

**INTERNATIONAL JOURNAL OF LAW**  
**MANAGEMENT & HUMANITIES**

**[ISSN 2581-5369]**

---

**Volume 4 | Issue 4**

---

**2021**

© 2021 *International Journal of Law Management & Humanities*

Follow this and additional works at: <https://www.ijlmh.com/>

Under the aegis of VidhiAagaz – Inking Your Brain (<https://www.vidhiaagaz.com>)

---

This Article is brought to you for “free” and “open access” by the International Journal of Law Management & Humanities at VidhiAagaz. It has been accepted for inclusion in International Journal of Law Management & Humanities after due review.

In case of **any suggestion or complaint**, please contact [Gyan@vidhiaagaz.com](mailto:Gyan@vidhiaagaz.com).

---

**To submit your Manuscript** for Publication at **International Journal of Law Management & Humanities**, kindly email your Manuscript at [submission@ijlmh.com](mailto:submission@ijlmh.com).

---

# State-Sponsored Homophobia: In Relation with the New Hungary Laws, 2021

---

NANDINI GUPTA<sup>1</sup>

## ABSTRACT

*The LGBTQI community has been the most discriminated community since the beginning. State-sponsored homophobia is practiced in several countries. Hungary has been the country continuously promoting the segregation of the community from the normal social standards. Therefore, the country recently passed a new law whereby minors are restricted to be given education about homosexuals in schools or on media platforms. This has resulted in the violation of the Right to expression and right to inclusive education. The step can lead to the youth of the country being misguided and following the conservative norms in the later stage. The paper studies the newly passed Hungarian law. Alongside, it focuses on the laws implemented by the European Union for the protection of the LGBT+ community. The paper is a critical study of the promotion of homophobia by the national government. It also studies the criticism being offered by various International Organizations and countries of the European Union against the newly termed Anti-gay laws. There is a need for a uniform law in the European Union to have a more strict and uniform law among its member states for equality based on sexual orientation. The paper gives an analytical study on the consequences of the step taken by Hungary by doing a comparative study of similar laws in Poland.*

**Keywords:** *LGBT+ community, sexual orientation, European Union, Homophobic Law, Equality.*

## I. INTRODUCTION

In the month where a country like India is celebrating pride month and recently where Madras High court suggested changing the school curriculum to educate and sensitize the students about the LGBT+ community, states like Hungary have implemented anti- LGBT laws. On the 15th of June, 2021, The Orban government in Hungary passed legislation banning the showcasing/promotion of homosexuality among minors in schools or on media in the country. With the Hungary National Elections coming closer, the Fidesz government passed legislation that marked the black day for the LGBT community. Since that day, the law faced a major

---

<sup>1</sup> Author is a Student at Army Institute of Law, Mohali, Punjab, India.

backlash and protests amidst the global pandemic still in place. Countries like France and Netherland expect a sanction against Hungary due to its newly passed laws. Thus, these new anti-LGBT laws are seen as against the very provisions of equality of the country and the provisions of the European Union<sup>2</sup>. Alongside, the law also takes away the right of the citizens to get an all-inclusive education about homosexuality and restricts the right of freedom and expression among the young crowd in an educational institution.

The government of Hungary is the sole originator for incitement of hatred against the minority LGBTI+ community (herewith community). Lately, not only the extreme right-wing politicians, but the main government authorities have been offering biased statements against the community. In 2015, Prime Minister Viktor Orban publicly declared that the very topic of LGBTQI people's rights "lures one to joke" and then added that "homosexuals should not behave in a provocative way like one can see in Western countries".<sup>3</sup> Imre Kerényi, the special advisor of the Prime Minister of Hungary about the community called for "stopping the faggot lobby" whereas Mayor of Budapest István Tarlós talked about homosexuality as "unnatural and repulsive" and Vice Prime Minister Zsolt Semjén called homosexuality "a deviance" and "an aberration".<sup>4</sup>

The European Union from its inception has worked towards the upliftment of all genders and has worked towards equality for its citizens. The new Hungarian laws not only contradict its laws on equality but also fails to follow the laws set by the European Commission for the protection of its people. Therefore, the paper is a critical study of the anti-gay laws been implemented in Hungary for a decade now and does a comparative study of the anti-gay laws in Poland and Russia as well. In today's world of Gen Z, it becomes an extremely important duty of a country's government to provide the students the information about the community from the authorized institutions made for imparting the knowledge and information as to refrain them from being misguided from other sources.

## II. IMPLEMENTATION OF HOMOPHOBIC LAWS IN HUNGARY

With the worldwide protests for the equality of the LGBT+ community, the Hungarian government has been bringing in new anti-gay laws in the country to protect the traditional

---

<sup>2</sup> Hungary is a member of the EU since May 1, 2004, [https://europa.eu/european-union/about-eu/countries/member-countries/hungary\\_en](https://europa.eu/european-union/about-eu/countries/member-countries/hungary_en).

<sup>3</sup>The Hungarian LGBT Alliance, Transvanilla Transgender Association, Háttér Society & Labrisz Lesbian Association, *LGBTQI Rights in Hungary*: a joint submission for the review of Hungary by the United Nations Human Rights Committee at its 122<sup>nd</sup> session of Hungary, (Feb 2018), [https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/HUN/INT\\_CCPR\\_CSS\\_HUN\\_30243\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/HUN/INT_CCPR_CSS_HUN_30243_E.pdf).

<sup>4</sup> *Id.*

Christian Family culture. Though the constitution of Hungary recognizes the equality and equal treatment of all genders, the recently built laws do not give full freedom of expression to the homosexual community and therefore take away the constitutional rights of the citizens. The Hungarian law on equal treatment and promotion of equal opportunities, being in operation since January 2004, explicitly names 20 protected categories including sexual orientation and gender identity.<sup>5</sup> The Preamble of the Hungarian Constitution also lays down to hold individual freedom in cooperation with others.<sup>6</sup> But due to the government anti-gay law implementation for a decade, the community faces major discrimination in the country. According to the global survey, identification of an individual as lesbian/gay/homosexual ranges to only 1% in Hungary.<sup>7</sup> The rigid laws have made the identification of the community at risk in the country. According to a 2003 survey, more than one-third of Hungarian respondents still regard homosexuality as an illness.<sup>8</sup> “According to Hungarian research findings in 2003, more than one-third (34.3 percent) of Hungarian respondents viewed homosexuality as an illness and 3.5 percent as a crime; almost one-third (29.8 percent) thought homosexuality was a private matter of the individual, and 14.1 percent considered homosexuality to be a form of deviant behavior.”<sup>9</sup> Only one-tenth of the individuals in Hungary believe the selection of a same-sex partner is a basic right.<sup>10</sup>

Since 2013, same-sex marriage in the country has been put on a stop. The fourth amendment to the Hungarian Fundamental Law ruled out any constitutional possibility for same-sex marriage by defining marriage as the union between a man and a woman.<sup>11</sup> The same paragraph likewise announces that families depend on relationships, barring elective family models from the protected definition. Reportedly, the Hungarian government explicitly manifested the homophobic ideology as in 2018, the government banned gender studies at universities, stating the government’s standpoint to be that “people are born either male or female, and they do not

---

<sup>5</sup> Judit Takács, László Mocsonaki & Tamás P.Tóth, *Social Exclusion of Lesbian, Gay, Bisexual and Transgender (LGBT) People in Hungary Research Report*, Institute of Sociology & Hungarian Academy of Sciences, EUROPA, 2008, ISBN 978-963.

<sup>6</sup> *Hungary’s Constitution of 2011*, CONSTITUTE, (Feb 19, 2021, 12:56), [https://www.constituteproject.org/constitution/Hungary\\_2011.pdf](https://www.constituteproject.org/constitution/Hungary_2011.pdf).

<sup>7</sup> *LGBT+ Pride 2021*, GLOBAL SURVEY: A 27-country Ipsos Survey, Conducted April 23 – May 7, 2021, IPSOS SURVEY, [https://www.ipsos.com/sites/default/files/ct/news/documents/202106/LGBT%20Pride%202021%20Global%20Survey%20Report\\_1.pdf](https://www.ipsos.com/sites/default/files/ct/news/documents/202106/LGBT%20Pride%202021%20Global%20Survey%20Report_1.pdf).

<sup>8</sup> Danish Institute for Human Rights, *The social situation concerning homophobia and discrimination on grounds of sexual orientation in Hungary*, EUROPA, (March 2009).

<sup>9</sup> The Medián Opinion and Market Research, *The Omnibus representative survey*, 2003, *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> On the comments of Mr. Christoph Grabenwarter (member, Austria), Mr. Wolfgang Hoffmann-Riem (member, Germany), Ms. Hanna Suchocka (member, Poland), Mr. Kaarlo Tuori (member, Finland) & Mr. Jan Velaers (member, Belgium), *Opinion on The Fourth Amendment to the Fundamental Law of Hungary*, EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW, Venice Commission, (June 17, 2013), CDL-REF(2013)014, OPINION 720/2013.

consider it acceptable to talk about socially constructed genders.” Moreover, in May 2020, a law abolished gender recognition, replacing the term “gender” with “sex at birth” in the civil registry, making it impossible to legally transition, forcing trans people to live with official documents bearing the wrong gender, and name.<sup>12</sup> The ninth amendment to the Fundamental Law laid down the groundwork for the current legislation declaring that “the mother is a woman, the father is a man” and that children have a right to an “identity corresponding their sex at birth” and an upbringing that reflects “values based on Hungary’s constitutional identity and Christian culture”.<sup>13</sup> ILGA-Europe has commented extensively on the Free Movement Directive and the Common judgment, arguing that: restricting the notion of 'spouse' to opposite-sex spouses amounts to discrimination on the grounds of sexual orientation; the prohibition of such discrimination is enshrined in the preamble to the directive, which – although not binding – the CJEU will take into account when interpreting it; and; if the national law provides for registered partnerships, national legislation must extend the right to enter and reside to individuals who formed such a partnership.<sup>14</sup> ILGA-Europe and Amnesty International followed the same view against discriminated civil marriage laws in Hungary.

In 2020, the government banned the adoption of same-sex couples and restricted single gay people to adopt as well. Fidesz member and speaker of the National Assembly of Hungary, László Kövér said “Morally, there is no difference between same-sex couples wanting to adopt or marry and pedophiles. We have to fight against these western ideas and keep Christian values.”<sup>15</sup> Moreover, in the same year, the government imposed a ban on a Hungarian Children’s book titled ‘Wonderland Is for Everyone’, which shows fairy tale characters in roles representing minorities, notably Roma and gay people. The government labeled it as “homosexual propaganda”, saying it should be banned from schools. Thus, due to the state-sponsored homophobia and the conservative ideology spread in the country, the community faced discrimination in all areas.

Amidst the celebration of Pride Month, the Hungarian parliament passed the law stating to “protect the children” of the country, that any information about homosexuals – showcase or

---

<sup>12</sup> Zoltán Kovács, *Portrayal and Promotion: Hungary’s LGBT law explained*, EURACTIV, (June 24, 2021), <https://www.euractiv.com/section/non-discrimination/news/portrayal-and-promotion-hungarys-latest-anti-lgbt-law-explained/>.

<sup>13</sup> *Id.*

<sup>14</sup> Rosamund Shreeves, *The Rights of the LGBT People in The European Union*, EUROPEAN PARLIAMENT, (Sept 2020), [https://www.europarl.europa.eu/RegData/etudes/BRIE/2020/651911/EPRS\\_BRI\(2020\)651911\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2020/651911/EPRS_BRI(2020)651911_EN.pdf).

<sup>15</sup> Umut Korkut & Roland Fazecas, *Hungarian anti-LGBT Laws is a political tactic for Orban*, THE CONVERSATION, (June 18, 2021, 12.50am AEST), <https://theconversation.com/hungarian-anti-lgbtq-law-is-a-political-tactic-for-orban-162811>.

promotion, will be banned in schools, organizations, and media for the citizens below 18 years of age. The state defended the law stating that “There are contents which children under a certain age can misunderstand and which may have a detrimental effect on their development at the given age, or which children simply cannot process, and which could therefore confuse their developing moral values or their image of themselves or the world,” a government spokesperson said.<sup>16</sup> Moreover, the law not only restricts the right of a minor to be educated and sensitized towards the LGBT community but takes away the right of the media to showcase homosexuality as a part of the content made for an audience under age 18. It has been reported that LGBT persons share a common media fate with other relatively powerless social minorities: Being characterized by low visibility and stereotypical representation.<sup>17</sup> On most broadcast and printed media, LGBT persons and issues are ignored.<sup>18</sup> The bill rejects diversity and inclusivity by mandating that children’s upbringing should be “in accordance with the values based on our homeland’s constitutional identity and Christian culture.” Hence, the bill brings about a heavy attack on LGBT people in Hungary.

### III. EUROPEAN UNION LAWS FOR THE PROTECTION OF THE LGBT+ COMMUNITY

*“I will not rest when it comes to building a Union of equality. A Union where you can be who you are and love who you want – without fear of recrimination or discrimination. Because being yourself is not your ideology. It’s your identity. And no one can ever take it away.”*

*Ursula von der Leyen (President of the European Commission) State of the Union 2020.*

Since the inception of the European Union, the commission has worked and laid down laws for the equality of the LGBT+ community. European Union has incorporated various treaties and laws to safeguard the interests of the LGBT community. In the 2004 Joint Report on Social Inclusion, the European Commission and European Council defined social exclusion as a “process whereby certain individuals are pushed to the edge of society and prevented from participating fully by virtue of their poverty, or lack of basic competencies and lifelong learning opportunities, or as a result of discrimination”.<sup>19</sup> Hungarian anti-gay laws very vividly fall under the ambit of social exclusion as defined by the council. Article 21<sup>20</sup> of the EU Charter of

---

<sup>16</sup> Explained Desk, Panaji, *Why Hungary has banned LGBT content from school curriculum*, INDIAN EXPRESS, (June 21, 2021, 11:59 am), <https://indianexpress.com/article/explained/explained-why-hungary-has-banned-all-lgbt-content-from-school-curriculum-7363703/>.

<sup>17</sup> J. Takács, *The situation concerning homophobia and discrimination on grounds of sexual orientation and gender identity in Hungary*, SOCIOLOGICAL COUNTRY REPORT, *Supra* note 7.

<sup>18</sup> *Supra* note 8.

<sup>19</sup> *Joint Report on Social Inclusion*, Brussels, (2004), EUROPEAN COMMISSION, *Supra* note 4, [http://www.europemsi.org/background\\_definitions.php](http://www.europemsi.org/background_definitions.php).

<sup>20</sup> “Any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth,

Fundamental Rights expressly disallows separation based on sexual orientation. Article 19 of the Treaty on the Functioning of the European Union considers making a move to battle this type of discrimination. The provisions of the Charter of Fundamental Rights of the EU have the same legal value as the treaties. The charter was the first international human-rights charter to prohibit discrimination on the grounds of 'sexual orientation' explicitly under Article 21 (1). The breakthrough Article 13 of the Treaty establishing the European Community (TEC) – introduced by the Amsterdam Treaty (now Article 19 TFEU) – empowered the EU to adopt measures to deal with discrimination based on other grounds, including sexual orientation.<sup>21</sup>

In 1998 the European Parliament issued a special declaration emphasizing that it would not support the membership of those applicant countries, whose legislation or political state does not acknowledge the human rights of homosexual people. European Commission to promote the LGBT+ rights advanced the list of steps to promote LGBT equality under which it set out a goal of Reaching citizens, fostering diversity and non-discrimination, and put a new obligation for these platforms to not constitute a limit to freedom of expression.<sup>22</sup> The Commission aims to improve the social acceptance of LGBTI people through awareness-raising activities, and by setting the right example as an organization.<sup>23</sup> Alongside, the commission also emphasizes supporting key actors responsible to promote and advance equal rights for LGBTI people in the EU and has been active in the follow-up to the Paris Declaration of 2015 and the 2018 Council Recommendation on promoting common values, inclusive education, and the European dimension of teaching.<sup>24</sup>

In Hungary, homosexual practices between consenting adults became decriminalized in 1961. But the government-stimulated discrimination is still present in the country. Member States must respect the rights and observe the principles of the European Charter whenever they are acting within the scope of binding EU law. Hungary is one of the EU countries which have ratified the Framework Convention on the Protection of the national minority, the European convention on human rights, and the convention on the rights of the child. Therefore, Hungary

---

disability, age or sexual orientation shall be prohibited; Within the scope of application of the Treaties and without prejudice to any of their specific provisions, any discrimination on grounds of nationality shall be prohibited.”, <https://fra.europa.eu/en/eu-charter/article/21-non-discrimination>.

<sup>21</sup> Rosamund Shreeves, *The Rights of the LGBT people in the European Union*, EUROPEAN PARLIAMENT, November, 2020, [https://www.europarl.europa.eu/RegData/etudes/BRIE/2020/651911/EPRS\\_BRI\(2020\)651911\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2020/651911/EPRS_BRI(2020)651911_EN.pdf).

<sup>22</sup> *Final Report 2015-2019 on the List of actions to advance LGBTI equality*, EUROPEAN COMMISSION, (May 15, 2020), [https://ec.europa.eu/info/sites/default/files/report\\_list\\_of\\_actions\\_2015-19.pdf](https://ec.europa.eu/info/sites/default/files/report_list_of_actions_2015-19.pdf).

<sup>23</sup> Step III, *Final Report 2015-19 on the list of actions to advance LGBTI equality*, EUROPEAN COMMISSION, (May 15, 2020).

<sup>24</sup> Step IV, *Final Report 2015-19 on the list of actions to advance LGBTI equality*, EUROPEAN COMMISSION, (May 15, 2020).

is in the duty to follow and protect the rights of all citizens irrespective of any discrimination. In the time of growing recognition for gender expression and gender freedom, LGBT+ individuals can experience the ill effects of the absence of congruity in their personality, an absence of confidence firmly identified with the absence of their social acknowledgment just as from their over-underscored and undesirable uniqueness. Hungary is the country where due to the unthoughtful steps of the government towards the homosexual (minority) community, the identity of the citizens is at a larger risk and the growing need for protests in the country is on the rise.

#### IV. COUNTRIES WITH THE STATE-SPONSORED HOMOPHOBIC LAWS

Hungary is not the only country showcasing homophobic government behavior. The inspiration of the newly passed bill has been the 2013 Russian “Gay Propaganda”; whereby it banned the “promotion of non-traditional sexual relationships among minors”. While Russian government officials and parliament members claim that the goal of the “gay propaganda” law is to protect children from the potentially harmful subject matter, the law directly harmed children by denying them access to essential information and increasing stigma against LGBT youth and their families.<sup>25</sup> The law faced heavy criticism stating it to harm the children and denying them access to information about sexual orientation, disturbing their mental health, and sensitizing them towards the homosexual community. President Vladimir Putin’s government supported the law stating the concern for low birth rate in the country as same-sex relationships do not produce children. Later on, in 2014, Kyrgyzstan proposed similar legislation modeled on the “gay propaganda” of Russia but the law did not come into force. In December 2015, the State Administration of Press, Publication, Radio, Film, and Television (SARFT) of China issued a similar rule that banned any television show and film depicting “unnatural sexual relationships including homosexuality”.<sup>26</sup>

It is the elected representatives of the country who promotes discrimination based on sexual orientation. Apart from Asian countries, several European countries follow the same steps Hungarian laws stem from similar roots as in Russia to protect “the traditional family values”. In Poland, according to ILGA Report 2021, the status of LGBT rights is reported to be the worst in the European Countries.<sup>27</sup> The country has not legally recognized homosexuals.

---

<sup>25</sup> *NO support: Russia’s gay propaganda imperils LGBT youth*, HUMAN RIGHTS WATCH, (Dec 11, 2018), <https://www.hrw.org/report/2018/12/11/no-support/russias-gay-propaganda-law-imperils-lgbt-youth>.

<sup>26</sup> Wang Zhen, *New rules: TV dramas are not allowed to show gay extramarital affairs and other content*, NETEASE TECHNOLOGY REPORT, (March 2, 2016, 21:04:23), <https://www.163.com/tech/article/BH6B87K3000915BF.html>.

<sup>27</sup> Country Ranking | Rainbow Europe, IGLA-EUROPE, (Aug 18, 2020), <https://rainbow-europe.org/country>.



Alongside, the country has also denied same-sex couples adopting children. The country labeled itself as an “LGBT ideology-free zone”. President Andrzej Duda called the promotion of LGBT rights an ideology “even more destructive” than communism and the Archbishop of Krakow recently warned of a neo-Marxist “rainbow plague”.<sup>28</sup> Since March 2019, around 100 Polish regions have adopted resolutions declaring themselves to be free from LGBTIQ ideology. According to these resolutions, local governments should refrain from encouraging tolerance towards LGBTIQ people and withdraw financial assistance from organizations promoting non-discrimination and equality.<sup>29</sup> In response to this, European Union passed a resolution declaring “LGBTIQ persons everywhere in the EU should enjoy the freedom to live and publicly show their sexual orientation and gender identity without fear of intolerance, discrimination or persecution” and adds that “authorities at all levels of governance across the EU should protect and promote equality and the fundamental rights of all, including LGBTIQ persons”.<sup>30</sup>

With the growing protest across the world for LGBT rights, the need to recognize the community as normal has become a requisite in today’s world. In the documentary titled Francesco, which was released in October 2020, Pope Francis of the Vatican City expressed support for same-sex civil unions. The pope said that “homosexuals have a right to be a part of the family. ... They're children of God and have a right to a family. Nobody should be thrown out, or be made miserable because of it.”<sup>31</sup> Hence, the community should be given all the rights of equality and dignity. Moreover, the education in schools must be all gender-inclusive to aware the children/minors about the community’s struggles and provide them with the knowledge of sexual orientation.

## V. STUDYING THE NEW HUNGARY ANTI-GAY LAWS

*“Education is about more than just math and words. Schools have to be inclusive if we want society to be inclusive. If children are being taught that only a certain type of person is accepted, that is going to affect the way they behave towards others.”*

*Manos Antoninis, Director of the GEM Report, UNESCO*

---

<sup>28</sup> *Polish election: Andrzej Duda says LGBT 'ideology' worse than communism*, BBC NEWS, (June 14, 2020), <https://www.bbc.com/news/world-europe-53039864>.

<sup>29</sup> *Parliament declares European Union has LGBTIQ Freedom Zone*, NEWS EUROPEAN PARLIAMENT, (March 11, 2021, 16:42), <https://www.europarl.europa.eu/news/en/press-room/20210304IPR99219/parliament-declares-the-european-union-an-lgbtiq-freedom-zone>.

<sup>30</sup> *Supra note 16*.

<sup>31</sup> *Pope Francis indicates support for the same-sex civil union*, BBC NEWS, (Oct 21, 2020), <https://www.bbc.com/news/world-europe-54627625>.

Hungary's newly passed laws have caused a widespread protest, not only by the citizens but also by the various countries of the European Union. Human rights organizations including Amnesty International Hungary said the amendment of the law "clearly infringes the right to freedom of expression, human dignity, and equal treatment". Human Rights Watch warned that the law could have a harmful impact on children and "sweeping consequences for health providers, educators, and artists, among others".<sup>32</sup> The European parliament's rapporteur on the situation in Hungary, Green's lawmaker Gwendoline Delbos-Corfield, slammed the new law stating "Using child protection as an excuse to target LGBTIQ people is damaging to all children in Hungary".<sup>33</sup>

Discrimination on grounds of sexual orientation, gender identity/expression, and sex characteristics can have a significant impact on LGBTIQ people's physical, sexual and mental health as well as their well-being. Restricting the right to be educated about the homosexual community takes away not just the LGBTI+ rights but the rights of the children to be fully aware of the most discriminated community. Education is said to be the most powerful tool for bringing about any change in the world. Hungarian laws take away the essence of the right to have an all-inclusive education system for the growing youth. The media, cultural, and sports sectors are said to be powerful tools for changing attitudes and challenging gender biases and other stereotypes all around the globe. The media can be used as a medium to provide information about the community to the impressionist minds of the children in an acceptable manner that caters to the ongoing developing mind of children below 18.

The government's anti-gay action will result in the youth of the country being unaware of the gender presence and can lead to uninformed youth not being able to form their own opinions and ideas and hence be misguided by other sources. It becomes the duty of the government to develop proposals on strategies for creating strong learning environments for groups in danger of underachievement and for supporting prosperity at school, that will address gender stereotypes in education, bullying, and sexual harassment. The European Commission developed a comprehensive Strategy for the rights of the child, which will ensure indiscriminate access to rights, protections, and services also for LGBTIQ children.<sup>34</sup>

---

<sup>32</sup> Claire Parker & Loveday Morris, *Hungary passes law banning LGBT content for minors*, WASHINGTON POST, (June 15, 2021, 5:05 pm), <https://www.washingtonpost.com/world/2021/06/15/hungary-gay-transgender-law/>.

<sup>33</sup> *Hungary's Parliament Passes Anti-LGBT Law Ahead of 2022 Election*, THE WIREIN, (June 16, 2021) <https://thewire.in/world/hungarys-parliament-passes-anti-lgbt-law-ahead-of-2022-election>.

<sup>34</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee, and the Committee of the regions, *LGBTQI Equality Strategy 2020-2025*, EUROPEAN COMMISSION, (Nov 12, 2020), COM(2020) 698 final, <https://ec.europa.eu/info/policies/justice-and-fundamental-rights/combating-discrimination/lesbian-gay-bi-trans-and-intersex-equality/lgbtiq-equality->

Promoting a more inclusive education is in the interests of all students and citizens, and it helps to combat stereotypes and to building a fairer society for all. The Commission will uphold projects that utilize cultural expression to tackle separation, construct trust and acceptance, and advance the full incorporation of LGBTIQ individuals.<sup>35</sup> The Commission will enhance LGBTIQ equality mainstreaming in relevant employment, education, and health initiatives.

Data about sexual direction should be available in the school educational program. Nonetheless, it is to be given in a goal or asserting way. In Poland, the school educational plan doesn't contain references to sexual orientation personality and articulation, nor varieties in sex qualities. According to recent research, teachers admit that they lack the competence and skills to deal with homophobic and transphobic bullying at schools, stating that more training on the subject would help. Sexual direction or homophobia as a wonder are not examined or checked. LGBTIQ students and understudies are not furnished with the fundamental data, assurance, or backing to empower them to live as themselves. Numerous schools even keep the presence from getting LGBTIQ understudies. Sexual orientation continues to be a taboo in schools. LGBTIQ learners and students are not provided with the necessary information, protection, or support to enable them to live as themselves. Many schools even deny the existence of LGBTIQ students. Therefore, with the implementation of the Hungary anti-gay laws, 2021, the consequences will be similar to the Poland educational setup.

Hungary's new laws not just bring about a heavy negative impact on the minor's mind development but also violates certain treaties and conventions that the government signed/ratified for the imparting of comprehensive education to their people. The Convention on the protection of the child<sup>36</sup> provides the government to work towards- The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations<sup>37</sup>; The development of respect for the child's parents, his or her own cultural identity, language, and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own<sup>38</sup>. Most importantly, the convention calls for the preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national, and religious groups and persons of indigenous origin.<sup>39</sup> The new laws stand against the very principles of the convention

---

strategy-2020-2025\_en.

<sup>35</sup> *Supra note 22.*

<sup>36</sup> General Assembly resolution 44/25 of 20 November 1989 entry into force 2 September 1990.

<sup>37</sup> UNCRC, Art. 29(b).

<sup>38</sup> UNCRC, Art. 29(c).

<sup>39</sup> UNCRC, Art. 29(d).

(protection of the child) and therefore, the laws need to be abolished or must be amended in a way that does not restrict the right of inclusive education to Hungarian children.

The new bill passed can lead to the under-development of the children belonging to the LGBT+ community as the children will not be given any medium to express their feelings and problems as given to other students. The major types of discrimination against the LGBT community are said to be- one of them is- Discriminatory curbs on free speech and related restrictions on the exercise of rights to freedom of association and assembly, including laws banning dissemination of information on same-sex sexuality under the guise of restricting the spread of so-called LGBT “propaganda”.<sup>40</sup> Feeling unsafe or uncomfortable at school can adversely influence the capacity of students to succeed academically, particularly if it results in avoiding school or classes. In a study led by IGLA-Europe, due to segregation or lack of representation, LGBTQI students tend to hide their sexual orientation, or gender identity and expression or act to match the socially accepted norm. This has proven to affect their mental and physical health and it sometimes leads to lower participation in school or lower academic achievement.<sup>41</sup>

In the country, the step to restrict the right to all-inclusive education started with the banning of gender studies as a subject in universities and colleges. The government stated its reasons as “The Hungarian government is of the clear view that people are born either men or women. They lead their lives the way they think best, but beyond this, the Hungarian state does not wish to spend public funds on education in this area”. Henceforth, the banning of including information about homosexual communities in schools will hamper the country’s development altogether. The national curriculum includes elements on anti-discrimination, but it does not specifically address topics related to sexual orientation, gender identity, and expression or variations in sex characteristics. According to a report of the Council of Europe’s Commissioner for Human Rights<sup>42</sup>, schools provide either biased or incorrect information in this regard or no information at all.<sup>43</sup> In 2017 all references to the notion of gender were removed from these documents. Two-thirds of LGBT survey respondents said that LGBTQI topics were not covered at all at their school.<sup>44</sup> In the report provided by the State, para. 56 on

---

<sup>40</sup> *International Human Rights Law and Sexual Orientation & Gender Identity*, International Human Rights Law, UNITED NATIONS FOR LGBT EQUALITY, <https://www.unfe.org/wp-content/uploads/2017/05/International-Human-Rights-Law.pdf>.

<sup>41</sup> *LGBT- Inclusive education report (preview)*, IGLYO — The International LGBTQI Youth & Student Organization, Brussels, Belgium, (Jan, 2018), <https://www.education-index.org/wp-content/uploads/2018/01/LGBTQI-Inclusive-Education-Report-Preview.pdf>.

<sup>42</sup> *Discrimination on grounds of sexual orientation and gender identity in Europe*, (Sept 2011), *Id.*

<sup>43</sup> *Supra note 41.*

<sup>44</sup> Hatter Society, *The social exclusion of lesbian, gay, bisexual and transgender people in Hungary*, 2015 results from the LGBT survey (2010).

Education declares: “It is a primary goal to ensure equitable quality education. In this context, it is a headline target to mitigate segregation, promote inclusiveness and integration in nursery schools and schools. To achieve these goals Hungary has set the objectives of the educational sector in the Public Education Development Strategy (hereinafter: Strategy) for the period of 2014-2020 including the priority measures to reduce early leaving from education and training and to support inclusive education”.<sup>45</sup> Protection of religious sentiments and order is the major reason for the discrimination and non-acceptance of the community.

Moreover, the law itself stands vague and arbitrary as no proper definition of homosexual content has been stated by the government that can fall under the sphere of the newly passed law. The government on the other hand allowed selected organizations to impart information about homosexuality to the children and taking away the right of schools and other organizations specifically inclined towards the issue for a long time. The principle of inclusivity and tolerance that stands as the most important lesson for a child gets eliminated as an unaware child will find it difficult to accept the community as a whole.

Not just the education sector but the media sector will also suffer as the law will lead to taking away the right to speech and expression of the media persons and the representatives of the community on such media platforms. “Excluding sexual minorities from mass media hinders responsible and colorful portrayals of the world” in line with the values of tolerance and acceptance,” the Hungarian Association of Advertisers (MRSZ) said in a statement. "Stigmatizing LGBTIQ persons constitute a clear breach of their fundamental right to dignity, as provided for in the EU Charter and international law," stated in a joint statement by Belgium and whose signatories include Germany, France, Spain, the Netherlands, and Sweden as well. European Commission President Ursula von der Leyen called the bill to be a sham and said that “This bill clearly discriminates against people based on their sexual orientation. It goes against the fundamental values of the European Union: human dignity, equality, and respect for human rights.”

## **VI. CONCLUSION**

The new Hungarian laws are said to be explicitly against the Homosexual Community and are said to be taking away their rights to freely express themselves, power of speech, and be given the right to be entitled to educate and sensitize the citizens below 18 towards the community. Additionally, it takes away the right of the citizens to get access to an all-inclusive education. Many countries around the world have been indulging in state-sponsored homophobia. Poland

---

<sup>45</sup>*Supra note 3.*

and Hungary are the countries in the European Union among others that are violating the rule of law of the European Union treaty. Article 2 of the Treaty on European Union states that “The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities.” These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity, and equality between women and men prevail.<sup>46</sup> Therefore, the laws against the LGBT community violate the Rule of Law principle established by the European Union.

Where countries are moving towards providing the long-lost rights of the LGBT+ community, certain countries are taking away the rights from not just the community but from other citizens as well to preserve the conservative family cultures of the old ages. The newly passed laws in Hungary go against the ‘value bases’ of the European Union and major countries are fighting to stop the use and implementation of these laws. Since the passing of the order, the citizens have been protesting for their rights to be restored. The Hungarian government needs to give protection to the community and henceforth, the community will be given acceptance in the country. At last, the development of a country starts with its citizens, and thus, the LGBT+ community of Hungary needs state-sponsored support in all spheres.

\*\*\*\*\*

---

<sup>46</sup> Consolidated Version of the Treaty on European Union, OFFICIAL JOURNAL OF THE EUROPEAN UNION, C 326/13, (Dec 26, 2010).