Testaments and Testimonies. Orality and Literacy in Composing Last Wills in Late Medieval Hungary

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The development and regulation of testamentary practice

"In namen des herrn amen. Hienach ist vermergkt mein, Agnesen, Mathis Kogel gelassen wittiben geschefft und letster will, So ich in peÿwesen der erberen menner mit namen Sigmund Mawrach, Hansen Plangken und Mathes Pallner mundtlich verordent und awßgesprochen mit beger, das dergestalt auffgeschriben, verfertigt vnd nach meinem ableÿben durch gemelt mein gescheffiger vollaist beweyst vnd sonst von menigklich allso gehallten werdt." Thus runs the introductory formula of the last will made by Agnes, widow of Mathes Kogel, citizen of Bratislava (Pozsony, Preßburg) on 23 September, 1520.[1] In using these expressions, she followed a tradition which had been prevalent for more than a century in her home town, and even longer in other towns of Europe, and among other groups of medieval society.

Late medieval testamentary practice was the result of a gradual development of several legal systems which were made to fit the needs and interests of various social groups, and therefore often contradicted each other. The significance of this process from our point of view is that from a very early phase, orality and literacy were both present in making wills, but even if the role of literacy increased, it never became exclusive. Oral forms and practices were maintained in the formulation and execution of last wills up to our times. Therefore, testaments can provide a good example for investigating the coexistence and combined use of oral and written communication in a situation which was extreme and inevitable for the individual – the testator, and crucial for the community – the survivors.

Some questions to be asked in this context can be formulated as follows: What was the role of literacy and in which fields or ways did it replace the oral transmission of dispositions? Was there any difference between the probative value of oral and written testimonies or instructions? Whose interest did it serve to put the wills in writing? As in most medieval topics, the scope of our research is limited by the fact that practically all our knowledge about orality comes from

[1] Archiv mesta Bratislavy, Protocollum Testamentorum I. B 4n-1, also available in the photocopy collection of the National Archives of Hungary, DF 277056 (henceforth: PT), fol. 397v.

written sources: hints, references or "irregular" details of formulation, although more recent comparative material, especially concerning rural wills, may provide more direct evidence. The primary area of investigation of this article is the medieval kingdom of Hungary, but the general remarks apply to a wider region of Central Europe.

The development of medieval and modern testaments has been analyzed by legal historians in a variety of ways since the end of the nineteenth century.[2] In the last few decades, social historians and anthropologists have contributed to the research from their points of view.[3] Instead of recapitulating the results achieved so far, I would here only like to point out those elements of the testamentary practice which are connected to the role of orality.

The most archaic element of any medieval legal system was common law. In its original form (of which we have only indirect evidence) it was fully based on oral actions and settled the conflicts within the community without written codebooks. This applied to the inheritance customs as well, where the ties of lineage were the principal regulating forces in redistributing movable and immovable property of the deceased, who had little say in questions concerning the time after their death. The loosening of tribal and family ties, however, made it necessary to provide guidelines for cases when the traditional system of inheritance did not apply or was insufficient.[4]

The first model was provided by Roman law, in which the expression "testament" also originated. But apart from the word itself, medieval wills had very little in common with their Roman counterparts, since they did not nominate one general heir for the whole property, but listed selected items that were bequeathed to various persons. The influence of canon law on the system of medieval bequests

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[2] On the legal development see Paul Baur, *Testament und Bürgerschaft. Alltagsleben und Sachkultur im spätmittelalterlichen Konstanz*, (Konstanzer Geschichts- und Rechtsquellen, 31) (Sigmaringen: Thorbecke, 1989), pp. 11-13, with the older German literature. On medieval Hungary see Katalin Szende, "A magyarországi városi végrendeletek helye az európai joggyakorlatban. Sopron, Pozsony és Eperjes példája" (The place of testaments from Hungarian towns in the European legal practice. The examples of Sopron, Bratislava, and Prešov), *Soproni Szemle*, 53 (1999), pp. 343-356, also with references to some other Central European countries.

[3] For an overview of the literature on wills see e.g. Mária Lupescu Makó, "'Item lego...' Gifts for the Soul in Late Medieval Transylvania," *Annual of Medieval Studies at CEU*, 7 (2001), pp. 161-185, esp. notes on pp. 162-164.

[4] The following assumptions are based on my PhD dissertation "Otthon a városban. Urbanizáció, társadalom és mindennapi élet a késö-középkori Sopronban és Pozsonyban," (At home in town. Urbanisation, society, and everyday life in late medieval Sopron and Bratislava), Eötvös Loránd University, Budapest, 2000 (to be published in 2001). Questions of orality are not discussed specifically in that work. For a more detailed overview on the legal development in English see K. Szende, "From Mother to Daughter, from Father to Son? Intergenerational Patterns of Bequeathing Movables in Late Medieval Bratislava," *Annual of Medieval Studies at CEU*, 7 (2001), pp. 209-232, esp. pp. 210-216.

was more decisive because the Church claimed authority over legal matters concerning birth, marriage, and death. Also, since Hungary was outside the territory of the Holy Roman Empire, it was canon law, rather than Roman law that could transmit the influences of European legal development.

The third most important element in the development of wills was town laws which evolved from the privileges granted by the king or other landlords and the customary law of the community. The latter was often based on the rights of the native or foreign settlers who constituted the population of a given community. Their autonomy was emphasized by, among other things, the freedom to make their own wills. In Hungary, the most important towns, which formed the basis of the urban network of the country, got their privileges during the thirteenth century. In the next phase of their legal development, around 1440, a codex of the so-called tavernical law (the law of the seven free royal towns used at their common court lead by the *magister tavernicalis*) was compiled, which, among other issues, contained regulations of testamentary practice.[5] The codification of the common law of the country by the jurist Stephan Werbőczy in 1517 also devoted some paragraphs to the consequences of making or not making wills,[6] and the conditions were also treated in the synodal decrees, among which the decrees of the Veszprém diocese represent an example from the beginning of the sixteenth century.[7] The spread of literacy for noting down legal regulations was parallel to the more frequent use of writing in the legal actions to which these laws referred.

Once they had adapted the custom of making formalized wills, the common point of the legal systems was what is also emphasized by the etymology of the Latin (and consequently, the English) word *testamentum* or testament: something that is testified. What, how, and, not least, by whom it was testified was already subject to different requirements and involved the extensive use of orality. The expressions denoting various phases of making a will also often referred to originally oral actions, even if we come across only their written manifestations: *mundtlich verordent und awßgesprochen, zu zeugen gerueffi/gepeten, (an) widersprechen/widerred,* and so on.

What did these expressions really refer to? What happened by the testator's bedside? Did the standardized and formulaic legal texts provide a chance to ex-

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[5] *Codex authenticus iuris tavernicalis*, ed. Martinus Georgius Kovachich (Buda, 1803), pp. 221-235; see also Štefánia Mertanová, *Ius tavernicale. Studie o procese formovania práva tavernických miest v etapach vývoja tavernického súdu v Uhorsku* (Studies on the process of legal development of tavernical towns in the period of the formation of the tavernical court in Hungary) (Bratislava: Tatran, 1985).

[6] István Werböczy, *Tripartitum opus iuris consuetudinarii inclyti regni Hungariae*, eds. S. Kolosvári and K. Óvári (Budapest: n. p., 1990; reprint of the edition and translation published in the series *Corpus Iuris Hungarici* (Budapest: Franklin, 1897), see e.g. Part I Titles 114, 119., Part II Title 52, Part III Title 30).

[7] László Solymosi (ed.), *A veszprémi egyház 1515. évi zsinati határozatai* (The synodal descrees of the Veszprém diocese from 1515) (Budapest, 1997), esp. pp. 91-94.

press personal choices? This is what we shall try to trace first, mainly on the basis of urban wills from Late Medieval Hungary, then extending our analysis to other social strata in the same period.

The act of making a will

Legal regulations were precise in describing the conditions of making wills, defining who was entitled to make an authentic will, when, how, and in front of whom.[8] However, real life produced more varied circumstances than foreseen in the laws and the authorities implementing the laws usually showed greater flexibility than those who had made them. The testaments themselves often give insight into the procedure which took place in the presence of the testator. Wills in medieval Hungary were usually composed only shortly before the testator's death, or in some few cases in critical situations or before risky enterprises like going on a pilgrimage, giving birth, or joining a military campaign. The last of these instances was the most frequent. For example, several noblemen made their wills in August, 1526, before the fatal battle of Mohács. Otherwise it was not usual to formulate a will at a certain age or stage of life, several years before one's death, without any special reason, as e.g. the most prominent citizens of Douai consciously arranged everything well before their death, entering their wills into a special protocol set up by the local council.[9]

In Hungary, especially in the urban context, significant time-gaps between the date of a will and the death of the testator can only be observed when the testator recovered or returned safely from a dangerous voyage, but then the original wills were usually annulled. The most typical scene of making a will, therefore, was on one's sick- or deathbed. As the parallel datings from urban protocols indicate *(datum des Geschefts – actum des Einschreiben)*, wills were entered into the relevant town-book shortly after their composition, usually only some weeks or months later.

If we try to imagine the scene of making a will as it was depicted in some illustrations of late medieval manuscripts,[10] we can usually assume the presence of the following persons: the testator, family members, sometimes listed by name,[11] a

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[8] One of the most detailed examples from Central Europe is Alexander Gál (ed.), *Die Summa legum brevis, levis et utilis des sogenannten Dr. Raymundus von Wiener Neustadt* (Weimar: Böhlau, 1926), esp. ch. XLIV ff.

[9] Martha C. Howell, "Fixing Movables: Gifts by Testament in Late Medieval Douai," *Past and Present* 150 (1996), pp. 3-45, esp. pp. 8-9.

[10] See e.g. Österreichische Nationalbibliothek, Hs. 2773, fol. 97v and Hs. 3085, fol. 40r, reproduced in Harry Kühnel (ed.), *Alltag im Spätmittelalter*, 3rd ed. (Graz, Vienna, and Cologne: Styria, 1986), figs. 159 and 160 (pp. 135 and 137).

[11] This was important when the testator and the witnesses wanted to emphasize that none of them disputed the will, e.g. in Elzbeth, Erhart Stabin's will (27.10.1434): "... do bey gegenwurtiklich gewesen sint Hanns Bakahwtel mein pruder und Agles mein swester und vnß dreyer ge-

priest (the parish priest or the testator's confessor), two or more witnesses, the executors of the will,[12] and sometimes a scribe. Most of these people were not only passive spectators, but took part, mainly through their words, in the act of making the will. In an exceptionally dramatized case we can read about the whole scene when the testator sent out his father-in-law (otherwise his main heir) to have some words with his wife in private.[13] The explanation for the unusually detailed quotation of the conversation is probably that the testator and the witnesses (who of course stayed in the room during the whole scene) wanted to put a special emphasis on the wife's promise and the father-in-law's obligation to support her and her son. In another case[14] it was noted that the testator's brother arrived the day after his sister had made her will, but while she was still alive, and talked to the future executors *(Gescheffisherren)* of the will and expressed his consent. Here

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swistrait mueter, die alt Bakahwtlin, und die meiner orderung und geschaftes kein widersprechen nicht haben getan, des wigen meines geschaftes und guetes." (PT fol. 13r).

[12] The executors were usually different from the witnesses, as it is clear from e.g., the Buda town law (c. 309. "Von den geschefft herren..."). This paragraph obliges the executors to be present at the making of the will, but as far as we can judge from the wills, this order was not always followed. See Karl Mollay, *Das Ofner Stadtrecht. Eine deutschsprachige Rechtssammlung aus dem XV. Jahrhundert* (Budapest: Akadémiai and Weimar: Böhlau, 1959), pp. 161-162. According to Howell, "Fixing Movables" p. 36, note 68, in Douai the executors also served as witnesses.

[13] Niclas Gutgesell's will (21.12.1436.) "Item so sprach der Guttgesell zu seinem swëher dem Lachutlein und pat in er solt hin auz trëten, er wolt sich mit seiner hawsfrawen bereden, und auch mit den gescheftheren also trat der Lachutlein hin awz, do das geschach also.
Item do er sich nu hett besprochen mit seiner hawsfrawen und auch mit den geschaftherren, do hies er seinen sweher wider hin ein treten, also sprach der Gutgesell zu seiner hawsfrawen Walpurg, ob sy das wolt willig und und gehorsam sein, was er dann schuff. Do sprach sy, sy wolt des geschefts als willig und gehorsam sein, an alle wider rëd, und das alles stët zu haben. Also sprach aber der Gutgesell, Gib meinem sweher deinem vater und den gescheftherren des dein trew, das du das alles stët habst, das tët sy und gab irem vater dem Lachutlein und den gescheftherren ir trew alles, das stet zu haben, das da vor und hernach geschriben stët.
Item also sprache der Gutgesell, leber sweher, so schaff ich euch all mein gut, das ich hab, und emphilh euch wider ewr tochter und mein sun auf ewr trew, als unser herr dem lieben Sannd Johanns sein liebe mutter emphalch, als ich euch träw und tut den armen lewten auf dem dorff gutleich, da von wert ir gut nucz haben.
Item da sprach der Lachutlein aÿden, ir solt melden, das ich meiner tochter morgengab auzgericht hab, also sprach er ÿa, und die fraw sprach auch es wer ir wol wissentlich, das er in geben hiet funfhundert gulden, da sprach der Lachuetlein und di ubermazz, die ich mer awsgeben hab, das werden wir wol finden.". (PT fol. 20v-21r).

[14] Margaretha, Wolfgang Albringerin's (geb. Schoendl) will (03.10.1483): "...Item und des annder tags nach datum des gescheffts ist mein brueder Cirfus Schoendl herkomen und ich noch in leben und guter vernufl gewesen bin, hat er vor den gescheffftlewten geredt und gesprochen, daz er über das so im geschaft ist worden weiter hinfur zu unnser guten nymmeiner wie die genant sey, nicht zwer zusprechen well, noch meinem hawswirt in nichte darumb angelanngen in dhainerlay weiß." (PT fol. 211v-212r).

again, the purpose of the detailed, almost word-for-word quotation of the conversation was to strengthen the probative value of this part of the will.

The most important participants of the will-making were those who were theoretically no relations of the testator: the witnesses. Since most testators were illiterate, or at least unable to put their dispositions in writing on their deathbed, the witnesses were responsible for the authentic transmission or even interpretation of the testator's words. Therefore their persons were both defined by law and chosen in practice with the greatest care that the circumstances allowed. In medieval urban law the testator's signature or an autograph manuscript of a last will had no legal validity. It was the testimony of the witnesses, the seals put on the document and/or the entering in a town book that made a will valid.

A guarantee of the witnesses' credibility was that they had a social standing at least similar to that of the testator. In towns, the choice of witnesses was also a token of the autonomy of the place: preferably they were members of the local council, although in case of an emergency, the testimony of "any two honest settled men" (i.e. houseowners) was accepted.[15] The witnesses were, according to the words of the wills, asked by the testator to perform this duty ("*bey dem geschaft gewesen sein und mit vleis darzu gepeten*"[16]) Nevertheless, the frequent occurrence of the same persons in the same year shows that the members of the local council probably divided the tasks between themselves, so the testators had a limited choice which was influenced by the testators' social standing as well. The leaders of the town: the mayor, the judge, the notary, the members of the council, and those who had held those offices earlier during their lives usually asked the acting mayor and judge to appear as witnesses; citizens living inside the town walls invited members of the council, while inhabitants of the suburbs had to be content with the testimonies of their neighbours or other acquaintances. Although women were not excluded from appearing among the witnesses in theory (only wills testified exclusively by women were not accepted), they seldom appeared in that role. The few cases we know are rather from the rural than from the urban context. As a rare and in every respect irregular example we can quote an instance where the testator asked his mother to testify the will and to put her seal on the document.[17]

The role of the circumstances in the choice of witnesses can be illustrated by those cases when two or more wills by the same testator have survived, the later ones being supplements to the original text. In none of these cases can we

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[15] Jenő Házi: *Sopron szabad királyi város története* (The history of the free royal town of Sopron [Source publications]), vol. II/1 (Sopron: Székely és társa, 1930) (henceforth: Házi II/1.), pp. 159-160: "das sachen zu gach und zu pald wërn, so mag man nemen zwen oder mengern erber gesessen leüt zu demselben geschefft."

[16] Will of Katherina, Bartl Scharrach's wife (30.09.1433, PT fol. 7v).

[17] Gothart Hertel's will (25.01.1466) "... hab ich gebeten den erben mann Hanns Zwentendorffer mitburger zu Prespurg und Barbara [/sein leip/] mein leipliehe muter zu gezewgnus ir betschat darauf druken in und irn erben anschaden." (PT fol. 121v).

find the same set of witnesses, even if the second disposition followed the first with only one day's delay. Usually the witnesses of the additional wills had a lower social standing than those who testified the first time. Nevertheless, the testators found it important to have at least one person (in most cases a cleric) who was present on all occasions, whatever the difference in time between the wills.

Let me quote some examples: The cloth-merchant Niklas Leinbater from Bratislava asked the mayor and a councilor to testify his first will on 28.05.1441; a day later he made an additional will in the presence of a different councilor and another citizen, while a canon of the collegiate chapter of the town was present on both occasions.[18] Hans Pagendorfer, also from Bratislava, made his first will on 3.10.1462, in the presence of five men, and supplemented it four years later in front of four witnesses from whom only one, Wolfgang Puechler, had listened to the first will as well.[19] In the town of Sopron the merchant Michel Leinbater made his first will on 12.07.1476, in the presence of the parish priest of the town and three members of the council, while five years later the same priest and a different councilor were present.[20] Another Sopron merchant, Hans Neuhoffer, emphasized that one of the witnesses, Caspar Kramer, was asked especially because he knew a great deal about the testator's business and was present at the making of the will of his first wife.[21] Finally an example concerning more than two wills: Hans Rechnitzer alias Graff, a wealthy merchant from Bratislava, made three wills within only two days, 22. and 23.11.1467, ten days after his wife's testament. The first two, as well as the wife's will, were testified by the same canon. Beside him in the first case there was a councilor whom the testator could not get *(nicht gehaben macht)* for the second time, so – as he explained in the will – he asked his confessor instead. But in the third instance, which took place on the same day as the second, there was a different set of witnesses again: a Franciscan friar and three citizens who had not been involved before. Of course, this time the testator made generous bequests to the friary and the friar as well.[22]

One of the main considerations of urban legislation in connection with last wills was to restrict the influence of the church over the property of the citizens, even if actions related to the inhabitants' death would have concerned the ecclesiastical authorities. The question of witnesses was part of the rivalry between town and church, and of the measures taken to protect the urban tax basis. Town councils insisted that wills testified only by priests should not be considered valid – as formulated in an ordinance of 1418 from Sopron.[23] As we shall see be-

[18] PT fol. 37v-38r and 40v.

[19] PT fol.125v-126r.

[20] Házi II/1, pp. 186-187 and 202-203 resp.

[21] "... nachdem der vorgemeldt Caspar Khramer vormall vill wayss meines handel und auch peÿ meiner ersten hausfraun geschafft ist gewesen." The testator also asked Caspar Kramer to give advice to his wife on business and to be the guardian of his son. Házi II/1, pp. 248-251.

[22] PT fol.135r-140r.

[23] See note 15.

low, the anxiety of the towns that the testators might be influenced by their confessors or other priests on their deathbed was not without grounds, but the same could be done by others present as well: by their family; by the neighbours, who were also often used as witnesses since they were familiar with the testator's circumstances; by their fellow-craftsmen, who were often present not only out of compassion, but to represent the interests of their guilds, and so on.

The initiative to make a will, since it was a voluntary arrangement, was generally taken by the testator, but it probably happened more often than we hear about it that he or she was instructed by laymen or clerics *("habm si mich untterweist die ersamen und geistlichen herren")* to do so.[24] It was even more usual to influence the course of will-making, for instance by asking the testator whether he or she would like to leave something to a given person or institution. In most of the documented cases the testators showed remarkable determination not to change their original decision. For instance, Niclas Gutgesell (the same testator who wanted to talk to his wife in private) refused to give anything to the church, shifting the responsibility to his father-in-law to whom the property was bequeathed through the will.[25] A similar excuse was used in the same year by another testator as well.[26] In another case the testator was reminded to give something to her relatives, to which she answered that she deliberately wanted to will her property away from the rest of her family.[27]

This recurring stubbornness[28] may awaken our suspicion that mainly the "unsuccessful" cases were noted down in a way which was fairly close to the

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[24] The quotation comes from the inventory of Bálint Alföldi, who was a merchant and royal tax-collector and owned houses both in Győr and Sopron. The quoted expression appears in the middle of a list of movable and immovable property, explaining that he had to have an overview of his property before bequeathing it. (Házi II/1, pp. 233-235). The final text of the will has not survived.

[25] "Item also manten in die gescheffttherren und der Lachutel zu dem paw zu Sand Mertin und zu unser frawn in das tal oder zu andern paw, also anttwurt der Gutgesell, er hett ims nu geschaft und vergeben seinem sweher so er wer sein nymer mochtig, was er da mit nu tuet oder tun wolt, das stünd zu ain und wer auch sein guter will." (PT fol. 21r).

[26] Martine Pernhertel's will (11.09.1436) "Item zu dem ander mal manten wir obgenante gescheftherren den Martine, ob er ich wolt schaffen zu Sannd Merten oder anderswo hin, do anttwurt er uns auf meinen herren den Lachutlein der würd wol wissen, was er da mit thun sol, der sol sein gantz mugig sein, was er da mit thun wirt." (PT fol. 24v).

[27] Will of Katherina, Michel Stainbrecher's wife (20.04.1495): "Item In besonderhait ist sy vermandt worden ob sy ymants mer wolt schaffen irn freundten oder wem sy wollt, dorauf sy kurtzlich geantwort hat Alles das uber das aber geschaft geschafft worden ist ledigklich frey irm hausswirt Michel, hauss weingerten, varundhab und andern, damit zethun als er pillich sol, und alle meine freundt dauon enterbt. (PT fol. 244v).

[28] A case similar to the ones quoted above is mentioned from Vienna by Gerhard Jaritz, "Die realienkundliche Aussage der sogenannten 'Wiener Testamentsbücher'," in *Das Leben in der Stadt des Spätmittelalters* (Veröffentlichungen des Instituts für Mittelalterliche Realienkunde Österreichs, 2. = Sb. Ak. Wien, phil-hist. Kl. 325 (Vienna: Verlag der Österreichischen Akademie der Wissenschaften, 1977), p. 185: in 1419 the Viennese burgher Rudolf Angervel-

original conversation by the deathbed. The aim was probably to prove that the witnesses had not neglected their duties, and that it was due to the testator's obstinacy that the will did not contain more of the expected bequests. Putting pressure on the testator by reminding him of his duties must have been much more common, but if the reminders proved successful it was enough to mention the bequests themselves. Here again, rendering the will as closely as possible to the oral form seemed to be a useful way of clearing the witnesses or members of the family of any suspicion of negligence.

In other cases, reference to conversations during or accompanying the making of the will was intended to strengthen the probative value of the will. For instance, in a butcher's will his son's promise that the latter would pay half of his father's debts was quoted in detail.[29] In another will the moral and material duties of the executors were emphasized by a mother "speaking out" to secure their care for her children.[30] A third example shows a saddler's wife asking everyone present at her will-making to convince the council that her husband was not guilty of causing her death, and that they should not urge him to execute her will because she knew that he was not able to do it at once.[31] The custom of reading out the will formulated by the bedside to the testator, to confirm that everything was noted down accurately, appears sporadically from the second quarter of the sixteenth century, but was made compulsory by law only in 1715.[32]

The modern reader of these wills would naturally be interested to know whether the details of oral culture in the wills really preserve the very words of medieval people, but we shall never be able to answer this question accurately. It is more important, however, to understand why contemporaries found it necessary or useful to create an impression of live conversation. In some cases quoted above

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der was asked three times if he wanted to leave something for the remedy of his soul, apparently with a negative answer.

[29] Georg Jandle the butcher's will (29.03.1508) "Item meinen sun Wolfganng Janndel den hab ich zeredt gesetzt und darzue durch frumm lewt gefragt Als nemblichen vor her Wolfgang Schäffler die zeit prediger zw Sanndt Lorentzen und herr Peter Vaschang und Maister Pangratzen Riemer ob er mit mir woll bezallen die geltschuldt die ich schuldig bin nach dem als mir sein mueter auch geltschuldt gelassen hat als auff LXV fl nach dem als er ererbt hat das halb haws und denn halben weingarten als vormallen bemelt ist des hat er sich verwilligt halben taill der geltschuldt mit mir bezallen." (PT fol. 320r-v).

[30] Anna, Wolfgang Phaffsteterin's will (16.03.1511/02.05.1511) "Auch ir villieben geschefft Herren bit ich euch mit vleissigen gebeth last euch durch den willen Gottes meine liebe kinder In trewen auff das allerpesst beuolhen sein dy armen waisen und all ding meines geschäffts darzue ich euch In sonderhait geruefft und umb Gots willen gebeten hab etc." (PT fol. 332r).

[31] Will of Asanna, Gilig Satler's wife, 19.11.1502, Házi II/1, pp. 280-281.

[32] One of the earliest examples from Bratislava comes from Steffan Päßler's will (10.02.1530): "solhen meinen letzten willen, wie es beschriben ist hie oben von wort zu wort vor mir verlesen haben lassen" Archiv mesta Bratislavy, Protocollum Testamentorum II. B IN-2, fol. 13r. For the later regulation see article 27:1715 in the *Corpus Juris Hungarici* (Budapest: Franklin, 1897).

a likely reason could be suggested. We shall gain further insight into the use of orality in the wills by examining how the procedure continued after the testator's death.

It was the duty of the witnesses and the closest relatives of the deceased to report to the town council that a will had been made, usually within a month after the death. There were three main ways of doing so: by giving an oral account of the testator's dispositions,[33] by formulating the will with the use of some written notes made by the bedside; or to present a sealed document which was put into writing in the testator's presence or shortly after the event. The first volume of the *Protocollum Testamentorum* in Bratislava (1414–1529), which is even more homogeneous than the so-called *Testamentsbücher* from Vienna since only wills were entered into it, preserves several changes in the formal elements of testamentary practice. To follow the shifts in the distribution of the three main ways of reporting listed above, I have chosen three years from the beginning, the middle and the end of the volume.[34]

1434 was the first year when the number of wills entered was above ten. Out of the fifteen wills from that year, five belonged to the "oral report" type, five were copies of sealed documents, and in the remaining five the formulation suggested that the witnesses relied on some sort of written notes, so we may term it a "transitional" type. The choice between these formal variants was independent of the gender or the family status of the testator: among those whose will was reported in the oral form we can find a married woman, a widow and a married man. The differences probably had more to do with the testator's social standing and need for literacy: the sealed charters reported in that year contained the wills of two merchants, two councilors' wives and a canon, whereas among others the will of Andre Zimmermann, the carpenter of the town, belonged to the transitional type.

About half a century later, in 1481, which was also a well documented year with 22 wills, the practice was much more uniform. There was only one will based on the oral presentation of the witnesses; in another case no seals were mentioned, but with all the others, the texts of sealed charters were copied into the town book, although some irregularities concerning the number and status of the witnesses can be observed.

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[33] An example for the typical intoductory formula of such wills runs as follows. (will of Katherina, Bartholome Scharrach's wife, 30.09.1433): "Es sint in unserm ratt auf gestanden die erbem weisen herren Martine Dynnan Burgermaister, Jost Lasport und Jorig Twrs, die zeit all geschworen purger der Stat zu Prespurg, und habent uns offenlich in bechant, das sy bey dem gescheft gewesen sein und mit vleis darczu gepeten der erbem frawen Katherina, des ebern mans Partel Scharrach hawsfrawen..."

[34] Even if my intention was to choose years which were probably representative because of a relatively high number of wills, a more precise line of development can be demonstrated only after a thorough, year-by-year analysis.

Our last example comes from 1521, from the end of the volume. Surprisingly, the process of standardization did not continue. In ten cases out of the eighteen wills from that year, the formulation showed that the originals of the wills copied into the book were sealed by the witnesses, but in seven cases there was no mention of seals, even if otherwise these texts were not different from the other ones. One sealed will has survived as an original and was not copied into the *Protocollum*.[35] Among the wills entered into the town book from this year, it is worth noting that the mayor Friedrich Voyt wrote his testament himself and sealed it with his own seal,[36] whereas Martha Reysnerin's will stands out because of its exact dating: beside the date she also noted that her will was made at 11 o'clock in the morning.[37]

In our quest for the role of orality, the verbs and personal pronouns used in the wills may also be worth examining. Our first impression is, however, that the use of the two main variants, the first or third person singular was not completely consistent. Therefore our remarks in this field can only be tentative and can rather give ideas for a later, more thorough, linguistic analysis of the wills than any final conclusions. The main trend seems to be that the first person singular, formulating the will "in the testator's own words," was used especially up to the 1440s, when the witnesses or the scribe formulated some notes by the testator's bedside. From the second half of the fifteenth century, the first person singular was in use rather in wills of the "sealed charter" type, and if only notes were made on the spot, the final wording was made in the third person singular. The same formulation was the most common also when the witnesses gave an oral presentation of the will, in a form resembling indirect speech. But very often the two forms were mixed. In the first variant of this, the introductory and closing formulas are in the first person singular and the main body of the will in the third person. The other way was to compose an introduction, naming the testator, the witnesses, and the circumstances in the third person, as if the scribe or notary formulating the will was speaking, while afterwards the testator "took over the word" in the first person. This latter version was very frequent, for example, around the turn of the fifteenth and sixteenth century in the town of Sopron, where all the wills from this period were preserved as separate charters.[38]

After someone's death opening a will that was written, sealed, and sometimes read out before sealing in the testator's presence could be a moving experience. Therefore it is understandable also from the emotional point of view that the survivors tried to copy this by composing texts in the name of the deceased, although this act could be somewhat paradoxical. In some cases it resulted in quite

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[35] The will of Anna, Hans Haberknapp's wife, National Archives of Hungary, DF 243486.

[36] PT fol. 398v-401r.

[37] PT fol. 407r-v.

[38] The two parallel series of town books of mixed contents, into which the wills were also entered from 1393 onwards, ceased to contain wills from the 1480s. See Házi II/1, passim.

grotesque formulations when the testator was obviously "speaking after his or her death." For instance, in one of the examples quoted above the lady whose brother arrived the day after her will was made, was supposed to have said that he came "while I was still alive and conscious."[39]

The vocabulary of the wills presented as the testators' words also calls for a more thorough analysis. It is apparent that several phrases used in the texts are so eloquent or so far from the spoken language that they could never have been uttered by the testators, especially not on their deathbeds, often in severe pain and full of concern.[40] Even given the general tendency of the late fifteenth and early sixteenth century to prolong the formulaic parts of the wills – a trait pointing towards the richness in words of all genres of baroque literature – we can distinguish degrees of elaborateness in the composition. The most likely explanation for these differences is that the formulas were in accordance with the rank and wealth of the testator – moreover, they were meant to reflect and record it for the future. The services of the scribe or the notary could be bought,[41] just like the number of priests, schoolboys, or poor people who joined the procession of the testator's earthly remains. This is why so many pious prayers or theological thoughts were put into the testator's mouth in the *arenga* or the *eschatocollum* of the will. These formulas, however, even if they were composed in the first person singular, could hardly have been considered, even by contemporaries, as records of the testator's very words. In these parts of the wills the purpose of an obviously fictitious orality was not to increase the validity of the text as a legal document but to enhance the reputation of the person who was supposed to have uttered them.

Entering the wills into the town book or depositing and reading the original document in front of the town council meant more than handing over the text for safekeeping. As a consequence of the town's autonomy and authority to proceed in cases connected with the wills, the council assumed responsibility for their execution. As part of this duty, the notaries sometimes entered into the same book details of handling the case: the fulfillment of the dispositions or the eventual disputes and the decisions about those. This led to further oral deeds being recorded, which often became part of court cases – also an abundant source of the

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[39] Margaretha, Wolfgang Albringerin's (geb. Schoendl) will (03.10.1483), see above note 14.

[40] See, e.g., the closing formula of a Michel Ernst, the baker's will from Bratislava (14.04.1503): "Dorumb pitt ich mein gescheft herren durch die lob dess pittern leidens Ihesu Cristi und durch die ere und glory der Jungfraw Marie das sie meinen lesten willen und gescheft nach Irer vernuft und gewissen verfertigen alß sie dann belont worden von got In ewigkhait amen." (PT fol. 294r-v).

[41] The fees for noting down various kinds of documents were fixed by the local code-books, and those who demanded more were fined. E.g. chapter 50 of the Buda town law (compiled around 1405) stated that the notary could demand 100 denars for putting a will into writing. Mollay: *Das Ofner Stadtrecht*, p. 79. Still, it was always possible to bequeath something on top of this, e.g. a silver spoon or other gifts, to secure better service. Also, the notary could find it more appropriate to honour the leaders of the town with special care in the formulation.

spoken word in the Middle Ages and after, but which is outside the scope of the present article.[42]

Orality and literacy in non-urban wills

The right of the nobility to dispose over their property by their own free will goes back much further in time than that of the burghers, namely to the eleventh century, the first century of Hungarian statehood. Nevertheless, because of the stability of customary law, putting their wills into writing started to increase among the nobles only from the late fifteenth century, but it never became as widespread as among the burghers. As far as the form of the wills was concerned, the most significant difference was that those of the nobility were much less standardized and consistent than their urban counterparts. There was no local tradition or established form they had to refer to, only the regulations of canon law were kept in mind, but were seldom followed very strictly.

According to an analysis by András Kubinyi based on fifty wills from the last decades of the medieval Hungarian state, the Jagellonian period (1490–1526),[43] there were very few wills issued as a charter by a body with an authentic seal, and employing public notaries for this task was not common either. Often the testators issued their will under their own seals. Signatures became more widespread after 1500: they appear on nine wills altogether (18%). The language used was mostly Latin, with which the testators usually needed some assistance. From the 1510s onwards we also have some examples of the vernacular (Hungarian), which could render the actual words of the testator more accurately. Witnesses also played a less significant role than in urban wills: they were mentioned in less than half the examined cases – more frequently in women's wills than in men's. They were usually relatives, neighbours, *familiares* (noblemen of lower rank in the service of aristocrats) and even servants or women, and especially clerics – but hardly ever of higher rank than the testator. Their number was not controlled too strictly: theoretically canon law would require seven persons, but for instance the synodal decrees of the Veszprém bishopric (Western Hungary) from 1515 prescribed three, and if a testament contained only pious bequests, two persons were enough.[44]

Beside the witnesses, the testators also appointed executors who were responsible for distributing the bequests, and tutors or protectors whose duty was

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[42] For a survey of the possibilities provided by legal records see e.g. Adam Fox, "Oral and literate culture in early modern England: case studies from legal records," in Sølvi Sogner (ed.), *Fact, Fiction and Forensic Evidence. The potential of judicial sources for historical research in the early modern period.* Tid og Tanke. Skriftserie fra Historisk institutt, Universitet i Oslo Nr. 2/1997, pp. 35-52.

[43] András Kubinyi, "Főúri és nemesi végrendeletek a Jagelló-korban" (Wills of aristocrats and nobles in the Jagellonian period), *Soproni Szemle*, 53 (1999), pp. 331-342.

[44] See note 7.

to defend the wills with their authority. Executors are also mentioned in urban wills, but the protectors are unknown: in such cases the community as a whole exercised protection over the wills. The protectors named by noblemen were of higher rank than the testators: aristocrats named the king, the queen, one or more bishops, or the highest lay dignitaries of the country, while members of the lower nobility appointed aristocrats for this task. These people were usually not present when the will was made so they did not participate in the oral proceedings, but were involved only through writing. So far no references have been discovered that would indicate any real tasks connected with the protection of a will, although the protectors were given precious bequests. It seems that this title was rather meant to strengthen the political connections of the testator and his surviving family with the leading circles of the country. Noblewomen, except for one widow, did not follow this custom.

The majority of noble wills (60%) were written in the first person singular. Some of these were, as the texts themselves indicate, formulated in the testators' name by confessors or other clerics, but with most testaments we do not know who put them in writing, and sometimes it is even uncertain whose seal was put on the document. Some wills were later transcribed by public notaries or chapters and convents entrusted with notarial functions (*loca credibilia*), showing that the heirs wanted to have a proper legal document at hand.[45]

Wills of noblemen and women were practically always formulated before the testator's death: we do not hear of cases of oral wills being put into writing afterwards on the basis of witness testimonies. However, there were probably some purely oral wills from which no traces are left unless they resulted in a court case where the documents were recorded and preserved.[46] Court cases over noble wills were decided by ecclesiastical courts, which also collected the evidence, basically oral testimonies of eye-witnesses or those who knew something about the deceased person's intentions, even if they were not present when the will was made. Therefore these records are sources of "double orality," firstly what the testator expressed as his or her will, secondly what the witnesses knew about the will and its circumstances. The analysis of such documents would be worth a separate study. Altogether we can see that in cases of noble wills both orality and literacy were less standardized and regulated, unless they concerned landed property acquired through inheritance or donation, the bequeathing of which required royal consent.[47]

In the rural context – which, beside peasants' wills, involved inhabitants of

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[45] Kubinyi, "Föúri," pp. 331-334.

[46] An instructive example: András Kubinyi, "Egy késö középkori förangú hölgy végrendelkezésének tanulságai" (The lessons of the will-making of a late medieval aristocratic lady), *Történelmi Szemle*, 39 (1997), pp. 401-410.

[47] György Bónis, *Hűbériség és rendiség a középkori magyar jogban* (Feudalism and corporation in medieval Hungarian law) (Kolozsvár [Cluj], n.y. [1947]), p. 262 and Werböczy, *Tripartitum*, Part II Title 13.

market towns who had a more urban lifestyle, but the same legal standing as the peasants, and to some extent the petty nobility whose economic basis did not exceed a single plot in a village – the oral tradition was much stronger than among the nobles and institutionalized in a similar way as literacy was among the burghers. Theoretically, villeins without any direct descendants were allowed to dispose over only half of their acquired property, while the plots which they farmed themselves and the other half of their properties reverted to the landlord.[48] In practice, peasants could dispose over their property after having paid a certain sum *(mortuarium)* to the landlord and to the church. If no will had been made, and there were no natural heirs, everything reverted to the owner of the village.

The custom of putting a will into writing reached the rural population sporadically from the end of the fifteenth century and only a few wills survive from individual settlements even from the seventeenth and eighteenth centuries. In written wills from rural areas it is much more difficult to make similar distinctions as among the urban ones concerning the degree of orality. The two basic types were the ones written on the spot and those compiled later on the basis of an oral will. Nevertheless, in most instances, even if the will was reconstructed after the testator's death on the basis of oral testimonies, the formulation followed so closely that of the primarily written ones that it is impossible to distinguish the two unless the text contains a clause about the circumstances.[49]

Practically all the wills use the first persoln singular and formulas which would indicate that the text was following the testator's words as closely as possible. This pursuit of accuracy explains the important role of the witnesses and the precise records about them. Early modern examples from Western Hungary show that at least three witnesses were always present, but their number was usually higher, between five and seven, sometimes even up to eleven. All of them were trustworthy local people, but many of them were illiterate, except for the clerics, schoolmasters, or notaries who put the wills into writing. The witnesses usually sealed the document with their own or a borrowed seal, while signatures appeared only very sparsely and from the eighteenth century. Even towards the end of this century witnesses often only put a cross on the paper as a sign of their consent.[50]

The practice of putting primarily oral wills into writing after the testator's death continued in the countryside until modern times, but we can safely assume that most of the oral wills were never written down. Even if we keep in mind that part of the peasantry never acquired enough property to make it necessary to leave a written will, we must calculate with a high proportion of oral testaments.

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[48] Werbőczy, *Tripartitum*, Part III Titles 29 and 30.

[49] JózsefHorváth, "A falusi végrendeletek formai és tartalmi sajátosságai a Nyugat-Dunántúlon a 17-18. században" (Form and contents of rural wills in Western Transdanubia in the seventeenth and eighteenth centuries), *Soproni Szemle*, 53 (1999). pp. 356-369.

[50] Horváth, "A falusi," pp.359-363.

Ethnographical research on mainly nineteenth- and early twentieth-century rural wills has pointed out that oral testaments were considered just as valid as written ones. This way of thinking was strengthened by the fact that even around 1900 about half of the rural population of Hungary was illiterate. Beliefs connected to the dead, namely that if someone's will was not followed, that person's soul would return from the other world to take revenge, also supported this view.[51] Parallel to this, even written wills may contain curses upon those who do not act according to the testator's wish.

Sources from court cases also indicate that oral promises of bequests were considered binding, and in case the survivors altered something about them, the prospective heirs went to court over it.[52] Such cases coincide with the observations from the market town of Kiskunhalas (on the Hungarian plain) from the 1930s where most of the inhabitants, not feeling comfortable with fixed formulations, used frequent oral repetition to dispose over their properties.[53]

Conclusions

The custom of making written wills in Hungary was an adaptation of pre-existing European patterns. Beside the long-term processes which resulted in the spread of this custom, discussed in the first part of this article, which resulted in the spread of this custom altogether, there were several practical and personal factors which defined the actual implementation of the general principles: the increasing bureaucracy in local administration; the experiences gathered by clerics and lay notaries during their studies abroad; commercial family contacts with regions with a more developed legal system; the growing wealth and more differentiated material culture which resulted in more items to bequeath and more prospective heirs expecting bequests. These and many other features combined to produce the written wills which we can study today. In their complex form developed over the centuries, they serve as the basis for answering the questions put at the beginning of our survey.

Firstly, as far as the replacement of orality by literacy is concerned, the examples quoted above show that the appearance of written wills did not obliterate or even discredit their oral counterparts. The relationship between orality and literacy was rather complementary than competitive. The growing demand for literacy

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[51] Ernö Tárkány Szücs, *Magyar jogi népszokások* (Hungarian folk customs in legal matters) (Budapest: Gondolat, 1981), pp. 726-57.

[52] Horváth, "A falusi," p. 360 quotes a case from the eighteenth century when György Sándor from the village of Vörösberény promised to bequeath a vineyard to the Franciscans. Later his widow remarried to a Calvinist who sold this property after the woman's death, but three men from the village protested against the transaction, referring to the earlier oral deed "which one of them had heared frequently."

[53] László Papp, *Kiskunhalas népi jogélete* (Legal customs of the peasants of Kiskunhalas) (Budapest, 1941), pp. 39-40.

in certain circles of a still mainly illiterate society was only one side of the coin. Even if the testator's wish was to put his or her will into writing, several oral actions had to be performed both before, during, and after formulating the will in order to have it executed. Furthermore, a great number of wills existed only in the oral form. What writing replaced or extended was basically the scope of human memory, especially when it came to testifying and controlling the testaments.

Secondly, as to the probative value of the spoken word, from the material examined so far it seems that throughout the Middle Ages and Early Modern times oral wills were accepted and followed on a par with the written ones, provided that enough trustworthy people knew about them. Moreover, there was not only one kind of orality involved in connection with the wills. In the first place there were the completely oral wills which we hear about only if a court case arose over their execution. Then, in the written wills there can be direct quotations of the words uttered by the testator or other people by the bedside. Finally, in many cases the wording of the wills reflects a sort of fictitious orality. Those who formulated the wills often wanted to follow the model of live speech, to keep the written will close to the oral version. Both of these latter forms prove the validity that contemporaries attributed to the spoken word. We have seen above that the function of inserting small dialogues into the will was to relieve the witnesses from any accusation of acting negligently when the will was made. Similarly, being formulated in the testator's name after his or her death also increased the credibility of the will and gave the impression that the witnesses' report was complete and correct.

Thirdly, defining whose interest the choice of formulation served requires a brief consideration of the circumstances. The legal definition of a will is "a unilateral and revocable disposition." The initiative for making a written will certainly came from the testator, although social patterns or pressure from the prospective recipients, especially from the church, often played a role as well. It must have been a relief for the testator to know that the will was being put into writing, and that the spiritual and the material contents of the dispositions were safely under the control of the ecclesiastical or local administration. On the other hand, maintaining the fiction of orality was rather in the interest of the survivors, who by benefitting from the credibility given to the words of the deceased hoped to avoid future disputes.

This article, with its limited geographical and chronological scope, can only be a first tentative approach to the complex topic of orality and literacy in medieval wills. Several studies have been devoted to the formal elements (the outward appearance, the formulaic parts, etc.) and the legal background of testaments, but the authors seldom extend their investigation to include the mentalities behind the choices of formulation. Since wills were a universal phenomenon in medieval Europe, it would be possible, and worth the effort, to make comparative

studies in this field – to reveal both regional characteristics and individual attitudes.[54]

[54] I am greatly indebted to Finn-Einar Eliassen for improving the clarity of the text and for expressing some of his doubts concerning its contents.

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THE SPOKEN WORD IN CONTEXT

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Cover illustration: The wife of Potiphar covets Joseph: "... erat autem Joseph pulchra facie et decorus apectu: post multos itaque dies iecit domina oculos suis in Ioseph et ait dormi mecum." ("... And Joseph was [a] goodly [person], and well favoured. And it came to pass after these things, that his master's wife cast her eyes upon Joseph; and she said, Lie with me."), Gen. 39: 6-7 (KJV). Concordantiae Caritatis, c. 1350. Cistercian abbey of Lilienfeld (Lower Austria), ms 151, fol. 244v (detail). Photo: Institut für Realienkunde des Mittelalters und der frühen Neuzeit (Krems an der Donau).

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Preface

Oral culture played an instrumental role in medieval society.[1] Due to the lack of any direct source evidence, however, research into the functions and importance of oral communication in the Middle Ages must confront a number of significant problems. Only indrect traces offer the opportunity to analyze phenomena that were based on or connected with the spoken word. The 'oral history' of the Middle Ages requires the application of different approaches than dealing with the 20th or 21st century.

For some decades Medieval Studies have been interested in questions of orality and literacy, their relationship and the substitution of the spoken by the written word.[2] Oral and literate culture were not exclusive and certainly not opposed to each other.[3] The 'art of writing' was part of the 'ars rhetorica' and writing makes no sense without speech.[4] Any existing written statement should also be seen as a spoken one, although, clearly, not every oral statement as a written one. Authors regularly wrote with oral delivery in mind. 'Speaking' and 'writing' are not antonyms.

It is also obvious that "the use of oral communication in medieval society should not be evaluated . . . as a function of *culture populaire* vis-à-vis *culture savante* but, rather, of the communication habits and the tendency of medieval man

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[1] For the late Middle Ages and the early modern period, cf. Willem Frijhoff, "Communication et vie quotidienne à la fin du moyen âge et à l'epoque moderne: réflexions de théorie et de méthode," in *Kommuniation und Alltag in Spätmittelalter und früher Neuzeit*, ed. Helmut Hundsbichler (Vienna: Verlag der Österreichischen Akademie der Wissenschaften, 1992), p. 24: "La plupart de gens vivait encore pour l'essentiel dans une culture orale et les procédés d'appropriation des idées passaient de préférence par la parole dite et écoutée, quand bien même on était capable d'une lecture visuelle plus ou moins rudimentaire."

[2] See Marco Mostert, "New Approaches to Medieval Communication?" in *New Approaches to Medieval Communication*, ed. Marco Mostert (Turnhout: Brepols, 1999), pp. 15-37; Michael Richter, "Die Entdeckung der 'Oralität' der mittelalterlichen Gesellschaft durch die neuere Mediävistik," in *Die Aktualität des Mittelalters*, ed. Hans-Werner Goetz (Bochum: D. Winkler, 2000), pp. 273-287.

[3] Peter Burke calls the construct of "oral versus literate" useful but at the same time dangerous: idem, "Mündliche Kultur und >Druckkultur< im spätmittelalterlichen Italien," in *Volkskultur des europäischen Spätmittelalters*, eds. Peter Dinzelbacher and Hans-Dieter Mück (Stuttgart: Alfred Kröner Verlag, 1987), p. 60.

[4] Michael Clanchy, "Introduction," in *New Approaches to Medieval Communication*, ed. Marco Mostert (Turnhout: Brepols, 1999), p. 6.

to share his intellectual experiences in the corporate framework."[5] Oral delivery was not "the sole prerogative of any socioeconomic class."[6]

For all these reasons, it is important to analyze the extent of and context, in which 'speech acts,' auditive effects, and oral tradition occur in medieval sources .[7] Research into the use of the spoken word or references to it in texts and images provides new insight into various, mainly social, rules and patterns of the communication system. It opens up additional approaches to the organization and complexity of different, but indispensably related, media in medieval society, and their comparative analysis.[8]

The spoken word is connected with the physical presence of its 'sender.' Speech may represent the authenticity of the given message in a more obvious way than written texts or images. Therefore, the use of 'speech acts' in written or visual evidence also has to be seen in context with the attempt to create, construct, or prove authenticity. Moreover, spoken messages contribute to and increase the lifelikeness of their contents, which may influence their perception by the receiver, their efficacy and success. Being aware of such a situation will have led to the explicit and intended use and application of the spoken word in written texts and images – to increase their authenticity and importance, too.

If one operates with a model of 'closeness' and 'distance' of communication with regard to the level of relation of 'senders' and 'receivers,' then the 'speech acts' or their representation have to be seen as contributors to a 'closer' connection among the participants of the communication process.[9] At the same time, however, speech might be evaluated as less official. One regularly comes across 'oral space'

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[5] Sophia Menache, *The Vox Dei. Communication in the Middle Ages* (New York and Oxford: Oxford University Press, 1990), p. 19.

[6] Ibidem, p. 21. Cf. also Jan-Dirk Müller, "Zwischen mündlicher Anweisung und schriftlicher Sicherung von Tradition. Zur Kommunikationsstruktur spätmittelalterlicher Fechtbücher," in *Kommunikation und Alltag in Spätmittelalter und früher Neuzeit*, ed. Helmut Hundsbichler (Vienna: Verlag der Österreichischen Akademie der Wissenschaften, 1992), p. 400: "Offensichtlich sind schriftliche und nichtschriftliche Tradierung von Wissen weiterhin relativ unabhängig voneinander, nachdem die Schrift längst dazu angesetzt hat, Inseln der Mündlichkeit oder praktisch-enaktiver Wissensvermittlung zu erobern. Die Gedächtnisstütze kann die Erfahrung nicht ersetzen, sondern allenfalls reaktivieren. Sie ist sogar nur verständlich, wo sie auf anderweitig vermittelte Vorkenntnisse stößt."

[7] Cf. W.F.H. Nicolaisen, ed., *Oral Tradition in the Middle Ages* (Binghamton: Center for Medieval and Renaissance Studies, 1995).

[8] See, esp., Horst Wenzel, *Hören und Sehen, Schrift und Bild. Kultur und Gedächtnis im Mittelalter* (Munich: C.H. Beck, 1995), passim.

[9] See also Stefan Sonderegger, ">Gesprochen oder nur geschrieben?< Mündlichkeit in mittelalterlichen Texten als direkter Zugang zum Menschen," in *Homo Medietas. Aufsätze zu Religiosität, Literatur und Denkformen des Menschen vom Mittelalter bis in die Neuzeit. Festschrift für Alois Maria Haas zum 65. Geburtstag,* eds. Claudia Brinker-von der Heyde and Niklaus Largier (Bern et al.: Peter Lang, 1999), p. 665: "Jedenfalls darf man sich bewußt bleiben, daß auch in den Texten des deutschen Mittelalters die Reflexe gesprochener Sprache eine bedeutende Schicht ausmachen, die besonders dann immer wieder hervortritt, wenn es um einen direkten Zugang zum Menschen geht, um einVerstehen aus unmittelbarer Partnerschaft heraus ..."

that has become institutionalized or more official by the application of 'written space.'[10] Simultanous employment of such different levels and qualities of messages must often have had considerable influence on their efficacy.[11]

The papers in this volume are the outcome of an international workshop that was held in February, 2001, at the Department of Medieval Studies, Central European University, Budapest. Participants concentrated on problems of the occurrence, usage, and patterns of the spoken word in written and visual sources of the Middle Ages. They dealt with the role and contents of direct and indirect speech in textual evidence or in relation to it, such as chronicles, travel descriptions, court and canonization protocols, sermons, testaments, law-books, literary sources, drama, etc. They also tried to analyze the function of oral expression in connection with late medieval images.

The audiovisuality of medieval communication processes[12] has proved to be evident and, thus, important for any kind of further comparative analysis of the various levels of the 'oral–visual–literate,' i.e. multimedia culture of the Middle Ages. Particular emphasis has to be put on methodological problems, such as the necessity of interdisciplinary approaches,[13] or the question of the extent to which we are, generally, able to comprehend and to decode the communication systems of the past.[14] Moreover, the medievalist does not come across any types of sources in which oral communication represents the main concern.[15] Instead, she or he is confronted, at first glance, with a great variety of 'casual' and 'marginal' evidence.

We would like to thank all the contributors to the workshop and to this volume. Their cooperation made it possible to publish the results of the meeting in the same year in which it took place. This can be seen as a rare exception, at least in the world of the historical disciplines. The head, faculty, staff, and students of the Department of Medieval Studies of Central European University offered various help and support. Special thanks go to Judith Rasson, the copy editor of

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[10] This, e.g., could be well shown in a case study on the pilgrimage to Santiago de Compostela: Friederike Hassauer, "Schriftlichkeit und Mündlichkeit im Alltag des Pilgers am Beispiel der Wallfahrt nach Santiago de Compostela," in *Wallfahrt und Alltag in Mittelalter und früher Neuzeit*, eds. Gerhard Jaritz and Barbara Schuh (Vienna: Verlag der Österreichischen Akademie der Wissenschaften, 1992), pp. 277-316.

[11] Cf. Bob Scribner, "Mündliche Kommunikation und Strategien der Macht in Deutschland im 16. Jahrhundert," in *Kommunikation und Alltag in Spätmittelalter und früher Neuzeit*, ed. Helmut Hundsbichler (Vienna: Verlag der Österreichischen Akademie der Wissenschaften, 1992), pp. 183-197.

[12] Wenzel, *Hören und Sehen*, p. 292.

[13] Cf. Ursula Schaefer, "Zum Problem der Mündlichkeit," in *Modernes Mittelalter. Neue Bilder einer populären Epoche*, ed. Joachim Heinzle (Frankfurt am Main and Leipzig: Insel Verlag, 1994), pp. 374 f.

[14] Frijhoff, "Communication et vie quotidienne," p. 25: "Sommes-nous encore en mesure de communiquer avec la communication de jadis?"

[15] Michael Richter, *Sprache und Gesellschaft im Mittelalter. Untersuchungen zur mündlichen Kommunikation in England von der Mitte des elften bis zu Beginn des vierzehnten Jahrhunderts* (Stuttgart: Anton Hiersemann, 1979), p. 22.

this volume, who took particluar care with the texts of the many non-native speakers fighting with the pitfalls of the English language.

Budapest, Krems, and Constance
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