

Status of Human Rights in Hungary for the 39th Session of the Universal Periodic Review

Introduction

1. The European Centre for Law and Justice (ECLJ) is an international, non-governmental organisation dedicated to promoting human rights around the world. The ECLJ also holds Special Consultative status before the United Nations Economic Social Council. The purpose of this report is to discuss human rights in Hungary for the 39th Session of the Universal Periodic Review (UPR).

Background

2. Hungary is a country located in central Europe with an estimated population of 9.6 million people¹. The country is predominately Christian, with 37.2% of the country identifying as Roman Catholic, 11.6% as Calvinist, 2.2% as Lutheran, 1.8% Greek Catholic, and 18.2% as none².

3. Hungary's previous review was held on 4 May 2016. During that review, Hungary received 221 recommendations of which 202 were supported by Hungary³. One recommendation in particular, which was supported by Hungary, was that Hungary "[c]ontinue to enhance access to sexual and reproductive health services for women, in particular women with disabilities, women with low income, women with HIV/AIDS, and women living in rural areas"⁴. While providing and expanding true health services to women is a good thing, it is important to note that the term "sexual and reproductive health" is used as a term synonymous to "induced abortion", which is not a good thing.

4. Viktor Orbán was first elected Prime Minister on 2010⁵. Since then, he has made defending persecuted Christians and those most in need around the world a core pillar of his administration. In 2017 the government launched the Hungary Helps program aimed at providing aid and assistance to those facing persecution around the world⁶. Furthermore, as Christianity remains the most persecuted religion in the world, the position of State Secretary for the Aid of Persecuted Christians was created for the purpose of overseeing that direct aid goes to persecuted Christians⁷. As we will further discuss, Hungary has become a model for providing direct humanitarian aid to those most in need.

Legal Framework

5. Abortion has been legal in Hungary since 1953, but its most recent change to the regulation of abortion occurred in 1992 with the enactment of Act LXXIX of 1992 (Act LXXIX) on the protection of foetal life, which states:

The parliamentary of Hungary, realizing that

- [foetal] life, which starts with conception, deserves respect and protection,

- the protection of [foetal] life may be realized through the increased care of pregnant women, however it is primarily the parents' responsibility to create the circumstances that ensure the healthy development of the [foetus],
- the termination of pregnancies is not a means of family planning and birth control,
- family planning is the right and responsibility of the parents⁸.

6. However, despite constitutional protections and recognition of the fact that life begins at conception, the Act continues to legalise and regulate abortion. Under the Act, abortion is permitted up until 12 weeks gestation if: (1) the “woman’s health is severely endangered; (2) “the [foetus] is *likely*, on medical indications, to suffer from a severe disability or other impairment”; (3) “the pregnancy is a result of a criminal act”; or (4) “the pregnant woman is in a severe crisis situation”⁹. Moreover, abortion is allowed up until 18 weeks gestation if the woman meets any of those requirements and is “partly or fully incapacitated”, or “did not recognize the pregnancy in time due to a health reason for which she cannot be held responsible, or due to a medical error”¹⁰. Abortion is also allowed up until 24 weeks gestation if the “probability of the [foetus]’ having a genetic or teratological malformation reaches 50%”¹¹. Finally, abortion is allowed at any stage of development if the life of the woman is in danger, or “the [foetus] has a malformation that renders postnatal life impossible”¹².

7. In 2012, Hungary enacted a new constitution, Article 2 of which states:

Human dignity shall be inviolable. Every human being shall have the right to life and human dignity; the life of the foetus shall be protected from the moment of conception¹³.

8. Furthermore, under Article 16 of the constitution, “[e]very child shall have the right to the protection and care necessary for his or her proper physical, mental and moral development”¹⁴.

9. Under Article 6 of the Convention on the Rights of the Child (CRC), to which Hungary is a party:

1. States Parties recognize that every child has the inherent right to life.
2. States Parties shall ensure to the maximum extent possible the survival and development of the child¹⁵.

10. Moreover, Article 2 states that “States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child’s or his or her parent’s . . . disability”¹⁶.

11. Additionally, under Article 6 of the International Covenant on Civil and Political Rights (ICCPR) “[e]very human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life”¹⁷.

12. In 2020, Hungary joined the Geneva Consensus Declaration on Promoting Women’s Health and Strengthening the Family:

Furthermore, we, the representatives of our sovereign nations do hereby declare in mutual friendship and respect, our commitment to work together to:

Ensure the full enjoyment of all human rights and equal opportunity for women at all levels of political, economic, and public life;

Improve and secure access to health and development gains for women, including sexual and reproductive health, which must always promote optimal health, the highest attainable standard of health, without including abortion;

Reaffirm that there is no international right to abortion, nor any international obligation on the part of the States to finance or facilitate abortion, consistent with the long-standing international consensus that each nation has the sovereign right to implement programs and activities consistent with their laws and policies¹⁸;

Abortion in Hungary

13. While Hungary has repeatedly affirmed its regard for and belief in the sanctity of life, unfortunately, abortion is still legal in Hungary, due to the 1992 Act LXXIX allowing abortion, which has not been amended despite the more recent protections of life in the constitution and public policy. Unfortunately, the remaining abortion laws also discriminate against pre-born children on the basis of *potential* disability.

14. This specific conflict has reached the courts, and on 15 October 2020, the Budapest-Capital Regional Court filed a judicial initiative to the Hungarian Constitutional Court, regarding a lawsuit in a tort case¹⁹. In the lawsuit, the parents of a disabled child (the plaintiff) sued a hospital (the defendant) for damages and compensation for a “wrongful birth” of their child, who had a congenital disorder.

15. The provision at the heart of this case is that of Hungary’s Act LXXIX which provides that the pregnancy can be terminated until the 20th week (or the 24th week in case of prolonged diagnostical procedure) if the probability for a genetic or teratological harm of the foetus is above 50%. According to the Budapest-Capital Regional Court, this provision is unconstitutional. The case not only consists of a civil law issue and a matter of evidence, but also became a constitutional matter. That is why the Budapest-Capital Regional Court seeks the position of the Constitutional Court about the conformity of this rule with the Constitution, which suspends the lawsuit.

16. As previously stated, the Fundamental Law of Hungary provides that “Every human being shall have the right to life and human dignity; the life of the foetus shall be protected from the moment of conception”²⁰. Abortion directly opposes this principal, as it is one of the gravest of all offenses against human life and against justice because it entails the deliberate killing of an innocent human being. A procedure that deliberately takes the life of a live human being, heart pounding away in his mother’s womb, is plainly a procedure that fosters insensitivity to, and disdain of, the life in the womb. Indeed, such a killing is the embodiment of disdain for human

life, and laws that allow it to exist belie the high regard for and value of the life of the unborn baby that Hungary has so clearly conveyed.

Humanitarian Work

17. Hungary has been a world leader in providing humanitarian aid for Christians and others being persecuted around the world. In 2017, the government launched the Hungary Helps Program for the purpose of:

- Identification and designation of the existence, causes and nature of humanitarian crises;
- Prevention of religious and ethnic diversity;
- Implementation of quick and efficient aid to people suffering from persecution and humanitarian disasters, helping them remain in their place of origin thus eliminating some of the underlying processes that trigger migration flows;
- Direct and local assistance to preserve communities threatened by humanitarian crises²¹.

18. As a result of this organisation, Hungary has been able to provide humanitarian relief and assistance to those most in need. As stated by Foreign Minister Peter Szijjarto, “We give the money directly to the churches, to the church communities. We have rebuilt 33 torn-down Christian churches in Lebanon, for example”²².

19. In 2019 Hungary Helps partnered with the United States Agency for International Development (USAID) to help rebuild Qaraqosh, the largest city in Iraq with a majority Christian population, after ISIS left it destroyed²³. Hungary Helps provided over \$3.1 million in funding to “to help restore homes, rehabilitate a school, provide psychological care, and reconstruct water networks in the Qaraqosh area, enabling several hundred internally displaced families to return to and remain in their homeland”.

20. Hungary has changed the way countries can provide aid to those most in need. Under the more traditional approach, countries would provide funding to charity organisations who would then carry out the work. Hungary has now cut out the middleman and provides funds and resources directly to those in need²⁴. From its creation through April 2019, the Hungary Helps program has spent the equivalent of \$24 million helping to rebuild destroyed communities²⁵. So far their contributions have been seen in 22 countries throughout the Middle East, Asia, and Africa and have helped more than 70,000 persecuted individuals either stay or return to their homeland²⁶.

Conclusion

21. Hungary has been a leader in protecting life and recognizing and providing assistance for persecuted Christians around the world. We applaud Hungary’s efforts, and encourage Hungary to ensure that all of its laws specifically reflect its commitment to protecting life from conception.

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- ¹ *Hungary Population 2021 (Live)*, WORLD POPULATION REVIEW, available at <https://worldpopulationreview.com/countries/hungary-population>.
- ² *Hungary Religions*, INDEX MUNDI, available at <https://www.indexmundi.com/hungary/religions.html>.
- ³ UPR of Hungary (2nd Cycle – 25th Session) – Thematic List of Recommendations, available at <https://www.ohchr.org/EN/HRBodies/UPR/Pages/HUIndex.aspx>.
- ⁴ UPR of Hungary (2nd Cycle – 25th Session) – Thematic List of Recommendations A/HRC/33/9/ Add. 1 – Para. 21, available at <https://www.ohchr.org/EN/HRBodies/UPR/Pages/HUIndex.aspx>.
- ⁵ Krisztina Than, *Fidesz Wins Hungary Election With Strong Mandate*, REUTERS (11 Apr. 2010), available at <https://www.reuters.com/article/us-hungary-election/fidesz-wins-hungary-election-with-strong-mandate-idUSTRE63A1GE20100412>.
- ⁶ Tristan Azbej: “Christianity is the Most Persecuted Faith in the World”, VISEGRÁD POST (21 Dec. 2019), available at <https://visegradpost.com/en/2019/12/21/tristan-azbej-christianity-is-the-most-persecuted-faith-in-the-world/>.
- ⁷ *Id.*
- ⁸ Act LXXIX of 1992 On the Protection of Fetal Life, (unofficial translation) available at <https://www.reproductiverights.org/world-abortion-laws/hungarys-abortion-provisions#english>.
- ⁹ *Id.* at §6(1).
- ¹⁰ *Id.* at § 6(2).
- ¹¹ *Id.* at § 6(3).
- ¹² *Id.* at § 6(4).
- ¹³ The Fundamental Law of Hungary art. 2, available at https://www.constituteproject.org/constitution/Hungary_2013.pdf?lang=en.
- ¹⁴ *Id.* at art. 16.
- ¹⁵ CONVENTION ON THE RIGHTS OF THE CHILD art. 6, available at <https://www.ohchr.org/Documents/ProfessionalInterest/crc.pdf>.
- ¹⁶ *Id.* at art. 2(1).
- ¹⁷ International Covenant on Civil and Political Rights, Dec. 16, 1966, S. Treaty Doc. No. 95-20, 6 I.L.M. 368 (1967), 999 U.N.T.S. 171, art. 6.
- ¹⁸ Geneva Consensus Declaration on Promoting Women’s Health and Strengthening the Family, available at <https://www.hhs.gov/sites/default/files/geneva-consensus-declaration-english.pdf>.
- ¹⁹ *Provisions on Wrongful Birth Compensation Before the Hungarian Constitutional Court*, ECLJ, available at <https://eclj.org/eugenics/un/vers-une-interdiction-de-lavortement-eugenique-en-hongrie-->.
- ²⁰ The Fundamental Law of Hungary art. 2, available at https://www.constituteproject.org/constitution/Hungary_2013.pdf?lang=en.
- ²¹ *The Hungary Helps Program*, HUNGARY HELPS, available at <https://hungaryhelps.gov.hu/program-en/>.
- ²² *Hungary Leading the Way in Helping Persecuted Christians*, FOX NEWS (27 Feb. 2020), available at <https://www.foxnews.com/faith-values/hungary-leading-way-helping-persecuted-christians>.
- ²³ Tristan Azbej, *The Largest Majority Christian City in Iraq is Being Rebuilt Thanks to Hungarian-American Cooperation*, HUNGARY HELPS (14 Nov. 2019), available at <http://abouthungary.hu/blog/the-largest-majority-christian-city-in-iraq-is-being-rebuilt-thanks-to-hungarian-american-cooperation/>.
- ²⁴ *Hungary Helps Build School in Iraq*, HUNGARY HELPS (6 Sep. 2019), available at <http://abouthungary.hu/news-in-brief/hungary-helps-builds-school-in-iraq/>.
- ²⁵ Kaszás Fanni, “Hungary Helps” Program Yearly Funding Withdrawn Due to Coronavirus Epidemic Still Continues, HUNGARY TODAY (21 Apr. 2020), available at <https://hungarytoday.hu/hungary-helps-program-yearly-funding-withdrawn-due-to-coronavirus-epidemic-still-continues/>.
- ²⁶ *Our Activity*, HUNGARY HELPS, available at <https://hungaryhelps.gov.hu/tevekenysegunk-en/>.