



**Human Rights Watch Submission to the Committee on the Elimination of
Discrimination against Women (CEDAW) on Hungary’s periodic report for the 80th
CEDAW Pre-Session
March 2021**

Human Rights Watch writes in advance of the 80th pre-session of the Committee on the Elimination of Discrimination against Women relating to Italy’s compliance with the Convention on the Elimination of All Forms of Discrimination against Women (“the Convention”). This submission addresses issues related to articles 1, 2, 3, 5, 10, and 16 of the Convention. The concerns highlighted below derive from previous and ongoing documentation of human rights violations in Hungary.

**Perpetuation of Stereotyped Gender Roles and Attacks on Advancing Gender Equality
(Articles 1, 2, 3, 5, and 10)**

The Hungarian government has repeatedly issued rhetorical attacks on gender equality, claiming that so called “gender ideology” undermines “traditional family values,” promotes illegal migration, and encourages homosexuality.¹ These rhetorical attacks have taken shape in a series of policies that undermine the rights of women and girls, including and in several aspects particularly those of lesbian, bisexual, and transgender (LBT) women and girls.

In May 2020, Hungary’s parliament banned legal gender recognition meaning transgender and intersex women in Hungary cannot legally change the gender or sex (both called “nem” in Hungarian) assigned to them at birth. The prohibition flies in the face of international norms and specifically European Convention on Human Rights case law. In a 2002 case involving a trans person in the United Kingdom, the court held that refusal to change identification documents and legal identities could amount to discrimination and

¹ Zoltán Kovács, “Yes to protection of women, no to gender ideology and illegal migration,” post to About Hungary (blog), May 7, 2020, <http://abouthungary.hu/blog/yes-to-protection-of-women-no-to-gender-ideology-and-illegal-migration/> (accessed February 10, 2021).

violate the right to respect for private lives.² In a case in 2003, the court found that Germany had failed to respect an applicant’s “freedom to define herself as a female person, one of the most basic essentials of self-determination.”³ When governments force trans people to carry documents that don’t match their identity and appearance, any situation wherein documents are requested or appearance is scrutinized may become fraught with potential for violence and humiliation.⁴

In October 2018, Hungary banned gender studies in state universities.⁵ The ban inhibits freedom of expression and access to information, particularly with regards to issues such as gender-based discrimination and gender-based violence that disproportionately impact women and girls, including and sometimes especially LBT women and girls.

In 2019, Prime Minister Viktor Orbán introduced the Family Protection Action Plan, another effort to instrumentalize a so-called “pro-family” agenda to perpetuate stereotyped gender roles. This plan includes measures that encourage couples to reproduce, including incentives for having four or more children. Human Rights Watch has raised questions about the specific details of the plan, including any restrictions on eligibility for the benefits outlined in the Action Plan that may be based on residency status, country of birth/origin, religion, sexual orientation, gender identity, or marital status, and whether there are special measures to address how such policies may further trap individuals in abusive relationships, especially women.⁶ The government had not responded at this writing.

In December 2020, the minister responsible for families, Katalin Novák, released a video telling women to relish their roles as child bearers and caregivers, adding that Hungarian women should not give up their “privileges over some misguided fight for emancipation.”⁷

² European Court of Human Rights, *Christine Goodwin v. United Kingdom* [Application No. 28957/95], judgement of July 11, 2002, available at <http://hudoc.echr.coe.int/eng?i=001-60596> (accessed February 10, 2021).

³ European Court of Human Rights, *Van Kuck v Germany* [Application No. 35968/97], judgement of June 12, 2003, available at <http://hudoc.echr.coe.int/eng?i=001-61142> (accessed February 10, 2021).

⁴ Lydia Gall, “Hungary Seeks to Ban Legal Gender Recognition for Transgender People,” commentary, Human Rights Watch dispatch, April 3, 2020, <https://www.hrw.org/news/2020/04/03/hungary-seeks-ban-legal-gender-recognition-transgender-people>.

⁵ Keno Verseck, “Hungary’s university ban on gender studies heats up culture war,” *Deutsche Welle*, October 18, 2018, <https://www.dw.com/en/hungarys-university-ban-on-gender-studies-heats-up-culture-war/a-45944422> (accessed February 10, 2021); Lydia Gall (Human Rights Watch), “Hungary’s hypocritical war on universities,” commentary, *euobserver*, November 6, 2018, <https://www.hrw.org/news/2018/11/06/hungarys-hypocritical-war-universities> (accessed February 10, 2021).

⁶ Letter from Human Rights Watch to Katalin Novák, Minister of State for Family, Youth and International Affairs, May 29, 2019, https://www.hrw.org/sites/default/files/media_2021/02/Human%20Rights%20Watch%20Letter%20to%20Minister%20of%20State%20for%20Family%20and%20Youth%20and%20International%20Affairs%20-%20May%2029%202019.pdf.

⁷ Lydia Gall, “Hungary’s Family Minister Undermines Equality for Women,” commentary, Human Rights Watch dispatch, December 17, 2020, <https://www.hrw.org/news/2020/12/17/hungarys-family-minister-undermines-equality-women>.

The day after the video's release, Hungary's parliament, where the ruling party has a two-thirds majority, adopted amendments to the constitution, including language that "the mother is female, and father is male" and effectively banning same-sex couples from adopting children.⁸

Alongside perpetuating stereotyped and discriminatory gender roles, curtailing lesbian, gay, bisexual and transgender (LGBT) people's rights, and restricting access to information, the Hungarian government has also used its attack on so-called "gender ideology" to justify its failure to fulfill other obligations under CEDAW, including its obligations to address domestic and other gender-based violence and ensure access to sexual and reproductive health and rights, as addressed below.

We recommend that the Committee ask the government of Hungary:

- What actions is the government taking to ensure that policies, including the Family Protection Action Plan, do not discriminate on the basis of residency status, country of birth/origin, religion, sexual orientation, gender identity, or marital status?
- What actions is the government taking to ensure that policies including the Family Protection Action Plan do not potentially compel some women to stay with abusive partners due to the need for housing, loan repayments, and other benefits?
- How is the government working to combat persistence of discriminatory gender roles and stereotypes and ensure equality, including with regards to participation in the labor market, household and caregiving duties, and legal ability to adopt children?
- Will the government revisit the prohibition on legal gender recognition for transgender people in order to align its policies with its obligations under international law?
- What steps is the government taking to protect lesbian, bisexual and transgender people from discrimination?

⁸ "Hungary: Intensified Attack on LGBT People," Human Rights Watch news release, November 18, 2020, <https://www.hrw.org/news/2020/11/18/hungary-intensified-attack-lgbt-people>; Lydia Gall, "Hungary's Family Minister Undermines Equality for Women," commentary, Human Rights Watch dispatch, December 17, 2020, <https://www.hrw.org/news/2020/12/17/hungarys-family-minister-undermines-equality-women>.

Domestic Violence and Other Forms of Gender-Based Violence (CEDAW articles 1, 2, 3, and 16)

In spite of continuously high rates of reported domestic violence,⁹ Hungary has continued to fail to meet its obligations under CEDAW to address domestic violence, including specific recommendations made by the Committee in 2013 and the recommendations outlined in General Comment no. 35.

During the last review period, Human Rights Watch documented chronic violence against women by their intimate partners and the challenges women face in seeking state protection and services.

This includes:

- gaps in Hungary's legal and policy framework in responding to domestic violence;
- inadequate police response to domestic violence;
- frequent failure to prosecute and punish perpetrators; and,
- lack of sufficient shelter spaces, services, and support for victims of domestic violence.

All of the above are compounded by officials' attitudes that condone abuse.¹⁰

Human Rights Watch also documented how women belonging to Hungary's Romani minority are particularly disadvantaged in accessing protection from domestic violence.¹¹ Mistrust of the authorities runs deep as a result of general discrimination faced by the Roma community, making Roma women and girls less likely to seek protection from the police when they experience domestic violence. Moreover, Roma women experiencing abuse may face difficulties reaching out for help in their communities due to issues including stigma, family pressure, and lack of financial resources.

While domestic violence became a specific criminal offence on July 1, 2013, Human Rights Watch has found that legal gaps and poor implementation of the law continue to leave women without adequate protection from violence. For example, while prosecutors, instead of victims, are responsible for initiating criminal action against the abuser, such action is only initiated after at least two separate instances of domestic violence.

⁹ Hillary Margolis, "Hungary Rejects Opportunity to Protect Women from Violence," commentary, Human Rights Watch dispatch, May 8, 2020, <https://www.hrw.org/news/2020/05/08/hungary-rejects-opportunity-protect-women-violence#>.

¹⁰ Human Rights Watch, *Unless Blood Flows: Lack of Protection from Domestic Violence in Hungary*, November 2013, <https://www.hrw.org/report/2013/11/06/unless-blood-flows/lack-protection-domestic-violence-hungary>.

¹¹ Ibid.

Since the law came into effect in 2013, women’s groups and Human Rights Watch have continued to report on insufficient services and poor police response to rampant domestic violence.¹² During the Covid-19 pandemic, rates of domestic violence are reported to have increased even more.¹³ In spite of this, in March 2020, Hungary rejected ratification of the Council of Europe Convention on Combating Violence against Women and Domestic Violence, known as the Istanbul Convention, which obliges state parties to uphold minimum standards for protection from and prevention and prosecution of violence against women.¹⁴ It also establishes an important standard of inclusion, recognizing everyone’s right to live free from violence, regardless of sexual orientation, gender identity, immigration status, or other characteristics.¹⁵

Hungary’s government justified its rejection by claiming the convention promotes “gender ideology” and that its protection of migrant and refugee women contradicts their efforts to crack down on irregular immigration.¹⁶

We recommend that the Committee ask the government of Hungary:

- What measures has the government taken to ensure there are sufficient services, including shelters, for victims of domestic violence, and that victims are able to access shelters irrespective of age, ethnicity, disability, sexual orientation, or gender identity?
- What measures has the government taken to ensure relevant, continuous, and up-to-date training on response to and the investigation and prosecution of domestic violence for practitioners of all relevant professions, including police, prosecutors, and judges?
- Given the particular challenges faced by women of the Roma minority, what steps is the government taking to ensure they are able to access services and protection from violence without discrimination?

¹² “Hungary: Chronic Domestic Violence,” Human Rights Watch news release, November 6, 2013, <https://www.hrw.org/news/2013/11/06/hungary-chronic-domestic-violence>.

¹³ “A karantén alatt megduplázódott családon belüli erőszak miatti segélykérő telefonhívások száma,” *ATV (Hungary)*, November 25, 2020, <http://www.atv.hu/belfold/20201125-a-karanten-alatt-megduplazodott-csaladon-beluli-eroszak-miatti-segelykero-telefonhivasok-szama> (accessed February 10, 2021).

¹⁴ Zoltán Kovács, “Yes to protection of women, no to gender ideology and illegal migration,” post to About Hungary (blog), May 7, 2020, <http://abouthungary.hu/blog/yes-to-protection-of-women-no-to-gender-ideology-and-illegal-migration/> (accessed February 10, 2021); Hillary Margolis, “Hungary Rejects Opportunity to Protect Women from Violence,” commentary, Human Rights Watch dispatch, May 8, 2020, <https://www.hrw.org/news/2020/05/08/hungary-rejects-opportunity-protect-women-violence#>.

¹⁵ “Europe Treaty on Violence Against Women to Take Effect,” Human Rights Watch news release, April 24, 2014, <https://www.hrw.org/news/2014/04/24/europe-treaty-violence-against-women-take-effect>.

¹⁶ Zoltán Kovács, “Yes to protection of women, no to gender ideology and illegal migration”.

Access to Reproductive Health Care (CEDAW article 16)

Hungary has repeatedly failed to meet international standards for ensuring access to reproductive health care, including emergency contraception and abortion.

In 2013, the Committee made the specific recommendation that Hungary eliminate the prescription requirement for emergency contraception. In 2015, the European Commission made a similar recommendation and approved the over-the-counter sale of the emergency contraceptive ellaOne (ulipristal acetate). However, rather than following this recommendation, the Hungarian government opted to maintain restrictions on access to ellaOne, failing to ensure respect for women's and girls' rights to health, life, and privacy. Hungary's refusal to allow over-the-counter access to ellaOne despite the European Commission's decision means that everyone must see a doctor to procure emergency contraception, including in cases of sexual assault, which may delay or even prevent them from doing so.¹⁷

Alongside preventing reasonable access to emergency contraception, Hungarian law continues to hinder access to abortion. Abortion remains permissible by law upon request up to the twelfth week of pregnancy, or later in cases where there is "severe" or fatal fetal impairment, threat to the life or health of the woman, or the pregnancy is the result of a criminal act.¹⁸ However, the government changed the Constitution in 2011 to include protection of life from the moment of conception.¹⁹ Medical abortion remains unavailable within the country.²⁰ Other barriers such as waiting periods and mandatory "counseling" appointments prevent effective access and continue to stigmatize abortion.²¹ In October 2020, Hungary co-sponsored the anti-abortion Geneva Consensus Declaration on Promoting Women's Health and Strengthening the Family with the United States and 33

¹⁷ Hillary Margolis (Human Rights Watch), "Dispatches: Hungary Tells Women to Wait, commentary, Human Rights Watch dispatch, February 6, 2015, <https://www.hrw.org/news/2015/02/06/dispatches-hungary-tells-women-wait>; "Hungary," European Consortium for Emergency Contraception, last updated September 2015, <https://www.ec-ec.org/emergency-contraception-in-europe/country-by-country-information-2/hungary/> (accessed February 10, 2021).

¹⁸ "Hungary's Abortion Provisions," Center for Reproductive Rights, <https://reproductiverights.org/world-abortion-laws/hungarys-abortion-provisions#fund> (accessed February 10, 2021).

¹⁹ "New Hungarian Constitution Puts Reproductive Rights at Risk," Center for Reproductive Rights press release, April 21, 2011, <https://reproductiverights.org/press-room/new-hungarian-constitution-puts-reproductive-rights-at-risk> (accessed February 10, 2021).

²⁰ "Hungary," Women on Waves, undated, <https://www.womenonwaves.org/en/page/4239/hungary> (accessed February 10, 2021).

²¹ Alexandra Béni, "The abortion policy in Hungary," *Daily News Hungary*, May 30, 2019, <https://dailynewshungary.com/the-abortion-policy-in-hungary/> (accessed February 10, 2021).

other countries.²² Although abortion remains legal at the time of writing, the 2011 constitutional changes as well as the government’s decision to co-sponsor the Geneva Consensus Declaration—a document with no legal weight but which is focused on states committing to promote an anti-abortion approach to reproductive health—raises concerns among activists that more barriers are forthcoming.²³

We recommend that the Committee ask the government of Hungary:

- What measures is the government taking to ensure access to comprehensive sexual and reproductive health care, including abortion and emergency contraception, and to eliminate existing barriers to access?
- Does the government of Hungary, as the United States government has now done, plan to repudiate the Geneva Consensus Declaration and commit to uphold human rights in line with its ratification of this treaty?

Protection of Education from Attack (Article 10)

As recognized by this Committee in its General Recommendation No. 30, attacks on students and schools, and the use of schools for military purposes, disproportionately affect girls, who are sometimes the focus of targeted attacks and are more likely to be kept out of school due to security concerns.²⁴

The Safe Schools Declaration is an inter-governmental political commitment that provides countries the opportunity to express political support for the protection of students, teachers, and schools during times of armed conflict²⁵; the importance of the continuation of education during armed conflict; and the implementation of the *Guidelines for*

²² Kerry Cullinan, “Will Trump’s anti-abortion Geneva Consensus fall apart?” *Open Democracy*, January 25, 2021, <https://www.opendemocracy.net/en/5050/will-trumps-anti-abortion-geneva-consensus-fall-apart/> (accessed February 10, 2021).

²³ Edward Szekeres, “Activists Fear Abortion at Risk in Hungary from Orban’s Family First Crusade,” *Balkan Insight*, November 19, 2020, <https://balkaninsight.com/2020/11/19/activists-fear-abortion-at-risk-in-hungary-from-orbans-family-first-crusade/> (accessed February 10, 2021); “HUNGARY – Is legal abortion at risk from Orban’s ‘family first crusade’?” International Campaign for Women’s Right to Safe Abortion, November 25, 2020, <https://www.safeabortionwomensright.org/news/hungary-is-legal-abortion-at-risk-from-orbans-family-first-crusade/> (accessed February 10, 2021).

²⁴ UN Committee on the Elimination of Discrimination against Women, General Recommendation No. 30, Access to Education, U.N. Doc. CEDAW/C/GC/30 (2013), para. 48. See also African Committee on the Rights and Welfare of the Child, General Comment on Article 22: Children in Situations of Conflict, (2020), para. 78.

²⁵ Safe Schools Declaration, May 28, 2015, https://www.regjeringen.no/globalassets/departementene/ud/vedlegg/utvikling/safe_schools_declaration.pdf (accessed November 6, 2018).

*Protecting Schools and Universities from Military Use during Armed Conflict.*²⁶ As of February 2021, 106 countries have endorsed the Safe Schools Declaration, including 24 European Union, 41 Council of Europe and 25 NATO members. Hungary has yet to endorse this important declaration.²⁷

In September 2020, fellow NATO member, the United Kingdom, urged all countries to endorse the declaration stating that they “conducted a full review and concluded that the Guidelines complement existing international humanitarian and human rights law, reflecting the best operational practice...and facilitates compliance by providing clear, flexible and practical guidance.”²⁸

We recommend that the Committee ask the government of Hungary:

- Why has the government of Hungary not endorsed the Safe Schools Declaration?
- Do any Hungarian laws, policies, or trainings provide explicit protection for schools and universities from military use during armed conflict?

²⁶ Guidelines for Protecting Schools and Universities from Military Use during Armed Conflict, March 18, 2014, http://protectingeducation.org/sites/default/files/documents/guidelines_en.pdf (accessed November 6, 2018).

²⁷ “Safe School Declaration Endorsements,” Global Coalition to Protect Education from Attack, accessed June 29, 2019, <http://www.protectingeducation.org/guidelines/support>.

²⁸ Statement by Sonia Farrey, UK Political Coordinator at the UN, at the Security Council open debate on children and armed conflict, September 10, 2020.