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Towards a Comparative Study of Polish and Hungarian Witchcraft Persecutions: Historiographical and Legal Perspectives¹

**Studium porównawcze polskich i węgierskich
prześladowań czarownic: perspektywa
historiograficzna i prawa**

Abstract

This article explores the possibility of a legal-historical comparison of Polish and Hungarian witchcraft trials. It begins by outlining the historiographical background, tracing developments since the so-called anthropological turn in witchcraft studies. It then presents the most significant statistical data pertaining to the regions of both countries. Finally, it proposes a microhistorical framework through a discussion of general legal issues. The paper concludes that a straightforward regional or sub-regional comparison is not feasible; instead, thematic, contemporaneous,

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trial-by-trial comparisons can be conducted by building on individual cases and examining parallel court practices.

Keywords: historiography of witchcraft, crime of witchcraft, statistics of witchcraft, history of the Polish–Lithuanian Commonwealth, history of the Kingdom of Hungary, comparative history.

Abstrakt

Artykuł podejmuje zagadnienie możliwości przeprowadzenia prawno-historycznego porównania polskich i węgierskich procesów o czary. Rozpoczyna się od zarysowania tła historiograficznego, śledząc rozwój badań od tzw. zwrotu antropologicznego w studiach nad czarownictwem. Następnie przedstawia najważniejsze dane statystyczne dotyczące obszarów obu terytoriów. W dalszej części proponuje ramę mikrohistoryczną, opartą na omówieniu ogólnych zagadnień prawnych. Autor dochodzi do wniosku, że bezpośrednie porównanie regionalne lub subregionalne nie jest możliwe; zamiast tego możliwe są porównania tematyczne, równoległe czasowo, prowadzone „proces po procesie”, budowane na analizie poszczególnych przypadków oraz badaniu równoległych praktyk sądowych.

Słowa klucze: historiografia czarownictwa, przestępstwo czarów, statystyka czarownictwa, historia Rzeczypospolitej Obojga Narodów, historia Królestwa Węgier, historia porównawcza.

Methodology and historiography of comparisons

Magic and witchcraft, from early modern demonological debates to the early Romantic and rationalist scientific inquiries (e.g. Jules Michelet or Joseph Hansen), consistently attracted scholarly and antiquarian interest.² Although its sources played an influential role in certain questions (e.g. remnants of early religious beliefs), the study of witchcraft only gained prominence in international historical scholarship following the

2 General historiographies ranging from medieval contemporary debates, recently: “Themes of Witchcraft Research,” in *The Oxford Handbook of Witchcraft*, ed. Brian P. Levack (Oxford: Oxford University Press, 2013), 449–592. On German-speaking lands: Wolfgang Behringer “Geschichte der Hexenforschung” in *Wider alle Hexerei und Teufelswerk. Die europäische Hexenverfolgung und ihre Auswirkungen auf Südwestdeutschland*, eds. Sönke Lorenz, Michael Jürgen Schmidt (Stuttgart: Jan Thorbecke, 2006), 485–680.

anthropological turn of the 1970s.³ This shift not only increased academic interest in the subject, but also reoriented traditional lines of inquiry, such as legal issues derived from court records of witch persecutions, towards new interdisciplinary perspectives.⁴ For instance, the examination of strictly legal and criminological aspects has been integrated with broader historical trends, such as the social history of crime or the history of violence.⁵ Despite numerous publications on witchcraft at the European level, most research into its legal aspects has been conducted at the national level, with local microhistorical studies being the most common.

This is especially true for the period of the European witch-hunts (fifteenth to eighteenth centuries), when local legal contexts and actual judicial practices varied significantly between territories, even within the most affected regions of the Holy Roman Empire.⁶ On the other hand, despite the broad differences, European witchcraft had more in common than what set it apart, as Henningsen and Ankarloo asserted in 1984 in

3 Most scholars associate this historiographical shift with the recognition of the realities of witchcraft beliefs – not merely as magical practices or belief systems, but as a multi-causal social construction that can be examined from a multidisciplinary perspective with a social function in conflict-management within rural communities. See: Gábor Klaniczay, “A Cultural History of Witchcraft,” *Magic, Ritual and Witchcraft* 5 (2010): 188–212. Thomas A. Fudge, “Traditions and Trajectories in the Historiography of European Witch Hunting,” *History Compass* 4 (2006): 488–527. From another perspective this change can be seen in two more aspects: chronologically (construction of witchcraft shifted down to late 14th century and the end of the trials up to second half of the 18th century) and geographically (the European periphery should have independent research). See: Gustav Henningsen, Bernt Ankarloo, “Introduction,” in *Early Modern European Witchcraft* eds. Bengt Akarloo, Gustav Henningsen (Oxford: Clarendon Press, 1990), 1–16.

4 On the historiography of witchcraft and law: Brian P. Levack, “Crime and the Law” in *Palgrave advances in witchcraft historiography*, eds. Jonathan Barry, Owen Davies (New York–Basingstoke: Palgrave Macmillan, 2007), 146–163.

5 Malcolm Gaskill situates witchcraft alongside other offences (such as coinage and murder) and explores the criminal and judicial context. Malcolm Gaskill, *Crime and Mentalities in Early Modern England* (Cambridge: Cambridge University Press, 2013). In the field of the history of violence, witchcraft is discussed within the framework of persecutions, alongside crimes such as heresy. See: Robert W. Thurston, “Violence towards Heretics and Witches” in *The Cambridge World History of Violence Volume III*, eds. Robert Antony, Stuart Caroll, and Caroline Dodds Pannock (Cambridge: Cambridge University Press, 2011), 513–530.

6 On witchcraft as crime: Wolfgang Behringer, “Law on Witchcraft (Early Modern),” in *Encyclopaedia of Witchcraft. The Western Tradition*. ed. M. Richard Golden (Denver–Oxford: ABC Clio, 2006), 634–640.

Stockholm.⁷ With this statement, they aimed to establish the foundation for comparative regional studies of the European peripheries, a pursuit that soon found immediate followers with similarly aligned objectives.⁸ Within this scholarly tradition, Hungary and Poland were jointly characterised by certain regionally specific features, such as notions of chronological belatedness, a more moderate persecution typically confined to isolated trials, differing roles of centres and peripheries, challenges of cultural top-down acculturation, a stronger persistence of archaic beliefs, and issues concerning the transfer of legal and demonological knowledge.⁹ The perspectives of these – especially issues of data and chronology – have been questioned by the latest studies, though many of the lines of inquiry remained important. It is, however, regrettable that while the most recent handbooks and encyclopaedias contain well-developed, country-specific chapters,¹⁰ the initial objective of regional comparisons was barely continued, though there are attempts at two-state comparisons.¹¹

However, in recent general works, the struggle to achieve a concise pan-European comparison has persisted. Particular attention should be given to Rita Voltmer's essay, which, in addition to providing a general theoretical and statistical framework for the period of the witch-hunts,

- 7 They mention theology, law, gender, chronology (1450–1750), reformation and counterreformation, popular and elite culture struggles, Cartesian scepticism as common issues. See: Ankarloo, Henningsen, "Introduction" 9.
- 8 Almost simultaneously, an international conference was held in Budapest with the explicit aim of understanding the similarities and differences in the persecutions across Central Europe, with involvement of like Carlo Ginzburg. It was concluded that the greater persistence of archaic beliefs and the prolonged duration of the social conflicts underlying the persecutions are characteristics of the region. See: Éva Pócs, Gábor Klaniczay "Witch-Beliefs and Witch-Hunting in Central and Eastern Europe. Introduction," *Acta Ethnographica Hungarica* 37 (1991–1992): 7–13.
- 9 For a summary: Gábor Klaniczay, "Hungary: The Accusation and the Universe of Popular Beliefs"; Henningsen, Ankarloo, *Early Modern European Witchcraft*, 219–257; William Monter, "Witchcraft-Trials in Continental Europe," in *Witchcraft and Magic in Europe. The Period of Witch-Trials*, eds. Bengt Ankarloo, Stuart Clark and William Monter (London: Athlone Press, 2002), 1–52; Marjike Gijswilt-Hostra "Witchcraft after the Witch-Trials," in *Witchcraft and Magic in Europe. The Eighteen and the Nineteen Centuries*, eds. Bengt Ankarloo, Stuart Clark (London: Athlone Press, 1999), 95–191.
- 10 See: Ildikó Kristóf, "Witch-Hunting in Early Modern Hungary"; Levack, *The Oxford Handbook of Witchcraft*, 334–355; Golden, *Encyclopaedia of Witchcraft*, 515–520; Wanda Wyporska, "Poland"; Golden, *Encyclopedia of Witchcraft*, 907–910, Michael Ostling, "Witchcraft in Poland: Magic and Malefice"; Levack, *The Oxford Handbook of Witchcraft*, 334–355.
- 11 See: Brian P. Levack, "Witch-hunting in Poland and England: Similarities and Differences," in *Britain and Poland-Lithuania. Contact and Comparison from the Middle Ages to 1795*, ed. Richard Unger (Leiden–Boston: Brill, 2008), 233–243.

defines several aspects of the shared legal foundation. By distinguishing between the accusatorial and inquisitorial traditions within Europe, she exercises considerable caution in drawing comparisons (e.g. differences in legal traditions and court structures, the arbitrary use of torture, the classification of witchcraft as a compound criminal offence, incomplete trials and records, latency, etc.). Nevertheless, she acknowledges that, at its core, a witch trial constitutes a “legal punitive procedure against people of both sexes accused of practising criminal witchcraft, sorcery, and magic.”¹² From a historical perspective, such trials exhibit procedural (e.g. structure of trial records, standards of evidence, predominance of secular courts, application of ordinary legal processes) and theoretical commonalities (e.g. the definition of *maleficium* as a criminal offence, whereas slander constituted a non-punitive but civil action) particularly within continental Europe.

On the basis of the foregoing, our aim is to continue the comparisons. In this brief study, I can only outline the possibilities and pitfalls of such a comparison. Our primary focus will be on the historical aspects of the legal context. In my paper, I will begin by briefly discussing the main historiographical trends. This will be followed by a concise overview of the recent regional statistical data. Then, I concentrate on four key legal issues: the evolving concept of crime; the organisation of the courts; procedural law; and, finally, the sources of law and German legal transfers. To conclude, I will propose the framework of microhistorical comparison to address certain challenges posed by legal particularities. Overall, the aim of this paper is not to offer a comprehensive legal comparison, but rather to propose a methodological framework.

Hungarian and Polish historiographical traditions

Given the multi-ethnic mosaic of East-Central Europe, it is impossible to capture its full complexity, and the recent abundance of literature on witchcraft and magic—in both interregional and national languages—means that this overview may easily mislead. On the other hand, despite shared 19th-century ethnographic progress,¹³ Polish and Hungarian historiographical traditions remain markedly distinct. One of the main

¹² See: Rita Voltmer, “The Witch Trials,” in *The Oxford Illustrated History of Witchcraft and Magic*, ed. Owen Davies (Oxford: Oxford University Press, 2017).

¹³ For the period: Wanda Wyborska, *Witchcraft in Early Modern Poland, 1500–1800* (Basingstoke: Palgrave, Macmillan, 2013), 13–20.

elements of difference between the studies is derived from the archival material, namely the court records. In Hungary, the publication of the trial records remained constant from the early positivist tradition.¹⁴ In the latest phase it reached an internationally significant level, with more than 2000 trials published in their entirety and about twenty volumes published on witchcraft and magic, mostly due to the research group led by Éva Pócs and Gábor Klaniczay from the 1980s.¹⁵ By contrast, in Polish research the issue of sources remained a central problem.¹⁶ It is due to the fact that the historically rich archives of Poland experienced a heavy loss due to Second World War.¹⁷ As a result, not only did a mosaic-like uneven distribution occur, but a great dependency on literary sources, mainly printed law books and demonologies.¹⁸ On the other hand, it also caused methodological problems, since in his well-known works the Marxist historian Bohdan Baranowsky used extrapolation of smaller urban courts, which led to overestimations.¹⁹ At the same time, works like Małgorzata Pilaszek's study have proved that local archives can supplement the data significantly, since she had collected almost 900 trials nationwide.²⁰ Still, one can claim, that beside the ever-growing numbers and publications, the statistics remain somewhat unreliable.²¹

14 About the publication of the Hungarian trials: Péter Tóth G., "Boszorkányos hagyaték. A magyarországi boszorkányperek feltáráásának kutatáštörténete a kezdetektől napjainkig," in *Párbeszéd a hagyománnal. A néprajzi kutatás múltja és jelene*, ed. Vargyas Lajos (Pécs–Budapest: PTE Néprajz–Kulturális Antropológia Tanszék–L'Harmattan Kiadó, 2011), 635–695.

15 On the research group: Gábor Klaniczay, Éva Pócs "Introduction," in *Witchcraft and Demonology in Hungary and Transylvania*, eds. Gábor Klaniczay, Éva Pócs (Basingstoke: Palgrave Macmillan, 2017), 1–12. The complex database contains witch-craft trials, verbal charms and folk belief narratives. For witchcraft see: Péter Tóth G., *Digital Database of Witch Trials* (Budapest: MTA BTK, 2013), boszorkánykorok.hu (access: 17.12.2025). For selected Hungarian studies: *Witchcraft Mythologies and Persecutions I–III*, eds. Gábor Klaniczay, Éva Pócs (Budapest: CEU Press, 2006–2008).

16 There are initiatives for a databases: Łukasz Hajdrich, "Polska historiografia procesów o czary. Zarys problemu," *Historia@Teoria* 2 (2017): 209–221.

17 Wanda Wyporska claim that on in the Central Archive out of 5000 books of court record only 500 remained intact. Wyporska, "Witchcraft in Early Modern Poland" 25–26 and Wyporska, *Poland*, 907–910.

18 Wyporska, "Poland"; Golden, *Encyclopaedia of Witchcraft*, 907–910; Ostling, "Witchcraft in Poland: Magic and Malefice"; Levack, *The Oxford Handbook of Witchcraft*, 334–355.

19 For a critique about Bohdan Baranowsky, see: Małgorzata Pilaszek, "Witch-Hunts in Poland 16th–18th centuries," *Acta Poloniae Historica* 86 (2002): 103–115.

20 Małgorzata Pilaszek, *Procesy o czary w Polsce w wiekach XV–XVIII* (Kraków: Universitas, 2008), 1–74.

21 Wyporska, *Witchcraft in Early Modern Poland*.

In terms of interpretations, the Hungarian scholarship was mainly focused on historical anthropology where topics such as the relationship between witchcraft and healing, popular and Christian demonology, political-social tensions and demonological processes, change and decline of the legal understanding of persecutions.²² Microhistories of urban witch-panics, the criminal-legal context, life of prominent figures like exorcists also caught attention later.²³ Though the functionalist understanding of witchcraft as a social conflict management and explanatory strategy in village and smaller urban communities was not called into question, the socio-political, cultural, and legal contexts of the persecutions were understood better.

In the Polish research despite the fact, that the early Marxist, anti-clerical, class-struggle based understanding of Baranowski's work was supplemented by few scholars for international audience,²⁴ the recent inquiries brought a general flourish of the topic for non-Polish readers, showing a glimpse of a very rich internal discussion.²⁵ The research directions were also based on the functionalist definition, and with similar focus on popular magic and social tensions with greater interest in ecclesiastical issues such as the Tridentine reforms or heretical movements. Unlike in Hungary the examination brought general nation-wide monographs of the region with overarching research questions (Ostling's popular on Christian culture and demonology) or surprising outcomes (Pilaszek's observation on the gender gap in punitive customs and size of the city courts), but there are regional studies that show mosaic features in legal context, ecclesiastical demonology or magical practices as in

22 For recent monographs, on healing, cultural and social tensions: Gábor Klaniczay, *A boszorkányüldözés története* (Budapest: Balassi, 2022). 18th century history of the persecution in nationwide involving magic, superstition, vampirism and the legal understanding with the decline enlightenment era: Péter Tóth G., *Boszorkánpánik és babobantéboly* (Budapest: Balassi Kiadó, 2020). For wide range of Hungarian publications with contemporary literature: Tóth G., *Boszorkánpánik és babobantéboly*, 499–577 and *A magyarországi boszorkányság forrásainak katasztere 1408–1848*, ed. Tóth G. Péter (Budapest–Veszprém: MTA Néprajzi Kutatóintézete–Laczkó Dezső Múzeum, 2000), 191–212.

23 About the extraordinary life of the Franciscan exorcist brother Rochus of Sombor, see: Dániel Bárth, *The Exorcist of Sombor. The Mentality of an Eighteenth-Century Franciscan Friar* (London–New York: Routledge, 2020). On the microhistory of the most extensive persecutions: Gergely Brandl, *A szegedi boszorkánperek története és forrásai* (1726–1744), PhD dissertation (Szeged: Szegedi Tudományegyetem, 2024).

24 See: Janusz Tazbir, "Hexenprozesse in Polen," in *Archiv für Reformationsgeschichte* 71 (1980): 280–307.

25 Recent list: Wyporska, *Witchcraft in Early Modern Poland*, 197–199; Hajdrich, "Polska historiografia," 209–221.

Ukraine, Royal Prussia, Greater Poland, and also precise microhistories like in case of the city of Kleczew.²⁶

Available statistical data

The most recent moderate estimate done by Rita Voltmer, put the numbers of executions in Europe (Russia included) between 40 and 60 thousand, of which 20 to 25 thousand occurred within the territory of the Holy Roman Empire. At the same time, she warns that the judicial and statistical specificities are so uncertain and incomparable that the number of trials, of sentences or the number of accused persons, the type of the courts or even the acquittals or appeals “provide us with incompatible data.”²⁷ All in all, even if our data only provide tendencies, it is worth highlighting that the eastern territories of Central Europe, with circa 4,000 executions (see table 1.), are still considered moderate.

The traditional framework for comparing witchcraft persecutions in Hungary and Poland has often been based on the “delay theory,” derived from the centre-periphery model. This theory posits that the intensity of persecutions in Hungary and Poland lagged behind the major waves of witch trials in the Holy Roman Empire. While this temporal difference is less evident in the development of criminalization, it becomes more noticeable in the number of court cases. What is particularly striking is the prolonged duration of trials in these regions compared to the most severely affected areas of the German states, while showing parallels to neighbouring areas of the Empire like Bavaria or Saxony.

26 See: Pilaszek, *Procesy o czary*, 225–250, on Christion demonology: Michael Ostling, *Between the Devil and the Host: Imagining Witchcraft in Early Modern Poland* (Oxford–New York: Oxford University Press, 2011). By regions: Jacek Wijaczka, *Procesy o czary w Prusach Księżycych (Brandenburskich) w XVI–XVIII wieku* (Olsztyn: Pruthenia, 2019); Catharina Dysa, *Witchcraft Trials and Beyond: Right-Bank Side Ukrainian Trials of the Seventeenth and Eighteenth Centuries*, Ph.D. dissertation (Budapest: Central European University, 2004). For Wielkopolska: Wyporska, *Witchcraft in Early Modern Poland*; Tomasz Wiślicz, “The Township of Kleczew and Its Neighbourhood Fighting the Devil (1624–1700),” *Acta Poloniae Historica* 89 (2004): 65–95.

27 Voltmer, “The Witch Trial,” 120–122.

Table 1. The numbers of known witchcraft trials and processes in the early-modern period by comparison, c=circa, estimations ()=known minimum numbers, []=last known trial

Place ²⁸	Starting date	Abolition date	Num- ber of processes	Num- ber of accused	Num- ber of executions
(1) Kingdom of Hungary	1521	1768	c. 4000 (2114)	c. 10000 (4582)	c. 1000 (848)
(2) Poland and Lithuania	1511	1776	c. 2000 (867)	c. 4000 (1316)	c. 1200 (558)
(3) Margravate of Moravia	1494	[1696]	c. 300 (?)	c. 300 (?)	c. 300 (123)
(4) Kingdom of Bohemia	1498	[1756]	c. 800 (?)	c. 800 (?)	c. 800
(5) Silesia	1456	1742, 1756	c. 600 (444)	1200 (950)	c. 700 (593)
(6) Duchy of Bavaria	1589	1756	c. 1500	c. 3000	c. 200 (176)
(7) Electorate of Saxony	1407	1766	c. 900	c. 1500	c. 300

Source: (1) Tóth G., „Boszorkányos hagyaték,” 655, Kristóf, „Witch-Hunting,” 334–355. (2) Ostling, „Between the Devil,” 16–24, Wyporska, „Poland,” 208, Pilaszek, „Procesy o czary,” *passim* (3–5) Voltmer, „The Witch Trial,” 101–103, Peter Kreuz, „Kingdom of Bohemia,” Golden, *Encyclopedia of Witchcraft*, 134–135, Peter Kreuz, „Moravia,” Golden, *Encyclopaedia of Witchcraft*, 785–786, Ludolf Pelizaeus, „Silesia,” Golden, *Encyclopaedia of Witchcraft*, 1038–1039. (6–7) Voltmer, „The Witch Trial,” 101–103, Behringer, „Duchy of Bavaria,” Golden, *Encyclopaedia of Witchcraft*, 97–101, Manfred Wilde, „Electorate of Saxony,” Golden, *Encyclopaedia of Witchcraft*, 1008–1010.

However, the earlier assumption that the peak of persecution in both regions occurred simultaneously is increasingly being challenged. Polish statistical data – though problematic – suggests that the period of intense persecution in the Crown lands of Poland, particularly in Wielkopolska (of which we have better data) occurred before 1700. By contrast, the peak of persecutions in the Kingdom of Hungary appears to have occurred later, in the late 1740s to the 1750s. More importantly, both kingdoms show significant differences between territories, mostly due

28 It is well known that the delineation of different geographical territories is often problematic and subject to change. For Poland and Lithuania (from 1569 the Polish–Lithuanian Commonwealth), we have followed the framework proposed by Wanda Wyporska („Poland,” 907–910.), for the Kingdom of Hungary, we have adopted the suggestions of Péter Tóth G. („Boszorkányos hagyaték,” 654–671). In all other cases, we have relied on the guidelines provided by the *Encyclopedia of Witchcraft*.

to demographic and historical facts (e.g. “Great Deluge” in Poland or the Ottoman occupation of Hungary) (see table 2)

Table 2: The numbers of known witchcraft trials by regions

Place ²⁹	1521– 1570	1571– 1600	1601– 1650	1651– 1700	1701– 1750	1751– 1770	1771– 1790
Wielkopolska	6	8	29	114	81	6	3
Kingdom of Hungary	18	25	63	125	230	35	1
Ottoman Hungary	1	1	5	43	310	116	17
Transylvania	7	17	39	195	280	45	5
Croatia	1	4	4	11	17	3	0
Partium	1	3	26	62	313	62	5

Sources: Tóth G., „Boszorkányos hagyaték,” 655, Wyporska, „Poland,” 908, Wyporska, *Witchcraft in Early Modern Poland*, 30–31, Ostling, *Between the Devil*, 16–24.

Factors such as legal literacy and source preservation significantly affect the congruence of our data. One such factor is the role of different courts: the majority of the Polish material derives from courts in urban centres, whereas the Hungarian trials display a more balanced distribution, with many cases originating from county or signorial courts. This distinction is important, since in the Hungarian free royal cities there appears to be a tendency to end such trials earlier as in the smaller courts. Despite these challenges, one of the most intriguing aspects is that the Polish trials in Wielkopolska show a major decline much earlier. This may mean that, at almost the same time as the Hungarian peak, persecution in Greater Poland had already become nearly insignificant.

Summary: what to compare? General framework and ideas for comparison

Although the legal-punitive frameworks of both regions are quite different, there are many similarities in the characteristics of their legal environments. The primary reason for these similarities lies in the

29 For the territories of the Kingdom of Hungary, it is worth maintaining the 16th–17th-century partition even after the Peace Treaties of Karlowitz (1699) and Passarowitz (1718), since these regions display markedly different patterns in their legal traditions and, consequently, in their witchcraft trials. See: Tóth G., “A magyarországi boszorkányság forrásainak katasztere,” 1–50.

decentralized and fragmented nature of their legal systems. In both regions, the absence of strong and effective centralized legal rules and norms has resulted in a mosaic organization of the courts, their jurisdictions, procedural laws, and even sources of law, thereby undermining legal coherence.

Another common factor is the positioning of both regions on the periphery of German law, which has consistently influenced their legal systems, primarily through customary law. Additionally, the similarities may be further shaped by fundamental social historical factors. The inhabitants of municipalities with comparable legal statuses – namely small towns and villages – were the most affected by persecution. In both cases, approximately 90% of the persecuted were women, who were often closely connected socially to their accusers.³⁰

Judicial trends indicate that, in the early stages of persecution (up until the mid-17th century), witchcraft was not recognized as a distinct offense but was instead associated with other crimes, primarily assault, damage, and various sexual or religious acts. However, after this period, the broad legal and demonological conception of witchcraft – referred to as the “diabolic cumulative notion” – became more focused on the practice of witchcraft, specifically *maleficium*. This framework was subsequently employed to establish charges in judicial sentences. Elements such as apostasy (*apostasia*), demonic alliance (*pactum cum daemone*), gained a more important role, only during the more intense periods of persecution, occurring later than similar developments in Western Europe. It may also suggest that there was an existing popular magical concept which was criminalised only in later period of the persecutions.³¹

In peripheral regions of witch persecution (British Isles, East-Central Europe, Scandinavia, etc.), the so-called “single trial” cases – those involving a few isolated individuals – are more typical than mass persecutions. This trend is also evident in the Polish and Hungarian cases, where the scale of witchcraft trials appears inversely proportional to the size of the court and the settlement. In smaller, local courts, where conflicts often involved local social conflicts (folk magic practitioners, healers, cunning folk etc.) punishments tended to be milder. Conversely, in larger, more developed courts, the greater legal expertise sometimes led to more extensive prosecutions.³² However, chain reactions that led

³⁰ Hungary: Kristóf, “Witch-Hunting in Hungary,” 515–520; Poland: Pilaszek, “Witch-Hunts in Poland,” 103–132; Ostling: “Witchcraft in Poland,” 334–355.

³¹ Wyporska, *Witchcraft in Early Modern Poland*, 90–75.

³² Ostling, *Between the Devil and the Host*, 91–107.

to widespread mass persecutions were rarely observed in Polish and Hungarian contexts, and the number of perpetrators remained lower, the largest ones still fall within the category of ‘panic-trials’ (4–19) on the 2nd level of the six-level Behringer scale.³³

The most challenging aspect of legal comparison appears to be the issues of procedural law. On one hand, there seems to be a division in both regions between criminal law (e.g., *crimen magiae*, *crimen divinae majestatis*, *crimen sortilegii*, *blasphemia*, *haeresis* etc.) and civil law (*defamatio*, *violatio*). At the same time, while the majority of Polish literature notes a shift from accusatory and inquisitorial procedures toward investigative methods, certain legal institutions, such as the accusatorial oath, which has become extinct in Hungary, are a sign of mixed procedure in some Polish cases.³⁴ While judicial ordeals such as the water test were absent in both countries, the practice known as “swimming the witches” persisted. However, this practice is not part of the formal legal process but rather a kind of para-legal procedure used to bring a case to court.

Despite the inconsistencies, it seems that the trials were mostly conducted in secular courts, much like other criminal trials, rather than as exceptional cases. The use of torture is also a contentious issue. In both countries, it seems that it was commonly employed, though generally reserved for serious cases involving the death penalty. In Hungarian witch trials, its widespread use may have only become common in the 18th century at a limited and unregulated level. In Poland, however, regulations governing torture, particularly in Kraków and influenced by the legal compilation of Bartłomiej Groicki or German legal tradition, appear to have been more rigorous.³⁵ Torture was also frequent in Polish witch trials, although its application did not necessarily result in a death sentence or a higher prevalence of demonological testimonies, and it was generally treated as misleading. In contrast, in Hungarian legal culture, torture was considered a normal judicial practice, and in cases connected to diabolism or severe punishment, it seems to have been used overwhelmingly.³⁶

33 On the different scales (single-trials, chain trials and big persecutions) many attempt has been done to construct the volumes of persecution and to compare see: Voltmer, “The Witch Trial,” 90–100.

34 Ostling, *Between the Devil and the Host*, 91–107; Wyporska, *Witchcraft in Early Modern Poland*, 90–75.

35 Wyporska, *Witchcraft in Early Modern Poland*, 74–80.

36 Wyporska, *Witchcraft in Early Modern Poland*, 29–30, 81–83; Tóth G., *Boszokránypánik és bababantéboly*, 327–385.

Conclusion: how to compare? The problem of legal sources and Carpzov paradigm

As I have highlighted, comparing European regions or subregions in the context of witchcraft is problematic due to legal, chronological, and source-based limitations. Although the theoretical potential for comparison addresses well-discussed themes, it often relies on overarching research questions posed “from above.” By contrast, given the widespread uncertainties, research “from below”—focusing on court practices and individual trials—can provide sufficiently detailed insights.

In the case of comparison, two different approaches appear to be available. The first applies when the comparison involves jurisdictions where the crime of witchcraft appears regularly over a long period, in contrast with other criminal penalties, and where court practice and the social background are relatively stable, with a well-elaborated set of consistent legal customs. (In Polish research, the town of Kleczew provides such an example, similarly, in Hungary, the city court of Debrecen.³⁷) The other possibility is the examination of an intensive period, or a witch-panic, where a microhistorical framework may be applied. In such cases, the inquiry cannot rely on a great number of trials, but the larger proceedings tend to have more extensive records, including greater detail on the legal background. It is difficult to find relatively simultaneous processes that share comparable legal, demonological, and chronological patterns. Therefore, it is worthwhile to supplement trial-by-trial comparison with a broader theoretical framework, taking into account similarities of a legal, theological, and related nature.

One example of a theoretical guiding thread is the export of German law and the sources of law. This issue is worth examining to explore why it is beneficial to analyse these factors from this perspective, as significant similarities appear to exist in the use of legal sources.³⁸ In both jurisdictions, criminal law is not fully codified; instead, common law

37 For Debrecen: Ildikó Kristóf, “Ördögi mesterséget nem cselekedtem.” A boszorkányüldözés társadalmi és kulturális háttere a kora újkori Debrecenben és Bihar vármegyében (Debrecen: Ethnica Kiadó, 1998). For Kleczew: Wiślicz, “The Township of Kleczew,” 65–95.

38 Legal comparisons differ from historical, since the subjects tends to be epistemological. Our suggestion intend to use similar framework. See: Szilvia Bató, “Österreichische Wirkungen in der ungarischen Strafrechtswissenschaft vor 1848 durch das Beispiel der Straftaten gegen das Leben,” in *Internationale Konferenz zum zehnjährigen Bestehen des Instituts für Rechtsvergleichung der Universität Szeged*, eds. Attila Badó, Detlev W. Belling, János Bóka and Péter Mezei (Potsdam: Universitätsverlag Potsdam, 2014), 71–90.

predominates. Consequently, particularly in witch trials, courts exercised considerable autonomy in the application of legal sources, selectively choosing norms. This allowed the use of domestic laws, statutes, ordinances etc. and, notably, the adoption of German law in a customary fashion.

For example, German imperial decrees, such as the *Constitutio Criminalis Carolina* and related commentaries and legal works, played a significant role in both places. Benedict Carpzov's *Practica Nova Imperialis Saxonica* of 1635, for instance, is of mutual interest as it may have substantially influenced both procedural law (e.g., the use of torture, imprisonment) and substantive law (e.g., changes in punishments, such as the spread of burning instead of exile). Nevertheless, the references to legal documents in both jurisdictions reveal a more diverse legal landscape.³⁹ To fully understand the extent of this legal influence, it is critical to identify those legal texts that were actively employed or simply referenced in judicial proceedings. Therefore, it is necessary to identify parallel trials that may illuminate the direct impact of these citations.

Initial findings suggest that cases with higher levels of legal literacy in the eighteenth century exhibit greater similarities in their use of legal sources, particularly those with a well-developed demonological framework. A comparative study, for example, of the Szeged Witch Panic of 1728–1729 and the Polish Grodzisk trials of 1710–1721 reveals a consistent citation and application of Carpzov's work. In these trials, the depiction of the crime, and its diabolical context (e.g. *pactum diabolici*) look similar and probably underline similarities in the legal background. There are even similarities such as the significance of the magic involving the Holy Host (communion wafer) during the trials, which are explicit in the work of Carpzov and many other sources.

39 In case of Hungarian legal tradition, the example of the so-called *Praxis Criminalis* the law book of Ferdinand III is a well-researched example for Austrian-Hungarian legal transfer. See: Gábor Béli, István Kajtár, "Österreichisches Strafrecht in Ungarn: Die *Praxis Criminalis* von 1687," *Zeitschrift für Neuere Rechtsgeschichte* 16 (1994): 325–334.

Table 4. Cited costomarily used foreign legal sources with demonological content in Szeged 1728–1729

City	Author/Ruler	Title	Year	Type of Source (example)
Szeged	Charles V	<i>Constitutio Criminalis Carolina</i>	1532	<i>Art. 109. On the punishment of witches</i>
Szeged	Benedict Carpzov	<i>Practica Nova Imperialis Saxonica</i>	1635	<i>Pars. I. Quest. 49. How should witches and evil people who conspire with the Devil be punished?</i>
Szeged	Ferdinand III (Leopold von Kollonich)	<i>Peinliche Landgerichtsordnung (Forma processus judicij criminalis seu praxis criminalis)</i>	1656 (1687)	<i>About the Crime of Magic (De crimine magiae)</i>

Source: Brandl–Tóth G. 2016, 416–419.

Table 5. Customarily cited foreign legal sources with demonological content in Grodzisk 1710–1721

City	Author/Ruler	Title	Year
Grodzisk	Charles V (Bartłomiej Groicki)	<i>Constitutio Criminalis Carolina</i>	1532 (1558)
Grodzisk	Benedict Carpzov	<i>Practica Nova Imperialis Saxonica</i>	1635
Grodzisk	Peter Binsfeld	<i>Tractatus de confessionibus maleficorum et sagarum</i>	1589
Grodzisk	Matthias Berlich	<i>Conclusiones practicabiles I–V. volumina</i>	1615–1619

Source: Pilaszek 2016, 194; Wyporska 2013, 209.

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