

THE SIGNIFICANCE OF HUMAN RIGHTS IN THE CONTEXT OF HOMOPHOBIC AND TRANSPHOBIC HATE CRIMES

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Abstract. *This article analyzes the connections between human rights and ethics with hate crimes and incitement related to homophobia and transphobia, revealing the problems in ensuring human rights in the context of these crimes. The research problem in this article is the insufficient theoretical clarification of concepts related to hate crimes based on homophobia and transphobia, as well as the problems arising in practice in ensuring human rights, specified by these questions: how are hate crimes based on homophobia and transphobia defined? What human rights problems arise in the context of hate crimes based on homophobia and transphobia? The novelty of the topic is based on the need to extensively discuss the concepts of hate crimes based on homophobia and transphobia, and the human rights issues that arise in the context of these crimes. It is noted that the rights of individuals affected by hate crimes and incitement related to homophobia and transphobia are not sufficiently ensured. Object of the research: the significance of human rights in the context of hate crimes based on homophobia and transphobia. Aim of the research: by discussing the characteristics of hate crimes based on homophobia and transphobia, to reveal the significance and problems of human rights emerging in the context of these crimes. Research objectives: 1. To reveal the concepts of hate crimes based on homophobia and transphobia; 2. To highlight the human rights problems arising in the context of hate crimes and their incitement based on homophobia and transphobia. Research methods: method of analyzing scientific literature, method of analyzing legal acts, summarization. The article concludes that crimes considered homophobic and transphobic hate crimes can include intimidation, damage to personal property, threats, assaults, health impairment, or even murder, as well as any other criminal act where the victim is chosen specifically because of their actual or perceived sexual orientation or gender identity. Homophobic hatred is the fear or anger felt towards homosexual or bisexual individuals. Transphobia is a negative attitude exhibited by society and individuals towards people who do not conform to prevailing gender norms, manifesting as prejudice, disgust, fear, and/or hatred. Transphobia can be directed against transgender and transsexual individuals. No person can be discriminated against based on their sexual orientation or gender identity. Regarding the equal human rights that belong to all individuals, it can be highlighted that the rights of homosexual, transsexual, and transgender persons to freedom of expression and assembly, family rights, and the right to gender change are not always fully ensured.*

Keywords: *human rights, homophobic hate crimes, transphobic hate crimes.*

Introduction

Over the past century, several significant human rights documents have been enacted, such as the Universal Declaration of Human Rights declared by the United Nations in 1948, the European Convention on Human Rights adopted by the Council of Europe in 1953, the European Social Charter established by the Council of Europe in 1961, the International Covenant on Civil and Political Rights declared by the United Nations in 1966, among other documents. Observing these international legal acts regulating human rights and fundamental

freedoms, it is apparent that the concept of human rights becomes increasingly similar in various legal systems. However, certain enacted laws, aiming to ensure and protect specific human rights, often receive negative responses from society. For instance, the legalization of same-sex marriages and the rights granted to individuals of the same gender in other countries evoke public outrage, expressed through protests, often resulting in hate crimes fueled by homophobia and transphobia. Therefore, discussing human rights in the context of hate crimes is crucial. Since responsibility for hate crimes is regulated both in the European Convention on Human Rights and Fundamental Freedoms and in the Criminal Code of the Republic of Lithuania, it unquestionably shows that hate crimes are of significant concern and could lead to the application of the strictest form of legal accountability - criminal responsibility.

Considering that not all incidents of hate based on homophobia and transphobia are reported and the negative attitudes of officers toward the affected individuals during these incidents, the Lithuanian judicial practice in the context of hate crimes based on homophobia and transphobia is not extensive and is still forming. The research problem in this article is the insufficient theoretical clarification of concepts related to hate crimes based on homophobia and transphobia, as well as the problems arising in practice in ensuring human rights, specified by these questions: how are hate crimes based on homophobia and transphobia defined? What human rights problems arise in the context of hate crimes based on homophobia and transphobia?

The novelty of the topic is based on the need for a more comprehensive discussion of the concepts of hate crimes based on homophobia and transphobia, and the human rights issues that arise in the context of these crimes in Lithuania. It is noted that the rights of individuals affected by hate crimes and incitement related to homophobia and transphobia are not sufficiently ensured. In Lithuania, court practice in assessing homophobic or transphobic hate crimes is very scarce, which creates problems in revealing the content and interpretation of all hate crimes as separate criminal acts. One of the main challenges for law enforcement agencies when dealing with crimes motivated by homophobic and transphobic hatred is the proper qualification of these criminal acts and the identification of the hate motive.

Research object: the significance of human rights in the context of homophobic and transphobic hate crimes.

The purpose of the research: after discussing the characteristics of homophobic and transphobic hate crimes, to reveal the significance of human rights and problems arising in the context of these crimes.

Research objectives:

1. Reveal the concepts of homophobic and transphobic hate crimes;
2. Highlight human rights issues arising in the context of homophobic and transphobic hate crimes and their incitement.

Research methods: method of analysis of scientific literature, method of analysis of legal acts, summarization.

The use of the aforementioned theoretical methods in scientific work provides an opportunity to create new ideas as a result of thinking. The methodological basis of the research consists of general methods of analysis and summarization of scientific literature and legal acts, with the help of which the concepts of homophobic and transphobic hate crimes are examined, the aim is to highlight human rights problems arising in the context of homophobic and transphobic hate crimes and their incitement.

Concepts of homophobia and transphobia, characteristics of hate crimes

In the context of homophobia and transphobia, hate crimes are criminal acts committed due to homophobic or transphobic motives. These hate crimes can include intimidation, damage to personal property, threats, assaults, health impairment, or even murder, as well as any other criminal act where the victim is chosen specifically because of their actual or perceived sexual orientation or gender identity. To determine whether a crime committed against a person is motivated by hatred towards their sexual orientation or gender identity, it is necessary to analyse the concepts of homophobia and transphobia as presented in the scientific literature.

Homophobia is defined as "the fear or anger felt towards homosexual or bisexual individuals" (Bilewicz et al., 2016, p. 145). Homophobia can also be internalised, meaning it can manifest as a denial of one's sexual orientation or an acceptance that heterosexuality is the only "correct" sexual orientation model. Sexual orientation is described as "a persistent emotional, romantic, sexual, or affective attraction to other individuals." Homosexual individuals are accordingly referred to as gay and lesbian. Discrimination against homosexual individuals, that is, against gays and lesbians, can be observed in strict societal opinions about the roles of men and women. Individuals who do not conform to established societal gender roles are often met with hostility and fear. This hostility gives rise to bullying and insults towards homosexual individuals, and sometimes this hostility escalates into hate crimes. In our society, the family, based on heterosexual marriage, is often promoted and presented as the only valuable component of society. This propagates a hostile attitude towards homosexual individuals. The most widely practised religion in Lithuania, Catholicism, views any attempt to separate sexuality from procreation and childbearing as a threat to social order and regards it as immoral or even sinful. This widespread religious perspective fosters various societal prejudices against homosexual individuals, labelling them as "abnormal." These prejudices in societal structure seem to grant implicit permission to ostracise homosexual individuals, condemn their relationships, and lead to hate crimes committed against them specifically because of their sexual orientation. Homophobia manifests not only in entrenched societal discrimination but also in various superstitions, from which hostility and even physical violence may arise. Greilas (cited in Gaspariūnaitė, 2014) describes prejudice as "a hostile negative attitude and a system of views towards a person or persons belonging to a group or category." The criminal status historically imposed on homosexual relationships, unfounded fear, and the hostile Catholic view of homosexuality can be directly related to prejudices against homosexual individuals. Prejudices about homosexual relationships also create negative myths, such as the false association of homosexuality with child molestation, which elicits particularly strong societal hostility towards homosexual individuals, potentially leading to hate crimes.

Just like homophobia, transphobia can be a reason why hate crimes are committed against an individual (or group) who belongs to the transgender or transsexual community. Transphobia is defined as "a negative societal and individual attitude characterized by prejudice, disgust, fear, and/or hatred towards individuals who do not conform to prevailing gender norms" (Bilewicz et al., 2016, p. 1). Transphobia can be directed against both transgender and transsexual individuals, though these concepts are different in meaning. A transgender person is "an individual whose gender identity belongs to the spectrum of genders existing between the categories of 'woman' and 'man'" (Bilewicz et al., 2016, p. 145). This means that transgender individuals create their gender identity by combining aspects characteristic of both genders and often do not choose one specific gender, nor do they seek to undergo full gender reassignment surgery. On the other hand, transsexual individuals are "people who identify with the gender represented by the opposite side of the binary gender system and seek to live consistently with

this gender" (Bilewicz et al., 2016, p. 145). Transsexual individuals aim to change their primary and secondary sexual characteristics to resemble the traits typical of the opposite gender, as they feel "trapped in the wrong body," and thus they seek to fully transition their gender. However, according to Murauskienė (2019), in the Lithuanian language, transsexualism is an "umbrella" term encompassing both different gender identities and the reluctance to identify as either "male" or "female."

Considering the practice of the vast majority of European Union member states, it is recommended to include gender identity as a characteristic. Gender identity is defined as an individual's connection between biological sex and their internal sense of self as male, female, both, or neither, as well as the visible self-presentation and behaviour (gender expression) associated with such perception (Healey, 2014). According to the authors of the article, gender identity should not be equated with transgenderism, as gender identity can be expressed through clothing and cosmetic use ("transvestism"), but it does not change physical sexual characteristics. This opinion is also expressed by Raškevičius, Bitiukova, and Velička, who note that "cross-dressing practices are usually not a determining element of a transvestite's gender identity, and therefore the term 'transvestism' should in no way be used to describe the experiences of transgender or transsexual individuals" (Bilewicz et al., 2016, p. 150).

Hate crimes arising from homophobia and transphobia are various criminal acts committed specifically due to homophobic or transphobic motives. Since there is no single internationally recognized definition of hate crimes, these acts are commonly identified according to the definition formulated by the Organization for Security and Co-operation in Europe (OSCE): "Hate crimes are criminal acts committed out of hatred" ("Hate Crimes in the OSCE region: Incidents and Responses. Annual Report for 2012," Organization for Security and Co-operation in Europe). Hate crimes can take various forms, including assaults, violence, coercion, threats, property damage, and incitement to hatred.

In Lithuania, the term "hate crimes" is used to describe criminal acts motivated by hatred towards a specific person who belongs to a particular group due to their age, gender, disability, race, sexual orientation, nationality, language, origin, social status, religion, beliefs, or views. Based on this definition, it can be considered that almost all criminal acts motivated by prejudices or preconceived negative attitudes towards the listed groups or their property are considered hate crimes. Currently, the legal regulation in Lithuania categorizes hate crimes in three ways: hate crimes as independent criminal acts, acts where the hate motive is a qualifying element of the offence, and acts where the hate motive is an aggravating circumstance.

Since there is no exhaustive list of what hate crimes are classified as independent criminal acts, it is believed that discrimination based on race, gender, nationality, sexual orientation, and other group affiliations can be considered hate crimes (Article 169 of the Criminal Code of the Republic of Lithuania). Additionally, the creation and activities of groups and organizations aimed at discriminating against a group of people are covered by Article 1701 of the Criminal Code of the Republic of Lithuania. The Criminal Code of the Republic of Lithuania also includes other hate crimes as independent criminal acts, but the articles that specifically address discrimination based on gender and sexual orientation are relevant in this context.

The Criminal Code of the Republic of Lithuania also specifies hate as a qualifying feature for criminal acts and as an aggravating circumstance. Hate is distinguished as a qualifying feature in articles that regulate criminal acts against human health (Articles 135 "serious harm to health" and 138 "minor harm to health") and against life (Article 129 "murder"). In these articles, the hate motive is specified in separate paragraphs, and liability is applied when qualifying the acts under those paragraphs. Meanwhile, hate as an aggravating circumstance is

provided for in Article 60, Paragraph 1, Point 12 of the Criminal Code, but it is rarely applied in practice.

In summary, it can be stated that "hate crimes are recommended to be considered as all criminal acts motivated by hatred towards a group of people, distinguished by age, gender, sexual orientation, disability, race, nationality, language, origin, social status, religion, beliefs, or views" (Murauskienė, 2019). However, it should be noted that hate speech, while fueling hatred, is not classified as a hate crime.

Human rights links to homophobic and transphobic hate crimes and their incitement

Analyzing the connections between human rights and ethics regarding hate crimes based on homophobia and transphobia, it is essential to first elucidate the concept of human rights, their legal regulation, and potential classification. Various legal acts establish fundamental human rights and freedoms, among the most important are the Universal Declaration of Human Rights, the European Convention on Human Rights, the Charter of Fundamental Rights of the European Union, the International Covenant on Civil and Political Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment, and others. Within the national context, human rights in Lithuania are also established by the Constitution of the Republic of Lithuania. All these international and national legal acts embody fundamental human rights and freedoms.

Donnelly (1993, p. 19) states that "human rights exist because of people, regardless of their roles as citizens, family members, employees, or organizational members." According to this notion, human rights belong to every individual from birth and cannot be denied based on a person's sexual orientation, gender identity, or other factors. "Violation of any individual's rights is tantamount to not considering that person as human, and in the struggle for human rights, it is essential to universally respect the human dignity of all individuals" (Brill, 2010, p. 63, cited in Hansungule, 2010). Jočienė (2000) also agrees with this concept, stating that human dignity is directly related to human rights: "if a person is demeaned and their dignity is tarnished, they will realize it, formulate a legitimate demand, and fight to implement that demand." Other sources also explain that human rights are directly linked to human dignity: "the doctrine of human rights is based on the principle that the dignity of all people is equal, and the goal of human rights is to protect human dignity" (Andrulienė et al., 2004). Therefore, human rights afford individuals a certain freedom of action but only within limits that do not infringe upon the rights and dignity of others.

In a general sense, human rights are perceived as rights that belong to every person, irrespective of the individual's sexual orientation or gender identity, or any other factors. These rights must also be ensured regardless of national legal regulation. The Constitutional Court of the Republic of Lithuania, in its ruling on November 20, 1996, pointed out that "<...> there is no unified concept of natural human rights in the rights doctrine. Modern humanist theories typically rely on the notion that a person has inherent and immutable rights and freedoms from birth. The nature of a human being is the primary source of fundamental human rights and freedoms. <...> Natural human rights and freedoms are enshrined in international and national law, setting their protection standards" (Ruling of the Constitutional Court of the Republic of Lithuania, November 20, 1996, "Regarding Compliance of the Republic of Lithuania's Law on the Privatization of Apartments with the Constitution of the Republic of Lithuania," Official Gazette of the Republic of Lithuania). Human rights are enshrined in numerous international and national legal acts. One of the most significant is the Universal Declaration of Human Rights of 1948, universally recognizing the equality of all individuals.

Human rights encompass a broad spectrum and can vary and often relate to different areas of life. Various classifications of human rights are presented in different scholarly sources. Several classifications of human rights are presented in the publication by the Lithuanian Human Rights Center, "Human Rights. Prohibition of Discrimination in Lithuanian and International Law" (Andrulienė et al., 2004). In this publication, human rights are classified according to historical periods, where human rights are categorized into civil and political rights, the right to peace, social, economic, and cultural rights, the right to self-determination, and others. Another classification in the same publication is based on legal establishment, including constitutional human rights and rights formulated in other legal acts. Human rights can also be classified based on limitation possibilities: some rights can be restricted under certain conditions, such as the right to freedom, the right to property, etc., while others are unrestricted, such as the right to life. The authors also note that "human rights are intended for individual persons, but in some cases, collective rights are also distinguished, such as the rights of national minorities, etc." (Andrulienė et al., 2004).

Additionally, apart from such classification of human rights, rights can also be categorized based on their content. According to this classification, rights can be divided into political and economic, civil, social and cultural rights. Economic and social rights are meant to ensure the right to adequate healthcare, the right to work and suitable working conditions, protect individuals from poverty and/or social exclusion. Civil rights ensure an individual's right to life, prohibit slavery, ensure freedom and inviolability, freedom of expression, and the right to personal privacy. Cultural human rights guarantee an individual's right to education, participation in cultural life, and the right to choose the ethical and religious upbringing of their children. Based on the content of human rights, Vasak (2019) also distinguishes the right to solidarity among individuals, which is based on "collective actions of individuals along with the contribution of states and other political entities."

Based on this classification of human rights, it is evident that these rights are fully related to all areas of human life and belong to all individuals or groups equally, regardless of their sexual orientation or gender identity. According to Čepas and others (2005, p. 6), human rights "permeate every sphere of social relations, spreading into an infinite number of aspects, which becomes an inexhaustible and unmanageable topic."

In the field of human rights, various entities such as the government, international non-governmental organizations, religious institutions, and various other organizations operate. These rights must be fully guaranteed not only to dominant communities but to all individuals regardless of their race, ethnic origin, beliefs, sexual orientation, or gender identity. Therefore, democratic regimes should strive to ensure rights and freedoms not only to the majority but also to various social groups, such as homosexual, transgender, and transsexual communities. Considering democratic principles, it seems natural that all social groups should be equally treated, and all should possess the same human rights and freedoms. However, there are still instances in some countries where homosexuals, transgenders, and transsexuals lack recognized equality. This issue of ensuring human rights still exists and is often supported by certain institutions.

Looking at European Union law, it is evident that prior to 1997, there were no provisions prohibiting discrimination based on an individual's sexual orientation. For this reason, attempts were made to determine whether other provisions related to gender discrimination regulated such protection. The European Court of Justice, while handling complaints, sought to expand the concept of non-discrimination beyond the same treatment of femininity and masculinity, interpreting gender "as part of a person." (sex - as a physical trait and gender - as part of a

person - gender). This interpretation raised questions about gender identity and sexual orientation, according to the LT internet portal "My Rights."

Examining the connections between human rights and hate crimes motivated by homophobia and transphobia, it is important to discuss what rights these individuals have and what problems arise in ensuring them. Since hate crimes and incitement often arise from a predisposition of certain individuals to discriminate against others based on their belonging to a specific category, it is necessary to clarify what links discrimination to hate crimes against homosexuals, transgenders, and transsexuals.

Problems of ensuring human rights

Speaking of hate crimes and incitement to hatred based on sexual orientation or gender identity, it is important to discuss the problems that arise in ensuring human rights. Analyzing legal acts that regulate discrimination against individuals belonging to a specific group, for example, due to sexual orientation or gender identity, it is evident that Article 29 of the Constitution of the Republic of Lithuania enshrines the equality of all people before the law, courts, and other state institutions. The Constitution stipulates that "human rights cannot be restricted, nor can any privileges be granted to an individual based on their gender, race, nationality, language, origin, social status, belief, convictions, or views." Although the list of grounds for discrimination prohibition as specified in the Constitution is finite and includes gender nondiscrimination, sexual orientation is not mentioned as one of the prohibited grounds for discrimination. Nevertheless, based on the foundation of equality for all individuals stipulated in the Constitution, it can be inferred that this norm should apply in cases of discrimination based on sexual orientation, although such an interpretation of this constitutional norm has not been provided by state institutions or courts (Žiobienė, 2000). Since sexual orientation is not explicitly included in the finite list of prohibited discriminatory grounds specified in the Constitution of the Republic of Lithuania, it is purposeful to rely on international treaties ratified by Lithuania, which highlight sexual orientation and gender identity as distinct prohibited grounds for discrimination.

Research on discrimination as a phenomenon, its concepts, manifestations, forms, and the effectiveness of anti-discrimination measures implemented in Lithuania is a relatively new field. After becoming an EU member, Lithuania included directives against discrimination in its legislation; however, the provisions of these directives, such as those related to sexual orientation, still provoke a lot of discussions, which insufficiently consider the importance of implementing equal treatment for the democracy and tolerance of society. "In Lithuania's popular usage and public discourse, the term discrimination is not clear and established, sometimes used indeterminately to identify any alleged unjust behavior and manifestations of intolerance." (Beresnevičiūtė and Leončikas, 2009, p. 337). Discriminatory statements towards certain groups of individuals can also be considered hate speech. Sometimes, discrimination escalates into violence and hate crimes.

When analyzing human rights, it is evident that all individuals are entitled to the same rights, and no person should be discriminated against due to their sexual orientation, gender identity, or other factors. However, in practice, there are challenges in ensuring the full implementation and protection of the theoretical rights of homosexual, transsexual, and transgender individuals. Speaking about human rights equally belonging to all individuals, it can be noted that the right of homosexual, transsexual, and transgender individuals to freedom of expression and assembly, family rights, and the right to gender reassignment (relevant when discussing transgender individuals) are not always fully guaranteed.

Beginning with freedom of expression and assembly, it must be emphasized that these freedoms often intertwine in real life. The Lithuanian Gay League, by organizing various public events and parades, also tries to make use of both these freedoms, leading to the implementation of the freedoms of assembly and expression concerning homosexual, transsexual, and transgender individuals collectively. As previously mentioned, the Lithuanian Constitution ensures the equality of all individuals before the law, and the right to freedom of expression and peaceful assembly is also guaranteed for every individual. Still, homosexual, transsexual, and transgender individuals sometimes face challenges in exercising these rights. "Although both Lithuanian and international law stipulate acceptable grounds for restricting these rights, their application or non-application in specific cases can raise many doubts" (Zdanevičius et al., 2016). One example of the restriction of freedom of expression is the case of the "Traditional and Non-Traditional Families" exhibition that was scheduled to take place in *Juodkrantė* in the summer of 2006, depicting homosexual individuals. However, this exhibition was forbidden, reasoning that the exhibition grounds were connected to a school, and the display of homosexual individuals in the exhibition might negatively impact the minors studying there. This case raised mixed reactions in society, as some opinions suggested that introducing children to the images of homosexual individuals might have a detrimental effect on their moral development. Based on this case, an opinion is formed that there is a rather high level of intolerance towards homosexual individuals in society, and society, in public spaces, condemns homosexual individuals, promotes their discrimination, and often incites hatred. This case demonstrates that there is a considerable level of intolerance towards homosexual individuals in society, and society actively tries to restrict the right of homosexual individuals to freedom of expression.

The attempt to limit the right to assembly for homosexual, transsexual, and transgender individuals is illustrated by the 2007 request to the Vilnius city municipality to allow a peaceful public assembly in the city square, where a rainbow flag would be displayed. This request was rejected on the grounds that such an assembly, even if peaceful, could provoke hostile reactions from individuals who are against homosexual, transsexual, and transgender people, resulting in riots and jeopardizing the safety of assembly participants. Following the spread of information about the organized assembly by homosexual individuals, posters appeared in Vilnius calling to "stop the propaganda of homosexuality." Fearing possible disturbance of public order during the event, the Vilnius city municipality refused to issue a permit for this assembly, thereby restricting the right of homosexual individuals to peaceful assembly, which is guaranteed in the Constitution of the Republic of Lithuania and the European Convention on Human Rights, failing to fulfill the positive obligation of the state to ensure the practical implementation of the right to peaceful assemblies (quoted from the "European Court of Human Rights 21st June 1988 case of Platform 'Aerzte Fur Das Leben' v. Austria, (No. 10126/82)). In this situation, it is also evident that the peaceful assembly organized by homosexual individuals could provoke such societal outrage that might turn into violence against the participants of this event, provoking hate crimes and inciting hate speech.

When it comes to the rights of homosexual, transgender, and transsexual individuals to form families, meaning marriage or partnerships, the problem of ensuring these individuals' rights can be observed. In Lithuania, relationships between individuals of the same sex are legally impossible. Both in the Lithuanian Constitution and in the Civil Code of Lithuania, there is a norm stating that only individuals of different sexes, i.e., men and women, can form a marriage. The Civil Code of Lithuania also clearly defines that partners can only be men and women. Discussing the situation in Lithuania regarding relationships of the same sex, the author's opinion suggests that marriage and partnership concepts can be equated since,

considering the norms laid out in the legal acts, it is evident that individuals of the same sex in Lithuania have no legal opportunity to formalize their relationships, although the right to marriage and partnership is foreseen for every individual.

Because same-sex partnerships and marriages are still not legalized in Lithuania, lawmakers increasingly face questions about the formation of same-sex marriages. Mizaras (2018) asserts that "the regulation of legal family relations between persons of the same sex, ensuring legal security and respect for the legitimate interests of all our country's citizens and citizens arriving here, is a noble goal. It is important to ensure mutual respect and dignity among people. Sometimes we just lack empathy, among other things, in applying the law." This idea from Mizaras is vividly illustrated by the research conducted by Navaitis and Gaidys (2015), which revealed the attitudes of Lithuanian citizens towards family rights of same-sex couples. "Summarizing the results of the survey, two groups of respondents differing in their opinions can be distinguished. The first group consisted of 866 (86.3%) respondents who more or less disagreed with the registration of marriage between persons of the same sex. The second group comprising of 35 (13.4%) respondents more or less agreed with the right of couples of the same sex to register for marriage." (Navaitis ir Gaidys, 2015, p. 124) Reviewing the survey results reveals that the majority of the population in Lithuania is still opposed to the registration of marriages between individuals of the same sex. It can be stated that such opposition to the marriage and partnership of same-sex individuals may arise from societal intolerance and discrimination against homosexual individuals who want to form a marriage or partnership with individuals of the same sex.

Couples of the same sex, just as couples of different sexes, aim to create family relationships and establish legal property regimes through marriage or partnership registration. However, the Catholic Church also opposes marriages and partnerships of homosexual couples. According to their statement, "the main purpose of marriage is the birth of children and continuation of the family. The Church views relationships between persons of the same sex as a deviation from God, the laws of nature, and human nature. Such relationships are destructive to humanity; they are a moral and ethical collapse for which no explanation can be found." (Perkumienė, 2007, p. 165). In defending their view on marriages of individuals of the same sex, the Catholic Church fundamentally rests on the premise that homosexual couples cannot have children, and thus, their relationships are considered destructive; their behavior is considered a moral and ethical collapse, and these thoughts are widely declared as acceptable within society. In this aspect, it can be observed that the Church's viewpoint discriminates against homosexual couples and propagates and disseminates such discrimination to society as the norm. This perspective of the Catholic Church not only discriminates against homosexual couples (as well as couples who decide not to have children after marriage) but partly can be called hate speech, as the relationships of homosexual individuals are publicly characterized as a moral and ethical collapse, going against God, and homosexuality is called abnormal.

Speaking of the formation of marriage or partnership for homosexual individuals and the legal consequences arising from it, there is also a high level of intolerance in society regarding the adoption possibilities for homosexual couples. In the public sphere, there is often opposition to the rights of homosexual couples to raise children, arguing that such children will face ridicule in school due to their parents and may become homosexuals themselves. Based on society's reaction to the potential rights of homosexual couples, the assumption is made that children are not taught about tolerance; homosexual individuals are labeled as "abnormal," hence the children of these parents will grow up to be "abnormal" themselves. Children taught to discriminate against individuals belonging to a certain group usually behave accordingly.

Therefore, children of homosexual couples in an intolerant society might indeed face ridicule, and even violence, because of who their parents are.

Considering the importance of ending discrimination against homosexual individuals, it is noteworthy that the right of these individuals to form a marriage or partnership in Lithuania is not ensured. To ensure complete equality in terms of law-making and everyday life, public education is crucial. All states, including Lithuania, aiming to prevent discrimination and hate crimes or incitement, must inform citizens about what is right and acceptable in the country. Adopting necessary laws to fight against the restriction of human rights and freedoms will open the paths for the establishment of marriage or partnership for same-sex couples.

Beyond the aforementioned issues regarding the rights of homosexual, transgender, and transsexual individuals, there is another issue which can be identified: the right to change one's gender. Transsexual and transgender individuals are likely less understood by a significant part of Lithuanian society than homosexual individuals. Despite this, the Lithuanian Civil Code provides for the right to change one's gender. However, in practice, this norm is not implemented because there is no law regulating the process of gender change.

In 2000, the Lithuanian Civil Code incorporated the right to gender change. Article 2.27 of this code states that "1. An unmarried adult has the right to change their gender by medical means, if it is medically possible. Such a request must be made in writing. 2. The conditions and procedure for changing gender are established by laws," but a law specifying the conditions and procedure for gender change has not been enacted. To fully realize the rights stipulated in the Lithuanian Civil Code for gender change, a draft law called "The Gender Change Law of the Republic of Lithuania" was prepared, which outlines the conditions and procedures for changing one's gender through medical means and the registration of gender change. However, due to conflicting evaluations, this legislative project has not been accepted by the Seimas (the Lithuanian Parliament).

Although the legal act for gender change is enshrined in the Lithuanian Civil Code, practically, the right to change one's gender is merely declarative, as there is no law that specifies the conditions and procedures for this change. Despite amendments to legislation that regulate the change of an individual's documents after a gender change operation, these amendments did not consider that the Law on the Population Register, in its third part of Article 8, states that the personal code given to an individual is unique and cannot be changed. This law's second part of Article 8 indicates that the first digit of the personal code reflects the person's gender, so even after changing gender and receiving new documents that indicate the changed name and surname, the personal code remains the same, which discloses the person's gender, infringing on their right to a private life.

In Lithuania, the problems faced in issuing new documents after a gender change operation are secondary to the medical problems faced by individuals seeking gender change. According to the European Court of Human Rights (ECHR) judgment in the *L. v. Lithuania* case on September 11, 2007, due to gaps in the law, L. underwent a partial gender change operation, but the gender was not fully changed due to the doctors' refusal, as there was no required legal regulation. This case was exceptional because the individual's right to gender change was not implemented despite legally being provided for in the Lithuanian Civil Code. In this case, the ECHR found that Lithuania violated Article 8 of the Convention and obliged the country to adopt the Gender Change Law within three months of the judgment or pay €40,000 to the applicant. This obligation from the ECHR to adopt the law regulating gender change conditions received negative reactions from many members of the Seimas. It revealed some government representatives' negative attitudes toward the right of transsexual individuals to change gender, as there were suggestions not to address the legal regulation of gender change

but to choose a one-time solution by paying a fine to the applicant without providing the right or opportunity for individuals to change gender in Lithuania.

Also, on November 10, 2017, a bill was prepared in the Seimas to amend Article 2.27 of the Lithuanian Civil Code, aiming to eliminate the existing legislative gap, meaning to correct the provision in the Civil Code that has been incorporated but doesn't function in practice regarding the right to change one's gender. This bill confirms that the legislator is not preparing regulations governing gender change but instead intends to altogether remove the provision from the Civil Code that prescribes such a right. The explanatory memorandum in this bill to amend the law seeks to eliminate this provision precisely because "the legal expectation created by Article 2.27 of the Civil Code and the legal gap provide grounds for legal disputes in Lithuania and, as in the case of *L. v. Lithuania* examined by the ECHR in 2007, could result in unsuccessful litigation for Lithuania in international courts."

Given that 31 members of the Seimas signed this bill, one could assume that the state is not aiming to ensure an individual's right to change gender but rather wants to entirely abolish such a right to prevent legal responsibilities for Lithuania in future international legal disputes. The perspective that a person's desire to change gender is unnatural and contradicts human nature is being formed without considering an individual's right. It is also stated that a person's natural rights and responsibilities arise from their nature, including their gender. Therefore, "there is a public interest in knowing who a particular person truly is." Hence, this bill proposes recognizing that the legal acknowledgment of an individual's gender is based on genetically predetermined gender. Although this legislative amendment bill was not adopted in the Seimas, its content reveals one of the lawmakers' stances that an individual cannot have such a right as gender change and cannot be legally recognized to have it. This perspective also garners support in society, and individuals seeking to change their gender are often discriminated against in their professional, sports, or social activities because they do not conform to the "traits and behavioral norms typical for their gender" and identify themselves as representatives of another gender. Due to the inability to change their gender medically and legally, transsexual individuals are oppressed, their dignity is demeaned, and they can become victims of hate crimes.

Conclusions

Homophobic and transphobic hate crimes are considered criminal acts committed due to homophobic or transphobic motives. These hate crimes can encompass intimidation, causing harm to a person's property, threats, assaults, impairment of health, or even murder, as well as any other criminal activity where the victim is targeted specifically because of their real or perceived sexual orientation or gender identity. Homophobic hate is the "fear or anger felt towards homosexual or bisexual individuals." Manifestations of discrimination against homosexual individuals are observed in rigid societal opinions about the roles of men and women, and these attitudes in societal structure seem to suggest permission to alienate those who are different. This can lead to hate crimes against those who do not conform to established male and female roles, that is, homosexuals. Transphobia is a preconceived bias, ridicule, fear, and/or hate reflected in the negative societal and individual attitudes towards people who do not conform to the prevailing gender norms in society. Transphobia can be directed towards transgender and transsexual individuals.

No individual can be discriminated against based on their sexual orientation or gender identity. When it comes to human rights that apply equally to all individuals, it can be noted that the rights of homosexual, transgender, and transsexual individuals to freedom of expression

and assembly, family rights, and the right to gender reassignment are not always fully guaranteed.

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