted statutes. In 1728 in Jákóhalma, for example, the entire council and community jointly determined how much to fine someone for concealing livestock to avoid paying the tenancy lease. In 1744 in Jászdózsa, the kind of penalty that was to be imposed for blasphemy was set in writing. Until 1744, penitence was imposed according to local customs. One must wonder why this local law may have been created. Perhaps the overburdened population was becoming increasingly difficult to control; perhaps it was the hope provided by the approaching land exchange, the conflicts with strangers flooding in from outside localities, or perhaps it was a gesture or obligation to the Catholic queen — it is difficult to determine. The fact is, the leaders of Jászdózsa considered it necessary to create this local law.

Sources show that Jassic and Cuman liberty was a determinant of the legal culture of the two ethnic groups and facilitated their survival. At the time of the sale, their local leaders, clinging to their own customs, avoided the introduction of labor coercion that afflicted all serfs and preserved their tax-paying peasant status, which allowed them much more freedom than the earthbound serfs. The lord of the manor was unable to introduce labor coercion because in 1702 his contract of sale did not stipulate that Jassics and Cumans, who had not been subject to labor



coercion in the past, should be forced to submit to it, so the magistrates of the villages took advantage of the legal loophole and held fast to their old customs.

The possibility of relatively free farming attracted settlers. Population growth, the consolidation of economies, and well-organized local governments have helped to push for redemption, supported by the favorable political situation and the palatine. On May 6, 1745, Queen Maria Theresa signed the Act of Redemption of the *Jászkun District*, which was the basic law of the second period of the *Jászkun* autonomy.

THE LEGAL CULTURE OF THE *JÁSZKUN DISTRICT* AFTER THE REDEMPTION

The granting of the “*Jászkun Redemption*” on May 6, 1745, among other conditions, placed a heavy financial burden on the districts. The payment deadline for the redemption capital, 500,000 Rhenish gulden, was set for July 24, 1745. This huge amount was paid out by the population from loans and their own money. The redemption capital was generated by land exchange: anyone contributing money to the redemption fund would receive land in proportion to his payment. It took nearly 20 years to repay the loans and pay off the land exchanges of individuals. To achieve this momentous event, almost everyone in the district made the effort, which their descendants proudly invoked for centuries.

The privilege abolished manorial subjection. The *Jászkun District* remained a crown estate, but ownership and social organization would be determined by the population. Their relationship to the other municipalities of the country became horizontal, and from then on the municipality was once again connected to the organization of the empire through the palatine.

The legal order contained in the nine articles of the charter of privilege established new foundations for ownership, as well as for political, economic, and social life. The population living in the administrative unit and jurisdiction of the *Jászkun District* gained territorial autonomy and sufficient legal support for organizing a local government.

In 1751, when the method of redemption was consolidated, the privilege was supplemented by a royal decree approved by the Hungarian Parliament. The decree regulated the life of the organized communities in the district and had a strong influence on the coexistence standards of the organic communities. The 24 points of the decree provided guidance on organizational issues, on voting methods, and explained in more detail than the charter of privilege the possibilities of a society stratified by the redemption. The charter of privilege and decree were the fundamental documents of the constitutional life of the districts, which allowed for the creation and application of local regulations coordinating everyday coexistence. The regulations of the local authorities and social groups have closed the loopholes left by the basic laws. After 1745, the regulatory power of legal customs weakened, and the influence of statutes that could be classified as customary law on all areas of political and economic life and the administration of justice in the *Jászkun District* intensified.

Of the nine articles of the charter of privilege, a more detailed presentation of Articles IV and VII is necessary for the discussion of our topic. Article IV provided that administrative and judicial affairs could be carried out by their freely elected officials, and only their captain-general shall be appointed by the palatine. The self-governance granted by the article made it possible to create a statute and strengthened the local rule of law and customary law.



Article VII of the charter of privilege provided for the exercise of rights, stating that exemptions and privileges shall be subject to the same conditions and that rights shall also be allocated according to these conditions. The provision has been interpreted in the districts to mean that a person who has contributed to the redemption may receive rights granted in the privilege and a portion of the redeemed land in proportion to his payment. According to their theory, the rights granted by the privilege were inherent in the redeemed land, which they considered their property, even though the privilege only granted inhabitancy and use, while the real property remained that of the crown. According to the established legal practice during the implementation of the redemption, a person who sold the so-called capital land redeemed in the *Jász kun District* also sold the rights attached to it. The legal custom supplementing those described in the charter of privilege soon became customary law and were integrated into local constitutional life. This customary law complemented and adjusted the privilege, and, in accordance with it, created the unique social stratification of the districts, which proved to be decisive throughout the existence of the *Jász kun District* under public law — and even beyond. Land redeemers gained full rights and enjoyed all the economic and political prerogatives granted by the privilege (BANKINÉ MOLNÁR 2000). According to a ball invitation from Jászberény, the Redeemers' Commonwealth of Jászberény and the Civic Casino Association organized a joint dance party in 1940. At the time of the famous ball, the *Jász kun District* had not existed for 64 years, and more than 200 years had passed since the redemption, yet the name Redeemers' Commonwealth indicated a positive distinction (BATHÓ 2020:55).

The population was divided into redemptors with full rights and redempt-nobles, irredemptors with lesser land portions and rights, landless tenant farmers, and *commorans* remaining in the districts for the sole purpose of employment. Redempt-nobles included nobles who exchanged land within the boundaries of the districts, whose noble estates, if any, were located outside the districts. There could be no noble estate in the *Jász kun District* — every last chunk of earth in the districts was considered redeemed land. The unique, peculiar social stratification emerged due to the combined effect of the redemption and the legal customs and customary laws attached to it and were maintained in all settlements of the districts by local regulations and district-level statutes.

In judgments, whether local or district-level, the expectations of the population, the system of popular norms, had to prevail, while the interests of the authorities could not be ignored either. Inevitably, a layer of local leadership with legal expertise emerged, including a number of elected officials, the majority of chief justices, captains, and several senators. Their legal expertise was reflected in local statutes.

Contrary to legal customs, the observance of local statutes was no longer enforced by the expectation of public opinion but ensured by the local authority through sanctions. The method of sanctioning specified in the statute had been accepted by the community. In all cases, the established and accepted rules of the settlements applied only to those living within the administrative unit. They no longer applied to Jassics and Cumans who left the district or lived outside the *jász* and *kun* districts. To uphold these norms, their officials drew their power from the legitimacy of elections. The conflict-free operation of the administration was facilitated by the common interests of the society. As a result of the new autonomy born of the redemption, the population of the districts was sharply distinguished from those living outside the districts, against whom the social unity of the ethnically mixed local population was consolidated. The main feature of the legislative authority was that it was made up of free people who, through



their elected leaders and an autonomous administration, were able to enact legal provisions locally for their own benefit.

After 1745, a number of long-established legal customs prevailed, but the consolidation of the changed social and economic order required new local regulations, written statutes, which ushered the population from the world of legal customs into a society governed by customary law. In addition to the localities, statutes were also drawn up at the annual assembly of the particular districts as well as the *Jászkun District*, and their validity was determined by the forum of adoption.

The tremendous change that was brought on by the redemption is reflected in the local statute created in 1746 in Jászkisér. The regulations covered almost every aspect of life. The council minutes contain more than twenty pages of regulations for local officials and the general public, and clearly show that its authors were familiar with Werbőczy's laws as well as local customary law. In 1746, the council of Kisér noted that it was necessary to regulate the life of the entire settlement in order to maintain the new order, because the land exchange had generated many local conflicts. To win the sympathy of the people, it was proclaimed that "since the people are very much disobedient and insubordinate and everyone wants to follow their own course, it is appropriate and even necessary to create certain statutes and regulations in order to promote the common good so that people should be more obedient" (BÁNKINÉ MOLNÁR 2017:37). Two senators, the chief justice and the notary, were commissioned to draw up the order. At the same time, it was decided that to promote their observance, the regulations shall also be read annually in front of the people at the time of the justices taking their oath of office. I published the full text of the statute in 2017 in the volume indicated above.

In 1749, a regulation was passed in Szabadszállás regarding the conduct of council members, which affected the entire *Kiskun District*. The statute is a curiosity, we do not know of any other local ordinance from the district that regulated the required conduct of councilors. For example, they were ordered not to talk about things meant for the board meeting: "No Council Member shall talk about the secrets discussed at the Council Hall, in an unsuitable and inappropriate place, to their wife or other friend, out of flattery or envy, and much more so at the tavern, the mill, the blacksmith, and any other forbidden location" (BÁNKINÉ MOLNÁR 2021). The prospective punishment of the offender is also unusual: forfeiture of honor and civil rights. It was a serious misconduct for a councilor not to attend the meeting, yet the most severe punishment was imposed on senators who swore inappropriately, pound the council's table, and "gave the others a tongue-lashing."

The norms of social coexistence had changed in parallel with living conditions in both organized and organic communities. The regulations of the local authorities extended to the violations of norms within the family, which were often weighed in the unofficial forums of the wider community — the neighborhood, the residents of the street, even the entire town. However, quite often much more effective than the sentence imposed by the magistrate and the council was the offender's dehonouration in front of his immediate surroundings. In local communities, those who violated the norms were publicly condemned and humiliated. Rumors, mockery, ridicule, scolding, exclusion, menacing, verbal intimidation, and public judgment may have had more painful and prolonged effects than silent manifestations of contempt (NAGY 2013).

In the second half of the 18th century in the *Jászkun District*, satirical poems were used as a special form of dehonouration. In every locality and every community in the districts, failing to



observe holy days, blaspheming, violating the rules of the Church and religion, and violating the moral code were punished according to local regulations. Their punishment was adapted to local customs, from making penance in the church — which was the custom among the Calvinist — to throwing away the men's caps, which is documented in a source from Catholic Jászberény. The justice could sentence the culprit to “attend Mass in wood,” that is, to be put in a pillory, but also to be stoned to death. However, the latter form of punishment has only been recorded as a threat, and we have no written evidence of its actual implementation. When a straw wreath was placed on the head of a woman who had committed a sexual offense, it expressed the moral attitude of the public as well as the judgment of the court. In Jászárokszállás, even in the early 20th century, a fallen girl was made to sit on a chair in the center of the village as a form of dehonouration and as edification for other girls (LUBI 1954–57: JMA 930-06). The perseverance and folk roots of customs practiced in organic communities have been confirmed by ethnographic collections and written sources. It is certain that local society's respect for traditions was stronger in the *Jászság* than in the *Kunság*, and even after the abolition of the autonomy of the *Jászkun District*, the customs that once had a legal nature did not disappear completely.

Most of the municipal regulations of the decade following the redemption — as in other farming communities — were created to regulate land ownership and farming. In the autumn of 1747, the population adopted new regulations on the allocation of land in several of the district's settlements. In Madaras (Kunmadaras), for example, three elected council members and eight residents took the oath to carry out the land distribution in accordance with the statute. In Félégyháza (Kiskunfélégyháza), the village adopted new rules for *bitang* (stray) cattle in 1748, in which the legal tradition already practiced in the early 1700s, the thirding of penalties and rewards, shows up. According to these regulations in Félégyháza, if one did not release others' captured stray cattle within the prescribed timeframe, one was obliged to pay two parts of their penalty to the notary and the third part to the justice.

In 1752, the General Assembly of the *Jászkun District* adopted the first statute regulating the social strata, which was binding in all 25 *Jászkun* settlements. At that time, it was decided that those who did not exchange land worth at least 20 forints could not be considered redemptors and could not exercise the privileges gained through the land exchange (BÁNKINÉ MOLNÁR 2000:20). The conditions for being considered a redemptor have later been modified several times to meet changing societal needs. In 1762, for example, another 4 points were added to delimit the conditions of a redemptor's privileges, granting an advantageous position to the first land exchangers who have since become impoverished (IVÁNYOSI SZABÓ 1985:126). In the vein of the district's documents of this customary law, new ordinances were adopted in succession in each locality, and new provisions were soon made to define the social strata.

One of the provisions dealing with the rights of the local social strata has been preserved in the archives of Félégyháza: it describes in ten points the rights of those in each social stratum. Tenant farmers were no longer allowed to build a barn or farmstead, thus preventing their material consolidation and entry into the leading stratum of redemptors. The same provision also forbade those who did not exchange land to build a house. The landless could not build their own dwelling even if they had a parcel. Violators of the ban could expect a fine of six forints and the demolition of their house. No one was allowed to take in a tenant without the justice's knowledge, but if a farmer did take in someone, he could expect a fine of 6 forints, and the newcomer was banned from the locality (IVÁNYOSI SZABÓ 1985:120). This local law was not



created in a village assembly but in the presence of the council and some of the residents. Soon the other settlements of the district also put in writing the restrictions on the reception of new residents as well as the ethical and behavioral requirements for all residents.

The sale and purchase of the lands of the redemptors can be evidenced from 1745 onwards. In a society divided by the size of land ownership, all privileges were linked to the so-called capital land that was redeemed and could be obtained in conjunction with it. The regulation of sales was contained in their own rules. The social hierarchy has consistently prevailed in the pre-emptive system. This customary law was practiced from the time of redemption but was later enacted by the *Jászkun Statute*.

THE ENACTED CUSTOMARY LAWS OF THE JÁSZKUN: THE JÁSZKUN STATUTE

The *Jászkun Statute* was approved by Palatine József in 1799 and promulgated at the general assembly of the *Jászkuns* on April 18, but it was not created at that time. The jurists of the districts drew up the regulations as early as 1768, for which they collected the legal customs and regulations practiced in the villages and districts after the redemption. They were able to do this, for the burden of redemption had been paid off in the first half of the 1760s. The land redeemed and the associated liberties were now fully in their ownership. *Jászkun* cadasters, called *Liber Fundi*, and the most authentic documents of their bill of rights, were produced for each settlement. The social hierarchy that developed after 1745 was consolidated, and the most important norms of coexistence and the preserved ancient customary law were applied in everyday life. The memorandum drawn up in 1768 thus classified the local ordinances established in everyday practice into 13 statutes, and the customary law codified in this way had been submitted to the palatine for approval, who had it analyzed and debated starting in January 1799 before it was promulgated at the general assembly held on February 13 (KELE 1904). The customary law of the *Jászkun District*, thus enacted into law, came to be accepted in the districts and gained nationally fame. The customary law provision was published several times, and its recognition among the *Jászkuns* proved to be unbroken throughout the existence of the districts. Its articles on succession and widow's rights remained in force until 1946 and were used in everyday life as well as judicial practice. The statute was kept in the family letterbox by many redemptor families, and even those who could not afford to own one were familiar with it (Fig. 2).

Of the *Statutes Governing the Courts of Jász and Kun Counties*, as they were officially called, articles I, III, VIII, IX, X, XI, XII, and XIII provided legal obligations for legislation. Statute II was about personal deeds, commoners' desirable conduct towards their superiors and among themselves, and addressed the penalties for their offensive conduct. The precursors of the article rooted in legal customs can be found in local regulations.

In this case, I am examining the chapters of the *Jászkun Statute* that, based on the legal customs practiced among the *Jászkuns* for generations, showed unique characteristics or prevailed for a particularly long time. Such were articles IV, V, VI, and VII (KELE 1904:351–394).

The starting point of my analysis is article IV, which addressed the law of succession — a succession regime that was different from national law — and served to protect *Jászkun* land ownership and the associated privileges of redemptors. It should be emphasized that making a will was common practice in the districts, with prescribed formal, personal, custodial, and



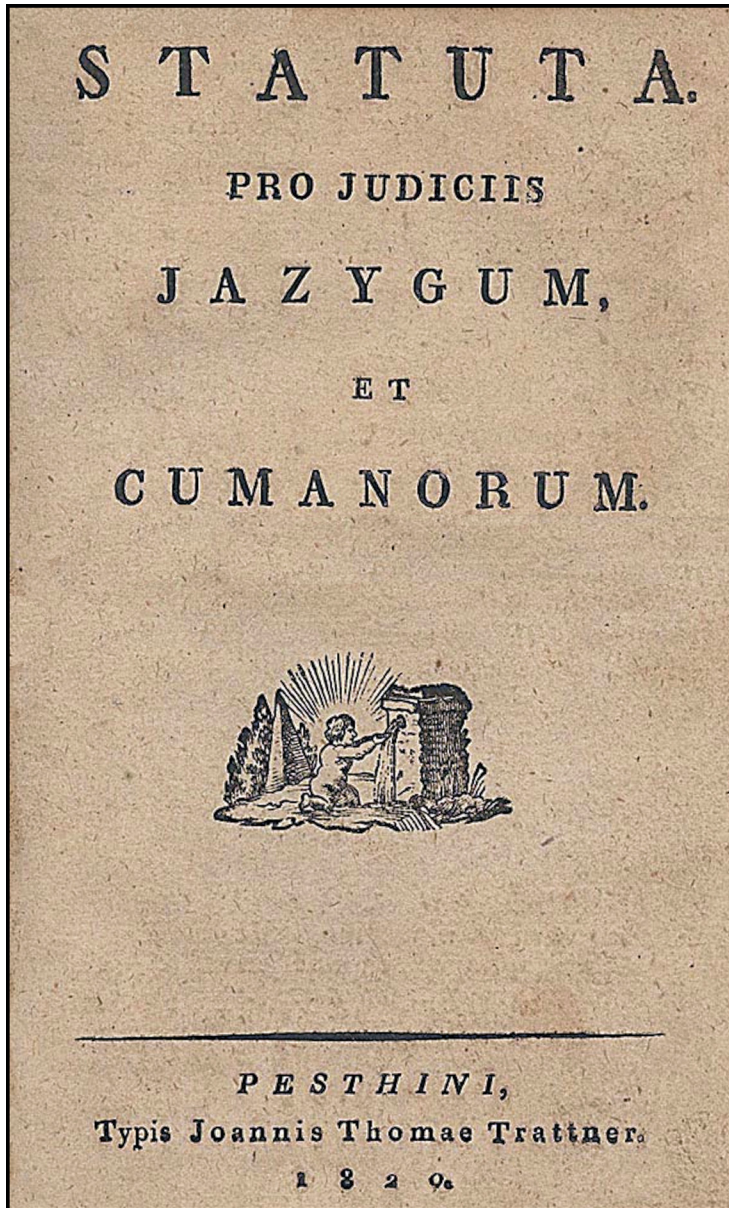


Fig. 2. The title page of the *Jászku Statute* published in 1820. Privately owned copy from Kunszentmiklós. The photo comes from the collection of the Calvinist High School in Kunszentmiklós



publication conditions deeply rooted in local customs as well as Act 27 of 1715, which was often cited in inheritance proceedings. The formal conditions for making a will are set out in Statute VIII.

According to the *Jászkun* succession regime stipulated in Statute IV, land ownership was inherited by sons. According to László Papp, researcher of the legal folklore of Kiskunhalas, strict male-line succession still prevailed in the public consciousness and in succession practice before Second World War (PAPP 1941). In the Nagykunság, when the succession rights of daughters became recognized in the division of inheritance in the second half of the 19th century, they were given money instead of land — they were bought out (ÖRSI 2005). László Szabó analyzed the succession proceedings of 11 *Jász* settlements in 1838 and found that male heirs, so to speak, always redeemed the capital land representing the source of the rights (SZABÓ 2001). The same is supported by my own research, the subject of which was the 18th century wills of 314 persons in the archives of Kiskunfélegyháza.

Article 1 of Statute IV of 1799 stated: “Granteth the freedom to everyone that they may freely dispose of the property they had themselves acquired. That if such Acquisitor should die without a Will, and leave no Widow, all his Moveable Property be equally divided among his Sons and Daughters; and his Immovable property or real property shall pass to the Sons; however, that their sisters shall be paid in cash, according to their rights or shares, from the Sum for which the real property had been acquired” (KELE 1904:371). This statute gave the testator the option that, if he only had female children, they would be treated as if they were sons, but the ancestral land would still be inherited by their male child. One might rightly think that the authors of the article, keeping in mind the collective nobility of the *Jászkuns*, aligned themselves with the principles of noble entailment and ensured the priority of male-line inheritance of land; the similarity, however, is not complete. From the moment of consolidation of ownership, the basis of *Jászkun* entailment was the redeemed land. Its local interpretation included the system of localization, succession, reclaims, and pre-emption rights based on district statutes. *Jászkun* entailment extended to all modes and conditions of land ownership, even mortgages. Its significance was increased by the fact that there was ample room for local government intervention and the assertion of *Jászkun* autonomy. In 1861, Article 17 of the national judicial conference partially adapted the statute to the rules of general Hungarian law. But it stated that “with regard to spousal inheritance, widow’s inheritance, and widow’s rights — the rules prevailing in the *Jászkun Districts* will continue to serve as a yardstick there in the future.”

The succession laws for widows established in Statute V diverged from national law. In the 1890s, a debate arose in the Legal Review about the exclusion of widows from ancestral property rights. According to János Reiner, since the basis of property rights among the *Jászkuns* was participation in the redemption — financial contribution and military service — and the latter could not be satisfied by women, they could not have the same rights as men (REINER 1892:497–551). The explanation, especially with regard to Kunszentmárton, where many women were original land redeemers, requires more extensive research.

Despite all arguments, Statute V was cited in judicial practice until 1946. Statute V stated that in the *Jászkun District*, a widow is not an owner of her husband’s property, only a usufructuary, and her husband could even deprive her of her usufruct rights. Another limitation was that the usufruct rights only applied to jointly accrued gains. This was already established in Statute IV, according to which usufruct rights did not apply to entailed or granted assets. Statute V diverged from general Hungarian widow’s rights in that if a widow who was not a joint acquirer



remarried, in addition to her dower, bride-price, and dowry, she was only entitled to a child's share of her previous husband's movable assets. It is a *Jász kun* peculiarity that the dower had no predetermined value but aligned with redeemed land ownership, and according to the husband's financial situation, it was determined in proportion to the redemption price of the land. In cases in which the husband contracted a disproportionately high dower in relation to his assets, the heirs were entitled to, and did, challenge the will. The widow was entitled to the dower even if she remarried, but in order to receive it, she had to obtain the consent of the relatives. It can be established from the sources that law and practice did not always match. A *Jász kun* woman was in many cases a property owner, and there were several widows among the land redeemers. They were granted free disposal rights over the land registered in their name during their lifetime and after their death. However, if the wife did not provide otherwise, her property passed to her husband in the event of her death (KRENNER 1941). It should be noted that Statute VIII, which addressed general succession, transferred the inheritance of an heirless decedent, by right arising from the redemption, to the original owner, i.e., the municipality.

Statute VI, containing local specifics on sales and purchases, stated that the sale and purchase of real property shall always take place before the village council and must be logged. The Statute promoted the survival of traditional society and property regimes based on consanguinity and prevented houses or capital lands from falling into foreign hands. At the same time, it stipulated the formal requirements for sales and pre-emption rights and distinguished between perpetual sales and mortgages. The pledgers or their descendants had the opportunity to reclaim the redeemed entailed land. In most of the proceedings aimed at reclaiming land, the former owner had to prove that the previous sale was not made in perpetuity, only as a mortgage. The observance of the formal requirements described in the statute was of great importance in this regard. No time limit was set for the redeemability of the mortgage, although judicial practice confirms the 32-year time limit for redeeming the mortgage; nonetheless, grandchildren sometimes made attempts even beyond that. Among the rights to purchase, the strongest was that of a blood relative who was also a redempt neighbor. He was followed by a redempt neighbor or another redempt, and if there was no such buyer, then an irredempt was entitled to purchase, and only after him came a tenant farmer. Land purchasers who came from a settlement in the *Jász kun District* enjoyed priority over those who came from outside the locality. It should be noted that beyond the publication period — five, then 15 days — and especially for claims submitted after one year of actual land use, the council did not allow the otherwise legal sale to be amended. A strong limitation in property acquisition was that an owner was only allowed to trade freely assets he acquired. Lineal descendants could assert a right of pre-emption or repurchase for the entailments — the redeemed capital land.

The issue of joint acquisitions must be mentioned separately. Many wills from *Jász kun ság* included the term “jointly acquired,” and bequests have also been handed down under this label. There are several entries in Kunszentmárton's *Liber Fundi* where both the male and female members of the land-redeeming couple contributed to the redemption with a specified amount. In the case of such real estate, the testator bequeaths a certain portion of the land with reference to the joint acquisition, the joint acquisition can be verified by a deed, thereby it qualifies as an exception to the law of succession. In everyday customs, however, such entries were not considered exceptional, and in the case of sales, the fee tail always indicated if the wife was a land acquirer. Authentic documentation of the joint acquisition could become particularly



important in the event of the husband's death and could be crucial in terms of the widow's inheritance.

Statute VII on leaving the district must be mentioned here, which also served to preserve the entailed redeemed land and prohibited outmigration without permission. Upon leaving the district, the person leaving was allowed to keep his previously acquired property and his inheritance in the district acquired after leaving. A person leaving the *Jászkun District* that had his land in the district cultivated and bore its burdens did not have to sell his land. An heir was allowed to keep and use his *Jászkun* land even if he had gained citizenship elsewhere. However, if he did sell his land, but later moved back, he was not allowed to reclaim the land sold in perpetuity under any condition. In this, too, *Jászkun* land ownership rights diverged from other regions, for example from land ownership in the *Hajdú District*, which has many similarities in other respects. In the *Hajdú District*, a basic condition for land ownership was local residency; any *Hajdú* who left a *Hajdú* town had to renounce their land ownership (OROSZ 1995:201–202).

EPILOGUE

It can be said with complete certainty that the customary laws of the *Jászkun District*, which had been preserved for centuries, had been codified by the *Jászkun Statute* promulgated in 1799. The customary laws adopted as local laws incorporated the legal customs and legal institutions of all three particular districts and facilitated the survival of the specific unique features of *Jászkun* society and the high level of differentiation of their legal practice. *Jászkun* autonomy was of particular importance in all periods of the *Jászkun District's* existence, distinguishing it from other free districts and counties in Hungary. Their autonomy was largely facilitated by the popular acceptance of their unique characteristics, the long-term survival of their legal customs, and their consolidation in the enacted *Jászkun* customary laws, the *Jászkun Statute*. When we talk about the customary laws of the *Jászkuns*, we are not only referring to the *Jászkun Statute*, since the legal processes that permeated the lives of the Jassic and Cuman and later the *Jászkun* people — sometimes amplifying, other times weakening the events — were continuously built upon each other, but they always preserved the *Jászkun* characteristics. The customary laws of the *Jászkun* are history now, but in more than one aspect (e.g., succession, widow's rights), they still affect the everyday lives of late descendants.

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