



Andrea Pető

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## Three readings of one law: Reregulating sexuality in Hungary

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*The Hungarian government has received international criticism over a new law that bans the depiction or promotion of homosexuality to those under the age of 18. **Andrea Pető** argues that the law may well prove to be a miscalculation by the country's Prime Minister, Viktor Orbán.*

'Will to power' is the key concept when one wants to decipher the long rule of Hungarian Prime Minister Viktor Orbán and his policies.

Nowhere are the conscious incoherence and confusion in the values of Orbán more apparent than in the latest Act LXXIX of 2021 on 'stricter measures against paedophile offenders', which labels gender identity, gender reassignment, and homosexuality as 'deviations'. The law, which was formulated with no public consultation, was passed with the now usual speed.

This law was unexpected, just like the law that led to the expulsion of the country's internationally highest ranked university, Central European University (CEU). There were no warning signs. At the same time, whoever suggested or drafted these laws took a big risk. In the case of CEU this proved to be a winning strategy, as by the time the **ECJ decided in favour of CEU**, the decision had no real impact. Two and a half years passed between the law on CEU and the ECJ's decision, and in the meantime the university was forced to move to Austria, thus Hungarian lawmakers reached their ultimate goal.

All other EU institutions which were expected to safeguard academic freedom or offer quality assurance, like the European Association for Quality Assurance in Higher Education (ENQA), turned out to be lame ducks when faced with a masterfully formulated Hungarian national law. Presently, in the case of the law on paedophilia and homosexuality, Orbán is once again putting his bets on a lame duck reaction from the EU. He does so wisely, fully aware that the text of the new law can be interpreted by the various actors very differently.

### Three interpretations

The sudden interest in the sexual education of children and various sexual practices can be easily explained by the way the concept of gender has become '**a symbolic glue**'. The concept of 'gender' has become the policy field and symbolic space where various political actors, like Orbán, are waging their new Cold War on what the new liveable, normal, desired future should be while advocating alternatives to liberal values.

First, Orbán portrays *himself* as a defender of children and a successful statesman. This salvation discourse, which is a feature of illiberal politicians from Jair Bolsonaro to Recep Tayyip Erdoğan, is a powerful political weapon intended to portray political opponents as

harmful enemies. Orbán **holds** that this law is 'not about homosexuality, it's about the kids and the parents, that's all,' adding that he was a defender of gay rights: 'I'm a fighter for rights... Homosexuality was punished [under the Communist regime] and I fought for their freedom and rights. So I am defending the rights of homosexual guys, but this law is not about that.' In fact, the Hungarian **government's press** has gone as far as openly supporting gay rights in the countries from which most refugees come to Hungary.

Second, *his peers* see Orbán as steadily running out of steam. He is increasingly surrounding himself with less and less presentable politicians, experts and supporters, from Giorgia Meloni, the leader of the Brothers of Italy, to **black-clad football hooligans tattooed with extremist symbols**. Recently, Orbán has appeared manifestly desperate to find a new enemy figure. With the newly passed law he has presented the LGBTQI community as this enemy – and the gesture already appears to have had its first victims: two gay doctors were reported to have been severely beaten by an angry mob in the **provincial city of Pécs**.

Third, according to *his critics* Orbán has no moral compass. This law provides further evidence for this opinion, as it was a premeditatedly cynical move in an attempt to achieve three aims with one legislative action. On the one hand, with this law Orbán was aiming to detach the far-right Jobbik from the united opposition.

Presently, Jobbik is an important force within the united opposition, as they are the only real electable alternative for most rural voters in the upcoming 2022 elections. The opposition has a slight chance of winning these elections as long as all of the other parties unite against Orbán's party, Fidesz. But Jobbik could not fail to vote for the

paedophilia law in parliament, as the strong protection of children against paedophiles was in fact a copy of their own programme.

The second aim of the law was to bring private life into focus and thus divert attention away from real economic issues – and to leave no room for mourning. More than 30,000 Hungarian citizens have died because of Covid-19, which is proportionally **the second highest number worldwide**. The third aim of the law, as already mentioned, was to create a new enemy figure before the approaching elections in much the same way that the **diabolising of migrants** – in a country with very low levels of immigration – worked very well in previous elections.

### Two pillars of the ‘will to power’ in danger

The question is whether Orbán, as a product of the ‘will to power’, is capable of withstanding any humiliation just to keep his power. This question is very pertinent now, as his power is dependent on two pillars, both of which are seemingly in danger as a result of the freshly passed legislation against homosexuality.

The first pillar of Orbán’s power is the uncontrolled financial subsidies pouring into Hungary from the EU. As Europe is increasingly looking at how to spare money and the euros of its taxpayers, the new Hungarian law might be used against Hungary to control the so far lavish EU support.

Secondly, Orbán’s power rests on the unquestionable support of the international business community. He has turned Hungary into the dreamland of multinational companies without corporate tax, but with large state subsidies and restrictions regarding the transferring of profits out of the country. After 2010, the Fidesz government tightened the conditions for labour organisation in workplaces even further, and

with a package of laws that the trade unions called the '**slave law**', Hungarian workers were obliged to work 300 hours of overtime to be paid only after two years.

With the new law, the Hungarian illiberal state has once again crossed an important line long believed to be sacred: it has invaded the intimate lives of its citizens. The law not only denies some Hungarian citizens a life lived with dignity, but also goes against values that are considered to be 'European'. It comes at a political moment when hopes have been dashed that 'European values' are not just about enforcing hierarchies, and when EU actors have failed to stand by their principles in the case of CEU.

As a reaction to the law, German international companies like **BMW, Volkswagen, Siemens, Puma, and Deutsche Telekom** all changed their logos to a rainbow. This occurred in Germany, clearly, in order to please the local public. In the meantime, their official Hungarian webpages remained the same, as a sign that they are not willing to risk their and their stockowners' profits for an act of politics. Similarly, there is no discussion about offering dignified working conditions for Hungarian workers or the same salaries as German workers get for doing the same job.

The **COS fashion brand** issued a special limited edition T-shirt celebrating diversity in reaction to the law, but these T-shirts are not sold in Hungary. It is more appealing for **Markus Söder**, the Minister-President of Bavaria and a strong supporter of Orbán, to wear a rainbow-colored mask than to risk the interests of the industrialists and lobbyists from Bavaria in Hungary. There are exceptions too: **IKEA is selling rainbow themed bags** instead of its well-known blue bag, but IKEA as an employer is still far away from being exemplary when it comes to workers' rights or environmental sustainability in Hungary.

## A painful miscalculation

Despite these facts, Orbán might have slightly miscalculated the effects of the newly passed law, which was not the case with the law on CEU. The new law, which consciously and censoriously conflates homosexuality and paedophilia and bans sex education in schools, contains another component. The law states that it is 'prohibited to make available to persons under the age of 18 any content that depicts sexuality for its own purposes'. This decision not only fails to clarify who is to decide what is sexuality for its own sake, but also threatens the entire advertising industry where sex sells.

This is particularly the case because there is already a precedent-worthy court ruling in favour of Chef Market, a food delivery company that advertised food on its vans with explicit male and female pornographic images. Chef Market won the case against the Equal Treatment Authority, saying that the naked men and women were included in milk and vegetable advertisements of their own volition.

The Hungarian government could not care less about sexual morals, as is evident from the personal lives of some politicians. Still, sexuality will be used from now on to censor content and alternative sources of information. **Netflix and HBO** have already found themselves on the radar of the pro-government media as outlets that are allegedly disseminating 'homosexual propaganda'. As non-government-controlled media outlets in an illiberal country where more than 60% of the population only consumes government-controlled media content, these international media outlets pose a risk. And illiberal states **eliminate all possible risks and sites of resistance**, step-by-step.

Orbán might be losing the game to international corporations should they decide to go to war for their profits, which are threatened by this law. The profits made in Hungary by international corporations will

decrease if they are expected to respect this law in their marketing strategy and in their artistic choices. If impactful protests against the law come from international corporations and not from the EU's institutions, this will only strengthen the so called '**neoliberal neopatriarchy**', which has contributed to the rise and the unquestionable popularity of illiberal regimes. A neo-feudal Hungarian illiberal government using their version of the salvation discourse offers the illusion of the strong state and the protection of children based on the vulnerability and uncertainty of so many citizens, while in reality it is only driven by the 'will to power'.

What can be done when seemingly nothing can be done? EU institutions appear lame ducks, and international corporations are only attacking the law if it diminishes their profits. The responsibility of intellectuals is huge, but so far few have heeded the call. ELTE, the largest Hungarian public university, posted on its Instagram account **an explanation** of what LGBTQI identity is. However, this post was deleted as the conservative activist group CitizenGO collected (around 150) signatures against the post. Meanwhile a petition demanding a change of the law was signed by 130,000 Hungarian citizens. This may be a good number to start thinking about values and the possibility of a dignified life for all in a country of some 10 million people.

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*Note: This article gives the views of the author, not the position of EUROPP – European Politics and Policy or the London School of Economics. Featured image credit: **European Council***

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