

Justice in Hungary Today (Book Review)

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BOOK REVIEWS

JUSTICE IN HUNGARY TODAY. By The International Commission of Jurists. The Hague, 1958. Pp. 72.

This report, covering the period from September 1957 through January 1958, is the third of the reports of the International Commission of Jurists on the rule of law in Hungary. Like the first two reports, both published in 1957, namely *The Hungarian Situation and the Rule of Law* and *The Continuing Challenge of the Hungarian Situation to the Rule of Law*, the report on *Justice in Hungary Today* ranks among the most authoritative literature on the problem. Its value derives no less from the competence of the authors than from the method adopted. This method consisted in basing the report exclusively on official sources. The Commission, while fully aware of the fact that this material does not present a complete picture of the situation, takes into account, as its decisive feature, its incontrovertibility; it gives facts which the Hungarian authorities themselves cannot deny.

In the light of these facts the report attempts to ascertain whether the present legal situation in Hungary is in accord with the general principles of law recognized by civilized nations. The answer to this question is all the more important because the Kadar regime—to a large extent under the influence of the first two reports of the Commission—tries to create the impression of increasing leniency in the system, and of its greater compatibility with the principles of the rule of law. This impression, however, is bound to dissolve when juxtaposed with the thorough analysis of facts revealed in the present report. These facts cover essentially the field of criminal law and procedure, because the present situation in Hungary is still a consequence of the repressed uprising of November 1956.

Thus, the salient issue of the report consists of the problem whether, under the present Hungarian system, the rights of the defendant in a criminal trial, as revealed in the light of criminal law now in force as well as of official speeches, reports and articles, constitute a safeguard of justice.

It is notorious that the legal systems in communist-controlled countries tend to abolish principles that make for certainty of criminal law—a certainty recognized, from time immemorial, as one of the basic criteria of legality, since it conditions the legal security of the individual. Hence, principles such as *lex retro non agit*, *in dubio pro reo*, inadmissibility of analogy in criminal law, are not accepted by communist authorities. The report points out that laws and decrees in force in Hungary define offenses in vague terms open to abuse in interpretation, thus making criminal law a priori uncertain.

Again, the accused can hardly prepare a successful defense without such safeguards as an impartial tribunal, free choice of counsel, early notice of the charge preferred, a written accusation. The report shows in detail that no such safeguards exist in Hungary under the present system; moreover, a sentence does not necessarily constitute a *res judicata*, since lack of appeal is no impediment to the higher tribunal to increase the penalty imposed, or to sentence a person previously acquitted. The report points out that all these deviations from the rule of law have been made possible by the introduction of "summary procedure," still in force in spite of a decree-law of November 3, 1957, bearing the misleading title *On the Abolition of Summary Jurisdiction*. This decree, as analyzed in the report, provides a striking example of the deceptive methods used by communist authorities to influence the opinion of the free world.

The non-legislative material contained in *Justice in Hungary Today*—official declarations, reports, speeches, articles, a list of sentences—reveals, no less than the texts of laws do, the fact that, contrary to the impression the Hungarian authorities try to foist upon the world, there is no change in their main tendency, *i.e.*, their attempt to extinguish any trace of what they call "counter-revolution," and what is, in fact, nothing but a fight for freedom.

From among this non-legislative material, an article by Dr. Szenasi, supreme public prosecutor in Hungary, first published in *Nepszabadsag* of November 10, 1957, entitled *On the Road of Socialist Legality*; deserves particular attention, as it contains a very sincere explanation of what the communist authorities mean by "socialist legality." This concept, which would seem to be a communist counterpart of the Western concept of the "rule of law," is, in fact, the very denial, the reverse of legality, and, consequently, another tool to mislead the opinion of the free world.

To sum up, the report, which is a result of painstaking and exhaustive studies, serves its purpose thoroughly. It merits the attention not only of the lawyer but also of the general reader, since it shows the chasm between the very concepts of law in the democratic world and under communist rule, simultaneously throwing much light on the atmosphere prevailing not only in Hungary but in all countries behind the Iron Curtain. For there is no essential difference between any of these countries, so far as their legal situation is concerned. All are under communist dictatorship which is, by its very nature, incompatible with justice in its Western connotation, and unthinkable without a system of terrorism, without which it would be unable to survive even a short time.

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