

Anikó Raisz¹:

**The “lawfully condemned” – Forgotten aspect of
the 1956 revolution in Hungary**

Reflections on history, human rights, reconciliation and justice

*“because where tyranny obtains
everything is vain,
the song itself though fine
is false in every line,*

*for he stands over you
at your grave, and tells you who
you were, your every molecule
bis to dispose and rule.”²
(Gyula Illyés)*

The 1956 revolution is one of the most complex events of the not at all gladsome 20th century Hungarian history. It was a rather spontaneous and incontestably brave attempt to avoid the – then presumed, later materialized – subsequent decades, the moral, social and economical hedge-hopping of our nation. Due to this mentioned complexity and the fact that the inner reconciliation of the Hungarian nation has not happened yet even in fifty years’ time, there are so many questions worth talking about as to 1956. The present article focuses on the reprisals that happened in connection with the revolution and especially tries to draw attention to a rather marginalized question: the position of the so-called “lawfully condemned”, those who

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² Gyula ILLYÉS: *Egy mondat a zsarnokságról (A sentence about tyranny)*, in the translation of George Szirtes.

„mert ahol zsarnokság van,
minden hiában,
a dal is, az ilyen hű,
akármilyen mű,

mert ott áll
eleve sírodnál,
ő mondja meg, ki voltál,
porod is neki szolgál.”

became victims of the communist regime in a very particular way, having been convicted for never committed crimes, based on with malice aforethought made-up accusations. The kind of “transitional justice” the country witnessed in the last one-and-a-half decades was superficial if not ignorant as regard to this problem. The existence of the problematic is quite obvious: from a historical distance like this it is hard to differentiate which judgments of that time had only and alone a political motive.

To evaluate this question, two points have to be treated: what happened in 1956 (and afterwards) as to the reprisal (A) and what was the Hungarian legislative situation after the change of the regime (B).

A. Reprisal after 1956

This article concentrates on a theme which was and is not as much present in the media and the public conscience after the change as the volley-firings e.g., and – admittedly – constitutes just a part of reprisal of the 1956 revolution that took several ways. The mainstreams were to condemn to prison or to execute (“lawfully”) the participants of the revolution, to condemn and/or execute (“lawfully”) people not being participants of the revolution – partly for non-existing reasons – but because they have belonged to the “dangerous” social classes (teachers, students, army officers, clericals, lawyers etc.), to (“lawfully”) dismiss the dangerous people from their jobs or to torture and kill people in order to terrify the population via organized terror-groups who have been called “those with the grey coats” (“pufajkások”).³ In the period beginning in November 1956, the leadership of the country – put there by the Soviets – was interested practically in nothing else than terrorizing the nation, trying to avoid another uprising. And this meant many crimes, and constituted a dumping of violation of human rights.

Nothing describes better the situation of the following years of 1956 than the case of the then prime minister. A part of the authors⁴ does not understand why there had to be a that late reprisal e.g. in the case of Imre Nagy (only in 1958). The reasons can be numerous, the author of this article nevertheless emphasizes again arguments No.4 and 5: i) They wanted it to be deterrent ii) They saw it as a retorsion iii) It showed power (especially in the relations Soviet block v. China) iv) It was a clear overzeal, it took place in order to show the loyalty of Kádár (in order to make the Soviet leaders forget his role in Nagy’s government) v) The aim was to terrorize the population.⁵

As already mentioned above, many have been condemned only based on fictitious charges, manufactured evidence or no evidence at all, not having committed anything in reality. They have been condemned for “traditional” crimes, present in the Penal Code (such as theft, fraud, murder etc., the fantasy had no borders) but the only reason was that they were either

³ In Hungary it is well-known that they came at night with a black car, and took someone with them who has most of the time never been seen again. Today we know that their victims were (brutally) tortured and killed. But the remains of many of them have never been found. They are our “forced disappeared” persons.

⁴ See FELKAY, András: The relationship between Hungary and the Soviet Union in the years of the Kádár-regime, 1956-1988, p. 215-228 in: ROMSICS, Ignác (ed.): *Hungary and the world-powers in the 20th century*, Budapest, Teleki László Alapítvány, 1995, p. 219.

⁵ In connection with points 1 and 2.

suspicious to have participated in the 1956 revolution (but it was not entirely sure), or suspicious just in general, belonging to unwanted “classes”.

Concerning the criminal policy of the months and years after the revolution, the following dominant thoughts have to be mentioned: there had to be “relentless persecution” against the “class-aliens, déclassés”, they had to be punished in that way for the “counter-revolutionary crimes”. The class background, the origin was explicitly mentioned as aggravating circumstance.⁶ But among the documents we can find e.g. a report of the Ministry of Justice on the working of the committees of the People’s Courts, mentioning when and how these courts started their operations.⁷ The reprisal did not stay by those brought directly in connection with the revolution. For years, the policy of terror was commenced (see such famous cases as that against Cardinal Mindszenty or László Rajk et al. etc., and many-many not registered cases), in the shadow of the Soviet army the puppet-regime (all the three Montesquieu-branches) of Hungary continued: improved and accomplished the organized state terror.

B. Attempts on “historical justice” after the change

Why does the question of the unlawful acts committed during the (military and political) reprisal of the 1956 revolution still have actuality in Hungary? The country had a lot of problems to face after the change of the regime, in the beginning of the 1990s. Though the new Hungary tried to deal with the question of reconciliation, it has not completely fulfilled its duty to apologize from the victims and their families for the mentioned events. (Although we have to admit that the country had a lot of things to apologize for and compensate from the previous forty years.)⁸ It is not our task to judge the early governments’ and parliaments’ work, but we have to emphasize that the total apology and reconciliation for the injustice committed throughout the communist regime has never happened. In the present article the far too much complicated question of monetary reparation is set aside, we just mention (or propose...) other – probably in this case more appropriate – forms of reparation like apology or declaration of innocence. From a human rights point of view it would be important for the young democracy not to keep silent on such grave violations of essential fundamental principles.

Still, the unjust condemnation of these people mentioned above has never been object of successful reconciliation procedures, admittedly, it is not an easy task to find all the “conceptual processes” among the just and lawful condemnations, but at the same time that is

⁶ See e.g. the circular of the Political Commission upon “Some questions of our criminal policy”, Decision of December 10, 1957, in: *Kúriai teljes ülések, ÁVH-s kiballgatások, „párt”-ítéletek, rehabilitációk, az ’56-os megtorlás iratai*, Budapest, Közgazdasági és Jogi Könyvkiadó, 1992, p. 613.

⁷ Report of the Ministry for Justice on the functioning of the committees of the people’s courts. According to its data, the special committees started their work April 6, 1957 as for the Supreme Court and July 3, 1957 for the departmental courts, in: *Kúriai teljes ülések, ÁVH-s kiballgatások, „párt”-ítéletek, rehabilitációk, az ’56-os megtorlás iratai*, Budapest, Közgazdasági és Jogi Könyvkiadó, 1992, p. 594. Minute of the Ministry for Justice on the establishment of the committees of the people’s courts reports e.g. on “speed procedures” (where not even the minimum of procedural guarantees have been ensured), *Kúriai teljes ülések, vizsgálatok és „vallomások”, „párt”-ítéletek, elvi határozatok, az ’56-os megtorlás iratai*, Budapest, Közgazdasági és Jogi Könyvkiadó, 1993.

⁸ As to the right of victims to reparation see among others SHELTON, Dinah: *Remedies in International Human Rights Law*, Oxford, Oxford University Press, 2005; AMBROSE, A.D.: The Right to Reparation for Victims of Violations of International Human Rights and Humanitarian Law, *Journal of the Institute of Human Rights*, Volume VI, June 2003, No.1, pp. 26-36. Institute of Human Rights, Jaripatka, Nagpur, India.

what is so unjust. The young Hungarian democracy did not know how to react (and partly was not willing to do that) when it was confronted in the early 90s with the inherited problems of the precedent regime and the international responsibility connected with it.⁹ Even in the cases of the massacres committed against the civilest population, the so-called “volley-firing processes”, the first judgments have been announced a decade after the change.¹⁰

Even the adoption of a law – creating the direct legal basis of the processes concerning the crimes of '56 – in the Hungarian legal system was not successful, because the so-called *historical justice law* (igazságtételi törvény) though adopted by the Parliament in the early 90s, has been nullified by the Constitutional Court (see below). Still, the Hungarian state tried to compensate the injustice and legislative provisions have been adopted (e.g. the law 36/1989 on the redress of judgments in connection with the 1956 revolution, law 26/1990 on the nullification of the unlawful condemnations between 1945 and 1963 or Gov. decree 93/1990 on certain connected labour law questions). Also the question had to be answered whether the crimes committed against the civilians in 1956 can be punished (problem of retroactivity, *nullum crimen sine lege*, etc.). This has nevertheless already been solved by the 53/1993 decision of the Hungarian Constitutional Court.¹¹

What problems the Hungarian jurisdiction had in order to be capable of dealing with questions like that of the revolution of 1956, is clear if we regard the decision of the Hungarian Constitutional Court¹² concerning the direct application of the Geneva Conventions.¹³ The criminal code of the country was not prepared for something alike: the rule of prescription nearly undermined the efforts to administer justice. The so-called *Lex Zétényi-Takács*¹⁴ tried to operate with the prescription times, but was blocked by the Constitutional Court.¹⁵ Another attempts followed, where at least the Constitutional Court declared¹⁶ that the Constitution and the national law should be interpreted in a way that supports the effective execution of international obligations. It is accepted in the Hungarian constitutional order since then as well that war crimes and crimes against humanity are part of international custom and as such, generally accepted rules of international law, which the Hungarian Constitution explicitly tries to obey to.¹⁷ Act XC of 1993 was adopted which did not survive for a long time either as it was nullified in its totality with the decision 36/1996 CC. On the other hand the same decision made it possible now for the Hungarian legal system to adopt judgments on the direct basis of the Geneva Conventions.¹⁸

⁹ See *inter alia* the Gabčíkovo-Nagymaros (Hungary v. Slovakia) case before the International Court of Justice (Judgment of September 25, 1997).

¹⁰ See the “volley-firing cases” of Mosonmagyaróvár, Tiszakécske or Salgótarján..., respectively the cases Bfv. X. 713/1999/3, Bfv. X. 207/1999/5, Bfv. X. 787/1999/3 before the Hungarian Supreme Court.

¹¹ Still, some courts have to be convinced that the Geneva Conventions have been applicable for the volley-firings at that time.

¹² Decision No. 36/1996 (IX.4.) AB of the Constitutional Court (Official journal: 1996/75 pp. 4673-4675).

¹³ For further information see KOVÁCS, Péter's comment in the *Yearbook of International Law*, Volume 1, 1998, T.M.C. Asser Press, The Hague, p. 451-455.

¹⁴ See KOVÁCS *ibid.*, p. 452.

¹⁵ Decision No. 11/1992 (III.5.) AB.

¹⁶ Decision No. 53/1993 (X.13.) AB, which also declared the position of the Constitutional Court concerning certain aspects of the monism in the Hungarian constitutional system.

¹⁷ See article 7(1) of the Hungarian Constitution.

¹⁸ See furthermore: PICTET, Jean S. (ed.): *Commentary to the Geneva Convention (I) for the amelioration of the condition of the wounded and sick in armed forces in the field*, Geneva, International Committee of the Red Cross, 1952 (reprint 1995),

The problem with these laws is that – as already mentioned – the effective redress did not reach every person condemned for political reasons. Those, in whose judgments the revolution or the word ‘political’ has not been mentioned expressly, but who were nevertheless convicted for never committed crimes (this procedure became a name in Hungarian history: ‘conceptual process’), were left out of their scope. Consequently, the problem remained: many Hungarians lived and died even after the change being a ‘condemned criminal’ of the communist regime, without having had the chance for an – at least symbolic – redress.

Concluding words

As *Henry Kissinger* relevantly wrote, “1956 brought along the suffering and the enslavement of another generation. This period until the final collapse, however short it seems to be from a historical perspective, has caused immeasurable affliction for the countless victims of the totalitarian regime.”¹⁹

Besides the long-lasting social tragedy of the defeated revolution, the various direct or indirect forms of the reprisal supported the hate and fear of the population vis-à-vis the communist regime. It has to be underlined that in the communist Hungary such events have not only happened around the revolution, but also systematically before and after 1956. Such forms of the terror have occurred in every third Hungarian family (i.e. somebody killed, tortured, captured or dismissed by the communist regime’s faithful believers). From 1948 straight onward, in order to establish the communism, and after 1956 as a prevention, that such a “thing” (they called it: “counter-revolution”) would never happen again. The aim of this article was to remind its readers on a rather marginalized section of the endless injustice of the communist regime, on some nameless victims of conceptual processes, and to try to show that the silence of the state is not necessary and not at all eligible.

This article dealt with questions that should not be forgotten, saluting among others before the countless victims who were condemned due to initially false accuses. It offers a topic to become object of judicial considerations, because the Hungarian society still feels the lack of total reconciliation and redress. In a way, we should be happy that it is like that, that until the total reconciliation is reached, the society cannot calm down entirely. It shows that we are not completely lost. As we should really keep in mind the old aphorism:

A country that forgets its history is condemned to repeat it.

as well as SASSÖLI, Marco – BOUVIER, Antoine: *How does law protect in war?*, Geneva, International Committee of the Red Cross, 1999.

¹⁹ KISSINGER, Henry: *Diplomacy*, Budapest, Panem-Grafo, 1998, p. 558.