

Thoughts in Honour of Professor Károly Bárd**

Károly Bárd is a Professor at CEU Legal Studies Department and former Chairman of the Human Rights Programme. Thus, the introduction on the CEU's homepage, which goes on like many other sources listing titles, achievements and honours, academic and otherwise. He started his career at the Eötvös Loránd University Faculty of Law, Budapest. And this is what I would like to focus on: Károly, ELTE and myself.

The excellent journal *Fundamentum* recently published a biographical interview with Professor Bárd. As splendid as this writing is, it could not capture Károly's colourful personality; indeed, this would be impossible, although his comments and words sparkle throughout the interview as ever.

'A life-interview is a prelude to an obituary. I accept.' quotes the said piece Károly when asked whether he would do the interview.

I would like to celebrate Professor Bárd and pay homage to him as an academic, a colleague of many years, and most of all as a friend. His friendship in 1988, when I started my criminal law studies at ELTE in my second year, was closer with Peter Polt (now Chief Prosecutor of Hungary), as he would admit. Peter Polt was my teacher in a criminal law seminar, and we started to collaborate on various Council of Europe tasks to which Károly's recommendation was the key. As Peter told me, his icon at that time was Károly, and indeed we were both much inspired by the criminal legal knowledge, linguistic proficiency and international acclaim of our idol.

His excellent but reserved taste in fashion and his admirable collection of vintage watches were trademarks that we regarded as virtues we wanted to attain. But most of all, his dry and laser-accurate humour disguised as helpful observation was a skill to be learned. As George Bernard Shaw put it. 'The power of accurate observation is commonly called cynicism by those who have not got it.' Well, Károly has it. It was one of Hungary's most acclaimed attorneys about whom I remarked when he appeared at a conference on how sharp he was dressed, to which Károly remarked: *'slightly too many feathers for my taste'*.

Professor Bárd always remained a teacher and academic. Although he left full-time teaching at ELTE just when I started my criminal procedure studies, the contact between

* Balázs Gellér is professor and head of department at ELTE Eötvös Loránd University, Faculty of Law, Department of Criminal Law (e-mail: jbgeller@ajk.elte.hu).

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him and the ELTE criminal law and criminal procedure student law society remained vivid. He involved us students in the Justice Ministry's codification work whilst he also scouted for new talents to recruit for this very purpose. The late László Soós, judge at the Curia and former head of the Criminal Justice Codification Department at the Ministry of Justice, springs to mind as one of those fellow students who was talent-spotted by Professor Bárd and helped in the early stages of his career. Myself, I could not work under him because my heart was set on teaching at ELTE, but I still count this as one of the great losses of my life.

Just to give a glimpse of Károly's humble friendliness, may I recall an incident which profoundly shaped my life and in which he was instrumental. In 1993, I applied to a master's course at Cambridge University and having passed a few hurdles, I suddenly found myself needing two recommendations. Somehow the deadlines became mixed up and the final one was on the next day. I phoned him at the Ministry whether he could very urgently, that is right away, write a recommendation and would it be too much to ask if he could send it via DHL so it would arrive the next day in Cambridge. And could I just bring in the appropriate forms. Instead of sending me to various places or just telling me off, he asked me to come in quickly, and obviously wrote a good recommendation because I was offered a place at Cambridge.

Károly was more than qualified to be nominated and elected as a judge of the European Court of Human Rights many times but, with hindsight, although he was professionally the most knowledgeable person in that field, this very quality disqualified him in the eyes of the political decision-makers, regardless of the regime.

In 1996, Professor Békés retired as head of the Criminal Law Department at ELTE and he was followed by Professor Wiener who, although a good man and significant scholar, had a very unique personality and upset the *pax romana* at the Department, which was restored only when Professor Bárd became head of our department. His disappointment for not having been offered a full-time professorship at his home department, the Department of Criminal Procedure Law, was greatly surpassed by our joy to have him as our *primus inter pares*. It was one of my career-turning points when Károly asked me whether I would teach a course on International criminal law with him. This course was the first such subject taught at a Hungarian law school.

We were also co-authors in the first textbook written by our department in 2003. [*Büntetőjog. Általános Rész. (Criminal Law, General Part*, co-authors: Balázs Gellér, Katalin Ligeti, Éva Margitán, Imre Wiener, ed.: Imre Wiener) KJK-KERSZÖV Jogi és Üzleti Kiadó, Budapest, 2002, p. 346, 2nd edition: 2003, p. 358.]

We both partook in the creation of the law school in Győr, and when the laws changed and Károly was forced to choose and understandably opted for CEU, it was a great loss for ELTE and for criminal law, international criminal law and criminal procedure law-teaching at ELTE.

His first monograph, *Distributing the Power to Punish – Treaties on the Future of the Criminal Trial* was published in 1987, the year I started law school, but it is still as fresh – and I do not mean for some young codifiers and academics – as when it was written.

'Legality contra opportunism' is the title of the first subchapter of the second chapter. Is this not one of the most current problems, especially in view of two procedural measures introduced by the new Code of Criminal Procedure: the prosecutorial motion on sentencing at the preparatory hearing and the plea bargain during the investigation?

I suggest strongly that those now in charge of codifying criminal procedure read that work and heed its advice.

Professor Bárd's other monograph, *Human Rights and Criminal Justice in Europe* (2007), is not only a bestseller but a must for every practitioner. I wrote the most petitions for review proceedings to the Curia and constitutional motions to the Constitutional Court in criminal matters, and when doing so, I turn to this most exquisite work every time. *The Dignity of Victims and the Rights of the Defendant: A Comparative Study*, Károly's book from last year, marks a shift in his work over many years.

Maybe it is inescapable that, after such a long time of dealing with the most severe human rights and humanitarian atrocities, one seeks to understand the roots, the motivations and tries to find an answer to the past and future on a wider scale. For years now I have been grappling with the proper role and understanding of human dignity in criminal justice and in the philosophy of criminal law. Károly has been looking at *Vergangenheitsbewältigung* with a keen new eye, posing the inescapable question of whether a victimised nation necessitates a perpetrator on a national scale.

What I most treasure in knowing Károly and having him as a friend I can best say by turning again to Shaw: *'If you have an apple and I have an apple and we exchange these apples then you and I will still each have one apple. But if you have an idea and I have an idea and we exchange these ideas, then each of us will have two ideas.'*

Thank you Károly and happy birthday!