

New Interpretations of the Concepts Regarding Familiars and Possession in Angevin Hungary during the Early 14th Century

MIHAI SAFTA

*“He raises the poor from
the dust and lifts the needy
from the ash heap;
he seats them with princes
and has them inherit
a throne of honor.”*
(Samuel 2:8)

THE 14th century brought with it the Angevin cadet branch from Naples into power in the medieval Kingdom of Hungary, together with nobles from the French and Italian elite, Roman law and canon law doctrines. This research investigates the first Angevin king, Charles Robert, the heir favored by the Holy See, who went on to possess the fullness of power, *plenitudine potestatis*, despite the customary law still having a strong presence in the realm. Considering that the founding of the Angevin dynasty¹ was very different in Hungary compared to Naples,² the question arises: after almost 20 years of struggle, was his mentality closer to that of the Hungarian noble elite rather than that of his kin back in Naples? We believe that the answer lays in the institutions of the kingdom and in the legal background. Influences of Roman and canon law were already present in the realm by the 13th

Mihai Safta

Ph. D. candidate at the Faculty of History and Philosophy, Babeş-Bolyai University, Cluj-Napoca.

century, and the new king, Charles Robert, did not find at court a different mentality, but rather a different name for the same concepts.

Was Charles Robert (or Caroberto) acting in accordance with the customary law of the Kingdom of Hungary? In order to formulate an answer, we must make a brief incursion into the legal background of the Kingdom of Hungary, and ask another question: how much knowledge of Roman law did the chancellery have during the 13th and the 14th centuries? Was it customary law that predominated, or was it a mixture of canon and Roman law applied over a customary foundation?

According to Professor Gábor Hamza,³ Roman law started having a direct influence in Hungary only during the age of the Glossators.⁴ The influence and use of canon law in the Kingdom of Hungary and the areas situated in the traditional domain of the crown, both *de facto* and *de jure*, was in accordance to Western legal works during the 13th and 14th centuries.⁵ One of the most important Hungarian students of Roman law was Paulus Hungarus,⁶ who was an adept of the traditional mainstream of legal education in Bologna. In his work, he also included twenty references to the particular customs of the Hungarian Church, citing, now and then, the *iura propria* and local canonical customs of the territories known today as France, Sicily, Lombardy, Venice and Spain.⁷ Although this comparative approach was innovating, his active role in the royal chancellery has been debated recently.⁸

Several decades later, under the influence of the Fourth Lateran Council (1215), in the 1279 Synod of Buda, the papal legate, Philip of Fermo, ordered that clerics who dealt with family wills and marriage cases in ecclesiastical courts of law had to have at least three years of training in canon law at a university. Canon law had influenced, and prevailed, in the enactments of the 1298 Hungarian Diet that had been summoned and its resolutions enforced by the last king of the House of Árpád, Andrew III.⁹ On these grounds, we can understand how Roman canon law had, indeed, prevailed in the laws of the Hungarian kings, including various articles of the Golden Bull of 1222, and its variant of 1231, in the legislative acts of Béla IV, and in the 1298 legalistic resolutions (*Constitutiones*) that had been enacted by Andrew III (d. 1301), to serve as evidence of the historic fact that during the 12th and 13th centuries Arpadian Hungary had been an active participant in the Latin Western political and cultural mainstream.

Charles Robert needed almost ten years to assume direct control of the realm,¹⁰ and in 1321,¹¹ when this was achieved, “Charles est devenu roi omnipotent de Hongrie, où personne ne pouvait contester la plénitude de ses droits.”¹² During the succession wars the power of the aristocratic families increased, and the kingdom was *de facto* divided into smaller parts governed by members of the high aristocracy assuming titles of major officers of the realm, but actually

pursuing their own policy without regard to royal authority.¹³ Similarly to his predecessor,¹⁴ Charles donated the confiscated property to his household, his faithful companions and followers, his familiars.

THE PROCESS of this “social rising” started at the very end of the 12th century and continued throughout the 13th century and beyond. This change concerned the group of *liberi*, that is, the impoverished descendants of the former elite, and the *hospites* as well.¹⁵ However, by the first half of the 14th century, Zsolt Hunyadi¹⁶ considers that one segment of the “free elements” remained out of the circle of the lesser nobility. This was the group of free landowners, *homines possessionati*, who were able to retain their lands during the fundamental social changes of the 13th century. Unfortunately, none of the classifications devised by Hungarian scholars could find the proper place for them, although this group definitely belonged to the upper layer of society.

The preeminent dignitaries of the realm were the *barones regni*, also called *magnificus vir dominus*. The second group were the knights in service to the king, normally without any special honorary title, and the youths at court, *aule regie iuvenis*. Although the king imported many Western institutions, there is no linear evolution of rights or charters regarding noble privileges. Martyn Rady¹⁷ considers that the 14th century Hungarian elite opposed the development of parliamentary practice, with a strong adversity towards the Golden Bull of 1222, while Enikő Csukovits¹⁸ considers that we must see Naples as a gateway to the Christian world rather than a fundamental model of institutions and government when it comes to the Kingdom of Hungary.

Another new institution introduced in the realm by the Anjou kings was the institution of chivalry (i.e. classical Western chivalry). The particularity was that the anointment of a knight was in Hungary a right reserved exclusively to the king. However, this institution found an unstable ground on which to build a proper foundation, considering that all the nobles in the kingdom were considered *eo ipso* knights without the sacral ointment. This aversion did not prevent the king from creating the order of The Knightly Brotherhood of Saint Georges (*Societas Militiae Sancti Georgi*) in 1318, following the example of the French Plantagenet order founded by Louis the Saint. It was the second among all European orders of knights.¹⁹

After 1323, the king created the rank of knight of the court (*aule regie miles*), while the young and the infants were now considered pages of the court or *aule parrulus*. The most revered title at court was considered to be that of the *magister curiae regiae*, then followed the barons, the *palatine*, *woyvod* of Transylvania, the judge of the royal curia (*judex curiae regiae*), and the *ban* of Slovenia, Croatia, Dalmatia, Macso, Szoreny, the master of the treasury, the master of custodians,

the master of servants of the kitchen, the master of copying, the master of stables etc. By the end of 1330 justice was the province of four autonomous *national* judges. The *woyvod* and the *ban* also had judicial authority.²⁰

The best known model of social stratification, apart from the cliché of the *bellatores, oratores* and *laboratores*, is perhaps that of Pál Engel, based on possession, meaning those who held property rights and those who did not. The *homo possessionatus* is considered to be equivalent to the noble, while the *homo impositus* is the man without nobility, *homo ignobilis*. However, the medieval term of possession was sometimes mixed with the Roman *dominium*. In classical Roman law, a man “possesses” a thing if he has control of it—if he “has” it, with or without a title.²¹ Another more function-oriented division is that of the plough pushers and the ones that pay the plough pushers.²²

Another possible model of stratification of the nobles of the realm²³ is their division into *nobiles bene possessionati*, *nobiles unius possessionis*, and *familiares*.²⁴ The first category, the nobles of good status, was very ambiguously defined, as the fortune necessary to be integrated into this category was not specifically quantified. Considering this, the nobles *bene possessionati* were again separated into nobles of great, middle and small possession.

The second category, the *nobiles unius possessionis*, the nobles of one possession, meant usually one manor house (*curialistae*), without serfs (*nobiles jobbagiones non habentes*). They could not live, in this manner, the “noble way,” they could not satisfy their military obligations, and they had to work their own lands, in many ways being assimilated to the serfs.

The third category, the *familiares*, the nobles and the serfs in service to the king and the great barons, represented an important presence at the court. The political rights of the *familiares* were much more limited than those of other lesser nobles. The military service however remained the same.

We consider that the main feature of the system of familiars was not one in which less powerful and poorer nobles entered in the service of magnates and performed for them as their lords (*domini*),²⁵ but rather one of social stability and social rising, based on a mutual agreement, or even a very specific contract. The creation of the familiars, after the civil war, was not as István Petrovics²⁶ considers, namely that after defeating the “little kings” the king then proceeded to redistribute the confiscated estates *pro honore* among his new aristocracy. We must point out here that the expression “little kings” is meant to refer to the *reguli* specific in the imperial chancelleries of the 12th and 13th centuries, and should not be applied to Charles Robert, who did not see himself as a *dominus mundi*, but rather as an instrument of the papacy. Then again, “confiscating estates for himself and then redistributing them *pro honore* among his new aristocracy” mirrors the actions of Henry II, the first Angevin king of England.²⁷ In

this sense we must make the following specification: during the reign of Henry II, the feudal relationship involved profound mutual obligations, represented and secured by a precarious grant of land. The lord provided protection and upkeep to his man. The obligation was symbolized by the homage. By that ceremony he entered into a relationship of subordination: in all things he was to further his lord's earthly honor. Obviously he had to conscientiously perform his knightly or other services.²⁸ The *familiaris regis* was not a specifically unique institution of the Kingdom of Hungary, but rather a common development at the king's court, in England, France and Sicily. The *familiares* of a king, collectively referred to as the *familia regis*, evolved into a private royal council in England during the reign of Henry III (1216–72)²⁹ and in France during that of Philip V (1316–22).³⁰ In England, it was known as the *concilium familiare* or *concilium privatum* (Privy Council) and in France as the *magnum consilium* (Great Council, the *Conseil du Roi*).³¹

The donation of the confiscated property to his household, his faithful companions and followers, his familiars, created a form of “social contract.” Together, lords and men constituted a unit for the exercise of force and influence. Group benefit dictated a balance between assuring the lord the services of his tenants and the claim on the lord's standing by his undertakings.

Another aspect intimately linked with possession was the honor system. We believe that this framework, honor-possession, was indeed functional in medieval Hungary and was presented in Zoltán Kordé's study,³² where he mentions the discovery and the role that Pál Engel had attributed to the term honor, and its relation to possession. Honor and political-moral considerations moderated lordly control. A good lord followed the counsel of his men: they constituted his court; they rendered the judgments. Together, lord and men constituted a unit for the exercise of force and influence. The tyrannical or capricious lord could not expect loyalty indefinitely, nor could the unreliable man expect to continue to reap benefits without shouldering burdens. Given that balancing consideration, feudal relationships could not be governed by any strict definition of the rights or obligations of lords. Feudal courts had vast discretion. Claims to land were claims for the benefit of a personal relationship. Personal relationships and the tenures dependent on them were essentially different from property rights.³³

The problem with the familiars, possessions and hereditary property,³⁴ in Angevin England and Hungary, was related to the idea of “men raised from dust,” the fact that the monarchs were choosing those low-born men, *plebes*, *ignobiles*, even *rustici* or *servi* as their ministers and counselors, instead of members of the old noble families. They complained that the king was choosing his courtiers or familiars from this rabble, and allowed them to usurp places that belonged to the aristocracy. This chorus of complaint began in the time of William

the Conqueror's sons, in England, and during the oligarchy wars, in Hungary. Only then did *nobiles* and *curiales* begin to divide into two distinct groups, and new administrative posts provided opportunities for new men to rise to greater wealth and influence.³⁵

Land granted by Charles Robert³⁶ was usually followed by the expression *perpetuo possidendam*.³⁷ This meant that the beneficiary could enjoy only the *usufructus*, and only for a limited time, despite the misleading term *perpetuo*.³⁸ Even if a term was fixed, the death of the holder ended it. In the charters of 1301–1340, the period we have studied, adding the heirs to this perpetual grant was not a transformation into a hereditary hold, but rather a safeguard against abuse, or the dissolution of contract.

... *magistrum Theodorum et suos antecessores habite extiterunt et possesse, dedisse, donasse et tradidisse sibi et per eum suis heredibus heredumque suorum successoribus iure perpetuo et irrevocabiliter possidendas tenendas et habendas.*³⁹

*Nullum ius dominii vel alicuius proprietatis sibi ibidem de dictis possessionibus reservantes . . .*⁴⁰

Mentioned above are some examples of Roman terms included in a medieval document dating from 1322. Interesting for our study are the expression *iure perpetuo et irrevocabiliter possidendas tenendas et habendas* and the verbs *possesse, dedisse, donasse* and *tradidisse* (i.e. possessed, given, bestowed, and handed over).⁴¹

Property rights, as we understand them today, were inherently antithetical to feudal holdings. Property as a legal phenomenon is a modern concept and cannot be used when referring to medieval forms of possession.⁴²

Conclusions

THE ROYAL administration of justice and the “regalist reforms” as opposed to “feudal reforms” of the Angevin kings—Henry II in England, Charles Robert the Wise in Sicily and Charles Robert in Hungary—shape the concept of *Anjou colonization*. By importing a new system in order to protect the conquered lands and through the dissolution of the hereditary noble offices, the king created a stable monarchy, but also more adversity between the oligarchy and the *familiares regis*, some of them foreign nobles while others were simply *men raised from dust*. Regarding the concept of possession, we have argued that the idea of the *homo possessionatus* and the *homo impessionatus* is unjust and limits the perception of the machinations of the Crown. Acknowledging that three main types of property were present in the Kingdom of Hungary (i.e. the eccle-

siastical possession, the noble possessions, and the Crown), and considering that there could be common ownership of a usufruct and that a usufruct might be granted in an undivided share of property, “landowning” and “nobility” emerge as very complex terms with several connotations and superposing elements, which must not leave the attention of historians and jurists any time soon. □

Notes

1. The book recently published by Enikő Csukovits, *L'Ungheria angioina* (Rome: Viella, 2013), is a collection of the most important works considered for the representation of the Hungarian Angevin historiography, in foreign languages. Relevant sources concerning the Angevin rule exerted over the Kingdom of Hungary since the early 14th century are still considered to be Gennaro Maria Monti's *La legislazione napoletana di Ludovico I d'Ungheria* (Benevento, 1929) published in 1930, while the only volume available in Italian was Bálint Hóman's *Gli Angioini di Napoli in Ungheria, 1290–1403* published in 1938. Other major works still cited by historians are Pál Engel's *The Realm of St Stephen* (2001), Miklós Molnár's *A Concise History of Hungary* (2001) and David Abulafia's *I regni del Mediterraneo occidentale dal 1200 al 1500: La Lotta per il dominio* (2012). Other important works available in English that have discussed the Angevin dynasty are: Ede Mészáros, *De cultu litterarum et de lingua Latina Hungariae medii aevi* (Rome: Istituto di Studi Romani, 1940); Erik Fügedi, *Kings, Bishops, Nobles, and Burgers in Medieval Hungary* (London: Variorum, 1986); Gábor Klaniczay, *Holy Rulers and Blessed Princesses: Dynastic Cults in Medieval Central Europe* (Cambridge, UK, and New York: Cambridge University Press, 2002); Attila Zsoldos, *The Legacy of Saint Stephen*, transl. Judit Barna (Budapest: Lucidus, 2004).
2. Charles I of Naples was almost 40 years of age and had governing experience when, in 1265, he set forth with his French troops to conquer the Kingdom of Sicily, while Charles I of Hungary was a child of 12 years of age and had a very small retinue.
3. Gábor Hamza, “Roman Law and the Development of Hungarian Private Law before the Promulgation of the Civil Code of 1959,” *Fundamina* (Pretoria) 20, 1 (2017): 383–393. Available from: <http://www.scielo.org.za/scielo.php?script=sci_arttext&pid=S1021-545X2014000100033&lng=en&nrm=iso>. Last accessed on 19.09.2015.
4. Ibid.
5. Until the middle of the twelfth century, they were using works from previous Carolingian times, namely, the Collection Dionysio-Hadriana and the Collection Pseudo-Isidoriana. A copy of Gratian's Decretal, from the 12th century, kept in the capitulary Library of Bratislava and a cataloged exemplary T.301 at the Library of the Hungarian Academy of Science indicate its dissemination and application in the Hungarian

- space. Șerban Turcuș, *Sfântul Scaun și românii în secolul al XIII-lea* (Bucharest: Ed. Enciclopedică, 2001), 39–40.
6. “A thirteenth century jurist, Paulus Hungarus, is part of a bigger group of Hungarian students at Bologna. It is speculated that he was born around 1180, and arrived at Bologna in about 1200” (Manlio Bellomo and Orazio Condorelli, “Monumenta Iuris Canonici,” in *Proceedings of the Eleventh International Congress of Medieval Law*, eds. Manlio Bellomo and Orazio Condorelli (Catania: Biblioteca Apostolica Vaticana, 2006), 600–601).
 7. Ibid.
 8. As Nora Berend states, “these texts obviously do not prove that Paul actively helped the Hungarian king in any specific debate with the papacy. But it is noteworthy that a canon lawyer and founder of the Hungarian Dominican province explicitly stated his opinion in favor of the royal power even over ecclesiastical regulations” (apud Bellomo and Condorelli, 600–601).
 9. Bellomo and Condorelli, 600–601.
 10. Noel Coulet and Jean Michel Matz, *Actes du colloque international organisé par l’Université d’Angers, Angers-Saumur, 3-6 juin 1998. La Noblesse dans les territoires Angevins à la fin du Moyen Age* (Rome: École Française de Rome, 2000), 429.
 11. “The clergy of Buda took the remarkable action of excommunicating the pope and the Hungarian episcopate on account of their failure to support the Bohemian claimants. The hostility of the citizens of Buda and the fact that nearly the entire realm was controlled by the oligarchs forced Charles I to find a temporary residence in south-east Hungary. He found this place in the town of Temesvar (modern day Timisoara in Romania), where he had his royal seat between 1315 and 1323” (ibid., 436).
 12. Ibid., 429.
 13. Ibid.
 14. “The alienation of royal estate was not, therefore, a sign of Andrew’s irresponsibility, but arose from the contemporary understanding of faithfulness and from the way that this affected military obligation.” Martyn Rady, “Hungary and the Golden Bull of 1222,” *Banatica* (Reșița) 24–II (2014): 87–108.
 15. Zsolt Hunyadi, “Maiores, Optimates, Nobiles: Semantic Questions in the Early History of the Hungarian Nobility,” *Annual of Medieval Studies at the CEU, 1996–1997*, eds. R. Mikolajczyk and M. Sebók (Budapest: Central European University, 1998), 208.
 16. Ibid., 204–211.
 17. Rady, 87–108.
 18. Csukovits, 134–135.
 19. Charles d’Eszlary, *Histoire des institutions publiques hongroises* (Paris: Librairie Marcel Rivière, 1959), 72–73.
 20. Csukovits, 85.
 21. W. W. Buckland, *A text-book of Roman Law from Augustus to Iustinian* (Cambridge: Cambridge University Press, 1921), 198.

22. Susan Reynolds, *Fiefs and Vassals: The Medieval Evidence Reinterpreted* (Oxford: Clarendon Press, 1994), 39.
23. The evolution of the lesser nobility throughout the kingdom was mostly homogenous, and it evolved mainly from the castle warriors, and in Transylvania the royal servitors became nobles by military service: “Similarly, as to the Transylvanian royal servitors, they became nobles on the basis of their military service, though the former group and their ‘companions’ in Slavonia (present-day Croatia) acquired the right of the *veri nobiles regni* by the royal decrees of 1290, 1298, and 1324.” Although K. Tagányi put forward the idea that the lesser nobility in the various regions of the Kingdom of Hungary developed differently, E. Mályusz proved that although there were indeed temporal divergences and local peculiarities there were no radical differences between the “core” of the country and its other parts. Thus, “the lesser nobility of County Turóc and Liptó in Upper Hungary (present-day Slovakia) evolved mainly from the castle warriors,” in the first case from the *fili iobagionium* of Turóc and, in the second, the “lancers” of Liptó. Hunyadi (http://www.staff.u-szeged.hu/~capitul/oktatas/hung_soc/maiores.pdf), 206–211.
24. d’Eszlary, 313–320.
25. According to Damir Karbić, the main features of the system of *familiaritas* were as follows: less powerful and poorer nobles entered in the service of magnates and performed for their lords (*domini*) different administrative and military tasks as their retainers (*servientes/familiares*). For that they received a salary usually paid in cash. Grants of land were given to the retainers only exceptionally, and that was usually a reward for former service and not a precondition. (Coulet and Matz, 436.)
26. Coulet and Matz, 438.
27. The action of reorganizing the social and territorial administration, following the French-Anjou colonization model, resembles the reforms of the Angevin monarchs of the past (particularly Henry II of England, Charles Robert the Wise in Sicily, and the particularities of Provence).
28. Robert C. Palmer, “The Origins of Property in England” (1985). Faculty Publications. Paper 901. <http://scholarship.law.wm.edu/facpubs/901>.
29. Ralph V. Turner, *Judges, Administrators and the Common Law in Angevin England* (London: The Hambledon Press, 1994), 876–905.
30. This idea has been developed in the works of: Eric Bournazel, *Le gouvernement capétien au XIIe siècle (1108-1180): Structures sociales et mutations institutionnelles* (Paris: PUF, 1975); J. E. A. Jolliffe, *Angevin Kingship* (London: A.&C. Black, 1955); François Olivier-Martin, *Histoire du droit français des origines à la Révolution*, 2nd ed. (Paris: Domat Montchrestien, 1951).
31. Hiroshi Takayama, “*Familiares Regis* and the Royal Inner Council in Twelfth-Century Sicily,” *The English Historical Review* (1989): 357–372.
32. Coulet and Matz, 452.
33. Palmer, 5.
34. *Ibid.*, 6.
35. Turner, 225–226.

36. During the first decades of the 14th century the transfer of property functioned as indicated by the following case. What is interesting is that this document predates the Angevin dynasty and we must try to answer if this form of exchange along with others did or did not suffer mutations following the Capetian monarchy institutional model. *Documente privind istoria României, veacul XIV. C. Transilvania*, vol. 2 (1321–1330) (Bucharest: Ed. Academiei, 1953), doc. no. 16, p. 12.
37. As it can be seen throughout the collection by Imre Nagy and Gyula Nagy, *Codex diplomaticus hungaricus andegavensis* (Budapest: A Magyar Tudományos Akadémia, 1881), vols. 1 (1301–1321), 2 (1322–1332), 3 (1333–1339).
38. In Roman law, the *usufructus* was the right to enjoy the property of another and to take the fruits, but not to destroy it, or fundamentally alter its character. It was usually for life, never more, and, sometimes for a fixed term. Where it was given to a corporation its limit under Justinian was 100 years (Buckland, 268).
39. *Documente privind Istoria României, veacul XIV. C. Transilvania*, 2, doc. no. 125, pp. 354–355.
40. *Ibid.*, doc. no. 125, pp. 354–355.
41. *Ibid.*
42. Palmer, 7.

Abstract

New Interpretations of the Concepts Regarding Familiars and Possession in Angevin Hungary during the Early 14th Century

This article surveys the evolution and the creation of the royal household during the first decades of the reign of Charles Robert of Anjou. Following the brief presentation of the legal background of the chancellery we present the two main concepts, familiars and possession, and the effects of the civil war with the nobles, all the while considering and presenting the influences from two important Angevin-run regions: England and Sicily. We bring arguments against the concept of *familiares regis* as an original and regional concept, seeing it rather as an imported and adapted institution, displaying the influences and mutations suffered under the rule of the first Angevin king.

Keywords

familiars, possession, medieval law, Transylvania, Charles Robert, Anjou, rights of possession, 14th century Anjou Hungary