

What is going on in Hungary?
*Direct democracy in a weird
political environment*

The signs of change are obvious.

A different understanding of democracy and politics is taking place and ruling the country.

A politics, which uses and occupies terms notions, using a really different approach to democratic governance.

Is this changing of democracy or a switch to an authoritarian regime?

We still do not know. The current economical-political power is using a different concept of democracy, than the previous ones:

Minimal democracy.

The Minimalist Conception of Democracy as informed by The Works of Schumpeter, Riker, and Hardin.
<http://library.usask.ca/theses/available/etd-09122007-222840/unrestricted/theminimalistconceptionofdemocracy.pdf>

Minimalist Conception of Democracy: A Normative Analysis http://politics.as.nyu.edu/docs/IO/4600/mcelhenny_thesis.pdf

<http://en.wikipedia.org/wiki/Democracy>

The minimalist concept of democracy

Rejects more demanding norms of decision making such as self-government, reasoned rule, and pursuit of common good – thinks, that straightforward facts about political psychology and individual political capacities make them impossible. Agrees, that **most citizens are remarkably uninformed about public affairs**, and they have no coherent views, or quite stupid ones, on most issues.

Favours competitive elections as the central political institution. Does not think, that elections enable citizens to rule themselves by selecting the leaders or policies they want. Instead **elections confer the right to rule on the winner party until the next election..**

Public accountability: regular occasions for leaders to explain themselves to citizens and for citizens to sanction leaders.

Do not require too much time, energy, commitment from citizens asking more of them than is psychologically plausible (Kateb 1981)

Full field attack!

**Orban plays football, so he uses and
understands the tactics about it.
The general concept is clear.**

How can a strategy like this succeed?

- Lack of consciousness about democracy in citizens and the media – difficult to defend
- Strong interconnectedness of media, politics and power
- 2/3 ruling system of the governing parties
- In the last 8 years, they have planned carefully in advance
- Sleeping people – the heritage of the past decades political history and practice

Lawmaking in the Hungarian Parliament

Lawmaking became a strange factory: a huge amount of laws, with a new generation of lawmakers in ministries, creating the laws – with a really poor quality

Bills and laws, draft regulations change very often in a planned way of the governing party by individual amendments from the ruler party members in the parliament.

New institutions

- ▼ Centralized for National Media Agency
 - ▼ Central Institution for consulting with the civil sector – selected NGOs by the government body
 - ▼ The new institution: Commissioner for Fundamental Rights
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- ▼ <http://www.theioi.org/news/hungary-new-ombudsman-act>
 - ▼ <http://bit.ly/QqTZsO>
 - ▼ <http://cima.ned.org/events/hungary%E2%80%99s-media-law-one-year-later>

National Consultation 2012

The official press release called it :*communication with voters*

There is no doubt, this is not a real consultation instrument – criticized from various angles, from the used linguistics and the questions content – that it is more a communicational tool with voters.

16 points of the National Consultation

- ▼ Voters will be asked if businesses with fewer than 20 employees should have the option of flat-tax payment, the wage of pension-age workers should be exempted of tax, and families raising children should be entitled to use the social housing subsidy for buying a new car, he said.
- ▼ The public will also be asked whether a fair distribution of burdens among state, multinational companies, banks and people should be maintained; whether the state should help mothers with little children find employment, and whether tax-free business zones should be set up in high-unemployment areas.
- ▼ It will also be asked whether the minimum wage should be increased and tax benefits granted to companies creating new jobs; as well as whether more state support should be given to first-time job-seekers.

Selected issues to mirror happenings

- ▼ **Constitutional law**
- ▼ **Official government response to Hugh Grant**
- ▼ **TEK**
- ▼ **New Church law**

Why the government responded officialy to Hugh Grant?

- ▼ Speaking at a recent forum in Brussels on media pluralism, Grant cited Hungary as an example about the dangers of state control over the media. “Some people would argue that the same was the case in Italy under Berlusconi,” Grant said. This state of affairs was the opposite extreme from the “equally terrifying” danger of too much state control of the media, the actor said. “One has to be equally vigilant about that, if you look at Hungary as an example. So you’ve got two evils.” Grant said he was in Brussels to “raise the flag” about the former evil.

The role of the constitutional law

A constitutional rule-of-law state requires three elements: a guarantee that power can rotate among different political parties through free and fair elections,
a guarantee that the elected government is constrained through a system of independent checks on power and
a system for ensuring that individuals have meaningful rights that they can assert against the state so that they remain authors of their own lives.

All three elements of constitutional government have been compromised with the new Hungarian constitution and the accompanying system of cardinal laws.

Chapter 1, Article 2: (2) „In the Republic of Hungary all power belongs to the people.
The people exercise their sovereignty through elected representatives or directly.”

<http://www.guardian.co.uk/commentisfree/libertycentral/2012/mar/13/hungary-fundamental-law-eu>

<http://www.spiegel.de/international/europe/unlawful-constitution-eu-takes-legal-action-against-hungary-a-809669.html>

The new Constitutional Law

The new constitutional order will make it much harder for any political party other than the governing one to come to power.

The election districts have been gerrymandered.

The media are under constant threat from the all-powerful Media Board and they are required to carry news from the government-controlled news service.

The accountability institutions have all been weakened, either because their staffs and jurisdictions have been cut (e.g. the former ombudsmen's office) or because the offices have been filled with people who have long histories of association with the governing party (e.g. the state audit office, public prosecutor, media board, the national judicial office and increasingly even the monetary council)

Airbrushing The Chief Justice Of The Supreme Court in National TV



<http://thecontrarianhungarian.wordpress.com/2011/12/14/how-the-news-gets-edited-on-hungarian-state-television/>

TEK – in the view of Kim Lane Schappele: personal data handling problems

- ▼ TEK can engage in secret surveillance without having to give reasons or having to get permission from anyone outside the cabinet. In an amendment to the police law passed in December 2010, TEK was made an official police agency and was given this jurisdiction to spy on anyone. TEK now has the legal power to secretly enter and search homes, engage in secret wiretapping, make audio and video recordings of people without their knowledge, secretly search mail and packages, and surreptitiously confiscate electronic data (for example, the content of computers and email). The searches never have to be disclosed to the person who is the target of the search – or to anyone else for that matter. In fact, as national security information, it may not be disclosed to anyone. There are no legal limits on how long this data can be kept.

<http://krugman.blogs.nytimes.com/2012/04/19/the-new-hungarian-secret-police/>

- ▼ Ordinary police in Hungary are allowed to enter homes or wiretap phones only after getting a warrant from a judge. But TEK agents don't have to go to a judge for permission to spy on someone – they only need the approval of the justice minister to carry out such activities. As a result, requests for secret surveillance are never reviewed by an independent branch of government. The justice minister approves the requests made by a secret police unit operated by the interior minister. Since both are in the same cabinet of the same government, they are both on the same political team.

- ▼ TEK's powers were enlarged again in another set of amendments to the police law passed on 30 December 2011, the day that many other laws were passed in a huge end-of-year flurry. With those amendments, TEK now has had the legal authority to collect personal data about anyone by making requests to financial companies (like banks and brokerage firms), insurance companies, communications companies (like cell phone and internet service providers) – as well as state agencies. Data held by state agencies include not only criminal and tax records but also educational and medical records – and much more. Once asked, no private company or state agency may refuse to provide data to TEK.
- ▼ Before December 2011, TEK had the power to ask for data like this, but they could only do so in conjunction with a criminal investigation and with the permission of the public prosecutor. After December 2011, their data requests no longer had to be tied to criminal investigations or be approved by the prosecutor. In fact, they have virtually no limits on what data they can collect and require no permission from anyone.

The new Church Law – violates fundamental rights

- ▼ The Church Law has deprived existing religious communities from their settled rights and legal status as a church. Moreover, as a result of the failures of the legislative procedure, churches had only one day to prepare for the application of the much more restrictive and much less clearer provisions of the new law.
- ▼ Lack of the right to a fair trial and to an effective remedy is a direct consequence of the fact that the parliament, instead of the court, has the right to recognise an association as a church, since the parliament has no duty to justify its decision and there is no higher instance to review that.

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The law discriminates certain beliefs by the arbitrary definition of the concept of „religion” and by the recognition of certain churches, picked up arbitrarily, without the application of the criteria settled in the law. The privileged treatment has lacked the sufficient and reasonable justification
HCLU turns to Constitutional Court and to the European Court of Human Rights

Article related to direct democracy

- ▼ For the rights of national regions, through European Means
<http://www.nationalregions.eu/>
- ▼ Article of Francis Fukuyama:
<http://blogs.the-american-interest.com/fukuyama/2012/02/06/whats-wrong-with-hungary/>
- ▼ Center for European Reform:
<http://centreforeuropeanreform.blogspot.hu/2012/02/pressure-and-tact-are-right-response>
- ▼ Referendums in Hungary:
http://en.wikipedia.org/wiki/Category:Referendums_in_Hungary
- ▼ Constitution of Hungary: http://en.wikipedia.org/wiki/Constitution_of_Hungary
- ▼ Official site of the Constitutional Law in English:
<http://www.kormany.hu/en/hungary/the-constitution>
- ▼ Full text of the Constitutional Law:
<http://www.kormany.hu/download/4/c3/30000/THE%20FUNDAMENTAL%20LAW%20OF%>
- ▼ Direct democracy in 1956 revolution (Hungarian)
<http://www.nagyimreemlekhaz.hu/images/files/standeiskyeva-akozvetlendemokraciaz1956-osform>
- ▼ NGOs say gov't failed to respond to Venice Commission's objections
<http://www.politics.hu/20120719/ngos-say-govt-failed-to-respond-to-venice-commissions-objection>
- ▼ New investigative journalism portal: <http://atlatszo.hu/category/english/>