

Social Changes and Delinquency in Central and Eastern Europe

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The Hungarian Way

Special attention was paid to Mid-Eastern Europe a couple of years ago. In Western Europe and North America much was spoken of the region's unique experiment. Many illusions had been created both in Mid-Eastern Europe and the abovementioned parts of the world about the possibilities, dangers, and promised help, of the new socio-political system, as well as the people's morality, frame of mind, interests and their representation. Also, illusions had been made about the new system's characteristics, tendencies, and accompanying symptoms. Although an historical evaluation or perspective regarding the real and complex character of this age will not be possible for a while, outlines of some facts and tendencies have already begun to take shape.

We are aware now of the fact that the inheritance of the Mid-Eastern European nations' past is more varied and has a larger effect on the future than we thought previously. We know that self-interest plays a greater role in societal formation than moral consideration, yet the consequences and social effects of historical events are very difficult to forecast. It is obvious that historical conditions cannot be avoided or ignored. How this region's countries will develop, whether they will go on together or as individuals, and what kind of social form they will have, is nonetheless very unclear.

In this study I try to introduce a relationship between the change of regime and delinquency using six dimensions. These are the political, economical and social changes, the crisis of values and norms relating to these changes, the alteration of delinquency, and the reaction to all the changes which comes into operation through criminal policy.

1 Political changes

Hungary had the fewest signs of dictatorship of the Eastern bloc countries in the last two decades before its political system was changed. The political system had been criticized to a limited degree, depending on world policy and the internal situation in the Soviet Union. The final point of criticism was a disbelief

in the socialist system. It appears that the system better endured criticisms coming from the leading apparatus than those arriving from outside. This is the reason why the reform efforts, playing a role in the change of political system, started from inside the communist party.

When the Soviet Union could no longer maintain its jurisdiction in the region, existing political systems of the affected countries began to collapse. The old political system of Hungary collapsed first. It was the best prepared for change because of the reform efforts coming from the communist party.¹

The change of political system was prepared by the communist party elite which had reform communists (within its own membership), along with the opposition, pursue a united strategy against the communist party. The opposition wanted to execute the alteration of the old system peacefully. The change of this system was carried out by referendum, followed by free elections.

So far, the plural democracy in Hungary, which is based on the existence of several political parties, has been over ideologised. At the beginning of the change many people believed in the existence of a so-called "second society" which could be governed by competent experts, who until then were relegated to background duties. At that time, the central concern was to make a complete and radical account for the past, part of which involved the political examination of the old office and party bureaucrats. Mostly members of the new political power and its extremists endeavoured to work on this project. Many supporters of the old system made oral statements of loyalty to the new power, and affirmed their feelings for the newcoming leaders through deeds. Ideological and party interests rather than sensibility and professional honor dominated the new leadership's determination of particular issues. A typical example is reflected in the judicial and legal control over the abortion issue in several countries of the Eastern bloc.

All the parliamentary parties gained or lost supporters during the election period due to their ideology. There is no sign that any of the parties with strong influence would like to see this situation altered.

¹ The details can be followed and documented. The best publication about this is the *Fordulat es reform* (Turnabout and Reform) published in 1987. At that time, most of the authors of this publication went beyond the limits designated by the ruling power. The consequence was the exclusion of most of the authors from the communist party. This is especially important, since none of the authors questioned the exclusiveness of socialist political system in Hungary. They just wanted to improve the system by reforms. See *Medvetanc* (Beardance) 2/1987. As regards the political situation in Hungary in 1993, none of the above authors belong to the favorites of the ruling power. One of them had even been sued by the Prime Minister because of his "defamation of the government".

Among the advantages of the political changes is that the various party platforms, though in a very different degree, could be outlined for a relatively long period. The scrupulous revelation of ideological differences and the precise identification of radical extremists (and their notions, leading persons, and so-called "hard liners") became a reality.

Among the drawbacks of the form political change acquired in Hungary is that the secondary questions and confrontations that occurred during formal discussions of policy issues diverted attention from key issues, such as those related to the economy and social situation. The solving of problems has become more difficult and slower than it was during the years of a centralised governing system. The cause of this is that the discussion of concepts happens at different levels and that interests of many parties have to be debated.

2 Economical changes

During the period of the old political system, Hungary (unlike many countries having a similar political system) witnessed the growth of some initiatives of the market economy alongside the strict planned economy. Between the real or unreal limits of margins the slow transformation of the economic system – which had many stoppages – began from the mid 60s.

The ruling elite devoted much effort to avoiding a potentially overwhelming state of discontentment, similar to that of 1956. From the 70s this resulted in the raising of loans from abroad which was the only way to finance the relative welfare in the country – including the extension of rights of freedom with travelling possibilities. From the 80s onward the country kept running into debt and the political system's operational problems became more and more visible. From the second half of the decade a quick decline started in Hungary, but this process was only part of a broader period of crisis for the Mid-Eastern European region.

The beginning of the crisis in Hungary dates back to 1979. Its visible symptoms can be best characterized by the following²:

- The pace of the national income's increase had slowed down. Moreover, there were years when the national income decreased. The increase of income between 1979 and 1986 was only 1.5%.

² Source: *Fordulat es reform, (Turnabout and Reform) 1987.*

- The living standard of the whole population had stagnated. The situation of some social groups had deteriorated. In the abovementioned period the price index had been higher than 5% – except in 1980. The real wage for one person had increased less than 1%, and the real wage level had decreased some 2%.
- Investments decreased.
- The national debt had increased, and interest and loans payments could have caused bankruptcy even in the short run.
- The inflation rate had increased, and the population's financial safety was worsening.
- The foreign trade balance had worsened.

Marks of structural crisis began to take shape. The most important of these include:

- The unchanged structure of the Hungarian economy in the background of the crisis of the economical indexes and national debt.
- The major role of CEMA (Council for Mutual Economic Assistance) and the necessity of its existence in the Hungarian economy. The assumption concerning the safety of CEMA market proved not to be true.
- The presence of a barter system in the economy instead of a market economy. This caused a failure in the 80s because of the push to avoid economical conflicts.
- The confidence crisis among the party members and also in the society. This was caused by the communist party leadership because the heavy contradictions had not been revealed.

Notwithstanding the above, we can state that Hungary arrived at the doorstep of political change among more consolidated circumstances than characterized the other Eastern bloc countries' situation. The private sphere was not unknown in Hungary. It gained ground in the second or so-called grey economy, in the same

way that informal opposition against the state developed at this time.³ We are not very far from the truth if we say that with the introduction of the new tax system, the invisible incomes became striking. In this regard the country's population consisted of two parts at that time: the ones who committed tax fraud, and those who were not in a situation to materialize such acts, because of the type of their job. This was the period when so-called survival techniques began to be used across several territories of the economy. Since this time, more and more people have been temporarily "forced" to apply these techniques in order to avoid financial collapse.

The change of political system found an economy on the edge of collapse. This economy was still operating but its structure could not be saved. The priorities were clear as to what measures were necessary to enable Hungary to join the Western economies. There was no consensus among experts in the field, however, as to the best manner of implementing or realizing these priorities.

The carrying out of different theories has resulted in failure. The specific factors that caused the failure were the redivision of certain landfields for compensation, and the unexpected collapse of agriculture (which was partly a consequence of the redivision). Further, alteration of the economic structure was slow, and the legal foundation of the economy was insecure. Changes in the economic structure were brought about by several parties and lobbies that had for the most part, unspecific conceptions of the privatization of the economy. Owing to the lack of a secure legal background in the area of the economy's privatization, we can expect numerous corruption scandals to appear in the future, some of which will be of great importance. These scandals will affect both the government and most of the parliamentary parties.

We can state that the first government which came to power after the change of the political system in Hungary has been unable to keep its promise regarding the execution of the change of economic structure. Recession accelerated in the early stages and the economy has been stagnating for a long time. Since the beginning of the change of political system, the Hungarian government has tried to apply four different models to the change of economic structure. All of them, however, have lacked a supporting basis. They were the products of one or a few ministers', and some backing experts', lonely actions. The first experiment had been motivated by conceptions similar to those of Polish shock therapy. The society's answer to the therapy was the taxi drivers' blockade that paralyzed the whole

³ The experience of this opposition was usefully applied by the major part of the population in the following years as well.

country's life. The goal of this behavior was to bring to the government's attention the fact that the people are willing to endure only a lesser shock. The economy's dynamization failed because of the monetary restrictions of the banking sphere. Yet even the restriction policy was not to be carried out according to the plans, as it hindered the realization of the private sector's expansion, which is the precondition of economic growth. The point of the government's plan was to demonstrate to the society's different classes one way of coming out of the "pit" - in this case through the rising of the middle class. This particular plan holds good possibilities for adventurers seeking leading positions in that region of Europe where Hungary is situated.⁴

In the end none of the conceived models were successful. The economy's recession has continued, the cause of which is mainly the decrease of the government's financial support without the building of proper banking and marketing support. In the initial period, the quick economic decrease was fostered by the forceful ceasing of trade on the Eastern markets. Later these markets collapsed but their fall had nothing to do with the economic situation in Hungary. The Western countries gave only a small part of the help they promised, and the form of aid they gave had certain marks of neocolonization on it. Later, instead of cooperation, discrimination and the construction of an economic iron curtain from the Western side started.

Among the advantages of the economic changes following the change of the political system, we can mention the decrease of tension among the people and its' relatively easy cessation in the short run. This resulted from the slow pace of the changes, which allows people to become accustomed to new circumstances, and at least in Hungary made the crisis-beaten masses of society more accommodating.

Among the drawbacks of the change is, first and most important, its danger. This affects the population's way of thinking. Because of the enduring crisis, the new system becomes identified with the old one, and even more, the old system becomes seen in a more favorable light than it was during its original period of existence. The long-lasting crisis also creates a possibility whereby problem-solving ways, once existing on the periphery or having been fashioned from legal rules, strengthen and become general, and so become problem-solving technics for the majority of society. Moreover, the long recession conceals the fact that both the state and the society, as well as the individuals and the communities, are

⁴ See L. Lengyel: *Útfelen 2000/Századveg.* (On the way 2000/End of Century) Budapest 1992, pp. 49-62.

living off their reserves. By the time the country is in a more favorable situation, the society may well have no further reserves to help them along.

3 Social changes

The old political system's economical features had determined the most important characteristics of the social conditions. After the possibilities of extensive development had been exhausted, the consolidation (which had been financed by loans of Western financial institutions) became a mere sample and nostalgic memory for most of the society of the late Kadar era. At that time, all the people enjoyed some degree of welfare and safety in Hungary (although some people enjoyed greater degrees than others). This fact was based on the dogmatic principle that everybody has a right to work, which is currently embodied in the Hungarian constitution. In the communist era the importance of maintaining employment was so evident that those who did not have a permanent workplace, the details of which had to be indicated on the identity card (for the most part we are talking about state owned companies), became suspicious to the leading authorities, and could be easily charged with the crime of work-shirking. According to the law, this crime represented a danger to society.

From the 70s onward, the increased safety of existence made it possible for many people, by saving money or obtaining loans from the state, to realize gradually some of their financial goals. One much desired goal was having a private apartment. Even those who had no chance to have their own flat could, however, attempt to purchase a piece of weekend ground or, after a long waiting period, a car, which in comparison to the international standard was expensive and of bad quality.

In the 80s societal differentiation continued to expand, and the difference of income between the lower and upper classes increased. At that time a so-called poor community had begun to form. It was named the lumpen class. These people were obviously unable to climb up to the other classes' economic position, but this was not their fault. The lumpen definitely fell behind the mainstream of society.

With the strengthening of the old system's stability – without regard to the fact that it was a real or unreal process – ideological loyalty to the state became a matter of secondary importance and expertise became paramount. Although the number of professional functions which required party membership kept

decreasing, however, we must admit that this trend did not cease completely until the political system changed. It is also a fact that in those workplaces where party membership was not necessary for employment, party members could obtain leading positions more easily than those who were not members of the communist party. The criteria of the professional and political career had not been clearly separated. This lack of clarity, however, did not prevent the professional elite from obtaining the most important leading positions in the economy, in the form of first or second leader. According to those who expressed their dissatisfaction by ideological arguments after the change of political system, the newly elite composition of the leading economic positions suggested that the old party elite had saved its power from the previous system. Yet the saving of power had only partly political elements. The political past and connections of the economic experts greatly helped them to join to the elite. Those who had the same talent and ability, but not the political connections, did not have the same opportunities when the political system changed. The ones who previously belonged to the political elite had a better chance to form a successful economical role for themselves. This dynamic meant that the previous political power of the elite shifted to economic power and only those who had the ability to accommodate quickly to the new circumstances could advance professionally at this time. In the region of Europe where Hungary is, however, rapid accommodation to new circumstances does not mean the same thing as the ability to get accustomed to new circumstances under existing Western European capitalism.

As a consequence of the above changes, the political power – while losing more and more of its economic basis – soon became stagnant. The old ideology was not renewable within the altered internal and external circumstances, and there were no new concepts available to meet the new challenges. The economy became disarranged because of the decrease in central financial support, which was partly the result of the economical situation. With this began a period full of heavy troubles regarding the society's operating abilities. New masses have joined those who had once lagged behind the other members of society. People who previously had a permanent and relatively good income, lost this. The situation was made worse by overspending among those people who had been promised social security by the leading members of the new system. From day to day employees of entire occupational branches and regions in the country became unable to pay off their long-term debts – among them the debts of their residential flats. This is how the euphoric adventure of the change of political system lost its value for many people. It also explains why the major part of the Hungarian population is apathetic regarding daily politics.

The relatively rapid change in the economy, including a sharp turn on many territories (based on the traditions of the previous system in Hungary), did not give the people time to protect themselves against the new system's effects. As long as they are unable to do this, the negative symptoms of neocolonization will exist nationwide. Indeed, marks from the type of exploitation that flourished in the 18th and 19th century capitalism can be found on certain strata of the working population. So, in addition to the recession of big masses from other parts of the population, the working classes' exploitation continues. This is especially important, as the real change of the economic structure has not yet begun.

Among the advantages of the type of change that is continuing in Hungary is the fact that the society is not "blowing up" because of the new situation. The slow pace of the changes makes it difficult for those who have demagogical thoughts to acquire mass support, and so the nation is able to avoid a radical conservative (left- or right-wing) political turn. The society tends to accept the new system's conditions.

Among the drawbacks of the change is that it was not accompanied by a revolutionary adventure. It is probably more difficult to obtain the peoples' support for such measures over the long term than it is in the first few months of the new government's reign. The consequence of a slow and controversial change of economy - which has been full of stops and turns - is that one cannot see the end of "tunnel". In order to get the people to accept the difficulties of a real change of economic structure the government must outline clear goals and provide a basis for its promises. Such efforts can only be successful if they are undertaken by leaders with genuine political power. Efforts have to be made by politicians who pledge that the situation in the country will improve within a short period, and who keep their word. Unemployment, which already affects almost one-third of the country's families, hinders one's ability to accept the difficulties of economic restructuring. However, most of the families affected by unemployment will believe in the government's pledges if they see real changes occur indirectly.

4 Crisis of values and norms

One of the main reasons behind the collapse of the ex-communist countries - apart from economic causes - was that the societies of these countries had never identified with the official scale of values which were formed by the ideology,

and which they were recommended to follow or, during certain periods, obliged to follow. People had not accepted the official values' main elements. The people in these countries had lived according to a dual scale of values. Both scales of values contained many negative elements. The unacceptability of certain elements of the first (or announced) scale of values legitimated the second scale of values, with its numerous negative or so-called "no" values which had been institutionalized by society. During recent decades, the second scale of values has become so firmly entrenched in the many classes of society that the abolishment of it requires a change of political system or a similar social explosion - resulting in a catharsis. Another way the second order of values can be abolished is through the effect that a durable change in the first scale of values can make. The second scale "no" values include, for instance, priority of self interest over social cooperation, atomism, negligence of a community's helping force, and lack of respect for other people's property. We can observe that some of the above "no" values also exist in societies selected or predestinated for integration. Therefore, positive changes cannot be anticipated in those circles. The economic shock that goes through society, however, explains how many "no" values become transformed into neutral or positive values. The communities watch with a kind of silent sympathy rather than a feeling of disagreement with the ones who rob wealthy people. On certain territories a silent sympathy and solidarity starts to take shape for the support of those making actions against the official order of norms. The expansion of this attitude can undermine the official order of norms established and protected by the parliament of a democratic state.

The above dynamic makes it possible for the individual, supported either by his or his own class' scale of values, to discover the limits of written rights. It appears that the force of norms weakens from any kind of change of a political system. This is a natural process both from the inside and the outside. The slow pace of change enables the various scales of values to continue because each scale adjusts to new circumstances. This tendency is confirmed by such anomalies as occur, for example, when theoretically prohibited but practically preferred norms blend with indisputable norms and cause obvious reactions.

The changes and conflicts in the scale of values of the society's elite pose a special problem. The elements of this scale are not always exemplary for the most part of the population, but they are definitely considered authoritative. Today, the scale of values as exemplified by those living within the not yet stabilized elite in Hungary are usually difficult to follow. Even if they are followed they are hard to realize. It is another matter if these values are exem-

plary. All of this suggests how difficult it is to select values which are worth protecting over the long term.

As far as the protection of values is concerned, one must observe that values are based on their acceptance by the society. "The value has to be realized by the members of the society, so it is a must, a norm."⁵

The spheres, priorities, and protection of values differ in different types of societies, and they vary according to cultural circumstances. In Hungary, there are three major scales of values. These are the concepts that have a priority within the conservative, liberal, and social values. We have to admit that domination of a single order of values is unimaginable at the moment in Hungary.

The conservative order of values is marked by overweight state interests and ruling power priorities that stem from tradition. The governing style of states representing conservative values is paternalistic and is authorized by authoritarian principles. This does not depend on the government's declaration of social concepts. As a consequence of the government's ideas and ruling style the members of the governed population are considered to be subjects. Therefore, the subjects of the state have to accept that their historically conditioned status is more important than the one chosen by them.⁶ The experience is that in those regions and countries where the above type of value preferences do exist, the collective priorities including the national values are significant. The individual values can be derived from communal values. Thus, when a decision has to be made, the ruling power's point of view, which represents the community (or the "people"), is often dominated by a central will that does not need nor bear opposition, debate, and the opinion of the affected people. The several tasks of the community are sharply and well outlined, and well separated. The government rules, the governed ones execute tasks.

Intolerance is a feature in the abovementioned regions. It often takes shape in the organization of protection against certain groups of people. Another characteristic of intolerance is the credo involved in forming the collective attitude of some selected groups. This credo apparently manifests itself in deeds – for instance in legislation and applying law.

The major guiding principle of a liberal order of values is rationalism, and the respect of freedom and equality. The state in principle bases its activity on its

⁵ V. Hamari: *Jogi és jogon kívüli normatív elemek a polgári ítélezésben* (Legal and non-legal normative elements in the civil justice) – *Jogtudományi Közlemények* (Legal bulletin) 9/1984, p. 491.

⁶ See F. Feher & A. Heller: *Kelci-Európa "dicsőseges forradalmi"*. (The "glorious revolutions" of Eastern Europe) T-Twins, 1992, pp. 103 and 119.

citizens' free agreement. One element of the governments' operation is that it allows feedback from the governed ones regarding that operation. This means that the hierarchical systems in the affected countries are less one-way or unilateral. The result of such interaction is a sensible relation between state and citizens. However, it also means that a bigger number of conflicts, talks, debates and operating problems occur in the countries concerned.

The system of norms, part of which is strengthened by the law and which is exemplary for the community, is crystallized in the relation of individuals and the society. "It has to be considered, that the individual is living, thinking and acting as a member of the society – and not in isolation. The points of view expressed by other members of the society make an impact on the individuals' content of mind, and this creates the moral system of norms that includes the society's content of mind. Laws had been made from the moral system of norms by the reigning class – first occasionally, then 'by planning' – with its organisations of power, and compelling force."⁷

As both values and an order of values belong to the circles of morals rather than to law, the protection of values by the law can only be fruitful if the scale of values preferred by the ruling power does not conflict with the scale accepted by the majority of the population. A characteristic feature of this territory – mentioned above in connection with other issues – is the simultaneous presence of supported, tolerated, and prohibited activities. There are certain acts which are prohibited but tolerated by authorities so long as the people committing the acts do not step beyond the border of tolerance. This is the case even though the authorities know that some kinds of prohibited behavior occur on a mass scale. "Following the law has to be a moral action. The realization of it requires however, that most of the population be convinced about the value of laws. Penalty in itself is an inadequate tool for morally reproving someone. It only works to deepen the already existing moral values. Consequently, law has to be confined to cases where the public morality is identical with the official concept, or to situations where people are indifferent toward legal regulations."⁸

From the point of view of criminal policy, the order of protection regarding relevant values in a country can be examined by the following:

⁷ R. K. Merton: *Társadalmiszemlélet és társadalmi struktúra*, (Social view and social structure) Budapest 1960, pp. 452–471, Hamori 1984 p. 490.

⁸ T. Geiger: *Über Moral und Recht*. Streitsgespräch mit Uppsala. Duncker und Humblot, Berlin 1979, pp. 178–182.

- the minimum and maximum values of sanctions applied against the breaking of codified norms,
- the action taken against those breaking norms (this includes both the population's will to take action, and the actions taken by the criminal authorities),
- the degree of penalty between the minimum and maximum limits.

On the basis of the above three categories, different countries and various regions can also be compared. In this study we are not dealing with variations in the severity of penalty in different countries. These mirror regional and national traditions that are based partly on conservative and liberal concepts. Also, we are not speaking about changes that had been made in the criminal law during long historical periods. These changes reflect a progression rather a given situation, which is the object of our focus.

The norms protected by criminal law are part of a citizen's security, including the defense system used to protect that security. How the protection of individual safety serves society's interests in the long run is another question.

In the Mid-Eastern region of Europe it tends to become a generally accepted concept that both the protection of values by criminal law and criminal legal procedure itself are *ultima ratio* to the operation of society. The criminal law is an *ultima ratio* in the sense that "it is an improper means for the solving of social problems. The criminal law is not a means that can make an impact on the course of events and social facts that cause the commission of criminal acts."⁹

Thus, the notion that values and norms have to be protected (primarily) by non-criminal-legal means and methods is becoming more prominent. Certain aspects of this notion belong to the theme of law creation. In order to maintain control and minimize the harms of civilisation - the goal of which includes protection of values in a world which is complicated and ruled by technics - criminal procedures built on the principles of Roman law are improper. Other branches of law (primarily the civil law and some other branches) are more suited to the maintenance of values and norms to the extent that they can forcibly ensure the preservation of those norms that demand respect. The application of these law branches can be especially fruitful if the norms defined in the laws express the people's interests. If the people's interests are legally represented in this way then

⁹A. Szabo: *A büntetőjog reformja*, (Reform of penal law) p. 45.

the norms are automatically protected. The people need not be warned or even forced by penalties to meet their obligations.

Where the question arises as to "which cases require the application of criminal laws", "[this] has to be determined by social necessities rather than the types of criminal sanctions."¹⁰

It is necessary to deal with the question of what kind of scales of values and priorities a democratic state must have. It is also important to speak about the kinds of advantages and disadvantages that the different order of values and priorities poses for the various parts of criminal policy and for the prevention of criminal activity. We will speak about this theme later in this study.

5 Structure and dynamics of delinquency – changes in the macro-structure of society

5.1 General notes

When political changes occurred in Middle and Eastern Europe many politicians and political researchers thought that the ex-communist countries would soon experience rates of illegal deviation prevalent in the Western countries. The experts quickly offered ideological explanations for the fast and large-scale increase of delinquency. Freedom, the increased openness of societies, the decreasing control of the ruling power over the people, and the change in the manner of state control made the experts draw a pessimistic picture of future delinquency. In addition, there were predictions mentioning the adverse impact of unemployment and economic inequalities. These are negative features of capitalism and had not been known before in the affected countries. It had been written into the forecasts that these symptoms would cause an increase in rates of deviance.

Several other explanations existed for increasing delinquency in the ex-communistic countries. These were not hypothetical but revealed real problems. Especially bad changes had occurred in two areas of social life. One of these was the sudden end to social stability which otherwise was the source of validity for all orders of values. The other one was the (temporary) weakening of boards

¹⁰ A. Szabo: *A büntetőjog reformja. (Reform of penal law)* G & G Publishing House, Budapest 1990, p. 39.

designed to validate the will of ruling power. A further problem was the questioning of the old laws' legitimacy.

There were expectations that strengthened the predictions about the large-scale and long-lasting increase of criminal behavior in Hungary. These expectations proved to be illusions since the political system changed. The illusions were related to the idea that the economy would become a capitalist economy in a short period here, and to the belief that the country would be given a type of support similar to the Marshall plan. Many Western politicians made unclear promises about future assistance – in exchange for Hungary's policy toward the GDR. The explosive rise of the economy, the sudden restructuring of values, and the existence of developed Western capitalism likely created new moral challenges which were difficult to meet for the most part of society.

The initial period following the changes proved the forecasts made about the quick increase of criminal activity. Later on, however, many of these predictions proved to be a mistake, and people began to forfeit their illusions.

Social changes have recently begun in Hungary but they do not reflect the expectations people had in 1990. The dangers of today are different from the ones the population feared a few years ago. The changes have created features that had not been anticipated before. We spoke about the characteristics of the economy in Hungary in a previous chapter but must revive parts of this discussion here. The state sector's disappearance from the economy is slow, and the people's life situation is gradually deteriorating. Due to the slow nature of the changes, the deterioration of the population's circumstances and the creation of strategies for resolving this problem have been underway for a long time. This is the reason why the changes' negative symptoms only trickle to the surface. Prosperity exists only for a small circle of people in Hungary today. Yet the negative symptoms of the changes are not expanding quickly enough to pose a big, sudden danger to all members of society. The gradual effects of the changes gives society time to prepare for problems. Although some of these may be unfavorable to the economy, by causing impoverishment among many classes of society, their slow pace enables behavior which everyone must practise, as part of a social adjustment process. This behavior may be encouraged by the formulation of strategies for protecting against and preventing deviation.

- The new leadership of the state stabilized its situation in a relatively short time. It relied mainly old style organizations which functioned according to old laws. The conservative governments of the Central European region soon convinced

the hesitant police organizations to return to the execution of their tasks. The legal basis for police activity became questionable in many cases because no law concerning the execution of law enforcement duties was ever made. The parliamentary parties could not agree as to the substance of such a law.

It is essential to stress that most of the post-communist countries are continually striving to their legal systems closer to that of the Western European countries. However, numerous conditions are missing which affect the transposition of the legal principles followed in these countries, many of which are codified in their national legal systems. Among some of the shortcomings we may count conceptual as well as financial obstacles.

In summary we can say the following: the countries of the Central and Eastern European regions do not follow the model of Western European regions either in the sphere of the economy or social changes (especially with regard to deviations). Tradition plays a big role in life in these countries. Under the word "tradition" we include habits, norms, ways of meeting various demands and problem-solving techniques, and traditions originating prior to the Second World War. The implications of this emphasis on tradition is that the societies of the Central and Eastern European regions use means based on their traditions for the solution of new challenges. Tradition also determines the answers to politics problems. Some of these answers are acceptable and some are unacceptable to the societies of those countries trying to close up to the West.

Today Hungary may still be characterized as a strongly centralized state having a hierarchic political order. The government (again) has a strong and centralized police. Decentralization is occurring very slowly and in a small degree, and to make matters worse, it generally results from behind-the-scenes bargains instead of open debates. The "grey" economy that was once called the second and third economy keeps strengthening – with incessant debates about its role. Some regard it as the society's soul, others think it is the best example of the norms' loss of value. Supporters of both arguments usually refrain from taking steps to end the "grey" economy, but they also refuse to make it the only type of economy in existence. This way, social contracts based on unofficial norms are increasing and in some spheres are tending to become general and dominant. This results in a change in the role of money and fortune, and it creates the risk that corruption may become uncontrollable. This type of informal mechanism will probably soon be built into the societies of the Central and Eastern European region the same way, just as the previously existing problem-solving techniques of communism which prevailed alongside the border of the legal system or beyond

it. A rapid rise and expansion of features of Western type capitalism is not foreseen.

The conclusion of the above observations is that for many years there will be big differences regarding the determination of scale of values both in the public and private life. Moral, logical and emotional arguments will struggle to decide what type of solution would be good for the country. It will be discussed whether administrative measures are necessary (or at least must be considered) to bring an end to the "grey" economy, and to stop the availability of incomes after which people do not pay tax. Another possibility is to reduce these phenomena to an acceptable degree, keep them under control and make rules and laws for them. Beyond the impossibility of them ceasing entirely, there are good reasons to support and oppose both. Many experts are afraid, however, of adopting a very liberal solution. They believe that this would put the country in a similar situation to that of the Latin American countries, which is dangerous. They also fear that a social situation similar to that of Italy would become dominant, and that such a situation would be unmanageable.

5.2 The main features of structure and dynamics of delinquency before and after the political changes

Following a period of stagnation, the number of criminal acts in Hungary started to increase from 1983 onward. This tendency accelerated in late 1989 or early 1990, then the increase stopped in 1992. The number of offenders, however, hardly changed between the mid 70s and the mid 80s. This means that the number of those committing several crimes were going up, or the number of offenders not caught by the police was bigger in comparison to the previous years. Another possibility is some combination of both tendencies. The increase in the number of unapprehended offenders already began in the late 70s, though at that time there were only a few who paid attention to it. The sudden change of this situation that occurred at the beginning of the political changes was only a solidifying of the previous process. The meaning of this process, however, had already changed.

It would be very easy to say that the political and economical changes – being historical and real events – caused the unfavorable alterations of delinquency, but but this concept would only partly be true. The changes that happened are the results of many factors, some of which can be examined only from a proper distance. Now I mention only one of the many factors which is a real factor of

the alteration. It was at the time of the quick changes in the country when the proportion of those teenagers and young adults strongly inclined to commit criminal acts suddenly increased within the population. The proportion of those who are in the 14–17 year old age group began to increase in 1982, and from 1989 this tendency continued in a large degree. The proportion of 20–24 year old criminal offenders kept rising from 1987 (see Table 1).

The official analysis indicates a rise in delinquency in general. This is only part of the truth. It is true that the number of crimes committed against property increased in a large degree over the last couple years. This worsened existing figures which showed that the number of criminal cases regarding property was much higher than that of other type of criminal behavior in Hungary. The number of cases committed against property has increased beyond 80%. In previous years it was 45–50%. In 1980 the number of property cases was two and a half times higher than the total number of cleared cases. In 1991 this proportion doubled, so the number of property cases was five times higher than those solved by the police. We must emphasize that if a single type of criminal act dominates the criminal statistics, changes in these should not be considered a general symptom of all the criminal acts recorded.

Generally, the population is not interested in the increase of criminal cases in itself. It is however interested in an unfavorable rise of certain type of crimes. People care about the kind of lawbreaking behavior that jeopardize their personal or financial safety. This observation enables us to construct two large categories of criminal acts and criminals. One group contains the type of cases that cause people fear. The other group contains the cases and offenders that do not have such an effect on people. In addition to these two groups there exists a third group, which including those who break the laws created for the protection of norms and the order of values. It happens very rarely that a member of one of the three groups belongs to more than one group.

We can say that the laws aimed at preventing fear among the population are the penal laws, which are best suited for achieving this goal. Attention must be paid to the cases in this category. They must be aggressively pursued, investigated, and solved, and the offenders must be properly punished, in order to satisfy the public's demand. The acts belonging to this category may be broken down into three basic groups. These are the cases against property, the crimes committed with violence against life, and the actions against life having accidental features.

We have already spoken about the number of crimes committed against property, and we have also mentioned how it changed during the last years. The number of culprits committing burglary in 1992 was almost four times as much as it was in 1980, and the number of cases was more than twice higher in 1991 in comparison to 1989. Regarding crimes against property, the number of offenders belonging to the 20–24 year old age group increased very much between 1989 and 1992. The number of members of this age group participating in burglaries increased in a larger degree than the average increase of burglary cases in that period (see Table 2–4).

The number of violent criminal actions suddenly increased from 1989 to 1990. After the small rise in the previous years a stagnating period followed, then from 1989 the number of violent cases increased by three thousand yearly. The number of known perpetrators was growing by one to two thousand, but this number kept decreasing (see Tables 5 and 6). The number of manslaughters and such kinds of attempts – despite the official pronouncements – did not increase by a large degree. This means that in 1991 the number of such cases increased by five in comparison to 1986. Apart from this, we can say that there was a big and unfavorable change on this territory between 1990 and 1991 (see Table 7). The statistical figures are still much lower, however, than those for the Western European countries. The numbers of crimes committed against life, as well as those for actions of an accidental nature, do not show cause for alarm. For the time being it appears that the rate of crimes which attack protected values will remain constant in most cases, or even dip a bit in the near future. This forecast does not apply to property crime cases.

The legal system attempts to protect the kind of norms for which a lack of respect can cause serious harm to the population. People take little interest, however, in individuals and actions which violate these kinds of norms. These actions include the various cases of "white collar" crime or hidden criminal acts, starting from corruption through organized crime to the actions committed continuously or intermittently by the international mafia networks. Cases involving harm to nature and the environment belong in the same group.

While crimes belonging to the two broad categories mentioned above (those that cause fear among people and those that do not have such an effect) are condemned by everyone, though in different degrees, it is only meaningful to label behavior which causes harm to the population criminal because it threatens norms and orders of value. The government attributes importance to this, in spite of the fact that the people share in part the same beliefs about such acts as the

committers do. These beliefs are easily held since the people often break the norms if they can, and thus are potential or real committers. That is why they exercise such a great deal of tolerance toward those breaking the norms. A main characteristic of this category is that the preferred system of values and norms does not find moral support in the society. A majority of individuals in society break rules if they can, without any kind of moral inhibition, provided that doing so does not pose them any serious inconvenience. They commit the actions even if they are aware that the protection of norms and the penalty for breaking the law serves their own interests indirectly. The most common activities within this circle are those offenses against the customs and currency regulations, which are rather complex activities.

5.3 Expected and unexpected tendencies and effects of future delinquency

Although all societies are temporary societies from a certain point of view, a sudden change of a social system should not be considered customary. It is extremely difficult to make a forecast if a country finds itself in such a situation. This situation is worsened by the fact that the picture of change is formed by many external factors, the effects of which can be handled within certain limits.

The quick expansion of crimes committed by well-off people is unexpected, as the population most affected by these kinds of actions – the middle class – is not increasing but on the contrary, decreasing. The increase of those crimes that are associated with unemployment is expected. How people can tolerate unemployment is difficult to imagine. The expansion of impoverishment can increase tolerance toward those who are in worse situation than others, but it can also increase intolerance toward people who are viewed as responsible for other people's misery. In the region of Europe where Hungary is situated, the latter scenario is more probable. A real alternative is, however, an end to the decrease of the standard of living, adjustment to the long lasting stagnation, and slow growth within a reasonable period.

The traditional forms of solving conflicts – including those prohibited by law – can be expected to continue in Hungary's future. A meaningful change in the number of criminal cases committed against life is unexpected. This will be true especially if the society can refrain from becoming involved with mafia-like contingents of international scale, organized crime.

A large increase can be anticipated at the level of crimes committed by and against the newly rich, and in the area of white collar criminal activities which are executed with the assistance of the representatives of bureaucracy. In the case of these types of activity high latency in the future is very likely.

It will be very difficult to save the morality of state machinery (mainly the administration of justice). Apart from those already mentioned, a number of indeterminate factors make it impossible to provide a reliable forecast regarding the expected and unexpected aspects of criminal activity in the future. Some factors are:

- The positive relationship between the intensity of delinquency and age. It is also known that the proportion of those individuals who are in the active age group will initially rise, then decrease approximately five years later. We do not know how the active offenders will be affected by unemployment.
- The inability to foresee the pace of the change of occupation structure in this part of Europe, and the effects of the blue collar working class' move to the service sphere. In view of the social and economical changes before the period of political changes in the country we can say that Hungary had a 20-25 year old lag behind the developed Western countries.¹¹ This distance, as paradoxical as it may seem, temporarily increases. It is a negative result of the changes. This is why the effect that the change of occupation structure will have on those who have to live according to the new order of norms and values cannot be foreseen.

5.4 Latency after the political changes

It has been pointed out by experts dealing with latent criminal cases that the number, proportion, structure, and dynamics of crimes not indicated in criminal statistics depends on many factors. These type of cases can be divided into two groups. The first group is related to the citizens' willingness to report such actions to the police or to make denunciations. The other group is associated with the ability of the police to solve criminal cases.

¹¹ See P. Dombay: *In the footsteps of Sweden*, The University of Stockholm, 1984, especially pp. 194-195.

The success of those cases reported to the police by the people depends on an alternative decision made in an anguished state of mind. The citizen – after overcoming his indifference – has to decide which option causes less inconvenience for him: the several ordeals he has to endure in connection with making a report to the police, or the growing number of actions that are indirectly caused by his choice not to make a report, such as the concealment of the criminal deed and its perpetrator, and the damage brought to justice. The first option is primarily determined by factors like the quantity and quality of loss or damage.

The resolution of cases initiated by the police also depends on several factors. The main factor is the establishment of an order of preference which stipulates the kind of actions that are worth investigating, and the types of criminals that must be caught. This order of priorities is centered around the chance of apprehending certain types of criminals as well as the level of success that can be achieved in enforcing certain type of crimes. Success is the reward of effectiveness which a policeman can get either from his supervisor or from the population (or from both). Another important factor that can assist police in solving criminal cases is the quantity and quality of crime detection devices. Without proper technics it is almost impossible or at least very difficult to solve certain type of crimes. Crime detection equipment, however, is different from evidence itself, the existence or lack of which also influences police activity with respect to certain criminal acts and their committers. The actual situation of criminal activities and its presentation to the politicians plays an important role in shaping background material and policy for future investigations and preventive activities. A precondition to success in these areas is the effective prevention of crimes including the outlining of criminal policy - based on the consensus of both parties.

6 Prevention of criminal activities

6.1 Basic conceptions

As a consequence of the facts and factors indicated in the previous chapter, prevention of criminal activity is an integrated part of state politics. Criminal policy regarding prevention is a theme within the scope of criminal and jurisdictional authorities.

It must be clearly recognized that within the circle of state tasks, the prevention of criminal activities does not belong to the tasks of ministries and authorities responsible for execution of criminal policy. The commission of criminal acts

cannot be subsumed with the investigation and solution of criminal cases and the punishment of culprits, but rather with the decrease or negation of conditions which make criminal activity possible. The circle of those responsible for addressing these conditions is very wide. Every decision maker who during his work creates conditions which enhance the opportunity for some people to commit crimes, or who does not destroy prevailing conditions which enable criminal activity, is contributing – with his carelessness and without his knowledge – to the unfavorable tendency of present and future criminal activities.

The central and local state authorities not dealing with cases of criminal policy are the organizations – including the local governments – that have a main role in the prevention of delinquency. This is a fact that has to be realized by politicians. The consequences of many decisions and inactivity with respect to certain issues (such as the realization of conditions that would give people equal opportunities for living, the quick growth of unemployment without social protection, abolition of state home building, the over-liberalization of private ventures or the lack of liberalization of such companies, and the interpretation of human rights of freedom to an over-extended degree) are the results of decisions based on political strategies. If we compare these decisions with all the criminal policy measures, we can say that the latter are only a very small factor in the prevention of delinquency.

Though it does not belong to the tasks of a ruling power to organize the full protection of its citizens (it is unable to do that *ab ovo*), it is obliged to create proper conditions for the communities' self-protection. It is a political *id est* state task to prepare citizens for the enduring and active handling of the new situation's negative consequences. The population has to learn a new role in order to be able to live together with the ever growing delinquency, and to be able to react to civil initiatives.

In a dictatorship where citizens are kept under strict control, the spectacular forms of delinquency, the danger of which are felt directly every day by the population, are committed in a smaller number than in democracies. Of the numerous reasons for this, I mention only a few now. The monolithic ruling machinery is able to keep delinquency – as well as many other social symptoms – at a stable level. In an autocratic political system there is such an extensive lack of recognition of the rights of freedom that the average person becomes disinterested in this phenomenon. Lavishness and corruption, features which characterize the type of administration ruining the economy – as proved by the example of the so-called "socialist" countries – is not striking in daily life. In a

society where all the people are relatively poor, the fact that there are some who are poorer or a bit richer than others does not irritate most citizens. The lack of private property hinders the commission of criminal acts against personal property, and the looters of social property are judged ambivalently. On the one hand the people identify with the offender and feel complicity with the action (believing the factory is theirs). On the other hand they form a special kind of disagreement with the act (believing the factor is theirs, thus not only the offender's). The emphasis on public order and safety which is characteristic of the totalitarian states means that most of the citizens are more fearful of the ruling power than of certain criminal activities.

The lack of respect for human life, which is partly based on traditions, poses a big challenge for young democracies. Other factors associated with traditions have altered because of the new circumstances. The lack of respect for property can be traced to the past too. This suddenly became visible and an apparent problem with the polarization of the society. For decades there was a picture of public order and safety in the mind of the population which was quite different from the one held now, based on contemporary experience. In the part of Europe where Hungary is located there are new forms of criminal activity, which are still hardly known by the citizens, like economic crimes, money laundering, organized crimes, and the existence of an organized underworld – that is to say the expansion of crimes to an international terrain.

The system of prevention that has to be set up is going from the general *id est* the theoretical elements toward the specific ones. The system in itself is the summary of social and state reactions regarding delinquency, the breaking of legal rules, and related dangerous situations.

In our conceptional system the social prevention of delinquency is considered to be the broadest concern. It has political and non-political sub-systems. Within the political sub-system there are some policies closely related to the prevention of delinquency and there are some others that are only partly connected to the prevention of committing crimes. The preventive policy of criminal activities is the operation of the state handling system aiming at the prevention of making crimes. This collective term includes the centralized, the local decentralized, and nationwide activities.

6.2 The criminal policy as a system

According to the view previously outlined in this study, the prevention of criminal activities consists of two main parts. These are:

- policy
- the proper execution of policy

From the point of view of committing crimes we can distinguish two types of prevention:

- prevention hindering the breaking of law and committing of crimes
- prevention following the breaking of law and committing of a criminal action

As regards the legal means there are two kinds of prevention:

- preventions outside the law
- preventions within the legal system

In the above system, the kind of prevention whereby measures inside the legal system are used after criminal acts are committed belongs to the collective term of criminal policy. However, not all the intervening measures within this circle belong to the criminal policy. Numerous non-political but practical preventive strategies under state control are outside of the terms of criminal policy.

As regards the kind of prevention that inheres in the legal system, the criminal policy is a general collective term in the category of crime prevention policy. Within this category, criminal justice policy, penal policy, policies regarding the making of judgements and the imposition of penalties, and the policy of law enforcement are on the same level.

6.3 The options of criminal policy

In the previous parts of this study it was mentioned that, in outlining criminal policy, the following issues must be considered:

- What does the state consider to be conditions which encourage delinquency? Do economic and social circumstances, or cultural and/or personality traits, contribute to the process whereby crimes are committed? If the state believes economic and social forces are factors behind criminal activity, it admits its responsibility in connection with delinquency, and therefore considers the improvement of social background variables to be of utmost importance. In this case, however, the government does not view criminal policy as a plaster for all sores. If the state refuses to accept its responsibility, on the other hand, and blames certain people, small communities, and ethnic groups, then the importance of criminal policy grows, since the government casts most of its spotlight specifically onto crime problems.
- It must be decided what kind of measures will be taken by the government in order to bring delinquency under control. The measures can involve human rights, and constitutional rights and obligations.
- Where both the state and non-state spheres are working to decrease criminal activity, it should be examined to what extent each sphere must intervene in the other, and what type of measures will be the most effective. The tasks have to be divided according to these two considerations.
- It should be decided which approach will be basically validated: the one that primarily concentrates on the pursuit and punishment of criminal culprits, or the one that concentrates on reducing the number of circumstances that contribute to criminal activity. The first approach is the one that reacts to committed crimes. It touches on the policy of judgement and the execution of penalty. As far as the second one is concerned, it pays attention on the prevention of delinquency, *id est* on the policy of criminal law rather than the means that are used for the execution of the law. The first approach remains within the circle of justice while the other one needs the coordination of numerous measures beyond the activities of criminal and judicial authorities. The first one stays in the spheres of the criminal policy's sub-policies, the latter regards criminal policy – beside other policies – as a part of legal policy, and thus it integrates itself into the conglomeration of state politics determining all the decisions of the ruling power.

- It has to be decided if the very expensive penal policy which imposes serious penalties and serves the repressive demand of the public is the one that is desirable for the country. An alternative policy involves building on the increase of public tolerance and considering compensation for those who have suffered loss. This policy should involve methods and means which are a lot less expensive for the state in the long term.

6.4 Proposals on criminal policy: the mixed model

In the first approach it seems obvious to look at both conservative and social-liberal type proposals, along with their estimable advantages and drawbacks. If we could create identical goals for both alternatives, it might narrow the distance between them. This would guarantee the creation of solutions based on consensus in situations where there would be a surplus of mutual criteria. Finding such solutions could create a situation where, in the event that members of the political leadership change, most of the principles of the criminal policy would remain intact following the change.

To start we can take an approach that creates its dimensions with the possible replies of social policy for the problems of deviant people.

1. With the first dimension we get an answer to the question what kind of relationship exists between the state and the individual: that is to say, does the state support or restrict individual autonomy.
2. From this dimension we will learn if encouraging social welfare or controlling society through punishment is the main characteristic of the state activity. These analyses will reveal on the one hand the new conservatism, operating with strict rules and stressing individual responsibility, and on the other hand features of social liberalism, guided by relatively light rules and a sense of state responsibility for the members of society.

Our opinion is that the second model and its principles are acceptable. Therefore, we make a distinction between the following:

- restricting and intervening and
- assisting and supporting criminal policy.

The harmony of the above two alternatives appears to be possible by paying attention to the following general principles:

1. We accept the neoclassical concept of criminal law. The type of criminal law which imposes punishment with regard to human rights is the one that most represents the idea of democracy. It imposes a penalty that is in proportion with the committed action itself, without regard to the committer's social situation, individual motives, or the opportunities for meeting of his demands. This way the equality of rights is preserved both in the circle of criminal prohibitions and in the domain of penalty. If the intervention of criminal law is really an ultima ratio, the penalty that is in proportion with the committed act can compensate for the insensitivity of criminal law toward social problems, drawbacks in equality of chances, and the lack of individualization.
2. In this case the criminal law is built on a restricting and intervening system that is assisted by a supporting system which can correct many faults of the restricting and intervening alternative. The assisting and supporting system can have an important role regarding those means of prevention which operate outside the criminal policy. Further, it can play a main role within the criminal policy, more precisely during the execution of penalty, and it can also help support the protection of local interests following the execution of penalty.

Our opinion is that between the present social and economical circumstances the following points of view should get priority:

6.4.1 Creating laws

According to the guidelines outlined in the previous part of this chapter the individual, communal and state interests should be separated. As a consequence the three different interests have to be protected respectively, which means that in some cases they should be protected against one another. It should be regarded a basic task that legal obstacles be built as one means among others whereby the state is hindered from breaking citizens' rights.

In the priority of values which forms the basis of criminal law, the personal values should have a preference over the communal ones in accordance with the assisting and supporting alternative. Beyond this, it is desirable to strengthen the

system by building it on the consciousness of the nation's past and traditions. This will ensure its support by the population. Building a system that is not understood and therefore unacceptable to most of the population should be avoided. There is, however, one main exception to this rule. The prevailing notion of imprisonment must be rejected, otherwise Hungary will be unable to integrate into Europe. In the area of imprisonment, it will be important to follow the assisting and supporting alternative. This must be accompanied by a change in the population's opinion about delinquency, criminal offenders, and penalty. The overall goal should be sought through the application of means and policies outside the sphere of criminal policy. Part of the change will require tolerant concepts and views of the relevant events and offenders, encouraged by the assisting and supporting alternative, rather than the presently dominating concept which excludes offenders from the society.

6.4.2 Social activity made for the prevention of crimes

A basic principle stemming from the concept of prevention is that criminal policy should be focussed on social prevention and its establishment, which is outside the criminal policy. Because of the difference of the state, communal, central and local interests, the system should have a mixed structure that is capable of meeting the several requirements. The financial segment of the system must be planned along with the system itself.

In a democracy, police have a restricted role in criminal policy, due to the sanctity of the principle of "nullum crimen sine lege". The presence of police on this level represents mainly the potential protection against harm, and a reminder of police power, without the need to intervene in many cases.

A system having a mixed structure, based on the state's responsibility for criminal policy is desirable. The state has to operate a preventive network that is able to coordinate simultaneously the national, central and local priorities, and assure a preventive background with servicing means. This has to be backed by the population's assisting and supporting activity based on the preventive applications of criminal policy. This situation will probably encourage a positive attitude among the population. Where the restricting and intervening alternative plays no role in crime prevention, the population's attitude toward the assisting and supporting option would remain ambivalent.

Combining the advantages of the two options could enable quick and effective reactions to new symptoms on the part of the people. This is significant in the quickly changing circumstances of our region.

6.4.3 Criminal investigation

The foremost priorities – as has already been mentioned in connection with creating laws – should focus on the protection of individual and human rights. The protection of individual rights should precede the saving of an individual's financial autonomy. This has to be followed by the protection of communal and state interests.

In practice this requires the nationwide preservation of norms protecting human rights, and the local reduction of criminal acts and their latency that disturb the public order to a high degree.

An acceptable criminal policy, built on traditions and local demands, and serving the priority of individual autonomy with both words and deeds, can be more effective on the plain of criminal investigation than the alternative, which deals exclusively with restricting and intervening principles.

6.4.4 Judicial procedures

We do not intend to detail this theme here (as it has already been mentioned), but judicial procedure itself has to be free of all kind of political interventions. The indirect effect of politics however (as has also been mentioned previously) cannot be excluded, as it is present in creating laws, crime prevention, and criminal investigations. Judicial procedure is concentrated exclusively on criminal action and its danger to society – according to the requirements of neoclassical tenets. International experience has shown, however, that judgements concerning the offender's dangerous character play a significant role in the sentencing process. As part of the individualization process it is questionable whether the judge can be fully independent of the priorities of one or the other order of values that are essential in politics. Thus it would seem perilous to establish a requirement according to which the judge must make a decision without regard to the circumstances, or such that the judge must take into consideration only the criminal action itself and its offender, irrespective of any kind of social demand or order of values and norms. This could be expected where the judge is required

only to make a factual determination of the suspect's guilt or innocence. In a case where the judge finds the accused person guilty, he would nonetheless be constrained by the limits of the penalty type and duration.

It is evident that the ruling power or any kind of group in a democracy cannot exercise pressure, directly or indirectly, on an independent court of justice. The judicature is just because the court is doing nothing but applying the law.

6.4.5 Law enforcement

The starting point is that delinquency is a necessity irrespective of the fact that the committer of a criminal action is of deviant nature, since he does not act in accordance with the order of values and norms preferred by the community. The purpose of imprisonment is to deny the offender liberty, but prison terms do not need to be increased by any means. This is of great importance, because the value of freedom is higher today than it used to be. This means that the same penalty can cause a greater sense of deprivation in the committer than it did in the past.

The replacement of loss of freedom by the fine is also a serious problem, as a fine is often irrecoverable. In the case of an unemployed person, public work is not a good alternative.

It seems to be a solution to remove or at least reduce to a minimum the means of the punishing authorities from the fields of social crisis. This means that the state admits that the social, and economical problems of delinquency should be handled by them outside of the circle of criminal policy.

6.5 The mixed model in the practice: selective criminal policy

After discussing principles we have to reply to the following questions:

- What are the areas in which it is not necessary to change the present system. Why is this so?
- What are the areas in which it is necessary to increase the effectiveness of criminal policy? Why is this so? How can this goal be achieved?

6.5.1 Concerning one aspect of criminal actions and their perpetrators, the present system properly serves the basic interests of criminal policy – namely, the protection of values and norms. Thus, it is not necessary to make big changes in this area. The majority of criminal activities regulated in the Criminal Code belong to this area. These include especially the so-called “classical crimes”, especially those committed against life or physical well-being because of conflict, and those which entail profit for the offender.

6.5.2 It is necessary to increase the effectiveness of criminal policy with respect to those actions which comprise the greater part of criminal behavior. Increasing effectiveness in this area will entail the simultaneous realization of two types of applications of the criminal policy that have separate tendencies and employ different means.

The first tendency includes the reduction of the scope of criminal law, decriminalization, and alternative penal strategies. The other tendency attempts to increase the effectiveness of criminal policy by criminalization – that is to say, by relying on existing criminal laws.

The two different tendencies are related to the structure of delinquency. We can say that they are suitable and necessary as far as the symptoms surrounding the controversial poles of delinquency are concerned. Delinquency is viewed here as a social form of motion.

The differentiation is based on a re-evaluation of the danger that particular forms of criminal activity poses to society. The market economy, and the social change of structure and culture play determining roles in this re-evaluation process.

6.5.2.1 One category of delinquency is embodied in those actions defined and sanctioned as criminal in the Criminal Code, but which are considered relatively undangerous to society in the circumstances. Minor crimes traced to poverty or some form of marginalized existence belong to this group. We must admit the existence of crimes committed by the poor as a part of the symptoms of delinquency.

It is questionable whether the measures and procedures of criminal law should be applied to individuals who commit such actions, given their circumstances. The values protected by the criminal law may be preserved more effectively by other means. In this regard, the effective realization of a well-functioning social policy is especially important (the classical example is: “do not give me a fish, but teach

me to angle!"). The strength of the criminal law's protection of values and norms would be enhanced if, in these cases, the imposition of imprisonment was withheld in favor of other legal means of conflict resolution (such as mediation, negotiation between the offender and the victim regarding payment for the loss, compensation).

6.5.2.2 Another kind of delinquency includes so-called "white collar delinquency", that portion of economic crimes not belonging to "white collar" delinquency, and the newly penalized actions relating to drugs and pollution of the environment. Organized criminal activity that is especially dangerous with regard to international relations (including corruption, prostitution, illegal trade of arms, treasures of art, and vehicles) also belong to this second group.

The determined and clear legal regulation of certain activities is of special importance. In one part it embraces criminal regulation consisting of criminalization, creation of european-type criminal laws of economy, and so on, and in another part it covers the operational details of normative and technical rules belonging to other branches of law.

Regarding the forms of criminal activities contained in the abovementioned circle emphasis must be placed on decisive and consistent criminal investigation, and ultimately imposition of penalties, since these activities are mainly characterized by latency ("fish in troubled waters"). Yet it is unnecessary, even in this circle, to impose exaggerated periods of incarceration on offenders. The reasons for this are that loss of freedom has a high value for criminal offenders and, as it has been proven many times, outstandingly heavy penalties result in damage to the committers without assisting the goal of prevention.

6.5.3 The effectiveness of criminal policy can be increased on several levels by improving various segments of its structure. Full realization requires clear regulation of criminal laws (without legal deficiencies and with less collision between norms!), decriminalization, application of alternative penalties, decisive criminal investigation, logical judicial procedures (with proper differentiation and individualization) as well as common use of economic and financial technics, and technics of the police.

As part of the practical realization of criminal policy, personal and financial sources should be used sensibly, which implies reallocation of resources at times. Improvement of effectiveness creates new problems and it needs new means as well as modern conceptions.

The ideas could be carried out with the following measures:

1. The application of penalties which entail loss of freedom for the offenders, and which cost a lot for society, have to be reduced – as has been occurring in many Western European countries. This reduction should be carried out by the common practice of diverting the penalty into other channels. This solution is desirable in the case of petty offenses and actions committed in connection with properties of small values. A large part of crimes committed against properties – as it can be seen in the enclosed tables – belong to this group. The institutionalization of the practice of diverting the penalty of incarceration into other channels could be used effectively in the case of crimes committed by poor people.

The decrease in the number of those sentenced to incarceration would greatly discharge the apparatus dealing with the execution of penalty. This is financed with great difficulty because of the market economy. The society, the state budget, and the prison authorities could now feel relieved, as large financial resources would be released. This public money could be used better than it is used now. Furthermore, since the imposition of short periods of incarceration has proved to be unfruitful, the protection of values and norms would not be damaged by this new policy. Such protection might even be more effective where the application of loss of freedom is avoided.

We also think that an increase in the practice of paying fines and the institutionalization of financial setbacks for the offender – in accordance with international tendencies – is important. These measures are especially important in cases where offenders have deliberately caused large or outstanding financial harm to others. These measures should be applied as alternatives to carceral sentences. The amount of the fines imposed should be so great as to shock even those who have a large income – but the number of fines imposed does not necessarily need to be increased.

Our opinion is that the proposals made by us effectively serve the interests of protecting norms, and promote the goals of differentiation and individualization.

2. Supposing one of the goals of criminal policy is keeping delinquency at an acceptable level, direct or indirect compensation is an important

measure. It helps to decrease the consequences of loss associated with criminal activity. The choice between the two types of compensation depends on numerous factors, such as the amount of loss, the circumstances of the offender and the victim, and their role in the harmful action. The desired goal could be realized by establishing an economic compensation foundation. The funds for this foundation would originate from different sources. Some funds could be reallocated from those used to incarcerate offenders, while others could be collected from large fines imposed on offenders. A board of trustees would make decisions about the distribution of public money among those departments that wanted to participate in achieving the goals of criminal policy in this way.

Table Nr. 1: Hungarian population by age groups

Year	14-17	18-19	20-24	25-29	30-34	35-39	40-44	45-49	50-54	55-59	60	Sum:
1975	587613	372690	912006	775055	725928	665783	702586	721406	708742	410645	1935165	8529519
1976	563825	335003	931781	809929	725602	674482	686000	716900	713615	455057	1922232	8538426
1977	537697	305191	938727	839703	729823	682013	675313	707604	709745	524055	1886130	8536901
1978	521322	291204	924065	848725	740190	698135	664136	705204	699180	595208	1848220	8535609
1979	507862	281130	883027	870829	760516	707164	658359	696008	694318	663816	1830347	8526506
1980	508913	270786	813917	891551	755987	720569	651984	685447	694238	673973	1803132	8497497
1981	517808	255787	759419	911313	700705	712053	659813	667973	688976	676480	1848837	8489144
1982	533001	250905	713814	919673	819989	710273	666515	655790	670034	669955	1871983	8491232
1983	553333	255592	688774	908476	828577	720242	679969	644394	675862	657477	1894341	8499217
1984	572635	256913	660906	870821	848577	738664	687769	637048	666752	650546	1911708	8502359
1985	586785	261112	647478	809252	884790	747232	707175	633276	656232	650427	1921935	8505694
1986	589050	274948	638011	755056	904276	781144	698504	640589	639032	645193	1940943	8506746
1987	586346	291044	638031	709720	912479	809926	696897	646445	627101	635701	1934753	8510843
1988	591981	296512	657321	677886	901065	817523	706372	659963	615883	632876	1963892	8523274
1989	623954	294348	678195	657247	863723	838170	728757	667805	609087	624795	1982309	8564590
1990	670559	286344	678653	620290	774415	847341	716675	674954	597701	607543	1959846	8434321
1991	701644	289401	698902	608991	724606	863323	747921	666345	603562	591440	1973556	8469691

	Percentages (%)											
1975	6.89	4.38	10.70	9.09	8.63	7.81	8.24	8.46	8.31	4.81	22.69	100.01
1976	6.60	3.92	10.91	9.49	8.54	7.90	8.03	8.40	8.36	5.33	22.51	99.99
1977	6.30	3.58	11.00	9.84	8.55	7.99	7.91	8.29	8.31	6.14	22.10	100.01
1978	6.11	3.41	10.83	9.94	8.67	8.18	7.78	8.26	8.19	6.97	21.65	99.99
1979	5.96	3.30	10.36	10.21	8.92	8.29	7.72	8.16	8.14	7.79	21.15	100.00
1980	5.99	3.19	9.58	10.49	8.90	8.48	7.67	8.07	8.17	7.93	21.54	100.01
1981	6.10	3.01	8.95	10.74	9.31	8.39	7.77	7.87	8.12	7.97	21.78	100.01
1982	6.28	2.95	8.41	10.83	9.66	8.37	7.85	7.72	8.00	7.89	22.05	100.01
1983	6.51	3.01	8.02	10.69	9.74	8.47	8.00	7.58	7.95	7.74	22.29	100.00
1984	6.74	3.02	7.77	10.24	9.98	8.69	8.09	7.49	7.84	7.65	22.48	99.99
1985	6.90	3.07	7.61	9.51	10.40	8.32	8.22	7.45	7.72	7.65	22.60	100.02
1986	6.92	3.23	7.50	8.88	10.63	9.18	8.21	7.53	7.51	7.58	22.82	99.99
1987	6.91	3.42	7.50	8.34	10.72	9.52	8.19	7.67	7.37	7.47	22.97	100.01
1988	6.95	3.48	7.71	7.95	10.37	9.59	8.29	7.74	7.25	7.43	23.06	100.00
1989	7.29	3.44	7.92	7.67	10.08	9.79	8.46	7.80	7.11	7.30	23.15	100.01
1990	7.95	3.39	8.05	7.35	9.18	10.05	8.50	8.00	7.09	7.20	23.24	100.00
1991	8.28	3.42	8.25	7.19	8.56	10.19	8.83	7.87	7.13	6.98	23.30	100.00

Table Nr. 2: Acts against property by age groups

Year	1992	1991	1990	1989	1988	1987	1986	1985	1984	1983	1982	1981	1980
14-17	12703	11751	10117	7427	6012	7047	7434	6497	6603	6041	5501	5087	4489
18-19	6780	6568	5674	3878	3859	3707	3701	3494	3208	3208	3008	2949	2882
20-24	12885	12586	9953	6302	5672	5410	5303	5235	5506	5709	5508	5850	5802
25-29	9054	8740	7551	5497	5046	5601	5466	5507	5702	5976	5628	5438	5187
30-34	7569	7285	6791	5245	4758	4993	5023	4631	4476	4318	4128	3878	3458
35-39	6641	6325	5775	3970	3559	3448	3424	3126	2944	2891	2759	2740	2610
40-44	4293	3838	3415	2511	2227	2334	2304	2215	2243	2230	2141	2063	1795
45-49	2417	2222	2395	1763	1693	1652	1648	1520	1353	1457	1440	1471	1313
50-54	1491	1397	1352	1013	1005	978	1012	986	1038	1020	965	963	844
55-59	767	706	742	627	552	556	522	554	533	516	553	537	485
60—	691	561	528	435	408	410	377	386	330	392	386	416	321
Sum	69016	65582	57454	41925	37291	36136	36214	34151	33936	31758	32017	31392	29186

Table Nr. 3: Theft by age groups

Year	1992	1991	1990	1989	1988	1987	1986	1985	1984	1983	1982	1981	1980
14-17	6260	5669	5264	3831	3202	3558	3581	2925	3085	2901	2753	2497	2143
18-19	3230	3079	2985	2004	2035	1911	1790	1700	1476	1621	1560	1497	1449
20-24	6207	6042	5412	3366	3022	2850	2744	2677	2865	2994	3021	3121	3009
25-29	4437	4328	4201	3024	2722	2963	2910	2820	3080	3138	2952	2891	2783
30-34	3853	3727	3818	2814	2516	2439	2542	2276	2261	2214	2124	1915	1778
35-39	3469	3442	3232	2119	1872	1727	1661	1501	1461	1404	1393	1361	1410
40-44	2342	2184	1933	1338	1169	1112	1079	1091	1177	1193	1136	1110	977
45-49	1385	1261	1408	996	906	881	879	805	732	750	776	793	673
50-54	900	892	833	594	548	530	545	490	548	568	514	500	442
55-59	515	435	445	367	303	277	274	272	268	265	307	269	253
60-	431	340	319	244	231	217	183	197	178	201	207	227	193
Sum	31399	29860	20697	18403	18465	18188	16754	17131	17249	16743	16181	15110	15110

Table Nr. 4: Burglary by age groups

Year	1992	1991	1990	1989	1988	1987	1986	1985	1984	1983	1982	1981	1980
14-17	4004	3892	2730	2050	1660	1963	2127	1967	1938	1632	1436	1407	1307
18-19	1970	2109	1366	926	851	846	887	826	743	588	551	574	537
20-24	3275	3705	2201	1361	1211	1119	1065	998	1003	981	840	923	900
25-29	2146	2326	1517	1058	926	965	839	869	783	779	669	623	624
30-34	1612	1768	1194	875	781	787	731	622	522	482	444	379	344
35-39	1213	1294	909	581	509	437	396	330	277	253	226	194	243
40-44	615	623	438	294	241	223	242	232	160	173	162	168	118
45-49	309	310	290	194	173	165	137	167	113	102	92	106	95
50-54	166	169	140	91	100	89	66	83	70	66	54	42	51
55-59	51	60	58	54	40	43	34	38	31	30	24	24	24
60-	30	20	28	21	15	16	13	19	11	12	15	12	12
Sum	15391	16276	10871	7505	6507	6653	6537	6151	5651	5098	4513	4452	4255

Table Nr. 5: Number of violent criminal acts and their perpetrators known by police

Year	Number of acts	Number of acts on 10000 inhabitants over 14 years	Number of acts on 10000 inhabitants	Number of perpetrators over 14 years	Number of perpetrators on 10000 inhabitants over 14 years
1975	13774	16,14	13,10	14327	16,79
1976	14424	16,89	13,64	14217	16,65
1977	13662	16,00	12,85	13380	15,67
1978	12860	15,06	12,05	12741	14,92
1979	12604	17,78	11,78	11883	13,93
1980	13196	15,52	12,32	12056	14,18
1981	14565	17,15	13,59	12120	15,45
1982	14290	16,82	13,34	12904	15,19
1983	16723	19,67	15,62	14732	17,33
1984	18099	21,28	16,94	15571	18,31
1985	17607	20,70	16,52	15329	18,02
1986	18967	22,29	17,82	16153	18,98
1987	17791	20,90	16,75	15204	17,86
1988				13155	15,43
1989	17043	19,89	16,09	13265	15,48
1990	20383	24,16	19,64	15976	18,94
1991	23078	27,24	22,28	16815	19,85
1992	24503				

Table Nr. 6: Number of robbery by age groups

Year	1992	1991	1990	1989	1988	1987	1986	1985	1984	1983	1982	1981	1980
14-17	645	577	418	394	332	402	469	480	512	409	376	395	291
18-19	308	320	246	166	206	199	209	201	253	224	197	207	185
20-24	450	534	404	225	251	281	255	290	325	299	295	317	259
25-29	289	325	234	159	170	189	172	164	185	157	173	154	136
30-34	173	208	154	110	89	95	103	106	112	87	70	74	57
35-39	104	125	90	59	44	45	48	52	40	33	38	40	29
40-44	77	61	40	28	30	33	22	35	22	31	23	25	15
45-49	21	33	20	17	12	15	16	23	9	18	14	18	7
50-54	17	11	8	9	4	8	6	13	8	5	4	9	7
55-59	9	4	8	0	3	8	3	1	3	5	2	1	3
60-	5	0	1	1	4	4	3	1	1	5	1	2	1
Sum	2098	2198	1623	1168	1145	1279	1306	1366	1470	1273	1193	1242	990

Table Nr. 7: Number of perpetrators known by police

Year	Homicide/unc. attempt	Preparation for homicide	Negligent homicide	Causing injury with death result	Causing injury with death result in the round of occupation	Causing injury with death result by neglect aid
1975	482	4	53	44	197	12
1976	484	2	86	31	258	14
1977	487	3	64	38	230	8
1978	431	2	46	28	232	15
1979	411	3	52	32	109	8
1980	378	2	53	60	116	15
1981	440	2	44	41	115	10
1982	347	1	63	64	111	7
1983	422	4	40	70	102	6
1984	384	3	53	73	114	11
1985	376	2	45	58	112	21
1986	449	2	30	73	106	23
1987	403	1	51	72	107	14
1988	405	2	25	61	70	15
1989	308	3	33	53	101	25
1990	329	-	16	78	106	20
1991	454	3	37	83	72	29
1992	427	6				