

THE ABSTRACT OF THE DOCTORAL (PhD) THESIS

**SIR ROBERT FILMER AND THE PATRIARCHAL THEORY
OF THE STATE**

**EMOTIONS, FAMILY AND THE LEGITIMACY OF POWER
IN THE EARLY MODERN AGE**

BALÁZS RIGÓ

Supervisors:

PROF. DR. ANDRÁS FÖLDI

DR. HABIL. GÁBOR JÁNOS VÁRKONYI

Budapest

2020

I. THE FIELD OF RESEARCH AND ITS ANTECEDENTS IN THE LITERATURE

The Latin noun *patriarcha* originating from the Greek word *patriarkhes* means ancient father literally, and in particular Adam. The so called patriarchal theories of the state or the power coming from this word or concept have been using a wide range of concepts describing the status of the father having smaller or larger private authority over his family through ages and cultures and the status of the monarchs or actors alike having public authority by the example of that father. Moreover, these theories are using different concepts by emphasising the relation between these two parties as well.

In the legal literature, the development of the patriarchal theory of the state or the power has been attached mostly to Sir Robert Filmer's *Patriarcha* written in the 1620's. The main argument of this theory is that the first fathers were kings as well, and they had absolute power over their small and broader family, i.e. they had exclusive power over the society. Therefore, the monarch as a father has an absolute power over the society. In the literature, this patriarchal theory has two different approaches. The presence and the explanation of this theory is, however, quite rare, and its explanations are based on half-truth, inaccurate, moreover, false arguments. It is an exceptions that there are scholars who either analyse the early modern theory of the state or political thought in a very accurate way, or write their works exclusively dedicated to the thoughts of Sir Robert Filmer. Obviously, Filmer's reputation is much favourable in the latter case, and in fact, only in case of the authors examining definitely Filmer are not using insulting words for him.

Nonetheless, Filmer and his theory which is described by the general concept of patriarchalism actually excels from the works of the theory of the state by being ignored. However, we have to remark that Filmer's influence through John Locke is greater than that his ignored status would explain. Therefore, considering the small number of the references to Filmer, we hold it beneficial to show the references to the Filmerian patriarchal theory of the state in literature. Thus our objective is twofold, on the one hand to uncover the paradigmatic appearance of the patriarchal theory of the state in the early modern theories, and, on the other hand, to analyse Filmer's theories in a detailed way.

At first, on the position of the patriarchal theory of the state in literature we can point out that when it appeared, the patriarchal state as a form of state was placed in a group between the theocratic and the patrimonial state constituting forms of the absolute monarchy. Though these types of states are regarded to be form of states in terminology, Hans Kelsen drew the attention to the fact that in fact these were in fact no real types of states, but they much more several theoretical constructions with the aim to interpret and justify the states in reality. Max Weber discussed the patriarchal theory of the state indirectly too, referring among others to the characteristic person of the patriarchal state, i.e. to the patriarch whose rule lays on the authority of tradition as one of the fundamentals of the legitimacy of the rule. Sir Henry Sumner Maine restored the thesis of the formation of the patriarchal state in the theory of the state as a critique for the law of nature and at the same time in the defence of the necessity of the comparative and historical method in jurisprudence. On the basis of the structural and hierarchic roots of Roman law, Maine regarded the patriarchal family based on the *patria potestas* among others as a core element from which the law of persons developed. Evaluating Maine's arguments, Marc Abélès, a renowned French political anthropologist, besides underlying the Roman tradition emphasised that Maine's historic method revealed the complexity and the progress of the natural state. Moreover, he stressed that by Maine's arguments the final refusal of political philosophy was possible due to Maine's argument, because instead of the pure academic, furthermore, mythical constructions of origins, the anthropological, ethnological examinations can be applied in the researches.

If we regard Roman law as the means of analyses as Maine put it in the foreword of his work, then the Janus profile of the patriarchal theories turns up in the literature. Namely, that the patriarchal theory of the state was the counterpart of the theories of social contracts by the early modern authors, and especially in its original, classical Filmerian form. Under another aspect, it was the theory for the legitimacy of the absolute and divine power of the monarchs. It is the narrow interpretation of the patriarchal theories. Compared to this interpretation, two centuries later, the patriarchal theory of the state was a descriptive and neutral explanation aiming to be scientific in the examination of the formation of the state. This counterpole role is true even if we are aware of that Filmer, Locke and the other theoreticians analysing and using this patriarchal theory, were having huge debates on the process of the formation of the state. However, we must not forget, that behind these debates there was the fight for the primacy of either the social contract theories or the absolute and divine power of the monarchs. Thus these theories transformed into a means for legitimacy in their original, early modern form, as emphasised by Kelsen, while their later form is not else than the scientific explanation for the formation of the state.

As we have indicated above, there were hardly any reference to Filmer compared to his contemporaries and theoretic antecedents, not even to his opponents in the literature of the theory of the state, let alone the course books. Notwithstanding Ákos Tussay's works have to be stressed in this respect, namely his two profound papers to Filmer and patriarchalism. Tussay describes the theory of Filmer only as a composition of thoughts and ideas. The young Hungarian author refers to the fact that though Filmer remained consequent in his ideas he never reached the level of a thoroughly deep theory of the state. One of Tussay's papers dealt with the collecting of interest that was both theoretically and practically of great importance in the early modern age. In the other paper, he scrutinised the key concept of the patriarchal theory of the state, i.e. the family. Though Tussay did not examine Filmer's key thought on the monarch's absolute power, he made very important contributions to the Filmer studies. Furthermore, by describing the concept of the family, he laid down a ground stone in the researches concerning patriarchalism.

The patriarchal theory of the state and Sir Robert Filmer did not receive high appreciation in the field of history in the broad sense. However, László Kontler and Endre Sashalmi did not miss the works either written by Filmer, or about him. Kontler in his widely cited work, „*Az állam rejtelvei*” (*The Mysteries of State*) placed Filmer into the contemporary political discourses as an integral part of them, and treated both his thoughts and its literature in a detailed way. Sashalmi on the other hand, wrote a review article on the newest monograph of Filmer both in English and Hungarian, in order to bring closer to the Hungarian readers both Filmer and Cesare Cuttica, the leading scholar of the Filmer studies. Still as regards the Hungarian literature, we have to highlight Levente Nagy, who was Filmer's first Hungarian translator. However, Filmer's direct predecessors gained a larger role in the Hungarian history. Thus, Bálint Radó's research can be placed parallel to Szilárd Tattay's legal philosophic studies, since Radó treated mostly and especially the theoretic works of James I and his close theoretician contemporaries like Suárez and Bellarmine.

Compared to the above mentioned legal philosophic and legal anthropologic literature, the foreign literature of the history of political thoughts examines Filmer's oeuvre much more thoroughly, profoundly, though sometimes they contradict to each other. Nevertheless, they are on the same grounds of intellectual history, more closely on the history of political thoughts. Thus, their points of views and the direction of their research are more or less determined. The milestones in the modern literature on Filmer and the patriarchalism examined Filmer's relation with the contemporary authors, the establishment, the role of the family and the closer background, while nowadays, the literature has dealt with Filmer's relation with the

contemporary political language and ideologies. Thus nowadays, the legal literature of the theories concerning the formation of the state, comparing the natural rights and the contract theories but omitting Filmer and the literature of the society, the family and the political discourse make the frame of the Filmer studies.

Peter Laslett put Filmer's family, cultural environment, social background forward, and he regarded Filmer's thoughts, especially the political obedience towards the monarch, in opposite to the overestimation of the role of the Parliament, as belonging to this background. The background in question consists namely of the values and the conscious or unconscious prejudice of the gentry of the English county. However, when Laslett or any of Filmer's late biographers examined the formation of patriachalism, the sheer events of Filmer's life were not taken into consideration. Furthermore, Laslett did not examine the political debates originated in the actions in the reign of James I and Charles I. Laslett did not hold Filmer's thoughts reconcilable with the contemporary thoughts of the continent, nor with that of the English author's, because he regarded Filmer, without any philosophical or theoretical ability and merit of comparison, as the true representative of the Kentish, or at most the county nobility. Moreover, Filmer would have been forgotten if there was not Locke and the political turmoil of the 1680's. Yet, besides the wide description of the cultural and social status of the county nobility, Laslett emphasised that the Filmer family was a genealogical success in the US. history, since the Berkeley's, the Washington's, the Jefferson's can be traced back to the emigrant son of Sir Robert and his relatives.

Gordon Schochet followed Laslett's method as far as he underlined the status of the family as background. However, this concept of the family was not Filmer's own Kentish one, but the family in general, that had even the greatest role in the formation of the state. Therefore, patriachalism was not the guiding principle just in the political life only but also in the development of the state. This is the reason why Schochet uncovered it in all the authors of the 17th century including Locke. Moreover, he concluded that regarding the role of the family and the power of the head of the family there was hardly any difference between Filmer and Locke. In this way, Schochet continued Laslett's anthropological approach and saw the strength of Filmer's thoughts in that it was compatible with the society of the English county, with the hierarchy that justified both the political and the fatherly power. Due to this compatibility, Schochet claimed that the role of the family in English political life was a matter of fact. Certainly, this point of view, did not separate the political and the fatherly power from each other, however, it joined the two by arguing that the political one was originated in the fatherly power. Thus, the ideological aim of the *Patriarcha* was in favour of the defence of the social status, and not in the participation in the contemporary political discourses. Its goal was not to fight against the contract theories and the natural rights, but to argue in favour of the role of the family in England as regards the political life of the 17th century.

James Daly did not share the view that Filmer's thought had reflected the ideas of the traditional English county nobility. On the contrary, he argued decisively that Filmer himself had suffered from his royalism, and he had been such an extraordinary and therefore divisive person even among the royalists that there had been hardly anybody to agree with him. Those who shared his views rather ignored him, while those who mentioned him, did it with criticism. In spite and because of this ignorance, Daly regarded Filmer such a unique author that he named his thoughts filmerism. Nonetheless, as Cuttica also showed it, Daly neglected to consider both the domestic circumstances of the development of the *Patriarcha* and the continental antecedents, thus tearing Filmer's work from its environment could lead to uniqueness. Since Daly put the *Patriarcha* mainly into the tory-whig debates of the time of its publication and put Filmer into the authors of the 1680's, therefore his argument is not surprising that if there had not been Filmer, the whigs should have invented him. Thus, in a paradox way and using Max

Weber's terminology, for the whigs Filmer meant the ideal type English tory gentleman, who was unique in his conservatism, and therefore an innovator. Daly stressed, that only those can be such persons who evoke antipathy to his mistakes by his merits.

Johann P. Sommerville gave an impulse to the researches by his new critical edition of Filmer's complete works after that of Laslett. Sommerville firmly stated that the importance of Filmer and the patriarchalism does not mean only the influence of the actions who believed in him, but he was determining because he formed the actions of those who rejected him. Thus, it is difficult to understand Locke without Filmer. Therefore, contrary to the scholars above we should not look Filmer through the eyes of the whigs but on the contrary. Moreover, if we turn the direction of our examination, then not the events of the 1680's are determining but the events of 1630's and the thoughts of the previous authors who certainly had influence to Filmer in reality when he was writing. However, Sommerville did not consider the date of *Patriarcha* important, as he argued that the ideas in this work were well known in that era. Yet, Sommerville made a renewal in the Filmer studies when he described the intellectual legacy having an influence to Filmer, by paying attention to the Dutch theologian, Hadrian Saravia. Saravia's thoughts were quite similar in the key arguments to Filmer's, so Sommerville regarded Saravia as Filmer's direct forerunner. Sommerville regards Filmer's other works only as repetition of the *Patriarcha*. Thus, he placed the emphases mostly to the *Patriarcha*, yet Filmer did not reach or concluded to the same results that we saw in the *Patriarcha*. Nevertheless, it is Sommerville's merit that breaking out from the methodological determination of social history, i.e. the influence of the social background to the ideas, he placed Filmer into the contemporary, European and continental political thought. Notwithstanding, in accordance with Cuttica, we must underline that contemporary means the persons and the era of the 1630's and not the 1680's that the interpretation of social history claimed.

Cesare Cuttica due to the linguistic turn of intellectual history and the methodology of the Cambridge school, or nowadays Collingwoodian School of intellectual history surpassed and rejected the former, mainly social historian and determinist approaches. Cuttica draw Filmer's biography in a very detailed way uncovering the connections of the Filmer family. He rejected the thesis of the revisionist historiography that stated that the political language and the political thought had been unanimous before the English civil war. Therefore, Cuttica regarded Filmer's work as an integral part of the political discourse expanding to the continent in which the works influencing Filmer and influenced by Filmer were in causal relation, and thus, Cuttica analysed them in a contextual way. Cuttica evaluated his method of describing Filmer's effect to the later authors and his reception as disloyalty to the Skinnerian methodology. Cuttica stated that not only the winners in political thought need space in research but the losers as well because both sides are required to be examined in order to understand the history of the early modern political thought in Europe. Cuttica disputed whether Filmer's language was subordinated and the role of which aimed to justify only the obedience of the subjects and the commitment of the absolute monarchs to the common good. Moreover, Filmer's absolutist idea rejecting the separation of powers and the mixed form of governments was directly one of the intellectual strategies that made the contemporaries reconsider their beliefs on the monarchy. These strategies were closely connected to the political fights under Charles I. Therefore, Cuttica analysed Filmer's royalists views, embedding not just into the contemporary political thoughts but also into the political events, in contrast with the patriots' who threatened the absolute power of the king from the side of the Parliament. Cuttica highlighted that one of Filmer's main current political objectives was that the king should be called *pater patriae* through which he wanted to prove that the monarch could be a great patriot as well. In this way, Cuttica put Filmer and patriarchalism in an organic connection with patriotism, which was so far confined to the emphasis of the social status of the local (Kentish) gentry and the defence

of the old world, in other words it was regarded as local patriotism only. Cuttica's methodology, on the one hand, consists of the linguistic turn of the history of political thought and on the very much, in time and space, extended contextual approach to the continent. On the other hand, it contains the determining factors of the current political events, besides that by writing Filmer's overall biography, Cuttica achieved the proper social background to Filmer's family-relations.

II. THE METHOD OF THE RESEARCH

On the grounds of the patriarchal theory of the state, the monarchs were not just the possessors of the supreme power, but also the heads of the society that was regarded to be a family at the same time, therefore the fatherly power was in overlap with the public power. This theory may have been obsolete in the early modern age, however, it was the actual and living counterpole of parliamentarism and popular sovereignty in the early modern political thought and theories of the state. Moreover, since Filmer's works, especially the *Patriarcha*, which was the main source in the arguments for legitimacy for the Stuarts' efforts to establish absolutism, and since we can detect in it the consequent opponent of the theories of the early modern natural rights, therefore, knowing Filmer can complement the contemporary doctrines of the natural rights. We need only to mention that Locke's epoch-marking work, the *Two Treatises of Government* was written mainly, but not exclusively as a refutation of Filmer's *Patriarcha*. However, Filmer's ideas were not just a counterpole, an antithesis, but his goal and thesis concerned the legitimacy of the power by the means of the fatherly monarch. Unfortunately, Filmer's theory was forgotten in the crossfire of Locke's thoughts and his synthesis.

The patriarchal theory of the state is not really elaborated in the literature either as a separate type, or as a detailed model. Legal history deals mainly, but not exclusively with the history and origin of the institutions having an influence to the present, therefore the aspects of the theory of natural law are far more determining than the absolutist, royalist ones. The reason for this is obvious, namely the previous is still in effect by the fundamental or the human rights. Yet, it is of some interest to analyse patriarchalism, since it is flourishing in everyday life. It is visible in a relationship reflecting subordination, like between boss and staff, governor and people, ruler and subject, or moreover, in the political practice when the politicians use the emotions to justify their own goals by means of the mass media. We call these practical manifestations of patriarchalism as the broad sense of patriarchalism.

As for the results of historiography, we accept that examining Filmer is beneficial through his contemporaries, the influences and events of the 1630's, however, we cannot avoid the reception of the 1680's. In our dissertation, we take over the analysis of the concept of the family, and the function of Filmer's ideas in the political discourse, thus, the question of obedience and resistance towards the monarch. In other words, we agree with the function of the theory concerning the legitimacy of the power of the monarch, and with that that Filmer wrote the *Patriarcha* in order to appeal his fellow citizens to obey the king. This is in our term the patriarchalism in the narrow sense. The strength of the legitimacy of the work is shown by the fact, that it was published by similar objectives, i.e. the aim was to justify the divine right of the monarch even by four decades later after the birth of *Patriarcha*. So its function of legitimacy bears no question. We hold the secular and theological aspects important as well, because the rule upon the divine right cannot be separated in such a large way as some authors did it. Furthermore, if we consider how religious James I and II were, even if the latter was a devoted catholic ruler in contrast with his grandfather. Therefore, we think that in the analysis of Filmer's patriarchalism there is no definitely separable secular and theological sphere, yet, it can be done much more in the coordinate system of political theology, because in the legitimacy,

the political side strengthened the theological one and *vice versa*. The examination of the political discourse on its own is just the examination of the means in favour of legitimacy, and therefore this way this method regards the form much more important than the content.

Our insight is that these theories enlisted from the historiography are not precluding each other, however, they apply a very narrow interpretation both in time and space. From the legal aspects, the narrow interpretation of patriarchalism is the aspect of the natural rights, while the social historic and anthropologic interpretation means the analysis of the role of the English county gentry and family. The narrow interpretation in the history of political thought treats only with the rule of Charles I or perhaps it concentrates on the debates of the exclusion crisis under Charles II and the role of the parliament and mostly the current political language. Upon Gordon Schochet, the literature differentiates between the three main interpretations of patriarchalism.

One is the anthropological interpretation, the point of which is the origin of the human being and by that the origin of society and political power determines its development. This origin puts the extended family, i.e. the family with the servants into the centre of interpretation. The traditional law of the family is characterised from the very early times by the supremacy of the father, by the subordination of the mother as well as the privileges of the first born child. The patriarchal family makes an economic unity, furthermore, several times a small state.

The moral philosophical interpretation basically enlists the arguments taken from the Bible in favour of patriarchalism. It binds them with the eternal moral obligation of obedience, thus the hierarchy and the subordination are not the results of human agreements, but the natural order of the things coming from God.

According to the ideological interpretation, patriarchalism follows from the anthropological and moral philosophical interpretations. Since it applies the commandment 'honour thy father' to the monarch, to whom the subjects owe political duty for obedience, because the monarch has fatherly rights over his people. This principle explains the relationship of the community with the political state under the Stuarts. Certainly, this relationship and the obedience was in effect only until the civil war.

However, Schochet's three interpretations are not just interpretations, but separate methods or analyses in patriarchalism. Since if we compare these interpretations with the views and methods summarised above in historiography, then we can conclude that the anthropological one corresponds to Laslett's, Daly's and Schochet's socio-anthropological approach, the moral philosophical, though from the opposite side corresponds to Locke's views, while the ideological corresponds mainly to Cuttica's after the linguistic turn.

Though we recognise the reason for the existence of these three interpretations, we find it worthy to complete them with a fourth one. This follows from the political events mentioned above, especially from the exclusion crisis and the status of fatherhood, this one is nothing else but the emotional interpretation of legitimacy. According to this emotional interpretation of legitimacy, the aim of patriarchalism is to give an intellectual answer to certain political events either in real or in later time, thus it is an intellectual legitimacy of power. However, the realisation of this takes place through the father himself and the family ties, containing the strength of the emotions as an integral part in the argument. This way, the commandment 'honour thy father' receives a new perspective, because due to this fourth interpretation, the aim of the legitimacy can be achieved by natural born means, so emotionally and not just by moral methods, like 'we are one family', 'I'm your father [i.e. the people's].' In this way, from this perspective, the power of the father-monarch as head of the family is not merely a single metaphor, but it is the system of norms that determines the behaviour of the parties deriving from the role of the father, the status of the family and the emotional conditions in connection

with them. Furthermore, this approach to the legitimacy by emotions contains considerable number of anthropological elements, since the human receives its social skills in family in that the conduct towards the fellow men are formed as early as possible. We must add that by highlighting the role of the family and the father, the Biblical obligation of obedience towards the father, i.e. the moral philosophical interpretation occurs as well in this emotional interpretation of legitimacy.

Since our dissertation aims to address both the lawyers, and the historians, we found that the examination of the early modern theories of the state – which are considered mainly the part of intellectual history by the historians, while the lawyers dealing with legal philosophy often fall into the trap of anachronism and dare to go into the field of intellectual history – gives the less point of attacks if we carry it out historically. Perhaps, it is unnecessary to mention that the examination of the sources of the past ages on its own, does not explicitly mean the historical method formed around the end of the 18th century. The point of this method is that the phenomena are analysed in their historic form, with a special regard to their antecedents and to the historic progresses influencing and determining the development of those phenomena. We are certainly aware of the limits of our methodology, namely, when we write as a lawyer from any aspects of intellectual history about sovereignty, parliamentarism, monarch that is too jurist-like to historians, while it is too abstract to a dogmatic jurist. Yet, we are taking that challenge, and we have decided that this more complex approach could lead us much closer to the recovery of the past, just as to our better understanding of the present.

The historic method is presented in the way that we examine the appearance of the patriarchal theory of the state by its components and authors, by topics and chronologic order from the beginning of the early modern age, so from the 16th century until Filmer. Therefore the aspect of intellectual history means the presentation of the patriarchal elements in the early modern political thought and the comparison of those elements to each other. The history of the events and the actions of the monarch having legal relevance is described by the rule of James II, because Filmer's reception and the open use of his ideas were carried out in favour of James II. This usage then leads us to the establishment of a model that shows us that the true strength of the patriarchal theory of the state lies in the emotional legitimacy, so the real content of this usage can be uncovered by the broad interpretation of patriarchalism.

As for the position of the emotions in the legal literature, we must note that as the result of the Anglo-Saxon legal thoughts, the examination of the emotions have become more and more accepted in jurisprudence, mostly in legal theory from the 1990's. The work *'The Passions of Law'* from 1999 has a high significance, which in spite of being very colourful in thematics and methodology, and in spite of being regarded as a fundamental work, yet, could not set up new paradigm. Balázs Fekete took the rationality of jurisprudence and its distance kept from the emotions as his starting point, when he used András Sajó's concept of 'isolative theses'. Then he described the movement called law and passions, and finally he revealed the applicability of the emotions in law, while at the same time he was giving a methodological hint toward new researches.

Parallel to the jurisprudence, after the turn of the millennium, the history of the emotions appeared in history, furthermore, we suppose that the novelty of the topic and its humane factor, that it is easy to live over again, to imagine make it wide spreading in social and human sciences. There were and has been several articles born from the hand of both foreign and Hungarian scholars about the topic of the history of emotions. Moreover, conferences have been organised touching the field of legal history in the topic of the relation between law and emotions. The examination of the role of the family and the patriarchal relationships from the aspects of private law, especially family law is definitely one of the leading direction of present day history, let alone the gender studies, or the studies of the women in history.

We approached to Filmer's patriarchal theory of the state from the point of view of the emotions as the new wave in history and legal theory does it, and in connection with them we examined this theory from the point of psychology. This can only be done thanks to the consequence of all the above mentioned interpretations and following the current foreign and domestic scientific tendencies, and taking the intentional political aims into consideration. With this method, our objective was to bring the history of political thought or from other aspect the history of the theory of the state closer to the lawyers in an interdisciplinary way by embedding it to legal history. The legal approach can be detected mainly in the dogmatic aspects, the terminology and in the analysis of the power as well as in the examination of typical legal concepts, like sovereignty, criminal authority and legitimacy. The aspect of intellectual history means the contextuality and the description of the elements of patriarchalism according to the ideas of the theoreticians. Finally, the emotions in their historic dimensions turn up every case in the ideas, texts and the functioning of the power either openly, or secretly.

From this complexity, we assume that beyond the analysis of the legitimacy by emotions of patriarchalism, its examination is justifiable from the side of the emotions of the fatherly power of father-monarch. From this follows, that we consider the father-monarch and family-society metaphors not just as poetic description and the means of the poets to explain the world, but as a system determining the real rights and duties of the parties. Thus, by the examination of the elements of the father metaphor one by one, we demonstrated that there is reason for the existence of the emotional interpretation of legitimacy. Therefore, we scrutinise patriarchalism by the elements of this metaphor, i.e. the father, the family and the obedience. Moreover, we showed that because of the anthropological approach and the legitimacy, we cannot ignore the theoretic and practical role of emotions in the legitimacy of power either. Thus the concepts above were completed by the description of the emotions. While our base for examination was the so called body politic, which is dealt with traditionally as a form of the organic theories of the state in the literature.

III. THE SUMMARY OF THE RESULTS OF THE RESEARCH AND THE POTENTIAL MAKING USE OF THE RESULTS OF RESEARCH

In the first part, by laying the historiographic, theoretic, methodologic grounds and summarising Filmer's biography, we concluded that the approach from the emotions and from psychology and anthropology is a relevant method besides the contextual and dogmatic examination. Since the adjectives describing the emotions are not just poetic means, but they are statements reflecting the true and real emotions behind the actions of the monarch and the subjects. Except for a short summary, there is not any precedent of Filmer's biography, placed in the introduction part of the dissertation, just like the influence of the events in Filmer's own life determining his ideas did not get any attention so far.

In the second part, we examined the elements of the patriarchal theory of the state according to the anthropological and the emotional interpretations of legitimacy. After the summary of body politic, we filled the mere body, the *corpus* with emotions. As a result, we get the whole human, a living organism, that establishes a family, and becomes the father and finally who demands obedience from the members of his family. Therefore, the logical development of both the analysis itself and the formation of the myth of the father-monarch and/or the reality of the metaphor of the same, is the description of the appearance of the human being, the family, the head of the family, the father and finally the obedience. Thus, we

presented, how the traditional theory of body politic lived on, and after that how the humanists filled this form with emotions. After that, how the theoreticians of the early modern age scrutinised this entire, complex human being. Finally, we got to the point when the body politic did not mean the entire human, but it was applicable to the understanding of the university in general, of finding order in the universe itself.

The humanists examined the totality of the human being, and they endeavoured to reach the full life, therefore, besides the members of the body and reason, the emotions and the human characteristics initiating the emotions were equally integral parts in their ideas while they were describing the state. The significance of the emotions, besides the establishment of the state, if we approach it from above, from the person of the monarch, became apparent mainly in the practice of governance. If we examine the importance of the emotions from the direction of the society, i.e. from below, then it becomes visible in the theoretic treatment of public life, or in other aspect of the governance, i.e. in engaging politics. Thus, the emotions were factors being able to influence both history, and the governance including its practice and its theory in a significant way. However, in lack of empirical evidences, these factors can be detected only from the works of the theoreticians, or the proclamations, memoirs or advices of the monarchs.

After the metaphor of the totality of the human being, we presented the traditional, narrow aspects of the patriarchal theory of the state. In other words, we described how the concepts of society, family, monarch and head of the family concentrated in one metaphor appeared in the first one and a half century of the early modern age. In the formation of the patriarchal theory of the state, the analogy is created by the identity of the functions of the good father and the good monarch, in which case several times, only the measure of their tasks changes. For example, how many people do they have to defend, how many are to be supplied by goods etc. Therefore, from a certain aspect, the difference between the governance of the state and the managing of the family reflects only alteration in size or quantity of these tasks, and not quality, supposing that we disregard if the quantity becomes quality after a certain point.

In the theories of the state of the early modern age, the ideas reached the level of patriarchal theory of the governance from the idea of body politic through connecting of the emotions and family as significant factors, and according to this patriarchal theory the monarch as head of the family governs the people as his family. The members of the family owe obedience to the head of the family, just as the people owe to the ruler according to the law of nature as we have seen it in the theories. Obviously, as the thoughts on the good governance got completed with the concepts of the *corpus*, emotions and family, parallel to it, the role and the concept of the father got more significance. The change of the elements of the theory varied in different ways. The *corpus* was completed with emotions, and this body with emotions, i.e. the whole human being grew into a family. The family became the framework in the understanding of the society, in which the ruler by his supremacy turned into the head of the family. However, the concept of the head of the family went through important changes. By this change in the role of the father, the elaboration of the concept of obedience takes an organic place in this chapter too. The anthropological view is presented in the description of the role of the father, because the emotions, the family, the honour and the obedience are in organic unity in the behaviour towards the father.

Thus, in the second part of the dissertation, we uncovered the paradigmatic existence of the elements of the patriarchal theory of the state in the early modern political thought. The reason for this existence is that before Filmer, these elements made an integral, organic part in, among many others, Machiavelli's, More's, Erasmus's, Luther's, Bodin's, Montaigne's, Hooker's, Campanella's and Bacon's thoughts on state, power and governance. Thus, Filmer had an extraordinary broad base to build his ideas, when he placed the patriarchal theory of the state in the service of the legitimacy of the Stuarts. At the same time, this broad fundament is

the proof that the human being and the family were the key issues of humanism. Moreover, this base shows that how the traditional views could have appeared differently according to the several aspects and personal aims of the authors with a different, or even contradictory content.

In the third part of the dissertation, we examined the theory of the father of patriarchalism, i.e. Sir Robert Filmer's on the same aspects. Upon the historiographic summary mentioned above, we stated that Laslett and Schochet regarded patriarchalism as the consequence of the social status and the legitimacy of the establishment, while Cuttica argued in favour of the political language and means. It is common in all the authors that they see Filmer's work as a means for legitimacy. Though, we shared their views and the importance of their aspects, we still held the emotional level of patriarchalism as important and fundamental as the aspects mentioned in historiography, we presented Filmer's thoughts in the hitherto applied way, i.e. from the sides of the emotions. Recognising the social basis of patriarchalism and its discursive political instruments, we described the practice and the dynamics of political power laying on the grounds of patriarchy especially from its emotional side. Then, we completed it with the content of authority of both the monarch and the parliament. Thus, besides the new methodology presented in historiography and legal philosophy, i.e. the examination of the emotions and psychology, we examined the three emotional category like the emotions in general, the role of the family and the role of the father in close relation with the obedience. The reason for this is that we held these roles important because of the function and the efficiency of legitimacy of the patriarchal theory of the state. From another aspect, we examined how the power was working in practice, or how Filmer wanted it to work. Therefore, the position of the monarch and the parliament in the legal system, the concept of the law, the sovereignty of the people meant that static part, while the emotions, the political practice and its exercise meant the dynamic part. This view shares some common features with that of Cutticas', who in favour of the examination of the political language and discourse applied the aspects of the dynamic elements. Obviously, the static elements, the frame cannot be avoided in the analysis therefore we examined that too.

Reconstructing Filmer's thoughts, we stated that the political power of the ruler is natural and absolute from the beginnings, since Adam did not share it with anybody. Since the power of the monarch is the manifestation of God's will, this power is entirely legitimate, and the unconditional obedience as a moral command towards the monarch is obedience to God too. The resistance against the patriarch is a resistance against the Lord himself, thus the resistance and the disobedience is a sin, while the obedience and faithfulness is a moral obligation towards the fatherly monarch. The limit of the patience of the people in the question of obedience and loyalty reaches its highest point mainly under James II, who had to face riots in the beginning of his reign. Thus, the importance of his coronation, and the sympathy to the new king in the beginning had an unusually big significance.

In the fourth part, we turned to the examination of the practice of patriarchalism. We uncovered how the power justified its existence during the practice of governance with the help of the emotions and the image of the father, thus we explained how patriarchalism was operating in the practice. We chose the reign of James II, because he was the one in favour of whom the Tories published Filmer's *Patriarcha*. In the practice of the governance, we examined a panegyric poem written by Aphra Behn on the coronation of James, the practice of the healing hands of the monarch and the proclamations issued in the everyday practice of the reign. Either we consider the panegyric poem, or the healing hands or even the royal decrees, the emotions or their role in favour of the legitimacy of the monarch becomes apparent.

These connections and perceptions did not escape the early modern authors' attention when they were thinking on the governance and power. Moreover, this knowledge became available by the anthropomorphic view of the thoughts on governance. The functioning of the

power personalised and having human characteristics, was more than an allegory put in the literary fantasy of the author, it was reality for them, as it was proven by historic and contemporary examples. On the one hand, this anthropomorphic approach enclosed the emotions to the spectre of the ideas on governance, and on the other, certain emotions, like various desires or fears brought the analysis of the demands. The demands to be met requires certain actions to be performed. These certain actions from the side of the power are called governance. Thus, the demands can be considered as the tasks to be done by the power, while their performance, execution is the rule itself. As a consequence, we can find explanations on the complexity, the system and the hierarchy of the demands of both of the individual, the people and the monarch, in other words, of the general human being, the society and the power in the early modern theories of the state. Although not as a central element, and nor as a casual remark, but their significance is shown by their relevant level of measure and detail.

In the last, the fifth part of the dissertation, we set up a model of the functioning of the power in the light of the theories and the practice that is appropriate to describe how the power works. Then, we compared it with patriarchy, and revealed what gives the persistency of the patriarchal theories of the state and its practice until this very present.

The results of the research can potentially be used in the education and in the field of research of universal and comparative legal history as well as the history of political thought in the first place. While in the second, they can be beneficial in the education and research of early modern intellectual history, especially in the history of literature and humanities. The majority of the concepts and institutions examined in the dissertation like that of the state, family, father, king and obedience are dealt with in the textbooks of legal philosophy and legal history. However, the treatment of these concepts and institutions as well as the methodology of the dissertation makes it possible to analyse other concepts relating to the previous ones in further research.

Since the field of research and the methodology of the history of emotions as well as the psychohistory are only taking wings in history and legal philosophy, and while in foreign legal history they are hardly presented and in the Hungarian it does not exist at all, therefore the new methodology treated in the dissertation can give a new direction to Hungarian legal history research. As the emotions do not consider the borders of countries, the approach from the sides of emotions and anthropology can overwrite the traditional dogmatic and domestic point of view of the legal institutions, and moreover, it can place the Hungarian legal history into the international circulation.

The studies of Sir Robert Filmer can have a new direction as well, and the theories of patriarchy, mainly in its broad sense, can have paradigmatic approaches. Filmer studies can break out from their narrow interpretation by the contextuality and the universality of the concepts of anthropology and this way these studies can make a broader European aspect available.

From the humanist political philosophy it appears, and the humanists were totally aware of that that the writings examining the power and its exercise, its possessor, the monarch and the people having not just academic but true practical benefits as well. The dissertation contains several advices as they were from a handbook for the use of emotions from Machiavelli to James II in everyday politics. However, the question was and has been always up until the very present the same, whether the exercise of power is in good or in wrong hands.

IV. THE PUBLICATIONS IN THE FIELD OF RESEARCH OF THE DISSERTATION

RIGÓ B.: A 16. század három teoretikusa – avagy milyen a jó fejedelem? Összehasonlító forráselemzés a humanista államelmélet szemszögéből. [=Three Theoreticians of the 16th Century or What is the Good Prince Like? – Comparative Analysis of the Resources in the Spectre of the Humanist Theory of State] *Themis* 2016. június. 117-150.

RIGÓ B.: Robert Filmer és a patriarchális államelmélet. [=Robert Filmer and the Patriarchal Theory of the State] In FAZEKAS M. (szerk.): *Jogi tanulmányok*. Budapest, 2016. 275-284.

RIGÓ B.: Hatalmi legitimációs eszközök Aphra Behn II. Jakab koronázása alkalmából írt költeményében. [=The Instruments for the Legitimacy of Power in Aphra Behn's Pyndarick Poem upon the Coronation of James II] *Jogtörténeti Szemle* 2016/4. 68-83.

RIGÓ B.: Sir Robert Filmer élete és a patriarchalizmus keletkezésének Filmer személyében rejlő okai. [=The Life of Sir Robert Filmer and the Reasons of the Emergence of Patriarchalism in Filmer's own Life] In KONCZ I. – SZOVA I. (szerk.): *A 15 éves PEME XV. PhD-Konferenciájának előadásai*. Budapest, 2017. 159-168.

RIGÓ B.: Sir Robert Filmer patriarchális államelméletének gyökerei a kora újkori eszméáramlatok tükrében. [=The Roots of Sir Robert Filmer's Patriarchal Theory of the State in the Aspect of Early Modern Intellectual History] *Jogtudományi Közlöny* 72 (2017) 2. 66-75.

RIGÓ B.: II. Jakab (1685-1688) két intelme fiához (1692, 1703) – Forrásközlemény. [=James II's (1685–1688) Two Advices to his Son (1692, 1703) – Publication with Hungarian Translation] *Themis* 2018. június. 103-135.

RIGÓ B.: II. Jakab (1685-1688) államelmélete – Fejedelmi paraineses a száműzetésből (1692). [=James II's Theory of the State – A Parainesis from the Exile (1692)] In FAZEKAS M. (szerk.): *Jogi Tanulmányok*. Budapest, 2018. 285-295.

RIGÓ B.: A római történelem mint legitimációs eszköz a kora újkori angol politikai gondolkodásban. [=The Ancient Roman History as a Means for Legitimacy in the Early English Political Thought] In MENYHÁRD A. – VARGA I. (szerk.): *350 éves az Eötvös Loránd Tudományegyetem Állam- és Jogtudományi Kara*. Budapest, 2018. 88-100.

RIGÓ B.: The Methods for the Legitimacy of the Succession of James II in Aphra Behn's Poem for Coronation. In AMOROSI, V. – MINALE, V. M. (ed.): *History of law and other humanities: Views of the legal world across the time*. Madrid, 2019. 315-327.

RIGÓ B.: Norms and Legal Practice of Patriarchalism according to James II's Advices to His Son (1692). *Studia Iuridica* [Warszawa] 80 (2019) 319-334.