Anti-gender backlash in Hungary: A feminist analysis of populist anti-LGBTQI+ legislation during the Coronavirus pandemic

Master's Thesis

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Abstract

Background: Throughout the Global North, there is an observable backlash against gender or sometimes 'gender ideology'. This results in the contestation of both current struggles for women's and LGBTQI+ rights and already achieved freedoms. When anti-gender political forces hold legislative power, the rights of women and LGBTQI+ people can be actively rolled back. One such case is the Fidesz-KDNP government in Hungary, which used its large parliament majority and emergency powers during the coronavirus pandemic to target the rights of queer and trans people in the country.

Objective: The objective of this thesis is to analyse four pieces of legislative action targeting the LGBTQI+ community in Hungary, banning legal gender recognition for trans and intersex people, banning queer people from adoption and banning queer and trans identities from the media and schools. Connections to anti-gender sentiments are investigated and other relevant concepts like the 'protection of children' is examined.

Theoretical framework: The anti-gender backlash is conceptualised through the lens of populism, while the post-structuralist nature of Queer and Gender theory help make sense of different branches within the movement. Standpoint theory and feminist objectivity guide the author who has personal stake in the analysed legislation, merging research with active political struggle.

Method: The WPR-approach to policy analysis by Carol Bacchi is used to critically assess the problem representations within anti-LGBTQI+ legislation. A literature review of other contemporary research on the anti-gender backlash in Hungary is also included.

Results: The author argues that the Fidesz-KDNP government consciously imported anti-gender rhetoric into the political sphere of the country to further its agenda. The original use of anti-gender discourse was challenging EU legislation focusing on gender equality and women's rights issues. Towards 2020, the original meaning of the phrase was overloaded with other, loosely connected issues. Through attacking the rights of LGBTQI+ people in the name of protecting children, the government shifted attention and scrutiny from its lousy handling of the pandemic.

Key words: Hungary, anti-gender backlash, populism, LGBTQI+ rights, WPR-approach

Glossary and abbreviations

Biological essentialism – a worldview which suggests that human behaviour, ability and the differences between men and women are determined solely by biology

Cis/Cisgender – used to describe people whose gender identity matches their assigned gender at birth; the opposite of trans/transgender

Cisnormativity – the societal assumption that any given person is likely cisgender, as cis identities are presumed to be the norm; the erasure of trans realities

Cissexism – the privileging of cisgender identities over those who are trans

Fidesz – FIDESZ-KDNP, Federation of Young Democrats - Hungarian Civic Alliance and their satellite party partners the Christian Democratic People's Party, governing parties in Hungary since 2010

Heteronormativity – the societal assumption that any given person or couple are likely heterosexual, as heterosexual orientations and relationships are presumed to be the norm; the erasure of lesbian, gay, bisexual, queer identities

IC – Istanbul Convention on Preventing and Combating Violence against Women and Domestic Violence

ID – identification document

LGBTQI+ – Lesbian, Gay, Bisexual, Trans, Queer, Intersex and connected identities that are marginalised and/or invisibilised by cis- and heteronormativity

LGR – legal gender recognition; an administrative process that enables trans and intersex people to change their official documents according to their lived gender

MP – Member of Parliament

NATO – North Atlantic Treaty Organisation

Non-binary – umbrella term for gender identities that do not fit inside the man-woman binary

NGO – non-governmental organisation

PiS – Prawo i Sprawiedliwość; Law and Justice, governing party in Poland since 2015

Queer – a reclaimed word, previously used as a slur against gay identities, now commonly used as an umbrella term for SOGIESC minorities

ROGD – Rapid Onset Gender Dysphoria, a deliberately scientific sounding label used to question the validity of trans adolescents' identities, not supported by substantial research

SOGIESC – Sexual Orientation, Gender Identity, Gender Expressions and Sex Characteristics

TERF – Trans-Exclusionary Radical Feminist, sometimes referred to as 'Gender Critical'

Trans/Transgender – used to describe people whose gender identity is different than their assigned gender at birth; the opposite of cis/cisgender

Woke – a derogatory word usually used by people on the right-wing of the political spectrum to describe progressive politics and activism, especially in connection to LGBTQI+ rights

WPR – 'What's the Problem Represented to Be?' approach to policy analysis by Carol Bacchi

YP+10 – Yogyakarta Principles plus 10, International Human Rights Law standards for SOGIESC minorities

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Introduction

The place of Hungary in the global anti-gender backlash

The rights of LGBTQI+[1] people and feminist, women's rights achievements such as access to safe abortion services, gender quota systems or safeguarding measures against domestic violence are under attack across many countries in the Global North. While the movement to restrict these rights is far from unified, the term 'gender-ideology' pops up across many actors as a common signifier. While markedly different visions of a desired future without the concept of gender exist, regardless of where on the political spectrum the idea originates from, let it be the far-right, secular or religious conservatives, gender critical or trans exclusionary radical feminists (TERFs) who often identify themselves as part of the left, all of these groups agree that contesting the notion of 'gender' as a valid basis of social analysis is necessary and useful to achieve their goals.

The concept of gender has become a trump card in recent years for these groups, which has now overtaken other, more traditional 'threats' at the top of importance in their political struggle, at least when it comes to political messaging and campaigning. Climate change is an issue perhaps too distant, esteemed too abstract for the average voter to grasp and mobilise on; Iran is old news; refugees and immigration as an issue was dwarfed by the global pandemic. Gender, however, is a concept that is not hard to translate to everyday issues that the average voter - regardless of political affiliation – faces daily. The world around us is thoroughly gendered, and by claiming that gender scholars, LGBTQI+ activists or feminists working on gender mainstreaming policies are looking to disrupt the core ideas and belief systems that shape our life, like the value of family, the safety of children or public bathrooms, fuelling outrage becomes easy and effective.

Even as at the time of writing the Russian invasion of Ukraine is ongoing, several right-wing commentators and news sources were promoting the narrative that 'gender-ideology' and 'wokeness' within NATO member states contributed to Vladimir Putin's decision to launch the attack against his Western neighbours (Wakefield, 2022). "Russia and China are focused

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[1] While academia and most international policies simply use LGBT or LGBTI people to reference those whose sexual orientations, gender identities, gender expressions and/or sex characteristics (SOGIESC) place them outside of the cisgender heterosexual mainstream, I find that including 'QI+' creates an acronym that more accurately represents the whole community, particularly those outside the anglophone world and/or the Global North.

on expanding their spheres of influence via aggressive action. The West is focused on expanding its national debt and exploding the gender binary", this Ben Shapiro (2022) quote, I find, depicts this sentiment well: for the opponents of gender, it is a problem that can be brought up in any context, and they can go as far as to allege it as a danger to national security both in the short term, and as a threat to nation itself - through the reduction of birth rates and as such the ethnic natives of a country - in the long-term (Mudde, 2019b).

The backlash against gender is, however, not just an empty talking point, but an ideology that inspired and continues to inspire legislative action (or the lack of it), when the proponents of the anti-gender sentiment are in power. Providing an exhaustive list is not possible due to the limitations of this paper, and given the frequency of such proposals entering state legislatures across the Global North, it is likely that any attempt at a full summary would be soon out of date. However, I think it is still important to highlight a few countries and the relevant anti-gender initiatives and laws that exist within them to show how widespread this ideology is, and how such legislation is part of a global phenomenon, instead of a localised one.

In Poland, the far-right Law and Justice (PiS) government sees gender, and with it feminism and LGBTQI+ rights as a "left-wing conspiracy theory, designed to weaken the traditional nuclear family structure and even the nation state – which is based on the role of women as literal mothers of the nuclear family, and figurative mothers of the broader nation" (Mudde, 2019b). Last year, PiS introduced an almost blanket ban on abortions, that extends the restrictions to terminate a pregnancy even if the foetus has severe developmental defects, a law which has reportedly already claimed the life of multiple women (Fillon, 2022). The Polish government has also banned 'gender' from schools alongside comprehensive sex-education (Ibid.) in an effort to let children study "normal, classic subjects" (Mudde, 2019b). A similar law under the disguise of 'protecting children' was adopted in Romania. Furthermore, local governments in around 100 towns and regions in Poland adopted resolutions to signify themselves as 'LGBT-free zones' (Ash, 2020).

Meanwhile, in Hungary, the country directly examined in this thesis, the Fidesz government since 2018 – when it took away state accreditation from Gender Studies master's courses at universities, effectively banning them (Kent & Tapfumaneyi, 2018) - has increasingly problematised gender and sexual minorities, and continually levelled up its messaging against 'gender ideology'. This is shown for instance in a quantitative analysis of the usage of the word

'gender' in Hungarian government affiliated newspapers (Fodor, 2022). The issue even overshadowed the strong anti-immigration platform used since 2015, particularly during the 2018 elections by Viktor Orbán, who goes as far as to block the adaptation of EU resolutions like the coronavirus recovery fund over simply the use of 'gender' or 'gender equality', reportedly arguing with his prime minister colleagues for extended periods of time over the word (de Gruyter, 2020).

Similarly, in the Hungarian parliament, the debate over the definition of 'gender' within the document lead to the rejection of the Istanbul Convention on Preventing and Combating Violence against Women and Domestic Violence (Council of Europe, 2014). In the two years of the global pandemic saw the adaptation of not less than four different pieces of legislation against 'gay and gender ideology'. The Hungarian parliament in that time effectively banned legal gender recognition and the ability for trans and non-binary people to change their names to one that matches their gender identity, closed previously existing options for queer people to adopt children, further enshrined the far-right's traditionalist, anti-LGBTQI+ sentiment about the composition of families in the Hungarian constitution and adopted an 'anti-LGBT propaganda' law, reminiscent of a similar law in Putin's Russia or of Margaret Thatcher's Section 28 (Appendix A, B, C & D). These pieces of legislation will be analysed in this paper, as well as the questions of the referendum held at the same time as the 2022 parliamentary elections, containing four – widely regarded by the civil society as inflammatory – questions surrounding comprehensive sex education and gay and trans rights (Appendix E).

While specific examples will only be touched upon, it is important to note that the anti-gender backlash is far from being only an Eastern European, or strictly far-right phenomenon. The views on what gender is, and what the place and role of women in society is differs somewhat in Western Europe to the traditionalist one in the East (Mudde, 2019a), but the direct results are much of the same: opposition to feminism, particularly the third and fourth wave, gender mainstreaming, and opposing the efforts to include gender identity within protected characteristics, the advancement of the rights of trans and non-binary people, and the questioning of the validity of these identities. For instance, in the United Kingdom, backlash against the concept of gender exists within most political parties represented in the House of Commons, as well as in civil society through often single-issue, feminist identified organisations like 'LGB Alliance' or 'Sex Matters' (Le Conte, 2022). The language these gender critical groups use to refute the validity of gender differs somewhat from those on the

far-right, as they co-opt phrasing and talking points from historical feminist movements, but their goals are remarkably similar: a biological essentialist worldview, organising society around 'sex' instead of 'gender' and thus creating a system of rigid biological determinism. In this system male and female are mutually exclusive, strictly binary categories, which leads to antagonism and hierarchy between the two (Butler, 2019).

Trans and non-binary people's struggle for rights and recognition especially are not compatible with this worldview, and as such face perhaps the most widespread 'gender backslash' (Pearce et al., 2020). Though the sentiment is not new, as the above-mentioned groups often identify Janice Raymond's *The Transsexual Empire* (Raymond, 1979) as their ideological bedrock, the groups themselves are relatively new, formed specifically in opposition to mainstream LGBTQI+ organisations. As these groups have put increased focus on trans rights since the adoption of same-sex marriage, TERF groups actively campaign against the reform of the Gender Recognition Act of 2004, as well as against the judicial practice of including trans people under the protected characteristic of 'sex' and not just of 'gender reassignment' in cases connected to the Equality Act of 2010 (Pearce et al., 2020). Similarly, albeit from a basis of traditionalist, ultra-conservative and Christian ideology, the concept of gender and trans rights in the US have been under attack as well, through bathroom bills, legal gender recognition bans, the banning of trans people from sports and by criminalising providing access to trans specific healthcare (Levin, 2021).

What this long-winded introduction was meant to show is that we are observing a major backlash on gender and connected categories across multiple countries. This needs special attention and research, as recent reports have shown that similarities between different branches of the anti-gender movement are likely not accidental, as anti-gender actors across the Global North share common funding routes (Datta, 2021). The way gender and its connected categories are problematised needs to be analysed and shown how this problematising affects its use in political messaging.

Addressing research structure and bias

In this thesis, the centre of analysis will be on the four pieces of anti-LGBTQI+ legislation from Hungary that were adopted during the Coronavirus pandemic, and on the questions of 2022 Hungarian referendum aiming to retroactively justify the laws in the court of public opinion. To understand how gender and LGBTQI+ rights are thought of by the Fidesz

government, understood here as far-right, traditionalist actors within the broader anti-gender movement, this thesis will use theories about populism, as well as Queer and gender theories and a poststructuralist approach to aid the analysis. The choice of method thought to be the best suited to pick apart the aforementioned legislation is the 'What's the Problem Represented to be?' (WPR) approach coined by Carol Bacchi (2007). This feminist policy analysis tool is chosen as it separates itself from other similar methods that sees laws and policies as 'fixes' to problems, and rather aims to understand the circumstances and underlying assumptions that guided their writers. This is important because while I will do my outmost to remain objective and balanced in my analysis, I cannot completely distance myself from this topic and look at it from the outside. As a member of the Hungarian queer and trans community, as well as an outspoken activist for trans and non-binary people's rights, the pieces of legislation looked into here have a strong and direct negative impact on my own life, and many of those who I call co-workers, friends and/or family. Taking up this difficult task, I am guided by the works of Dorothy Smith and Donna Haraway and their theory of standpoint and feminist objectivity, which should prove as not only a justification for me engaging with this topic, but also as an encouragement to look at this issue from my own perspective, merging research and science with active political struggle.

Problem formulation

The problem formulation for this thesis is therefore as follows: how are the concepts of anti-gender backlash and LGBTQI+ rights represented in the Fidesz government's anti-LGBTQI+ legislation since 2020 and in the questions of 2022 Hungarian referendum (Appendix A to E)? Furthermore, it is examined through answering the six questions of the WPR-method, how this representation and problematisation fits into the global anti-gender movement, and how other concepts, like the safety of children or traditional family values intersect within this context.

Literature review

Existing research on the anti-gender backlash in Hungary

Perhaps due to the short-lived nature of Gender Studies programmes in Hungary – banned shortly after its conception in Hungarian academia -, or maybe due to the relatively short time since the Fidesz government actively took on its current stance against 'gender ideology', literature on the place of Hungary within the global anti-gender movement is a topic

discussed by a rather small number of academics, many of them with similar approaches to the issue. From the work of these authors, a few specific aspects of the anti-gender movement in Hungary are highlighted. Unfortunately, I have not identified research directly on the anti-LGBTQI+ legislations of past two years, but some of these are mentioned in different perspectives. Similarly, while policy and impact analyses of for example, the refusal to ratify the Istanbul Convention exist (Krizsán & Roggeband, 2021), the WPR-approach does not appear to be utilised by researchers in Hungary.

First of all, there are multiple articles and in connection to how and when the far-right discourse around gender emerged in Hungary, and on what legislative steps have been taken by the Fidesz government since (Krizsán & Sebestyén, 2019, Fodor, 2022). In *The Gender Regime of Anti-Liberal Hungary*, Éva Fodor (2022) argues that the anti-gender backlash in Hungary lead to the growing economic subordination of women, opening the gendered reality of poverty further, ultimately creating a system of "carefare" (Fodor, 2022). She provides both a qualitative and quantitative analysis of the formation of what she calls the establishment of this Hungarian 'anti-liberal gender regime'. She explains 'gender regime' like this:

> "A gender regime is constituted by "patterns of gender arrangements"(Connell 1987), which describe how members of a society are classified into groups designated as men and women, the distinct social roles and responsibilities assigned to each, their symbolic representations, along with the inequalities built into these structures. All our social institutions are built on assumptions about and practices of gender: from the production process to reproduction, sexuality, institutions of politics and power, as well as emotions and cultural expressions. While gender may be manifested somewhat differently in each of these institutional arrangements, institutional gender regimes are deeply connected and in Connell's terminology cohere into a societal level "gender order", or following Walby's terminology, a new form of patriarchy or "gender regime" (Walby 2020)." (Fodor, 2022: 10).

Her main argument is that since the landside electoral victory of the Fidesz government in 2010, many NGOs which previously worked on feminist, women's rights issues were left without much funding, and the government party has been consciously using 'gender' as an entry point to critiquing gender mainstreaming initiatives, emptying its meaning (Fodor, 2022: 18). At the same time, Grzebalska and Pető note that the government introduced their own 'family mainstreaming' legislation (Grzebalska & Pető, 2017), which increasingly pushes women into the role of mothers. With the lack of adequate means to childcare, women who

become mothers face a hugely intensified workload of unpaid domestic duties (Ibid.: 3). At the same time, although childcare benefits are increased in duration, most women are forced to take on paid work to make ends meet. The situation of women becomes even more problematic when we look at how leading Fidesz politicians talk about women in the labour market. At the time of writing this thesis, Hungarian president-elect, and former 'Minister Responsible for Families' Katalin Novák was quoted saying that "[as women], we shouldn't believe we need to constantly compete with men […] and that we should at least have the same salary as the other [as in men]" (Novák in Index, 2020), painting a strong picture about the (lack of) equal opportunities of women in contemporary Hungary.

In the research of Félix (2015) and Fodor (2022), quantitative analysis also confirms the suspicion that the anti-gender discourse arrived relatively late to the political landscape of Hungary, even compared to other Eastern European countries with similar, far-right governments, as is the case in Poland. From only a few mentions of gender in the context of a proposed gender equality legislation by the left-wing government preceding the second term of Orbán in 2008, the next two years saw the true arrival of the phrase 'gender ideology' into Hungarian politics, in connection with legislation aimed at decreasing gender stereotyping in kindergarten (Pető & Kováts, 2021). This legislation and discourse around gender also influenced the subsequent right-wing government to enshrine anti-gender attitudes into the new Fundamental Law in 2011, including the anti-abortion access phrasing of guaranteeing the human right to life from conception, as well as defining family based on heterosexual marriage, devaluing cohabitating couples, and in particular queer relationships (Félix, 2015: 72). The analysis of Hungarian pro-government newspapers' frequency to use the word gender showed a fourteenfold increase in the period 2015-2020 (Fodor, 2022: 17-18). However, looking at the context in which the phrase was used, Fodor pointed out that 'gender' was rarely used in the context of gender equality despite the enormous systemic disparities between men and women (Ibid.).

What there seems to be a consensus among academics writing about the anti-gender backlash in Hungary, is how the term was turned into a catch-all phrase by the Fidesz government as a political tool. Gender here is used to represent a whole array of loosely connected issues that do not fit into the worldview of the far-right government: a tool of overreaching EU influence, gender equality, migration and LGBTQI+ rights. Grzebalska, Pető and Kováts (2017) use the phrase 'symbolic glue' to describe the congested meaning attached to the word gender in this

context. They argue that this can be understood as a symptom of the populist construction of an enemy figure (Grzebalska & Pető, 2017), under which many different issues they oppose can be attributed. Furthermore, the connection of gender with for example migration and EU policy debates allows populists to depict this as a foreign concept, posing as protectors of the state from outside influence and harm. Lastly, the jam-packed terminology allows populists to form broad coalitions with other conservative, right-wing and religious groups, who can partially agree to the opposition of at least some of the meanings attached to the word (Ibid.). This is a convincing argument, and as such populism as a theory will be further discussed in this thesis, as it could be a useful tool in my analysis.

However, I take issue with the interpretation of Kováts (2019, 2022) in her individually authored papers, where she makes the claim that the right-wing backlash in Hungary against 'gender' can also be explained as a reaction to products and ideas of Queer and Gender theory, as well as of trans activism, and is "primarily about political correctness and the shift in meanings of words associated with transgender and non-binary gender identities, most prominently the process of the individualized and identity-based reformulation of the previously structural category of gender" (Kováts, 2019: 68). I would argue, that Kováts falls into the trap of siding with the populist far-right on the issue of gender based on how she perceives it is defined by anti-gender actors. This is not an individual mistake, but rather one that is common among gender critical feminists, who often form an "unholy alliance" (Tannehill, 2021; Wang, 2021) with the right-wing against trans and non-binary people (hence dubbed TERFs), despite having very different stances on other social and economic issues.

I say that this is a mistake, as it is important to note that even if all legislation in contention by anti-gender actors followed a biological essentialist definition of gender as binary and strictly defined by sex at birth, populists would still oppose it. This is evidenced by the stance of the Hungarian government on the equality of women in particularly the labour market (Fodor, 2022), its soft anti-abortion rhetoric and in regards to protections for women against domestic violence, so it should be clear that Fidesz would not be in support of any such legislation pushing for gender equality. Thus, feminist alliances with populists cannot lead to the liberation of women from patriarchal oppression.

The comments of Kováts (2019, 2022) on human rights language, neoliberalism and individualism, placing these behind the phenomenon of anti-gender backlash unfortunately

recontextualises what I described in the introduction as actors of the anti-gender movement apart from the far-right. The claims of these groups are held up as not only legitimate, but completely separate from far-right criticisms of gender. This is despite the fact that trans academics and investigative journalists have pointed out many times that the far-right anti-gender movement does not only work for many of the same goals as the 'moderate' gender critical or TERF groups, but they actively platform one another, share information and contribute to each other's funding efforts (Pearce et al., 2020; Burns, 2019; Moore, 2019).

Erzsébet Barát (2021) also points to this issue in the works of Kováts, which claims that the far-right gender backlash originates from a lack of authoritative definition of gender previously provided by women's rights organisations, "forg[ing] a discourse against what they call "queerfeminism" and see as ineffective in the current neoliberal political context due to their alleged depoliticized stance of "identity-based politics" (Barát, 2021: 183). She argues that the attempt of Kováts to define gender in a biologically essentialist way goes against the standard of inclusivity feminism should strive for, and inadvertently actually contributes to the anti-gender and anti-SOGIESC political agenda of the Fidesz government. Other authors, Krizsán and Roggeband also have noted that the backlash against gender, and its representation as an ideological concept

> "has a particularly negative impact on lesbian, bisexual, transgender and intersex women. Their position may be further undermined by these attacks, which degrade their equal citizenship rights and their status as a group within the political community. In general, implications of the misogynist tone of debates denigrate the public space as space of equals; it curtails equal rights of women and sexual minorities as groups and as equal participants in democratic processes. Attacks against women's rights organizations instigate fear among women seeking help in situations of violence and obstructs their access to services." (Krizsán & Roggeband, 2021: 235)

In this context, I agree with Barát (2021) that – especially in the current context of active legislative steps against the LGBTQI+ community - Hungarian academics should be careful in embracing exclusionary notions of gender that replicate the binary, and of misrepresenting Queer theory and queer/trans feminism. This could only serve to legitimise the actions of the government against 'gender ideology', which are harmful to women regardless of whether they are cis and heterosexual or queer and trans. Despite the claims made by Kováts (2019, 2022),

Queer theory and activism has answers to systemic, class-based, socio-economic inequalities and injustices in society, which I will point out in the Theoretical overview section.

Methodology

DIR + GGS requirements

The topic of this thesis was selected in part due to its relevancy to the Development and International Relations master's programme with a specialisation in Global Gender Studies. As I showcased in the Introduction section, the Hungarian government's anti-LGBTQI+ legislations are part of a larger, global movement against the concept of gender, Gender Studies and SOGIESC minorities within the sphere of international politics. While only the Hungarian legislation will be closely analysed here, it will be done in the context of this international phenomenon, linking these laws to similar legislation and policies across the Global North. Furthermore, relating to the requirements of my specialisation, in both the theoretical framework and the analysis I rely heavily on the work of feminist and queer scholars and activists, like Dorothy E. Smith, Judith Butler or Julia Serano.

Philosophy of Science

The work of Foucault on power, like how discourses, knowledge and power "directly imply one another" (Foucault, 1977: 27-28) is perhaps nowhere else so easily understandable and possible to be taken more literally than within the text of laws and legislation, as every single word here is carefully considered and drafted for a reason. Furthermore, this is the realm of the most direct representation of power and governance. Asking for and understanding the motivation behind not only the creation of the text, but behind each selection of a word is a practice of post-structuralists like him, and it is this tradition that I am ought to continue in the process of trying to answer my problem formulation. Therefore, the epistemological framework at use in this thesis is part of the post-structuralist and social constructionist paradigm.

For this paper, this means a commitment to critical analysis, including a special focus on the specific wording in the analysed legislation, as it can and does have direct consequences in the way SOGIESC minorities, queer identities, the value of same-sex partnerships or broader concepts like that of gender are thought about, including how the discourse around these identities shape how LGBTQI+ people construct the appropriate labels for themselves. It is therefore necessary to weigh in on what phrases are used, for example whether this corresponds

to the Yogyakarta Principles plus 10 (YP+10, 2017), some older human rights treaties or principles, or if the usage of language is not in line with either. The results will facilitate an understanding of underlying motivation, which is at the heart of post-structuralism.

Limitations, theory and text selection

After deciding that the main topic of my thesis will be connected to the global anti-gender movement, it was necessary to limit the scope of the study in certain ways, as examining this phenomenon thoroughly would be outside the limitations of any, one research paper. Due to Hungary's special place in this movement that exceeds the country's usual influence in global politics, and my connection to the country and its language as a Hungarian citizen, it was an obvious choice for me to focus my thesis in this political, cultural, and geographical setting. As the main method of analysis relies strongly on a qualitative research approach to find answers to the given problem formulation, this will also be indicative of this research design. Another limitation that needs to be considered is a temporal one – as the majority of this paper is being written before the 2022 Hungarian elections and referendum takes place, the results and new developments based on these events cannot be considered.

The selection of theories used in this paper are also partially guided by my personal connections to the country and the effects of the legislation at hand. As it is explained in the introduction, while I am not currently a resident of Hungary, as a member of the queer and trans community I am personally affected by the measures introduced in the analysed legislations. To argue for the validity of my research, and for it not to be dismissed as inherently biased and therefore invalid in its findings, this paper presents feminist Standpoint Theory (Smith, 1974; Haraway, 1988) as an argument against the traditional notion of objectivity, highlighting how important situated knowledges can be in coming to the right conclusions. Furthermore, talking about legislation restricting the rights of the LGBTQI+ community is hardly possible without engaging in the discourse and critique of Queer theory (Butler, 1990, 2004; Serano, 2013, 2016; Faye, 2021; Namaste, 2000), using these in the process of understanding the origins of homophobia, transphobia, cissexism and similar forms of prejudices. This is a key step in interpreting how LGBTQI+ people and relationships are problematised by the Fidesz government. Lastly, this thesis operates on the idea that the focus of Fidesz on gender and SOGIESC minorities is not purely an ideological, but also a political choice. To examine this angle, theories on populism (Mudde, 2007, 2019a; 2019b; Moffitt, 2020; Wodak, 2015) are

also examined and argued here that LGBTQI+ people are othered for political reasons in the populist 'Us vs Them' dichotomy.

Regarding the selection of texts used in the analysis, the analysis uses primary sources as a baseline, namely the legislation discussed here as announced and published in official government sources, like the *Hungarian Gazette*. The translations used in the analysis are unofficial, of my own, and as such they favour precise word and phrase translations over jargon commonly used in anglophone legal texts. The purpose of this choice is to lower the chance of meaning relating to the problematisation to be lost in translation. For ease of use, the key phrasing within the legislation and referendum questions are highlighted in bold, unlike in the official source. Lastly, where the WPR-approach – examined in the next section - requires the usage of sources outside the examined primary sources, for example to examine how the media depicted the debate around the examined legislation, secondary sources are also used. Here, I opt to look at news sources both part of the Fidesz media conglomerate, like *Magyar Nemzet* and those that exist in opposition to it, or rather, independently, like *444.hu*.

The WPR-approach by Carol Bacchi and its relevancy to this paper

As stated above, the main focus of this master thesis are the four law changes approved by the Hungarian parliament during the Coronavirus pandemic in 2020-2021 – as well as the questions of the 2022 referendum relating to these -, which target parts or whole of the LGBTQI+ community, restricts their rights or litigate the existence of this demographic as a danger to traditional family values and to the rights of children. Understanding the effects and background of these laws could be a difficult task through traditional policy analysis tools, which see policies and laws as fixing and dealing with existing problems, as reactions to clearly identifiable issues (Bacchi, 2009: 1). This approach limits the understanding of policy to the realm of comparing different possible solutions to a set problem, ignoring the possibility that the laws were created as an answer to non-issues, or that in fact the laws themselves created a problem in the first place.

A more fitting way to look at the Hungarian government's relatively freshly signed anti-LGBTQI+ legislations, I suggest, is through Carol Bacchi's 'What's the problem represented to be?' approach, (WPR-approach from now on). Bacchi understands policies as representations of the specific problems it addresses, and rather than clearly identifiable steps from problem to policy, the goal is to understand how the policy itself plays a role in the

creation and definition of a problem (Ibid.) As policies aim to create change, it is implied that something needs to change and as the government is assumed to act in the interest of its people, policies presumably point to an existing set of problems, at least from the government's perspective. However, Bacchi argues that by looking at what a policy says and means to achieve, we can better understand what the government sees as a problem and what underlying assumptions and ideologies play a role in defining problems in certain ways (Ibid.: ix-xi).

Problems therefore here are understood as being produced by policies, as Bacchi puts it "[p]olicies *give shape* to 'problems'; they do not *address* them" (Ibid.: x). Defining the word 'problem' is also important in the understanding and proper use of the WPR-approach, as the word here does not carry its original meaning of something wrong, difficult or of being a puzzle, but "refers simply to the kind of change implied in a particular policy proposal" (Ibid.: xi). Taking the first of the four laws affecting the LGBTQI+ community in Hungary as an example, in §33 of the omnibus law handed in for consideration on 31 March 2020 and of which came into effect in June 2020 (Appendix A), the wording of sex/gender[2] on official documents was clarified to be sex assigned at birth and defined as scientifically defined and unchangeable. This points to the problem addressed being the previous understanding of sex/gender as something that can be changed, which provided trans and intersex people the option to correct their wrongly assigned gender at birth. The focus when analysing policies such as this becomes what assumptions and societal biases made it possible for the government to come up with this policy and the other two laws targeting the Hungarian queer community.

This leads us to the actual policy analysis tool of Bacchi's WPR-approach: six interrelated questions to be applied and investigated one after another to dig deeper into the problem that the analysed policy or law problematises. I will quote the questions here together, and I will also individually explain their rationales in a deeper sense, including the tool of analysis needed to the answer specific questions, as this is necessary methodologically to be able to reproduce the results of this thesis.

What's the problem represented to be?: An approach to policy analysis

1. What's the 'problem' […] represented to be in a specific policy?
2. What presuppositions or assumptions underlie this representation of the 'problem'?

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[2] In Hungarian there is a lack of clear distinction between the words sex and gender as "nem" is often understood as either, depending on context. Thus, I opt to use both words conjoined with a '/' where necessary.

3. How has this representation of the 'problem' come about?

4. What is left unproblematic in this problem representation? Where are the silences? Can the 'problem' be thought about differently?

5. What effects are produced by this representation of the 'problem'?

6. How/where has this representation of the 'problem' been produced, disseminated and defended? How could it be questioned, disrupted and displaced?

Apply this list of questions to your own problem representations. (Bacchi, 2009: 2)

Question 1 provides the basis for the whole analysis as it pushes us to define the problem implicitly existing within the policy itself (Ibid.: 2-4). This is a process of working backwards from a proposed solution, to find out what the writers of such solution – policy or law – could have thought the original problem was. It is a logical equivalency that the solution one proposes stems from their own understanding and assumptions of the problem. This way policy and lawmakers are not thought of as fixers of problems that exist immutably like Kant's moral maxims (Allison, 2011), but as people with their own biases, assumptions and beliefs which clearly affect the way they work, and thus the way problems are represented by them.

With **Question 2** starts the real analysis of the examined policies, as here we start uncovering the societal wide beliefs and assumptions that are simply taken as 'normal' and as such play a part in the interpretation of the problem at hand. This critical analysis builds upon the work of Michel Foucault, to uncover the epistemological and ontological origins of the knowledge used to create analysed policy. The focus is not on personal and political views of the policy makers, but on "what meanings need to be in place for something to happen" (Ibid.: 5). Bacchi refers to this as 'conceptual knowledge' and defines it as certain meanings and understandings that make a problem formulation to make sense (Ibid.). The goal here is to start uncovering what is left unquestioned within the formulation of a problem a policy creates and to use this to build on this for Question 3 and 4 especially. When talking about laws and policies targeting the LGBTQI+ community, it is inevitable look at the history of queer oppression and liberation, including the medicalisation and criminalisation of homosexual and trans identities, as these underpin the Foucauldian archaeology of words at play (Ibid.).

A sub-tool within the WPR-approach that is used here is discourse analysis. Bacchi says that as policies are about meaning creation, "it is useful to engage in a form of discourse analysis, identifying and interrogating the binaries, key concepts and categories within a policy" (Ibid.:

7). Binaries are key components of policies, laws and public discourse, as they define who is included under their scope, like citizen/foreigner, public/private, heterosexual/queer, cisgender/trans. They are mutually exclusive categories and the relationship within these categories is often hierarchal, one clearly interpreted as more important, privileged or valuable. When it comes to the laws analysed in this thesis, it is inevitable to pay attention to the privileging of heterosexual relationships and cisgender identities, compared to homosexual relationships, trans and intersex people, as well as in the portrayal of queer people's ability in general to be caregivers to children (Ibid,: 7-8).

This leads us to some of the key concepts that needs identifying under **Question 2**. Key concepts are abstract labels to phenomena that are understood in certain ways (Bacchi, 2009: 8). They are socially constructed in their nature, but there is also an individualised understanding of what these labels, concepts cover. In simpler terms, we can think of them as buzzwords that pop up in legislation, often without much explanation of what is exactly understood under them. In the case of the Hungarian anti-LGBTQI+ legislations, terms like 'self-identity', 'biological sex' or 'morality' appear recurringly, but without their definitions. What defines biological sex exactly? Chromosomes or primary sex characteristics? What moral philosophy paradigm is the one that is newly enshrined into the Hungarian constitution? Understanding the underlying assumptions that lead to the birth of these pieces of legislation, we ought to understand what meanings exactly are assigned to these concepts (Ibid.).

Governing is achieved through categories, especially through people categories. These define who certain legislation relates to in particular. However, these are also socially constructed in their nature, and it requires investigation to uncover how different people and behaviours are sorted into these categories and how those labels are acquired. A classic example of this can be found in Michel Foucault's *A History of Sexuality* (1990), where he argues that while same-sex activities and relationships have always existed, sorting people who engaged in same-sex activities as homosexual – a term in fact first used by a Hungarian journalist in 1869 (Nagy, 2013) - and those who did not as heterosexual is a relatively new invention. Foucault sees this organising of behaviours as a tool of exerting control, of governing (Foucault, 1990).

Question 3 gives us the task of identifying the history – the temporal path to the origin - of the problem representation, and to uncover which decisions, which changes in the thought paradigm of the problem lead us to the current day, with the current representation of the

problem within our analysed laws (Bacchi, 2009: 10-11). We need to destabilise our existing assumptions, as problem genealogies are rarely clear, straightforward lines (Ibid.). We could assume that like many on the far-right, Fidesz always thought of homosexual relationships as invalid and lesser in value than heterosexual ones, however this assumption could lead us to miss the fact the official party communiqué about gay rights went through massive changes in recent years. As the analysed legislation are results of the broader climate and public opinion on LGBTQI+ rights, we must also examine the history of all legislation concerning queer people in Hungary, from the first mentions and criminalisation to decriminalisation and improvement in legal recognition, to the second, third and fourth Orbán government's specific actions. The focus is on understanding how the problem representations found within these laws came to be the dominant ones, and how things could have turned out differently (Ibid.: 11).

From **Question 4** onwards, attention is shifted from what is within the problem representations, to realm of what is left out, to the "gaps and silences" (Ibid.: 12). Here, the critical analysis of the WPR-approach starts to materialise. As through the first three questions we come to understand how the problem representation came to be and what were the ideas and mechanisms that enabled its existence, we can also uncover all that is missing or fails to be problematised. What we can achieve here is not only to show that not everything has been considered in the creation of a policy, but rather that the way the problem is represented within it leads to inadequacies in the said policies' ability to address certain issues. One example that was commonly brought up by both LGBTQI+ organisations and case workers within the adoption system was the problematic nature how the banning of single parents and same-sex couples from the ability to adopt overwhelmingly affected children who are racialised, Romani and/or who live with disabilities (Kálmán, 2021). As these children are often refused by married heterosexual couples at the top of the adoption waiting lists, their most likely way out of the orphanage system had been the single parent candidates and those in same-sex relationships, which has now been closed (Ibid.).

This has already put us on track towards understanding **Question 5**, which investigates the effects of the specific type of problem representations within policies. The critical lens of the WPR-approach is not interested in outcomes in the statistical, classic sense of policy analysis, but rather in more subtle ways certain policies shape our world (Bacchi, 2009: 15). As the above-mentioned examples have shown, the unique strength of the WPR-approach is in uncovering the forms of harm done that might be unforeseen by the policymakers, as well as

that which is invisibilised by the omission of certain perspectives. The feminist nature of Bacchi's policy tool is highlighted here, as a gender perspective within the analysis is encouraged, as well as the use of poststructuralist theoretical lenses like Queer theory (Ibid.).

Bacchi identifies three specific areas where effects of problem representations are to be looked at: discursive, subjectification and lived effects (Ibid.). The first one, discursive effects relate to the findings of earlier questions highlighting silences. It is also closely related to the Foucauldian struggle for power over who can participate in discourse, and how the questions that are asked and allowed to be asked shape power-relations in society. When a problem representation frames an issue in a certain way and pinpoints a problem in it, other points of views are no longer considered. This is why it is so important that in our approach, we think outside of the box created by the problematisation, enhancing the boundaries of what our social analysis can uncover (Ibid.: 16).

Subjectification effects mean the inevitable practices of ourselves "becom[ing] subjects of a *particular kind* partly through the ways in which policies set up social relationships and our place (position) within them" (Bacchi, 2009: 16). This is similar to the idea of standpoint feminist theory and the concept of bifurcated consciousness, discussed in the next chapter (Smith, 1974). Policies are tools to govern over us, and as such they often define our place, our standpoint in society, through which we come to understand the world around us, as well as ourselves (Foucault, 1977). When queer and trans identities are marginalised in some form, which could be criminalisation, pathologisation or through more covert ways, like not recognising same-sex relationships with the same privileges as what heterosexual couples are afforded, this can lead people part of these communities to internalise the way their identities are problematised in law. This can also lead to members of communities to be pitted against each other, one group appearing unproblematic, while the other at fault for their own marginalisation. A relevant example of these "dividing practices" (Bacchi, 2009: 16) would be how the Hungarian Speaker of the House went on record to explain what the difference according to him – and likely among many on the Hungarian far-right – is between a "normal homosexual who knows what the order of the world is and […] doesn't look at himself necessarily as an equal" (Kövér as cited in Herczeg, 2019) and those members of the LGBTQI+ community who attend Pride marches and campaign for marriage equality or the right to adopt. The latter group is depicted as unreasonable and irresponsible, being the ones to blame for the existence of marginalising legislation. This allows the government to portray itself as

benevolent, acting in unison with some part of the targeted community, and in 'protection of children' (Bacchi, 2009: 17).

The third area, lived effects is probably to easiest to grasp, as it is closest to the traditional way of analysing policies, by looking at the material impact of them (Ibid.: 18). However, what distinguishes the WPR-approach here from other methods, is the focus on the indirect effects – the ones created by the way the problem behind the policy is presented – and not on the 'solution' provided by it. For example, we have little interest in examining the direct effects of changing the definition of sex/gender on official documents, but it is incredibly important to highlight how it affects members of the trans and intersex communities, who despite not even being explicitly mentioned in the official wording of the law change, are the ones experiencing its material effects.

With **Question 6**, we turn back towards our findings in Question 3 and use it to round up our analysis. There, we will have seen the history of the evolution of the problem representation, and through this in Question 6, we analyse how the current problem representation became the dominant one (Ibid.: 19), for example with peculiar attention to the use of the government-friendly media conglomerate in Hungary. As part of Bacchi's critical approach, "the question of possible resistance also needs to be addressed" (2009: 19). It is likely – due to my own bias and personal relationship to the analysed laws - that large parts of the problematisation found during the analysis will be deemed harmful, and as such I will suggest a possible replacement for them, where appropriate. This attempt at disrupting the damaging problem representations comes partially from my earlier stated situatedness within this discourse, but I will not shy away from self-reflection and analysis. This is something the WPR-approach requires of its user anyway (Ibid.).

In the following section, as a last stop before jumping into the analysis, I will provide a theoretical overview of Standpoint feminism and feminist objectivity, Queer and gender theories and of populism, particularly on the far-right that I grounded my research in.

Theoretical overview

Standpoint theory and feminist objectivity

Feminist standpoint theorists like Dorothy E. Smith and Donna Haraway have since the 1970s challenged and recontextualised an often taken for granted principal of scientific

research – objectivity. Developed from Hegelian and Marxist traditions focusing on the slave/master and proletariat/bourgeoisie dichotomy, feminist scholars particularly during the second wave built Feminist Standpoint Theory as a contribution to Epistemology, Methodology and Philosophy of Science (Bowell, 2011). The centre tenet in Standpoint theory is that knowledge is situated, meaning that there is not one way to see and experience the world, but rather individual people with different places in society – particularly in regard to their place in the hierarchical ladder based on socio-economic power – have different focuses and levels of awareness. In this system of situated knowledges, those who are for some reason subject to oppression - in the case of Standpoint feminists it is women under the patriarchy – have a better awareness of social structures that contribute to their subordination and therefore they should be the one whose perspectives the researcher needs to situate themselves in, at the same time embracing their own lived experience as a valid starting point (Ibid.).

This interest in the world and knowledge comes in both a macro and micro level (Marshall, 2013). On the macro level, Standpoint theory aims to highlight the systemic means of oppression for the subordinated, investigating how patriarchal social structures work for the benefit of men and ensure their remaining in power, while at the same time pervasively working in upholding the structures that create this hierarchy in the first place. At the same time on the micro level, the everyday experiences of the subordinated the group are also highlighted. This is a sort of clashing of different epistemological paradigms. On the one hand, there is a positivist need to "have simultaneously an account of radical historical contingency for all knowledge claims and knowing subjects, a critical practice for recognizing our own "semiotic technologies" for making meanings, and a no-nonsense commitment to faithful accounts of a "real" world" (Haraway, 1988: 579), which in turn is much more in line with social constructionism. Haraway argues that this duality creates a 'feminist objectivity', which she then says relies on the use of situated knowledges (Ibid.: 581).

Smith (1974) and Haraway (1988) thus both argue that research should not be done from the metaphorical 'outside' looking in, but by placing ourselves as researchers in the perspective of the subjects of the research. Furthermore, that separating ourselves from our biases and experiences in the name of traditional objectivity creates a 'bifurcation of consciousness' (Smith, 1974: 9), which in the Marxist sense alienates us from the research. As standing outside of a world that is socially constructed is impossible, Smith says that we should embrace being in its centre. "[P]lacing the [researcher] where she is actually situated, namely at the beginning

of those acts by which she knows or will come to know; and second, making her direct experience of the everyday world the primary ground of her knowledge" (Smith, 1974: 11). This way personal relation to the subject matter stops being a burden which disqualifies from the engagement with certain topics in the name of inherent bias, and rather becomes motivation and encouragement to embrace the insight provided by the situated knowledge.

Although Smith and Haraway talk about the relations of governing through a gendered perspective, in terms of the socio-economic power imbalance and struggle between men and women, Standpoint theory is also useful and applicable in the context of other minorities or subordinated groups. In fact, a somewhat similar idea to bifurcated consciousness was first coined by W. E. B. du Bois, with reference to the experiences of black US Americans in the pre-civil rights era (Marshall, 2013). Similarly, the use of Standpoint theory can be warranted in a wide, intersectional viewpoint (Crenshaw, 1991), constituting not only of gender, but its related categories, namely race, nationality, sexuality, class, ability and so on.

In respect to this thesis, Standpoint theory was chosen and is used to uncover the perhaps silenced perspectives and experiences of LGBTQI+ people in Hungary who are albeit targets of the analysed legislation, were mostly or entirely left out of its drafting process. Unlike some of their Western European counterparts as right-wing government parties - like the Conservatives in the United Kingdom -, Fidesz has no openly LGBTQI+ members of parliament, and as recently as 2020, the outing of a prominent member of the party as queer, József Szájer, lead to his disgraced removal from the party and the public sphere (Németh & Walsh, 2020). This makes it likely that the problematisation seen within these laws came solely from the perspective of cisgender heterosexual MPs.

By using Standpoint theory, I attempt to recentre this discourse on those personally affected by these legislations. For this, my lived experience and perspective as a queer trans woman, and as an activist with many connections within this community will serve as a useful starting point during the analysis. This close proximity to the issue without Standpoint could be seen as a hurdle in search of objectivity, but instead it can be recognised as a position of epistemic privilege, which arose through the collective political struggle for recognition of the communities I belong to (Bowell, 2013). This also means that my standpoint in this subject area is not individualist, but rather relies on the acknowledgement that my point of view is

shared by many in the Hungarian LGBTQI+ community, thus reclaiming our status of being in control over own knowledge (Ibid.).

Queer and gender theory

Queer Studies as an independent field in academia branched out from Women's, Lesbian and Gay Studies, while at the same time originating in the activist work and political struggle of queer people from the Stonewall riots to AIDS-crisis era. This interconnectedness with active political struggle is a key attribute of the field, as even the usage of the world 'queer' marked a deliberate separation from normative ideas about sexuality. It is a reclaiming of a slur used commonly to other same sex attracted people, as well as gender nonconforming and trans identities, while in its literal meaning also signals a drift away from what is seen as traditional. According to Judith Butler, author of Gender Trouble (1990) which is commonly marked as a starting point of Queer Studies, at the heart of Queer theory and 'gender' is the act of seeking "a form of political freedom" (Butler, 2019).

Precursors to queer theorists are authors like Simone de Beauvoir and Michel Foucault who recognised the socially constructed nature of labels around sex, gender and sexuality. The sentence "One is not born, but rather becomes, a woman" (Beauvoir in Butler, 1986: 35) challenged the hegemonic belief that our assigned gender at birth determines the lives we are supposed to live (Butler, 2019). Butler placed the gender nonconforming, butch body in the centre of their analysis of gender norms and introduced the theory of gender performativity. This theory early on was often misread or mischaracterised, sparking serious, decades long debates over its perceived dismissal of trans identities (Namaste, 2000; Serano, 2007), but at the same time also enabled and created space for these discussions within academia and trans inclusive feminism in the first place. Butler's theory of performativity suggests that "bodies are produced by discourse rather than being the sources of discourse" (Halberstam, 2018), emphasizing that gender is separate from our bodies, and thus should be thought about outside of the male and female binary (Butler, 1990). Especially since it is convincingly argued that even the discourse on biological or anatomical sex shows signs of social construction, "medical, familial, and legal authorities play a crucial role in deciding what sex an infant will be" (Butler, 2019).

 As an example for the socially constructed nature of gender, a person having been assigned female at birth does not predestine them to possess qualities typically associated with

womanhood, nor to take on tasks that are often claimed by particularly the right-wing actors in the anti-gender movement to be biologically assigned to women, like motherhood. Indeed, the increasing visibility of trans and non-binary people in society mixed with the developing field of research into pre-colonial third gender and/or non-binary identities like the Mahu, two-spirits, hijras and sworn virgins are clear examples that the assigned sex at birth does not even, and nor did it ever, perfectly determine the gender a person gets to live as either. This highlights the inadequate nature of biological determinism, a position shared largely among the global anti-gender movement (Mudde, 2019a). Serano (2007, 2016), albeit an early critic of gender performativity like many in the field, also builds on Butler's theory to present her 'intrinsic inclinations' model of gender. At the centre of this model is the idea that people have what she calls a "subconscious sex" (Ibid.), which inclines people towards occupying and presenting certain aspects of gender, sexual orientation, gender expression, whether it matches the normative expectations of their assigned gender at birth, or not.

Similarly to gender, Queer theory and its often cited predecessor Foucault, have a lot to say about sexuality, and the stigmatised nature of same sex relations. In *The History of Sexuality* (1976), Foucault argued that the discrimination of people with same sex attractions took a new shape during the 18th and 19th century, when new phrases to describe people with those feelings, and those who took part in those sexual relations, emerged. Queer theory argues that the labelling of SOGIESC minorities facilitated their exclusion from the social contract, often criminalising those people, in an effort to institutionalise hetero- and cisnormativity. What this means is that the first assumption about a person, from the personal to the governmental and policy level is that they are heterosexual and cisgender. For people with any and all queer identities, this leads to marginalisation in many facets of life, particularly those explicitly shaped by rules around relationships and gender, like marriage and adoption. Hetero- and cisnormativity on the policy and governmental level also create and fuel the discourses that are internalised as homophobic and transphobic attitudes. Queer theory aims to deconstruct these attitudes on both the level of individuals and on the level of queer communities, as in understanding the societal prejudice over the queer body and the queer community. Furthermore, it is also interested in challenging emerging forms of marginalising intra- and intercommunity debates, like homonormativity and the push to separate the LGBTQI+ community and activism into separate Lesbian & Gay, Bisexual, and Trans and Queer branches despite the shared history of fighting for recognition (Pearce et al., 2020).

In a broader sense, like an interdisciplinary tool useful in many spheres, a Queer perspective can push critical analysis from being stuck within socially constructed binaries searching for universal truth to acknowledging subjective, situated knowledges. While arguing for the use of Queer theory in International Relations, Thiel says that "[i]n this sense, queer theory has moved beyond focusing simply on the experience of sexuality and gender" (Thiel, 2017: 98). It critiques binaries – which the WPR-approach (Bacchi, 2009) highlighted as key features of policies and legislations – like citizen/foreigner, democratic/authoritarian in general, giving the analysis in this thesis a new magnifying lens. Contemporary contributions to this field have also shown that it has become a lot more than what some of its opponents claim it to be, simply a tool for neoliberal identity politics or of excessive individualism (Kováts, 2022), but rather a petri dish that created fertile ground, including the language and deconstructive viewpoints to argue for true systemic change benefiting all who are subjugated in different forms of socio-economic relations, particularly in the intersection of queerness with class struggle (Gleeson et al., 2021; Faye, 2021). Furthermore, as is the matter here, participating in the complex debate about the rights of LGBTQI+ people, of what should and what should not be legislated and problematised is hardly possible without the contributions and deconstructive toolbox of Queer theory. This is something even its critiques seem to agree with.

Populism

As I have shown in the literature review, Hungarian scholars focusing on gender and the development of anti-gender attitudes in Hungary, particularly in the governing party Fidesz, have often explained this emerging interest as a feature of populism. As Cas Mudde, likely the most cited expert on the populist and far-right wing parties in Europe also agrees (Mudde, 2019a), it is deemed useful here to explain what political researchers understand under populism and especially populist right-wing parties – a label often used to describe Fidesz.

Populism - perhaps due to the rich field of research it has inspired – has been defined in multiple distinct ways by experts in the field. The different definitions of what exactly populism is overlap in many ways, but especially in separate regional contexts, also show stark polarity. According to Mudde, the changes in the popularity of populism can be observed in waves across modern history, and we are currently experiencing the fourth one of these waves (Mudde, 2019a). When it comes to defining the word, Moffitt (2020) highlights that four-five branches of categorisation of the term exists, namely thinking of populism as an ideology, a form of logic, discourse or political strategy, while he calls it a political style (Ibid.). Here I

will discuss populism as an ideology based on the contributions of Cas Mudde, and populism as a political style, coined by Benjamin Moffitt in greater detail, as both of these warrant good arguments to take to my analysis.

Starting with the latter, Moffitt thinks of populism as a political style primarily due to the impossibility of placing it by itself on the political spectrum. As a style, it can be analysed as a feature from the far-right to the far-left, with politicians uncontroversially being labelled populist despite sharing very little on a comparative political basis of understanding of their ideologies, like Evo Morales and Marine Le Pen (Moffitt & Tormey, 2014). Populists do not have a common goal or shared vision of their ideal worlds, and it follows from this that for example "[u]nlike ecologism or feminism, hardly anyone self-identifies as 'populist', and there is no kind of wider global 'populist movement' or Populist International" (Moffitt & Tormey, 2014: 383). Populism therefore cannot exist in a vacuum, only as a complementary asset to use in symbiosis with other, more substantial political philosophies or programmes.

What is shared between populists across the political spectrum, is their rhetoric of a bifurcated world order, where they self-identify as one in a constructed 'many' or among 'the people', as 'us'. Their target audience is also depicted as part of this group, which faces a form of threat - past, present or future – from a loosely defined smaller antagonistic group which holds too much power relative to their popular support (Ibid.). The populists this way can depict themselves as outsiders to the political establishment, in the Chomskyan sense manufacturing consent (Chomsky & Herman, 2002) for their political goals through claiming to appeal to common sense, to the will of the public and against political correctness (Moffitt & Tormey, 2014: 391).

According to Mudde (2007), as populism does not use clearly defined groups to centre its analysis around, like for example class, but rather operates through a case-by-case moral distinction based separation of society, it distinguishes itself enough to be called "a thin-centred ideology that considers society to be ultimately separated into two homogeneous and antagonistic groups, 'the pure people' and 'the corrupt elite', and which argues that politics should be an expression of the volonté générale (general will) of the people" (Mudde, 2007: 23). For the layman, this could sound like simply a feature of the democratic process, however, here it exists in a form of what Mudde calls 'pathological normalcy' (Mudde, 2010). This means that while populism seemingly operates within democratic systems with democratic

principles, it exists specifically as a critique of liberal democracies. It ignores minority rights on the principle that they are not the will of the majority, and builds on the idea that 'power corrupts', thus inherently opposing most people with long-standing political positions and careers – though their own parties and members are exempt from this rule.

This polarisation of society into two distinct categories is usually done through appointing a clear opponent in political messaging, particularly with the use of party or state affiliated media, which can take many forms. From individual people and minorities to political ideologies or even loosely explained, often self-contradictory ideas like 'gender ideology' or 'postmodern neo-Marxism', the goal is to let people clearly identify themselves as not belonging to the targeted group, hence reinforcing the notion that the government and its sympathizers belong to the 'us', to the 'good people on the morally correct side'. In her book *The Politics of Fear* Ruth Wodak (2015) succinctly puts this as "'[t]hey' are foreigners, defined by 'race', religion or language. 'They' are elites not only within the respective country, but also on the European stage ('Brussels') and global level ('Financial Capital')" (Wodak, 2015: 3).

She calls this phenomenon scapegoating and points out that populism cannot sustain itself without the constant manufacturing of an opponent, as it exists only against one or many opponents and not on its own. Populists garner and maintain support by fuelling a fire of outrage, while at the same time posing as the only ones with the tools to put the fire out. The victim and perpetrator roles are consciously reversed (Ibid.). By focusing on different crises, both in the past and through building fear of future crises, complex issues are easily reduced to 'right or wrong' dichotomies, and radical political decisions and policies are justified (Ibid.: 4). This resonates well with the 'symbolic glue' thesis of gender introduced by (Grzebalska et al., 2017), explored in the literature review section.

In the context of this paper, Hungary and the Fidesz government at the forefront of considerations, we can place the specific type of populism here as a feature of the far-right, also commonly called the 'populist radical right' by Mudde (2007). Here, describing populism as an ideology of the populist radical right provides a clearer picture, as it is not a sole descriptor, but one of three distinct features next to nativism, a mixture of racism and xenophobia which puts members of the nation in its centre, and authoritarianism, which takes shape in hierarchical party apparatuses, often with one clear leader. Given the continued

electoral successes of Fidesz, it is also easy to see that populism has not been just a tool for power grab, but functions more like an ideology that informs legislative action even when no immediate threat to the position of the government party exists (Ibid.).

Mudde (2019b) notes that gender also has important ramifications within the context of far-right populism. Due to its nativist tenets, concerned with the survival of the nation, a traditional view of gender is most common among populists, seeing women as mothers or potential mothers above all else (Ibid.). In what Mudde calls 'benevolent sexism', the mother role of women makes them vulnerable, and thus in need of protection from men and the state (Ibid.). This is in discord with feminist achievements like women being part of the workforce or safe access to abortion, and so these are commonly opposed. Women within far-right parties tend to be softer on these issues, but usually take on a 'femonationalist' view (Farris, 2017), which "spout[s] an eclectic mix of traditional racist tropes – innocent white women brutalised by animalistic non-white men – with pseudo-liberal defenses of gender equality and womens' rights" (Mudde, 2019b), at the same time using the myth of meritocracy to refuse gender mainstreaming practices. I would further argue that queer people, cis or trans, are targeted also by populists due to their perceived incompatibility with the reproductory roles placed on women, while as Serano (2007) notes, existence of trans feminine people challenges the superiority of masculinity that it is so essential to the far-right.

Analysis

In the following part of this paper, the six questions of the WPR-approach (Bacchi, 2009) with the theories and principles of this theoretical section will be used to analyse the quartet of Hungarian legislation from 2020-2021 relating to the LGBTQI+ community, as well as the question of the 2022 Hungarian Referendum connected closely to the topic of the legislations.

Question 1 – Problem representation

What's the problem represented to be in the Fidesz government's anti-LGBTQI+ legislation and in the referendum connected to these?

First of all, to clarify the subjects of this analysis, the following laws are being looked into, all available in their original Hungarian – although abridged – form, as well as with their English translations in the Appendices:

- The Amendment of Law I of 2010 about the birth certificate registration procedure in Law XXX of 2020 about the amendment of certain administrative matters, and on free transfer of wealth (Appendix A)

- The Human Resources Minister's 35/2020 (X.5.) HRM decree (Appendix B)

- The 9th amendment of the Fundamental Law of Hungary (Appendix C)

- Law LXXIX of 2021 about the tougher action against paedophile offenders, and about the amendment of certain laws to protect children (Appendix D)

- Furthermore, the questions of the Hungarian Referendum 3 April 2022 are also reflected on due to their interconnectedness with the four legislative actions (Appendix E)

The four laws and decrees were proposed and came into effect in Hungary in the March 2020 to July 2021 period, which coincided with the Coronavirus pandemic and the pseudo-democratic emergency measures taken by the Fidesz government (Euronews, 2020). As Fidesz since 2010 has almost continually had two-thirds majority in the Hungarian Parliament, meaning they have had the ability to amend even constitutional law without cross-party cooperation, debates about law proposals are almost always reduced to symbolic levels, as no opposition party has the seats to stop measures the Orbán-lead government intends to take. Furthermore, the pandemic led the Hungarian government to accept emergency law measures which further increased its jurisdiction over the parliament, reducing the opposition parties' oversight of the democratic process even further. This paints a picture of a political climate where actions by the government can go easily unexplained without repercussions, however, with the WPR-approach we can find out what and how is problematised in these laws. So, as established in the Methodology section, during the first question of the analysis we must work backwards from the proposed solutions in the analysed legislation to find out what its writers thought to be the problem.

In the case of the first law (Appendix A), the resolution offered is changing the definition of the gender/sex marker on Hungarian official documents to reflect "*birth sex*", which is clarified in the law as "*determined based on primary sex characteristics and chromosomes*" and that this "*data […] cannot be changed*". From this follows, that the constituted problem behind this legislation is that previously to this amendment in law, gender/sex markers in Hungarian identification documents (passports, ID cards or birth certificates) could reflect something else than assigned sex/gender at birth, presumably causing confusion. Trying to change the

gender/sex marker in official documents is a unique procedure specific to trans and intersex people aiming to have their new gender identities legally recognised. As such, the problem represented within the government's problematisation here is that trans and intersex people previously could change their legal sex/gender.

In the decree by the Human Resources Minister (Appendix B), an amendment is made to a previous resolution in connection to "*child welfare and child protective services*". The amendment changes the procedure of facilitating the adoption of children in the national adoption system. According to the new resolution, the regional adoption services must contact the national authority if there are "*no married couples*" among "*among the list of suitable candidates*", so that a married couple under the jurisdiction of a different authority can be found to adopt the child in question. The problematisation underlying this law is therefore that according to the Minister and/or the government, the fact that non-married couples or single applicants – even if they have previously been classified as "*suitable candidates*" - could adopt did not serve the best interest of "*child welfare*".

The amendment of the Fundamental law (Appendix C) has two relevant changes which need reflection on separately. In the first section, explaining what the constitution understands under family, the following addition was made: "*The mother is a woman, the father is a man.*". This is rather hard to untangle, but in connection to the law changes made to the legal sex/gender appearing in Law XXX of 2020 (Appendix A), the goal seems to be to enshrine in law that parents must be recognised as mother or father according to their assigned sex/gender at birth. The problematisation therefore suggests that trans and intersex people being recognised previously as parents according to their newly acquired legal genders was an issue. In the latter part of the constitutional change, the addition of "*Hungary protects children's right to the proper identity corresponding to their birth sex*" was made (Appendix C). Working backwards again from this 'problem solving', the problem constituted here was that children could acquire a gender identity different than their assigned sex/gender at birth, or that they had one such identity forced upon them. Therefore, according to the Fundamental Law of Hungary, children should not be, or should not be allowed to be transgender.

Law LXXIX of 2021 (Appendix D), commonly known as the homophobic propaganda law is in fact a set of law changes with similar core wording bundled under the title "*about the tougher action against paedophile offenders, and about the amendment of certain laws to protect*

children". The laws changed with this amendment include the Child Protection Law, Family Protection Law and laws about public education and commercials in economic activities. This places these changes in the context of protecting children, similarly to the second part of the constitutional amendment. Some of the wording is also similar, or directly based on the changes to the Fundamental Law, like "*protect[ing] children's right to the proper identity in accordance with their birth sex*". This makes the problem that the law change gives shape to the fact that some children are trans, or that they are made to be trans. The phrasing "*show[ing] identity different from the one in accordance with birth sex, the change of sex, or content that popularises, showcases homosexuality*" also returns multiple times in the law, as these things are highlighted in a list of other phenomena that is "*capable of negatively affecting the proper physical, mental and moral development of underage children*". This problematisation suggests that being queer and/or trans are seen as harmful to children, in a physical, mental and moral sense. Given the context of the laws, the main culprits of influencing children queer and/or trans are the media and sexual education workshops in schools. These are made akin to the crime of paedophilia.

The questions of the referendum (Appendix E) use similar language as the four analysed legislations, and they are worded in a way which clearly suggests that "*Workshops […] on sexual orientations*", "*the promotion of sex reassignment treatments to underage children*", "*sexual media content […] to children, that could affect their development*" and "*media content depicting sexual reassignment to be shown to underage children*" are real, current or incoming near-future issues in contemporary Hungary, and should be refused and legislated against. The problem is therefore also represented here as children being influenced by the media and sexual education workshops to take on queer and/or trans identities.

Question 2 – Presuppositions and assumptions

What presuppositions or assumptions underlie these representations of the 'problem'?

From the problem representations uncovered in Question 1, it is possible to get a good picture of the societal understandings at place which enabled the construction of them. As multiple of these laws are framed in the context "*protection of children*", the assumption that underlies the problem is that homosexuality and transness are harmful to children, "*affecting the[ir] proper physical, mental and moral development***", and thus need to be protected from being exposed to knowledge, particularly in the media and schools about queer and/or trans

people (Appendix D). The next assumption that follows from this conceptual logic is that people, particularly children can be influenced to become queer and/or trans, and these identities are not authentic, or one that people are born with.

Furthermore, the decree about adoption (Appendix B) and the changes to the constitution (Appendix C) also suggests an underlying presupposition that only married, heterosexual parents are capable of being adequate parents to children. This rules out not only same sex couples from those able to provide sufficient care to children – or even just better conditions than the institutionalised foster system -, but also heterosexual couples in long-standing relationships with cohabitation if they opted not to marry. Marriage is therefore assumed to provide a sort of metaphysical advantage even in situations when no material differences between two couples can be detected. The conception of the value of marriage relates to religious, Christian understandings of the unbreakable union between a man and a woman, even though in Hungary divorce is legal and statistics show that at least 1 in 4 marriages end in divorce (KSH, 2020).

The changes to the legal gender/sex data recorded on official documents (Appendix A) as the unchangeable "*birth sex*" leads to trans and intersex people not having the possibility to have their genders legally recognised in the process of transitioning. The assumption that the problematisation is built on here is that trans identities are not worthy of recognition by the state, they are assumed to be less authentic than cisgender ones, and that intersex people's sex must have been assigned correctly at birth, despite the ambiguous sexual characteristics they possess. However, if we assumed the state to be always benevolent and acting in line with the interests of all of its citizens, it is possible that the intention behind this change was simply to clarify the assigned gender/sex at birth in settings where this is a useful category, like in some medical settings. Still, other countries with legal gender recognition available to trans and intersex people, like Denmark, have solutions for these specific situations without outlawing LGR.

Heteronormativity and cissexism are the notions that all these legislations have in common. As discussed in the section on Queer theory, the systematic discrimination and subordination of SOGIESC minorities can be connected to the relatively young history of labelling these identities, which therefore constructed them as 'others', not part of the normative expectations of society (Foucault, 1976). This not only creates a hierarchy between cisgender-transgender,

heterosexual-homosexual, but the othering also enables these categories to be used in populist discourse and turn them into political topics (Mudde, 2019; Moffitt, 2013). These distinctions become mutually exclusive binaries, which are also socially constructed categories that Queer theory deconstructs and critiques. Here, the policies and the referendum questions use wording that makes it clear what the government sees as important and valuable (heterosexual relationships and cis identities), and what it shows to be the opposite of that, signalling citizens and in particular those who take part in the referendum to also refuse these less valuable concepts.

This is further accentuated with the usage of key concepts like child protection, morality, family across all analysed texts (Appendix A-E). As the government discourse places queer and trans identities as harmful, damaging to children, the nuclear family, morality. Moreover, in extension of being a threat to these, LGBTQI+ people are constructed as a danger to the whole nation, given that it places "*marriage as a voluntary union between a man and a woman, and the family as the basis of the survival of the nation*" (Appendix C). The government this way can depict itself as benevolent and protective of the nation and the people belonging to it, despite being exclusionary and directly causing harm to a large number of citizens, supposedly equal members of society. This provides a place for further reflection on how heterosexual relationships are treated compared to lesbian, gay or queer ones. One is depicted as the basis of the nation, while the other are dangers to children and should not be "*showcased and popularised*" (Appendix D), showing the type of black and white, binary understandings that Queer theory challenges. There is also a lack of consideration of what the effects of this legislation can be on children who are facing an intersection of difficulties in the adoption system and have fewer chances of being adopted by a married couple. This will be elaborated on further under *Question 4*.

Furthermore, the concept of morality might require additional reflections, as there is no clear definition of what is meant under this category. Still, due to the sentence "*Hungary [...] ensures upbringing according to the values based on the constitutional identity and Christian culture of our country*" (Appendix C), it is safe to argue that the moral and ethical paradigm is not consequentialist, but rather follows conservative Christian ethical considerations of virtue and duty (Bonde & Firenze, 2013). This already provides some explanation of why some of the previously highlighted problematic aspects of the legislation produce negative effects to members of the LGBTQI+ community.

Question 3 – Genealogy of the problem

How have these representations of the 'problems' come about?

As discussed throughout this thesis, the anti-gender backlash of the Hungarian government in connection to the analysed anti-LGBTQI+ legislation does not exist in a vacuum. It is a part of a global phenomenon, and by this nature, searching for the Foucauldian genealogy (Bacchi, 2009) of these problematisations at hand requires both a domestic and foreign investigation of the anti-gender and anti-queer attitude history.

In the Hungarian context, understanding anti-LGBTQI+ legislation, I suggest, is most likely achieved through an overview of the legal history of development of SOGIESC minorities within the Hungarian state. Sándor Nagy (2013) collected many aspects of the Hungarian LGBTQI+ history together in a paper, which serves as a useful resource trying to construct the genealogy that Bacchi (2009) put at the centre of this question. Nagy (2013) notes that in written law, historically same sex sexual intercourse was largely unofficially criminalised as "sodomy" (p. 2). While usually punished with death when found guilty, an 18th century source noted that it was not worth codifying the criminalisation of sodomy in law, as Hungarians were simply not capable of committing this crime (Nagy, 2013: 3). In the independent Hungarian legal system, after the creation of the Austro-Hungarian Dual Monarchy in 1867, the first modern penal code referred to sex between two men as 'lechery against nature', not mentioning sex between women at all (Ibid.). This was still a somewhat positive development compared to some of the previously used customary law, as it was classified as a misdemeanour instead of a felony and carried a sentence of up to 5 years instead of death (Ibid.: 4). The socially conservative pre-WWI years were followed by the increasingly far-right and German-friendly Horthy era, which looked at LGBTQI+ people as possible enemies of the state. The police at this time were observing and listing people who frequented the underground queer scene (Ibid.: 5). This continued in the Communist post-WWII system, and the strong stigmatisation of queerness was used to blackmail people into joining the network of secret informants (Ibid.: 6).

In the 1960s and 1970s, the legal system saw positive changes and first decriminalised sexual intercourse between two men, then also reduced the age of consent to be closer, but not equal to the age of consent between a man and a woman (Ibid.). Positive legislative and social changes accelerated in the period directly preceding the system change in 1989, and

particularly in the first 15 years of the new system. This period saw the establishment of several Hungarian LGBTQI+ organisations, positive legal steps with the age of consent for same sex relationships lowered to the same level as heterosexual ones and the recognition of civil partnerships for same sex couples, and also the first Pride marches of the country from 1997 (Ibid.: 8-13).

However, in the current context it is especially important to mention, that the positive legislative and judicial decisions for LGBTQI+ equality came from the left-wing and liberal government coalitions, while Fidesz and its current sister party KDNP continually opposed and voted against these developments. Furthermore, the increased visibility for LGBTQI+ people also marked a notable increase in opposition to queer rights. Since 2006, during the annual Pride marches in Budapest far-right counter protester also organise themselves and threaten or commit physical violence against queer people. In the first instance of this happening, several queer people were assaulted and hit with eggs thrown by the counter protesters. In public statements following the incident, Fidesz and KDNP instead of directly condemning the violent anti-LGBTQI+ counter protester, shifted the blame to the left-wing government and the part-takers in the Pride march, citing the 'provocative nature' of visible queer people in public (Nagy, 2013: 15). Following the parliament accepting two laws on registered partnerships for same sex couples, and for trans people to be able to continue their existing marriage as registered partnerships after their legal gender changes, right-wing NGOs, Fidesz and KDNP went on to challenge these laws at the Constitutional Court.

After the 2010 elections, Fidesz and KDNP formed a large majority coalition government and used their two-third majority to create multiple laws that can be explained as reactions to the previous government's extension of LGBTQI+ rights. *The Family Protection Law*, one of the laws amended as part of the homophobic propaganda law (Appendix D) was partially used to exclude same sex couples from the definition of family, while the new constitution defined marriage as "*a voluntary union between a man and a woman*" (Appendix C), making marriage equality impossible to legislate for any future government without two-thirds majority, as well as curtailing the space of courts in deciding for it (Nagy, 2013: 18-19). The research of Félix (2015) and Fodor (2022) discussed in the literature review also point to the increasing attention of Fidesz and Fidesz-adjacent media on the question of gender and LGBTQI+ rights. This growing negative attention also had measurable effects on societal wide acceptance and prejudice against queer and trans people. According to the Special Eurobarometer 493 (EU

Commission, 2019), in the 2015 to the 2019 period, Hungary was the only EU country to show a reduction – and a significant one at that - in acceptance towards queer and trans people and their rights, like LGR and marriage equality.

The legislative actions taken by the government against LGBTQI+ people, starting with the effective ban on LGR for trans and intersex people in March 2020, also had direct preludes in multiple court decisions that affirmed the rights of queer and trans people in Hungary. Háttér Society, a Hungarian NGO representing members of the LGBTQI+ community in judicial proceedings won cases in Hungarian courts from the regional to the constitutional level (Háttér, 2018a; 2018b; 2020). These, for example, had assured that same sex marriages abroad needed to be recognised in Hungary, trans and intersex refugees need to have access to LGR, and directly before the proposal to ban LGR in law, a regional court ruled against the Government Office in Budapest, forcing them to take action in the paused assessment procedure of trans legal recognition processes (Ibid.). The latter likely directly informed and created the setting for the Fidesz government to choose amending the law about sex/gender on IDs (Appendix A).

On the international level, Butler (2019) notes that the backlash against 'gender' and 'gender ideology' likely originates from the Catholic church, from 2004. The church identified 'gender' as a concept being in opposition to traditional Christian family values and one which threatens "the natural, hierarchical distinction between male and female" (Ibid.). When the United Kingdom and the United States around the same time in 2014 and 2015 legalised same sex marriage, this coincided with "trans people experience[ing] a dramatic increase in visibility with the rise of trans actress Laverne Cox and Caitlyn Jenner's headline-grabbing transition, that visibility has resulted in a growing cultural backlash" (Burns, 2019). This historic moment was famously dubbed the "Transgender tipping point" by the Times magazine (Steinmetz, 2014).

For Christian, conservative and far-right NGOs and other political actors, the marriage equality laws, and court decisions meant a major loss in an area that was central in their campaigning for decades. The rapidly increasing visibility of trans people was an issue that they could relatively quicky refocus their attention on, and the Catholic church's previous comments and guidance on the dangers of 'gender ideology' could serve as an ideological bedrock. As mentioned in the introduction, evidence of a common, global anti-gender agenda between different right-wing and gender critical groups in particularly the UK, are the funding routes

and information platforms shared between these often separately mentioned elements (Datta, 2021).

As much of the campaigning and organising on the modern right-wing and in TERF groups are done online, the discourse on anti-gender campaigns and the political debate on trans rights in the UK and the USA are also easily imported into Hungary. The government aligned newspapers like the *Magyar Nemzet* – the same newspaper Fodor (2022) used for her analysis on the prevalence of gender discourse in Hungary – happily platform and bring foreign discussions with very little direct effect on Hungarian society. A recent example would be how J. K. Rowling's comments on the Scottish government plan to reform the Gender Recognition Act and a UK workplace discrimination trial involving Maya Forstater, founder of the single issue, anti-gender campaigning group Sex Matters, inspired sensationalistic articles (Hegy, 2022). Similarly, government funded organisations regularly sponsor the Hungarian translation and release of books important to the anti-gender movement, like *Irreversible Damage* by Abigail Shrier (2020).

Thus, the global anti-gender talking points are imported into the Hungarian political landscape, not directly by the government, but through newspapers and organisations that rely on their funding, making space for the problem representations found within the analysed pieces of legislations. Given the levels of control the government has over these platforms, it is not bold to suggest that this is done with the political agenda of Fidesz in mind. This fits well into the description of populist 'scapegoating' by Ruth Wodak (2015), especially given how claims of masses of sex changing children and teenagers (Shrier, 2020) – even if unsubstantiated – sound like serious issues to consider, and thus perfect to place them in an 'us vs them' moral dichotomy, using fear as a political tool.

Question 4 – Silences and different approaches

What is left unproblematic in these representations of the 'problems'? Where are the silences? Can the 'problems' be thought about differently?

The main, most obviously problematic aspect of the anti-LGBTQI+ legislations in Hungary, is that while the problematisations in them are largely represented as measures to protect children and their "*proper physical, mental and moral development*" (Appendix C), the experiences of queer, trans and intersex children and adults are not taken into consideration.

These legislations – especially Law LXXIX of 2021 (Appendix D) - are not without cross-cultural comparisons to previously accepted similar laws across Europe. Operating on many of the same principles, the infamous Russian homophobic propaganda act was signed into law in 2013, while Section 28 in the UK had been in effect from 1988 to 2003 (Godfrey, 2018). Especially the latter is important to consider, as Section 28 has already been repealed, so testimonials exist from queer and trans people who lived through it, and thus have first-hand experience of what the elimination of LGBTQI+ issues from public discourse leads to. These testimonials can provide us with valuable insight over the likely silences, effects, and the perhaps unforeseen side-effects of the legislation. One English teacher recalls his experience teaching at a UK school during this period:

> "After section 28 came in, there was certainly a difference in school environments. A lot of teachers did not want to deal with the subject out of fear. Bigoted teachers were emboldened. A lot of schools pretended that homosexuality did not exist and it allowed a lot of misinformation, prejudice and abuse to go unchallenged. And, of course, it had a terrible effect on young people: students suffered homophobic abuse in silence and teachers and schools did nothing about it." (Michael Dance in Godfrey, 2018)

This should lead us to think about these laws from the perspective of children, rather than from the situatedness of 'concerned parents', which is the perspective that the questions of the referendum (Appendix E) seem to be placing the reader in. Broad meta-analyses into the mental health of LGBTQI+ youth suggests that this demographic "report[s] elevated rates of emotional distress, symptoms related to mood and anxiety disorders, self-harm, suicidal ideation, and suicidal behavior when compared to heterosexual youth" (Russel & Fish, 2016: 470). However, with some protective factors in place, like inclusive school policies and sex education curriculum that mentions SOGIESC minorities, accepting families and the ability for LGBTQI+ youth to be out and open about their identities, most of these risks are reduced to levels in the control groups (Ibid.: 474-475). These protective factors are stripped away from queer and trans youth through the law changes.

Another aspect concerning children left unproblematic is something I already touched upon briefly as an example in the methodology section. In connection to the Decree by Human Resources Minister (Appendix B) codifying adoption as only a possibility for married couples, Kálmán (2021) notes that married couples tend to be the most selective in choosing the 'right child' to adopt. The problematisation within the law thus leaves those children who do not fit

the archetype of classically favoured adoptee - white, ethnically Hungarian, able-bodied and at most preschool aged - as unlikely to find a way out of the foster system into a loving home. Many of the children stuck in the system not being adopted are part of the Romani minority in Hungary, which means that the problematisation present opens a racialised dimension of discrimination.

In the case of the ban on legal gender recognition, an aspect that is often not considered in discussion surrounding it - and neither did the Fidesz government address it, unsurprisingly, in a separate piece of legislation - is how in the Hungarian legal system the available names a person can choose is tied to a strict binary based on their legal sex/gender. This means that trans and intersex are not only ineligible to change the sex/gender on their documents, but also cannot change their names to one matching their lived gender. In everyday practice, this means that in any situation that requires the showing of official document, trans and intersex people who transition and change their presentation are instantly outed. When a politician in the Hungarian opposition wanted to read out messages about these effects from her trans constituents in the initial debate of the law proposal, she was interrupted and shut down by the KDNP MP at the head of the parliament committee, saying that "how those affected [by the law amendment] see it, is completely indifferent" (Imre Vejkey in Horváth, 2020).

It has been established in European human rights case law, that this infringes on the provisions in Article 7 of the Charter of Fundamental Rights of the European Union (EU, 2012/C 326/02) for people's inherent right to respect of their private and family life. The problematisation in the analysed law changes and the referendum question can also be thought about as a form of government overreach. Taking Article 7 of the Charter as a baseline again, as well Article 11 about the freedom of expression, the laws can be understood as policing LGBTQI+ identities and expressions in public spaces. Thus, the Fidesz government is legislating outside the sphere of the public and inside people's private lives, which is typically an issue right-wing parties and political commentators problematise.

Question 5 – Effects

What effects are produced by these representations of the problem?

As discussed in the methodology section, the WPR-approach (Bacchi, 2009) is not concerned with the mainstream outcome and evaluation modus operandi in policy analysis, but

is devoted to reflecting on the invisibilised harm caused by the problem representations. Taking the advice of Bacchi, the effects produced are considered in three categories.

Discursive effects

The discourse created by the anti-LGBTQI+ laws and the proposed referendum suppressed, or turned attention – partially – away from many other aspects of the political discussion in Hungary. As mentioned before, the first of the four legislative changes (Appendix A) was proposed in the turmoil of the first Covid lockdown, and the subsequent changes were announced periodically until well into 2021. If we look at this through the lens of populism, especially as a political style or as a method of scapegoating, we can perceive these law amendments in a different light. With the messaging of the opposition inadvertently split in its critique of the government, between the handling of the pandemic with one of the highest mortality rates in Europe, and at the same time curtailing LGBTQI+ rights, the government could minimise the scrutiny it faced for either. Furthermore, as Wodak (2015) notes to be a common feature of populist political messaging, the victim-perpetrator roles were reversed by Fidesz, and in this way opposition MPs and NGOs could be blamed for not putting away political differences for the greater good in a time of crisis.

Similarly, as the anti-LGBTQI+ propaganda law amendments were bundled together with a new legislation on "*tougher action against paedophile offenders*" (Appendix D), Fidesz reconstructed the discourse around queer and trans rights as one that also contains paedophilia. Propagating this damaging and unsubstantiated understanding LGBTQI+ rights has been a long-standing weapon of choice for the far-right in Hungary, going as far as printing fake posters that advertise "pedo rights" and the abolishing of age of consent legislation in the name of Budapest Pride, a mainstream Hungarian LGBTQI+ advocacy organisation (Medvegy, 2019). The discursive effect of this has been that opposition parties in the run up to the 2022 election, and NGOs in favour of LGBTQI+ rights and comprehensive sex education in schools could simply not campaign directly for these issues, or they would have been tainted as supporters of paedophilia in the pro-government media. Rather, they were forced to take the stance of staying away from this issue or supporting voting invalidly – with neither yes or no, but rather crossing both answers - on the connected referendum (Appendix E).

It has also been discussed before, that the openly anti-LGBTQI+ platform of the government and the media conglomerate connected to it has tangible effects – in the form of measurably

increasing prejudice against SOGIESC minorities - on the attitudes of the population (EU Commission, 2019). When official government resources and party officials go on record to compare LGBTQI+ people to paedophilia (Herczeg, 2019) and amend laws with this messaging, then individual members of society with similar prejudices feel emboldened in their beliefs and actions. This can manifest in an increase of violence against visible queer and trans people, both in the form of verbal and physical attacks. At the peak of the political coverage about Law LXXIX of 2021 (Appendix D), multiple incidents about physical assaults were reported where the perpetrators specifically targeted victims who they thought were queer (Herczeg, 2021).

Subjectification

Bacchi (2009) notes that problem representations in policies and laws produce subjects and connect meanings to them, like typical behaviours. Here, it is important to clarify the fact, that before the Human Resources Minister's Decree 25/2020 (X. 5) came into force, queer people had the opportunity to adopt through the single-adopter application process. Furthermore, it is not unusual that queer people only later in their life realise they are lesbian, gay or queer, or are bisexual who were earlier in a heterosexual relationship. Sometimes trans people end up in same-sex relationships after their own transitions. Hence, there are and always have been scenarios where LGBTQI+ become parents one way or another, but then later go on to have a same-sex partnership, creating rainbow families. Through the stigmatisation of queer identities, and the constitutional commitment to define families as a heterosexual couple with one or more children, rainbow families find their material realities drawn up outside what the law and public discourse depicts as possible.

This can have serious consequences in situations where outsiders to the rainbow families do not understand how they came to be. As queer people who wish to be parents are likened to groomers and paedophiles not just by fringe extremists, but by the government (Herczeg, 2019), individuals in the proximity of rainbow families could end up taking up this same point of view, and escalate the situation that could be traumatic for especially the children involved. Society becomes bifurcated along the lines of those members of society who understand LGBTQI+ issues and the people subjectified, and those who believe the government constructed image of queer and trans people. The populist us vs them distinctions between the

'righteous and moral' cis and heterosexual members against the queer and trans people who are a threat to children, and by extension the nation, are clear and not without effects.

Lived effects

In the aftermath of the acceptance of the four analysed pieces of legislations, as well as an election campaign that vilifies queer people and uses the anti-gender hysteria of the referendum to encourage voters to the polls, it is unassuming to say that Hungarian LGBTQI+ people are less safe than they were before the pandemic. The visibility of queer and trans people in Hungary has never been so high, and with social media initiatives like the *Family is family* (Nótin, 2021) campaign, attention was also brought to the growing number of allies the community has, in and outside the country. Despite this, many queer and trans people fear that they have no future in Hungary, and it is not out of the realm of possibilities that future anti-LGBTQI+ legislation will follow as part of the backlash on gender. The emigration of queer and trans people from Hungary is likely to thus continue, perhaps at an increased rate.

Moreover, as meta-analysis of research on the mental health of LGBT people highlights (Russel & Fish, 2016), the societal-wide prejudices against queer and trans identities show relations to worse mental health outcomes for LGBTQI+ people. Hence, it is likely that anxiety, depression, and similar indicators are going to rise within the community. Next to the mental health outcomes, somatic ones are also important to mention. Comprehensive sexual education in schools that mention safe sex options for queer and trans youth could be characterised as "*promoting homosexuality*" (Appendix D) and so will likely be prohibited due to the vague wording and lack of clear definition in the law. Without any form of sex education in schools, it is left to the parents, or the queer and trans youth themselves to research and discuss important topics in connection to sexual health like STIs, HIV, PrEP and similar topics. There is a real danger that this could lead to a future increase in infection rates in STIs among young queer and trans people.

Question 6 – Problem production and disruption

How/where are these representations of the 'problems' produced, disseminated and defended? How could it be questioned, disrupted and replaced?

As mentioned in the literature review and in the theory section on populism, the current state of affairs around the discourse of gender and LGBTQI+ rights has a lot to do with the

conscious effort of Fidesz and KDNP to empty the meaning of the word 'gender', and fill it with a set of loosely connected ideas (Grzebalska & Pető, 2017). Due to the lack of understanding around the meaning of the word, the far-right in Hungary can use it as a metaphorical box to sort different, previously successfully used, but now slightly out-of-date/overused opponent concepts like anti-EU sentiment, migration, thinly veiled antisemitic criticism of George Soros (Echikson, 2019) and the NGOs – partially – funded by his foundations. The burden to explain and debunk misconceptions about gender, and disrupt the current hegemonic problematisation fall on members of the civil society and the small group of scholars in Hungarian gender research. The platforms available to these groups are incomparably small next to the state funded pro-Fidesz media.

Thanks to the control of multiple key facets of the media including national television, as well as the financial means to purchase orders of magnitudes more visibility for their political agenda in public spaces, Fidesz can reach broader sections of the population than any opposition party. This is combined with political messaging that is simply more easily digestible for the average voter, who is situated outside of both neoliberal gender mainstreaming discussions, gender or queer research and/or LGBTQI+ activism. Instead of requiring a robust understanding of different theoretical paradigms and concepts, the right-wing depiction of gender provides an alternative, in which the ideological heavy lifting is already done for the audience, condemning it to the negative realm of the bisected populist construction of society.

The patterns underlined in *Question 3,* especially concerning the late arrival, but quick boom of discourse on 'gender ideology' in Hungary (Fodor, 2022) suggests that it was not an organic process, rather a conscious importation of anti-gender talking points by Fidesz and the affiliated right-wing media for political gain. As evidence to this claim, let us consider the platforming of the tweets and essay of J. K. Rowling about her gender critical views and opinion on trans rights in the United Kingdom legal context (Hegyi, 2022), or the release *of Irreversible Damage: The Transgender Craze Seducing Our Daughters* (Shrier, 2020) in Hungarian in a government affiliated publishing house. Both authors base some or most of their important claims in connection to trans children and adolescents on the concept of Rapid Onset Gender Dysphoria (Littman, 2020), and on misrepresented statistics about the dramatically perceived increase of referrals to youth gender identity clinics in the UK. The point Rowling and Shrier both give prominence to, is that there is a social contagion like spreading of trans identities

between adolescents, leading many of them to transition without proper considerations. The study this theory is based on has been discredited due to extensive methodological mistakes, (Restar, 2019) and the concept of social contagion in connection to gender identity thoroughly refuted by trans academics (Ashley, 2020).

For this analysis these are important considerations, as the amendment to the Fundamental Law (Appendix C), the homophobic propaganda law (Appendix D) and the questions of the 2022 referendum (Appendix E) all suggest in their wording that there is an ROGD-like phenomenon and medical transition-craze among children and adolescents in Hungary too. However, in Hungary trans-specific healthcare has never been accessible for under-18s, not even in the form of evidence based, temporary and reversible treatments like puberty blockers used in multiple countries, including Denmark. Thus, protecting the right of children to "*the proper identity corresponding to their birth sex*" (Appendix C) in the constitution can only be described as frivolous at best, and thus rather, politically motivated.

The disruption of the problem representations found in the analysed legislation looks like an impossible task given the strong grasp Fidesz and KDNP have on all branches of power. There have been suggestions in Hungarian academia to redefine gender and disseminate this new meaning as an alternative to both the government's and Queer theory's understanding of the word (Kováts, 2019; 2022), but these unfortunately contain exclusionary, biological essentialist conceptual logics, and thus rather contribute to the anti-gender backlash than dismantle it. As the EU Commission launched an official infringement procedure against Hungary (European Commission, 2021) as a reaction to the homophobic propaganda law (Appendix D), there is some hope that due to international pressure the analysed legislation could get at least partially revisited and some of the problematic aspects changed. However, given the lack of persuading power of the EU and the slow handling of similar cases does not project significant positive changes for the LGBTQI+ community in Hungary.

In the global sense, I share the belief of Pearce et. al (2020) that with time, the feminist movement - split today over two sides of the anti-gender backlash - will unite again "around a shared interest in sex liberation and feminist freedom for all" (p. 693), and successfully challenge the Christian conservative and far-right structures of oppression that marginalise women and SOGIESC minorities on the same ideological basis.

Conclusion

At the beginning of this thesis, I set out to research the connection of Hungarian anti-LGBTQI+ legislation signed into law in 2020 and 2021 to the global anti-gender movement, and how other concepts, like the safety of children or traditional family values intersect within this context.

Given all the considerations from the literature review, theoretical overview and the WPR-analysis of anti-LGBTQI+ legislation in Hungary, I argue that the anti-gender backlash in Hungary is best explained as a political tool at least partially imported purposefully into the country by the Fidesz-KDNP government, and then artificially placed into the centre of political discourse during the pandemic. The original use of anti-gender discourse enabled the government to refuse EU legislation focusing on gender equality and women's rights issues that it opposed on ideological grounds (Krizsán & Roggeband, 2021), and with time constructed the current, overloaded meaning of gender to turn the public opinion against these policies. Some of which would have likely been backed by the majority of the public, like the Istanbul Convention.

A sharp exacerbation of the anti-gender rhetoric was identifiable from the Hungarian government since 2020 (Fodor, 2022). This was done in part to move attention and scrutiny away from the government's handling of the pandemic, as the country ranked at the second highest in death per capita in Europe (Statista, 2022) and the lockdown measures were unpopular among the right-wing Fidesz base. Another part of the equation was the long-standing opposition of Fidesz and KDNP to LGBTQI+ rights. The global anti-gender backlash of the last decade created an international political climate from which Fidesz could borrow talking points and descriptions of foreign phenomena to justify domestic actions about the rights of queer and trans people. The concepts of protecting children, family values and Christian morality serve as a shield from criticism, as through these ideas, the government parties can depict themselves as benevolent, even when they are restricting the human rights of LGBTQI+ Hungarians.

The global anti-gender movement provided much of the ideological basis for the recent legislative actions of the Hungarian government. Further research in the future should investigate how the Hungarian laws will have informed, if at all, anti-LGBTQI+ legislation in other countries.

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Appendices

Appendix A: The relevant part in Section 33 of the Law XXX of 2020, effectively banning legal gender recognition for trans and intersex people

Original:

„33. Az anyakönyvi eljárásról szóló 2010. évi I. törvény módosítása

33. §   (1) Az anyakönyvi eljárásról szóló 2010. évi I. törvény (a továbbiakban: At.) 3. §-a a következő x) ponttal egészül ki:
(E törvény alkalmazásában)
„x) **születési nem: az elsődleges nemi jelleg, illetve kromoszóma alapján meghatározott biológiai nem.**"

(2) Az At. 69/B. § (1) bekezdés b) pont be) alpontja helyébe a következő rendelkezés lép:
(**A személyazonosító adatok nyilvántartása tartalmazza az érintett**)
„be) **születési nemét**,"

(3) Az At. 69/B. § (3) bekezdése helyébe a következő rendelkezés lép:
„(3) Az (1) bekezdés b) pont be) alpontjában **meghatározott adat nem változtatható meg**.""

Translation:

"33. Amendment of Law I of 2010 about the birth certificate registration procedure

Paragraph 33   (1) Paragraph 3 of Law I of 2010 about the birth certificate registration procedure (Tl. from here on) is amended with the following x) section:
(In the implementation of this law)
"x) **birth sex: biological sex determined based on primary sex characteristics and chromosomes**."

(2) The Tl. 69/B paragraph (1) section b) subsection be) is replaced with the following:
(**The personal identification data record contains the person's**)
"be) **birth sex**,"

(3) The Tl. 69/B paragraph (3) is replaced with this following motion:
"(3) **The data** specified in paragraph (1) section b) subsection be) **cannot be changed**.""

Source: Hungarian Official Gazette. *Law XXX of 2020 about the amendment of certain administrative matters, and on free transfer of wealth (2020)*. 2020/125. Section 33. Budapest.

Appendix B: The relevant part of Decree 25/2020 (X. 5) of the Human Resources Minister of Hungary, making it effectively impossible for non-married couples to adopt, closing a legal loophole LGBTQI+ people could use

Original:

„Az emberi erőforrások minisztere 35/2020. (X. 5.) EMMI rendelete
[..]

A személyes gondoskodást nyújtó **gyermekjóléti, gyermekvédelmi intézmények**, valamint személyek szakmai feladatairól és működésük feltételeiről szóló 15/1998. (IV. 30.) NM rendelet módosítása

[…]

"(5) Az Nmr. 147. § (3) bekezdése helyébe a következő rendelkezés lép:

„(3) **Ha** az illetékességébe tartozó alkalmas örökbe fogadni szándékozók között **nincs a gyermek számára megfelelő örökbe fogadni szándékozó házaspár**, a szakszolgálat 5 munkanapon belül értesíti az országos örökbefogadást elősegítő szervet annak érdekében, **hogy a gyermek házaspár általi örökbefogadását más szakszolgálat illetékességébe tartozó örökbe fogadni szándékozó házaspárok közvetítésével segítse elő**.""

Translation:

"The Human Resources Minister's 35/2020 (X.5.) HRM decree
[..]

The amendment of Decree 15/1998 (30/04) Ministry of Welfare about the professional duties of those institutions and persons providing **child welfare and child protective services** and the conditions of their operations

[…]

"(5) The MoW Decree Paragraph 147 Section (3) is replaced with the following:

"(3) **If there are no married couples suitable for the child among the list of suitable candidates** intending to adopt within its jurisdiction, then the specialised service shall contact the national adoption agency within 5 working days in order **to facilitate the adoption of the child by a married couple from those married couples belonging to the jurisdiction of another specialised service.**"

Source: Hungarian Official Gazette. *The Human Resources Minister's 35/2020 (X.5.) HRM decree (2020)*. 2020/219. Budapest.

Appendix C: The relevant part of 9th amendment of the Hungarian constitution, enshrining discrimination against LGBTQI+ people in the Fundamental law

Original:

„Magyarország Alaptörvényének kilencedik módosítása (2020. december 22.)

 Az Országgyűlés mint alkotmányozó hatalom az Alaptörvény 1. cikk (2) bekezdés a) pontjában meghatározott hatáskörében eljárva az Alaptörvényt a következők szerint módosítja:

1. cikk

Az Alaptörvény L) cikk (1) bekezdése helyébe a következő rendelkezés lép: „(1) Magyarország védi **a** házasság intézményét mint egy férfi és egy nő között, önkéntes elhatározás alapján létrejött életközösséget, valamint a családot mint a nemzet fennmaradásának alapját. A családi kapcsolat alapja a házasság, illetve a szülő-gyermek viszony. **Az anya nő, az apa férfi**."

[…]

3. cikk

Az Alaptörvény XVI. cikk (1) bekezdése helyébe a következő rendelkezés lép:

„(1) Minden gyermeknek joga van a megfelelő testi, szellemi és erkölcsi fejlődéséhez szükséges védelemhez és gondoskodáshoz. **Magyarország védi a gyermekek születési nemének megfelelő önazonossághoz való jogát**, és biztosítja a hazánk alkotmányos önazonosságán és keresztény kultúráján alapuló értékrend szerinti nevelést.""

Translation:

"The 9th amendment of the Fundamental Law of Hungary (22 December 2020)
The Parliament as constitutional power modifies the Fundamental Law according to the competence defined by Article 1, Paragraph (2), Section a) of the Fundamental Law in the following way:

Article 1

Article L Paragraph (1) of the Fundamental Law is replaced by the following: "(1) Hungary protects the institution of marriage as a voluntary union between a man and a woman, and the family as the basis of the survival of the nation. The basis of the family is the marriage and the parent-child relation. **The mother is a woman, the father is a man.**"

[…]

Article 3

Article XVI Paragraph (1) of the Fundamental Law is replaced by the following:

"(1) Every child has the right to protection and care ensuring proper physical, mental and moral development. **Hungary protects children's right to the proper identity corresponding to their birth sex**, and ensures upbringing according to the values based on the constitutional identity and Christian culture of our country."

Source: Hungarian Official Gazette. *The 9th amendment of the Fundamental Law of Hungary (2020).* 2020/285. Budapest.

Appendix D: The relevant parts of Law LXXIX of 2021, commonly known as the homophobic propaganda law

Original:

2021. évi LXXIX. törvény a **pedofil bűnelkövetőkkel szembeni szigorúbb fellépésről**, valamint **a gyermekek védelme érdekében** egyes törvények módosításáról

1. § (1) A gyermekek védelméről és a gyámügyi igazgatásról szóló 1997. évi XXXI. törvény (a továbbiakban: Gyvt.) „A törvény célja és alapelvei" alcíme a következő 3/A. §-sal egészül ki: „3/A. § A gyermekvédelmi rendszerben **az állam védi a gyermekek születési nemének megfelelő önazonossághoz való jogát.**"

(2) A Gyvt. a következő 6/A. §-sal egészül ki: „6/A. § E törvényben foglalt célok és gyermeki jogok biztosítása érdekében tilos tizennyolc éven aluliak számára pornográf, valamint olyan tartalmat elérhetővé tenni, amely a szexualitást öncélúan ábrázolja, illetve **a születési nemnek**

megfelelő önazonosságtól való eltérést, a nem megváltoztatását, valamint a homoszexualitást népszerűsíti, jeleníti meg."

[…]

3. § A gazdasági reklámtevékenység alapvető feltételeiről és egyes korlátairól szóló 2008. évi XLVIII. törvény 8. §-a a következő (1a) bekezdéssel egészül ki: „(1a) Tilos az olyan reklámot tizennyolc éven aluliak számára elérhetővé tenni, amely a szexualitást öncélúan ábrázolja, illetve **a születési nemnek megfelelő önazonosságtól való eltérést, a nem megváltoztatását, valamint a homoszexualitást népszerűsíti**, jeleníti meg."

[…]

9. §

(2) Az Mttv. [A médiaszolgáltatásokról és a tömegkommunikációról szóló 2010. évi CLXXXV. Törvény] 9. § (6) bekezdése helyébe a következő rendelkezés lép: „(6) Azt a műsorszámot, **amely alkalmas a kiskorúak fizikai, szellemi vagy erkölcsi fejlődésének kedvezőtlen befolyásolására**, különösen azáltal, hogy meghatározó eleme az erőszak, **a születési nemnek megfelelő önazonosságtól való eltérésnek, a nem megváltoztatásának, valamint a homoszexualitásnak a népszerűsítése, megjelenítése**, illetve a szexualitás közvetlen, naturális vagy öncélú ábrázolása, az V. kategóriába kell sorolni. Az ilyen műsorszám minősítése: tizennyolc éven aluliak számára nem ajánlott."

[…]

10. §

(2) A Csvt. 1. § [A családok védelméről szóló 2011. évi CCXI. Törvény] (2) bekezdése helyébe a következő rendelkezés lép: „(2) A rendezett családi viszonyok védelme és **a gyermekek születési nemének megfelelő önazonossághoz való jogának érvényesülése** különös jelentőséggel bír a testi, a szellemi és a lelki egészség megóvása érdekében."

11. §

(1) A nemzeti köznevelésről szóló 2011. évi CXC. törvény (a továbbiakban: Nktv.) 9. §-a a következő (12) bekezdéssel egészül ki:

„(12) A tanulók részére a szexuális kultúráról, a nemi életről, a nemi irányultságról, valamint a szexuális fejlődésről szóló foglalkozás megtartása során különösen figyelemmel kell lenni az Alaptörvény XVI. cikk (1) bekezdésében foglaltakra. E foglalkozások nem irányulhatnak **a születési nemnek megfelelő önazonosságtól való eltérés, a nem megváltoztatása, valamint a homoszexualitás népszerűsítésére**."

Translation:

"Law LXXIX of 2021 **about the tougher action against paedophile offenders, and about the amendment of certain laws to protect children**

Paragraph 1. (1) In Law XXXI of 1997 about the protection of children and guardianship administration (ChPL. from now on) the subtitle "The goal of the law and its basic principles" is amended with the following Paragraph 3/A: "Paragraph 3/A In the Child Protection System the state **protects children's right to the proper identity in accordance with their birth sex."**

(2) The ChPL is amended with the following Paragraph 6/A: "Paragraph 6/A According to the goals of the law and in accordance with ensuring the rights of children, it is **forbidden to show** under-18s pornographic content, and **content which** depicts sexuality for selfish purposes, or **shows identity different from the one in accordance with birth sex, the change of sex, or content that popularises, showcases homosexuality**."

[…]

Paragraph 3. Law XLVIII of 2008 about the basic conditions and certain limitations of economic commercial activity, Paragraph 8 is amended with the following (1a) Section: "(1a) It is forbidden to make commercials available to under-18s which **depicts** sexuality for selfish purposes, or **shows identity different from the one in accordance with birth sex, the change of sex, or content that popularises, showcases homosexuality."**

Paragraph 9.

[…]

(2) Law CLXXXV of 2010 about media services and mass communication Paragraph 9 Section (6) is replaced by the following provision: "(6) A programme, which is **capable of negatively affecting the proper physical, mental and moral development of underage children**, especially if its key component is violence, **identity different from the one in accordance with birth sex, the change of sex, the popularisation and showcasing of homosexuality, or the direct, naturalistic or selfish depiction of sexuality,** shall be classified in category V. Media programmes in this classification are not recommended for under-18s."

[…]

Paragraph 10.

(2) Law CCXI of 2011 about the protection of Families (FPL from now on) Section (2) is replaced with the following provision: "(2) The protection of orderly family relations and the enforcement of children's rights **to the proper identity corresponding to their birth sex** is of particular importance to ensuring proper physical, mental and emotional health."

Paragraph 11.

(1) Law CXC of 2011 about national public education (NPEL from now on) Paragraph 9 is amended with the following (12) section:

"(12) When holding a workshop for students about sexual culture, sex life, sexual identity as well as of sexual development, it should be done with specific awareness of the provisions within Article XVI Section (1) of the Fundamental Law. These workshops cannot be directed at the showcasing of **identity different from the one in accordance with birth sex, the change of sex, or the popularisation of homosexuality." "**

Source: Hungarian Official Gazette. *Law LXXIX of 2021 about the tougher action against paedophile offenders, and about the amendment of certain laws to protect children (2021)*. 2021/118. Budapest.

Appendix E: Questions in the Hungarian Referendum held on 3 April 2022

Original:

"1. Támogatja-e Ön, hogy **kiskorú gyermekeknek köznevelési intézményben** a szülő hozzájárulása nélkül **szexuális irányultságokat bemutató** foglalkozást tartsanak?

2. Támogatja-e Ön, **hogy kiskorú gyermekek számára nemi átalakító kezeléseket népszerűsítsenek**?

3. Támogatja-e Ön, hogy **kiskorú gyermekeknek fejlődésüket befolyásoló szexuális médiatartalmakat** korlátozás nélkül mutassanak be?

4. Támogatja-e Ön, hogy **kiskorú gyermekeknek a nem megváltoztatását bemutató** médiatartalmakat jelenítsenek meg?"

Translation:

1. Do you support **underage children in educational institutions** to take part in workshops without the consent of parents, that **showcase sexual orientations**?

2. Do you support **the promotion of sex reassignment treatments to underage children**?

3. Do you support **sexual media content** to be shown without restrictions **to children, that could affect their development**?

4. Do you support **media content depicting sexual reassignment to be shown to underage children**?

Source: National Elections Office. *Hungarian Referendum 3 April 2022.* Retrieved 23 March 2022, from https://vtr.valasztas.hu/nepszavazas2022