

THE INSURRECTION BY WOMEN IN POLAND: CLERICALISM AND THE STRUGGLE FOR THE HEART OF DEMOCRACY

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Abstract: Since the election of the right-wing government in Poland in 2015, the polarization between secularism and clericalism has sharpened, with an access to abortion figuring as the pivotal issue for both sides. Clericals (conservatives) want to see any legislation with a moral content conform to Catholic doctrine, while advocates of secularism – liberals, broadly understood – hold that the laws of Poland should not be guided by the Catholic Church. Since 2020, the fight over abortion has sparked an insurrection by women. At issue is nothing less than the future character of democracy in Poland.

Keywords: Poland, women's rights, secularism, abortion, democracy

Introduction

Of the various controversies in the sphere of gender and sexuality which have agitated Poles in recent years– homosexuality, the remarriage of divorced persons, women serving as priests, in vitro fertilization (IVF), contraception, and abortion – none has proven to be as charged as abortion. In fact, the legitimacy of abortion was contested already in ancient Rome and, in the absence of coercion, there has never been consensus on whether abortion should be allowed under some circumstances, under any and all circumstances, or under no circumstances. From the standpoint of Polish conservatives, taking their cue from the teaching of the Catholic Church, abortion violates the most sacred right, the right to life on the part of the fetus. For conservatives there can be no compromise on this point. From the standpoint of secular progressives, the struggle over abortion is a struggle over gender equality: to put it another way, if women cannot judge for themselves whether to continue with a pregnancy or not and to set their own criteria for such a judgment, then they are subservient to the conservatives associated with the Church or, as some pro-choice activists say, to men. Access to abortion may even be understood as a measure of what kind of democracy a society maintains.

The controversy about abortion cannot be understood in isolation. Rather, it figures as a central issue in the conservative-Catholic agenda for Polish democracy. Indeed, insofar as the debate about abortion revolves around understandings of women's rights, it is organically

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related to the fight over domestic violence and even to the Church's rejection of any appeal to an individual right to chart her or his own course in sexual matters. The proof of that is that persons supporting the Church's position on one of these issues are likely to support the Church on all three issues, while those who find fault with the Church's view on one of these issues are likely to oppose the Church also on the other two issues in contention. The main body of this article explores how the Church has directly and indirectly influenced the sexual lives of Polish citizens both through its influence on its believers and through its power within the civic arena; this will provide the context for the main argument of this article, which is that the demonstrations by Polish women in protest of various efforts to tighten legislation governing abortion have a significance beyond the issue of abortion and reflect an ongoing contest between clerical and secular visions of democracy.

Abortion – from 1956 to 2018

Under communist rule, abortion in Poland was legalized in 1956 (Heinen and Portet, 2010, 1011. See also Alvis, 2016, 218-250). In 1990, the number of abortions performed in Polish hospitals stood at 59,417. But under legislation adopted in February 1993, abortion was outlawed except when a woman's life or health was endangered by the pregnancy, when pregnancy was the result of a criminal act, or when the fetus was seriously malformed, and it repeatedly proved to be difficult to obtain an abortion in Poland, even when one or more of these conditions were met (Mishtal, 2015, 59; Pasini, 1996, 35-38; Ramet, 1998, 296-299). After passage of that law, the number of legal abortions performed in Poland dropped to 782 (Heinen and Portet, 2010, 1013).

Poland's accession to the European Union took place in May 2004; this came 15 years after the Round Table Talks of 1989 had begun the process of ending what was left of communism in Poland and introducing a pluralist political system. Efforts to repeal or liberalize the 1993 law proved unavailing. Indeed, during access negotiations for admission into the European Union, Poland was granted a "cultural exception" (Catholic identity). In Poland, this meant that no one was ready to confront the Catholic Church directly as its backing was needed for EU admission. Then, in September 2005 the right-wing Law and Justice Party (PiS) won 27% of the vote for the *Sejm*, edging out the centrist Civic Platform, which won 24.1% of the vote. PiS formed a government and tried to pass a measure banning any and all abortions. Resistance was strong and the measure did not get passed. By 2007, Donald Tusk of the Civic Platform (PO) became prime minister, serving until 2014 and, in 2011, his liberal party won the parliamentary elections. Four years later, the conservative PiS won the parliamentary elections held in October 2015, capturing 235 of the 460 seats in the *Sejm*, and named the prime minister.

But the abortion issue has never really been resolved in Poland. In 2016, an opinion poll found that 87% of Poles favored allowing abortion in cases where a woman's life was endangered by continuation of the pregnancy. In spite of this, by 2016, the government was once more considering a total ban on abortion. In early 2016, a network of anti-abortion groups operating under the rubric "Stop Abortion" began to collect signatures to bring a more restrictive bill to the parliament. By the end of March, the network had collected nearly half a million signatures. In response, pro-choice activists prepared a bill entitled "Save Women" and eventually collected nearly a quarter of a million signatures in support of this second

bill. Both bills came before the parliament's review committee but that committee quickly set aside the "Save Women" bill and forwarded only the anti-abortion bill for consideration by the parliament as a whole. At that point, thousands of Polish women donned black garb and gathered spontaneously for protests in 143 cities, towns, and villages across Poland. Two days after this protest began, the bill, which would have allowed abortions only when continuation of the pregnancy posed a serious risk to the life of the woman or in cases of rape, was voted down in the *Sejm* on 5 October 2016, with 352 of the 428 lawmakers present voting against the measure. The ruling Law and Justice party then adopted a new tactic, introducing subtle changes aimed at discouraging abortion. For example, the government now offered women 4,000 złoty (936 euros) to continue with a pregnancy even when it was known that the baby would be born disabled. In addition, a law was passed making the morning-after pill available only by prescription, and not over-the-counter as previously.

The founding in June 2018 of a new left-wing party which, in February 2019, took the name *Wiosna* (Spring) and which was led initially by former mayor of Słupsk Robert Biedroń (since 2019 a Member of the European Parliament for Poland) was symptomatic of just how polarized Polish society had become over the issue of abortion. *Wiosna* sought nothing less than to secularize the state. It was indicative of *Wiosna's* orientation that, as mayor of Słupsk, Biedroń refused to hang a picture of the current pope in the town hall. *Wiosna* had promised to do away with tax exemptions for the Church, to introduce civil partnerships for same-sex as well as opposite-sex couples, to press for the legalization of same-sex marriage, and to end Catholic religion classes in the state schools. *Wiosna* was dissolved in June 2021.

The right-wing government returned to the battlefield in March 2018, proposing to introduce a ban on abortions of damaged or irreparably sick fetuses, as well as those with Down syndrome. Once again there were nationwide protests, including one in front of the national parliament in which between 20,000 and 53,000 citizens, all dressed in black, took part. The proposed abortion legislation, supported by the Roman Catholic Church, would have made it even more difficult than it had already been to obtain an abortion. The 2018 demonstration used the same tactics as the earlier "Black Protest" held on 3 October 2016, which had demanded that legislation proposed at that time to restrict abortion not be passed. In 2018, the country faced the same impasse. And once again the government was forced to back down.

Abortion and the court

Of the 1,110 legal abortions performed in Poland in 2019 (alongside an estimated 100,000 to 150,000 abortions performed annually either abroad or illegally in Poland), more than 97% were due to fetal abnormalities. Having failed to pass a bill more restrictive than the 1993 law already on the books, the ruling Law and Justice party now asked the Constitutional Tribunal to review that law to determine its compatibility with the constitution. In previous years, the ruling party had taken steps to alter the composition of the tribunal, appointing more conservative justices. Then, on 22 October 2020, the tribunal issued a decision that neither fetal impairment nor the infection of the fetus with an incurable disease could justify an abortion under the terms of the constitution. That left only rape, incest, and threat of continuation of the pregnancy to the life or health of the woman as legal grounds for abortion. According to surveys conducted at the time, more than 60% of Poles were satisfied

with the existing legislation regulating abortion, while only 15% supported the tribunal's ruling (Henley, 2020, 5).

Public outrage was immediate and widespread, with up to 800,000 persons taking to the streets in succeeding days to protest in more than 400 cities, towns, and villages across Poland. Protesters directed much of their anger against the Catholic Church, staging sit-ins in some of the country's places of worship, such as the Arch cathedral Basilica of Sts. Peter and Paul in Poznań on 25 October. In response, PiS leader Jarosław Kaczyński called on Catholics to defend their churches, while Prime Minister Mateusz Morawiecki pleaded with protesters to end their protests, even as coronavirus infections and deaths in Poland hit a new record. The level of public outrage may be gauged from the facts that two protesters stripped naked in front of the presidential palace on 3 November while a group of women, donning long red dresses and white bonnets (in an allusion to the repressed women in *The Handmaid's Tale*), marched into one of Warsaw's cathedrals and down the center aisle, even as worshipers sat in the pews. Opinion polls conducted at the time recorded that 59% of Poles objected to the Constitutional Tribunal's ruling, 54% supported the protests, and only 30.9% of Poles still backed PiS as of 31 October 2020, a decline of 9.6 percentage points since before the ruling was issued (BBC News, 2020; Warsaw Voice, 2020; Bloomberg, 2020, 2 of 3).

Under the law, no decision of the tribunal comes into effect until it is published in the government's official gazette and it is the responsibility of the government to publish the decision. In this case, however, the government, no doubt taking public outrage into account, postponed publication for the time being. Meanwhile, as the protests continued, Kaczyński alleged that the protests aimed "to destroy Poland and end the history of the Polish nation" (as quoted in Jacobin, 2020, 1 of 3). When the government published the ruling in January 2021, thereby implementing it, there were fresh protests in Warsaw and other major cities (Agence France-Presse, 2021).

Unlike previous demonstrations to defend access to abortion, this time protesters also registered their opposition to other stances taken by the Church in the sexual sphere, including objecting to the Church's rejection of gender equality, its rejection of artificial contraception, its stance on homosexuality, and its negative stance regarding other sexual minorities. Already in mid-November 2020, police were firing tear gas at protesters and beating them with batons. For protesters, the demonstrations were nothing less than a token of the struggle for human rights. The Church, in its turn, rejected the appeal to human rights. Archbishop Stanisław Gadecki of Poznań dismissed the concerns of the protesters, criticizing "the vulgarities, abusive daubings, [religious] service disruptions and profanations" and reiterating that "The Church cannot stop defending life or give up proclaiming the need to protect every human being from conception to natural death. On this question, we can accept no compromise" (as quoted in Crux, 2020, 2 of 3). The *New York Times* commented that Polish "women had more reproductive freedom under Communist rule than they [do] in the new democracy" (Taub, 2021, 2). Marta Lempart, a leader of the Women's Strike movement that had organized protests against the restrictive law, pointed out that "The abortion ban doesn't mean a lack of abortions, only that it's available only to the wealthy. For people with less money, it's difficult to obtain" (As quoted in *Politico*, 2021, 2).

Police arrested some of those who participated in demonstrations to protest the ruling. Then, in February 2021, Lempart was arrested and charged with "insulting public officials and causing an epidemiological threat for organizing protests during the coronavirus

pandemic” – a felony offense (Associated Press, 2021). In the meantime, the European Parliament and the Council of Europe charged that the Polish tribunal’s ruling was contrary to the country’s international human rights obligations (Der Standard, 2021). Meanwhile, conservatives’ moves to further limit access to abortion contributed to a decline in public approval of the Church, with just 41% of Poles nurturing a positive view of the institution in December 2020, down 16 points over the previous nine months. Some 47% of Poles told pollsters that they assessed the Church negatively (Agence France-Presse, 2020).

In this highly polarized context, anti-abortion activists sent bomb threats via email to six human rights organizations in Warsaw on 8 March 2021 – International Women’s Day. Among those receiving the threats were the women’s organizations Feminoteka, Women’s Rights Center and Women’s Strike, each of which was told that the threat was in response to its backing of the protests against the new restrictions on access to abortion (Human Rights Watch, 2021, 2). Two and a half months later, the Catholic legal institute Ordo Iuris announced the inauguration of a university with the express purpose of countering the liberal values of Central European University, now based in Vienna. Ordo Iuris had been active in promoting additional restrictions on abortion and drafted legal arguments for the Constitutional Tribunal in connection with its review of access to abortion (*The Independent*, 2021, 1).

In January 2022, protests were reignited when it was reported that a woman (Agnieszka T.) had died while pregnant with two dead fetuses which the attending physicians delayed removing, citing the laws against abortion. Another woman had died the previous September after physicians refused to intervene when her water broke when she was not yet six months pregnant. Agnieszka’s family said that the Polish government had “blood on its hands” (The Guardian, 2022).

Domestic Violence

Associated with the fight over abortion is the struggle against domestic violence, since both issues involve defining the limits of women’s rights. Indeed, in July 2021, the European Parliament, energized in the first place by the conservative backlash against women’s rights in Poland, endorsed a report finding that restrictions on access to abortion constitute “a form of violence against women and girls” (as quoted in *Crux*, 2021, 1). In Poland, those who want to stop abortion altogether may have reservations about or oppose outright the passage of any laws against domestic violence. After EU accession, Poland honored its international obligations by considering EU conventions, i.e., agreeing to debate and then to approve or not to approve the convention/treaty in question. The Convention on Preventing and Combating Violence against Women and Domestic Violence (CPCV) was initiated by the Council of Europe on 12 April 2011. The Council also issued a statement, declaring that violence against women and girls “is a clear violation of human rights, and damages human dignity, gender equality and self-respect” (European Parliament, 2019, 1 of 2). In December 2012, the then- government of Poland signed the document. The document addressed several serious problems that women face on a daily basis including stalking (Article 34), rape (Article 36), sexual harassment (Article 40), forced abortion and sterilization (Article 39), and psychological violence. The Istanbul Convention, as it is also known, came into force in August 2014, after 36 of the 47 EU countries had signed the document and after it had been ratified by 14 countries; at least three countries (Germany, Serbia, and Malta) had voiced reservations.

In 2015, the Convention was brought to center stage in Polish politics as ratification of the Convention was debated. At the heart of the debate was not domestic violence or rape or stalking or even forced abortions for that matter, but rather the endorsement of the principle of gender equality. Specifically, articles 3, 12 and 14 of the Convention posed difficulties for politicians and prelates. In the event, Article 3 of the Convention posed problems for the conservative Polish government.

Both the article defining gender and Article 12 were deemed offensive. The latter addressed the role of traditions in which women are presented as natural subservient to men. Sections 1 and 5 of Article 12 read:

Parties shall take the necessary measures to promote changes in the social and cultural patterns of behavior of women and men with a view to eradicating prejudices, customs, traditions and all other practices which are based on the idea of the inferiority of women or on stereotyped roles for women and men.

Parties shall ensure that culture, custom, religion, tradition or so-called "honor" shall not be considered as justification for any acts of violence covered by the scope of this Convention (Council of Europe, 2015).

This article was offensive to Roman Catholic bishops because, in their view, it "obligate[d] signatories to fight against the achievements of civilization, which are treated as a threat and source of violence" (Warsaw Voice, 2015).

Article 14 which addressed Education was also problematic for the Church. Section 1 reads:

Parties shall take, where appropriate, the necessary steps to include teaching material on issues such as equality between women and men, non-stereotyped gender roles, mutual respect, non-violent conflict resolution in interpersonal relationships, gender-based violence against women and the right to personal integrity, adapted to the evolving capacity of learners, in formal curricula and at all levels of education.

Polish bishops considered this section controversial since teaching materials would discuss equality between women and men and also treat non-stereotyped gender roles. The bishops feared that such teaching materials would entail "the promotion of homosexuality and transsexuality" (Warsaw Voice, 2015).

Eventually, in early February 2015 (thus, eight months before PiS's victory in the October legislative elections), the convention was adopted in the Polish Legislature by a vote of 254 to 175 (Warsaw Voice, 2015). But in July 2020, Prime Minister Mateusz Morawiecki asked the Constitutional Tribunal to consider whether the Istanbul Convention was compatible with the Polish constitution. Behind this move lay the admitted intention to withdraw from the convention. Two months earlier, President Andrzej Duda had signed a law granting the police new powers to deal with domestic violence and, in particular, mandating that perpetrators of violence in the home (wife-beaters) would "have to move out of a home they share with a victim, even if they say they have nowhere else to live" (Radio Poland, 2020a). The Council of Europe had warned Poland in July 2020 not to leave the Istanbul Convention. But, defying the Council, Polish conservatives began to promote the idea of a "family rights" treaty directed against sexual minorities and abortion. In March 2021, the Polish parliament voted to send a bill on withdrawal from the Istanbul Convention to parliamentary committees for their review.

Rival understandings of democracy

The fights over abortion and domestic violence reflect very different ideas not only about women's rights but also about what democracy should be. Secularists prioritize human rights, arguing that women and sexual minorities of both sexes enjoy fundamental human rights, including the right to privacy. The fight about abortion is, thus, organically related to arguments about sexual orientation. To the extent that the Istanbul Convention addresses also this subject, it provided one more reason for the Church and its advocates to oppose it. And hence, in July 2020, Justice Minister Zbigniew Ziobro criticized the convention for including "ideological provisions" that leading figures in the ruling party "do not accept and consider harmful" (as quoted in Radio Poland, 2020b). From the standpoint of the Church, rethinking gender was nothing less than the proclamation of a gender ideology.

"Gender ideology" has been characterized by the Church as a serious, if not deadly, threat. By branding it an "ideology" Catholic conservatives communicate the message that the thinking reflected in the Istanbul Convention is an effort to reconstruct the meaning of gender and sexuality. The Catholic Church sees gender identity (by which is meant the right of an individual to define her or his gender as s/he sees fit) as part of the "gender ideology" agenda and it is well known that anything other than heterosexuality is also found to be abhorrent in most quarters of the Catholic Church in Poland (see Szwed and Zielińska, 2017). But note that the Catholic Church's understanding of sexuality and sexual norms, like most of its understanding of the moral law, is not just theocratic but also static. In a liberal democracy, appeals to theocratic principles and to static understandings of sexuality are an ill fit.

Conclusion

The Catholic Church is gradually losing influence over the Polish community. While this may not be immediately apparent, there are signs of creeping secularization. A report published in *National Catholic Reporter* in 2015 revealed that only 39% of Polish Catholics were still attending Sunday Mass regularly (Luxmoore, 2015). That number had stood at 62% in 1992 (Puhl, 2012). A conservative publicist, Tomasz Terlikowski, noted that in 2012 about 95% of Poles would say that they are Catholic but "the true number of devout Catholics [is] little more than 20 percent" (Puhl, 2012). In 2014, a poll taken by the Warsaw-based CBOS polling agency, found that 74% of Poles thought that religion was not the only source for morality and that everyone should follow his or her own conscience (Pazderka, 2014). As the Church's hold on Poles, especially young Poles, weakens, the Church feels embattled and looks to its clericalist allies in the Law and Justice Party to defend it.

As of summer 2021, the PiS-led coalition's hold on power is threatened. Rifts within the coalition over the new media bill are a part of the story, as is the return of liberal former-Prime Minister Donald Tusk to Poland after a five-year stint as President of the European Council. So too is the continuing pressure from European institutions in connection with access to abortion and the subversion of judicial independence since PiS took power in 2015, as well as encroachments on the independence of the media. The insurrection of secularist women in protest of limits to abortion has made its own contribution to this dialectic. Sylwia Spurek, a Polish deputy to the European Parliament, spoke for many when she told that body

in June 2021, “Without taking care of women’s rights in every Member State there is no full democracy” (as quoted in Hutchinson, 2021, 2).

The two major political camps in Poland today can usefully be described as advocates of clerical democracy and those championing secular democracy. Clericalists are, by definition, conservatives, while secularists are, by conviction, liberals. Polish clericalists believe that they are called upon (by God, by Polish national tradition, perhaps by Natural Law) to control people’s sexuality by combating and marginalizing homosexuality, divorce, contraception, and abortion. Clericalists, convinced that the Catholic Church is the repository and guardian of God’s eternal law, want to limit individual rights, claims to tolerance, and assertions of equality (for example, between heterosexuals and gays or even between women and men) to how the Church views these areas. Poland’s secularists, by contrast, do not look to the Church for guidance or rulings on these subjects but believe that choices in sexual matters, including about abortion, should be left up to each adult. Secularists reject homophobia; they also reject the idea that the Church may define the limits of individual rights, claims to tolerance, and assertions of human equality. Accordingly, the struggle between these two camps, in which the fight over abortion is merely the most visible and, for now at least, the most highly charged symptom, is a struggle over the future of Polish democracy itself. The hundreds of thousands of opponents of the latest restrictions to access to abortion are, thus, fighting for a secular vision of democracy. In short, they are seeking to complete the revolution started more than 40 years ago with the founding of the Independent Trade Union Solidarity and to reverse the clerical reaction fostered by the Law and Justice Party and its allies.

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