Nationalities Papers (2023), 1–24
doi:10.1017/nps.2023.63

ARTICLE

Jewish by Law: Legislative Operationalizing of Race and Ethnicity in Holocaust-Era Hungary

András L. Pap[1,2] and Veronika Lehotay[3]

[1]Centre for Social Sciences Institute for Legal Studies, Budapest, Hungary, [2]Eötvös University, Budapest, Hungary and [3]Central European University, Vienna, Austria
Corresponding author: András L. Pap; Email: pap.andras.laszlo@gmail.com

Abstract
Framed within discussions on how law operationalizes race and ethnicity, the authors provide a description of how anti-Semitic racially exclusionary legislation identified, classified, and operationalized the Jewry in Hungary between 1920 and 1944.

Keywords: classification; ethnicity; Holocaust; Hungary; Jewish; law; legislation; race

Introduction

This article documents how anti-Semitic racially exclusionary legislation identified, classified, and operationalized the Jewry in Hungary between 1920 and 1944. Although holocaust and genocide literature is blooming and there are multiple thoroughly researched, insightful analyses on Hungary (see Barany 1974; Kovács 1994; Braham and Miller 1998; Braham 2000; Molnár 2005; Braham 2012; Vági, Csősz, and Kádár 2013; Adam 2016; Braham and Kovács 2016), the focused English-language publication of legislation on classification is fragmented and incomplete. Besides filling a gap in the literature in this respect, the analysis contributes to scholarly discussions on how law operationalizes race and ethnicity. The article is structured as follows: after having outlined the conceptual framework of the project, identifying general issues and questions specific to identifying "who and what Jewish is," the second part provides a detailed description of the actual legislative operationalization of membership in an ethnoracially conceptualized community for the purposes of discrimination, deprivation of a wide range of liberties, and, eventually, an attempt for systematic annihilation. As for methodology, as the second part consists of an analysis of historical legal documents, here scholarly references will be scarce, mostly limited to Tim Cole's work (1999), the only directly relevant English-language source, and in other respects the work is based on our earlier extensive research (Lehotay 2011a, 2011b; 2015, 2016, 2018, 2020) published in Hungarian.

Fuzzy Conceptualization, Rigid Operationalization: Race and the Law

Political and legal measures that serve to operationalize race, ethnicity, or nationality intrigue legal, historical, and political scholars (Stergar and Scheer 2018; Dobos 2019; Sansum and Dobos 2020; Smith 2020, Pap 2021). As argued earlier (Brubaker 2015; Pap 2021), the past decades brought transformative changes in how the meaning of the terms of (first of all gender, but also) ethnoracial identity are assigned and conceptualized in social sciences and humanities and to a certain degree in

politics and law. Brubaker (2015) emphasizes the lack of linguistic and conceptual resources, cultural tools, and proper vocabulary for thinking about racial identity and group membership.

The operationalization of ethnonational group membership can be fivefold: legislative and policy strategies can rely on self-identification; identification by other members or elected, appointed representatives of the group; third-party identification—that is classification made by outsiders, relying on the perception of the majority; by outsiders but using "objective" criteria; or by using proxies such as names orresidence.

The who is Jewish question is a goldmine for social scientists, and not only genocide- or Jewish-studies scholars, as it provides an opportunity to explore the complexities of biopolitics, identity politics, religion, minority rights, and genetic data. Defining "Jewishness," placed in the intersection of race, ethnicity, nationality, and religion, is particularly complex due to its peculiar history and contemporary experience of persecution and discrimination; the myth, and the challenging legal concept of assimilation (and the related phenomenon of passing and covering); and the unique case of Israel, the "official national homeland" of the Jewry offering an official definition, which may also serve as reference point for the Diaspora.

Most of the debates surrounding the choice between these options for classification take place in the context of antidiscrimination measures; social inclusion; or political recognition, affirmative action, or additional (minority) rights because modern states (bound by post-WWII international human rights minimum standards) do not, or should not, engage in legislation setting forth discrimination or exclusion overtly and directly on the basis of ethnicity, race, or even religion. Most contemporary national legal systems also refrain from providing legal or administrative definitions for membership criteria in ethnoracial communities, with the important exception of the unique indigenous/aboriginal legal and policy framework, which habitually sets forth rigid and explicit membership requirements for indigenous communities. Although the quote, with which Cole begins his assessment (1999, 20) from Henry Louis Gates is valid, "*race, as a meaningful criterion within the biological sciences, has long been recognized to be a fiction and that when we speak of 'the white race' or 'the black race', 'the Jewish race' or 'the Aryan race', we speak in biological misnomers and, more generally, in metaphors*" (Gates 1985, 4), laws are very real and the conceptualizations in them had life or death consequences.

Anti-Jewish legislation in the Holocaust era is thus not only historical but also immensely atypical. It is nevertheless directly relevant for contemporary discussions. The Nuremberg laws serve as a point of reference for (one of) the conceptualization of who is Jewish in Israel, when consciously applying this definition for offering inclusion (to all potentially persecuted Jews un the Diaspora) under the Law of Return (Kimmerling 2002, 190). The different notions resonate to long-standing, even current discussions on what are Jews: racial, ethnic, religious, or even a national or cultural community? The article contributes to general discussions on the multidimensional complexity of legally validated ethnoracial classifications in general, as well as to the who-is-Jewish issue in particular.

The case (study) of the Hungarian anti-Jewish legislation in the covered two-and-half decades shows how complicated, complex, and often even confusing the legislation is. Lawyers and legislators are trained to be able to effortlessly codify intricate concepts contested by social scientists and entrepreneurs and are in fact forced to do so by the practical demand of administrative and bureaucratic workflows. Yet, legal constructions and definitions are endpoints of a chain of intellectual, social, cultural, and political debates and struggles, situated in the seething cauldron of power relations. As we will see, the four "Jewish laws" will not only provide for different forms and degrees of discrimination and exclusion but will also apply different definitions for who and what is Jewish.

The Hungarian Jewish laws are compelling in demonstrating how arbitrary and ad hoc legislation can be: it was not based on either a halachic definition or any preestablished doctrine or theory. Hungary did not have a racial purity theory like the German-Aryan one, nor did it copy the Nuremberg laws, which also simply created a concept based on the administrative reality and

https://doi.org/10.1017/nps.2023.63 Published online by Cambridge University Press

bureaucratic feasibility to rely on official records that contained data on religion going back two generations. Yet, the logic and toolkit for legal operationalization was similar: the administrative-legal methodology and recipe to racialize religion.[1]

The 1920–1944 Hungarian laws also demonstrate the horrific precision and prudence of the legislation and legal practice: "Jews" were defined in an intricate, although shifting manner, always pairing the definitions with various forms of exclusion and deprivation: jobs, property, personal freedom, etc. The Jewish Laws provide meticulous description of the various employment schemes they apply to (from sales assistants to trainee pharmacists) and distinguished a large scale of Jewishness from "full Gentiles" and arch-Christians through "non-Jews," baptized/converted Jews in various time windows, and various categories of exemptions from being considered Jewish due to merits in "serving the nation." The case appears to be slightly more complex than Hilberg's fourfold "destruction process" (Hilberg 1961) where the definition of the Jew is the initial phase in the implementation of the Final Solution, and the construction of the Jew is a vital prerequisite for destruction of the Jew. (Cole 1999, 12) Yet, as we will see, the definitions are shifting and are only valid in relation to certain, also shifting and expanding rules for exclusion. The definitions and the respective law are also multilayered and multileveled: acts of parliament, government decrees, other norms, and court decisions because Hungary was an, albeit twisted, rule-of-law state and administrative decisions could have been and were challenged at court.

Cole (1999, 26) argues that Jewishness, like any other identity is a contested construct and the "*history of exemptions and shifting definition in inter-war Hungary is a history of the contested construction of the Jew.*" True, as Anthias and Yuval-Davis note, "*'Jew' has meant different things at different times in different places: being adopted as a racial, religious, national or ethnic category over both time and space*" (Anthias and Yuval-Davis 1993, 3–4). Yet in the holocaust, Jews were not in the position to choose from the menu available in peace time: self-identification, community recognition, perception, or other performative features all became irrelevant as, albeit in a continuously changing manner, classifications and definitions were set by official legislation. There was room for contestation in court and other administrative authorities, but the contesters were in a gravely asymmetrical position (Cole 1999, 27). It needs to be added that in the spirit of racial purity, the legislation also broke through the principle of legal personality: a 1939 degree by the prime minister (ME Decree No 7720/1939) established the definition of a "Jewish legal person" for commercial companies where at least half of the members of the company were Jewish.

Before dwelling into the legislative texts, the historical and political context needs to be sketched. During WW2, around 560,000 Jews and 28,000 Roma were killed either by or with the active cooperation of Hungarian authorities (Yad Vashem 2023). Having lost World War I, per the Paris Accords, Hungary lost 66 percent of its prewar territory to (in most part newly formed) neighboring states, as ally, and from 1940 member of the Axis alliance, Hungary was able to regain territory from Czechoslovakia (1938 and 1939), Romania (1940), and Yugoslavia (1941). According to a 1941 census, Hungary had a Jewish population of 825,000 (including the recently annexed territories), less than 6 percent of the total population. This figure included 100,000 converts to Christianity. In March 1944, German forces occupied Hungary and subsequently the Hungarian fascist party took over the government (see Cornelius 2011). According to official Hungarian historiography, declared in the 2011 constitution, adopted by Viktor Orbán's government majority, the state's self-determination was lost on the of March 19, 1944 (Pap 2018).

The term Jewish Laws in Hungary refers to the laws that, in 1920 and between 1938 and 1942, regulated the legal status of persons classified as Jews by introducing various degrees of legal restrictions. As mentioned above, the four Jewish Laws brought differing conceptualizations of who are Jewish and instituted an ever-broadening scope of exclusion and deprivation of rights, along a continuous extension of the group identified as Jewish. Legislation at the statutory level was supplemented by lower levels implementing legislation and other norms and provisions, which were precise and thorough in their procedural and bureaucratic details (including for example the description of official forms to be filled out). Besides the four sui generis Jewish Laws, Parliament

https://doi.org/10.1017/nps.2023.63 Published online by Cambridge University Press

alone passed 22 acts that in essence can be considered partly as Jewish laws, and these were supplemented by dozens of decrees (Karsai 2005, 141). As we will see, the Hungarian legislator first codified Jewishness on religious, but subsequently also on racial grounds.

The "*Numerus Clausus*," the First Jewish Law (1920): Targeting without Identifying

Hungary's and Europe's first Jewish Law in its own right,[2] Act XXV of 1920, also known as *numerus clausus* (fixed numbers), was entitled "*on the regulation of enrolment in universities of science, the university of arts, the Budapest Faculty of Economics and the Academy of Law*" and restricted the admission of university students so that members of "the nationalities and races of the Hungarian people" could only participate in higher education in proportion to their formally ascertainable numbers. In the case of Jews, this meant 6 percent, significantly less than their current proportion in those institutions. The legislation did not explicitly mention Jews, but its purpose and effect were clear: it resulted in the rejection of applicants of Jewish origin alone and was irrelevant for other "nationalities and races." The Ministerial Decree accompanying the numerus clausus law defined persons of Israelite (Izraelita) religion as belonging to the particular category of "people's race" (*népfaj*), an approximation of "Volksstamm" (Konrád 2016) nationality, and required universities to decide on applications for admission by establishing certification committees. Interestingly, in relation to the law, the high court, the Kuria, ruled in 1925 that Judaism in Hungary is neither a race nor an ethnicity, but only a denomination and cannot be considered a separate social class (Ruling no. 784, The Curia's Decision of May 13, 1925, BHT Vol. 7, 1927, 36–41). The basis of the distinction of nationality, it held, is the mother tongue, which is absent as a distinguishing factor in the case of the Jews because Hebrew is not their mother tongue. The court noted that that the inferior social status of Hungarian citizens of the Israelite religion was abolished with the granting of equal rights by Act XVII of 1867. However, the decision did not prevent the legal and empirical practice of discrimination against Jews (for more, see Kovács 1994; Kelemen 2018)

The First Jewish Law Proper (1938): Naming and Shaming

There is no consensus among historians on categorizing the numerus clausus as a Jewish law, and the first Jewish law term is habitually used in the literature for "*Act XV of 1938 on the More Effective Ensuring of the Balance of Social and Economic Life.*" This law specifically focused on Jews, stating that Jews could occupy no more than 20 percent of the jobs in the liberal professions. Here the commonly used term Jew (*zsidó*) was introduced and partially replaced "Israelite." (Katzburg 1981)

The implementation of the law was to be supervised by professional associations modeled by the medical and bar chambers. As Ránki (1999, 168) points out, the concept of compulsory membership in professional chambers is "*an innovation based on medieval guilds was borrowed from the Italian … corporately structured economy (and it) …represented a brand of right-wing constitutional antisemitism.*" The law also capped the number of Jews in commercial, financial, and industrial companies employing more than 10 "intellectuals" at 20 percent. Five years were set for implementation. As mentioned above, given the fact that there was no declared race theory in Hungary like the German one, the conditions for belonging to the Hungarian race were not laid down by the legislature or prevailing political doctrine. This may partly explain why the first Jewish Law operated with a "negative concept of the Jew": it did not say who was covered by the law but defined the scope of those to whom it did not apply. The law provided for three exceptions to the rule of discrimination against Jews as a matter of fairness (per the memorandum submitted by the government adjacent to the Bill): war invalids and firefighters who had made the greatest sacrifices for the homeland and belonged to the Israelite denomination; children of war dead and war widows; and anyone who had "adopted Christianity" before August 1, 1919 and continued to practice under a Christian denomination and to the descendants of such converted parents who were not of the Israelite religion.

https://doi.org/10.1017/nps.2023.63 Published online by Cambridge University Press

Although the law approached the concept of Jew on a religious basis, by classifying those who were baptized after August 1, 1919, as Jews, it took a step toward defining Jewry on a racial basis and distinguished between several groups of society in terms of status between citizens: in addition to gentiles, it distinguished between those of the Israelite denomination and those who were baptized before and after August 1, 1919.

The law was implemented by two Prime Ministerial Decrees: ME Decree No 4350/1938 contained 16 specimen documents for the certification of membership in the chambers and also laid down special rules for the registration of employees working in companies. In relation to exemptions, it laid down a sequence of evidence that could be used as bases for proving the qualification of a firefighter (which the applicant had to obtain). If a medical or medal certificate could not be obtained, other evidence (for example, field correspondence, commanders' and comrades' statements) could be taken into account. The legislator also made a distinction between witnesses: for officers, a written statement made on the grounds of "honor and conscience" was sufficient. If privates were used as witnesses, they had to prove front-line service and give sworn testimony, which had to be recorded. The statements had to be made at the military headquarters or before the municipal magistrate.

A government commissioner was appointed to supervise implementation. The Government Commissioner for Intellectual Unemployment was initially under the supervision of the Minister of Religion and Public Education, but from 1939 was transferred under direct supervision of the prime minister. The obligation to notify employers of intellectual workers was laid down in ME Decree No 7720/1939 (of the prime minister), which defined "intellectual workers" to include, inter alia, sales assistants, sales agents, lawyers, doctors, engineers, and insurance agents but excluded trainee lawyers (law clerks) and trainee pharmacists. Following registration, employers were obliged to keep a register of their employees and to indicate persons belonging to the Israelite faith or who were considered Jewish.

The decrees supplementing the first Jewish Law provided for the procedure for setting up the press chamber and regulated its operation (ME Decree 6070/1938 on establishing a Press Chamber and ME Decree 6080/1938 on the transitional and executive orders in connection to the establishment of the Press Chamber). The supervisory body was the Prime Minister's Office. No one could be employed if not a member of the Chamber. The committee that decided on the admission of members was made up of representatives of the government and was primarily concerned with the question of origin—that is, whether the applicant was a Jew and could be considered politically trustworthy.

As Cole observes (1999, 23), although it "*failed to define who the 'Jew' was, the law did explicitly define categories that were exempt from the legislation: if you like, 'jews' who weren't 'Jews'. Within this and subsequent Hungarian antisemitic legislation, an explicit legal space of exemption was constructed. In broad terms, exemption from the scope of legislation—and thus 'Jewishness'—was based on two criteria: conversion and service to the nation. … However, conversion could not be undertaken simply for the purpose of escaping the legislation … (it) had to be undertaken prior to the implementation of the legislation … prior to … when the short-lived Communist government … had been toppled—and its authenticity proved in a record of continuous membership of a Christian denomination since conversion. And yet conversion was not the only, or even the primary, means of escape from … 'Jewishness' was not simply constructed as a religious category which could be escaped through conversion, but as a(n ethnic) category which could be escaped through service rendered to the nation. With the later shift to a more 'racial', closed definition of 'Jewishness', the means of escape afforded through serving the nation was both perpetuated and expanded.*"

The Second Jewish Law (1939): Expanding Cope, Shrinking Liberties

The official name of the legislation known as the second Jewish Law is Act IV of 1939 "*on the Restriction of the Public and Economic Occupation of the Jewish People.*" The law brought further

https://doi.org/10.1017/nps.2023.63 Published online by Cambridge University Press

restriction on the liberties of Jews: capping their number in intellectual careers at 6 percent, banning them from the state administrative and judicial apparatus, from secondary school teaching staff, and from the licensed industrial and commercial sector. It made it more difficult for Jews to buy agricultural property and prohibited Jews from holding positions in theaters and newspapers, and it further limited the number of Jews who could be employed in certain companies. For the purposes of this legislation, a person was considered to be a Jew if they had at least one parent or at least two grandparents who were members of the Israelite religion at or before the time of the entry into force of the law. Therefore, only the Jewish families that had been baptized for three generations were not included in the law. The explanatory memorandum states that "*a person who is a member of the Israelite religion is also a member of the Jewish racial community but … ceasing to belong to the Israelite denomination does not result in a change in membership of this racial community.*" It also speaks of the practice of favoring "*those of one's own race … with the well-known strength of Jewish solidarity.*"

In the debate on the law, it was said that all baptized people can be members of the Christian Church on an equal footing, but it cannot be concluded that all should have the same rights regarding civil matters. This means that they would be full Christians and not full Christians in the public law sense. But the determination of who is a Christian was and remains the task of the Church alone.

The legislation further complicated the system of constitutional statuses. Among the Gentiles there were those to whom no restrictions applied, and they were called "full-fetched Christians" (*teljes jogú keresztény*) in the literature of the time. As a next category, a person was a non-Jew under the law if born out of a marriage held before of January 1, 1939 and only one of the parents or at most two of the grandparents were members of the Israelite religion. This also applied if both parents were already members of a Christian denomination at the time of marriage and remained so or if the parents agreed before their marriage that the child would follow the religion of the Christian parent and the Israelite parent converted to a Christian denomination before January 1, 1939. The exemption also applied to members of a Christian denomination from birth and to those who became a member of a Christian denomination before the age of seven and have parents of the Israelite religion converted to a Christian denomination before January 1, 1939. In addition, there were persons who did not qualify as Jews but were subject to certain restrictions. These are the so-called not fully-fledged Christians' (*nem-teljes jogú keresztények*) Furthermore, according to the law a Gentile who became a member of the Israelite denomination was considered a Jew. Also, a person who became a "gentile" by marriage was again to be considered a Jew if their marriage to a gentile was annulled or if they later became the spouse of a Jew. However, they did not become Jewish again through divorce or widowhood.

The law retained some exemptions for those who were Jews: those who had served in the armed forces (firefighters, recipients of a World War I medal, at least 50 percent disabled, widows and children of those who died heroically in World War I) as well as privy councilors, actual or retired ministers of a Christian denomination, and Olympic champions were considered Jews by law but with less stringent rules.

According to the prime minister's ME Decree No 7720/1939, on the implementation of the law, anyone could apply to the local authorities for a declaration that, on the basis of the documents presented, they should not be considered a Jew under the law. In addition, authorities in charge of specific permits were also empowered to process cases of exemption. For example, the Minister of Finance was competent to deal with tobacco sales or the sale of beverages, the Minister of Industry was competent to deal with industrial licenses, and the Minister of Agriculture was competent to deal with the transfer of agricultural property.

The status of a firefighter had to be certified by a marriage certificate or a certificate issued by order of the Minister of Defense. Eligibility to wear a "wounded in service" medal had to be proved by a certificate issued by the competent military headquarters. The decision of the first instance authority could be appealed to a minister without portfolio and from 1940 to the Prime Minister.

https://doi.org/10.1017/nps.2023.63 Published online by Cambridge University Press

In general, the legislation granted powers to several authorities (the local government, the minister without portfolio for Upper Hungary (*Felvidék*) affairs, the Minister of the Interior, the Minister of Defense, the Prime Minister, mayors, the National Council of the Order of Vitéz, clergymen, military headquarters, state registrars, church authorities) to deal with the procedures for granting immunities. Interestingly, however, no exemption form was included as an annex to any of the regulations.

The prime minister's, ME Decree No. 220/1941, which applied to Northern Transylvania, added region-specific elements to the exemption rules in that the Prime Minister could grant exemption to persons who were otherwise considered Jewish (as well as their Christian spouses/widows and children), who had achieved outstanding merits in the representation of Hungarian minority affairs under Romanian rule and who, as a result, in legal terms, were "not to be considered Jewish in any respect." The second category of exempted persons were those who had suffered imprisonment or persecution for their loyalty to Hungary and the family members of those who had died as a result of such discrimination under Romanian rule. Their immunity was not total—that is, they did not become non-Jews in a legal sense, but they still retained significant civil rights: they were exempt from restrictions in terms of citizenship, voting, university admission, land tenure, and economic life. In addition, they were admitted to various professional organizations: the medical, legal, engineering, press, theater, and film chambers (Gidó 2017, 112–115). Exemptions could only be granted by the Prime Minister on the basis of recommendations from an advisory committee set up for this purpose. In Northern Transylvania, an advisory committee was set up, while in Upper Hungary and Subcarpathia, under Decree No. 7.720/1939 ME, exemptions could be granted by the "Minister of Upper Hungary Affairs and the Commissioner for the Governor of Subcarpathia or in the event of vacancy, by the Prime Minister." Regarding applications coming from the former Yugoslavia, "the application had to be submitted to the Prime Minister or to the local administration." (Gidó 2017, 112–115).

As Cole, citing Katzburg notes (Katzburg 140–141; Cole 1999, 23–24), "*unlike the First Jewish Law, which was more liberal with respect to war veterans and granted exemption to all front-line soldiers, the second law was restrictive and exempted only those who had earned distinction. The reason given was that during war military service was compulsory and thus service alone, since it was a civic obligation, did not earn entitlement to exemption.*"

Another prime minister's decree, ME Decree No 830/1939 provided for the obligation to register any real estate. According to the law, all agricultural property owned by Jews, over 600 square meters in size, located in the open countryside, or used for agricultural work on property located in the interior had to be registered with the mayor by October 1, 1939 on a form prepared for that purpose. In all cases, the registration of property ownership in the land register was accompanied by a document of full probative value in which the prospective owner declared that they did not fall under the legal definition of a Jew (3300/1939, Decree of the Minister of Justice). Property not owned by Jews was registered by so-called appraisal committees (*becslőbizottság*), and in each municipality "Jewish estates" and property owned by persons qualifying as Jews were documented separately and could be "claimed" by non-Jews (5 ME Decree no 300/1942, of the prime minister; HM Decree no 52764/1942, of the Defense Minister). A separate list of Jewish estates which could be claimed was thus drawn up for each settlement.

Minister of Justice Decree No 43300/1939 regulated in detail the methods of acquiring real estate and the rules of procedure of the land registry authority. It established different categories for the acquisition of land: Jewish, full-fledged Christian and "arch-Christian" (*őskeresztény*). Appeals against decisions of the Minister for Agriculture on this subject could be lodged at the court under ME Decree No 3350/1940.

The Prime Minister's Decree No 5300/1942 laid down the rules for the disposal of certain properties owned by Jews, and separate ordinances regulated the method of notification, the proof of exemption in detail. For example, the prime minister's ME Decree No 7720/1939 contained detailed rules on the obligation to register members of various chambers, providing for the

https://doi.org/10.1017/nps.2023.63 Published online by Cambridge University Press

establishment of separate registers of Jewish and non-Jewish members. For the Press Chamber, separate registers had to be established for members who were not Jewish but were subject to restrictions. From October 1, 1939, licenses to publish a periodical were withdrawn in cases where the publisher was a person classified as a Jew within the meaning of the Law or subject to restrictions under the law. It was also required to prove that the publisher and editor of the periodical did not qualify as a Jew or a person subject to restrictions under the second Jewish Law in order to obtain a license to establish a periodical.

The registers were to be forwarded to the competent ministers, who were to determine the number of persons classified as Jewish in the relevant chamber and, if they found any incorrect data or errors, were entitled to amend the register ex officio. On this ground, they could practically exclude people from the chamber on the basis of mistakes (*elszámítás*). Separate degrees were adopted relating to the medical chambers by the Minister of the Interior (BM Decree No. 340/1939; BM Decree No. 640/1939), and for the Bar Associations by the Minister of Justice (IM Decree No. 238000/1939).

Thus, the actual personal scope of the deprivations of rights was shaped by implementing legislation and by administrative practice. According to the practice of the Government Commission for Intellectuals, for example, the question of whether or not a person was an employee in an intellectual position (*értelmiségi munkakör*) was to be determined by the position actually held. A doctor of law, a probationary assistant not engaged in sales work, or a member of the packing staff who was only engaged in collecting money was not regarded as such. At the same time, merchant's assistants and apprentice merchants were considered to be intellectual workers regardless of their level of education, whereas apprentice tradesmen had to be registered only if they had a qualification higher than a four-year secondary school education. However, according to practice, the definition of an "intellectual employee" included salesmen, window dressers, head waiters, proof-readers, and warehouse clerks doing the accounts in a warehouse. Employees who were not listed were also considered to be intellectual employees if they held an "intellectual job" (Lehotay 2020, 34).

In August 1938 a decree suspended all trade certificates and trade licenses (ME Decree No 5850/1938 on the temporary suspension of the issue of industrial certificates and licences) and prime minister's ME Decree No 6430/1938 prohibited the opening of new shops for Jews. The first-instance industrial authority could issue wholesale trade licenses only to those who could prove that they had three grandparents of Christian origin, after consulting the Chamber of Commerce and Industry. The decision to classify craftsmen and merchants was subject to appeal, except that the assessment of comparing licenses granted to Jews to the total number of licenses was only open for a limited review.

As mentioned above, in the spirit of racial purity, the legislation also broke the principle of legal personality: ME Decree No 7720/1939 introduced the definition of a Jewish legal person for commercial enterprises, dividing legal persons into two categories: Jewish and non-Jewish, based on its members. If the majority of the members of a company was Jewish, restrictions applied and companies were required to notify the authorities for the licenses to be revoked or renewed. (A special decree of the Minister of Trade and Transport prohibited licenses to persons classified as Jewish to operate a public motor vehicle company, and discretionary licenses were needed in areas such as to run a pharmacy or to produce tobacco.)

For licenses obtained before May 5, 1939, a model notification form was annexed to the Decree, and often specific regulations were made for a particular trade. For example, the rules on the withdrawal of licenses for the sale of tobacco (PM Decree No 2600/1939; ME Decree No 7720/1939) and the sale of alcohol by individuals who were considered to be Jews were laid down by the Minister of Finance (ME Decree No 133500/1939 and 35 of ME Decree No 7720/1939). This minister was also responsible the withdrawal of licenses for excise duties (PM Decree No 148600/1939; ME Decree No 7720/1939) and the state retail sale of artificial sweeteners from persons who were considered Jews. In addition to licenses for the establishment of sugar factories, the sale of flint or artificial sweeteners also fell under special treatment.

https://doi.org/10.1017/nps.2023.63 Published online by Cambridge University Press

ME Decree No. 7720/1939 mandated that Jewish teachers are to be retired by January 1, 1943, and Jewish judges and prosecutors by January 1, 1940. It required the Minister of Justice to notify the judges and prosecutors who were considered Jewish of the obligation to report this "circumstance." The service contracts of Jews and "Christians with limited rights" were to be terminated for public service, all public bodies, and public employment, including local authorities. In the case of teachers and instructors, this was the responsibility of the Minister of Religion and Education and the Minister of Agriculture, whereas in the case of notaries it was the responsibility of the Minister of the Interior. A person applying for a civil servant post was required to certify prior to employment that they were not subject to restrictions. This rule was extended by the Minister of Religion and Education to cover employees of educational establishments run by Christian denominations—that is, a person who was Jewish could not be employed.

To implement the second Jewish law within the Army, an "Instruction" was issued in September 1939, which excluded persons who qualified as Jews from attaining officer ranks but allowed them to remain in the armed forces. Under ME Decree 2870/1941, 16,000 Jewish officers lost their rank.[3] The legislation also introduced forced labor for Jews in an unarmed service in "special labor formations," with the provision that they could not be assigned to clerical, courier, or warehouse service.

Those qualified as a Jew had the right to vote only if they and their parents were born after December 31, 1867, and their ancestors were permanently resident in Hungary (ME Decree No. 800/1939; BM Decree No. 320200/1939).

People were obliged to declare orally or in writing to the magistrates' offices whether they were Jewish. They had eight days to make the declaration, and failure to do so was considered an offence. "Fraudulently misleading" or attempting to mislead the authorities was a criminal offense, as was the making of a false document or making a false statement when issuing a certificate.

Compliance with the rules was taken seriously: ME Decree No 4350/1938 imposed a penalty of up to two months' imprisonment or a fine for misdemeanor on both employers and employees who breached the obligation to report or circumvent the law. The same decree contained extensive instructions on the enforcement of the reporting requirements, with a specific warning on each sheet of "punitive retaliation for failure to report truthfully." ME Decree No. 4960/1938 extended these provisions to the editors and staff writers of periodicals, editorial staff, editorial assistants, and the owners of newspaper companies. A prime minister's decree contained rules on the licensing of group emigration of Jews, and it also provided for the punishment of up to fifteen days' imprisonment for anyone who, without a license from the Minister of the Interior, was engaged in organizing group emigration.

The second Jewish law also revived the provisions of the numerus clausus, which had been partially suspended in 1928, and set the number of Jewish students admitted to higher education at 6 percent (replacing the earlier 20 percent). Under ME Decree No. 7300/1939, the application for admission now also included a certificate in which the applicant informed the educational institution of their Jewish or non-Jewish origin. The Minister of Religion and Public Education also issued a decree (Decree No 167.815/1940 IX), establishing a cap on the number of Jewish students in grammar schools at 6 percent.

As Ránki (1999, 169) argues, the law "*aimed at not simple containing Jews as a 'threat to national economy and culture', but branding them as an alien, destructive body*," affecting some 250,000 people. Yet, it needs to be added that the Jewish population amounted to 800,000 among 14 million "Hungarians" (in contrast to 600,000 among 60 million "Aryians" in Germany), playing a vital role in economic life. [4] Thus, the law was not fully implemented until 1944, as sudden measures would have been tantamount to economic suicide.

https://doi.org/10.1017/nps.2023.63 Published online by Cambridge University Press

The Third Jewish Law (1941): Brazen Racism

The official name of the third Jewish Law is Act No XV of 1941 "supplementing and amending Article 1894: XXXI of the Marriage Law and the necessary provisions for the protection of the race." Randolph M. Braham described this law as "*the most openly and brazenly racist piece of legislation Hungary ever adopted*" (Braham 1981, 194, cited by Cole 1999, 24)

The explanatory memorandum of the Act defined its purpose as "*protecting the racial purity of the Hungarian nation from intermarriage with races of widely differing origin*" and stated that "*in Hungary, the Jews are the only major ethnic group which appears as a distinct race from the Hungarians and the Aryan nationalities of the homeland.… During the last half-century, members of the Jewish race have intermarried with the Hungarian non-Jews in increasing numbers, and thus the racial mixing, undesirable for both non-Jews and Jews, has assumed ever greater proportions.*"

This legislation classified as a Jew anyone who had two grandparents born to people of the Israelite religion. This law also introduced a new concept of Jew, the religious affiliation of the grandparents at birth, which was only valid for the purposes of this law, all other aspects being governed by the Second Jewish Law. The new law prohibited marriage if three or four of the grandparents of one of the parties were Christians and at least two of the grandparents of the other party were Israelites, except for a person whose two grandparents were Israelites, but who was a Christian and whose parents were Christians at the time of their marriage, and if two of the parents of one of the parties to the marriage were Israelites and one or two of the parents of the other party were Israelites. The Minister of Justice could exceptionally, in a case deserving special consideration, grant an exemption from the prohibition on marriage. In addition to mixed marriages, the law criminalized "racially offensive" sexual relations between Jews and non-Jews such that Jewish men could not have sexual relations with Christian women but Christian men and Jewish women were not criminalized.

Before marrying, all citizens had to prove their origins, the rules and the forms to be filled out which were laid down in decrees of the Justice Minister (IM Decrees No 70000/1941, 69000/1941 and IM Decree No. 82000/1941). To prove non-Jewish origin, the Decree specifically included a declaration which the spouse had to sign in person before the registrar or have their signature notarized. It read as follows: "*I declare that, to the best of my knowledge, none of my grandparents—or only one of my four grandparents—was born a member of the Jewish faith, that I myself am not a member of the Jewish faith and that I did not marry a Jew as a member of the Jewish faith after 10 October 1941.*" In case of doubt, the registrar could also ask for the birth and marriage certificate of the parents and grandparents, as registrars were criminally liable for verifying the origin of the persons marrying.

IM Decree No 70000/1941 further specified the definitions of Jew and non-Jew by distinguishing between three groups: a non-Jewish spouse who had no grandparents or only one of their four grandparents born in the Israelite religion; a non-Jew spouse who had only one grandparent born in the Israelite religion out of four grandparents, but was born and remained a member of the Christian denomination and whose parent born in the Israelite denomination became a member of the Christian denomination before the marriage; and married couples who were members of the Israelite denomination.

The easiest to obtain was the certification of Arch-Christians and Jews (Csíky 1941) and the most complicated to get certification for non-Jews. The simplest way was to issue a declaration stating that none of the person's grandparents or only one of their four grandparents was born in the Israelite religion and that they were not members of the aforementioned religion and had not married a Jewish person of the Israelite religion after the law came into force. The Decree required "best knowledge" concerning grandparents in order to make a declaration, which was relevant if the declarant did not have detailed knowledge about the grandparents or even one of them. However, they had to have "certain knowledge" of the religious denomination and marriage, and in case of reasonable doubt, the registrar could ask for further documents to be produced. The notion of

https://doi.org/10.1017/nps.2023.63 Published online by Cambridge University Press

reasonable doubt included the personal knowledge of the registrar in the case of public knowledge —in small municipalities and villages—but in some cases the name of one of parents could be used as a basis for registering further information.

The legislation also made a distinction in the proof of origin between persons who were considered Jewish according to whether or not they were members of the Israelite faith. Membership in the Israelite religion meant that the person was a Jew irrespective of their origin, so they only had to declare membership of the denomination, not their origin. In contrast, a person who was a Christian, a member of another denomination, or a nondenominational Jew had to prove their origin before marriage. The law also contained sample declarations that the marrying parties had to sign before the registrar.

In a special case, as mentioned above, the Minister of Justice could grant an exemption from the marriage ban, subject to a number of conjunctive conditions. First, the person requesting the exemption had to prove that two of their grandparents had not been born members of the Israelite faith, and second, that they had been a member of the Christian faith without interruption from birth or from the age of seven. If, in the meantime, one had left or become a nondenominational Christian, they could not be exempted. Cases of particular merit included the death of a Jewish parent before the age of seven or the divorce of the parents if the child was raised by the non-Jewish parent alone. Another reason to be considered was the merit and conduct of the parent who was considered to be a Jew. Basically, the exceptions provided for in the first two Jewish laws—fire fighter, war invalid, etc.—were taken into account. The exemption was special in that it applied only to a marriage to a specific person (and would have to be acquired again for the purposes of a subsequent one.)

Similar procedures (BM Decree No 1.100/1941 of the Minister of Interior) applied for marriage loans that could be granted by the mayor, which was redundant, as origin had to be proven at the time of the marriage.

Proceedings for annulment of marriage could be brought under the law, which allowed for bringing an action for annulment if one of the spouses "concealed" their race. In this case, the legislator presumed that the deceived spouse would not have entered into the marriage if it was not for the deception, and the court was therefore not entitled to consider and examine the circumstances of the case, even though before the second Jewish Law the spouses were not obliged to disclose their Jewish race.

The practice of people bringing legal action to establish their illegitimate origins in order to escape persecution developed (Schweitzer 2005). The question of the legalization of children born out of wedlock by subsequent marriage was also raised in the context of the new law. In one of the lawsuits, children who had come of age sought to have their illegitimacy declared jointly with their parents. Because the children had a legal interest in having their father, who was married to their mother and was a Jew, declared illegitimate, the Mayor of Budapest granted the request and entered the changes in the civil register. The claim was based on the fact that sexual intercourse between the parents was impossible at the time of the children's conception, because the "parents" did not even know each other at that time. The Court of First Instance and subsequently the Curia dismissed the action on the grounds that the person who acknowledged the child as their own after birth could not later challenge the legitimacy of the child (Ruling 6113/1939 of the Curia).

Thus it was typical for the legalization to be challenged by the (legalized) child and the Christian mother, where the legalizing father was a person qualified as Jewish. There have been several decisions where the child could not be excluded from the legal category of Jewish. For example, in an adoption case, the court ruled that the adoptive father had no right to challenge the adoption. The child in the case was born in 1918, when the legal marriage between her mother and her Jewish first husband was in force. The Christian plaintiff adopted the child in 1920, but despite pointing out that the child could not have been born to the first husband because he was then a prisoner of war in Russia and despite insisting that he was the biological father of the child and that the child would therefore be exempt from the second Jewish Law because he would be considered a Christian by

https://doi.org/10.1017/nps.2023.63 Published online by Cambridge University Press

blood, the law provided that only the husband had the right to challenge the legal parentage of a child born during the marriage (Ruling 8558/1940. of the Budapest Court of Appeal).

Classification Reduced to Survive or Die: Additional Rules and Practice on the Road to Annihilation

Following the German occupation, the rules on discrimination were further broadened. Ránki (1999, 171) documents how within days of the German occupation several anti-Jewish decrees were passed. ME Decree No. 1240/1944 divided the persons under the scope of third Jewish Law to several categories, but the most important distinction was whether or not they had to wear the yellow star. Those "*obliged to wear a distinctive sign*" were further categorized: members of the Israelite religion were obliged to wear a yellow star; also any person above the age of 6 who was born in the Israelite religion, irrespective of their origin; a person with more than two grandparents who were born in the Israelite faith, irrespective of their religion and that of their parents; or a person whose two grandparents were members of the Israelite faith, one or both of whose parents were not members of a Christian faith at the time of marriage; and likewise, any child of Jewish parents born of a marriage officiated after October 10, 1941, irrespective of the faith of the grandparents. Simliar was the fate of Sabbatarians (Christians who observe the Sabbath) and their offspring who were of Jewish descent as well as that of the spouse of a non-Jewish person living with him/her who converted to Christianity after March 22, 1944, or if they converted to Christianity during that period but the child born of the marriage is for any reason an Israelite (the non-Jewish spouse has given a reversionary title to the Jew) and also a person two of whose grandparents are Israelites and who was born a Christian and remained so, after October 10, 1941, married a Jew or a non-Jew whose one or two grandparents were born in the Israelite denomination and were married despite the marriage ban—that is, without the permission of the Minister of Justice (Szabó and Zaboretzky 1944, 31).

A decree specified the rules for wearing the yellow star outside the home, making it compulsory to wear it in all places where there was public contact—that is, on the street, in public places, on trams.[5] The decree also prescribed the size of the yellow star and the material that had to be used, and a breach of the obligation was considered an offense punishable by imprisonment for several months. Numerous arrests and internments were made for not obeying the law such as for not wearing a yellow star, or it not being canary yellow, or the size prescribed, or for not having it properly sewn on the garment.

The regulations set forth exceptions, listing those Jews who did not have to wear the yellow star. Thus, pastors and nuns of the Christian denomination of Jewish origin, family members of persons with a war medal, war widows and war widowers, and foreign nationals residing in Hungary were exempt. This was basically a reiteration of the exemptions enshrined in the 1939 law, with the added the category of "foreign Jews" (Cole 1999, 25). The regent, the head of state, was empowered to issue certain exemptions for a special just cause (ME Decree No. 3040/1944).

Following the German occupation, the new concept of Jewish required a new regulation of the way of proving non-Jewish origin. In July 1944, people in mixed marriages were placed under police surveillance and were required to wear the yellow star and could leave their homes only at certain times. They were barred from any form of civil service or legal practice. The law also prohibited the employment of non-Jewish persons in the households of Jews (partly because, as explained at the government meeting adopting it, many of the illegitimate children are born to mothers employed as domestic servants).

As Cole notes, "*Increasingly legislation spoke not of the 'Jew', but of the 'Jew obliged to wear the distinguishing sign.'*[6] *… There is a sense in which by mid-1944 Hungary was divided not into 'Jews' and 'non-Jews', but into those for whom wearing the yellow star was compulsory … and those for whom it was not. … In summer 1944 further expropriation, ghettoization, deportation and ultimately*

https://doi.org/10.1017/nps.2023.63 Published online by Cambridge University Press

mass murder in Auschwitz was carried out against the 'Jew obliged to wear the distinguishing sign'" (Cole 1999, 124-125).

Jews were fully excluded from the press and film chambers, from the medical chambers, and from all intellectual jobs. A separate decree deprived persons who were considered Jews of their pharmacy licences, licences to practice medicine, and trade licenses. The stock and business equipment belonging to the shops of Jewish traders were placed under lock and key. The wording of the signs displayed on the doors or windows of the closed shops was also prescribed by regulations.

Those obliged to wear the yellow star were prohibited from traveling, except on the railways in Budapest and in the cities, and from using motor vehicles. A permit (PM Decree No 123000/1944) for a fixed or one-way journey, subject to a fee, could be obtained from the gendarmerie or police authorities to get to work (ME Decree No 1270/1944). An overall review of the exemption certificates issued under the second Jewish law was ordered to be conducted by a commission appointed by the Minister of the Interior, examining the basis of the exemption as well as the behavior of the person exempted (ME Decree No. 1730/1944).

The law also introduced segregation for fairs and markets, and Jews could only shop during two hours set by the municipal magistrate on a given day, and traders could only serve people wearing the yellow star during this time (ME Decree No 1990/1944). Jews were prohibited from visiting public baths, hotels, public places of entertainment, and restaurants.

The law also required the withdrawal of the works of Jewish authors from commercial and library circulation, and their subsequent destruction was ordered (Decrees 10800/1944 and 11300/1944). In the course of implementation, two lists were drawn up: the first contained the names of 114 Hungarian and 34 foreign authors, the second 127 Hungarian and 11 foreign Jewish authors. According to a report in the newspaper *Függetlenség* (Independence) of June 14, 1944, "*Yesterday at noon … a total of 447,627 volumes were received, which corresponds to 22 wagons of paper.*" The local implementation of the decree was typically the mayors' responsibility, including the collection of statements on the works of Jewish authors from directors of archives, museums, and schools.

The most detailed rules on deprivation of property rights are to be found in the prime minister's ME Decree 1600/1944 on the declaration and seizure of Jewish property, which also prescribed an overall census of Jewish property. Almost all property was subject to declaration, including road vehicles, radio receivers, firearms, ammunition, explosives, pharmacy equipment, and real estate. The obligation to declare was followed by an obligation to seize and confiscate. The decrees specified precisely the range and type of assets that had to be declared. The seizure covered all property other than the most basic personal belongings but not items like wedding rings containing precious stones or pearls to savings account passbooks. Following the seizure, a series of decrees governed the preservation, use, and disposal of the property.[7]

On April 6, 1944, the Minister of the Interior issued a *strictly confidential* decree requiring police authorities to prevent Jews from hiding their property and jewelery or handing them over to their Christian friends for safe keeping.

BM secret decree No. 6163/1944 on the "Designation of the Residence of Jews" contained the rules for ghettoization and deportation. This legislation included the complete physical separation Jews and non-Jews. In order to achieve this, a new decree regulated the designation of the housing and residence of Jews and provided for the use of "Jewish housing." In settlements with fewer than 10,000 inhabitants, Jews were obliged to move to another village or town within a certain period. Elsewhere, they could live only in specific parts of the settlement or in streets or possibly in designated houses. German and Hungarian "de-Jewification" experts worked out the procedure for ghettoization in several stages.

In line with this Jews from villages and small towns were first to be collected and housed in synagogues, then transported to the ghetto in the neighboring larger town, and finally to a center with suitable railway facilities from where they could be quickly transported to death camps. The

https://doi.org/10.1017/nps.2023.63 Published online by Cambridge University Press

ghettoization was, thus, followed by deportations. The first deportation took place on May 14 in Nyíregyháza and the last on July 9 in Monor (Lévai 1946, 147). In June 1944, the Jewish Council wrote the following in a letter to the government: "*We are aware that more than 300,000 of our brothers and sisters have so far been deported to far foreign lands, where, in addition to the physical sufferings of hard labor, the catastrophe of destruction awaits them*" (Munkácsi 1947, 115). In Budapest, the move to designated, so called yellow-star houses took place after June 15, 1944.

Regent Miklós Horthy stopped the deportations on July 7, 1944. The last government decree before Nazi Arrow Cross Party takeover on October 15 was issued on September 29, 1944, "on the use of the Jews business stock and certain properties." By that time, the deportation of rural Jews had been completed.

The disenfranchisement of the Jews of Budapest became total after the Arrow Cross takeover on October 16, 1944. In November, the Budapest ghetto was set up in which more than 60,000 people were imprisoned, prepared for deportations like Jews from the countryside. After ghettoization, the houses of the Jews were to be sealed and their property inventoried. The decree following the Arrow Cross Party's takeover on the Property of the Jews stated that all property of Jews was to be transferred to the state as property of the nation, to be looked after by the appointed government commissioner. Neither this nor the deportation from the Budapest ghetto was completed, as on January 18, 1945, the Soviet troops liberated the ghetto.

Cole (2003, 203–204) documents how chaotic the classificatory regime was. A decree in May 1944 was issued to serve as a guide to organize the scheme of exemptions and who was to be placed in ghetto. There were six distinct categories, each of which was to experience its own territorial solution. For example, there were Jews holding protective passes, others were to be lent to the German government " or the advancement of the common war effort" and while waiting to be removed from Hungary were also placed into ghettos. Yet, separate measures were to be taken for Jews holding exemption certificates, Jews who were Christian clerics, and Jews who were foreign citizens. Gehttoization lead to the physical separation of Jewish and their non-Jewish spouses, and this resulted the widespread practice of contestation: thousands of petitions to change yellow-star house designation by both Christians and Jews. (Cole 2003, 131–132) Yet, the complex history of overlapping and competing categories of exemption was close to impossible to follow and contestation was a hasty process because the circumstances were changing so fast. Someone may be exempt in 1939 but not in 1944 (Cole 2011, 18). Besides the three categories, Jew, convert and non-Jew, there were numerous subgroups and overlaps. For example, Jews married to a Christian were exempt from the scope of the "anti-Jewish" laws, as were "members of the immediate families of Christian clergymen," "holders of Church Orders," and "members of the Orer of the Holy Grave" (Cole 2003, 196). There were also immunity certificates issued by the SS as well as protections for neutral states (like the Swedish Red Cross), which would keep holders in a separate international ghetto (Ránki 1999, 170, 198, 201).

Rule of Law Commitments: Protecting to Destroy

It is noteworthy that Hungarian authorities were committed to the system of formal law and were ready to stand up for Hungarian Jewish citizens in conflicts of law. Thus, Jewish persons abroad who were Hungarian citizens were considered as de facto citizens and efforts were made to protect them against the laws of states that were more discriminatory or used other Jewish concepts than Hungary.

In Slovakia, the obligation to wear a yellow star was introduced before in Hungary. The so-called Jewish Code, Law No 198/1941 with its 270 articles, was described by the German Nazi regime as an exemplary work of "New Europe." It also provided a definition of the Jew different from that in Hungary. (It was modelled on the Nuremberg racial laws: as someone who descended from Jewish ancestors for at least three generations and, in part, as someone who had at least two Jewish grandparents and was Jewish in 1939, or who had converted to Judaism on April 20, 1939, or who

https://doi.org/10.1017/nps.2023.63 Published online by Cambridge University Press

had married or was a descendant of a person who was a Jew after April 20, 1939, and a person born out of wedlock with a Jew after February 20, 1940.)

As a result, a number of Jews of Hungarian nationality living in Slovakia have contacted the Embassy for clarification as to whether or not they are obliged to wear the yellow star. According to the Embassy's provisional verbal clarification, Hungarian law applied to determine whether or not a Hungarian citizen is a Jew, even though they are not resident in the country. However, the embassy pointed out that the Slovak decree did not distinguish between Jews on the basis of their nationality and that this legislation, as an administrative measure, applied to all residents of Slovakia and that it was therefore in the interest of Jews of Hungarian nationality to comply with the legislation of the Slovak State, as disobedience of the law could lead to expulsion under Slovak law. The Ambassador has appealed to the Prime Minister for a higher instruction on the procedure to be followed. According to the Prime Minister, Slovakia did not have the right to oblige citizens of other states, including Hungarians, to wear a discriminatory sign on the basis of provisions in its own legislation.[8]

Another example concerned the implementation of the Romanian law on the transfer of "Jewish agricultural property" to state ownership in 1940. Under the decree, Jewish persons (MNL K 28. no. 21354/1940, October 24, 1940) were not allowed to acquire or own agricultural property in Romania. According to the law, a person was considered Jewish if at least one of their parents was Jewish regardless of whether or not they had converted to another religion. The law also applied to foreign citizens residing in Romania as foreigners and thus also to those who had permanent residence in the reannexed territory of Transylvania and thus became Hungarian citizens in August 1940 but whose property was in the territory of then Romania. The legal adviser at the Hungarian embassy distinguished between two groups of people: those who were considered Jews in Hungary under the second Jewish Law and those who were not subject to the restrictive provisions on the basis of some exemption. According to the Advocate General, Romanian legislation contained a violation of general principles of international law, and the question arose as to whether the embassy's intervention was necessary "in the interests of Hungarian citizens of the Jewish religion" (MNL K 28. no. 21354/1940). The issue was discussed at a meeting convened by the Foreign Minister on November 29, 1940. The chair of the meeting was concerned about the objection to the legislation because, in his opinion, it would appear, and the Romanian government would so inform the Germans, as if the Hungarian government were protecting the Jews.

The Hungarian state's protection of its Jewish citizens could partly be explained with signalizing diplomatic machismo toward neighbors with whom, even being allies, relations were far from friendly, due to Hungary's territorial claims toward them. Yet, it acted in a similar manner against Nazi German leadership. On April 19, 1944 (that is, already after the German occupation), the Foreign Minister wrote a letter to the Minister of Defense in which he presented the request of the German military command that Jewish persons who wanted to flee the country should be handed over to the Germans by the Hungarian border police. The Foreign Ministry, however, rejected this request on the grounds that "*it is an unbreakable principle that no state should hand over its own citizens to another power, even if they are friends*" (MNL K 28. 142. batch., no. 11264/1944, April 14, 1944, dealing with fleeing Jews) It also stated that the resolution of the Hungarian Jewish question was the exclusive responsibility of the Hungarian Minister of the Interior.

Analysis

The are nine lessons to be learned from Hungarian case of how the Jew is operationalized during the interwar period and (for) the holocaust. The first is that the five models of legislative and policy strategies to operationalize group membership (self-identification; identification by other members of the group; perception of "others," the majority; classification made by the majority using objective criteria; and proxies such as names, language) can be used simultaneously and in an intertwining and overlapping manner. Execution of the Jewish laws is mostly based on self-

https://doi.org/10.1017/nps.2023.63 Published online by Cambridge University Press

identification, when declaring oneself as Jewish. Because this lead to a severe deprivation of rights and liberties, no further proof was required. On the other hand, Cole (2011, 13) documents how representatives of the Jewish community were also commissioned by the interior minister via mayors to draw up lists in 1944 of all Jews and their family members specifying apartments, places of residences, and mother's maiden names. Furthermore, the very process of racializing Jewishness is carried out by legislation creating objective criteria based on an intergenerational membership in a religious community (but subject to a number of exceptions). As for proxies, Cole (2011, 14) documents how the Hungarian Institute of the Research of the Jewish Question, an antisemitic pseudoscience research institute, worked on the "scientific processing of lists of Jews" to analyze name-giving habits of the Jews. As for perception, Ránki (1999) argues that one of the reasons for requiring Jews to wear yellow stars is to make classifications visible because many would otherwise not be identifiable by mere perception.

The second feature pertains to the accidental, theoretically weak nature of classification. As noted, the Nürenbergian definition of a Jew as having at least one grandparent whose documents indicated Judaism as religion lacks any halachic, theological background. As Ránki (1999, 17) points out, the nurembergian biological essentialism is also contradictory in the sense that an Aryian will become a Jew by conversion to Judaism, or also, by marriage to a Jew.[9] One may also argue that the exemptions from being considered Jewish under the respective Jewish Laws actually mean that the persons concerned are non-Jews. Often these are the very terms the laws use. This racial status can be a consequence of political activism on behalf of the Hungarian minority in the neighboring states, wounds suffered in WWI, or, as Cole (2003, 195) points out, at a certain time depend whether or not a person converted to Christianity before their seventh birthday. "*For those whose conversion had come later on life, they were still 'Jews' rather than ('non-Jewish') Christians. But there was a sense in which all converts presented a liminal and ambiguous category that could literally go both ways.*"

The third lesson points to what we can call the "bureaucratic path dependence" of racialization. Administrative categorization and the subsequent cementing of conceptualization and operationalization here roots in the temporary administrative givens of bureaucracy. Religion (of one's grandparents) was a standard data entry at the time, as often churches and religious entities were tasked with population registry. Thus, religion could be racialized (operationalized and conceptualized) based on the administrative reality and bureaucratic feasibility to rely on official records that contained data on religion going back two generations. We see a similar process in Rwanda, where ethnic identity was an outcome of administrative categorization distinguishing between Hutu and Tutsi (and Twa) by Belgian colonizers in 1933 (Prevent Genocide International n.d.). Initially people having 10 or more cows were classified as Tutsi; those with fewer as Hutu. After the initial determination, classification went by patrilineal parentage. Comparing Galician Jacquerie with the Rwandan ethnicization process, Kamusella (2022, 695–698) shows how porous the boundary between social and ethnic categorization is, as a successful farmer could "climb" from Hutu to Tutsi (similar to a serf and a noble).

The next, fourth notable feature of the case study is how easily and frequently legal classifications can change—if there is a political will and need. The more and more broadening and detailed classification for who counts to be Jewish ran parallel with the widening scope and depth of deprivations. The shifting conceptualization of the Jew by law accentuates the politically constructed nature of race and racalization. What is more, ethnoracial classifications and a course of racialization can be tools for differing political endeavors and projects. The literature is divided on the issue of whether the gradual changing of the definition of the Jew and the construction of a racial state signals the expansion and the maturation of the rightist radicals or, on the contrary, measures are adopted by moderates to take the wind out of fascists sail (Hanebrink 2006, 160). Describing the development of the Hungarian genocidal state, Ránki (1999, 138–39) explains how anti-Jewish legislation has to be seen in the context of the perceived successes of Nazi Germany and their effects in Hungary. As noted above, "*In 1938, following the German occupation of Czechoslovakia, a large chunk of pre-Trianon territory 'retuned' to Hungary with the first Vienna Accord. In 1940 Hungary*

https://doi.org/10.1017/nps.2023.63 Published online by Cambridge University Press

acquired another chunk of 'lost territory': Northern Transylvania from Romania. The Nazi largesse was repaid by the adoption of the third anti-Jewish law." When joining the attack of Yugoslavia 1941, it got back the Délvidék. "*Anti-Jewish legislation has to be examined on two levels: governmental and social. … there was pressure from outside, from Germany; and there was pressure from inside, the radical right wing.*" But the political dynamic is more complex, and recognizing and classifying as "other" or an in-group is a crucial element here. Before the (end of) WWI, the positioning of Jews in Central European nationalism and nation-building was corollary. In the Hungarian part of the Austro-Hungarian Monarchy, "*Hungarians constituted the largest ethnic minority, but not the majority. Thus, the Hungarian ethnic middle class relied on Jews who eagerly Magyarized*" (Ránki 1999, 59). As Wistrich (1994, 119–120) explains, "*Habsburg Jewry in 1910 was the largest Jewish community on the European continent outside of Tsarist Russia. In Greater Hungary in 1910 there were over 900,000 Jews—nearly 5 percent of the population. In Austria, Jews tended to identify with the ten million Germans (representing just over a third of the Cisleithanian population), though by 1900 a majority of Jews in the Czech lands and even more so in Galicia, felt obliged to declare their political allegiance to the Czechs and to the Poles, respectively. In Hungary, on the other hand, ever since the middle of the nineteenth century, Jews had linked their tale to the Magyars …The Jews there held the demographic balance in Greater Hungary which facilitated the retention of Magyar hegemony over 3.2 million Rumanians, 2.2 million Germans, 2 million Slovaks, 2 million Croats and 1.9 million Serbs.*" In fact, the assimilation of the Hungarian Jews was indispensable to both the goal of preserving Magyar hegemony over the nationalities: "*As long as the Jews … were ready to renounce ethnic allegiances and become unconditional Magyars in the cultural and political sense, entry into the Hungarian nation was open. For Jews this was relatively easy since they had no territorial claims against Hungary or separatist and/or irredentist ambitions of their own*" (Wistrich 1994, 131).

Thus, they were ideally loyal allies for the Magyars: "*Not only were they eager standard-bearers of Magyardom in border regions where the Hungarians were a minority, but after 1867 the Jews almost single-handedly transformed a feudal backwater into a modem capitalistic economy. By the end of the nineteenth century their share in commerce and banking was ten times their proportion of the population; over half the commercial firms in Budapest were owned by Jews and about 90 percent of the stock-exchange brokers in the capital were Jewish. Upwardly mobile Budapest Jews were even more preponderant in medicine, law and journalism than their co-religionists uifin-de-siecle Vienna. By 1900, about half of all Hungarian doctors were Jews and a decade later there was a similar percentage of Jewish lawyers.… By 1910 … there were already 203,687 Jews in Budapest (23.1 percent of the population), outstripping the 175,000 Jews concentrated in Vienna and second only to Warsaw among European capitals, in the size of its Jewish community*" (Wistrich 1994, 131).[10] In era where the legal and political definition of ethnicity was based on first spoken language, an assimilationist contract (Karády 1993) was in place—until the Treaty of Trianon overwrote it and made it obsolete, putting non-Jewish ethnic Hungarians in an overwhelming majority.

The fifth lesson is that the case study also teaches us how definitions of the other affect, define, and delimit the majority too. Hanebrink (2006, 2, 159) points out how the racialization of religion also transforms Christianity to a cultural and racial identity, with the church facing both a theological problem and a political loss of authority. As Ward (2002, 577) explains in the Slovak context, "*To declare an individual irrevocably a Jew was to deny the possibility of conversion and to frustrate the Church's dictum that it was the duty of all people to accept Christ as their savior. In addition, it was the Church's prerogative, and not the government's, to determine who were members of the Catholic flock. Thus, the racial definition abrogated what the Church regarded as a traditional division of authority between it and the state. Further exacerbating this conflict were the … banning of interracial marriage. … The Church viewed Catholic marriages as sacred.*" Hanebrink (2006, 173) quotes cardinal and Actio Cartholica president Gyula Glattfelder saying, "*it is unacceptable … that the establishment of a racial character should wrongly give baptism different degrees of validity.*" Prince Primate Jusztición Serédi expressed similar views: "*We espouse simply that someone who*

https://doi.org/10.1017/nps.2023.63 Published online by Cambridge University Press

takes up the sacrament of the Cross according to the ordering of Christ, be he Aryan, be he Mongol, … or a member of any other race, becomes Christian." While representatives of both the Catholic and the Calvinist church supported the second Jewish law, they withheld support for the third. Hanebrink (2006, 161) also cites a Calvinist bishop, who voted for both the first and the second law, at the time of the adoption the first Jewish law recognized an opt option for Jews, as "fully assimilated and, most particularly, converted to Christianity, Jews could be redeemed from their Jewishness, and escape their utterly foreign culture and hope to find their place among Christian Hungarians."

To complicate the theological dilemma, as Cole (2011, 16) point out, legislation "*sought to distinguish between 'old'—perceived as true—and 'new'—potentially spurious—converts. Recent converts were seen by the law as still Jewish. … As the ministerial justification articulated … 'the cessation of membership in the Jewish denomination dose not result in any change in that person's association with the racial community.'*"[11] Juxtaposing it with traditional premodern anti-Judaism, Ránki (1999, 14, 16–17) argues that overriding of theological considerations is intrinsic to modern antisemitism, where the epitome of modernity, the assimilated, hidden Jew is the real enemy: "*Premodern hatred of Jews was primarily against the Jewish religion and against the Jews for not becoming Christians. … modern antisemitism is against the Jews as individuals and as people…. condemn(ing) Jews for being capitalists, for being communists, for being liberals, for being nationalists (Zionists), in other words, for fitting into the modern world. The target of modern antisemitism is not the 'authentic' Jew, but the assimilated Jew.*" It needs to be reiterated that the theological and political dilemma for non-Jews was a question of life and death for Jews: Cole (2003, 196) for example documents the plan to create separate lists for deportations and yellow-star houses for the converted.

A further, sixth lesson of the case study of the Jewishness, placed in the intersection of race, ethnicity, nationality, and religion, points to how competing models for conceptualization have a long history of coexistence. Even in the period under scrutiny, Jews had been conceptualized and recognized as a *national* minority in a number of states.[12] Ránki (1999, 176) documents how Romanian Jews perceived themselves as a nation and strove for the status of national minority, and Raspe (2022, 887) catalogues how newly independent Lithuania, Latvia, and Estonia offered variants of Jewish nonterritorial, cultural autonomy and how the 2.6 million Jewish citizens of the Soviet Union were considered a national minority (also see Eglitis and Bērziņš 2018, 1066). A particularly interesting case concerns communities that successfully survived Nazi and German rule by contesting being Jewish. Levin (2014) documents the case of Bukharan Jews, the indigenous Jewish population of Central Asia, and Feferman (2011, 277) provides a detailed account of how and besides the Mountain Jews in the North Caucasus, the Karaites (a group with Jewish ancestry emerging in the seventh century and rejecting mainstream Jewish interpretation of Tanakh) in Persia, Turkey, Egypt, Crimea, and Lithuania succeeded in being recognized as not Jewish.

This leads us to the seventh point: choice and exit options and the challenging historical and legal concept of assimilation. Legally speaking, these discussions can be best be tackled as whether the right (freedom) to the free choice of ethno-racial-national identity exists. If such a right existed, it would logically need to entail both its negative and positive aspect—that is, the right to opt out and in into any ethnonational or racial group. Current discussions focus on both guarantees against forced assimilation in the majority and the limits of an individual's right to join groups or communities, be they minorities or wishing to assimilate the majority. (For more, see Pap 2015.) The answer to these questions in the case study could not have been clearer: Jews at the end enjoyed no choice for identity and had no exit options for the clusters forced on them.

The eighth lesson pertains to the arbitrariness of exemptions, both in the general and the specific dimension. As noted above, when exemptions are framed in an abstract level by the legislator (excluding for example war veterans, Olympic champions, "old converts," university professors, champions of the Hungarian nationalist cause, etc. (see Ránki 1999, 169; Cole 2011)), it actually means that the persons hence identified do not qualify and within the eyes of the state are not

https://doi.org/10.1017/nps.2023.63 Published online by Cambridge University Press

Jewish. Overall, as Ránki (1999, 170) explains, "*The system of exemptions worked partly through bureaucracy, involving enormous amounts of paperwork and officious authorities, and partly through corruption.*" In demystifying Slovak President Jozef Tiso's practice of exemption, which his apologists argue to be 40,000 Jews but is shown rather to be around 1,000, Ward (2002, 571, 577) also documents in detail how administrative fees would be determined for partial and full exemptions. Ward (2002, 578) documents how in Slovakia Jews could seek protection under no fewer than 18 different categories of exemptions and how this practice would lead to the exemption of economically important Jews such as state employees, doctors, pharmacists, dentists, and civil engineers. He shows that "*those who received exemptions were clearly useful to the Slovak state. The mean age among direct exemption holders was around forty—men at the peak of their professional careers. For the most part, the direct exemption holders were well educated: at least 15% held a Ph.D. or equivalent, while at least 6% held the title of 'Engineer'*" and 13% was active in medicine (Ward 2002, 583). In general, Ward (2002, 590–591) explains how exemptions were a common feature of the Holocaust: In Germany, Hitler himself created such categories and was followed by Hungary's Admiral Horthy, Tsar Boris of Bulgaria, and Marshal Ion Antonescu of Romania.

Feferman's mentioned fascinating account of the political and legislative odyssey of the classification of the Karaites not only provides a unique addition to how performative whiteness is accentuated by legislators but also shows how institutional rivalry, personal biases, preferences, and ad hoc political interests are factored into the process. The Karaite question was an important, recurring issue for Nazi bureaucracy and scholarship. Numerous, competing reports and rulings were issued by the Foreign University of Berlin's Russia Institute, the University of Konigsberg's Racial Biological Institute, the the Reich Kinship Office (a subordinate to the Nazi party), the Ministry of Interior, the Auslandsinstitut, the Institut fur Grenzund Auslandstudien, and the Wansee-Institut, and the final verdict was delivered by Reichsfuhrer SS Heinrich Himmler in person. As Feferman (2011, 277, 288) documents, as "tides of the war turned against the Germans, various Nazi agencies demonstrated growing flexibility either to re-tailor the Karaites' racial credentials or to entirely gloss over them in the name of 'national interests' …, [and] political and security agencies, as well as academia, gradually changed their evaluation of the Karaites racial origin from Jewish to non-Jewish." Scholarly inquiries were most likely motivated by the fact that after the Wehrmacht pulled out of the Crimea and Lithuania, hundreds of Karaites who served in the local police left with the Germans and served in the ranks of the Wehrmacht and the Waffen SS (Feferman 2011, 288). Feferman (2011, 283–85) notes how personal circumstances may also have influenced the scholarly assessment when for example one of the "positive" historical evaluation of the Karaites as not being Jewish was written by a local intellectual married to a Karaite woman, and in general "*German academics in late 1944 were overwhelmingly very cautious not to produce evidence that might be later used to put them on the dock as accomplices of Nazi genocidal policies.*"

The final lesson, or rather, contribution the case study provides, connects to the debate on whether various bureaucratic and judicial processes of contestation of Jewish laws can be discussed under the conceptual framework of rule of law (see, for example, Teitel 1994), as it is only after the acknowledgment of the Radbruch formula (Radbruch [1946] 2006), reflecting on Nazi legislation, that certain norms that are intolerable under humanism and justice can be seen as "flawed" and losing legal character.

Concluding Remarks

The above overview of how legislation in the 1920–1944 era classified and operationalized Jewishness for the purposes of exclusion and persecution is situated in the broader context of how law can construct and sustain complex and contested social concepts such as race or ethnicity. The legal framework of the holocaust is as extreme and radical as it can get (and like the holocaust itself, unique and in most ways incomparable to all other measures) not only because of the brutality of the dehumanization it institutionalizes but also because contemporary debates on

https://doi.org/10.1017/nps.2023.63 Published online by Cambridge University Press

operationalizing race and ethnicity are centered around antidiscrimination, recognition, inclusion, or positive action. The imperturbably detailed legislative texts on the other hand provide a singular example for legal craftsmanship: when it comes to contemporary legal and policy documents on race and ethnicity, we do not get to see detail and precision in definitions—mostly because due to the complex and contested nature of these social constructs, the legal construction also becomes and amalgam of operationalizing measures and philosophies such as self-identification, community recognition, perception of the majority, etc. And yet, even the legislative frameworks showed here, while unbound and unsettled by political sensitivities, actually proved to be in constant motion. The ever shifting definitions of both the scale of exclusion and definition of the subjects of discrimination and persecution as well as the boundaries of exemptions from the conceptualization and political definition of who and what the Jews are reflected the radicalization of anti-Semitic political and genocidal commitments.

As detailed as the presented parliamentary and government legislation was, it was still the only the tip of the iceberg of operationalization of Jewishness. The assessment only covered legislation and practice at the national level, but it should be noted that the provisions of local governments were often even more radical. There were several examples where the Minister of the Interior overruled a decree of a local authority because it was found to be unlawful. For example, food stamps were withdrawn on the grounds that Jews were not allowed to eat certain foods because of their religion, or Jewish traders were banned from Christian religious festivals. Furthermore, as always, legal norms are implemented through actual administrative measures and, if contested, via court decisions. This assessment could not cover these, but it needs to be mentioned that administrative decisions on exclusions, deprivation of property or employment, annulled marriages, or denied exemptions (or petitions to invalidate adoptions) were challenged at administrative tribunals and courts by the thousands. There are no statistics or even estimates on the actual number of appeals and court cases, but based on interviews with colleagues engaged in archival work, it appears to be a moderate claim that within the five-year period of the actual implementation of the laws, the number of court cases for reviewing the practical acts of operationlizing Jewishness amounts to several thousands and (especially if adding prosecutorial investigations) or easily reaching the register of tens of thousands. This is a stunning number, but the reason is that contesting identification and classification here literarily meant questions of life or death.

Disclosure. None.

Financial support. The research project was financed from the 134962 Hungarian National Research and Innovation Grant

Notes

1 The randomness in creating ethno-racial categories was similar in Rwanda with pre-genocide ID-cards, which indicated Hutu and Tutsi ethnicity. These categories were created by the Belgian colonizers and initially people having 10 or more cows were classified as Tutsi; those with fewer as Hutu (Ramos 2013). See also Taylor (1999); Eltringham 2004; Freedman et al. 2008.

2 Although the premodern Hungarian legal system differentiated between Christian and Jewish (and Muslim) citizens, this asessment's focus is limited to legislation in the 20th century.

3 In March 1942, an order was issued to the commanders of the conscription centres concerning the treatment of Jewish laborers. These included, for example, such instructions as: "No one is allowed to talk to a Jew…. A Jew may only walk in the middle of the road, while the Framers may only walk on the pavement. Jews may be visited only once a month by their next of kin. No parcels are allowed. Jews are not allowed to shop in shops. They can have a maximum of 50 pengő (currency) on them. They are not allowed to smoke, because they are not allowed to have a supply of cigarettes, according to a special decree, and because their daily allowance can

https://doi.org/10.1017/nps.2023.63 Published online by Cambridge University Press

only be used to buy cleaning materials. Jews may be given food only after the daily work assigned to them has been completed in full" (Lebovics 2007, 91–92.)

4 As McCagg (1987, 93–94) explains, "*In 1910 there were 1,932,485 persons of Jewish faith in the Hungarian population of 20,886,487, or 4.64 percent of the total; … in 1920, after the Trianon partition of Hungary, there were 473,355 Jews in a general population of 7,990,200 or 5.92 percent; and … in 1941, as the 'final solution' approached, there were 725,005 in a population of 14,683,323 or 4.94 percent, plus approximately 100,000 'Christians of Jewish origin.'*"

5 The Minister of the Interior's document 172068/1944 set forth that the gendarmerie and the state security police were obliged to check that those required to wear the yellow star were in compliance.

6 See, for example 500/1944 of the Internal Ministry restricting Jewish access to hotels and restaurants (Cole 1999, 24–25).

7 Among others, ME Decree No. 1830/1944 on the enumeration and preservation of the artefacts of Jews under lock and key, ME Decree No. 2120/1944 on the utilization of the business premises of Jews and amending it, the ME Decree No. 3230/1944. See also ME Decree No 3230/1944 and ME Decree No. 2880/1944 on the promotion of the use of agricultural property acquired by Jews under Article XV of Law No 1942 on agricultural and forestry property and HM Ministerial Decree No 33000/1944 on the use of radio equipment owned by Jewish radio licensees.

8 Archival no. OL K28, 343/1941. XI. 12, December 20, 1941.

9 Regulation to the Reich citizenship Law, November 14, 1935, definition of the Jew "(a) who was a member of the Jewish religious community at the time of the promulgation of this law, or was admitted to it subsequently and (b) who was married to a Jew at the time of the promulgation of this Law, or subsequently married to a Jew."

10 McCagg (1987, 93–94). It also need to be added that Jewish immigration came late to Hungary, "*at the end of the seventeenth century, when the Turks left, there were practically no Jews.*" McCagg (1987, 96) and, unlike in most other parts of Eastern Europe Jews did not become a widely detested intermediary between peasant and landlord (see Wynot 1987; Fischer-Galati 1988.) Also, regarding the Jewish population "*variety was the norm: from the mid-nineteenth century onwards one could not, even in the villages, talk of a single Jewry, nor did all Jews look and act alike, as on the whole the heavily Orthodox Polish and Rumanian Jewries did*" McCagg (1987, 97).

11 Hanebrink (2006, 174) estimates that roughly 10–15 percent of all marriages contracted by Jews between 1918 and 1938 were with a non-Jewish partner and that after 1918, conversion was seen as a tool to evade anti-Semitic persecution. "*White Terror in 1919 and 1920 produced a huge increase in the number of conversions (from 527 in 1915-1917 to 7,146 in 1919). The impending anti-Semitic legislation had the same effect; conversions shot up from 1,598 in 1937 to 8,584 one year later. … based on the 1941 census statistics (which included the large Jewish communities in recaptured northern Transylvania and Sub-Carpathian Ruthenia) estimated that roughly 10 percent of Hungary's 725,000 Jews were converts or children of converts. Other studies placed the number a high as 100,000.*" According to Ránki (1999, 117) "While between 1896 and 1917 the number of conversions was 2134; in the 19-year period between 1919 and 1938, 4211 people converted to Judaism. Surprisingly, between the two wars twice as many Christians converted than during the liberal era. The trend of becoming Jewish, at the time when racial anti-Semitism was becoming increasingly hostile and sinister was born out by another set of figures, that of those who reverted back to Judaism, that is 'returning' Jews…. They signify more the failure of conversion than the desirability of being Jewish. Baptized Jews stayed exactly that, baptized Jews, with the social stigma that being Jewish carried."

12 Currently, under the auspices of the Framework Convention for the Protection of National Minorities, the following states have reported to have recognized the Jewry within the scope of the treaty: Armenia, Azerbaijan, Bosnia-Hercegovina, Bulgaria, Croatia, Denmark, Estonia, Finland, Georgia, Latvia, Lithuania, Moldova, Norway, Poland, Romania, the Russian

https://doi.org/10.1017/nps.2023.63 Published online by Cambridge University Press

Federation, Serbia, Slovakia, Switzerland, the UK, and Ukraine. The following States Parties to the European Charter for Regional or Minority Languages have included Yiddish among the recognized regional or minority languages: Bosnia and Herzegovina, Finland, Netherlands, Poland, Romania, Slovakia, Sweden, and Ukraine. In Hungary, in 1990 the Jewish community was among the eight so-called co-opted minorities that were supposed to be provided a form of parliamentary representation according to legislation that was amended before actually being implemented. The Jewish community in has been divided on the question of seeking recognition as a (national or ethnic) minority. In 2005, the Federation of Hungarian Jewish Communities (MAZSIHISZ) launched a popular initiative, but failed to build up support on behalf of the community (See Pap 2017).

References

Adam, Istvan Pal. 2016. *Budapest Building Managers and the Holocaust in Hungary*. Switzerland: Palgrave Macmillan Cham.

Anthias, Floya, and Nira Yval-Davis. 1993. *Racialized Boundaries. Race, Nation, Gender, Colour and Class and the Anti-Racist Struggle*. London: Routledge.

Barany, George. 1974. "'Magyar Jew or: Jewish Magyar? (To the Question of Jewish Assimilation in Hungary)." *Canadian-American Slavic Studies* 8 (1): 5–44.

Braham, Randolph L., ed. 2012. *Bibliography of the Holocaust in Hungary*. New York: Columbia University Press East European Monographs.

Braham, Randolph L. 2000. *The Politics of Genocide: The Holocaust in Hungary*. Detroit, MI: Wayne State University Press.

Braham, R. L., and Kovács, A. 2016. *The Holocaust in Hungary: Seventy Years Later*. Budapest: Central European University Press.

Braham, Randolph L., and Scott Miller. 1998. *The Nazis' Last Victims: The Holocaust in Hungary*. Detroit, MI: Wayne State University Press.

Braham, Randolph L., 1981. *The Politics of Genocide*. New York: Columbia University Press.

Brubaker, Rogers. 2015. "The Dolezal Affair: Race, Gender, and the Micropolitics of Identity." *Ethnic and Racial Studies* 39 (3): 414–448.

Cole, Tim. 1999. "Constructing the 'Jew', Writing the Holocaust: Hungary 1920-45." *Patterns of Prejudice* 33 (3): 19–27.

Cole, Tim. J. 2003. *Holocaust City: The Making of a Jewish Ghetto*. New York-London: Routledge.

Cole, Tim. J. 2011. *Traces of the Holocaust: Journeying in and out of the Ghettos*. London: A&C Black.

Cornelius, Deborah S. 2011. *Hungary in World War II: Caught in the Cauldron*. New York: Fordham University Press.

Csíky, János. 1941. *A fajvédelmi törvény és végrehajtási rendeletei*. Budapest: Grill Könyvkiadó.

Dobos, Balázs. 2019. "The Elections to Nonterritorial Autonomies of Central and South Eastern Europe." Nati*onalities Papers* 48 (2): 1–18.

Eglitis, Daina S., and Didzis Bērziņš. 2018. "Mortal Threat: Latvian Jews at the Dawn of Nazi Occupation." *Nationalities Papers* 46 (6): 1063–1080.

Eltringham, Nigel. 2004. *Accounting for Horror: Post-Genocide Debates in Rwanda*. London: Pluto Press.

Feferman, Kiril. 2011. "Nazi Germany and the Karaites in 1938–1944: Between Racial Theory and Realpolitik." *Nationalities Papers* 39 (2): 277–294.

Fischer-Galati, Stephen. 1988. "Jew and Peasant in Interwar Romania." *Nationalities Papers* 16 (2): 201–208.

Freedman, Sarah, Harvey Weinstein, Karen Murphy, and Timothy Longman. 2008. "Teaching History after Identity-Based Conflicts: The Rwanda Experience." *Cooperative Education Review* 52 (4): 663–690.

Gates, Henry Louis, Jr. 1985. *'Race', Writing and Difference, Critical Inquiry*. Chicago: University of Chicago Press.

Gidó, Attila. 2017. "Mentesítések Észak-Erdélyben 1941-ben." *REGIO* 25 (1): 112–115.

Hanebrink, Paul. 2006. *In Defense of Christian Hungary*. Ithaca, NY: Cornell University Press.

Hilberg, Raul. 1961. *The Destruction of the European Jews*. London: W. H. Allen.

Kamusella, Tomasz. 2022. "Ethnicity and Estate: The Galician Jacquerie and the Rwandan Genocide Compared." *Nationalities Papers* 50: 684–703.

Karády, Viktor. 1993. "Antisemitism in Twentieth-Century Hungary: A Socio-Historical Overview." *Patterns of Prejudice* 27 (1): 71–92.

Karsai, László. 2005. "A magyarországi zsidótörvények és rendeletek 1920-1944." In *A holokauszt Magyarországon európai perspektívában*, edited by Judit Molnár, 140–163. Budapest: Balassi Kiadó.

Katzburg, Nathaniel. 1981. *Hungary and the Jews. Policy and Legislation, 1920-1943*. Ramat Gan: Bar-Ilan University Press.

Kelemen, Agnes Katalin. 2018. "Catastrophe and Utopia: Jewish Intellectuals in Central and Eastern Europe in the 1930s and 1940s edited by Ferenc Laczó and Joachim von Puttkamer." *East Central Europe* 45 (2–3): 372–375.

https://doi.org/10.1017/nps.2023.63 Published online by Cambridge University Press

Kimmerling, Baruch. 2002. "Nationalism, Identity, and Citizenship. An Epilogue to the Yehoshua-Shammas Debate." In *Challenging Ethnic Citizenship. German and Israeli Perspectives on Immigration*, edited by Daniel Levy and Yfaat Weiss, 181–195. New York: Berghahn.

Konrád, Miklós. 2016. "Hungarian Expectations and Jewish Self-Definitions, 1840–1914." In *Modern Jewish Scholarship in Hungary—The "Science of Judaism" between East and West*, edited by Tamás Turán and Wilke Carsten, 329–348. Berlin: De Gruyter Oldenbourg.

Kovács, Mária M. 1994. *Liberal Professions and Illiberal Politics: Hungary from the Habsburgs to the Holocaust*. Washington, DC: Woodrow Wilson Center Press.

Lebovics, Imre. 2007. *Zsidótörvények - zsidómentők*. Budapest: Ex Libris.

Lehotay, Veronika. 2011a. "A fajvédelmi törvény helye a jogkorlátozó rendelkezések sorában." *Alma Mater* 6 (3): 10–11.

Lehotay, Veronika. 2011b. "Mentességi kérelmek a magyar hatóságok előtt 1938 és 1942 között." In *Publicationes Universitatis Miskolciensis Sectio Juridica et Politica. Tomus XXIX/1*, edited by Pál Sáry, 39–55. Miskolc: Miskolc University Press.

Lehotay, Veronika. 2015. "A holokauszt jogtörténeti megközelítése a magyarországi zsidótörvények a Kúria gyakorlatában." In *Zsidók és keresztények az évszázadok sodrában—Interpretációk egy témára*, edited by Zita Horváth and Dorottya Sz. Halász, 267–281. Miskolc: Miskolci Egyetemi Kiadó.

Lehotay, Veronika. 2016. "A végrehajtó hatalom szerepe a negatív jogalkotásban a Horthy-korszakban." In *A közjogi provizórium (1920-1944) időszakának alkomtányos berendezkedése I*., edited by Gábor Schweitzer and István Szabó, 97–122. Budapest: Pázmány Press.

Lehotay, Veronika. 2018. "The Changing Conditions of Equality: The Anti-Jewish Laws and Centralized Executive Power between 1938 and 1944." *Publicationes Universitatis Miskolcinensis Sectio Juridica et Politica* 36 (1): 7–18.

Lehotay, Veronika. 2020. *A jogszűkítés útján: A Horthy-korszak szabadságjog-megvonó intézkedéseinek jogtörténeti aspektusai különös tekintettel Borsod vármegyére*. Miskolc: Borsod-Abaúj-Zemplén Megyei Levéltár.

Lévai, Jenő. 1946. *Fekete könyv a Magyar zsidóság szenvedéseiről*. Budapest: Officina.

Levin, Zeev. 2014. "From Local to Global: Transformations of Bukharan Jewish Community Organization in the Twentieth Century." *Nationalities Papers* 42 (2): 321–335.

McCagg, W. O., Jr. 1987. "Jews and Peasant in Interwar Hungary." *Nationalities Papers* 15 (1): 90–105.

Molnár, Judit. 2005. *The Holocaust in Hungary: A European Perspective*. Budapest: Balassi Kiadó.

Munkácsi, Ernő. 1947. *Hogyan történt? Adatok és okmányok a magyar zsidóság tragédiájához*. Budapest: Renaissance Kiadó.

Pap, András L. 2015. "Is There a Legal Right to Free Choice of Ethno-Racial Identity? Legal and Political Difficulties in Defining Minority Communities and Membership Boundaries." *Columbia Human Rights Law Review* 46:153–232.

Pap, András L. 2017. "Recognition, Representation and Reproach: New Institutional Arrangements in the Hungarian Multiculturalist Model." In *Beyond International Conditionality: Local Variations of Minority Representation in Central and South-Eastern Europe*, edited by Balázs Vizi, Edgár Dobos, and Norbert Tóth, 101–136. Baden-Baden: Nomos.

Pap, Andras L. 2018. *Democratic Decline in Hungary: Law and Society in an Illiberal Democracy*. New York: Routledge.

Pap, Andras L. 2021. "Conceptualizing and Operationalizing Identity, Race, Ethnicity, and Nationality by Law: An Introduction." *Nationalities Papers* 49 (2): 213–220.

Prevent Genocide International (n.d.). Homepage. http://www.preventgenocide.org/edu/pastgenocides/rwanda/indangamuntu.htm#analysis. (Accessed August 31, 2022.)

Radbruch, Gustav. 2006. "Statutory Lawlessness and Supra-Statutory Law." *Oxford Journal of Legal Studies* 26 (1): 1–11.

Ramos, Carse. 2013. *Transitional Justice, Victimhood and Collective Narrative in Post-Genocide Rwanda*. MA thesis, Central European University. (On file with the Central European Universtiy Library.)

Ránki, Vera. 1999. *The Politics of Inclusion and Exclusion. Jews and Nationalism in Hungary*. New York: Holmes & Meier.

Raspe, Jonathan. 2022. "Soviet National Autonomy in the 1920s: The Dilemmas of Ukraine's Jewish Population." *Nationalities Papers* 50 (5): 1–20.

Sansum, Judit, and Balázs, Dobos. 2020. "Cultural Autonomy in Hungary: Inward or Outward Looking?" *Nationalities Papers* 48 (2): 1–16.

Schweitzer, Gábor. 2005. "Anti-Jewish Laws in Judicature Practice of the Administrative Court." In *The Holocaust in Hungary a European Perspective*, edited by Judit Molnár, 167–179. Budapest: Balassi Kiadó.

Smith, David. 2020. "Introduction to the Special Issue on National Cultural Autonomy in Diverse Political Communities: Practices, Challenges, and Perspectives." *Nationalities Papers* 48 (2): 1–11.

Stergar, Rok, and Tamara Scheer. 2018. "Ethnic Boxes: The Unintended Consequences of Habsburg Bureaucratic Classification." *Nationalities Papers* 46 (4): 575–591.

Szabó, Zoltán, and Ervin Zaboretzky. 1944. *A zsidók és nemzsidók jogállása és jogviszonyai*. Budapest: Stádium Sajtóvállalat Rt.

Teitel, Ruti. 1994. "Paradoxes in the Revolution of the Rule of Law." *Yale Journal of International Law* 19:239.

Taylor, Christopher. 1999. *Sacrifice as Terror: the Rwandan genocide of 1994*. Oxford: Berg.

Vági, Zoltán, László, Csősz, and Gábor, Kádár. 2013. *The Holocaust in Hungary: Evolution of a Genocide*. Plymouth: AltaMira Press.

Ward, J. M. 2002. "People Who Deserve It: Jozef Tiso and the Presidential Exemption." *Nationalities Papers* 30 (4): 571–601.

Wistrich, R. S., 1994. "The Jews and Nationality Conflicts in the Habsburg Lands." *Nationalities Papers* 22 (1): 119–139.

https://doi.org/10.1017/nps.2023.63 Published online by Cambridge University Press

Wynot, E. W. 1987. "The Polish Peasant Movement and the Jews, 1918–39." *Nationalities Papers* 15 (1): 71–89.
Yad Vashem. 2023. "Murder of Hungarian Jewry." https://www.yadvashem.org/holocaust/about/fate-of-jews/hungary.html. (Accessed August 6, 2023.)

Cite this article: Pap, A. L. and Lehotay, V. 2023. Jewish by Law: Legislative Operationalizing of Race and Ethnicity in Holocaust-Era Hungary. *Nationalities Papers*: 1–24, doi:10.1017/nps.2023.63