Four studies are presented here written by four representatives of Central and Eastern European NGOs. The editor decided to choose the four countries in question when in the autumn of 2007 news kept arriving from the ex-communist countries of the area that paramilitary far-right organizations were being formed. The countries concerned were then Poland, Slovakia, Bulgaria and Hungary. Since then, a similar Czech organization was also founded.

The birth of these organizations has increased the tension which the legislative and judiciary bodies had to face repeatedly since the beginning of the democratic transition. The countries of the communist block lived practically without liberties for four long decades. The freedom of speech, of assembly and of association were almost completely unknown. In the beginning of the 90's these rights were provided in the four countries mentioned above, and citizens started to publish newspapers, magazines, printed books that had previously been banned and organizations were also founded.

Obviously, an important need was satisfied: these previously prohibited activities became first very popular, then usual. As the three basic rights cannot be separated from each other, as people gather and found organizations to express their opinions, the writers of the studies dealt with them together.

This introduction here focuses on the freedom of expression, it only deals with the other two rights tangentially. The starting point of our analysis is the significance of the freedom of speech.

The importance of communication rights

Why is the right to communication so important? Usually two explanations are given to this question. One of them is very similar to Mill's "marketplace of ideas". 1859 'On Liberty', an essay by the philosopher John Stuart Mill, argued for tolerance and individuality. 'If any opinion is compelled to silence, that opinion may, for aught we can certainly know, be true. To deny this is to assume our own infallibility.' In Mill's opinion, the only limiting factor of liberty should be harm to others in the form of either physical or moral compulsion. This is called the harm principle. The other limit he accepts is self-restraint in expression.

Here, this right is considered a kind of device, from which the whole society can benefit as all opinions, thoughts that can promote the solution of all kinds of problems to emerge. This is often called the instrumental or democratic theory of free speech.

The other justification is the libertarian one: it is the right to self-expression. According to this theory the right to communication is a moral right which merits everybody. It also means that the freedom of speech is based on autonomy. This "liberty model" which – opposing the democratic theory – does not protect the "marketplace of ideas" but rather the individual freedom against any influence of the government. ¹

Radical organizations use both arguments. On the one hand, they claim that their view can explain how politics (and the world) works, either by unveiling conspiracies, clandestine scientific discoveries about the genetic blueprint of ethnic groups or about the "truth" about the Holocaust. The websites they have write about the origin of the Hungarian people – this is, actually also true in the case of the other three nations, there is practically an alternative desciption of history in these sites. They also make lists of public figures where they publish their origin – whether Jewish or Roma – and their sexual orientation. On the other hand, they also use the democratic justification;

¹ www.mediakutato.hu/cikk/2001 03 osz/03 a kommunikacios jogokrol/03.html

the unreliability of those in power is a recurring theme. On the basis of this they argue that the official resources of news are not to be believed, as they select and distort information as they consider it useful.

The short history of free speech

Ironically, history proves that the official, consented points of view are not always enough to make progress, in order to spread new ideas free speech is indispensable.

In the following part you can read a brief summary of the history of free speech, in which the double nature of this liberty can be detected. The bellow mentioned stations present how unusual ideas sometimes kill people, at times their speaker, at times someone else, and it also happens that heretic thoughts pave the way to fame or immortality.

399BC Socrates speaks to jury at his trial: 'If you offered to let me off this time on condition I am not any longer to speak my mind... I should say to you, "Men of Athens, I shall obey the Gods rather than you."'

1516 The Education of a Christian Prince by Erasmus. 'In a free state, tongues too should be free.'

1633 Galileo Galilei hauled before the Inquisition after claiming the sun does not revolve around the earth.

1789 'The Declaration of the Rights of Man', a fundamental document of the French Revolution, provides for freedom of speech. 1791 The First Amendment of the US Bill of Rights guarantees four freedoms: of religion, speech, the press and the right to assemble.

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

1859 On the Origin of Species, by Charles Darwin, expounds the theory of natural selection. TH Huxley publicly defends Darwin against religious fundamentalists.

1929 Justice Oliver Wendell Holmes, of the US Supreme Court, outlines his belief in free speech: "The principle of free thought is not free thought for those who agree with us but freedom for the thought we hate."

1948 The Universal Declaration of Human Rights is adopted virtually unanimously by the UN General Assembly. It urges member nations to promote human, civil, economic and social rights, including freedom of expression and religion. . Even though not formally legally binding, the Declaration has been adopted in or influenced most national constitutions since 1948. It also serves as the foundation for a growing number of international treaties and national laws and international, regional, national and sub-national institutions protecting and promoting human rights.

1962 One Day In the Life of Ivan Denisovich by Aleksandr Solzhenitsyn describes life in a labour camp during Stalin's era. Solzhenitsyn is exiled in 1974. 1989 Iranian leader Ayatollah Khomeini issues a fatwa against Salman Rushdie over the "blasphemous" content of his novel, The Satanic Verses.

1992 In Manufacturing Consent, Noam Chomsky points out: "Goebbels was in favour of free speech for views he liked. So was Stalin. If you're in favour of free speech, then you're in favour of freedom of speech precisely for views you despise."

2001 In the wake of 9/11, the Patriot Act gives the US government new powers to investigate individuals (by reading their emails, tapping phones, using medical or financial information) suspected of being a threat, raising fears for civil liberties.

2004 Dutch film maker Theo van Gogh is killed after release of his movie about violence against women in Islamic societies.

Liberties in Hungary

It is worth taking stock of the legal framework which should be modified in case the parliament decided on curtailing the liberties.

The Hungarian Constitution guarantees the following:

Article 61

(1) In the Republic of Hungary everyone has the right to the free declaration of his views and opinions, and has the right of access to information of public interest, and also the freedom to disseminate such information.

(2) The Republic of Hungary recognizes and protects the freedom of the Press.

Article 62

(1) The Republic of Hungary recognizes the right to peaceful assembly and guarantees its free practice.

Article 63

(1) In the Republic of Hungary everyone has the right, on the basis of the freedom of association, to set up organizations for purposes not prohibited by the law and to adhere to such organizations.

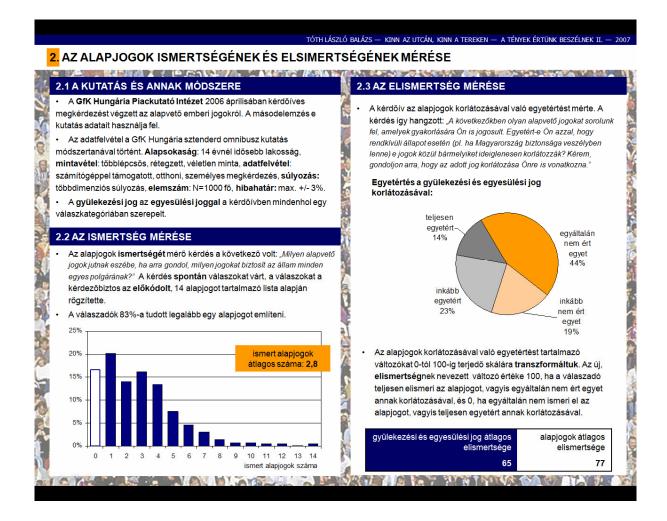
(2) For political purposes no armed organization may be established on the basis of the freedom of association.

The Act on Assembly 1989/III.

Exercising the right of assembly and association cannot include committing a crime or a call onto a crime, cannot offend the rights and freedoms of others and the right of assembly cannot aim at obtaining, practising or possessing exclusive power.

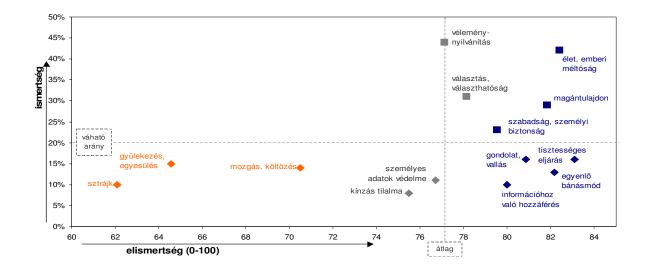
How much do citizens know about these rights and how important do they consider them? Have the people become aware of them since the beginning of the democratic transition, has their significance become well-known?

GfK Hungaria Public Opinion Researcher prepared a survey in 2006. They asked questions about liberties. The representative sample of the population above 14 consisted of 1000 people. The survey wanted to know how well-known the liberties were and how much they were acknowledged. They asked the people to name as many basic rights as possible. 14 possible answers were listed as acceptable. 83% could name at least one of those. The next question asked about the restrictions on these rights, e.g.: If the security of Hungary were in danger would you agree with restricting the right to assembly? 13% would completely agree, 245 partly agree, 19% partly disagree, 41% would completely disagree.²



² www.demos.hu/index.php?name=OE-DocManager&file=download&id=203&keret=N&showheader=N

The same research shows that different liberties are known and acknowledged to a different degree.



The rights to assembly and association are both less known and acknowledged, while the right to express one's opinion is rather well-known and acknowledged although not as much as the right to life and human dignity.

The right to security, dignity, good reputation

As it turned out from the history of free speech, the right to free expression is extremely significant, we could also say that it promotes the development of the world as it provides space and language to ideas that can change the thinking of people, their view of the world, supply knowledge and information.

What happens if the idea causes fear, spreads bad their bad reputation, invites people to attack/isolate others? If we consider all basic rights equally important how can we decide on priorities?

The Universal Declaration of Human Rights states:

Article 2

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 3

Everyone has the right to life, liberty and security of person.

Article 12

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

The Constitution of the Hungarian Republic states the following:

Article 55

(1) In the Republic of Hungary everyone has the right to liberty and personal security, and no one may be deprived of freedom except for reasons defined in the law and on the basis of legal proceedings.

Article 59

(1) In the Republic of Hungary everyone is entitled to the protection of his or her

reputation and to privacy, including the privacy of the home, of personal effects, particulars, papers, records and data, and to the privacy of personal affairs and secrets.

Article 70/A

(1) The Republic of Hungary guarantees for all persons in its territory human and civil rights without discrimination on account of race, colour, sex, language, religion, political or other views, national or social origins, ownership of assets, birth or on any other grounds.

(2) Any discrimination falling within para (1) against persons is strictly punishable by law.

Small wonder, that in new democracies fervent arguments are triggered by the contradictions in connection with these rights. In case of hate speech, it is impossible that both the freedom of expression and the right to good reputation/dignity remain intact. In democracy, this seems to be a contradiction that cannot be resolved. Mária Vásárhelyi, Hungarian sociologist in 2002 said: "liberal intellectuals are in trouble... the jurisdiction and the political culture have become so low quality that they must accept a law against hate speech".

The definition of hate speech

It is often said that even a child under the age of ten can easily decide whether a sentence can instigate hatred or not, still, when thinking about hate speech law, the definition of this act might pose a serious problem.

In the book *Human Rights* the authors Gábor Halmai and Gábor Attila Tóth write: "Hate speech is a behaviour directed against a community, the utterance despises the common feature of the community, which is the foundation of the membership to the group, and which is a significant characteristic of their personality (for example religious belief of national-ethnic origin)."

In other words, "These are expressions with which the speaker – usually motivated by prejudice or hatred – expresses their opinion about certain members of racial, ethnic, religious, sexual groups on the grounds of their membership to the group. The opinion can offend the group members and can provoke hatred against the group in the society." ³

Although this definition can match the notion of hate speech, there are some exceptions to be mentioned. There is for example the slogan chanted by the Ferencváros Football Club supporters whenever they play against the MTK Football Club: "The train is leaving for Auschwitz".⁴

This sentence does not express an opinion, does not despise anybody, it does not even explicitly threaten anyone. However, anyone, who has ever learned about the history of the 20th century, will hear the unsaid message in the sentence. So if we decide that this sentence is hate speech because of the connotations, then we must find which part? And will the MTK players, supporters feel different if – after the hate speech law comes into effect – the Fradi supporters will only chant "The train is leaving..."?

The other important points we must consider are the norms in society. In every society there are groups who are recurring objects of jokes – in Hungary they are the policemen, the mother-in-laws and the blond women. There are also proverbs with

³ Halmai Gábor – Tóth Gábor Attila: Emberi jogok. Bp., Osiris, 2003, 462. o. Lásd még: Halmai Gábor: Kommunikációs jogok. Bp., Új Mandátum, 2002, 114. o.

⁴ MTK is considered to be the Jewish Football Club

dubious messages: Money should be counted, women should be beaten. If a democracy is not old enough for the people to automatically decide which utterances are presentable, the boundaries of norms might be difficult to define. Characteristically, in Hungary the politically correct use of language is only known as some absurd, hypocritical nonsense. How language represents the way of thinking is not well-known although it has become more "sophisticated" to say "Roma" instead of "Gipsy" "gay" instead of "poofter". However, even in old democracies it is sometimes difficult to find the boundary between unbiased opinion and despising principles and values.

Since Foucault's enthusiasm for Khomeini and the Iranian Islamic revolution it has become a habit of the intellectual elite to consider some phenomenon horrible in one society and simply part of the culture in another. The postmodern era - mainly if it happens if faraway exotic places – events are treated with cultural relativism which means that there are no universal moral values, all deeds are to be interpreted in their own culture. This was how István Csurka, Noam Chomsky and Susan Faludy found themselves on the same platform when they all expressed their solidarity with the Islamic terrorists after September 11th.

The effects of stereotypes and hate speech

Is it actually a problem if Faludy considers the suicide bomber of the jihad a hero? Is it harmful if the magazine Móricka depicts the Roma as a big-moustached cricket with plenty of jewellery and the Hungarian as an honest ant?

How long do we consider something stereotypes, and where does it become hate speech?

Cognitive psychologists say that stereotypes are very important, as they help us get around in the world. As the world is far too complicated and carries an incredible amount of information, our existence is helped by stereotypes as they find categories easily for the people and events around us. However, cognitive scientists also emphasize that this practically automatic process often results in distortion. This means that even "innocent" group members can be categorized by the stereotypes, and on top of that stereotypes are so stubborn that in order to change them we must meet plenty of counterexamples, refutation and time. Stereotypes also automatically lead to prejudice and discrimination.

Dr. Ferenc Erős writes the following in his work about prejudice: "There are no innocent or harmless prejudices. Words become acts, do not go without consequences, no matter what the intention of the prejudiced people...In the book *On the Nature of Prejudice* Gordon W. Allport the famous five-step scale is described: 1.) verbal rejection 2.) avoidance 3.)discrimination, separation, segregation 4.) physical aggression 5.) persecution and extermination.⁵"

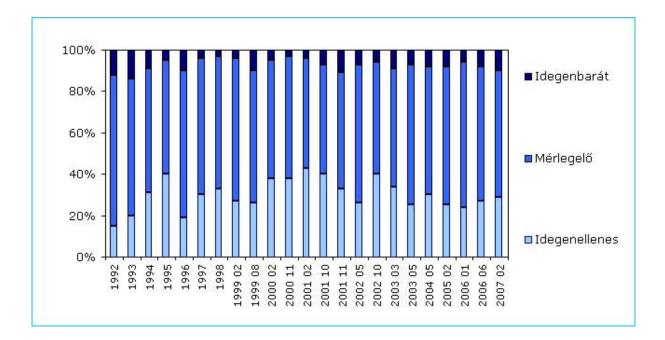
In Hungary recent surveys often identify the first three steps of this scale. The survey made in 2007 by Tárki shows that 68% of the population would not like a "pirez"⁶ national as a neighbour, wishing to keep as big social distance from them as possible. In a repeated 2008 survey the proportion of negative replies is 66%.⁷

Definitely, the pirez is not the only nationality who is faced with the lack of acceptance in Hungary.

^{5 &}lt;u>www.hier.iif.hu/hu/letoltes.php?fid=tartalomsor/409</u>

⁶ Pirez nationality is a nonexistent community. In the survey it was one item of a line of nationalities in connection with whom the desired social distance was measured.

⁷ http://www.tarki.hu/hu/news/2007/kitekint/20070308.html



When we face the small proportion of tolerant people in Hungary (lightest blue – xenophobic, blue – pondering, dark blue – tolerant)⁸ we must see that we are not talking about some hundred people who march in dark uniforms in villages but about the majority of the population whose attitude is either pondering or intolerant.

It is also worth mentioning that this gives a perspective for the next generation too as it is proven by studies that stereotyped thinking is formed in the early years of socialization. ⁹

It was particularly shocking when Mária Vásárhelyi published her research about the prejudiced attitude of history teachers.

"One quarter of future history teachers agrees with obviously anti-Semitic statements. 21% of students openly claims that Jewish people disintegrate and weaken the nation among which they live, 22% think that it would be beneficial if they lived in their own

⁸ http://www.tarki.hu/hu/news/2007/kitekint/20070308.html

⁹ Glover, R.J., & Smith, L.A. (1997). Racial Attitudes of Preschoolers: Age Race of Examiner, and child-care setting. Psychological Reports, 81, 719-722.

Hirschfeld, L. A. (1993). Discovering Social Differences: The Role of Appearance in the Development of Racial Awareness. Cognitive Psychology, 25, 317-350.

state... There were 15 questions in connection with the Roma population. The results show "dramatic" intolerance against the Roma. Two thirds of the respondents say that "the Roma are not decent people" almost every second student thinks that "the Roma do not try at all to adjust themselves to the society" the same amount of respondents think that "the growing number of the Roma population poses a threat to the majority". One third of the respondents agree that "the Roma should be forced to live like the others" the same proportion thinks that "criminal tendencies re in the genetic blueprint of the Roma" and every fifth future history teacher openly supports "the segregation of the Roma population".^{10"}

When the children of a discriminative society are brought up and educated by prejudiced adults – parents and teachers – it is easy to predict that hate speech will be present in the life of the next generation, too. The opponents of legal regulation of hate speech claim that discussion, arguments, persuasion are better cures for discriminative behaviour than prohibition. The reason for this is that prohibition often triggers contrary effect, which means that the radical thoughts forced into illegality will be more appealing, attractive to the youth, and the people punished by law can easily become the heroes of their movement.

We might conclude that the ideal situation is when opinions clash freely. What is happening to counter-opinions in Hungary nowadays? Do we also hear the voices of those, who disagree? We often get the impression that it happens less and less. One of the reasons for that might be the so called "spiral of silence".

Elisabeth Noelle-Neumann and Peter Neumann identified this phenomenon in their work as public opinion researchers.

¹⁰ http://www.mult-kor.hu/cikk.php?id=819

The phrase "spiral of silence" actually refers to how people tend to remain silent when they feel that their views are in the minority. The model is based on three premises: 1) people have a "quasi-statistical organ," a sixth-sense if you will, which allows them to know the prevailing public opinion, even without access to polls, 2) people have a fear of isolation and know what behaviours will increase their likelihood of being socially isolated, and 3) people are reticent to express their minority views, primarily out of fear of being isolated.

The closer a person believes the opinion held is similar to the prevailing public opinion, the more they are willing to openly disclose that opinion in public. Then, if public sentiment changes, the person will recognize that the opinion is less in favour and will be less willing to express that opinion publicly. As the perceived distance between public opinion and a person's personal opinion grows, the more unlikely the person is to express their opinion.¹¹

Besides the fear of isolation the other reason why people do not speak up might be their fear of getting published on the websites of the radical movements where often their names, address, phone numbers can become available for anyone. This is also a well-known event in Poland as you can see in the Polish study.

The internet as the field of free speech and – at the same time – hate speech

This is where we arrive at the question of internet, in connection with which it turns out from the studies that the radical organizations use online devices professionally. Switching off the radical site Kurucinfo also drove legal professionals into a corner in

¹¹ http://www.cw.utwente.nl/theorieenoverzicht/Theory%20clusters/Mass%20Media/spiral_of_silence.doc/

Hungary. Some of them claimed that such censorship was not only illegal and pointless but also absolutely impossible in the case of Internet. Others said that the contents of the site is insulting, discriminative and also contains severely violent elements.

When the homepage was switched off its owners protested claiming that they were deprived of their right to express their opinions. As all four studies reveal, the internet is an important device for radical organizations in each country. It is mainly used for keeping in touch, organizing events and spreading information.

The regulation of online contents has forced lawyers into arguments several times throughout the past decade. Those who wish to protect the users of the internet from pornography, bomb recipes and racist contents emphasize the necessity of censorship. But what does the world think of the Chinese internet censorship? Users in China cannot find information on the web about the Tiananmen Square events, the Falun Gong spiritual community, <u>www.freetibet.com</u> is also inaccessible. Those who argue for free internet usually ask the question: who can decide which pages are harmful for society, which are not?

In all four studies it appears obvious that the majority of the population does not support these movements. The minorities of the four countries – whether they are ethnic, religious or sexual minorities - protest against these movements expressing fears of being harassed or attacked. Sometimes they experience attacks -verbal or physical- as you will see in the studies. It also happens that there are no actual attacks but the mere presence of these organizations serves as an intimidating phenomenon. Sometimes the marches of the paramilitary organizations are not actual counter-demonstrations of some minority events but they are rather demonstrations of power. The focus of these studies is how governments and legislative bodies react to these actions. Expectations of these bodies are different and these differences are ruled by interests: the target minorities (in every country the Jewish and the Roma are considered targets) demand new legal devices that can protect them. Their point of view is absolutely understandable; they have the right to live without fear. However, unfortunately, such legal actions might be dangerous. It often raises implicit or explicit resistance; it creates heroes and martyrs. It can also fire back as a limit to free speech; expressing opinions might fall prey to such laws.

The question is, then: What can be done to safeguard democracy, to discourage radicalism, to make minorities feel secure?

Sometimes it is said that Hungarian society lacks immunity, this is why legislative devices are needed. If we want to build immunity, however, we might consider new laws as merely "treatment for the symptoms".

Immunity is an ability of the organism to respond to attacks from its own resources. Immunity in this case is the ability of the citizens to respond to the demonstrations of power of the radicals. In Hungary we have seen a couple of such responses so far, the spontaneous counter-demonstration when radical groups decided to organize what they called "flash mob" outside a ticket office in the capital. The political demonstration of the "Democratic Charta", and another one organised by nonpolitical, citizen-based "Tarka Magyar" (Colourful Hungarian) took place in September, 2008.

Experience shows that strong democracies are not only based on laws – cannot only be based on laws – they must have a strong basis in the citizens' thinking.

Such strong foundation lies in the attitudes; attitudes to democracy, to minorities, to radicalism. Democratic transition means a change in the legal system of the state and a change in the attitudes of individuals. The intolerant attitude which is displayed in surveys could and should be changed through education, community development, and integrative programmes. Curtailing civil liberties – banning free speech, the right to assembly, association – replaces social discussion with courtroom procedure and can give a false illusion of security. Real security, however, lies in the courageous behaviour of the average citizen. Those, who stand up for the rights of minorities and who do not tolerate hate speech.

These citizens are brought up in schools. Special attention must be paid to teachers as they influence the attitudes of future generations. Hatred is rooted in fear, and we are usually afraid of the distant and the unusual. Thus, intolerant attitudes are changed best by reducing social distances. Those, who had Roma friends and classmates as children will not speculate about "genetic tendencies", and those who went to school with handicapped children will not think that they are "fundamentally different". Integrative education will provide better quality education for minority children and an improvement in the attitude of future generations.

Certainly people's way of thinking cannot only be changed through education. Whether we like it or not, people's attitudes are greatly influenced by television. In several countries – in South America, but also in the United Kingdom – where prime time serials are watched daily by millions – it has become a purpose of these programmes to deal with the most important topical social issues. Although there were similar attempts in Hungary we cannot say that they were efficient; unfortunately they were far too direct and didactic.

As a summary: the arguments above support that restricting liberties is dangerous while it might not prove efficient against radicals. However, responsibilities must be faced. This generation must take on the task to offer an alternative to extreme antidemocratic efforts. In the following part four studies can be read – all of them are snapshots of the current situation. Each author had the liberty to write about whatever they considered important. This, on the one hand, might have harmed the objectivity of the studies. On the other hand – and this is what I wish to emphasize – it discovers and displays their priorities, which are very telling about the status quo of their society and the civil liberties.

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• Visegrad Fund

http://www.visegradfund.org/