

Eötvös Loránd University

Doctoral School of Law

**REBELLION OF THE WEAK**

**Legal and non-legal resistance strategies among people living in housing poverty in an asymmetric power conflict**

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Summary of Doctoral Thesis

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## 1. Introduction, research question and theoretical approach

My thesis started as an exploration of my idea that I am personally interested in: are we, as Hungarian society, as a community, really unable to fight for our common interests, and if so, what is the reason for this?

The question becomes even more intriguing when we think about it from the perspective of those who are specifically poor or lower-middle class. In a society in which there is such a sharp social gap, where mobility channels are virtually closed, where social injustice is so palpable in the everyday life, why do those who are most affected by it not rebel? Of course, this question is naive. And we can ask the same in relation to many other social groups. My research question is: *how do members of oppressed groups, in the case of a legal conflict where there is a power asymmetry - i.e. when the conflict happens between the state or municipality and a poor citizen - use the law in their everyday lives in their interests, how do they resist power dynamics that harm their interests?*

The theoretical background of the paper is built on four pillars. First, I will outline the critical theories of power through which I interpret resistance, and then I will elaborate on the theoretical concepts of rights theory. The focus here is the culturalist approach and critical legal theory. The culturalist interpretation works with a broad conception of law that includes additional norm-building elements, beyond written law and posits law as part of culture.<sup>1</sup> The critical legal theory, focusing on written law, examines law as part of politics, as a political instrument.<sup>2</sup> Then I discuss the specificities of the region, such as the influence of the Hungarian historical past on modern legal structures and power structures. I will then explain how, on a theoretical level, we can distinguish between different types of resistance, and what types emerge, with particular reference to the use of law. Finally, in a connecting chapter, I write about the legal, social and economic aspects of housing in Hungary.

## 2. Methodology

In my thesis I used an empirical qualitative methodology, conducting life-story interviews with people living in housing poverty. If we are studying people or groups, as in this thesis, who are in a lower social status than the researcher, or whose status in society is subordinate and whose

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<sup>1</sup> Fleck Zoltán – Kiss Valéria – Tóth Fruzsina – Neumann László – Kenéz Anikó – Bajnok Dávid (2017): *A jogtudat narratív elemzése*. Eötvös Kiadó.

<sup>2</sup> Kiss Valéria (2020): Kritikai elméletek. In.: Jakab András – Sebők, Miklós (ed.): *Empirikus jogi kutatások*. Osiris Kiadó; MTA Társadalomtudományi Kutatóközpont. pp. 233-254.

have less capital, the more we use an interventionist or 'bound' method, the more we risk that at the end our interpretation will emerge, and not theirs. In several of her writings, Julia Vajda points out that interview questions already delimit the researcher's interpretation of reality, i.e. they influence the research outcome.<sup>3</sup> On the other hand, if the individual's narrative can appear in the empiricism without influence, then there is a much greater chance that his or her thoughts, reasoning, strategies, attitudes, i.e. his or her experiences, his or her story, appears as he or she sees it.<sup>4</sup> The wider social difference between the researcher and the researched, the more attention must be aware of this obstacle, such as the different conceptualisation and meaning-making process and the different perceptions of social reality. If not, the research result reflects the researcher's thoughts rather than the researched's ones.<sup>5</sup>

Already in the 1970s, Fritz Schütze began to highlight the method of narrative interview and text analysis, which was further developed by Gabrielle Rosenthal. Schütze argues that the life of the individual as a social being is shaped by the cultural patterns of each society and by external events (natural disasters, economic crisis, war) that have a socially significant impact.<sup>6</sup>

Although most social science methods are more or less intervener, the narrative life course interview tries to minimise this, mostly by reducing the role of the interviewer and focusing on the role of the interviewee as much as possible.<sup>7</sup> The interviewer simply describes the focus of the research and asks the interviewee to tell the story of his/her life. From then on, the interviewee leads the interview process. It's only his/her decision how long he or she wants to talk and what he or she wants to say. The interviewer does not shape the interviewer's narrative, he/she asks questions at the end of a narrative section, based on the interviewer's narrative order. The questioning is also the least intervener way; simply asking the interviewee to tell more about the event. In any case, avoid questions that would in any way evaluate what has been said. Of course, the question itself is an intervention, and it can be influential, but with these methodological considerations the researcher can minimise the effects of influences.<sup>8</sup>

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<sup>3</sup> Vajda Júlia (2003): „Az élettörténet szövegének szövete” *Jel-kép* 2003 No. 1. pp. 89–96.

<sup>4</sup> Kiss Valéria – Tóth Fruzsina (2021): A megismerés lehetséges módszerei az alávetett csoportok joghoz való viszonyának kutatása során. In.: *Állam- és Jogtudományi Folyóirat*. 2021. No. 3. pp. 43-73.

<sup>5</sup> Fritz Shütze (2004): „Autobiographical Accounts of War Experiences. An Outline for the Analysis of Topically Focused Autobiographical Texts – Using the Example of the “Robert Rasmus” Account in Studs Terkel’s Book”, “*The Good War*”” In.: *Qualitative Sociology Review* 2004. No. 1. pp. 224-283. továbbá: Rosenthal (1993), Vajda, (2003)

<sup>6</sup> Pászka Imre (2007): A narratív történetformák In. Uő.: *Narratív történetformák a megértő szociológia nézőpontjából*. Belvedere pp. 162-271.

<sup>7</sup> Légmán Anna (2011): Az örület és az örültek a társadalomban. A magyar pszichiátriai ellátórendszer és az egyén viszonya. <https://pea.lib.pte.hu/bitstream/handle/pea/14758/legman-anna-phd-2012.pdf> (2021. 09. 18.)

<sup>8</sup> Vajda Júlia (2006): *A terápiás hatás mint melléktermék*. Thalassa, No. 17. pp. 123–136.

### 3. Results

#### Theory

1. The theory of power constructs and designed to explore mostly open and mostly collective forms of resistance. Karl Marx, Antonio Gramsci or Nancy Fraser take open and collective resistance forms as their conceptual basis. Individual resistance is important in the ideas of Axel Honneth and the hidden forms of resistance appear in the thoughts of Michel Foucault. All theoretical constructions take Western social structures as their starting point.

2. According to the culturalist approach to legal consciousness, the law as a social phenomenon should be understood as part of culture in everyday life, together with its social context. It is part of culture whether or not we have a well-established and accepted framework for our social life. In this approach, law and norms play a prominent role.<sup>9</sup>

Therefore culturalist legal interpretation opens up more room for individual interpretations and perceptions, thus more effective to reveal the researched group's interpretation of law.<sup>10</sup> It provides a framework, in which oppressed people can shape concepts and approaches. The researchers can interpret the situation through their narratives and not solely through the lens of written law.

3. The exploration of the region's context is crucial, because theories about the power and law are based on mostly Western societies. I believe that there are significant differences in the basic structure and functioning of societies in the region. Ann Swidler's writing on settled and unsettled societies may help us to understand this. When a society is settled, it is always based on a widely accepted consensus, where the individual is aware of the 'rules of the game', accepts them, is able to anticipate the consequences of his/her actions, because this system is predictable.<sup>11</sup> On the other hand, an unsettled society is constantly in changing, unpredictable, and the individual is unable to develop a long-term strategy of action, because there is no agreed set of norms to support him/her. When society becomes unsettled, the role of ideologies increases, because a more abstract reference point is needed for the everyday life, because it is not possible to rely on widely accepted patterns of action in each situation. In the case of

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<sup>9</sup> Ann Swidler (1986): Culture in Action: Symbols and Strategies. In. *American Sociological Review*. 51. No. 2. pp. 273-286.

<sup>10</sup> Patricia Ewick – Susan Silbey (1998): *The Common Place of Law. Stories from Everyday Life*. The University of Chicago Press.

<sup>11</sup> Swidler (1986)

Hungary, this unpredictability is not a consequence of the last few decades, but the result of a long historical process, a long-term structural effect which is historically result in the region, on the border between East and West. Between the different power and social systems, a specific regional social structure has emerged because of these conflicting influences.<sup>12</sup>

4. Based on the literature on resistance and power theory, I believe that four categories of resistance activities can be identified along two dimensions. One dimension is whether it is open or hidden, the other is whether it is collective or individual resistance. In terms of the points of connection, the starting point in the literature is the study of open and collective resistance, such as movements, demonstrations, and strikes. At the same time, the possibility of hidden and collective resistance also appears, which can be fitted into the paradigm of everyday resistance forms.<sup>13</sup>

### **Empirical results**

In the empirical chapter, I analysed each life history interview one by one, using hermeneutic case reconstruction. Then I analyze a horizontal analysis to explore the inter-interview correlations.

Out of the four forms of resistance outlined previously along two dimensions, the most pronounced was clearly the open and individual resistance. Partly, the reason of this results is the choice of interviewees, since I was specifically looking for interviewees who had legal conflicts with public authorities. The use of the law for one's own interests, the development of a legal strategy, is very prominent in half of the interviews, but is also present in the other interviewees.<sup>14</sup> Despite the fact that the one-shotters strategy, according to the Mark Galanter approach,<sup>15</sup> is clearly decisive, they have been skillful and successful in adapting to legal and institutional frameworks.

Collective resistance forms don't emerge from the interviews. Marx's or Fraser's collective action does not appear, despite the common interest, the class by itself cannot move collectively.<sup>16</sup> In all cases, the communities act together, the recognition of a common interest is given, but they fragmented. Based on the interviews, I assume that this is partly depend on

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<sup>12</sup> Szűcs Jenő (1981): Vázlat Európa három történelmi régiójáról. In.: *Történelmi szemle* No. 3.

[http://www.tti.hu/images/kiadvanyok/folyoiratok/tsz/tsz1981\\_3/szucs.pdf](http://www.tti.hu/images/kiadvanyok/folyoiratok/tsz/tsz1981_3/szucs.pdf)

<sup>13</sup> James C. Scott (1985): *The Weapons of the Weak: Everyday Forms of Peasant Resistance*. Yale University Press

<sup>14</sup> Ewick –Silbey (1998)

<sup>15</sup> Mark Galanter makes a distinction between one-shotter and routine players in the legal field. In terms of the resources and the resources they have successfully conduct a legal case. (1974): Why the „Haves” Come out Ahead: Speculation on the Limits of Legal Change. In.: *Law & Society Review*. 9. 1. pp. 95-160.o

<sup>16</sup> Karl Marx (1951), Fraser (2003)

the power technique, i.e. the state and the municipality intentionally divide up the residential communities.<sup>17</sup> On the other hand, collective action is not in the toolbox of individuals, fault lines naturally divide these communities, which they cannot handle. I assume the mistrust in these communities, is also an important factor in the total lack of cohesion. It's interesting that even in those cases, where there is a community and where there is civic background, stories are told as individual struggles. Any collective action behind a movement approach is far from being evident in these stories, and beyond the recognition of a common interest, collective action is only very superficially demonstrated.<sup>18</sup>

It is not certainly clear, whether some blurred histories and narratives are being drawn on the hidden forms of resistance. These forms of resistance are, by their very nature, difficult to explore, but it is worth listening out for the voices. In my opinion, an action can be considered as hidden resistance when the action itself is conscious and the covertness of its performance is conscious. Evasion of the rules, lying, hiding from power can all be a resistance form. The point of this is, the individual assesses that he/she cannot assert his interests openly but can use these techniques to take action against repression. A covert and individual strategy is described by the against the law approach, where the individual simply 'hides' from the law, trying to evade it.<sup>19</sup>

In their approach, Patricia Ewick and Susan Silbey argue that this type of resistance can be identified by four criteria. The first, is whether the individual realizes the conflict situation as an asymmetrical power relationship. If an individual recognizes the power dynamics behind a situation, he or she is already able to define himself or herself in opposition to it, and asymmetry will push his or her action towards hidden action. The other, is whether the individual is aware of his or her options, whether he or she perceives a way out of the asymmetrical power situation, an avoidance or other confrontation. The third criterion is, whether he or she identifies injustice or unfairness in his or her situation. And, finally, whether there is an opportunity for action that is unrecognizable to the power.<sup>20</sup> Even for actions that are usually open to scrutiny, it is difficult, but for covert resistance, we face a particular set of obstacles in distinguishing between covert and collective modes of resistance from individual actions.

## Summary

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<sup>17</sup> Marc Galanter (1974)

<sup>18</sup> Charles Tilly (1996): Alávetés, ellenszegülés, behódolás ...diskurzus. *Replika*. No. 23-24. pp. 131-139.

<sup>19</sup> Ewick –Silbey (1998)

<sup>20</sup> Patricia Ewick –Susan Silbey (2003): Narrating Social Structures: Stories of Resistance to Legal Authority. In: *AJS*. 108, No. 6. pp. 1328 – 1372.

What housing means, i.e. whether it is a capital asset or a basic condition of life, is a simple question to answer, as seen through the eyes of my interviewees. Housing is the basis of existence in the interview narratives, it cannot be seen as a mere asset. Both in the light of international legal trends, the attitudes of those concerned and my own opinion, the fundamental right to social security, and in particular the right to housing, should be recognized as a fundamental right as soon as possible, and guaranteed in a constitutional and enforceable manner. Within this framework, the situation of municipal or public rental housing should be dealt with in a much more conscious manner. It simply cannot be taken out of the equation that there is not a contractual relationship between two parties with the same resources, but that it must be clear that the state or the municipality is in a position of power and that the municipality regulates the contractual conditions by law. Even if it can be argued formally that in these cases the two contracting parties are on an equal base, in substance the tenancy agreement lacks this essential element required by private law.

All the interviewees identify this situation of power and are perfectly able to name the conflict. In addition to this power asymmetry, which is inherent in these relationships, the municipality or the state, according to the interview narratives, also abuses this power differential. It can be assumed that it is trying to assert its interests by circumventing the law, moving institutions to achieve its goals. My interviewees identify the power differential perfectly, and the procedural deficit of the state or local government is quickly recognized. They find their strategy by assessing their options and means and optimizing them to best achieve success. In this way they can confront each other openly and covertly. Open individual confrontations dominate interviews - the reason for this lies in the choice of interviewees - but even so, interviewees only take this route if the other party forces them t

What emerges from these resistance strategies is the almost complete absence of an open and collective mode of coping. Almost all the interviewees' immediate residential communities are also affected by the housing conflict, they realise this, and initial collaborations are formed but break up regularly, with each of the interviewees narrating these situations as individual struggles. I think there are two reasons for this, one is clearly emerging in the interviews the other is an assumption. What emerges in the interviews is that fault lines can easily develop within communities, who has what kind of contract, or who is loud, or who has what kind of social status. And these fault lines are often noticed and exploited by the other party, meaning that it is easy to divide even such small residents who are really fighting for the same goal. Thus, for the interviewees, individual coping seems safer and more predictable. They optimise

their options. The other reason for the lack of collective action is a conjecture, possibly a further research question. In my opinion, the basis of this easy fragmentation is fear, lack of trust. Communities don't trust each other, they may be looking for "betrayal" in the initial collaborations, and simply this fear can be justified by power strategy or minimal but real difference. It is possible that the regional history of our society, our family experiences, our memory culture simply perpetuates this mistrust and there is no institutional terrain that can dissolve it.

Even at the beginning of my research, I knew that researching hidden patterns of resistance would be methodologically difficult by nature. And it was, but at the same time I think I may have uncovered some interesting aspects in this respect hidden resistance can be interpreted as a number of moments in the analysis of interview narratives, in which the interview narrators consciously identify power differences, assess the possibilities and then choose a deliberately hidden strategy. They lie or evade institutions, circumvent procedures. Obviously this is the most optimal strategy, since by acting openly they risk a huge amount, in which case failure would be much more likely than success. Their decision is therefore perfectly rational. However, I believe that I have not been able to prove the dominant existence of the Scottish ordinary resistance strategies partly due to the research question, interview focus and partly due to the low empirical number of elements, this needs further refinement.

When all these covert coping modes become ordinary, collective resistance - based on the Scottish approach - cannot be detected from these four interviews, requires further research. There are several reasons for this as yet undetectable mode of resistance. On the one hand, as I have written there is a complete lack of collective action, communities are easily broken up, which obviously can affect all kinds of collective interest and enforcement. Another such reason lies in the difficulty of researching hidden resistance.

However, I do not think the approach should be rejected. My hypothesis is that - fitting of course with Scott's ideas - such a collective mode of coping can work even when the open version does not. The reason for this is to minimise the hiddenness and the risk, collectivity is here mosaically harmonized and becomes a social force in which micro-differences cannot naturally emerge.

I believe that the study of hidden resistance can give a positive picture of us as a Hungarian political community. For in this concept, a very conscious, acting community emerges, which, on the basis of its experience, makes completely rational decisions and acts to protect its interests, and in this concept even the germ of communality can be found. I feel that this



approach does not work with an expectation adapted from abroad, which obviously infuses the open and collective form of resistance with positive content, but reflects the history and regional pattern that is specific to Hungary.

## List of publications

Gulya Fruzsina - Katona Vanda - Kiss Valéria - Légmán Anna - Sándor Anikó - Tóth Fruzsina (2021): Gondnokság és támogatott döntéshozatal a gyakorlatban: Egy kutatás módszertani alapvetései. *Szociálpolitikai Szemle*. 7. No. 1. pp. 51-71.

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