

Zsuzsanna Fejes^{OR}

BOOK REVIEW: CHRISTIANITY AND HUMAN RIGHTS. PERSPECTIVES FROM HUNGARY EDITED BY ANDRÁS KOLTAY¹

Zsuzsanna Fejes, PhD habil, Associate Professor, University of Public Service, Faculty of Public Governance and International Studies, Department of Governance and Public Policy, fejes.zsuzsanna@uni-nke.hu

Christianity has played a crucial role in building and maintaining civilisation and cultures in Europe until this very day. People living on the continent share the legacy of antiquity and Christianity in balance, while respecting the values of religion and still maintaining neutrality in their constitutional systems. This causes the question to stand, whether Christianity still is a part of European culture, and if so, in what religious, political or cultural ways.

All these questions are examined in the volume, which incorporates 16 studies of various authors. Essays show clearly that not only the merge of different cultures, disputes of interests, the connection between law and religion, but also and mainly the ideas of Christianity are all special legal theories and questions waiting to be examined.

Even though the various academics contributing to this volume have their own individual concepts and different views, most of the studies concentrate on problems and questions of basic freedoms, such as human dignity, freedom of speech and religious freedom. As it is stated by the Editor in the foreword, all 16 studies are written in English by academics from different research institutes all over Hungary, also easily accessible internationally, inviting researchers to contribute to this international scientific debate.

KEYWORDS:

Christianity, human rights, human dignity, conscience, secularisation, religion, freedom of religion, tradition, culture, natural law and right, free will

¹ András Koltay (ed.), *Christianity and Human Rights. Perspectives from Hungary* (Budapest: Ludovika University Press, 2021).

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Essays show clearly that not only the merge of different cultures, disputes of interests, connection between law and religion, but also and mainly the ideas of Christianity are all special legal theories and questions waiting to be examined and solved. Even though the various academics contributing to this volume have their own individual concepts and different views, most of the studies concentrate on problems and questions of basic freedoms, such as human dignity, freedom of speech and religious freedom. The common idea seems to be that understanding the freedom of religion, human consciousness and basic human rights is not only the key to understanding the past, but it could also play a part in making decisions for the future – it does not matter for which European country or at the continental integrational level. As stated by the Editor in the foreword, all 16 studies are written in English by academics from different research institutes all over Hungary, also easily accessible internationally, inviting researchers to contribute to this international scientific debate.

The volume itself can be divided into three constructional units. The first one is concentrating on the question of Christian freedom, the second one is focusing on the problematics of human conscience, while the last unit is trying to bring light to the values of Christianity.

The first essay, written by András Láncki, is looking for answers in the cooperation between the commands of law and human freedom. To be able to do that, the author begins by comparing the old and modern definitions of freedom. While the antique definition was based on the ability of people to adapt to natural laws, Christian freedom is built on the free will of men, and also claims to fight sin. The modern definition for freedom is based on the political rights of the individual, which is secured by international contracts and treaties signed by states. The author claims that both antique and Christian definitions take human rationality as a finite concept, making law an absolute power. The modern definition, however, is cleansing the idea first of the concept of God and after, the concept of

nature.² Freedom, taken without both ideas, is a politically negotiable subject, put between clear lines of law, nature and private and public areas of life.³

The author closes his study with the thoughts of constant questioning and consideration being the only way for Europeans, of which the most important cultural and existential concept shall be, obviously, Christian freedom. Modern ideas of the protection of freedom are only legitimate and eligible, as long as they do not confront the individual rights and the classical understanding of the upper hand of the law – which does not suggest or recommend, only commands.⁴

The second essay, written by Ádám Rixer, is researching Christian freedom from an interdisciplinary point of view. His bilateral approach is built on legal and theological grounds. The author states in the beginning of his essay that there is and probably will not be an all-scientific definition of Christian freedom, including all scientific finds of all research areas. Still, these different research fields all contribute to it in some way. They help to form definitions, including common and original ones which help to understand the affected disciplines that are put into catalogue right at the beginning of the study. This includes not only the legal and theological ideas, but also the notions of political sciences, social psychology and the affected areas of religious sciences.⁵ The whole study is built on basic research that drew from not only the Bible itself, but also from relevant legal and further scientific sources. Its novelty is showing through its research approach, which is building on not only traditional static research ways, but also dynamic and lifelike processes. While pursuing a legal examination, the author based his work on his own legal and sociological analyses of legal acts, rather than only interpreting written legal rules. While doing so, the author was able to surpass the assaying of the normative and individual legal acts and come to clear and accurate definitions of legal life and practices. The theological part of his research caused him to present freedom as a dynamic process, where freedom is constantly evolving parallel with human characteristic evolution.⁶

The study of Balázs Schanda is first examining some of the ideas about the freedom of religion of none other than the Catholic Church, and then in the second part of his research he is concentrating on the relations of Christian culture and Christian beliefs. The author believes that the interpretation of religious freedom grew a lot more colourful in the passing years, with only two main concepts remaining the same. First, the religious individual is a threat to the sovereignty of the state, his loyalty being severed by his faith. The image of man painted in the Bible determines the human image of the Western world if it comes to dignity – God made man after his own image, and a free willed creature

² See John Stuart Mill, *Three Essays on Religion: Nature, the Utility of Religion, and Theism* (London: Longmans, Green, Reader and Dyer, 1874).

³ András Láncki, 'Freedom and Law', in *Christianity and Human Rights. Perspectives from Hungary*, ed. by András Koltay (Budapest: Ludovika University Press, 2021), 15–36.

⁴ *Ibid.* 36.

⁵ Ádám Rixer, 'A vallás fogalmáról', *Jogelméleti Szemle* no 4 (2011), 1–8.

⁶ Ádám Rixer, 'The Legal and Theological Concepts of Christian Liberty', in *Christianity and Human Rights. Perspectives from Hungary*, ed. by András Koltay (Budapest: Ludovika University Press, 2021), 39–66.

made not only by, but based on Him, can only bear this special gift of dignity. Other than that, a man with faith could also enrich his community – the believers create communal culture, which is the basis of an entire society. Spoken from a traditional aspect, the state is made to secure commonwealth, and human rights and the freedom of religion do belong to that.

The author comes to the conclusion that communities with belief systems could serve the entirety of society. A healthy pluralism is causing multi-religious dwellings and makes it possible to experience religion authentically which eventually leads to more understanding and patient communities. However, a state must build on its society's cultural preferences and historical traditions. The author claims that freedom of religion has a central place in Hungary's public law traditions. This caused Hungary to have different denominations living peacefully next to each other and gave the country a precious historical experience of a cohesive community which stays together in case of outside dangers. The constitutional act about the defence of the Christian cultural values of Hungary also brings attention to keep this part of our cultural history, which falls more on those who understand its roots.⁷

The study of Zsolt Péter Balogh keeps on examining the question of Christianity and human rights from the human dignities point of view. The author argues that human rights are inseparable and inalienable from humanity, because they come from a God-given freedom of people. Understanding that dignity is laying somewhere deep in every act and given law, and coming before any society was built – they are mandatory, too. Human rights and the idea of basic human dignity connect very close to each other, if someone wishes to examine them it is best to start with the further one. Based on this way of thinking, people of faith cannot be excluded from the legal system, on the contrary, those two need to be researched closely together. The study also deals with the protection of the personality and private sphere and the problematics of equality. He also comes to the conclusion that Christian-spirited research should also include social rights.⁸

Lóránt Csink conducted a study working on the connection between Christian and constitutional freedom, which both spark controversy on their own. He examines Christian freedom based on the teachings of the Bible, while concentrating on the constitutional one from a liberal point of view. While comparing his findings of biblical and liberal freedom, the author concluded that liberal freedom is inherent, and because of this, people have kept their ability to live free. While biblical freedom also might have been inherent at some point, man was made to be free, and this was then taken from humanity because of sin – meaning, people lost their capability to live freely. He points out that the biblical image of freedom is from a different point of view than that of liberalism, which is an important branch of constitutional rights. It does not mean the rightness of wrongness

⁷ Balázs Schanda, 'Freedom of Religion, Public Good, Christian Culture', in *Christianity and Human Rights. Perspectives from Hungary*, ed. by András Koltay (Budapest: Ludovika University Press, 2021), 69–82.

⁸ Zsolt Péter Balogh, 'Christianity and Human Rights', in *Christianity and Human Rights. Perspectives from Hungary*, ed. by András Koltay (Budapest: Ludovika University Press, 2021), 85–97; see also Zsolt Balogh, 'Az emberi méltóság: jogi absztrakció vagy alanyi jog?', *Iustum Aequum Salutare* 6, no 4 (2010), 35–45.

of liberalism, or that the biblical stand would be better or worse. This only means that the Bible is no source to back up any trend, nor should it be used for political reasons.⁹

The second, larger unit of the whole volume concentrates on the constitutionality of conscience. Gergely Deli is examining the cases of Christians in litigation. It is also a basic right for people with beliefs to legally protect their own interests; it is also constitutionally assured for every person with citizenship, however, the author still questions whether it would be best for them not to live with it. He is stating a difference between ‘rational’ and ‘emotional’ constitutionalism. Rational constitutionalism is based on human dignity, it is individual, consequence-oriented, and it manifests in human rights. The emotional one is built on salvation, it is too personal, intention-oriented and is based on sins.

The work of the author proves the need to pursue the same deep, scientific research traditionally used with dogmatic research with conscience-based topics also, only with different definitions, virtues and limits. The conscience-based research could even prove to have a benefit against classical analysis: the debate between sin and virtue is widely understandable, its problematics is also widely spread so it is basically becoming a public matter. The conscience exams run this way do not only help researchers to publish opinion concerning an important legal or social dispute, but they could also become well-working processes for the legal concept of *honeste vivere*, the order to live a decent life.¹⁰

The next study is by Zoltán Balázs, who built his work on the political strength of the human rights doctrines, as thought processes with Western intellectual, philosophical and theological deeply-rooted constructs. The study follows the changes of human rights political doctrines from the classical authors until today. The author takes freedom of conscience as naturally given; however, he proposes that these have caused human rottenness and insecurity, which then eventually led to the need of legal constructs. These rights were then formalised by in-church institutions, universities and legal processes. While the Western world became democratised, people took the place of these institutes. This is proven by many political and legal terms we use today to define individuals, such as sovereign, self-determination or self-government.

Human rights were unusually formed in political disputes. This process took hundreds of years, and are still far from being closed. The human rights and advocacy movements and organisations of political power still come from their ideologies and/or political ties and commitments. Despite the moral and philosophical efforts to build and maintain human rights, these rights still remain within their political roots and are rather political doctrines.¹¹

⁹ Lóránt Csink, ‘What is Freedom?’, in *Christianity and Human Rights. Perspectives from Hungary*, ed. by András Koltay (Budapest: Ludovika University Press, 2021), 99–107.

¹⁰ Gergely Deli, ‘The Constitutionality of Conscience’, in *Christianity and Human Rights. Perspectives from Hungary*, ed. by András Koltay (Budapest: Ludovika University Press, 2021), 109–124.

¹¹ Zoltán Balázs, ‘Human Rights as a Political Doctrine’, in *Christianity and Human Rights. Perspectives from Hungary*, ed. by András Koltay (Budapest: Ludovika University Press, 2021), 127–146.

A further question of basic human rights is examined by Tamás Nyirkos, whose study focuses on human rights as subjects of ‘faith’, ‘religion’ or ‘secular religion’. He is not researching the origins of human rights, but the very definition of it, including its theoretical background, arguments and similarities to anything ‘religious’. He is looking for an answer to the question, whether human rights, with their specific origins, could also be of some kind of religious background. To be able to provide an answer, the author examined the vocabulary of the United Nations Universal Declaration of Human Rights to pinpoint the definitions of religion used in different international documents and further UN declarations.¹² Finally, the author concludes, the perception of human rights of the UN is quite similar to Christian ways of thinking, with some obvious differences. However, Christians shall not forget that no novel idea could take the place of God.¹³

Ferenc Hörcher is presenting the proposal of French Catholic philosopher Pierre Manent to renew the rights of nature. His studies were published in 2017, with the title *La loi naturelle et les droits de l’homme*.¹⁴ This work can be perceived as a sharp critique of natural human rights, and also contains the examination of Christianity’s ties to human rights. Manent’s work is based on the earlier studies from World War II era Jacques Maritain,¹⁵ the French researcher of international Catholic philosophies, and the German Jewish work of Leo Strauss¹⁶ from the post-war periods in North America, parallel with the birth of the UN universal doctrine. Manent built a bridge between the two researcher’s outputs, he also takes from the critiques of human rights and draws from the supporters of it. The author believes that the dispute around human rights is controversial as it is, purely based on the difference of ideas and interpretations in and outside of Europe. He reconstructs the historical route of the discussion of human rights from Machiavelli to Hobbes, while presenting the downfall of natural rights parallel with the ascension of human rights.

Manent believes politics to be built on order and obedience, still with people as actors in the centre. He sorts political regimes into three categories based solely on motivation: there is the pleasant one (l’agréable), the useful kind (l’utile), and a righteous way (l’honnête). This shallow conception is somewhat questionable; his beliefs to bring people back into legal disputes with arguments about practical wisdom and commonwealth rather than political use is quite welcomed on the contrary.

The study of Attila K Molnár concentrates on the dilemma of the duty of disobedience. This use of words may be interesting, but for him disobedience is not morally problematic,

¹² Tamás Nyirkos, ‘The Religion of Human Rights’, in *Christianity and Human Rights. Perspectives from Hungary*, ed. by András Koltay (Budapest: Ludovika University Press, 2021), 149–161; see also Malcom D Evans, *Religious Liberty and International Law in Europe* (Cambridge: Cambridge University Press, 1997).

¹³ Nyirkos, ‘The Religion of Human Rights’, 161.

¹⁴ Pierre Manent, *La loi naturelle et les droits de l’homme* (Paris: Presses Universitaires de France, 2017); Pierre Manent, *Natural Law and Human Rights: Toward a Recovery of Practical Reason*, transl. by Ralph C Hancock (Notre Dame, IN: University of Notre Dame Press, 2020).

¹⁵ Jacques Maritain, *Les droits de l’homme et la loi naturelle* (New York: Maison Française, 1942).

¹⁶ Leo Strauss, *Natural Right and History (Based on the 1949 Walgreen lectures)* (Chicago: University of Chicago Press, 1953). Reprinted with a new preface in 1971.

but rather a moral duty. After the Second World War, disobedience became a central part of political thinking; it was also embodied in the denial of command in case it would call for immoral or illegal actions. Politics also had to deal with controlling the idea of a rebellion, which would endanger the entire political community. The Christian way of thinking seemed to be the solution, which eventually created the idea of disobedience out of the concept of conscience.

The conflict between Thomas Aquinas and St. Bonaventura was based on the idea of mistaken conscience, which is often discussed in scholastic circles. While St. Thomas stood for the conscience to be followed in any case, even if it were to come across or against an authority, St. Bonaventura always argued for the primacy of authority. In his thinking, conscience can be wrong, so if it comes to a dispute with an authority, conscience is the one that has to be put to the side. However, the idea of the duty of disobedience comes from this very theory of Thomas Aquinas.¹⁷

For us Hungarians, the concept of *ius resistendi* was a historically important constitutional tradition granted in the Golden Bull.¹⁸ There was the problem waiting for salvation, if a good Christian could do anything against an emperor, who was becoming despotic. This did not only bring the question whether the capable actor could resist it, rather if they should do so. Resistance and disobedience has always been present throughout our whole written history, however, for early modern Europe and in its modern culture it became a moral duty – first, to avoid damnation, then in the new age, without any sort of reasoning needed at all.¹⁹

Nobert Kis examines in his study how pre-Christian people could have been introduced to the Christian religion. He analyses all the reasoning behind the downfall of the religion also. While looking at religion in general, Christianity specifically was a central forming power in the era of the Enlightenment: the first secularising acts already began to influence it, and it still has an effect on Western cultures.

The author believes that this area of science has come to a standstill, because it no longer has answers to the goal of human existence or the origins of life in general. The secularised idea of freedom or the political ideologies have all failed to serve as community building and community keeping powers. This means that religious traditions clearly cannot be replaced in their community making role. The author is questioning, whether humanity has again reached a point where it would come to God for answers.

After about two hundred years, the thesis of secularisation stands against that of Christianity again. The reason for whole societies to turn to religion instead of secular powers is partially the survival instinct on a communal level, and also some kind of

¹⁷ Thomas Aquinas, *Summa Theologiae*.

¹⁸ „Golden Bull of 1222, charter granted by King Andrew II of Hungary, which stated the basic rights and privileges of the Hungarian nobility and clergymen and the limits of the monarch's powers.” Read more: www.britannica.com/event/Golden-Bull-of-1222, 31.08.2021

¹⁹ Attila Károly Molnár, ‘The Duty of Disobedience’, in *Christianity and Human Rights. Perspectives from Hungary*, ed. by András Koltay (Budapest: Ludovika University Press, 2021), 179–198.

self-defence throughout Europe and the USA against other religious movements, such as Islam. The author concludes that even though the different states are still reacting in their own ways to these new challenges, in the future they might become quite similar, if not unified. Small, local communities seem to have successfully built on national and Christian ideas throughout the USA, Poland, Russia and also in Hungary. A new modern Christian society is being formed; this is what Eliot dreamed of seven decades ago.²⁰ The modern Western human's existential crisis is to be solved by conservative politics, national policies – specifically a national religious policy. As a community we can find each other again in Christianity and God.²¹

Gyula Bándi has also built his work on human rights; he concentrates on the lack of the right to the environment in them, as it has still not been officially named as one. In his opinion, human rights and the environment are ideas already linked together in Christian teachings, specifically since the creation of the world. Because of this, the importance of human rights was earlier emphasised in religious revelations. The protection of the environment and nature was already an integrated part of the Book of Creation, so it is part of the teachings of the whole Catholic Church. Having researched all these teachings, the author stated that the right to the environment in the Catholic Church stems from the protection of Creation. In Christian thinking, it is not only part of the commonwealth and human dignity, but also an essential condition for human life, and as such, it is to be protected based on personal and humanitarian responsibility.²²

János Frivaldszky is researching the dilemmas of legal personalities and entities, and the rights to life and dignity on the basis of contemporary natural law in his study.²³ He states that human rights were an accomplishment of a historical-moral awareness process of humanity. The legally binding nature of human rights today proves, for once, that natural law has had to be gradually recognised by its time, and also that humanity perceives itself as a social, cultural creation, and human life is of cultural existence.

The rights to life and human dignity can only be rightfully protected, if we look at people as natural, theoretically identified conscious beings – this is what proves for everyone to have the same unconditional and absolute dignity, which stands throughout one's life, from conception until death. This concept is also truly to be found in Christian values and thinking.

The right way of jurisprudence concentrates on the philosophical, anthropological ways of human beings. This theory finds that human intellect is far more than brain matter, it is the meaning of life, conscience, which cannot be detected by matters of natural science or positivist means. This is the main reason why legal attributes also need morality, natural

²⁰ Thomas S Eliot, *The Idea of a Christian Society and Other Writings* (London: Faber and Faber, 1982).

²¹ Norbert Kis, 'Searching for the Paradise Lost', in *Christianity and Human Rights. Perspectives from Hungary*, ed. by András Koltay (Budapest: Ludovika University Press, 2021), 201–225.

²² Gyula Bándi, 'The Protection of Creation and Human Rights', in *Christianity and Human Rights. Perspectives from Hungary*, ed. by András Koltay (Budapest: Ludovika University Press, 2021), 229–249.

²³ See János Frivaldszky, *Természetjog* (Budapest: Szent István Társulat, 2001), 56–146.

law and jurisprudence to succeed. The author believes, that only through this kind of definition of human beings can life and death be legally regulated.²⁴

The last structural unit of the volume focuses on Christian values. András Varga Zs is reviewing the main international human rights documents concerning the topics of marriage and family. He examines if and how these two ideas are part of European culture. He draws a picture of the meanings of marriage in the Jewish Old Testament, ancient Rome's legal system, and the regulation of the Catholic Church and general modern view built on the first two. The Christian idea of marriage and family, which draws from Roman societal ideas, which were built on the Old Testament Jewish religious beliefs and social system, is part of what we call European culture today. This tight connection and correlation is proven in the modern legal acts of the last half of the century, such as in the UN Universal Declaration of Human Rights document, which then eventually became somewhat reformed from its original root ideas in the last couple of decades. Taking all of this into consideration, the author concludes that European culture and its social system was built from the very beginning on the lasting – but sometimes still terminable – relations of men and women. The rejection of this relation is impossible, causing the deviation of culture as we know it.²⁵

The study of Kálmán Pócza is focusing on the cross, or crucifix case – one of the biggest crises of the German Federal Constitutional Court (*Bundesverfassungsgericht*). He is identifying all of the components leading to one of the most extreme disasters of the German Federation's history. The *Bundesverfassungsgericht* is one of the most respected institutes in Germany, and in most of Europe. Its decisions, as the court itself, is widely supported and promoted among German citizens. However, in 1995, the decision of the court in this very case was openly and sharply opposed by Bavarian politicians and turned them against the institution as well. Their objection went so far that they not only organised mass demonstrations, but also called for everyday citizens not to obey this legal act. The study also shows an overview of the causes leading to another, larger crisis of the constitutional court since after World War II: why and how the question of the freedom of religion and the cases of crosses in schools could destabilise the situation of German constitutional courts. It took a couple of years for the public to regain trust in the institution again, the social support reached its original high state, so the crisis was averted and citizens once again trusted the court. This case has proven to be useful for researchers to try and identify the underlying causes of the crisis in the beginning; to gain information of constitutional court processes and of juridical behaviour in general.²⁶

²⁴ János Frivaldszky, 'Legal Personality and the Right to Life and Dignity in Contemporary Catholic Natural Law Philosophy', in *Christianity and Human Rights. Perspectives from Hungary*, ed. by András Koltay (Budapest: Ludovika University Press, 2021), 251–297.

²⁵ András Zs. Varga, 'Marriage and Family as Christian and European Values', in *Christianity and Human Rights. Perspectives from Hungary*, ed. by András Koltay (Budapest: Ludovika University Press, 2021), 303–319.

²⁶ Kálmán Pócza, 'The Bavarian Crucifix Case', in *Christianity and Human Rights. Perspectives from Hungary*, ed. by András Koltay (Budapest: Ludovika University Press, 2021), 323–350.

The volume of study is closed with the essay of the editor, András Koltay himself, where he analyses the questions of freedom of religion and speech. In his opinion, the freedom to the revelation of one's religious beliefs is protected by both; freedom of religion, of course, but also by freedom of speech. Part of the latter is the right to remain silent – it means that at the same time no one can be pressured to state his or her or another's opinion. Recently, baking a cake became a central part of cases in the United Kingdom and the USA, questioning, whether creative baking classifies as a form of expression. If it does, a service provider would have the right to refuse baking a specific cake out of religious reasons.²⁷ It is difficult to take a hard stand in this case, and even the courts refused to do so. Being able to make a decision would require to overview many cases of basic human rights, so it proved to be not only easier but also better to find earlier acts of similar situations – if there is such a coherent action at all. The problematics of these cases are so complex, it touches not only on the freedom of religion and speech, but also on equal treatment and the protection of human dignity. This is outlining a far deeper problematic legal case, where the freedom of speech is interpreted so broadly, that it becomes dangerous for itself. If the right not to be discriminated against becomes limited or restricted, human dignity is losing its independent legal state. Throughout this study, the author showcases some interesting cases and decisions, while he examines them based on the freedom of speech, the prohibition of discrimination, the protection of human dignity and the freedom of religion.²⁸

To sum up, this volume presents papers of a specific area of law, which is not only special but open for further research opportunities. The basis of these is obviously the Bible itself and all its interpretations, but the regulative ideas are synthesised by lawyers. The research on Christian freedom includes not only European culture, but also common values, traditions of law and Christian beliefs. The presented studies clearly show that Christianity in Europe has played a role in not only the development of the legal definition of freedom, but also in the recognition of human rights, dignity and equality in general. All with faith believe that we are children of God; this pervades us all with unquestionable and untouchable dignity. This also means that the idea of an individuum also has roots in Christian beliefs.

However, individuals live within social and legal borders created by states. For the citizens to be able to be free in their personal beliefs and familiar traditions, they need a state that is neutral in these value systems, which respects all religions and choices in a society. It is also important to note, that only secular reasoning would never be enough in itself, and Christianity cannot be fully demolished from a state. Leaving the religious values out of sight would leave the individuum diminished in its own values, choices and possibilities.

²⁷ See *Masterpiece Cakeshop, Ltd. and Others v. Colorado Civil Rights Commission* 138 S Ct 1719 (2018) [or: 584 US ___ (2018)].

²⁸ András Koltay, 'Confectionery Excellence in the Flow of Religion and Politics', in *Christianity and Human Rights. Perspectives from Hungary*, ed. by András Koltay (Budapest: Ludovika University Press, 2021), 357–375.

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Zsuzsanna Fejes is an Associate Professor at the Faculty of Public Governance and International Studies of the University of Public Service and the University of Szeged Faculty of Law and Political Sciences (Hungary). She was Head of Department of the Public Governance and Vice-Dean responsible for scientific and international affairs at the Faculty of Public Governance of the University of Public Service (2014–2015) and the Deputy Director at the International and Regional Studies Institution of the University of Szeged (2015–2019). She is member of several international and Hungarian scientific associations, e.g. Regional Studies Association (RSA), International Institute of Administrative Sciences (IIAS), Central European Service for Cross-Border Initiatives, Hungarian Political Science Association, Hungarian Regional Studies Association, Hungarian Association of Law and Political Sciences. Her publications include several monographs – as author and co-editor, e.g. *Interstate Relations*, Iurisperitus, 2019; *Challenges and Pitfalls in the Recent Hungarian Constitutional Development*, L'Harmattan, 2015 – and dozens of papers devoted to public governance, regional policy, local government systems, and cross-border governance. Her research activity concentrates on state theories and governance studies. She was an active participant of several domestic and foreign conferences, e.g. IIAS, EGPA, RSA, NispaCee conferences. She is the contractor of several research projects, e.g. Visegrad Fund (2018–2019), NewGov (2007), OTKA (2003–2007). She has held a wide variety of editorial positions in Hungarian and international journals (e.g. *Glocalism*, *FORVM*, *Acta Juridica Hungarica*, *De iurisprudentia et iure publico*).