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Transgender rights in Hungary

Fighting Back against Hungary's Ban on Legal Gender Recognition

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One of the laws voted on by the Viktor Orban government during the pandemic makes mandatory a "sex at birth" rubric on official identification documents. This makes legal gender recognition impossible, violently ruling against trans and gender non-conforming persons' right to exist. Tina Kolos serves as vice-president of Transvanilla Transgender Association - the only active NGO focusing only on trans issues in Hungary. They have kindly answered our questions about the effects of the law in Hungary, the trans community's fight against it, and the broader associational landscape in which Transvanilla carry out legal and social work.

On May 28, the Hungarian government passed into law a transphobic bill. The bill had been introduced on April 1st by vice-Prime Minister Szemjen, at the time as part of an omnibus initiative (the same bill aimed to curtail the powers of city mayors). According to the press release published by your organization, Transvanilla, the May 28 law bans legal gender recognition. It does so by introducing the category "sex at birth" on identification documents for Hungarian citizens. Was the initiative (and then the law) a surprise for your organisation, or is it part of an escalating war of the Orban government on transgender persons and trans rights in Hungary? Would you say that the rights of trans folks in Hungary have been deteriorating for a while or that this initiative is part of a new or new type of offensive?

The move seems to be part of the broader war of the government on gender. Defining sex at birth as an unchangeable characteristic is part of that discourse and is an obvious attack on the right of trans and intersex people in Hungary. The situation for trans people was getting worse in the past years but we did not experienced targeted attacks before this law proposal. In 2003, the Hungarian Government introduced a procedure for legal gender recognition based on mental health diagnosis with no other medical interventions required. However, this administrative procedure was not codified and requirements (guidelines) were not even available publicly. This procedure for legal gender recognition functioned rather well but was not secure at all because of not being backed up by a piece of legislation. Transvanilla started to advocate on the matter in 2014. The government modified a ministerial decree in December 2017 to solve the issue. Despite these efforts, the procedure was basically non-functional since May 2018. Still, the introduction of this law amendment as part of an omnibus bill during the COVID-19 pandemic was a great surprise to us.

Can you introduce Transvanilla, its main goals and activities in Hungary? How does your organization fit (or not fit) within the broader landscape of LGBTQ* or otherwise progressive organizations in Hungary? In what ways do you see your struggle as connected to other local struggles?

Transvanilla aims to empower trans and gender non-conform (TGN) communities and advocates for the interests of TGN people in all walks of life. The organization advocates for trans rights, monitors transphobic discrimination and violence, provides counselling, psychological and legal support to TGN people and their families. As a community-based group, it also raises visibility of issues around gender identity and expression and organizes events, gatherings for the community and the wider public.

Transvanilla and trans people face the same issues as other NGOs and oppressed groups in the country. However, the reactions and strategies of different organizations are sometimes different. Those not fitting into the ideology of mainstream directions often remain outcast and find themselves not belonging to any sides.

Transvanilla believes an independent and strong movement is needed to fight for trans rights, one which works

closely with other LGBT groups. The mainstream LGBT and the wider human rights movement often fails to serve those who are most vulnerable and do not take into account socio-economic issues when advocating for change. Therefore, instead of amplifying the voice of different groups, they end up in ignoring and even silencing them.

What will the new law mean, in practice, for transgender persons and their loved ones in Hungary? What was the reaction to the law in the LGBTQ* community in Hungary and have trans folks and their allies taken steps to organize collectively? In an interview for Reuters, you mentioned a feeling of panic...

The law practically forces trans people to out themselves on a regular basis. The fact that sex can no longer be amended in birth certificates has far reaching consequences. In Hungary, there is a 30 day interval to record a birth. In some cases, it is impossible to define the sex of an intersex child in 30 days. That will lead to more unnecessary medical interventions in the case of infants and children.

Also, in Hungary there are closed name lists for male and female persons, and the registered sex and the first name must match. There is no possibility anymore to change a first name to one that matches one's gender identity. Besides, all official and most often non-official documents must contain the same data as in the birth certificate. This now more rigid system is even more burdensome, considering that in Hungary ID needs to be presented very often to various authorities and persons. It is now more difficult to pick up a parcel at the post office, to use public transport, to go to the bank not to mention in educational settings and workplaces.

We wish we could say this attack has unified our communities, but that was not the case. Even trans activists did not work together and Transvanilla, the only registered trans NGO in the country working on legal gender recognition for many years, was not supported by other LGBT and human rights organisations. They had their own agenda and activities were carried out in parallel and independently by them. This became obvious on the very first day, where besides fighting the law proposal, Transvanilla's team was working under extra pressure because of so called "allies" of our community. However, there was a lot of international support coming from different stakeholders which helped to survive and carry out the work needed.

The law introduced in Hungary has been called "unprecedented in Europe". Can it be contested in any way in the European Court of Human Rights?

The law is unprecedented on the global level, is unconstitutional in Hungary and is against international human rights standards. It can be challenged at the European Court of Human Rights (ECHR) too. There are already 23 cases launched in front of the ECHR on legal gender recognition in Hungary. These cases were launched in 2017 and 2019 already, and hopefully decisions will come sooner rather than later. New cases are planned to be launched once the new law is challenged in the country. Court cases on the national level, including the Constitutional Court level, are already launched by Transvanilla and other organizations too.

Despite this setback for gender recognition in Hungary, are there avenues left to improve trans men and women's access to certain types of social rights, such as welfare benefits for facing economic marginalization because of transphobia? Or has the Orban government's focus on families in social policies closed off any existing access?

The Hungarian government's social support system solely focuses on family structures and provides support to middle and upper class families mostly. Even during the pandemic support was only provided to businesses and not to individuals. Economic marginalization of trans people and others are not part of their agenda. Still there are always ways to be found to improve access to social rights. In this particular case, work can be successful on micro levels, trying to advocate for practices and inclusion on the local level. Building resilience in communities and across

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communities is a way to cope with situations and collaboration between NGOs from different fields is one way to move forward with that.

What forms of transnational solidarity does Transvanilla benefit from, now? How can LeftEast readers help your current efforts?

Transvanilla received extremely crucial support from transnational actors. International NGOs, human rights institutions and media were very helpful in raising awareness on the emerging situation in the country. However, pressure must be constant and the fight has just started with the law coming into effect. Transvanilla has created different opportunities to engage, including a petition for individuals, a joint statement to be signed by organizations and social media content to be shared. There is a dedicated call-to-action page on our website where LeftEast readers can follow these calls: <http://transvanilla.hu/home/news/lgrforhungary-call-to-action-page>

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