Loyalty, Opportunism and Fear

The forced privatization of Hungarian universities

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Attacks on the institutional autonomy of higher education, research institutions, and independent and critical thinking began in 2010 in Hungary. Beyond the persecution of the CEU, the most concentrated, vicious, and hypocritical attack on higher education and the idea of the "Universitas" started three years ago with Orbán loyalist László Palkovics's increasing involvement in the department for higher education and accelerated in 2020 and 2021.The government initiated the process of restructuring universities, one by one starting with the Corvinus University in 2019, away from a state-funded model, to a private-funded model. The exact numbers change almost daily, but at the end of this round of reforms in 2021, more previously state universities will be privatized than not (12 out of 22, including the University of Pécs, University of Szeged, University of Debrecen, University of Dunaújváros, SOTE in Budapest).

In January 2021, each university was given until the end of the month to decide on the transformation: whether it wants to become a private university controlled by a fund, the composition and power of which was unknown at the time of making this decision. Each of the transitions from a state-funded to a private-funded model starts with the university's "request" of this change and is followed by the adoption of a law in which the state creates the respective fund. In this new round of privatization in 2021, laws were drafted in the ministry in January and planned to be submitted to the parliament by mid-February 2021.

As experience has shown, this model grants substantial power to government appointees and reduces the independence and autonomy of universities. The government meanwhile defends the privatization by saying that less connection to the state means more independence. In the already transformed universities however, the fund is directed exclusively by an unelected, delegated board of trustees that happens to have an unlimited mandate and is composed of loyal friends of Fidesz and government officials, such as ministers and economic potentates. They determine policies, including spending, appointments, the curriculum, hiring, which has become easier as university staff in this new model are no longer civil servants – and it is feared that these will be done on an ideological basis. The previously autonomous bodies of universities have been packed with delegates, while the number of elected representatives has been decreased.

In Hungary, while still struggling with the pandemic, academics have been collaborating, silently witnessing, or weakly rebelling against this forced privatization of the higher education system. Whoever, and for whatever reasons, supports this privatization and remains silent, plays along with the government's tactics. They accept the government's dictate on the reform, its paternalistic method, and forced nature because they see an opportunity to maintain positions, gain good points, or genuinely believe in it. Others are either driven by existential fear or convinced that they cannot change anything anyway, so why bother. Exactly this behavior is what is expected by the government, which in turn fortifies all governmental endeavors and efforts; there does not seem to be a way out for independent universities in Hungary.

Emptying the idea of "Universitas"

The government justifies this reform by its outcome: increased competitiveness and quality, a better environment for operation, the possibility of an increase in the salary of staff. But if the government had really wanted to address these challenges, it could have

easily adopted some reforms in the last ten years. This is yet another example of a law that is supposed to be about one thing, but in reality, doing something else entirely.

To be clear: it is not the professed goal or the privatization itself that should be criticized, but the lack of preparation of the reform and the lack of information about it. Should the government be motivated by a well-substantiated, researched, and evidence-based concept for the advancement of autonomy and liberty in universities, it would have dedicated time for discussion, consultation, and involvement of stakeholders; especially from the cities where universities are located, as they are some of the biggest employers in their respective regions. It could have distributed policy papers, data, and developed alternatives. None of this has happened.

However, even with consultations, the processes of the actual transformations are still outrageous: In spring 2020, the reform affecting universities was timed at the introduction of the first constitutional emergency due to the COVID-19 and was effectuated within a couple of weeks, during lockdown. In January 2021, the universities affected by this round of reform were given until the end of the month to decide on whether they want to be privatized based on meetings with the government's representatives and PowerPoint presentations (most probably serving as a "kind of policy papers"). Laws on their transformations were drafted in the ministry and planned to be submitted to the parliament by mid-February 2021.

The viciousness and hypocrisy of the government go even further: it keeps saying in the media and in meetings with university leaders that the transformation only starts upon the "university's request". Beyond the lack of the mentioned information, the university "requests its transformation" (i.e., officially triggers the lawmaking process) without knowing or even having any influence to determine essential issues, e.g. the members of the board and its supervisory body, their powers, i.e. what power will remain at its autonomous decision-making bodies. Yet, in the government's narrative, everything is voluntary, and it "assures" all that the law on the transformation will clarify all doubts, meaning: the universities do not have a say in this matter.

It is reasonable to assume that the goal of the government's reform has been a countrywide elimination of the most important bastion of intellectual and critical thinking, seizing their property, and having access to EU funds. The timing is perfect: the pandemic and the time pressure considerably impede any action by universities against it. The transformation had already been decided even before the universities "requested" it; an ultimatum was given; there is no other choice. Otherwise, universities would risk being entirely abandoned by the state and finding themselves in a far less competitive position, which would eventually lead to shutting down institutions, study programs, and dismissing staff. During the meetings organized at the University of Pécs, one of the universities now being privatized, these potential consequences were implied by university leaders, and communicated more eloquently by one of the employees of the university chancellery (a body that is led by a political appointee).

The process is governed by reliance on illiberal legality and the acclimated values and self-preservation instincts of Hungarians, and their failed political socialization to develop liberal democratic values and live by them.

Personal arguments in the debate on public universities

In meetings of members of the Council of the Faculty of Law and the Senate of the University of Pécs in January 2021, the debate quickly revolved around four types of arguments: Some arguments (pragmatic and pragmatic-substantial ones) supported, while others refused (procedural-based and moral arguments) the plan to privatize universities. In these meetings, the importance of these latter two arguments was degraded; moral arguments were called "emotional ones" and, when confronted by them, elegantly dismissed in a style very much resembling the faithful and loyal representation and conveyance of the party will's during socialism. In the Senate of the University

of Pécs, the pragmatic-substantial arguments won, and the university "requested" its own privatisation.

The pragmatic argument of those supporting the transformation is about reality: we do not have a choice; there is a sweetened pill, we must take it. Others, mainly because of their faculty's positions within the university and their capability to offer marketable courses, believe that the promises of the transformation to a more market-oriented education outweigh its risks. The pragmatic-substantial argument ostensibly disapproves the process and is concerned with the autonomy and the freedom of teaching and research. Those articulating this argument collected some "prerequisites" (the preservation of the existing guarantees of academic freedom and autonomy, and the clinics) to be attached to the "request for the transformation". The Senate thus authorized the rector and the chancellor to represent the will of the University to be privatized, in line with these criteria.

The procedural-based argument rejects the process and methods the government has been using. It calls for a publicly voiced refusal of the process, pointing out that making an informed decision about the necessity and ways of reforms and whether a particular university wants to proceed with it would have required more time. The moral argument is a conglomerate of substantial (connected to the questions of autonomy and liberties) and procedural-based views. It asks: Is it right what is going on with us? Why should we accept this enforced and arbitrary paternalism? What is our moral responsibility as citizens of a university? It is about much more now than discussing how we can teach constitutional law in an autocratizing country. It is about what an individual citizen of a university can do, which cannot be anything but a refusal and standing up for our values and principles.

But: regardless of the nobility and matureness of this way of thinking, it is also completely against the current and shared by only a handful of persons from the affected universities. They could not effectively and powerfully organize themselves due to the lack of time, the pandemic, and a new misdemeanor provision applicable for intervening in the normal functioning of universities. This provision was introduced during a constitutional emergency as a reaction to the actions of the students of the arts university in October 2020 where students occupied the university buildings during a protest. Paradoxically, the proponents of the pragmatic-substantial argument have been the most open to the imminent change. They believe or, rather, pretend to believe that their "prerequisites" would make a difference. They have not confronted themselves with any of the mentioned moral questions and voted supportively at the University of Pécs; this makes this argument a pragmatic one. Exactly this capability of detaching oneself from the underlying question of "right" and "wrong" is what makes this behavior either naïve (they do not see what is going on, which, given their positions, is quite unlikely) or, instead, hypocritical, and opportunistic. In this latter case, for whatever reasons (personal, professional, political, existential, fear, loyalty), they want to keep up the appearance of a defender of autonomy – but only to the extent they presume that the government would tolerate.

Why do people tolerate this regime?

Tamás Ziegler has already answered a similar question: In the political atmosphere of Hungary in the last decade, leaders of universities and research institutions tend to betray their staff and make immoral compromises and protesters cannot achieve their goals without widespread social support. One may go even further. Why is it that society, as a whole and its different segments, discards critics, tolerates this regime, and accepts each decision it forces on them? Why do university leaders and staff behave as they do even when their institution is under attack? It may have to do with the "items" collected in this piece's title: loyalty, fear, opportunism, and even self-justification, stemming from a completely understandable human behavior. As Shalom H Schwartz and Anat Bardi explained, people can gradually acclimate their values to changed circumstances, upgrade the importance of values that become attainable and downgrade the importance of those whose pursuit is no longer achievable. They concluded that the value profile common in

Eastern European countries, and, thus, in Hungary, which lacks the commitment to egalitarianism and autonomy values, is ill-suited for the development of democracy. The constitutional democracy project of the transition (1989/1990) has failed, and twenty years (1990-2010) have not been enough to fully embrace its values (autonomy, independence, responsibility, liberty, etc.), appreciate the institutional guarantees, and grow beyond the historical and emotional trajectory. The Hungarian reality at the beginning of 2021 recalls the atmosphere and calls for the reflexes of socialism. Under these circumstances, people, including scholars and professors, quickly trade-off values – even those that we thought to be "eternal" in our profession, such as autonomy and academic freedom and independence – that we should be nurturing and cherishing, not seeking to stamp down on it.

A Way out?

Assessments and consequent reforms in higher education are undoubtedly needed from time to time. But they should be based on a social consensus, as a result of a lengthy preparation of the concept and its discussion at the university level. Given the Orbán regime's last ten years of remodeling of constitutionalism, and their attitudes towards independent institutions, constitutional amendment and lawmaking processes, and the actual decision-making process along with the already visible outcomes of this reform, good-faith on the side of the government in this restructuring exercise is highly improbable and assuming any of it would be wrong.

No-one has been powerful enough to stand up against the government successfully. People remained silent when it started with other universities. Many are supportive of the reform now, even if they know that it will most probably end the idea of "Universitas". Principles do not matter; what matters is pragmatism and opportunism. Beyond the personal choices (of leaving the country or the profession) of those who can make them, it is doubtful that there is a way out.

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