EXCURSUS 1

Gyorgy Krasso on
HUMAN RIGHTS IN HUNGARY

A pledge to "respect human rights and fundamental freedom of thought, conscience, religion or belief" and confirmation of "the right of the individual to know and act upon his rights and duties in this field" were among the provisions of the Helsinki Final Act signed in 1975 by thirty-three European countries, the U.S., and Canada. Soon "Helsinki Watch Committees" had sprung up all over Europe to evaluate government conformity with the human rights provisions of the Act, particularly within the nations of the Soviet bloc.

There is no Helsinki Monitoring Group in Hungary. The following document, which reflects the experience and conviction of its author, is one of five prepared for a meeting of the Coordinating Committee of the International Helsinki Federation for Human Rights in Vienna earlier this year. (The complete "Report From Hungary" is available from Helsinki Watch, 36 West 44th Street, New York, N. Y. 10036.)

There are several statutes in Hungarian law that are incompatible with basic human rights as formulated in the International Covenant on Civil and Political Rights and the Final Act of the Conference on Security and Cooperation in Europe (the Helsinki accords). Here, however, we deal only with the "crimes" called "subversive agitation" and "offense against the community," since these are the statutes most widely used to prevent freedom of speech, freedom of the press, or freedom of assembly.

There was a time when thousands of sentences were handed down on charges of "subversive agitation." Even in 1982, according to the official bulletin of the Chief Prosecutor's Office, fifty-two acts of "subversive propaganda" took place. In fact, more than fifty-two persons were charged with "subversive propaganda," since each case had more than one defendant and the bulletin does not mention people sentenced for "offense against the community." In the view of officials, the latter charge does not qualify as a "political crime," in spite of the fact that the crime defined by this section of the law is almost identical to the definition of "subversive propaganda."

According to Section 148 of the Penal Code, a person commits "subversive agitation" when he incites hatred against (among other things) the constitutional order of the Hungarian People's Republic, its relations with its international allies, or against certain groups or persons because of their socialist convictions, or when he does something aimed at achieving this aim. This crime is punishable by a prison sentence of one to five years. In aggravated cases (when the act is committed "in public" or "as a member of a group," or when it is regarded as suited for causing disturbances in the international relations of the Hungarian People's Republic) it is punishable by a prison sentence ranging from two to eight years. The law even deals with "the preparation for committing subversive propaganda," which is punishable by imprisonment for up to two years.

The facts of the case in "offenses against the community" are the same as in the case of "subversive agitation," but with regard to the former charge, intentions need not be proven; it is enough that a certain action is "suited for the purpose of" inciting hatred against the above-mentioned subjects. "Offenses against the community" (Section 269 of the Penal Code) is punishable by imprisonment for one to
three years, according to the nature of the criminal action. The length of all these sentences can be increased by one-and-a-half years if the defendant has within the last five years committed another crime that falls into the same category.

Some notes on this statute:
1. "Subversive agitation" and "offenses against the community" are committed in most cases—though not all—by spoken or written statements. Whether these statements are true or false is beyond the scope of the law; it is their suitability to "incite hatred" that defines their criminal nature.
2. The subjective judgment of the court determines whether a certain statement was intended to incite or suited for inciting hatred. We know of cases when this decision was made against the opinion of all the witnesses and experts interrogated—not to mention that of the defendant himself.
3. These crimes belong to the category of "jeopardizing" crimes. Thus: "that an offense should be constituted, it is not necessary that hatred be incited in fact" (preamble to the bill).
4. When a crime is committed "in public," "public" may be a single person in each instance. In such cases, it is not necessary that the same act be committed on each occasion.
5. The following are considered "preparatory actions": creating the conditions necessary to commit such an offense; making it easy in any way to commit it; soliciting, volunteering, or undertaking such an offense. If a person keeps some writing of "subversive" content in a drawer of his desk, "preparing subversive agitation" may be established.

For example, "attempts to subversive agitation" may be established in the case of a letter, even if "it has not been delivered to the addressee(s)" (preamble to the bill).
6. In the case of prison sentences of three years or more (and in the case of recidivists sentenced to two years), the sentence must be served in the most severe type of prison, a penitentiary.

Thus it is possible to send any Hungarian citizen to prison for years on charges of "subversive agitation," since even the telling of a political joke may be regarded as "suiited for inciting hatred against the Hungarian People's Republic, its constitutional order, or some leading member of the Party. And in fact there have been cases when sentences were handed down for telling jokes on the basis of these sections.

In recent decades, however, the legal practice has changed. When someone is charged with "subversive agitation" today, his offense is in most cases deemed more severe. Making hostile remarks about the Russians or Communists at some public place, a football match for instance, is sufficient grounds for a sentence of two or three years. A fifty-eight-year-old widow in Kazincbarcika committed a criminal offense by "offending a community in public"—according to the judgment of the Miskolc Country Court of Justice, on December 22, 1982. She began a hunger strike and put up a sign on her window protesting injustices and demanding that low wages and pensions be increased.

All the events in our lives, from birth to death, are accompanied by administrative proceedings and decrees. According to the law, "a case is to be regarded as administrative when an administrative authority defines the right or the duty of an offender, verifies some data, keeps a register or makes an official supervision." Most administrative cases are conducted by clerks without law degrees, and in most cases they work very slowly, applying a lot of "red tape." Decisions are often contrary to the law. Although some of these decisions may have a decisive effect on the life of the persons concerned, in Hungary there is no constitutional or administrative court to which one can turn for redress. According to Statute No. IV of 1957 concerning administrative procedures, a definitive judgment of the administration may not be contested in a civil court either, with the exception of a narrow class of cases defined by specific provisions of the law.

When the Hungarian Government signed the International Covenant on Civil and Political Rights, it undertook in Article 2, par. 3 to develop opportunities for legal remedy. Little has happened in this field since Helsinki. True, Statute I of 1982 has modified some earlier provisions of law and has stipulated that a person deprived of, or restricted in his basic personal, family, or property rights by an administrative decision can contest this decision in court, but a later decree of the Council of Ministers (No. 63/1981 [XIII]) narrowly defined the scope of administrative decisions that may be supervised by a court. To mention only one example: A person who has been arrested illegally has no right to demand compensation, although the Hungarian Government has undertaken to ensure such an opportunity in Article 9, par. 5 of the International Covenant on Civil and Political Rights.

Police measures of coercion (such as police supervision and banishment) constitute a special field in the area of administrative decisions. One may lodge an appeal against these actions only to the police itself; there is no opportunity to obtain relief in a civil court. A recent example: Lajos Nagy, fifty-eight, born in Budapest and formerly a Budapest resident, has spent his last thirty-one years in prison, except for two brief intervals (his last sentence was fifteen years in prison). In most instances he was sentenced on charges of a political nature (conspiracy and subversive activities), but he has been sentenced on charges of nonpolitical crimes as well.

Lajos Nagy left prison on February 15, 1983. The Nineteenth District Police Station of Budapest—probably following orders of higher authorities—immediately (the very same day) placed him under police supervision and banished him from Budapest and Pest county. He was ordered to live on a detached farmstead. The period of banishment was one year, but it may be prolonged three times. The reason given for this decision was that it was necessary to protect public order and security, taking into account Lajos Nagy's "antisocial behavior" and that he has no residence and place of work in Budapest and therefore no reason to stay in the capital.

Lajos Nagy claimed that although his former apartment was demolished, he had found a new one already and wanted to find employment immediately. Moreover, his only relative, his sister, lives in Budapest. His appeal was rejected within a day by the Budapest Central Police Station. The reasons given were the same as the ones quoted above, without, however, referring to the facts to which Lajos Nagy has alluded. Lajos Nagy has no further opportunity for remedy. When he was given his identity card, the place of permanent residence recorded on it was the farmstead. (To give all the facts of the case: While Lajos Nagy was serving one of his sentences, his wife in Budapest divorced him, and his daughter, a minor at the time, was adopted on orders of the authorities who did not even ask Lajos Nagy's permission.)

When the Ministry of the Interior refuses to grant a passport to someone, this decision may not be contested in court either, although Statutory Rule No. 20—enacted in 1979—declared that foreign travel is the personal right of any Hungarian citizen, and the Hungarian Government has undertaken by signing the International Covenant on Civil and Political Rights as well as the Final Act of the Helsinki Con-
According to the provisions of the law, private foreign travel is allowed each person once a year at most, but there are many people who are entirely denied the right to travel. For example, foreign travel may be forbidden to persons who "intend to visit someone who has been staying abroad illegally for a period of less than five years," or "who in the course of an earlier voyage behaved in a manner that is unworthy of a citizen of the Hungarian People's Republic," or who had been "previously convicted," etc. The Ministry of Interior has deprived several Hungarian citizens of the right to travel. Moreover, this was not even done on the basis of Statutory Rule No. 20, but the reasons given were based on Decree No. 53/1978 (XI. 10). par. 6, item 1 of the Council of Ministers, which stipulates that the applicant's foreign travel would be against "public order" or "public interest." Passport authorities almost never offer a more detailed explanation. Appeals are rejected on the same basis and—as noted above—the applicant may not contest his case in court.

Two examples: Sandor Lichtenstein, fifty-five, a production engineer who resides at Budapest, wanted to emigrate to Canada to join his wife and children. He possessed a visa and all the required certificates. However, his plea for family reunification was rejected by the authorities on the grounds that his travel "would be against the interest of the community." His efforts to obtain permission to emigrate have been unsuccessful since then.

The author of this paper, residing at Budapest, has been trying for the last nineteen years to obtain permission to visit his brother in England, but he has never received the passport necessary to travel to the West. His passport for socialist countries has been confiscated as well. The authorities cite the protection of "common interest" or the "public order" as the reason for rejection. A more detailed explanation has been denied to him to this very day.

EXCURSUS 2

Thomas Land on ENVIRONMENTAL MANAGEMENT IN CHINA

China has embarked on a tree-planting project intended to turn a fifth of its territory into woodlands by the end of the century. The scheme represents a dramatic change from the "grains first" policy of the Mao era, which is blamed for a series of agricultural disasters forcing the country to seek international food aid. Its afforestation policy is aided greatly by Canada, a world leader in the field, under a three-year agreement of scientific cooperation signed some months ago in Peking.

The Chinese campaign was described during a Geneva conference concerned with the relentless decline of the earth's remaining forest cover. Many fear that, in the long term, the trend could lead to a permanent drought affecting the wheat-growing plains of the Northern Hemisphere—the great breadbaskets of North America and Europe. A fore-runner of such a disaster appears to have hit China already, but specialists believe that the situation is still far from irreversible.

China's memorandum of agreement with Canada calls for cooperation in forest management, silviculture and re-generation, control of forest pests, tree genetics and improvement, forest-fire control, forest-harvesting operations, and stand tending. The agreement also provides for exchange visits by scientists attached to the leading universities of both countries and for collaboration in research. Chinese specialists blame the recent series of flood disasters in the Sichuan and Shangri provinces on a long-term policy of intense deforestation. The erosion of soil from the once wooded hillsides causes water to pour violently into the rivers at times of heavy rain, sweeping away villages, submerging towns, and drowning people, livestock, and crops.

Similarly, the prolonged drought in Heilongjiang Province, which produces a sixth of China's total wheat yield, is associated with massive forest and swamp-clearing operations in the area, apparently disturbing the transpiration process by which the land surface transfers water back to the atmosphere. The indiscriminate forest-clearing policy through which Maoist China once hoped to reduce its huge annual grain imports may thus have postponed the dream of agricultural self-sufficiency for even more years to come.

A party of scientists of many disciplines, brought together by the United Nations University for an advisory visit to a disaster area of Heilongjiang Province, were told that some two million hectares of land had been reclaimed there since the 1950s, leading to wind erosion, declining soil fertility, and a sharp drop in rainfall. The local water table had declined by more than two-and-a-half meters at some places. After a sandstorm whipped by winds approaching ninety kilometers per hour, the ditches along farm roads were filled with precious black topsoil from nearby fields. Elsewhere, thousands of hectares of wheat seedlings were swept away and buried.

One specialist describes the intensity of China's afforestation drive as a "green frenzy." A recent forest code makes unauthorized tree-felling a criminal offense and prescribe the compulsory planting of three trees in place of each one cut down. In all, China plans a great wall of trees over seven thousand kilometers long. The choice of pollution-resistant species provides the Chinese scientists and their Canadian collaborators with an opportunity for a gigantic experiment in environmental management.

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