

## SERGIJ VILFAN IN PRAVOTVORNOST SLOVENCEV

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Naslov zadnje knjige akademika Sergija Vilfana je bil Zgodovinska pravotvornost in Slovenci. Z izrazom pravotvornost je avtor razumel sposobnost ustvarjati pravo, kar je jasno vidno iz naslova povzetka v nemščini Die historische Fähigkeit zur Rechtsbildung und Slowenen.

Zadnja knjiga je bila zanj še posebno pomembna, ker je hotel v njej podati sintezo svojih raziskav in idej o slovenski pravni zgodovini. Nova sinteza se mu je zdela potrebna v luči novih dogodkov, povezanih z osamosvojitvijo Slovenije. Koliko mu knjiga pomeni, sem izvedel iz najinega zadnjega pogovora v začetku leta 1996, nekaj več kot mesec pred njegovo smrtjo. Povedal mi je, da ga samo še pisanje te knjige drži v boju s smrtno boleznijo. O bolezni mi prej ni govoril in tudi nikoli ni nič potožil, takrat pa mi je povedal, da premisli, preden naredi kak gib, da bi se izognil bolečini. Napisal je še tisto, kar se mu je zdelo najpomembnejše, medtem ko časa za piljenje ni bilo več, kar se vidi v nekaterih prehodih, ki bi jih gotovo še izpopolnil, če bi imel čas.

V uvodu knjige je napisal, da je, potem ko je končal svojo Pravno zgodovino Slovencev leta 1961, čutil, da ji nekaj manjka. V njej je jasno povedal, da lahko govorimo o slovenski pravni zgodovini in o slovenskem pravu, kot o pravu, po katerem so se Slovenci ravnali, čeprav je bilo le malo znanega o tem, da so Slovenci svoje pravo tudi sami ustvarjali. Sedanje slovensko ozemlje je bilo namreč do leta 1991 del različnih držav in večino tega časa je velik del prava za to ozemlje ustvarjala oblast, brez kakršnega koli ali z zelo malo vpliva tistih, za katere je to pravo ustvarjala.

Zato je razumljivo, da se je na začetku knjige posvetil vprašanju o razmerju med državo in pravom. Tu je razložil, kako so politične razmere in pozitivistično pravno pojmovanje prava kot izdelka države prevladale v 19. stol., ki je bilo čas velikih pravnih kodifikacij. Ta pojmovanja so vplivala na prepričanje, da so ljudstva brez držav tudi ljudstva brez svojega prava in da za njih veljavno pravo prihaja od zunaj. To je povezal z nekaterimi pesimističnimi razlagami toka slovenske zgodovine, po katerih naj bi bili Slovenci podrejeni v vsej svoji zgodovini. V svoji skrajnosti je to ustvarilo nek mit o slovenskem hlapčevstvu, ki ga je odločno odklanjal. Iz teh razlag se je celo jedko ponorčeval, ko je zapisal, da bi si običajen Slovenec pa tudi kak izobraženec to svoje hlapčevstvo dal napisati kar na posetnico.

Razlago takega razmišljanja je nadaljeval z oceno, kakšen vpliv je imela nanj historično-pravna šola. Ta šola, ki poudarja narodne poteze prava, vpliva še danes. Pri tem lahko opazamo, da so pravni zgodovinarji do nje bolj zadržani kot avtorji, ki pišejo o sodobnem pravu in pisanje uvajajo z zgodovinskimi uvodi. V vsakem primeru je prispevek te šole v pravni zgodovini zelo velik, saj je uvedla pravno zgodovino kot znanost, predvsem pa je uvedla nove metode in pritegnila v raziskovanje nove vrste virov. To poglavje je kratka zgodovina slovenskih raziskovanj na področju pravne zgodovine. Pri tem je posebno pozornost posvetil najvidnejšemu slovenskemu predstavniku pravnozgodovinske šole Metodu Dolencu, ki je napisal prvo slovensko pravno zgodovino z naslovom *Pravna zgodovina slovenskega ozemlja*.

V naslednjih poglavjih obravnava vrsto konkretnih predmetov, povezanih s pravno platjo vsakdanjega življenja. Te je v začetku 20. stol. v obravnavo pritegnila pravna etnografija in posebej njena podzvrst, ki jo Nemci imenujejo pravna arheologija. Najprej je teoretsko osvetlil, kaj nam lahko ti viri povedo, potem pa je opisal vrsto primerov javnih zborovališč, mejnih znamenj in rovašev ter njihovo rabo med Slovenci. Ker se je na podlagi primerjalnega prava prepričal, da so bolj ali manj podobno ravnali tudi drugod, je sklepal, da je podobnosti prej pripisati potrebi in podobnim okoliščinam kot zunanjemu vplivu. Vse to so bila sredstva skupnosti brez pisav in je zato odklanjal razlago, da gre tu za germanske vplive, ker Germani pač ne morejo imeti monopola nepismenosti.

Po dolgem poglavju o naravi običajnega prava z navedbami nekaterih primerov iz slovenske zgodovine se je posvetil okoliščinam, ki so bile posebno ugodne za nastajanje običajnega prava. To je bila avtonomija vaških skupnosti, katere vsebina je bilo odločanje o svetu v skupni izrabi. Več ko je bilo nerazdeljenega sveta za skupno pašo in gozda, pomembnejša je bila avtonomija. Zbori vaščanov, včasih imenovani tudi večje, so odločali predvsem o izrabi skupnega sveta, vendar pogosto tudi o drugih zadevah vaške skupnosti in včasih so delovali celo kot sodišče. Tako sodišče je lahko odločalo o premoženjskih sporih in v veliko manj primerih celo o manjših kazenskih zadevah. Pomembne podatke o družinskem pravu je nudilo bogato obredje v zvezi s sklepanjem zakonske zveze. To veliko pove tudi o položaju žensk in premoženjskih dogovorih med zakoncema oziroma njunima družinama. Množica navedenih primerov zgovorno dokazuje, da so bili kmetje povsem sposobni urejati svoja pravna razmerja brez posebnega zapletanja in so pri tem dokazali veliko domiselnost. Meni se zdi lep primer, ki kaže tudi, kaj so si mislili o poštenju, domnevno največji vrednoti Slovencev. Vaška skupnost je čez poletje gnala živino na planski pašnik, kjer je skupni pastir iz namolzenega mleka prideloval sir. Tega so si delili v sorazmerju z mlečnostjo živali. To so ugotovili zjutraj preden so odgnali živino. Da ne bi kdo goljufal, so sosedje drug drugemu prejšnji večer pomolzli živino.

Kot sem že povedal, je knjiga Zgodovinska pravotvornost in Slovenci sinteza in deloma nova ocena celotnega Vilfanovega znanstvenega dela. Pred tem je napisal vrsto besedil različnega obsega o slovenskem običajnem pravu in na samem začetku njegovega znanstvenega dela je njegov prispevek iz leta 1944. Na pobudo profesorja Janka Polca, ki ga raziskava te teme ni privlačila, je napisal poglavje za Narodopisje Slovencev Rajka Ložarja.

Če vemo, da je le malo prej, leta 1941 diplomiral in naslednje leto doktoriral, vidimo, da je bila njegova nadarjenost opažena zelo zgodaj. To mi je potrdila tudi najina skupna učiteljica dr. Silva Trdina.

Rojen je bil leta 1919. Njegov oče je bil uradnik Donavske komisije in kot so se menjala očetova službena mesta, so se menjali tudi kraji Vilfanovega šolanja: Bratislava, Dunaj, Dubrovnik, Ljubljana. To se je videlo v njegovi nadarjenosti za tuje jezike; posebno njegovo znanje nemškega jezika je vzbujalo občudovanje nemško govorečih. Pravo je doštudiral v Ljubljani in se med študijem izkazal z dvema nalogama, za kateri je dobil svetosavsko nagrado. Ena od njih je bila s področja pravne zgodovine in sicer o deželnih ročinah – k tej temi se je vračal tudi kasneje v vrsti besedil. Kot mlad pripravnik je delal najprej v odvetniški pisarni in potem kot konceptni uradnik pri Zvezi industrialcev v Ljubljani.

O težavah, ki jih je imel takoj po vojni, mi ni govoril. Prof. Ferenc mi je povedal, da je našel njegovo ime na seznamu zaprtih po vojni. Razlog bi lahko bil tudi sodelovanje v katoliškem akademskem društvu Zarja ali objava nekaj člankov med vojno, ki bi lahko pomenili kršitev kulturnega molka. Pred tem je bil predviden za naslednika prof. Polca, ki pa je sam imel težave, saj so ga izločili z univerze. To je bilo posebno krivično, ker je bil mladi Polec v prvih vrstah tistih, ki so si prizadevali za ustanovitev slovenske univerze pred prvo svetovno vojno.

V letih med 1945 in 1950 je bil Vilfan zaposlen kot pravni referent na občini Grosuplje. Potem je bil imenovan za direktorja ljubljanskega mestnega arhiva, zato se je posvetil proučevanju arhivistike in zgodovine mest. Na obeh področjih je prispeval pomembna dela in oceno njegovega arhivskega prispevka bodo podali kolegi iz arhiva. Za svoje delo je žel priznanje tudi med kolegi v tujini, kar dokazuje dejstvo, da je bil poročevalec na svetovnih kongresih zgodovinarjev, predsednik mednarodne komisije za zgodovino mest in urednik več mednarodnih zbornikov.

Leta 1961 je končal svoje prvo veliko delo: Pravna zgodovina Slovencev. Zanj je prejel najvišje republiško priznanje za znanstveno delo in knjiga še vedno ostaja temeljno delo svojega področja. Iz knjige mi vedno prihaja v spomin njegova duhovitost, ko je na nekem mestu ugotovil, da je temo ustoličevanja raziskovalo več glav kot misli. Žal ni imel časa, da bi pripravil novo izdajo, vendar je v devetdesetih letih odklonil ponatis, saj je od izdaje knjige minilo že več časa kot med

izidom Dolenčeve in njegove zgodovine. Knjigo je bilo treba po njegovi smrti vendarle ponatisniti. Pripravil je tudi nemško izdajo knjige, ki jo je primerno skrčil, je pa dopolnil bibliografijo.

To pomanjkanje časa razloži obseg raziskav, ki jih je opravil v tem času. Žal lahko tu omenim le najpomembnejša dela. Beograjski profesor Jorjo Tadić je Vilfanu odprl vrata v tujino in mu priskrbel polletno štipendijo v Parizu na *École pratique des Hautes Études* na oddelku znanega gospodarskega zgodovinarja Fernanda Braudela. Tako je dobil vpogled v literaturo, ki je v Ljubljani ni imel na razpolago. Vilfanovo zanimanje za gospodarsko zgodovino je obrodilo vrsto temeljnih del iz slovenske gospodarske zgodovine predvsem s področja zgodovine cen, davkov in denarja. V tem času je bil že član ožjega uredniškega odbora, ki je pripravljal pri SAZU gospodarsko in družbeno zgodovino Slovencev. V prvi knjigi *Zgodovine agrarnih panog* je bil njegov prispevek manjši,<sup>1</sup> zato pa je bil avtor več kot polovice druge knjige, ki je izšla leta 1980. Med poglavji, ki jih je napisal, bi poudaril pomen dveh, ki predstavljata najsodobnejšo slovensko obravnavo dveh ključnih plati fevdalnega reda. Gre za fevdalizem kot sistem zemljiških gospodstev, kot organizacijo oblasti in sistem zajmov, ki je ključen za razumevanje fevdalnih premoženjskih razmerij. V knjigi je tudi poglavje o kmečkih skupnostih, ki je podlaga za del o isti temi v *Zgodovinski pravotvornosti*. Poudariti pa je treba, da je vse navedene teme obdelal tudi za obdobje pred in po fevdalizmu.

Vilfan je stike s fakulteto vzpostavil že v petdesetih letih kot izpraševalec, toda na fakulteto je prišel leta 1970 kot redni profesor. Profesor Grafenauer je njegov pozen prihod označil kot sramoto za fakulteto, a v tem, da je začel kot redni profesor, je bilo veliko priznanje. Nikoli ni bil izvoljen za dekana, ker ga to ni zanimalo, odigral pa je pomembno vlogo kot predsednik študijske komisije v času pomembnih sprememb na področju izobraževanja.

Kot učitelj se je soočil s problemom učbenika, ker se mu je zdela njegova *Pravna zgodovina* za prvi letnik preobsežna, zato je do leta 1990 izdajal študijska gradiva. Takrat je objavil zgoščen *Uvod v pravno zgodovino*, ki je za prvi letnik zelo zahteven, čeprav študentje kmalu uvidijo njeno uporabnost. Knjiga je sijajen kratek pregled zgodovine Slovencev, saj je bil prepričan, da je mogoče pravno zgodovino od zgodnjega srednjega veka v večini tem ustrezno predstaviti s primeri iz slovenske pravne zgodovine.

<sup>1</sup> V razpravi je dr. Darja Mihelič povedala, da je bil njegov prispevek na videz manjši, kar izhaja iz poglavij, ki jih je podpisal. Je pa bistveno prispeval k vsebini nekaterih poglavij, pod katera so se podpisali drugi avtorji.

Ni mogoče mimo njegove Jugoslavije, ki je izšla v tretji knjigi Priročnika virov in literature novejše evropske zgodovine zasebnega prava in vsebuje poleg seznama najpomembnejših virov in literature tudi kratke zgodovinske uvode k posameznim temam.

V sedemdesetih in osemdesetih letih je veliko objavil tudi o nekaterih drugih temah. Med njimi so pomembnejši prispevki o jezikovnem pravu v habsburški monarhiji. V zborniku primerjalnih študij o oblasti in nevladajočih narodnih skupnostih v Evropi med 1850 in 1940, ki je izšel leta 1993, je bil avtor poglavja in uvodne študije.

Skozi vso dobo svojega znanstvenega dela se je vračal k še eni temi – zgodovini stanov in parlamentov. V več jezikih je objavil raziskave s področja zgodovine parlamentov. Posebej se je posvečal kranjskim stanovom in zvezi med financiranjem Vojne krajine, gospodarskim vplivom le-tega in upadajočo vlogo stanov.

Vilfan se s politiko ni ukvarjal, toda na mnoga vprašanja v pravni zgodovini ni mogoče odgovoriti, ne da bi se ozrli na vlogo politike pri ustvarjanju prava. Dejstvo je, da se pred politiko ne da pobegniti, saj ta najde vsakogar. Njegov namen ni bil izražati politična stališča, toda nekaterih neinteligentnih trditev o posameznih vprašanjih iz pravne zgodovine, ki so se oblikovala iz političnih kalkulacij in so jih mnogi sprejemali bodisi, ker niso imeli dovolj znanja, bodisi o stvareh niso dovolj razmišljali, le ni mogel spregledati. Tako se vračamo k njegovi zadnji knjigi, v kateri je povzel svoja razmišljanja o državi in pravu. V poglavju Brez vprašaja bralca še enkrat opomni, da je večina modernih pojmovanj o državi pod močnim vplivom nacionalističnih gibanj 19. stol. in da teh pojmovanj ni mogoče brez temeljitega razmisleka prenesti na druga zgodovinska obdobja. Zato nastanek slovenske države ne terja, da bi na glavo obrnili slovensko etnogenezo ali zgodovino. Prav tako so nepotrebni novi miti, je pa potrebno ponovno presoditi o izhodiščih in merilih ocenjevanja dogodkov v preteklosti. Po tej plati niso Slovenci nek vedno trpeči in podjarmljeni narod niti izbrano ljudstvo, pač pa normalen evropski narod, ki se je ves čas prilagajal zgodovinskemu položaju in okolju.

Tako smo prišli do dela, ko lahko omenimo nekaj priznanj njegovemu obsežnemu, inteligentnemu in pogosto duhovitemu prispevku k zgodovinski znanosti. Leta 1978 je postal izredni član Slovenske akademije znanosti in umetnosti. Ko sem mu ob neki priložnosti rekel, da je akademik, me je poučil, da je med izrednim in rednim članom večja razlika kot med brucem in izrednim članom. Redni član je postal leta 1983, potem pa je sledila vrsta imenovanj v akademije: leta 1987 je postal dopisni član poljske akademije, 1988 dopisni član avstrijske in 1989 dopisni član evropske akademije.

Ob predstavitvi dela je bila predstavljena le ena plat osebnosti profesorja Vilfana. Bil je visok mož resnega obraza, kar so še poudarjala očala. Toda ta vtis se

je spremenil, ko se je na obrazu pojavil blag smehljaj, in blagi naravi je ustrezalo njegovo prijazno vedenje. Tudi kadar ga je kak študent presenetil z originalno mislijo, ki je izvirala iz neznanja, ni povzdignil glasu, čeprav so mu številni izpiti jemali preveč dragocenega časa. Njegova predavanja so bila brez patosa, a vendar vedno zanimiva, saj je znal jasno predstaviti resna dejstva, ne da bi ga zapustil smisel za humor. Mislim, da sam sebe ne bi označil za filozofa, vendar je v pomenu dobrega človeka to gotovo bil. Vedel je, kako vzpodbuditi študenta, da je na izpitu pokazal največ, kar zna. Toda to ne pomeni, da ni bil zahteven. Študente je vzgajal v razmišljajoče izobražence z vprašanji kot: »Zakaj je na prvem slovenskem denarju podoba knežjega kamna? Argumenti za in proti.« Pri diplomskih nalogah je nagrajeval trezno pisanje brez nepotrebnega intelektualiziranja oz. poze. Da je bil pravi gospod, kaže ravnanje pri priznavanju izpitov, opravljenih pri drugih profesorjih na drugih fakultetah. Znal je tudi reči: »Če je izpit opravil pri njem, je moral znati več, kot če bi delal pri meni.«

Za konec naj citiram kolego Kranjca: »Profesor Vilfan je prešel v zgodovino.« V vsakdanjem pogovornem jeziku ima ta trditev lahko čisto drugačen pomen, a sem prepričan, da bodo bralci ta citat prav razumeli.<sup>2</sup>

## SERGIJ VILFAN AND THE LAW FORMATION OF SLOVENES

Vilfan's last book »Historical Formation of Law and the Slovenes« was particularly important to him because he wanted to synthesize his research and ideas about Slovene legal history which needed different stress after the creation of the independent state of Slovenians in 1991. I learned how important this work was for him in my last conversation with him sometime at the beginning of 1996. He was already very ill and told me without complaint that he thought out every move he made in advance, in order to avoid the pain. However, the effort to finish the book drove him in his resistance to the fatal illness. He wrote what he was most interested in saying but died before he had time to polish it or better to weld the chapters, as he would have done if he had had the time.

He said in the introduction to the book that he felt something was missing in his Slovene Legal History immediately after having it finished in 1961. Whereas there was no doubt that one could speak about Slovene law and therefore Slovene legal history, as about the law by which the Slovenes were governed, there was very little evidence

<sup>2</sup> Za bralca, ki bi želel zvedeti več o akademiku Sergiju Vilfanu, je imenitno izhodišče Vilfanov zbornik, ki je izšel pri Založbi ZRC leta 1999 v Ljubljani.

that the Slovenes made their own law. Until 1991, the territory of present Slovenia was part of various states and for most of this time the powers outside this territory made most of the law that applied on Slovene territory with little or no influence of the people for whom it was created.

It is therefore no wonder that he begins with the question of the relation between law and the state, in which he explains how political thinking and a positivist view of law as a product of the state as it was conceived in the 19<sup>th</sup> century, the century of codification, influenced the belief that peoples without states had no law or had to have law coming from outside. He connected it to the pessimistic interpretation of the line of Slovene history, according to which the Slovenes were under the authority of others throughout their past. This resulted in the myth of Slovene servility, which he resented and considered entirely wrong. Vilfan caricatured this myth to the extent that he claimed that even an ordinary but educated Slovene would rather have in addition to his name – »servant« printed on his visiting card.

The line of discussion continues to an assessment of the influence of the historical school of law, which still influences much of the research of legal history, although it can now be seen that it is ever less legal historians who do so, but rather authors who provide historical introductions when writing about modern law. The importance of this school has nevertheless been enormous in the development of methods and bringing new sources under scrutiny. This chapter is a short history of Slovene historical legal research, in which much attention is paid to Metod Dolenc, the man who wrote the first Slovene legal history, entitled *The Legal History of the Slovene Territory*.

The following chapters deal with objects related to the legal side of everyday life, which are important sources for legal anthropology, especially the part that is called legal archaeology in German. He begins with a theoretical consideration of the nature and scope of these sources and then lists examples of these objects, such as meeting places, boundary signs and tallies and their use among the Slovenes. Since he knew well that their use was pretty much the same elsewhere, his conclusion was that need was the main source of invention rather than foreign influence. Since they were mainly instruments of an illiterate society, he refused to accept the explanation that similarities were always due to Germanic influences, by saying that the Germans cannot claim a monopoly on illiteracy.

After a long chapter on customary law, with some examples from Slovene history, he takes closer look at the circumstances that facilitated the development of customary law, with plenty of cases from the life of village communities, where it appears that their autonomous position favoured the use of customary law. What was left to the community to decide depended to a large extent on how much land was in common use, which in turn depended on the importance of cattle in the economy of the community.

The common use of land was the main topic of peasant assemblies but such assemblies often continued to make decisions also about other aspects of community life and acted as simple courts ruling on disputes in property cases and even contracts, although far less in criminal cases. Family law is presented through rich marriage rituals, which are closely connected with the role of women in the family and property arrangements between the spouses and often their families. All the cases show that simple peasants were quite able to regulate their simple legal relations without much fuss and that they could be very inventive in doing that. A nice example of that was a custom that also gives an interesting insight into the supposedly biggest value among Slovenes: honesty. A village community used to drive the cattle to summer pastures in the mountains, where a herdsman hired by the community made cheese. This cheese was divided according to the quantity of milk given by the cows of a respective owner. The quantity was established by milking on the morning when the cattle were driven to the mountains. To prevent abuses, neighbours milked each other's cows on the previous night.

As I said, his last book was a synthesis and partial restatement of his entire scientific work. Vilfan wrote texts of various length about Slovene customary law throughout his entire scientific career, so it is no surprise that one such work can be found right at the beginning of his research in 1944. On the initiative of his professor, Janko Polec, who felt no inclination for this kind of research, he wrote the section on legal anthropology for the Slovene reassessment of anthropologic research *Narodopisje Slovencev*.

Knowing that he only finished his legal studies in 1941 and became a doctor of law the following year, it can be seen that his talents were recognised very early. He was born in 1919 and due to various positions held by his father, who was employed with the Danube Commission, he attended school in Bratislava, Vienna, Dubrovnik and Ljubljana. A good side of this was his knowledge of several languages, which was very useful in his international career. He studied law in Ljubljana and proved his talent by writing two papers, which received the highest prize of St. Sava. One of them was already in the field of legal history. It was a study about provincial estates and he later returned to that subject several times. As a young lawyer, he began his career as a trainee in the chambers of a counsellor and then as an intern at the Alliance of Industrial Entrepreneurs in Ljubljana.

He never mentioned to me the problems he had immediately after the war but Professor Ferenc has told me that he found his name on the list of people imprisoned in 1945. This may have been because he was active in a group of catholic students, Zarja, or that publication of some articles during the war was considered a breach of the cultural silence imposed by the Liberation Front. He was supposed to succeed Professor Janko Polec, who was in trouble himself and was eventually expelled from the university. This was a tremendous shame, since Polec was in the front rank of



those who made the greatest efforts in order to found the first Slovene University in Ljubljana.

Between 1945 and 1950 Vilfan was employed as a lawyer in local administration. He then became director of the Municipal Archive in Ljubljana. It was for this reason that Vilfan turned to studies in the field of archivology and the history of cities. He contributed important works in both fields and our colleagues from the archives will therefore assess his role as an archivist. His work was recognised by his peers abroad; he was a reporter at several conferences and presided over the international commission for the history of cities.

Vilfan finished his first major work, *The Legal History of the Slovenes*, by 1961. He received for it the highest prize for scientific work that was at that time given in the Republic of Slovenia. It still remains the basic work in the field. Unfortunately, he did not have time to prepare a new revised edition and in the nineties refused a simple reprint arguing that more time has passed from the first edition than between the history written by Dolenc and his own. The book was only reprinted after his death. *The Legal History of the Slovenes* was adapted by Vilfan for a German edition in 1968. It was smaller in size, since many facts that were general in legal history could be omitted, but the bibliography was updated.

The lack of time for a new edition of his legal history can be explained by the enormous amount of research he did instead, of which only the main works can be mentioned here. It was the Belgrade Professor Jorjo Tadić who introduced Vilfan to scientists abroad and opened the doors for him by getting him a grant to study or six months in Paris at *École pratique des Hautes Études* in the section led by Fernand Braudel. He was able to gain an insight here into the literature he was lacking in the modest situation in Ljubljana. It gave rise to his interest in economic history and he wrote some basic Slovene works in this field, particularly about the history of prices, taxation and money. By that time he was already a member of the small group of Slovene historians who prepared a Slovene economic and social history for the Slovenian Academy of Sciences and Arts. In the first volume, on *Agrarian History*, his contribution was smaller but he wrote more than half of the second volume, which came out in 1980. I would highlight two of the chapters he wrote because they represent the best Slovene presentation of the feudal legal system. The chapter about manors presents the administrative side of feudalism, in which manors are the basic organisation of government, while the chapter on property rights shows the economic side of the complex system of tenancies. I must of course stress that the scope of all of his studies in the volume goes far beyond feudalism.

Prior to that, Vilfan re-established his connection with the law faculty. In the fifties his cooperation had been as an examiner but in 1970 he became a full professor at the faculty. His colleague Bogo Grafenauer wrote that it was a shame for the faculty that it only invited him at that time but the fact that he started as a full

professor proved that this was recognized. He was never elected dean of the faculty because he had neither the time nor the interest in holding this post but he played an important role as chairman of the commission that decided the curriculum and admission criteria in the period of great changes in the system of education.

As a teacher, Vilfan was faced with the problem that there was no textbook for legal history because he thought that his *Legal History of the Slovenes* was too voluminous for an ordinary student. He solved the problem by issuing study notes but in 1990 wrote a short *Introduction to Legal History*, which still remains the main textbook.

As a reference book one cannot omit his *Jugoslawien*, which appeared in 1988 in the third volume of *Hanbuch der Quellen und Literatur der neueren europäischen Privatrechtsgeschichte*, edited by Helmut Coing. It contains the basic bibliography with short historical introductions.

In the seventies and eighties Vilfan was also active in other fields. One of the most important of his contributions was about legal language as it developed in the Hapsburg Empire. He was the author of a chapter and the introduction and the editor of a volume *Comparative Studies on Governments and Non-dominant Ethnic Groups in Europe 1850-1940*, which came out in 1993.

He paid a great deal of attention to another topic that he studied throughout his entire career, the role of estates. He published several articles in different languages, which dealt with different aspects of the history of estates. His main concern was the estates of Carniola the central Slovene province and in particular the relation between financing the military border, its economic impact and the fading role of the estates.

This brings us to the point at which it can be mentioned how this enormous and intelligent work was recognized. In 1978 he became an associate member and five years later a full member of the Slovenian Academy of Sciences and Arts. This was followed by a real shower of honours: in 1987 a corresponding member of the Polish Academy, in 1988 a corresponding member of the Austrian Academy and in 1989 a corresponding member of the European Academy.

One side of the personality has been presented through the work of Professor Vilfan. It needs to be said that he was tall man, whose face looked severe because of his spectacles but this changed when his kindly smile appeared and his behaviour was always in accordance with his kind nature. He never raised his voice, even when he was confronted with utter inventions of ignorance during examinations, which took too much of his precious time. His lectures were straight to the point but never boring because he knew how to choose the presented facts with wit, and his sense of humour was always there. I do not think that he would have labelled himself a philosopher, but in the sense of a good man he was certainly that. He knew how to inspire students to give their best at an examination and was a mild examiner, although that doesn't mean he was undemanding. As an illustration of how he wanted

to transform a student into a thinking intellectual, let me quote one of his questions: »Why is a symbol of the »Slovene« state that is now in Austria, shown on the first Slovenian money? Arguments for and against.« That he was a gentleman is best shown by his attitude when there was a question of whether an exam passed at another faculty under another professor should be recognized when a student changed the school. He could lightly say that if he passed the examination of that professor, he must have known more than he would have needed to pass mine.

Let me finish with a quotation from colleague Kranjc: »Professor Vilfan has become history« In vernacular this is not the best ending but I trust that this audience will understand it correctly.



*Sergij Vilfan v času, ko je pisal Pravno zgodovino Slovencev, 1961  
(v privatni lasti)*