



# “To Maintain the Biological Substance of the Polish Nation”: Reproductive Rights as an Area of Conflict in Poland

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On October 22, 2020, the long-term dispute about reproductive rights in Polish society had a comeback. The Constitutional Tribunal declared the embryo-pathological indication of abortions guaranteed by the law of 1993 to be unconstitutional. The tribunal’s ruling was met with widespread protests, as it effectively forbade almost all reasons for terminations of pregnancies. While members of the Church’s hierarchy and pro-life activists celebrated, politicians began once again to discuss the law, and different suggestions were made (including a draft law similar to laws in effect in other European countries like Germany, and a law which would allow the termination of a pregnancy if the fetus were likely to die, or a law forbidding them in the case that the fetus had been diagnosed as having down’s syndrome). The debates are hardly new to Polish society and history. On the contrary, they date back to the recreation of the Polish state after World War I. This article concentrates on the developments in the Communist People’s Republic that led to the legislation of 1993, which is commonly referred to as a “compromise.” It focuses on the main actors in this dispute and the policymakers and their arguments. It also contextualizes these discursive strategies in a long-term perspective and highlights continuities and ruptures.

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## *Some Remarks on Actors, Sources, and Figures*

In this article, I focus on the last two decades of Communist reign in Poland and the first decade after its downfall as the beginning phase of the country’s transformation from a socialist to a post-socialist society. I have chosen this timeframe because considerable research has already been done on the years immediately after World War II and on the 1950s and 1960s.<sup>1</sup> Since this research has tended to concentrate on organizations such as the Polish Family Planning

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1 Fidelis, *Women, Communism*; Ignaciuk, “Reproductive Policies”; Klich-Kluczevska, “Making Up”; idem, “Przypadek Marii.”

Association<sup>2</sup> and the discourses in scientific periodicals<sup>3</sup> and advisory literature,<sup>4</sup> I focus on other actors and materials. The main agents on which I focus in this study are the institutions of the state bureaucracy, including both ministries and political parties, and Catholic organizations, e.g., the Clubs of Catholic Intelligentsia (*Kluby Inteligencji Katolickiej*; KIK ). I have also had to reframe my inquiry in response to limitations created by the COVID-19 pandemic, which have made it difficult to access archival materials. Luckily, I was able to collect and analyze some sources from the Archive of Modern Records in Warsaw (*Archiwum Akt Nowych*; AAN) in periods when the circumstances allowed limited access to its collections containing the sources relevant to the abovementioned organizations and institutions. If one wishes to consider the roles of the actors involved in the discourse on reproductive rights, it would be fruitful to examine the materials of the Polish Medical Association (*Polskie Towarzystwo Lekarskie*) and the debates on reproductive rights and behavior that were held among physicians. Unfortunately, this is not possible, not only due the pandemic, but also because the materials are stored in the organization's archive—with the exception of medical journals that were analyzed, for instance, by Agata Ignaciuk.<sup>5</sup> Thus, this article concentrates on the (at times public, at times behind-the-scenes) discourse among representatives of the state bureaucracy, political parties, and Catholic organizations.

I should make a second remark concerning the statistical data used in this article. After the liberalization of abortion in April 1956 and the implementation of new liberal instructions in 1959 (which made it possible for a woman to get an abortion on request),<sup>6</sup> the state-run hospitals kept records of the procedures that were performed. Opponents of the liberalized law often made references to these records in their public statements, but the figures they cite should be called into question given the striking inconsistencies. They also used other figures of unknown origin. For instance, in 1970, the Catholic NGO Polish Committee on the Defense of Life and the Family (*Polski Komitet Obrony Życia i Rodziny*, PKOŻiR) estimated the number of “Polish citizens who have not been born because of the existing law” at 800,000 in the time period between 1956 and 1970.<sup>7</sup> Also in

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2 Ignaciuk, “Introduction”; idem, “In Sickness.”

3 Ignaciuk, “Proven.”

4 Ignaciuk, “Ten szkodliwy zabieg”; Jarska / Ignaciuk, “Marriage, gender.”

5 Ignaciuk, “In sickness.”

6 Czajkowska, “O dopuszczalności.”

7 AAN, UdsW, 1587/127/271, passim.

1970, the leader of the Polish Episcopate, Primate Stefan Wyszyński, wrote in an aide-memoir addressed to the government of the “dangers to the biological and moral substance of the nation.” Wyszyński claimed that *every year* one million abortions were carried out in Poland.<sup>8</sup> These estimates show how difficult it is to determine with any precision how many abortions were actually performed in Poland. Of course, the accuracy of any given figure may well depend on the person who is citing it and his or her political agenda. A study which draws on the experiences of women by interviewing them may yield some insights on this question.<sup>9</sup>

Another question comes up concerning the number of abortions performed in Poland. Some historians have argued that the decrease in the number of abortions carried out in state-run hospitals in the 1980s was the consequence of the broad commercialization of abortions.<sup>10</sup> In my opinion, this statement is rather problematic for three reasons. First, as mentioned above, the figures cited by opponents of the existing law were often very different and perhaps sometimes exaggerated. Second, the 1980s were a decade of economic and political crisis, leading to the downfall of Communism in Poland. Thus, it would be surprising if, under these dire circumstances, (expensive) private clinics had flourished. It is also impossible to give a definite answer to this question because there are no broad studies on the health and welfare systems in People’s Poland during the 1980s and in the first decade of the so-called Third Republic. And third, some statistics include terminations of pregnancies carried out at private clinics.<sup>11</sup> However, it is hard to tell if all abortions in private clinics were reported, or if even there was any obligation to report these procedures.

Therefore, in this article, I use the official numbers as indicators, but I keep in mind that there may have been a high number of abortions performed in private clinics.

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8 AAN, KIK, 2212/402, n.p. AAN, UdsW, 1587/125/120, f. 43.

9 Such a project is being prepared by Agata Ignaciuk. See Ignaciuk, “No Man’s Land?”

10 Ignaciuk, “In sickness.”

11 According to the Governmental Population Commission, abortions in private clinics hovered in the 1980s between 12,000 and 13,000 per year. See: AAN, CUP, 1779/0/2/2, Tab. 17.

*A Short Overview: Abortions in the First Half of the Twentieth Century in Poland*

The recreation of the Polish state after 123 years under Prussian/German, Austrian, and Russian rule made it necessary to reunify political institutions, infrastructure, education, etc. This included the unification of the juridical systems. Regarding the question of the termination of pregnancies, the so-called “Makarewicz codex” from 1932 legalized abortions in extreme cases of danger to the mother’s health or life or if the pregnancy was the result of a crime (rape, incest, or sexual intercourse with minors).<sup>12</sup> This legislation was upheld and reestablished (after a short time during World War II, when the German occupiers allowed Polish women to have abortions on request),<sup>13</sup> and it remained in force until 1956.<sup>14</sup>

This changed in 1956 after a public discussion about the necessity of liberalizing women’s access to abortions on request. The main argument for this was the number of illegal abortions performed in back-alley clinics that led to women being injured or dying. An estimated 300,000 of such abortions were performed per year.<sup>15</sup> Although met by heavy resistance from the Church and Catholic MPs in the Sejm, who condemned abortions as “murder” and accused supporters of the liberalization of the existing law of being “neo-Malthusians” who sought to pass a “genocidal” law,<sup>16</sup> the majority of the Polish parliament voted to change the law in effect and give women easier access to abortion.

Needless to say, this step was criticized by the Church, especially by Primate Stefan Wyszyński, who called the Sejm’s decision a “monstrosity” and declared that it was in contradiction with a woman’s “innate and national mission.”<sup>17</sup> In the aftermath, he tried to use his authority as the highest Church dignitary to influence doctors and nurses. Thus, women’s requests were denied, even though they were legal according to the law of 1956.<sup>18</sup>

The Parliamentary Circle ZNAK (Sign), which was formed after the political liberalization in 1956 and was tightly connected to the KIK, also argued against the new law. At the end of the 1960s, the (all-male) members of ZNAK sent

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12 Ignaciuk, “Abortion Debate,” 36.

13 Lisner, “Hebammen.”

14 Fidelis, “A Nation’s Strength.”

15 Fidelis, *Women, Communism*, 192.

16 Czajkowska, “O dopuszczalności,” 137–49.

17 *Ibid.*, 161.

18 *Ibid.*, 162–66.

a submission to the Ministry of Health in which they claimed that “a woman’s absolute freedom” would inevitably lead to misuse, and they demanded the introduction of new restrictions.<sup>19</sup> Jan Kostrzewski, the Minister of Health at the time, rejected their request. He argued that the law in effect would guarantee “women’s right to self-determination,” and he rejected any restrictions, because “as experience shows, prohibitions and compulsion only lead to illegal procedures and moral as well as biological damage.”<sup>20</sup>

This is one of the few examples in which there was explicit reference to women’s reproductive rights and a woman’s right to self-determination. The discourse, including the discourse used by the ruling Polish United Workers’ Party (*Polska Zjednoczona Partia Robotnicza*, PZPR), relied heavily on references to the dangers posed to women’s health and lives.<sup>21</sup> Party experts argued that “terminations of pregnancies are not the healthiest method” of limiting the number of children, but they were aware that, because of the prevailing circumstances (i.e., the lack of effective contraceptives due to the Socialist economy of scarcity and the low level of knowledge concerning methods of contraception), abortions were a “necessary evil.” They argued that a ban on abortion would only drive women to seek illegal abortions.<sup>22</sup>

These examples show the opposing sides in this dispute. In the decade and a half following the Sejm’s decision of 1956, the ruling party defended the law as just and underlined that it was a “necessary evil.” In the 1970s, however, the dynamics of this issue shifted.

### *Debates on Reproductive Rights in the 1970s: The Perception of “Crises”*

The debates dating back to the 1970s saw the rise of different “crises.” Especially in the late years of the decade, “demographic and social disturbances” were addressed, e.g., in the (Catholic) press. Studies by sociologists, e.g., in (new) urban centers, underlined the transformation of the family, which included “decreased size of family, diminished authority of husband/father, increase in extramarital sexual contacts, increased numbers of wage-earning married women, greater personal freedom of family members [etc.]”<sup>23</sup> The Church was also alarmed.

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19 AAN, KC PZPR, 237/XIV-198, f. 36–38.

20 AAN, KC PZPR, 237/XIV-372 [B56687], f. 33–34.

21 Zok, “Körperpolitik.”

22 AAN, KC PZPR, 237/VIII-614, f. 80.

23 Klich-Kulczewska, “Biopolitics,” 151–52.

It saw a “crisis of marriage,” although the numbers of divorces in communist Poland were very low compared to other European or Western countries. In 1960, there were 2.3 divorces per 1,000 marriages. By 1975, this number had risen to 5 per 1,000.<sup>24</sup> In fact, the 1970s bore witness in Poland to a rising number of marriages. In the period between 1971 and 1978, 2.85 million couples were married, of whom 85 percent were “young” couples, i.e., both partners were younger than 30 years old.<sup>25</sup>

The state and party experts on family and demography did not agree with the Church’s interpretation. The Ministry of Justice in particular argued that the new Family and Welfare Code, introduced in 1964, was designed to “ensure the durability of marriage and family.”<sup>26</sup> It therefore made it harder for couples who had separated to get a juridically sanctioned divorce. This was especially true if the couple had young children. The Ministry reminded the judges that divorces were “socially undesirable phenomena”<sup>27</sup> and should be treated as an ultima ratio to prevent “social pathologies.”<sup>28</sup> Thus, the Ministry had a negative stance with regard to divorces which was very similar to (if not as negative as) the Church’s attitude, which considered them a “plague.”<sup>29</sup>

However, neither the Church’s negative attitude nor the administrative measures stopped the increase of juridically sanctioned divorces in the 1970s.<sup>30</sup> In 1979, the courts acknowledged 40,300 demands for abortions. 31 percent of the women requesting a divorce were younger than 30 years old and had at least one child.<sup>31</sup>

Another threat, according to the Church, was the “disappearance” of the Polish people, because the postwar baby boom had ended, and an average family, especially in urban centers, wanted to have only one or two children.<sup>32</sup> Although compared to other European countries, the percentage of the population of Poland that could be considered young was still very high (52 percent was under 30) and the number of young married couples was increasing in the 1970s, the figures regarding childbirth oscillated. In 1970, 546,000 children were born, and

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24 AAN, KC PZPR, 1354/XI-35, n.p.

25 AAN, KC PZPR, 1354/XI-94, n.p.

26 AAN, MS, 285/0/11/1, f. 179.

27 AAN, MS, 285/0/11/16, f. 153.

28 AAN, MS, 285/0/11/20, f. 47.

29 AAN, UdsW, 1587/125/120, f. 55.

30 AAN, MS, 285/0/11/20, Bl. 47.

31 AAN, KC PZPR, 1354/XI-141, f. 19.

32 AAN, KC PZPR, 1354/XI-970, f. 56.

this number increased to 582,000 in 1973,<sup>33</sup> a higher figure than in 1967, when only 520,400 children were born.<sup>34</sup>

The Episcopate saw these shifts as a danger to the “biological substance of the nation.” Two aides-memoir, addressed to the government in 1970 and 1977, summed up the Church’s perception of this threat.<sup>35</sup> One main reason to which the documents alluded was the liberal law on abortion and working women who could not devote their lives to providing care for their loved ones. The Episcopate also accused the government of willingly limiting the number of children through the means of “anti-natalist” propaganda and “a broad front of contraceptives,”<sup>36</sup> although there was a lack of effective contraception in Poland throughout the communist period.<sup>37</sup> The Episcopate’s aide-memoir advocated a ban on contraceptives, in particular on the sale of contraceptives to young people.<sup>38</sup>

As noted above, Primate Wyszyński cited a figure of 1,000,000 abortions per year<sup>39</sup> and the allegedly decreasing fertility of Polish women as his main arguments against the existing laws, and he advocated a “proactive demographic [read: pro-natalist] policy.” His contentions are contradicted by the numbers registered by the state-run hospitals: The official numbers of registered abortions dropped from 196,000 in 1962 to 133,000 in 1977.<sup>40</sup>

But state and party experts also disagreed with the other accusations made by the Church concerning the government and its policies. They argued that, in 1970 and 1977, the Church had offered some dramatically misleading references to the official numbers given by the Main Statistics Office (GUS, *Główny Urząd Statystyczny*). E.g., Mikołaj Latuch, professor at the Main School of Planning and Statistics (SGPiS, *Szkoła Główna Planowania i Statystyki*, today the SGH Warsaw School of Economics), was convinced that the aide-memoir had a “propaganda” purpose and was not designed to give scientifically proven answers or interpretations.<sup>41</sup> Another expert, Zbigniew Smoliński, who was responsible in the GUS for demographic issues, stated that “the aide-memoir is full of errors

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33 AAN, BOK FJN, 183/0/960, n.p.

34 AAN, KC PZPR, 1354/XL-94, n.p.

35 AAN, UdsW, 1587/125/119; AAN, UdsW, 1587/125/120; Kosek, “Troska.”

36 AAN, UdsW, 1587/125/120, f. 46.

37 Ignaciuk, “Paradox”; Ignaciuk, “Introduction.”

38 AAN, UdsW, 1587/125/120, f. 53.

39 AAN, UdsW, 1587/125/120, f. 43.

40 AAN, KC PZPR, 1354/XL-98, n.p.; cf. Ignaciuk, “In Sickness,” fig. 1.

41 AAN, UdsW, 1587/125/119, f. 12–13.

with regard to its content” and that, in general, the Episcopate was not able to understand demographic developments or to interpret the numbers correctly. Another expert was convinced that the Church’s aim was to challenge the law on abortion, and that it had made its (selective) arguments in an attempt to discredit the existing legislation, which was “to us a tool of birth regulation, not its cause.”<sup>42</sup> Kazimierz Kąkol, the chief of the Office for Confessional Issues (*Urząd do spraw Wyznań*), who was responsible for maintaining the dialogue and observing the Church’s activities, argued in his statement on the aide-memoir from 1977 that the Episcopate was “doctrinaire” and that it “refuses [to acknowledge] arguments on a rational basis.”<sup>43</sup>

Furthermore, the state experts stated that the drop in family size, especially in urban centers, was not an effect of the existing laws or the lack of an efficient housing policy. Instead, they argued it was a normal development in industrialized countries. E.g., Kazimierz Romaniuk was convinced that “the 1960s brought Poland back to the [demographic and reproductive] circumstances that are characteristic for all developed countries in Europe,”<sup>44</sup> and his colleague Jerzy Piotrowski argued that “a demographic catastrophe has occurred in none of the countries with similar developments.” The latter also contended that “the world’s main problem is rather the excessive growth of the [global] population.” Regarding the aide-memoir, he stated that its authors had chosen the numbers they used in their statement selectively. In particular, the Episcopate’s focus on families with many children was problematic, as Piotrowski explicated, because in his opinion, “having many children was seldom the result of a [willful] decision, [and occurred instead because of] carelessness, alcoholism, inattention to children.”<sup>45</sup> He argued that a ban on divorces would not eliminate the problem of couples living separately, and outlawing abortions would lead to illegal procedures. Instead, it was necessary to raise the people’s “culture,” and this could only be achieved through education.<sup>46</sup> This was a common argument in defense of the 1956 law.<sup>47</sup>

Statistics from the 1970s indicated that 45 percent of couples had only one child, and almost 28 percent had two children. Couples without offspring

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42 AAN, UdsW, 1587/125/119, f. 1–3, 6–7.

43 AAN, UdsW, 1587/125/120, f. 25.

44 AAN, UdsW, 1587/125/119, f. 37.

45 AAN, UdsW, 1587/125/119, f. 28–30.

46 AAN, UdsW, 1587/125/119, f. 34.

47 Zok, “Wider der “angeborenen und nationalen Mission.”

accounted for 18 percent of the total.<sup>48</sup> One problem with this statistic is its lack of a subdivision of the numbers according to the ages of the couples and the duration of marriage. As a survey from this period shows, 60 percent of married couples wanted to have two children, which they considered “ideal.” 27 percent wanted to have three children, and only 0.2 percent did not want any children. Unsurprisingly, the number of desired children was closely linked with the educational attainment, especially the woman’s educational level.<sup>49</sup> Economic circumstances (particularly housing problems) also played a major role, as did thoughts concerning the ideal way of bringing up children. The government, for its part, advocated the formula “2+3” as the ideal family size.<sup>50</sup>

But this reasoning convinced neither the Church and its representatives nor Catholic lay organizations like the abovementioned KIK or the Polish Committee for the Defense of Life and Family (PKOŻiR). Although the Committee was a small lay organization, it was closely connected to the Church, and it organized pilgrimages and functioned as a fund-raising group. Its members, mostly men (though there were also some couples), estimated (as mentioned above) that “800,000 Poles” had not been born because of the existing law. The committee argued that the legislation was responsible for the “ill fate of millions of women” who were not able to bear children. Furthermore, its members alleged that there was a connection between the law on abortion and Nazi atrocities during the war.<sup>51</sup> The latter became an integral part of the discourse on abortion.

Closely connected to the question of the permissibility of terminating pregnancies on request, infertility was perceived as a threat to the sustainability and growth of the Polish population. The Clubs of the Catholic Intelligentsia estimated that 20 percent of Poland’s young newlywed women were infertile because they had decided to terminate their first pregnancy, although they did not indicate the source or sources on which they based these figures. The Clubs concluded that abortions were the main reason for the “*bad quality* of children born,”<sup>52</sup> and they argued that “with regard to the concern about the quality of the population, the termination of the first pregnancy in particular is extremely harmful, as is *commonly known* [emphasis mine – M. Z.]”<sup>53</sup>

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48 AAN, KC PZPR, 1354/XL-94, n.p.

49 AAN, KC PZPR, 1354/XL-138, n.p.

50 Jarska and Ignaciuk, “Marriage, gender,” 22–4.

51 AAN, UdsW, 1587/127/271, passim.

52 AAN, KIK, 2212/58, n.p.

53 AAN, KIK, 2212/403, n.p.

The question of infertility was one of the major problems perceived with regard to abortions by the state bureaucracy and the Church, as noted above.<sup>54</sup> And it was the core argument for both sides in their support for a ban on abortions in the case of the Church and the liberalization of the law in order to end illegal procedures on the part of the state. Therefore, the Ministry for Health and Welfare had its own numbers, based on its broad network of resident physicians. Although the total number of women who died as a consequence of an abortion was very low (12 cases per year in the 1970s), the alleged effects of the termination of the first pregnancy troubled the Ministry. After the procedure, 2 percent of subsequent pregnancies ended in a preterm delivery and 4 to 8 percent ended in a late delivery. However, the termination of the first pregnancy was estimated to have led to spontaneous abortion of the next pregnancy in 38 percent of the cases. Even if it was not the first pregnancy but rather a later one that was terminated, 30 percent of the next gravidity was concerned. The study came to the unsurprising result that women using contraceptives had less abortions.<sup>55</sup>

The Clubs accused the government of deliberately trying to destroy the Polish nation by allowing abortions and the use of contraceptives. Functionaries of the state bureaucracy characterized these statements as “absurd” and emphasized the “progressive nature” of the law. Although not denying the negative effects entirely, they highlighted that the number of women assumed to have died in the aftermath of an abortion was very low because the abortions were performed in hygienic surroundings.<sup>56</sup>

But in the 1970s, concerns about demographic trends began to appear in documents taken from different branches of the party. The Administrative Department of PUWP’s Central Committee, for example, called the abovementioned “dominance of families with only one or two children” “alarming.”<sup>57</sup> The figures from this decade showed that while the percentage of children and youth was falling, the number of old people in the “post-productive age” was increasing because of improvements in the healthcare system.<sup>58</sup> One document estimated that from 1985 onwards, Polish society would become too

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54 Cf. Zok, “Körperpolitik.”

55 AAN, KC PZPR, 1354/XL-94, n.p.

56 AAN, KC PZPR, 237/XIV-372 [B56687], f. 34.

57 AAN, KC PZPR, 1354/XI-970, f. 122.

58 AAN, KC PZPR, 1354/XL-98, n.p.

old, demographically, to support itself.<sup>59</sup> To overcome these problems, voices in the party underlined that it was necessary to restrict abortions to the requirements stated in the law of 1956. This was aimed at private clinics in particular.

During the 7th Party Congress in 1975, party member Barbara Sidorczuk from Kalisz argued that because of women’s double burden (children and work), they decided to have fewer children and at an older age. She referred to the conclusions of demographers who warned that “the decrease in the number of births can become a dangerous trend for the biological future of the nation.” Furthermore, she argued that the decision to have less children “was not taken because of a woman’s genuine convictions” but was influenced by the “problems of fulfilling the many roles” women had.<sup>60</sup> Even Edward Gierek, the party leader of PUWP at the time, addressed the demographic problems during a meeting with female representatives in March 1975. The year had been declared an international women’s year by the United Nations Organization; women’s problems regarding in connection with work, children, society, and culture were broadly discussed. During the March meeting, only days before International Women’s Day, Gierek declared that “demographic prognoses indicate that, by the end of the century, the number of Poles should surpass 40 million. To continue the work we have begun, a correct development of the nation and an optimal structure of the population and age are needed. To surpass or even only to reach the figure of 40 million by the end of the century, population growth has to increase. Our state did not always have to introduce an active demographic policy. Today, it has become a necessity.”<sup>61</sup> These examples show that, despite their rivalry and ideological differences, Church and party perceived similar threats to the “biological substance of the nation,” especially towards the end of the 1970s.

The Catholic actors in this discourse criticized more than the liberal law on abortion. They also held a grudge against “artificial” contraception, like condoms, IUDs, or the “pill.” Their argument was based on the papal encyclical *Humanae Vitae*, which banned “artificial” methods of contraception and which had a major impact on Catholic countries.<sup>62</sup> Thus, the so-called rhythm method was the only method of contraception that was taught during pre-marriage courses held by the Church and lay persons from KIK. While the courses described the issue

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59 AAN, KC PZPR, 1354/LVIII-759, n.p.

60 AAN, KC PZPR, 1354/I-187, f. 22.

61 AAN, BOK FJN, 183/0/978, n.p.

62 Harris, *Schism*; regarding the encyclical’s impact on Poland, see: Kościńska, “*Humanae Vitae*.”

in detail using various graphs, for example, concerning the days of a woman's cycle when she is ovulating, etc.,<sup>63</sup> other methods of contraception either were not mentioned or were described as "harmful." One example is a review by a priest who criticized the proposed outline of such a course to be erroneous, because the part about artificial methods "lacks the basic argumentation against contraceptives[,] that the marital act of connecting and uniting" would suffer.<sup>64</sup> Proposed courses and texts by sexologists cooperating with the Clubs were criticized, as one example highlights. The reviewer's critique focused on the author's concentration on "artificial" contraception and on the fact that he did not mention "natural" methods. The author's generally liberal perspective on contraception was perceived as "appropriate for students of medicine," but not for the courses organized by the Clubs.<sup>65</sup> According to one proposal intended for the course instructors which also discussed the structure of the courses, the problem of the termination of pregnancies should be addressed twice: immediately during the first session and during the session about children.<sup>66</sup> In the 1980s, the Clubs added that "contraceptives created an anti-natalist attitude among parents,"<sup>67</sup> and they advocated "natural methods," because "they are reliable, cheap, and they do not cause harm."<sup>68</sup>

### *The "Conservative Backlash" in the 1980s and Early 1990s*

The 1980s, the last decade of communist rule in Poland and the decade prior to the law of 1993, saw a shift in power. Factors influencing this development included the election of Krakow's Archbishop Karol Wojtyła as pope John Paul II and the Church's role first as a sanctuary for dissidents and, later, during the social and economic unrest, as a mediator between the "Party" and "society." The aforementioned Catholic lay organizations, especially the KIK but also ZNAK as the parliamentary representation of Catholic Social Thought, were very active during this decade. They used their growing influence to challenge the existing law and to submit several draft bills to restrict abortion and, in some cases, even contraception, despite the fact that the number of registered

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63 AAN, KIK, 2212/398, n.p.

64 AAN, KIK, 2212/386, n.p.

65 AAN, KIK, 2212/386, n.p.

66 AAN, KIK, 2212/386, n.p.

67 AAN, KIK, 2212/403, n.p.

68 AAN, KIK, 2212/333, f. 73.

procedures in state-run hospitals had sunk to about 58,000 abortions per year<sup>69</sup> and was therefore only a fraction of the figures from the 1960s.

Agata Ignaciuk argues that the decrease in registered abortions in state-run hospitals was accompanied by an increase of procedures in private clinics and that the actual figures concerning the numbers of abortions performed had remained the same or had increased. In one of her articles, she refers to a survey undertaken after 1989 showing that a high percentage of women had an abortion. The 2013 survey indicated that one third of women between 45 and 54 years of age at the time of the study had had an abortion. The percentage for women between 55 and 64 years was even higher (42 percent).<sup>70</sup> This is surprising, especially for the 1980s, which was a decade of almost permanent political as well as economic crisis but which interestingly saw growth in the number of private clinics.

The argument provided by Catholic actors was essentially a continuation of the discourse from the 1970s and referred to “biological” reasons. In an aide-memoir from 1987, the Szczecin branch of the KIK repeated the contention that the law in effect endangered the “biological substance of the nation” and its moral foundations. Its wording and content were very similar to the aides-memoir of the Episcopate from the 1970s. The Club’s argumentation also invoked international treaties, such as the United Nations Resolution condemning genocide (1948), and it contended that abortion was a means to conduct such mass atrocities.<sup>71</sup> The reference to genocide was commonly used by pro-life-activists in Poland, as noted above. This notion was closely connected, of course, to the experiences of World War II and the Nazi plans to exterminate the Polish elites.

Furthermore, the Szczecin branch argued that it was “a scientific fact that life begins with conception.” Hence, every “artificial termination is a murder with willful intent.”<sup>72</sup> In Gdansk, the branch underlined that a law “that enables every person to decide about a human life is injustice,” and it emphasized the personal rights of the fetus, which was seen as an autonomous being independent of its mother. Therefore, the argument went, a pregnant woman should not have any power over the “unborn.”<sup>73</sup>

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69 AAN, MZiOS, 1939/20/27, f. 1.

70 Ignaciuk, “Ten szkodliwy zabieg,” 83.

71 AAN, KIK, 2212/333, f. 66–69.

72 AAN, KIK, 2212/333, f. 66–69.

73 AAN, KIK, 2212/11, n.p.

These demands were met with resistance from (state-run) women's organizations. Like other supporters of the status quo, the Women's League (*Liga Kobiet*) underlined in its statement dated April 1989 that restrictions on abortion would lead to an increase in illegal termination of pregnancies. It warned of a return to pre-1956 conditions, when the procedures were performed in back-alley clinics instead of "aseptic hospitals." This return would multiply the dangers to women's health and lives. As a possible solution, the League underlined the importance of sex education and effective contraception, while at the same time rejecting the Catholic side's exclusive insistence on "natural methods." The League's arguments were based in part on the uncertainties women faced and their "shattered living conditions."<sup>74</sup>

However, the modified political system of the late 1980s and early 1990s, which was the result of negotiations between the party and the opposition supported by the Church, experienced a power shift that neither side had foreseen.<sup>75</sup> After the partly free elections on June 4, 1989, the reestablished Upper Chamber, the Senate, consisted entirely of members of Solidarity (*Solidarność*), which had been founded as an independent trade union in 1980 and which was converted, after it had become legal again, into a political actor. In addition to the seats won in Senate, its members also won every free mandate in the Lower Chamber, the Sejm, and they made up 35 percent of the total MPs. The result was a political stalemate which could only be solved by electing Tadeusz Mazowiecki Prime Minister. Mazowiecki was the first non-communist government leader in Poland since World War II, and he was a member of ZNAK and the Warsaw branch of the KIK.

In April 1990, the new Solidarity-dominated Senate was working on a new law on abortion. The draft bill that was discussed in the Upper Chamber, which was based on a paper written by an experts' commission of the Episcopate<sup>76</sup> and anticipated a prohibition on abortions (except in the case of a risk to the life of the mother) and contraceptives (such as the pill and IUDs),<sup>77</sup> was very similar in its goals to the demands made in the Church's aides-memoir in the previous decade.<sup>78</sup> A few members of the Senate tried to include "social indications"

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74 AAN, KC PZPR, 1354/LII-56, n.p.

75 For a short analysis of the Church's role during the debate on abortion in the early 1990s, see: Ramet, *Catholic Church*, 202–5.

76 AAN, KIK, 2212/11, n.p.

77 Kulczycki, "Abortion Policy," 483.

78 AAN, UdsW, 1587/125/120, f. 53.

(which was part of the existing law of 1956) as a reason for a request for an abortion, but they were outvoted.<sup>79</sup>

The beginning of the transformation was perceived as a period of massive insecurity. This probably influenced the Second National Medical Assembly's decision to vote for a more conservative codex in December 1991.<sup>80</sup> Because of this, the numbers of registered abortions decreased even more, from more than 30,000 in 1991 to 11,640 in 1992.<sup>81</sup>

Two years after the partly free elections, the first free popular vote took place. It was a victory for the traditionalist “Christian democratic” and “Christian nationalist” parties, which would form a government coalition. The question of abortion was central, despite the social and economic hardships which Polish society experienced in this period.

### *New and Old Supporters of Liberalization and Restriction*

After the first completely free elections in 1991, the first two right-wing governmental coalitions sped up the adoption of a new law on abortion. The parties that were members of these coalitions had been founded during the beginning of the political transformation in 1989 and 1990. Most of them saw themselves as heirs to the legacy of the opposition movement Solidarity, and they described themselves as “Christian democratic.” These parties included, for instance, the Centre Alliance (*Porozumienie Centrum*; PC), the first party of Jarosław Kaczyński, today's leader of the governing Law and Justice Party (*Prawo i Sprawiedliwość*; PiS). Another example is the Christian Democratic Labor Party (*Chrześcijańsko-Demokratyczne Stronnictwo Pracy*; ChDSP) which considered itself the reincarnation of the Christian democratic party from the interwar years. Others who joined the coalition explicitly called themselves “Christian national,” such as the Christian National Union (*Zjednoczenie Chrześcijańsko-Narodowe*; ZChN).

The new political system and the first free elections in 1991 did not lead to immediate stabilization. Because of the fragmentation of the votes during the election, the formation of government coalitions was problematic and necessary. Therefore, concessions and compromises had to be made. During Jan Olszewski's tenure as Prime Minister (December 1991–July 1992), when the idea

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79 Staśkiewicz, *Katholische Frauenbewegung*, 110–1.

80 Kulczycki, “Abortion Policy,” 474.

81 AAN, MZiOS, 1939/19/171, f. 15–17.

of a new law on abortion was discussed, the coalition consisted of four parties (the aforementioned PC and ZChN and two even smaller conservative parties representing rural interests). Their number in the governing coalition increased during the tenure in office of Olszewski's successor as Prime Minister, Hanna Suchocka (July 1992–October 1993). The seven (and for a short time eight<sup>82</sup>) parties<sup>83</sup> had very different ambitions. Unsurprisingly, the governing coalition lasted only 15 months.

The parties had different views on the future course of the so-called Third Republic, and they quarreled over specific political problems, e.g., the political system, the competences of the state president, etc.<sup>84</sup> However, the “Christian” parties had a common stance on abortions and wanted to outlaw them,<sup>85</sup> while the liberal and centrist parties were split when it came to this question. The emphasis placed on the question of regulating terminations of pregnancies is most obvious in a flyer by ChDSP. Here, the party's pro-life-attitude and its demand for the “protection of life” has the second highest priority, surpassed only by the sovereignty of the Polish state.<sup>86</sup> Also, different actors on the political right constructed themselves as representatives of a nation which “is 95 percent Catholic” and which hence had to be ruled by Catholic morals and defended against “secularization,” “communism,” “liberalism,” and “nihilism.”

As noted above, the centrist and liberal parties were split on this issue. One obvious example was the Democratic Union (*Unia Demokratyczna*; UD) that was part of the governing coalition in 1992–1993. The party's women's circle referred to the resolution of the European Council from 1990 guaranteeing women the right to reproductive self-determination, and it advocated a liberal law. Some of the party's MPs, for instance Barbara Labuda, represented this position in parliament, for which she was attacked by male party members<sup>87</sup> and by delegates from the Christian democratic parties.<sup>88</sup> On the political left,

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82 Chwalba, *Kurze Geschichte*, 33.

83 Suchocka's coalition consisted of the three parties which remained in the coalition: the ZChN and the two minor rural parties, while the Polish Christian Democrats (PChD) and the centrist parties Democratic Union (*Unia Demokratyczna*; UD), the Liberaldemocratic Congress (*Kongres Liberalno-Demokratyczny*; KLD), and the Polish Party of Beer Lovers (*Polska Partia Pryżjaciół Piva*) joined the government.

84 Chwalba, *Kurze Geschichte*, 38.

85 Christian Democratic Labor Party (*Chrześcijańsko-Demokratyczne Stronnictwo Pracy*), AAN, ChDSP, 1807/1, f. 10; Polish Forum of Christian Democracy (*Polskie Forum Chrześcijańsko-Demokratyczne*), AAN, PFChD, 2093/2, f. 62; Centre Alliance (*Porozumienie Centrum*), AAN, PC, 2764/13, n.p.

86 AAN, ChDSP, 1807/261, n.p.

87 AAN, UD, 2956/11, n.p.

88 AAN, ChDSP, 1807/293, n.p.

the parties opposed a more restrictive law. This included the Social Democracy of the Republic of Poland (SdRP; *Socjaldemokracja Rzeczypospolitej Polskiej*), the successor of the Communist PUWP, and the Polish Socialist Party (PPS; *Polska Partia Socjalistyczna*), a reestablished version of the left-wing party that had been forced into fusion with the Communist Party in 1948.

The PPS was strictly against the new law. In a flyer entitled “Down with police law! We are against the ban on abortion [...],” the party stated that the new law would “interfere with a woman’s right to family planning” and that the conservative-dominated parliament, [its attempt to] try to take control over the private lives of individuals, takes the path of Stalin, Hitler, Ceaușescu, dictators who were against the right to abortions.” The PPS concluded, as the PUWP expert had in earlier decades, that “police and prison will not solve the problem.”<sup>89</sup> Although the PPS believed that “abortions are a barbaric act,” it was, in its opinion, wrong “to try to have them eliminated by prohibitions based on parliamentary decisions.” It argued that the numbers of interventions prior to the legalization of abortion in Poland in 1956 (and also in other countries) showed the ineffectiveness of such restrictions. Furthermore, the party feared that in an impoverished society like the Polish one, illegal abortions would become a large-scale phenomenon once again. It favored contraceptives and sex education as the only means to master the situation, and it underlined that a ban on abortion would lead Poland back to the Middle Ages, especially in comparison to the rest of Europe.<sup>90</sup>

In September 1990, the SdRP criticized the aforementioned Senate draft bill to restrict abortions as an “unrealistic promise that nobody is able to realize.” Furthermore, the party stated that this “fatal draft” would turn women into “aboulc birthing machines,” and it lamented the fact that there was no public discussion on the issue.<sup>91</sup> It rejected the penalization of abortions and proposed that (sex) education and contraceptives were the best means to limit the number of interventions. It concluded that “the dramatic decision which a woman [in such a situation] has to take should be based on moral and not juridical categories.”<sup>92</sup> The party made the following declaration in its election program: “We believe that women should be in charge of deciding how many

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89 AAN, PPS, 1969/14, n.p.

90 AAN, PPS, 1969/5, n.p.

91 AAN, SdRP, 1994/3/98, f. 104.

92 AAN, SdRP, 1994/3/98, f. 63.

children they will bear.”<sup>93</sup> Instead of a restrictive law, the SdRP was in favor of a solution similar to the German one: the terminations of pregnancies should be legal in cases of medical and criminological indication and non-punishable on request during the first trimester. Furthermore, a pregnant woman was obligated to have a counseling interview before the procedure. The authors of the SdRP draft bill argued that abortions should be regarded as an exception in extreme cases to the fundamental principle of the protection of human life and not as a contraceptive method, as it allegedly had been used by several women in the communist period.<sup>94</sup> As a solution to settle the political dispute, the SdRP favored a referendum.<sup>95</sup>

### *The “Compromise” of 1993: Science, Conscience, and Faith*

The idea of a national referendum on the legislation on abortion was met with heavy resistance from pro-life-activists and Catholic organizations. Both the Clubs of Catholic Intelligentsia and the Episcopate rejected the idea of any discussion of this issue because, in their assessment, “the protection of life” was not negotiable.<sup>96</sup> The Warsaw branch of the KIK denied the request for a referendum because it argued that such a law belonged in the hands of experts and the parliament. It was convinced that it was unwise to entrust such an “emotional question” to the population, because the “easiest way” was often chosen, and this would “open the doors to human feebleness.”<sup>97</sup> Therefore, the different views clashed in parliament, especially during the debate prior to the Sejm’s decision on January 7, 1993.

As noted above, pro-life-activists, right-wing politicians, and publicists used (pseudo-) scientific, biological arguments to underline their demands for restrictions in the case of abortion. As the unauthorized stenograph of the Sejm’s 18th session shows, even before the main clash in January, this argumentation was used. ZChN member Jan Łopuszański insisted that the moment of conception as the beginning of human life did not “depend on somebody’s personal beliefs,” but was “a fact.”<sup>98</sup> Here, the supporters of a restriction

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93 AAN, SdRP, 1994/3/98, f. 297.

94 AAN, SdRP, 1994/15/129, n.p. (f. 4v), f. 8.

95 AAN, SdRP, 1994/3/98, f. 63.

96 Ramet, *Catholic Church*, 203; AAN, KIK, 2212/11, n.p.

97 AAN, KIK, 2212/39, n.p.

98 AAN, ZChN, 2410/6, f. 462.

referred to discursive strategies that had been used in Catholic pro-life-discourse before. The KIK in Gdansk stated in its declaration from 1987 that “it is an objective scientific fact that the life of a human being begins with conception” and that “contemporary genetics proves that the zygote is in possession of all the inherited features of a new human individual.”<sup>99</sup> Mariusz Grabowski, also from ZChN, used similar arguments based on “biological facts,” as he told the audience during the parliamentary debate in January 1993. Furthermore, he denied that religious motivation was essential for the authors of the new law. Instead, he enthusiastically contended that the new restrictions would protect women, because they would render it difficult to get an abortion.<sup>100</sup>

Another example of the “biologization” of the debate was the statement made by the chairwoman of the special commission which drafted the new bill. Anna Knysok referred to the abovementioned “facts” concerning the beginning of life, and she criticized the opponents of the new law and maintained that it would not interfere in a woman’s right to self-determination, and she referred to the Universal Declaration of Human Rights.<sup>101</sup> She also rejected the demands for a referendum and stated that it was the parliament’s function to decide on issues concerning the common good.<sup>102</sup> Opponents of the new law like Danuta Waniek from the Democratic Left Alliance (*Sojusz Lewicy Demokratycznej*; SLD), to which the post-communist SdRP also belonged, argued that the law would lead to an increasing numbers of illegal abortions and, in the worst cases, to infanticide. She concluded that the law had the potential to “turn a child into an enemy of its own mother.”<sup>103</sup>

Andrzej Wielowiejski, member of the governing UD party and a long-term member of the Clubs of Catholic Intelligentsia, was against the law in its form at the time because it was not “well-thought-out.” Regarding questions of biopolitics, he is an interesting actor, since he attended meetings at which pre-marital courses were organized by the KIK, and he had served as one of the editors of the Catholic paper *Connection* (*Więź*) since the 1960s. During the parliamentary debate in January 1993, he warned that restrictive laws had led to pregnant women taking trips to countries with liberal laws. Furthermore, he was convinced that, if the Parliament were to decide in favor of the law even though

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99 AAN, KIK, 2212/333, f. 66.

100 AAN, ZChN, 2410/6, f. 82–83, 86.

101 AAN, ZChN, 2410/6, f. 46–47, 50.

102 AAN, ZChN, 2410/6, f. 58.

103 AAN, ZChN, 2410/6, f. 64.

surveys indicated that the vast majority of the Polish society was against it, that this could lead to irreversible damage to the young Polish democracy.<sup>104</sup> Jacek Kurczewski, a member of the centrist Liberal Democratic Congress (KLD, *Kongres Liberalno-Demokratyczny*), which was also a governing party at the time, offered a similar argument. In his statement during the debate, he did something very uncommon in this discourse at that time. He separated the medical procedure and the question of its permissibility from the moral considerations. On the one hand, i.e., morally, he declared that abortions were “bad” and that “nobody could doubt that life begins at the moment of the unification of the male and female cell.” However, he favored settling the question of whether or not someone should be penalized for performing an abortion by referendum.<sup>105</sup>

But he did not prevail. Instead, the majority of the Sejm voted in favor of the new restrictive law, which was commonly called a “compromise,” because it restricted the availability of abortions but it did not ban them in general. But a closer look at the wording opens up another perspective: officially entitled *Law on Family Planning, the Protection of the Fetus, and the Circumstances of the Permissibility of the Termination of Pregnancies*, its wording highlights the enforcement of the Catholic pro-life-discourse of earlier decades. The law refers to its subject almost entirely as the “conceived child.” The term “fetus” is only used once in the text (apart from when it occurs in the title), in the passage concerning abortions because of embryo-pathologic reasons. This passage was deemed unconstitutional by the Constitutional Tribunal on October 22, 2020.

### *Conclusion*

The so-called “compromise” of 1993 can be interpreted as a short “truce” in a long-term conflict which can be called (borrowing a metaphor from international relations) a “frozen conflict.”<sup>106</sup> This means that the (in this case ideological, moral, and juridical) conflict has not been solved and is smoldering and can therefore flare up at any given moment. That happened after 1993 on several occasions. On the one hand, the first left-wing government attempted to liberalize the law between 1993 and 1997. They did not succeed, because the draft bills were first vetoed by Lech Wałęsa, who was serving as State President

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104 AAN, ZChN, 2410/6, f. 68–70.

105 AAN, ZChN, 2410/6, f. 73–74, 76.

106 For an overview of “frozen conflicts,” see van Meurs, “Eingefrorene Konflikte”; Lynch, “Frozen Conflicts.”

at the time, and then ruled unconstitutional by the Constitutional Tribunal.<sup>107</sup> On the other hand, right-wing parties and NGOs tried to enforce a complete ban on abortions and the introduction of the obligation to “protect unborn life” into the constitution,<sup>108</sup> similarly to the Republic of Ireland, where such a passage was introduced in 1983.<sup>109</sup> Until 2020, none of them succeeded in Poland. But the verdict of the Constitutional Tribunal had a major impact and generated a new dynamic which is observable in the current mass protests.

If one looks back at the decision of 1993, two things might be kept in mind. First, it was the unity of the “Christian” parties (despite their quarrels) that led to the introduction of the restrictive law. As I mentioned, the two right-wing governmental coalitions lasted for only 23 months. But they were successful in transforming their (and their allies’) political aims into reality. This is most obvious in the law on the termination of pregnancies and its wording, which resembles the “Catholic” pro-life-discourse more than it does the discourse of a “compromise.” But this includes not only the legislation on abortion, but also the introduction of religious education in schools (via Ministerial decree, without the parliament’s approval) and the signing of a concordat with the Holy See. These were highly controversial steps which indicate that these political struggles go deeper: they can be interpreted as cleavages concerning the essential nature of the Polish state after 1990. In the aftermath of the 1993 decision, the supporters of liberalization (the SLD was the most active) depended on their partners in the governmental coalition. It was therefore difficult to reintroduce a liberal version of the law, especially since, when one such new law was approved by the Sejm, it was vetoed, either by Wałęsa or by the Constitutional Tribunal.

The second intriguing observation is that the discourse, especially in the 1980s and 1990s, was mainly (or better, observably) shaped by (“Christian”) politicians and publicists. Priests also had an influence on the discourse during sermons “in defense of the unborn,” in pastoral letters, or in the interviews they gave. Even in the later years of the Third Republic, the influence of the Church and its representatives had to be taken into considered, e.g., on the eve of Poland’s entry into the European Union.<sup>110</sup> The Episcopate looked skeptically at the processes prior to entry and perceived the EU as “godless” and “not compatible” with “Polish Christian values,” especially on the questions

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107 Zok, “Wider der “angeborenen und nationalen Mission,” 276.

108 Ignaciuk, “Abortion Debate,” 8, 50–1.

109 Cf. Earner-Byrne and Urquhart, *Abortion Journey*, 73–82.

110 Ignaciuk, “Abortion Debate,” 47–48.

of abortion and marriage.<sup>111</sup> Therefore, the then left-wing government had to soothe the Church's mistrust to avoid imperiling Poland's entry into the EU.<sup>112</sup> Since then, the question returns intermittently.

*Quo vadis, Polonia?* Whither goest thou, Poland? It is difficult to foresee what the next stage in this ongoing, at the moment “unfrozen” conflict will be.

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