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## *Fundamental Rights of Citizens in Hungarian Socialist Constitutional Law<sup>1</sup>*

### Abstract

The constitution of the Hungarian People's Republic (Act XX of 1949) entered into force on 20 August 1949, which marks a milestone in the development of the Hungarian state, its legal system and legal life. The Constitution definitively closed the era in the history of the Hungarian constitution which has been called the “millennial constitution.” The first Hungarian socialist constitution was of decisive importance for the development of Hungarian law. It marked a key shift towards a socialist legal system. It provided a strong legal direction for the development of social and state life. The Constitution outlined the state's foundations, including citizens' rights and duties. It also defined the tasks of the legislature, its legislative functions and their essential content. Chapter VIII of the Constitution dealt with the fundamental rights and duties of citizens, which the state guarantees to its working population. The socialist state treated citizens' rights as a subjective right. The state created new forms of legal safeguards for citizens' rights (e.g. people's control of state organs, a system of people's judges in the judiciary). In the Hungarian constitution, there are different groups of citizens' rights: the economic, social and cultural rights of citizens; equal rights of citizens and protection of marriage and family; freedoms of individuals; and finally, citizens' duties. In my study, I will present the system of citizens' rights in the Act XX of 1949 through an analysis of relevant primary sources and legislative material, including a discussion of the main positions in the literature. The aim of this study is to present the codification of the socialist rights of citizens, but it does not attempt to examine their implementation in practice.

**Keywords:** Hungarian socialist constitution, citizens' rights, parliamentary debate, system of citizen's right, Act XX of 1949

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## Introduction

The regulation of citizens' rights and obligations was a key focus in framing the constitution of socialist Hungary, consistently shaped by political responses to the prevailing social conditions of the time. This paper examines the citizens' rights enshrined in Hungary's first codified constitution, Act XX of 1949, which necessitates a brief introduction to the intellectual history behind it. In this section, the work of Hungarian legal scholars (e.g. István Kovács, professor of law and academician in Szeged; Imre Szabó, professor of law; Pál Horváth, legal historian), whose writings are still considered landmark works on the topic, will be presented. If these writings are stripped of the terminology that was obligatory at the time and the demagogic rhetoric imposed by the system, we can uncover ideas of genuine scholarly value – concepts that not only resonate with today's researchers but can also influence the ongoing development of our legal system. The authors of the time wrote books interspersed with socialist ideology so that they could also express and publish their scientifically grounded views. But alongside this, there are the works of constitutional lawyers and legal historians who have evaluated the period in question with the benefit of hindsight.

When examining the socialist era, one of the most important tasks of contemporary legal historians is to find those sources that, stripped of the obligatory ideological veneer, have scholarly value. The focus of this paper is to present the theoretical work of these authors. They understood the importance of the “bourgeois” constitutional development, but they hid it under the surface of the compulsory state ideology; otherwise the system would have expelled it.

Next, the legislative debate of the constitution of the People's Republic of Hungary regulated in Act XX of 1949 will be presented on the basis of the parliamentary diaries, and the minutes of the Council of Ministers will provide a true picture of the will of the legislator. Related archival sources add further depth to the history of codification. The constitution was adopted in two sessions, with almost no debate on the merits, and mostly with legislative praise in line with the ideology of the socialist state.

After this, my paper will discuss the system of citizens' rights and obligations contained in Act X of 1949, i.e. the constitution of the People's Republic of Hungary. The main focus is on the history of regulation through the analysis of relevant primary sources.

The research aims primarily at analysing the sources of constitutional law and legal history, supported by the possibility offered by the teleological method, which is first and foremost realised through the presentation of the legislative intent. These two basic methods serve as the starting point, but, in addition to them, comparative legal analysis is also important as a method for understanding the development of the socialist law in Hungary, especially with regard to the history of the regulation of the system of citizens' rights.

## The evolution of the theory of citizens' rights

The system of citizens' rights and obligations that emerged in the 19th century was in a state of constant evolution, shaped primarily by political, economic and social changes, and the ideologies associated with these changes. Alongside the classical freedoms, a system of economic, social and cultural rights also emerged. Constitutional scholar Barnabás Kiss pointed out that the Marxist conception of rights prioritised economic, social, and cultural rights over freedoms.<sup>2</sup> On February 26, 1848, The Communist Manifesto, edited by Marx and Engels, was published in London, dealing with a number of issues. In it were published the theses which are commonly known as Marxism, with its famous final sentence: "Workers of the world, unite."<sup>3</sup> István Kovács claims that the Communist Manifesto did not attack "fundamental rights and freedoms, but their bourgeois interpretation and practice."<sup>4</sup> Similar ideas are found in the declaration announcing the formation of the First International, officially known as the Working Men's International Association, in 1864, since one of the aims of the struggle for the liberation of the working class is to achieve equal rights and obligations. Even within this framework, the aim was not to abolish rights, but to make them generally applicable. The Paris Commune's 1871 Manifesto to the People of France promised the French people – both *citoyens* and the working class – a comprehensive range of rights, which ultimately "gives credence to an evolving and expanding catalogue of fundamental rights."<sup>5</sup> It promised a comprehensive range of rights, which is essentially the wholeness of fundamental rights for all, behind which not only the bourgeoisie but also the working people are now a real part of political power. Rights appeared as belonging to the working people, but they are also the rights of every single citizen.

On 10 January 1918, the Third All-Russian Congress of Soviets adopted the Declaration on the Rights of the Working and Exploited People, which enshrined the establishment of equal rights, collective rights for workers, and the guarantee of certain classical freedoms.<sup>6</sup> Later that year, on 10 July 1918, the Fifth All-Russian Congress adopted the first Soviet constitution, which "adheres directly to the Declaration on the Rights of the Working and Exploited People." Pál Horváth, professor of legal history at Eötvös University of Budapest, also showed separately that the first Soviet constitution radically transformed the rights of citizens, interpreting them in a different way. The constitution established a system of citizens' rights. The practical realisation of the will of the people must be developed by the competent Soviets, since all central and local powers are constitutionally vested in the Soviets.<sup>7</sup> Attila Horváth highlighted the fact that this constitution already introduced compulsory work, declared the separation of

<sup>2</sup> Kiss, "Az emberi-állampolgári jogok," 71–5.

<sup>3</sup> <https://www.marxists.org/magyar/archive/marx/1848/communist-manifesto/ch04.htm#s4> (accessed: 12.01.2025).

<sup>4</sup> Kovács, "Bevezetés," 13; Horváth, "Az emberi jogok," 205.

<sup>5</sup> Kovács, "Bevezetés," 13.

<sup>6</sup> Horváth, "Kitekintés," 87; Ruzsoly, "Az új orosz alkotmány," 214–20. Kovács, *Az októberi dekrétumok*, 271.

<sup>7</sup> Horváth, "Kitekintés," 107.

Church and state, nationalised schools and made education free, provided freedom of propaganda against religion, nationalised the press, and recognised the right of assembly and association of the working people.<sup>8</sup> In his paper mentioned above, József Ruzsoly, professor of legal history in Szeged, drew attention to the similarities between the provisional constitution adopted by Decree XXVI of the Revolutionary Governing Council on 3 April 1919 and the constitution of the Hungarian Soviet Republic adopted 23 June 1919.<sup>9</sup> The constitution of the Socialist Federative Soviet Republic of Hungary set citizens' rights out in a separate chapter titled "The rights and obligations of workers in the Socialist Federative Soviet Republic of Hungary."<sup>10</sup> The system and the constitution of the Hungarian Soviet Republic represented a complete break with the earlier development of Hungarian law, which was repealed by Act I of 1920 with the restoration of constitutionality.

Kovács noted that the first constitutional measures of the socialist state did not generally establish citizens' rights, but primarily the rights of workers.<sup>11</sup> However, this did not mean a denial of citizens' rights. After the adoption of the first Soviet constitution, the development of fundamental rights and obligations followed two different paths. The Soviet state embarked on the path that led to the general adoption of the rights of the working people, the establishment of socialism, and the emergence and safeguards of economic, social and cultural law. He contrasts this with the "bourgeois" or Western constitutional legal development, which, according to Kovács, tends to lead to the abolition of classical freedoms.<sup>12</sup>

The constitution of 1924 (the USSR was created in 1922) defined the state's organisational structure and regulated the relationship between federal and republican bodies. The constitution of the Union of Soviet Socialist Republics, which came into force on 31 January 1924, did not specifically address human rights.<sup>13</sup>

The 1936 Stalin constitution was drafted under the leadership of Bukharin. While preserving the economic policy establishment, it introduced several changes to the organisation of the state and the guarantee of fundamental citizens' rights. As Kovács wrote,

[i]n this historical situation, when the whole world seemed to be turning against democratic rights and institutions, it was of world historical significance that the Soviet Union, with the adoption of the 1936 constitution, once again put the universal democratic rights and freedoms of all citizens first.<sup>14</sup>

The fight against fascism made it commonplace to seek to develop safeguards for citizens' rights that make it impossible to destroy such rights. The system of legal safeguards led to progress in both the states' internal law and in international law. The need to guarantee rights internationally emerged in the Atlantic Charter of 1941, the UN Charter of 1945, and the Universal Declaration of Human Rights of 1948. Some of the rights of citizens started to become internationalised, leading to the emergence of international legal

<sup>8</sup> Horváth, "Az emberi jogok," 206–7.

<sup>9</sup> Ruzsoly, "Az új orosz alkotmány," 219.

<sup>10</sup> István Szentpéteri was also of a similar opinion. Szentpéteri, "Alkotmányfejlődési," 140.

<sup>11</sup> Kiss, "Reform-törekvések," 42.

<sup>12</sup> Kovács, "Bevezetés," 15.

<sup>13</sup> Horváth, "Az emberi jogok," 207.

<sup>14</sup> Kovács, "Bevezetés," 16.

safeguards, without infringing upon state sovereignty. However, this did not exclude the system of state law safeguards that evolved in the domestic law of states.<sup>15</sup>

In the development of the socialist concept of citizens' rights and obligations, a new direction emerged after the World War II, justified by the rise of a people's democratic version of the socialist state. In the legal development of socialist states, it became a general issue that a differentiated system of legal safeguards needed to be created alongside the so-called material safeguards. Kovács pointed out that the 1936 constitution and subsequent people's democratic constitutions emphasised the general nature of rights and, in regulating guarantees, retained the form of regulation typical of earlier Soviet development, emphasising mainly material guarantees. The system of these legal safeguards is, in his opinion, already established in the development of the constitution, but has not yet reached the level of constitutional regulation.<sup>16</sup> Kovács referred to these as safeguards given to the working people. He attached to civil rights new guarantees that a socialist state based on social ownership of the means of production could give its citizens. There is no detail of the legal guarantees linked to these.

The regulation of classical freedoms in socialist states was closely linked to reforms in the organisation of the state and the development and regulation of independent social organisations and associations. This led primarily to the differentiation of so-called political freedoms and their safeguards. Alongside the development of rights, constitutional rules on the obligations of citizens were increasingly becoming the expression of the relationship between socialist society and its members.<sup>17</sup>

Imre Szabó, professor of law and philosopher of law, stressed that the foundations of citizens' rights and obligations should be sought in the works of Marx and Engels. In his opinion, "the socialist theory of citizens' rights must build on the premise that citizens' rights do not reflect the relationship between man and society as such, nor the relationship between man and the state in the abstract; they must be based on the society organised in the state, and must be seen as the relationship between the state and its citizens, or certain aspects of it."<sup>18</sup> Attila Horváth also stressed that the official ideology of socialism, Marxist-Leninism, is the starting point.<sup>19</sup> According to Szabó, these rights are determined by the economic order of society. In his opinion, the relationship between the state and its citizens is not only solidified in the rights of citizens, but also in their obligations. Szabó argued that the socialist state's relationship to citizens' rights is always an active relationship; i.e. it implies a legal action on the part of the state to implement the rights or to protect their enforcement. Hence, in his view, the nature of citizens' rights was neither exclusively permissive nor prohibitive, but bi-directional; in other words, it defined both the scope of the rights – i.e., the degree of freedom – and the conditions under which they applied. Within such a system of rights, the state's obligation to take positive legal and possibly economic measures to realise the rights and to ensure that they are enforced came to the fore.<sup>20</sup>

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<sup>15</sup> *Ibid.*, 17–8; Tóth, "Az alapvető jogok," 70.

<sup>16</sup> Kovács, "Bevezetés," 19–20.

<sup>17</sup> *Ibid.*, 23.

<sup>18</sup> Szabó, "Az állampolgári jogok," 65.

<sup>19</sup> Horváth, "Az emberi jogok," 205.

<sup>20</sup> Szabó, "Az állampolgári jogok," 71.

## The adoption of the constitution and the regulation of citizens' rights

The political system was completely transformed: the parties were “salami-sliced,” i.e. divided into smaller factions, the Social Democratic Party was dissolved, and in 1948 it was merged into the Hungarian Communist Party, creating the Hungarian Workers' Party (MDP). The Independent Smallholders' Party, the National Peasants' Party, the Independent Hungarian Democratic Party, and the Hungarian Radical Party were forced to unite into the Independence People's Front, of which the Hungarian Workers' Party was also a member. The 1949 elections were a total victory for the People's Front, with the MDP winning the vast majority of seats within the People's Front.<sup>21</sup> After the establishment of the one-party system described above, the adoption of the constitution of the People's Republic of Hungary could begin. In 1948, the Hungarian Workers' Party published a programme statement which set the adoption of the constitution as its goal: “The party considers it necessary to create a constitution for the people's democracy, to regulate the rights and obligations of citizens, the fundamental changes in the state, the economic and social order, and the popular character of the Republic of Hungary by the force of law in a constitution.”<sup>22</sup>

At the 20 May 1949 meeting of the Council of Ministers, the question of the preparation of a constitution was put on the agenda, the aim being to adopt a fundamental law that would record the achievements of the past and promote further development.<sup>23</sup>

The archives of the Hungarian Workers' Party show that the party's secretariat entrusted Endre Szebenyi, Imre Szabó and János Beér with the task of collecting the constitutions necessary for the preparation of the new constitution, for which they were given a one-month deadline.<sup>24</sup>

The members of the Committee for the Preparation of the Constitution were as follows: Mátyás Rákosi, deputy prime minister, was the chairman of the committee, while its members included János Gyöngyösi, general secretary; Ferenc Erdei, state minister; József Bognár, mayor; István Ries, minister of justice; János Beér, head of the ministerial department; József Révai, editor-in-chief; and Ernő Gerő, minister of finance. The Secretariat's proposal was also discussed by the Council of Ministers. The Secretariat entrusted the drafting of the guidelines for the new constitution to János Beér.<sup>25</sup> At the meeting of the Council of Ministers on 5 August 1949, Mátyás Rákosi proposed that the text of the constitution be approved and published in a newspaper, so that the text of the bill could be made known to everyone.<sup>26</sup>

<sup>21</sup> Horváth, “A választójog története,” 181–94; Antal, “Polgári alkotmányosság,” 14.

<sup>22</sup> Beér, *A Magyar Népköztársaság*, 12.

<sup>23</sup> MNL-Mtjvk XIX-A-83-a-00-19490520-1 (minutes no. 289, 20 May 1949) 2.

<sup>24</sup> MNL-MDP (276. f. 54. cs. 30. ö. e. 16 February 1949) Minutes of the meeting of the Secretariat held on 16 February 1949. 4.

<sup>25</sup> MNL-MDP (276. f. 54. cs. 45. ö. e. 25 May 1949) Minutes of the meeting of the Secretariat of the Hungarian Workers' Party, held on 25 May 1949. 6. MNL-Mtjvk XIX-A-83-a-00-19490527-1 (minutes no. 290, 27 May 1949) 4.

<sup>26</sup> MNL-Mtjvk XIX-A-83-a-00-19490805-1 (minutes no. 300, 5 August 1949).

A special committee, composed of László Orbán, István Kristó and Éva Lakatos, was elected to promote the adopted constitution, and they were given one week to prepare and present the draft.<sup>27</sup>

Among the archival materials of the Secretariat is a document prepared for the promotion of the constitution, the purpose of which was to link its adoption with its promotion, since “the constitution should be made known to the broadest working masses, and in this connection, the achievements of our Party, our people’s democracy, the democratic patriotism of the working masses, the deepening of their love for the Party, for Comrade Rákosi, and the raising of their political consciousness.”<sup>28</sup> This document emphasised that the constitution was intended to guarantee the freedoms of workers, their rights, decent living standards, as well as their cultural and educational advancement. This included the right to work, the right to adequate remuneration for work performed, the right to rest and recreation, the right to paid holidays and the right to education. The propaganda text also strove to show that the constitutions of bourgeois countries do not guarantee these rights, that workers in those countries do not enjoy these rights. The constitution would guarantee the right of the peasantry to land and the possibility of advancement through a socialist system of agriculture. It was also to guarantee equal rights for women and men, and to protect the interests of young people. It was considered particularly important to make it clear to the peasantry that they could own land and other property, since property acquired through work was protected by the constitution and inheritance was guaranteed. “[T]he constitution guarantees to workers the widest range of freedoms (such as the freedom of speech, freedom of the press, freedom of assembly, etc.) and provides workers with the material means necessary to exercise these rights.”<sup>29</sup> It was considered important to promote the guarantee of religious freedom especially in villages and among women in particular. It was also mentioned that the constitution provided not only for the rights of citizens but also their obligations. “The constitution not only records the achievements of our people’s democracy thus far, but also provides a foundation for further development, charting the path for the building of socialism.”<sup>30</sup>

## Parliamentary debate on the constitution: Citizenship rights

In this chapter, in the context of the drafting of Act XX of 1949 on the constitution of the People’s Republic of Hungary, I will discuss the information relevant in connection with the rules governing citizens’ rights.

<sup>27</sup> MNL-MDP (276. f. 55. cs. 80. ő. e. 15 July 1949) Minutes of the meeting of the Organising Committee, held on 25 July 1949. 7.

<sup>28</sup> MNL-MDP (276. f. 54. cs. 56. ő. e. 03 August 1949) Agenda for the meeting of the Secretariat to be held on 3 August 1949, at 5 pm. 1. The Organising Committee discussed the proposal of the Agitation Committee already on 1 August 1949. MNL-MDP (276. f. 55. cs. 81. ő. e. 01 August 1949) Minutes of the meeting of the Organising Committee, held on 1 August, 3–4.

<sup>29</sup> MNL-MDP (276. f. 54. cs. 56. ő. e. 3 August 1949) Agenda for the meeting of the Secretariat to be held at 5 pm on 3 August 1949, 2; Kovács, *A burzsoá alkotmányosság*, 211.

<sup>30</sup> MNL-MDP (276. f. 54. cs. 56. ő. e. 3 August 1949) Agenda for the meeting of the Secretariat to be held on 3 August 1949, at 5 pm. 2.

The constitution of the People's Republic of Hungary was debated at the session of the National Assembly convened on 8 June 1949. A bill on the constitution was discussed at the meeting of 17 August 1949. Deputy Prime Minister Mátyás Rákosi, as the rapporteur of the bill, spoke first, emphasising that the Hungarian Independence People's Front had highlighted the adoption of the constitution as its main goal in its declaration, in which it "elevates the great political and social achievements of the Hungarian people to the fundamental law of the people's democracy."<sup>31</sup>

He highlighted in connection with the committee preparing the draft constitution that it had taken into account the following statement by Stalin:

The constitution should not be confused with the programme. While the programme talks about what is not yet done, what is still to be achieved and fought for, the constitution should talk about what is already done, what we have achieved and fought for. The programme is mainly about the future, while the constitution is about the present.<sup>32</sup>

In his speech, Rákosi emphasised that the Hungarian people had no constitution, but now, after the experience of the Socialist Revolution of 1919 and relying on the Soviet Union, the Hungarian people had begun to build socialism. The constitution of the People's Republic of Hungary laid down the principles of socialism.

A people's republic is a state of workers and working peasants, in which all power belongs to the working people. It also follows from the above that Mátyás Rákosi emphasised the following from the rights and obligations of citizens. Work is the basis of the social order in the country, and it is the right and obligation of all able-bodied citizens, and a matter of honour, to work to the best of their ability. "Together with these rights, the People's Republic of Hungary shall guarantee its citizens the right to work, rest, recreation, as well as education and culture. It protects the health of workers and supports them in the event of incapacity for work."<sup>33</sup>

Rákosi emphasised the part of the draft constitution that guarantees education in the mother tongue and the possibility of cultivating national culture for all national minorities living in the territory of the country. The constitution, in his opinion, guarantees freedoms for all workers in the country and gives asylum to foreign citizens who are "persecuted for their democratic conduct or for their activities in the cause of the liberation of peoples."<sup>34</sup>

The draft constitution is based on the fundamental principle of the equality of all nations and races, and that all nations and races should enjoy equal rights in social and state affairs. Regarding the equality of citizens, Rákosi admitted that this principle could also be found in Western constitutions as equality before the law, "but we all know that when it comes to the exercise of rights, the poor are not equal to the rich, the capitalist employer is not equal to the worker, the educated man is not equal to the uneducated."<sup>35</sup> The

<sup>31</sup> Országgyűlési Napló, 166. The MDP included the preparation and adoption of a constitution in its programme in the summer of 1948. Trócsányi, "Az alkotmányozás elvi kérdései," 171.

<sup>32</sup> Országgyűlési Napló, 167.

<sup>33</sup> *Ibid.*, 171. The Labour Code (Decree-Law 7 of 1951) regulated the content of employment relationships. The foundations of social security were first laid down in Decree-Law 36 of 1950. Beér, *A Magyar Népköztársaság*, 166–9.

<sup>34</sup> Országgyűlési Napló, 171; Beér, *A Magyar Népköztársaság*, 170–1.

<sup>35</sup> Országgyűlési Napló, 172; Beér, *A Magyar Népköztársaság*, 170–1.

draft constitution, in his view, not only ensured the equality of rights but also established the economic preconditions for the exercise of those rights, enabling citizens to make full use of them. He also stressed that men and women have equal rights and that the draft constitution safeguards the interests of the youth, with particular emphasis on their development and education. “Here too, our democracy strives to ensure that the written law does not just remain words on paper, but is put into practice, that it is translated into life. That is why our draft constitution devotes specific paragraphs to protecting equal rights for women and young people.”<sup>36</sup> In his opinion, Western bourgeois democracies “preach water and drink wine,” as the rights they proclaim exist only on paper. In people’s democracies, words and deeds go hand in hand, and this is what the draft constitution was also intended to ensure.

Rákosi then stressed that the draft constitution recognised and protected the ownership of property acquired through work and guaranteed the right of inheritance. “This part of our draft constitution underlines once again that the working man and woman has nothing to fear from socialism. On the contrary, the constitution guarantees their ownership of property acquired through work or inheritance.”<sup>37</sup>

The draft constitution guaranteed citizens’ freedom of religion by proposing the separation of church and state. According to Rákosi, this is not a socialist demand, but a freedom already achieved in most countries. In his opinion, the constitutional draft aimed to affirm a long-established state of affairs by enshrining this freedom. “In the Hungarian democracy, no one has ever been persecuted for their religious beliefs or practices. This has been the case in the past and must remain so in the future. But democracy has successfully defended itself against those who tried to undermine it under the cloak of the Church, and we will continue to resist such attempts also in the future.”<sup>38</sup>

Finally, Rákosi mentioned that the draft constitution protects the institution of marriage and the family. Socialism will not abolish the institution of marriage and the family but will in fact protect it. The material and cultural empowerment of working people was also evident here. “War casualties led to a sharp decline in the male population, yet the number of new marriages was high.” He also pointed out that the “pernicious, seemingly incurable disease of the Hungarian people is having only one child – an issue on which entire libraries have been written in the past decades, and which, thanks to our cultural achievements, has been magically eliminated.”<sup>39</sup>

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<sup>36</sup> Országgyűlési Napló, 173.

<sup>37</sup> *Ibid.* The constitution stipulated that the means of production should be under state ownership. Act VI of 1945 mandated the division of large farms. Act XIII of 1946 provided for the nationalisation of coal mining. Act XX of 1946 transferred the ownership of power plants and electric transmission lines to the state. Act XXX of 1947 provided for the nationalisation of banks. Act XIII of 1948 declared the nationalisation of bauxite mining. Act XXV of 1948 provided for the nationalisation of factories with more than 100 workers. This process continued following the adoption of the Constitution. The principles governing cooperatives were laid down in Act XI of 1947 on Cooperatives. Beér, *A Magyar Népköztársaság*, 52, 56.

<sup>38</sup> Országgyűlési Napló, 173. Act I of 1951 established the Office of State and Church Affairs for the implementation of agreements between the state and religious denominations; Beér, *A Magyar Népköztársaság*, 173; Köbel, *A politikai szabadságjogok*, 92.

<sup>39</sup> Országgyűlési Napló, 174. Act IV of 1952 regulated family law relations in accordance with the provisions of the constitution; Beér, *A Magyar Népköztársaság*, 171–2.

This was followed by a speech by Géza Losonczy, MP, who quoted the following lines from Sándor Petőfi's poem "To the National Assembly:" "You must also create a homeland! A new homeland, more beautiful than the old and more durable. A new homeland, with no great towers of privilege, no dark caves, no bat colonies. A new homeland, where the sun and clean air will reach every corner, so that every man may see and be whole."<sup>40</sup> He mentioned the following rights from the draft constitution. The constitution will guarantee freedom of expression, freedom of the press and the right of assembly, with the state providing the necessary means to enforce these rights. The press cannot be a private enterprise for profit, and the printing presses have been nationalized and constitute the state property owned by the people's democracy, held by workers. He also emphasised that the draft constitution ensures that citizens of the People's Republic of Hungary are equal before the law and all enjoy equal rights.<sup>41</sup>

Ernő Mihályfi, MP, then stressed in his speech that the basis of social order is work, and with a view to this the draft constitution guarantees the right to work for citizens of the People's Republic, as well as remuneration appropriate to the quality and quantity of the work performed. In his opinion, those who wanted to work would be guaranteed employment, which meant that unemployment was not a threat to the people. "The serenity, the blissful calm that illuminates the life of Soviet society and distinguishes it from capitalist society, along with the total absence of fear in life, will also be created for us by this constitution."<sup>42</sup> The constitution guarantees workers not only the right to work, but also the right to rest, recreation and education, equality before the law, and eliminates all discrimination based on sex, religion and national minority status. Men and women are granted equal rights. A constitutional provision ensures the protection of the legal institution of marriage and the family, as well as the protection of young people. The right to education and academic endeavours is also included in the constitution. Further, the constitution also guarantees freedom of the press and freedom of expression. The member of parliament stated that the People's Republic of Hungary had already given the printing presses and newspapers into the ownership of the people. Citizens' freedom of conscience and freedom of worship are also ensured by the constitution, with the most important guarantee, in his view, being the separation of Church and state. "The State, with the utmost loyalty and care towards the churches, has already ensured in advance that this separation will not cause any disruption in the financial life of the churches, which, by entering into an agreement with the state in this respect, will help maintain it for decades to come."<sup>43</sup>

Afterwards, László Nánási, MP, also stressed in his speech that the new constitution gives every citizen the widest rights to work and the right to be paid for the work done, as well as to rest, education and culture. He also stressed the equality of women and men and the separation of Church and state. By separating Church and state, citizens are provided an opportunity to exercise their freedom of conscience to the fullest extent possible. "It is natural that our constitution should provide for the fullest range of freedoms

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<sup>40</sup> Országgyűlési Napló, 181.

<sup>41</sup> *Ibid.*, 183. Beér, *A Magyar Népköztársaság*, 174; Horváth, *A magyar sajtó*, 33–47.

<sup>42</sup> Országgyűlési Napló, 188.

<sup>43</sup> *Ibid.*, 190.

for the citizens of the country and that the People's Republic of Hungary should rely on the masses of self-conscious workers to carry out its tasks."<sup>44</sup>

István Balogh, MP, was of a similar opinion regarding the guarantee of citizens' rights. He pointed out that the constitution recognises and guarantees the right of the working peasants to land and that it protects property acquired through work, "while stating that private property and private initiative must not be detrimental to the public interest."<sup>45</sup> The constitution guaranteed the right of inheritance, provided it did not conflict with the public interest. The ownership rights of every Hungarian citizen over honestly acquired property were guaranteed. He also stressed that every able-bodied citizen had not only the right but also the obligation to work according to his or her abilities. The constitution guaranteed citizens the right to freedom of speech, press and assembly; personal freedom and its inviolability, as well as respect for the privacy of mail and private residence, and all are pillars of the constitution.<sup>46</sup> Finally, he also saw the separation of Church and state as a guarantee of the freedom of conscience and religion, and urged citizens to fulfil their obligations conscientiously.

This concluded the first day of the debate on the draft constitution, which was continued and completed at the 11th session, held on 18 August 1949. The first speaker was Ferenc Harrer, MP, who also highlighted the guarantee of private property in his speech. Private property could not, in his view, be detrimental to the public interest. The constitution also specifically recognised the right of working peasants to land and property acquired by labour, as well as the right to inherit such property. "The People's Republic of Hungary grants its citizens a wide range of freedoms; some of these, however, are quite rightfully reserved for the interests of workers."<sup>47</sup> He also considered the separation of Church and state an important achievement and highlighted this in his speech. In Harrer's opinion, religious freedom could only really be achieved by this.

The constitution belongs to the working people, the next speaker, Pál Víg, MP, declared. The constitution guarantees the rights of the working people, including the right to rest and recreation, and protects the health of the people and helps workers in the event of incapacity. The constitution also guaranteed the right to education and learning for the working peasantry. In Víg's view, these rights were no longer just theoretical. "But the constitution of the People's Republic of Hungary is not just a victory and a celebration for us. We have to work hard and we will make the sacrifices along the way, because we are shaping our own destiny and making our children's future safer and happier."<sup>48</sup>

The only female contributor to the debate was Mrs. János Kókai, MP, who, as a working peasant, highlighted the issue of equality between men and women. The constitution effectively ensured that women enjoy rights that are equal with those of men in all areas. Women would receive all the help they need to claim these rights, since they were in a difficult position due to the fact that in addition to working, they are also mothers.

As our eyes began to open, we understood what the people's democracy meant for workers, for working women, and we got to work. We, working peasant women, often pulled the plough and

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<sup>44</sup> *Ibid.*, 196.

<sup>45</sup> *Ibid.*, 200.

<sup>46</sup> Beér, *A Magyar Népköztársaság*, 173–4.

<sup>47</sup> Országgyűlési Napló, 207.

<sup>48</sup> *Ibid.*, 214.

the harrow ourselves so that we could provide bread not only for our families and comrades in the countryside, but also for the workers in the cities.<sup>49</sup>

In her opinion, the most important part of the constitution was the guarantee of equality.

In the next contribution, József Seregélyi, MP, emphasised that the constitution ensured work and appropriate remuneration, as well as opportunities for education and land ownership.<sup>50</sup>

In his speech, István Ruzsnyák touched on an issue that the other speakers before him had not addressed. The constitution guaranteed academic research in the interests of the working people and supported, by all available means, the training of intellectuals loyal to the system. In his opinion, “the organisation of academic work lies first and foremost in the training of scholars and scientists.”<sup>51</sup> He considered it important to increase the amount of funding for such activities. In this respect, a decisive change occurred in 1949 when the Research Council was established under the leadership of Ernő Gerő, minister of state, enabling 3,600 people to carry out research “without any worries.” Support was provided for research in the interests of the working people, and a number of research institutes were established. “Some scientists have expressed concerns about the structured, centrally planned approach to research. They felt as though they were conducting research under a directive, with limited freedom to choose their own topics.”<sup>52</sup> In Ruzsnyák’s opinion, this was not the case: “Our researchers must also be educated in a Marxist-Leninist spirit, their knowledge must be deepened in this respect, so that they view not central planning as an obstacle, but as an organising force that will enhance the results of their research.”<sup>53</sup> He therefore considered it necessary to strengthen links with research institutions in the Soviet Union. Finally, he pointed out in general that there were health protection measures in the constitution, which were realised through the right to rest and recreation.

The next speaker, Béla Szalai, MP, praised the provisions of the constitution on behalf of the Hungarian youth. In his view, the constitution’s provisions protecting this demographic were important because young people were previously completely excluded from exercising their rights as citizens. “The draft constitution of the Hungarian People’s Republic does not forget about the youth. This is true not only in the articles that specifically guarantee the rights of young people, but throughout the constitution, there is a whole series of provisions aimed at making the lives of Hungarian youth more beautiful and fulfilling.”<sup>54</sup> He stressed that the constitution also takes young people into account when it comes to their right to work and their right to rest and recreation. In this context, he also pointed out that thousands of young workers spend their holidays at holiday homes around Lake Balaton. The constitution guaranteed young people the right to culture and education. The state provided scholarships for young people, mainly to enable them to study in the Soviet Union.

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<sup>49</sup> *Ibid.*, 215.

<sup>50</sup> *Ibid.*, 219.

<sup>51</sup> *Ibid.*, 222.

<sup>52</sup> *Ibid.*, 223.

<sup>53</sup> *Ibid.*

<sup>54</sup> *Ibid.*, 228. The speeches were concluded by Pál Ilku, who did not mention the praise of fundamental rights in his speech. *Ibid.*, 230–5.

There were no further contributions to the debate. Speaker Imre Molnár ordered a vote on the committee's draft of the constitution, and the National Assembly unanimously passed it. This was followed by the "detailed debate." Piroska Szabó, MP, parliamentary secretary, read out the text of the bill. There were no further comments, and the National Assembly unanimously adopted the text of the constitution.<sup>55</sup>

## The system of citizens' rights and obligations

The nature of citizens' rights was considered uniform throughout the socialist state and each was accompanied by state action to enforce them. In his paper, Imre Szabó referred to them all as subjective rights; they were not separate rights and freedoms.<sup>56</sup> However, Szabó also emphasised that citizens' rights were classified according to legal subjects, based on whether the rights were held by individuals or specific groups. This classification formed the basis for distinguishing between individual and collective rights. In his opinion, however, the classification of citizens' rights should be based on the distinction between material and non-material social relations, meaning that political rights must be separated from economic rights. In Szabó's opinion, socialist theory did not project economic rights as human rights before or above the state, but considered them as state rights, i.e. as rights of a political nature. By taking the means of production into state ownership, a new type of economic and related social and cultural rights emerged.

This change has been accompanied by a fundamental transformation of the socio-political organisation, which has resulted in a new type of political citizenship rights. [...] citizens' rights [...] are expressed as the rights of the members of a society organised into a state. Their unitary character as citizens' rights will be evident, and their grouping will fall within this category.<sup>57</sup>

Citizens' rights in the socialist legal system could be grouped as follows. Rights directly linked to socialist production conditions: economic, social and cultural rights; and citizens' rights of a political nature: equality before the law, rights guaranteeing the social and political collective action of citizens, individual citizens' rights.<sup>58</sup>

It is not the purpose of this study to provide a detailed description of the obligations of citizens, but I feel it necessary to mention in this context that the grouping of citizens'

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<sup>55</sup> *Ibid.*, 236. Without being exhaustive, the main rules were the following. Primary schools and compulsory education were governed by Decree-Law 15 of 1951. Grammar schools were regulated in Decree-Law 14 of 1951; Technical colleges in Decree-Law 37 and 38 of 1955, and later in Decree-Law 10 of 1956; Teacher training colleges in Decree-Law 21 of 1950; Universities in Decree-Law 25 of 1951; Museums and the protection of monuments in Decree Law 13 of 1949; For in Decree-Law 29 of 1950; Libraries in Decree-Law 5 of 1956; Academic degrees in Decree-Law 44 of 1950. Provisions concerning the Hungarian Academy of Sciences were included in Act XXVII of 1949. Beér, *A Magyar Népköztársaság*, 168–9.

<sup>56</sup> Szabó, "Az állampolgári jogok," 82.

<sup>57</sup> Imre Szabó also admitted, however, that in socialist theory the duality of economic and political rights is similar to the duality of human and civil rights in capitalist states. Human rights can also be found in socialist law, namely within the scope of international law. Szabó, "Az állampolgári jogok," 83; Horváth, "Az emberi jogok," 205–22; Szabó, *Jogelmélet*, 145–58; Horváth, *A szovjet*, 281–533.

<sup>58</sup> Szabó, "Az állampolgári jogok," 87–8.

rights described above is the starting point for the grouping of obligations. “The obligations of the citizens of the socialist state can be expressed in the most general terms as the obligation to defend the socialist social, economic, and political order.”<sup>59</sup> Citizens’ obligations can be grouped as follows. (1) Obligations connected with the economic order of the socialist society: the obligation to protect socialist relations of production and social property; the obligation to work; the obligation to maintain discipline at work; the obligation of citizens to acquire an adequate general education and professional training. (2) Obligations related to the socialist social-political system include: the obligation to observe the laws and regulations of the socialist state and to comply with the socialist rules of social coexistence; the obligation to participate in public affairs; and the obligation to defend the socialist homeland.<sup>60</sup>

### The evaluation of socialist citizens’ rights

The regulation of citizens’ rights and their enshrinement in the constitution of the People’s Republic of Hungary were fundamentally based on the Soviet ideology of the time. Attila Horváth, a legal historian, is of the opinion that “the text of the constitution is largely propaganda material that is largely impossible to interpret in legal terms.”<sup>61</sup> Most of the rules could not actually be implemented, since many of the concepts used are difficult to define in the language of law (e.g. “fights against every form of exploitation of man” in Art. 3). A significant part of the constitution, while meeting the formal requirements typically applied to legal regulations, was never implemented in practice. Such was the case, for example, with the right of the free exercise of religion, guaranteed in Art. 54. The Hungarian party leadership did not seriously intend to regulate freedoms, particularly human rights, through separate legislation.<sup>62</sup> As Horváth stated, “these articles of the constitution served only a declarative function; they had no real normative content.”<sup>63</sup> Nor did the constitution provide that these rights could not be limited by law. The constitution granted these rights only to the working people but did not define the concept of the working people. Also, while these rights were guaranteed in the interests of the working people, it is not defined what the interests of the working people were. The constitution uses the term “citizens’ rights” in accordance with the Soviet model. “Accordingly, the state can both bestow subjective rights upon citizens and revoke them, with no institutional constraints. As a result, these rights were neither inviolable nor inalienable human rights.”<sup>64</sup> The socialist state is based on the unity of power, abolishing the classical separation of powers and removing any possibility of guaranteeing human rights. According to Horváth, socialist legal theory solved the problem in the following way. In a people’s democracy, there is no conflict between the citizen and the state be-

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<sup>59</sup> *Ibid.*, 90.

<sup>60</sup> *Ibid.*

<sup>61</sup> Horváth, “Az emberi jogok,” 207.

<sup>62</sup> A law on the press was also only passed in 1986. *Ibid.*, 208.

<sup>63</sup> *Ibid.*

<sup>64</sup> *Ibid.*

cause the people govern. The regulation of citizens' rights is primarily a political issue and only secondarily a legal one.<sup>65</sup> Barnabás Kiss also stressed in his study that legal guarantees were relegated to the background, as the constitution was primarily aimed at providing political guarantees. Citizens' rights were not, in his view, enshrined as a freedom, but rather as the rights of the working people. "Political liberties were not 'freedoms' but rights granted by the state, with no guarantees for their individual exercise. Citizens could only enjoy a significant part of these rights as members of a defined (socialist) collective."<sup>66</sup> According to Kiss, the catalogue of rights was much more modest than the international catalogue of the same rights or the rights guaranteed by the constitutions of bourgeois countries. Economic, social and cultural rights are associated with programmatic norms. He considered it important to point out that "in the case of essentially all fundamental rights, it was possible to restrict them on the grounds of 'social order', 'public interest', etc."<sup>67</sup>

## Summary

The 1949 constitution of the People's Republic of Hungary was necessarily concerned with defining the nature of the state, its structure and functioning, as well as the rights and obligations of citizens. The constitution contained a long list of citizens' rights, "formally guaranteed, but in reality of little or no consequence, with the legislature routinely eroding the rights declared."<sup>68</sup>

The 1949 constitution was subsequently amended on many occasions, with the constitutional amendment promulgated by Act XXXI of 1989, on 23 October 1989, effecting a complete overhaul.<sup>69</sup>

The Hungarian constitution of 1949 followed the 1936 Stalin constitution in every respect, marking Hungary's departure from a parliamentary social order and disrupting the continuity of law. The principle of power concentration replaced the separation of powers, and the principle of socialist legality replaced the rule of law. The constitution basically reflected the political programme of the state party. Citizens' rights have been put into practice.<sup>70</sup>

The order of citizens' rights was intended to emphasise that economic, cultural and social rights were given priority as prerequisites for the realisation of other rights of citizens. Socialist constitutional law treated citizens' rights as subjective rights and, in principle, created guarantees for them, while also seeking to ensure the protection of legality and citizens' rights by altering the system of judicial bodies.<sup>71</sup>

<sup>65</sup> *Ibid.*, 209.

<sup>66</sup> Kiss, "Az emberi-állampolgári jogok," 60–75.

<sup>67</sup> *Ibid.*, 60.

<sup>68</sup> Paczolay, "Hagyományos elemek," 101.

<sup>69</sup> Ruszoly, "Alkotmány és hagyomány," 114.

<sup>70</sup> Trócsányi, "Az alkotmányozás elvi kérdései," 171.

<sup>71</sup> Beér, *A Magyar Népköztársaság*, 163–5.

In practice, the will of the state prevailed in this area, which completely bypassed the classical form of constitutionalism. This constitution enshrined citizens' rights and formally guaranteed them in principle, the exercise or non-exercise of which was a matter of political will. It basically guaranteed these rights to the working people, thereby proclaiming the equality of citizens, but in reality it was discrimination. In fact, the constitution recognised rights, but did not protect them for all citizens. The provisions of the constitution can be defined as a political programme rather than as a legal document whose guarantee remained a matter of principle.

László Trócsányi, constitutional lawyer, agreed with a statement by his academic mentor, Kovács, academician, which – in my opinion – also reflects his assessment of the 1949 constitution-making process: “It is well known that the 1949 constitution of the People’s Republic of Hungary entered into force on St. Stephen’s Day. However, at the stage of the transition to socialism, the promulgation of the new constitution on the day commemorating Hungary’s first king did not signify a renewal or continuation of the historical path of the thousand-year-old Hungarian statehood. On the contrary, it represented a turning away from the historical past, a radical break with it.”<sup>72</sup>

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<sup>72</sup> Kovács, “Bevezető,” 26; Trócsányi, “Az alkotmányozás elvi kérdései,” 171.

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