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## **Democracy, Public Discourse and “Hate Speech” in Hungary**

Well working democracy needs open and meaningful public discourse. “Hate speech” disturbs such public discourse, especially when it denies and potentially successfully undermines the equal standing of groups of people, generally minorities, which it targets. As Robert Post writes, while dealing with “hate speech”, we can opt for formal equality of all speakers, or substantial equality which may require us to support restrictions to “hate speech”.<sup>1</sup>

Elsewhere I described the major steps through which Hungary choose the first option, through decisions of its Constitutional Court, followed by decisions of general courts.<sup>2</sup> These court decisions, both the abstract ones, and the ones about a specific example of anti-Semitic speech, have demonstrated a firm believe that freedom of speech shall overcome the disturbances that “hate speech” causes. Since these decisions have been made, public discourse in Hungary became contaminated by speech that incites against all sorts of minorities, and potentially even against the majority of political dissidents.

Yet, the protection of freedom of speech can be the best option to counter “hate speech”. The four international commissioners for freedom of speech just issued their joint statement for 2016, in which they emphasize the danger of countering violent extremism and incitement to it with measures that provide space for unjustifiable restrictions to freedom of speech and other related freedoms.<sup>3</sup>

In light of this international reflection on how to fight - in the words of Timothy Garton Ash - the “assassin’s veto”<sup>4</sup>, the way Hungary has avoided the criminalization of “hate speech” may be still the best available option. The criminal law cannot replace the efforts of civil society (in

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<sup>1</sup> Robert Post, Hate Speech, In: Extreme Speech and Democracy, Eds. Ivan Hare and James Weinstein, Oxford Univeristy Press, 2009.

<sup>2</sup> Peter Molnar, Towards Improved Policies on “Hate Speech”, In: Extreme Speech and Democracy, OUP 2009.

<sup>3</sup> Press Release by Article 19, May, 2016.

<sup>4</sup> Timothy Garton Ash: The Assassin’s veto, The New York Review of books, 2015, February 13, see also Timothy Garton Ash, Ten Principles of Freedom of Speech, 2016.

its broadest sense<sup>5</sup>) to counter the damages that “hate speech” causes, although content-based, or view point based restrictions<sup>6</sup> to such speech may convey valuable educational messages, as Will Kimlycka argues.<sup>7</sup>

If “hate speech” attempts to exclude groups of people from public discourse, a broad coalition of social groups, far from only the groups which are targeted, must respond in powerful and imaginative ways that can bring the undecided on the side of those who believe in equality and cooperation among equally free individuals regardless of their multi-layered group belongings. In order to do so, the creation of inclusive national narratives may be necessary. In many, or most societies, it may be a challenge, as open society may not seem reconcilable with many national identities which have been constructed with recurring exclusions of minorities in respective nation states as well as competing majorities in other countries.

In an open society, formal and substantial equality would be overlapping. For example, Jewish-, Roma-, LGBTQ-Hungarian citizens would have the same chance to become candidates for elected political positions (including the highest ones), as other Hungarian citizens (without considering here the economic differences).

A challenging puzzle is how can we reconcile the idea (as well as the attitudes and practices) of open society with the national identity narratives which seems to be still powerful. If we consider national identity as an outdated, and/or reactionary concept, the interpretation of national identity is left to such nationalists who tend to exclude various minorities from the real community of their nations.

Thus, conceptualizing national identity, or in other words, attachment to national culture (the strongest element of which maybe the attachment of mother tongue), in a way that includes and appreciates the equal standing and contributions of all minorities (old and new)<sup>8</sup> seems to be inevitable. Is national identity for an open society an oxymoron? Is it possible only in explicitly multicultural societies which have been built on immigration? Is it possible in European societies where majorities often seems to exclude minorities?

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<sup>5</sup> See Arthur Jacobson – Bernhard Schlink: Regulating Hate Speech in the United States, In: The Content and Context of Hate Speech, Eds. Michael Herz and Peter Molnar, Cambridge University Press, 2012.

<sup>6</sup> Among others, Jeremy Waldron argues for such restrictions, while for example Eric Heinz opposes them. See Jeremy Waldron, the Harm of Hate Speech, Harvard Univeristy Press, 2012; Eric Heinz, Oxford University Press, 2016.

<sup>7</sup> Will Kimlycka talks to Peter Molnar, Radito Tilos, March 2016.

<sup>8</sup> Kimlycka

Well, we must make it possible. As Joseph Berger writes in his New York Times article after Elie Wiesel died:

“In his Nobel speech, he said that what he had done with his life was to try “to keep memory alive” and “to fight those who would forget.” “Because if we forget, we are guilty, we are accomplices,” he said.”<sup>9</sup>

We must remember indeed, also for all contextual details. Berger, in his otherwise well-written tribute to Elie Wiesel, writes about “the Germans’ systematic massacre of Jews”, “the hellish minutiae of the German death machine”, and “the enormity of the German crimes”, is surprisingly (and I assume not intentionally) is in line with the memorial that the Orban government erected in Budapest, for “the victims of German occupation”. It is all about the Germans. And while no one should question the number one responsibility of Nazi Germany for the Holocaust, also no one should make it easier for countries, or nations, to avoid facing their own responsibility while putting all the blame on Germans.

Berger rightly recalls in details, Wiesel’s novel, *The night*, including how it became a widely read account of the Holocaust. But exactly in this novel Wiesel writes about how Hungarian police were shouting: “Jews out!”

Hungary, as well as several other countries, have a lot of homework to fully come to terms with their own responsibility for the Holocaust, including the Roma Holocaust. Instead, denial of responsibility (which is only one step better than denial of the genocide itself) is on the rise in several countries.

In Hungary, in the estimate of the director of the government established Institute of Truth, Sándor Szakály, “the introduction of the numerus clausus was in hindsight “unfortunate” because it violated the concept of equality before the law, but from another point of view it was “a case of positive discrimination in favor of those youngsters who had less of a chance when it came to entering an institution of higher education.””<sup>10</sup>

This denial of responsibility must be explored and uprooted. In an extremely important book about the role of the Christian churches in the Hungarian Holocaust, Attila Jakab writes:

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<sup>9</sup> Joseph Berger, *Elie Wiesel, Auschwitz Survivor and Nobel Peace Prize Winner, Dies at 87*, July 2, 2016, New York Times

<sup>10</sup> ORBÁN’S VERITAS INSTITUTE LOOKS AT ANTI-SEMITISM IN THE HORTHY ERA, JUNE 26, 2016, Hungarian Spectrum

“Following the deportation of Jews living in the countryside, as from the summer of 1944, the Hungarian newspaper readers could definitely deduct that Hungary is not expecting the deported Jewish citizens to return to Hungary.”<sup>11</sup>

This is part of the broad set of facts that demonstrates responsibility of the Hungarian society, and it is also part of the horrible reasons why many in the rest of the Hungarian society was hostile to those Jewish Hungarians who returned from deportation, including pogroms between 1945 and 1948. There is responsibility to be recognized across the board. Péter Apor recalls, the anti-Semitic campaign of the Communist Party in the pogroms against Jewish-Hungarians who returned from deportation:

“An important element in the “campaigns to defend the forint” was the boom of posters and caricatures that depicted the black-marketeers with easily recognizable stereotypically Jewish features, for instance before the lynching of two Jewish merchants in Miskolc in July, 1946.<sup>15</sup> At the end of the nineteenth century Jews were usually depicted with “a thick crooked nose, thick lips, big ears, wooly hair, two shabby locks in front of the ears, a short fat body, short, bandy 12 Szabad Nép (hereafter: SZN), June 1, 1946: 1. 13 József Révai, “Pogrom és népmozgalom,” SZN, June 16, 1946: 1–2. 14 SZN, January 1, 1946. 15 Pelle, *Az utolsó*, 203. Éva Standeisky, “A kommunista polgárelenesség,” *Budapesti Negyed* 8 (Summer 1995): 209–22; Róbert Szabó, *A kommunista párt és a zsidóság* (Budapest: Windsor, 1995), 71–152. HHR2013\_3.indb 572 HR2013\_3.indb 572 2013.11.12. 16:00:48 013.11.12. 16:00:48 A Pogrom in Hungary, 1946 573 legs, rough hands and most characteristic of all, a devilish grin conveying greed and the desire for possessions.”<sup>16</sup> These last features were attributed to them by a leaflet that appeared on a communist noticeboard: “However, if there will be persons among them [implying Jews – author’s note] who see the black market as a better chance, who want to gamble [...] or enter one of the parties in order to [...] satisfy their greed [...],” the left would protest against this immediately, as it had promised.<sup>17</sup>”<sup>12</sup>

One may also recall the anti-Semitic rhetoric used by Oszkar Jaszi, an icon of left wing liberal thinking, as well as the views and policies of Istvan Tisza, a right wing icon of Hungarian

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<sup>11</sup> Attila Jakab, *The perception of Jews in the Hungarian Catholic and Reformed churches` press and their attitude towards the Jewish community between 1919 and 1944*, In: *Churches – Holocaust, Christian churches in three countries of Central and Eastern Europe and the Holocaust*, Budapest, 2016, Civitas Europica Centralis, eds. Attila Jakab and Erika Törzsök, p 44.

<sup>12</sup> See Péter Apor, *The lost deportations and the lost people of Kunmadaras: A pogrom in Hungary, 1946*, *Hungarian Historical Review* 2, no. 3 (2013): 566–604.

political heritage, who was consistently supportive of the contributions of Jewish-Hungarians to the Hungarian society.

Careful examination, and re-evaluation of all historic circumstances (I named only a few of them above), must go together with highly attentive understanding of contemporary attitudes. As Timothy Garton Ash writes:

“Precisely because, in spite of Thatcherism, Britain is still basically a European social democracy, with generous welfare benefits, an easily accessed NHS “free at the point of need” and state schooling for all, pressures on those public services – and on housing stock in a country that for decades has built far too few homes – have been felt acutely by the less well-off. This is what I heard on the doorstep from the elderly white working-class woman and the Asian British hairdresser, not to mention the Syrian who runs a pizza parlour. It is a mistake to disqualify such people as racist. Their concerns are widespread, genuine and not to be dismissed. Unfortunately, populist xenophobes such as Nigel Farage exploit these emotions, linking them to subterranean English nationalism and talking, as he did in the moment of victory, of the triumph of “real people, ordinary people, decent people”. This is the language of Orwell hijacked for the purposes of a Poujade.”<sup>13</sup>

Hungary has its own historic and contemporary political challenges to find improved responses to “hate speech” and to create a social environment in which counter-speech to hatred is overwhelmingly strong. While building such enabling environment, Hungary can build on its own multicultural traditions and worthy legacies of freedom of speech, as well as on its own diversity of the XXI. Century Hungarian society with one of the largest Jewish populations in Europe, a large Roma-Hungarian population, and the mixed national and ethnic background of most, if not all Hungarians.

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<sup>13</sup> Timothy Garton Ash, *As a lifelong English European, this is the biggest defeat of my political life*, 24. June, 2016, The Guardian.