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Poland

Abortion Wars – A threat to women

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A proposed abortion ban in Poland would subject women to surveillance, criminalization, and even more economic hardship.

For years, Poland has had some of the most repressive abortion laws in Europe. Abortions are restricted to cases of fetal abnormality, risk to the health and life of the mother, or rape and incest. Even in cases where it is permitted, hospitals often invoke “conscience clauses” to turn away patients.

Now, the country’s right-wing Law and Justice Party (PiS) is pushing for an outright ban. Jacobin assistant editor Elizabeth Mahony spoke to the Polish feminist philosopher Ewa Majewska about the proposed law, its political backers, and potential consequences for women in Poland.

Elizabeth Mahony – What is the new abortion law being put forth in Poland? Who introduced it, and what restrictions would it put in place?

Ewa Majewska – The new proposed law, which started the current “abortion wars” in Poland, was submitted to the parliament by a citizens’ organization, Ordo Iuris. The project was immediately backed up by key figures in Polish politics: the prime minister, Beata Szydło; Jarosław Kaczyński, the leader of the right-wing Law and Justice Party, along with the majority of PiS parliament members; and the National Council of Bishops, who issued a letter supporting the complete criminalization of abortion.

This all happened over the last days of March, and immediately led to a [massive women's mobilization](#). Almost one hundred thousand women joined the new internet group against the legislation.

We have not seen such a mobilization since 1993, when the current law was installed. At that time one million signatures were collected to keep abortion legal, as it was under Communism.

Right now, abortion is legally accessible under three conditions: when the pregnancy is the result of rape, when the woman’s life or health is in grave danger, and when fetus development faces serious medical risks.

The woman cannot be punished under the current law, though the doctor and undefined “helpers” can face up to two years in prison. But this was almost never applied – here were some fifteen cases against doctors in the entire twenty-three years of the law’s existence.

Now almost everything could change. First and most importantly, women can become objects of investigation, surveillance, and also punishment whenever their confirmed pregnancy does not lead to birth.

Therefore a simple miscarriage can be subjected to institutional scrutiny. This means that the woman loses all her constitutional freedoms and rights, not to mention her dignity.

These are unconstitutional interventions, but since our constitutional court has been blocked since last fall, and is still paralyzed by the PiS machinations to keep it inactive, nobody will be able to stop the parliament if they really decide to pass this law.

There are different versions of the law circulating at this moment, and although one particular version has been submitted to parliament, we do not know which one exactly. This is also unprecedented; we've had bad law proposals in the past, but their authors and supporters at least had the decency to reveal what they prepared to the population.

Now even the legal expert, university professor, and human rights defender Monika Platek, who wrote a legal analysis of the new project, states in her preamble that although she addressed a particular part of the new law published by the *Ordo Iuris*, she cannot be certain whether this is the one being considered. Therefore she refers to other ones in cases when they differ.

The new law proposal suggests three months to five years of prison for any woman and/or doctor performing an abortion. It criminalizes any form of interference with the fetus's life – therefore medical treatment for patients with cancer, for example, should be excluded.

Actually – terminal cancer should be a legal basis for termination of pregnancy anyways – it is hard to imagine women willing to give birth in a situation when their life expectancy is really short, although these cases also happen and should be respected as valid life choices.

The new law criminalizes abortions in the case of pregnancy that is the result of rape. Arkadiusz Czartoryski, a PiS MP, said that during World War II women were raped and “gave birth to many good Poles. Why should that be changed now?”

Polish law also has a statutory rape clause, which classifies sexual activity with anyone under fifteen as rape. But there will be no exception for them; as one parliamentarian said, even eleven-year-old girls should give birth since “there will be many people who will want the child.”

It also bans abortion in case of terminal diseases and deformations of the fetus. In cases where the woman must carry a dead fetus or birth a terminally ill infant, she will have to continue the pregnancy.

Media reports state that anyone who “assists or encourages” a termination can also face a three-year jail sentence. What effect will this have on the doctors and institutions who deliver reproductive and sexual health services?

As I emphasized above, the length of imprisonment is not known yet. They are juggling several versions, switching from “we don't know what you're talking about, we do not want to punish women” to “three months to five years” – which was the number in the first draft.

We mostly refer to that draft, although changes have been made in the last two weeks.

The gynecologists are currently the winners of the legal situation. Since abortion is legal in some cases, but illegal in the most common one and the costs of the operation are as high as the median Polish salary (around 600–700), and the state does not really make use of the possibility of legally punishing the doctors, they win by far. And they are not interested in changing the law in any way – they don't want it more restrictive but also don't want it more permissive.

How possible is it for working-class women to get abortions today?

Abortion is very expensive, and only women who can afford it can make it. It therefore heaps more poverty on already poor women, it enlarges the already huge economic inequalities, and it also makes women even more dependent on the goodwill of their partners and doctors.

The high cost is similar whether one gets an illegal abortion in Poland or a legal abortion in one of the neighboring countries. The poorest women cannot afford it at all.

And the impact of the new legislation, especially in rural areas?

Surprisingly, it will not affect their lives very much, because their lives are already terribly affected by the current law and by the practice of not subsidizing contraceptives, which are therefore out of reach for poor women. They also lack sexual education.

Since in small villages everyone knows everyone, the risk of getting the abortion is much bigger than in larger towns. The access to good medical service is diminished, and the chance of finding a practice willing to perform an illegal abortion is much smaller. Their lives are already endangered by the preexisting laws.

So it is actually the lives of women from medium-size towns and big cities that will be the most affected, since they will not be able to use their resources as easily now. They will risk being “caught” much more than before, and they will be under much more pressure from partners and doctors, and obviously from the state.

Who constitutes the social base for such an extreme law?

The social basis for this law is the Catholic Church.

Since 1989, Poland has restored all the privileges of the Catholic Church, including special laws allowing the church to reclaim the property lost after World War II. It has been recently confirmed that the church also reclaimed what it never owned, and now possesses more property than ever.

The new proposal for the anti-abortion law was introduced right at the same time as the new law concerning property. This is not an accident; the new law allows the church to acquire more land for free or very cheap. The social basis for the ultra-conservatives is obviously also the members of the social elite.

There are also those who have been impoverished over the last three decades, who have no left narrative to turn to, and turn to blaming refugees or women for the situation.

How has Poland’s broader political landscape factored into the abortion ban?

The Civic Platform (PO) “which ruled the country from 2007 until last November” has it written in their program that they want to build Poland “according to the rules of the Ten Commandments.” I see it as no surprise that they did not try to reform the already-existing law.

They should have, since they lost a case relating to it in the European Court of Human Rights. Alicja Tysińska, a mother of two, had severe myopia and discovered that if she gave birth she might completely lose her eyesight. She was forced by doctors and the state to deliver the baby anyways. She did have a retinal hemorrhage, and while she did not go blind, she sued and won damages in the European Court.

Her case is similar to those of many other women whose demand for abortion is not respected even when it fits the current law's exceptions.

The supposedly liberal political parties, such as PO or the Social Democratic Party call the current law a "compromise" and want to keep it and defend it against the more conservative party.

For the genuine left, such as [Razem](#), and other left-wing and feminist organizations, the current law is evil since it forces women to pay so much for access to abortion. They are aware of the number of women in Poland who already cannot afford to pay. Under today's law they have to deliver their babies.

Razem is the only political party organizing protests against the new law, joining the protests organized by feminist groups and overtly criticizing the "compromise" law.

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[Jacobin](#).