Abortion in Poland: politics, progression and regression

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“Listen to the voices of women”

On the 23rd March 2018, tens of thousands of Polish citizens came together to stage protests opposing the “Stop Abortion” bill. In what has become known as the #BlackProtest movement, people dressed in black to mark their solidarity against attempts to restrict abortion. Their protest continues the line of an enduring movement, not only in Poland but across the world, for women’s right to safe abortion. Reproductive Health Matters (RHM) – a long-standing voice in support of women’s right to safe abortion – joined more than 200 other groups from across the world in support of the Polish protest movement to oppose the bill tightening abortion law in Poland. A letter called on members of Poland’s parliament to “listen to the voices of women across Poland and to reject this regressive legislative proposal and protect women’s health and human rights”.1

Even after years of liberal and socially accepted legislation, Poland illustrates how the issue of abortion and legal restrictions can repeatedly resurface. In 1932, Poland was the second country in the world after the Soviet Union, which legalised abortion if there was danger to the life or health of the woman, incest or rape.3 In Russia, Stalin recriminalised abortion in 1938, but in Poland, the law was expanded in 1956 to include medical and social reasons, including “difficult living conditions”. In practice, the decision was left to the woman, who could access services in public or private settings to conduct the procedure.3

At the beginning of the 1990s, abortion legislation became extremely controversial, rising to the top of the political agenda. The abortion debate was pushed by the Roman Catholic Church and was the unexpected side-effect of the democratic transformation of Poland. With the election of a non-communist government, increasingly stringent requirements were put into place for women trying to obtain an abortion. Consent was

Women also travel to neighbouring countries in Europe to seek abortion, while others purchase abortion pills from the internet. Modern contraceptive methods are not freely available in Poland. The morning after pill, for example, requires a prescription and a consultation with a doctor. The condom is the only over the counter contraception available.5 In 2015, the use of modern methods of contraception was 47.7% among married or in-union women aged 15–49 years, one of the lowest in Europe.6

Restrictive to liberal laws and back again

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Slightly over one thousand abortions were legally performed in Poland in 2016.2 It is believed that there are many more illegal abortions, with estimates lying between 50,000 and 200,000.3,4

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required from three medically qualified specialists and a psychologist, plus the addition of a fee for selected cases. Later, private practices were prohibited from providing abortion services. Eventually, in 1993, social reasons were removed as a legal basis for abortion.3,7,8

A left-leaning government was elected in 1993. Over the subsequent years, socio-economic reasons were re-introduced as a legal basis for abortion, with restrictions on gestational duration to 12 weeks and requirements for women to receive counselling before an abortion. The re-enactment of a liberal law fuelled those opposed to abortion to campaign for change. In 1997, the Constitutional Court decided that abortion was unconstitutional, resulting, again, in removal of social grounds for abortion.3,8 This legislation remained in place until the 2011 attempt to ban abortion entirely.

The build-up to the 2018 events can be traced back to 2011, when a bill to ban abortion entirely was proposed, but rejected by parliament. Further amendments to the law were put forward in 2013 and 2015.9 In 2016, yet another attempt was made to pass legislation for a total ban on abortion.1,4 Large protests were staged, which defeated the draft bill at the time, but the move to push through restrictive laws gained momentum again this year.

Global trends and the influence of laws, regulations and policies related to abortion

Poland’s law on abortion is one of the most restrictive in Europe. Abortions became broadly legal in the 1980s in many European countries and in North America. To date, liberal abortion laws and regulations have been enacted in increasing numbers of countries outside Europe, including in Africa (e.g. Ethiopia, South Africa), Asia (e.g. India, Vietnam) and South America (e.g. Mexico City, Uruguay).7,10

While legal and policy reforms to provide a wider range of legal access to safe services have been achieved in many parts of the world over the past decades, struggles against legal restrictions continue. In Chile, years of attempts to decriminalise abortion eventually resulted in change by 2017, under Michelle Bachelet’s government. Abortion was permitted under certain conditions in a landmark ruling by the Constitutional Court.11 However, with the subsequent election of a new right-wing government, regulations for implementing the law were introduced which allowed providers and health facilities to deny abortion services to women by declaring conscientious or institutional objection. Requirements for doctors to declare their objection to abortion in advance were also removed.12 These changes could create obstacles limiting access to abortion and causing delays which result in women exceeding the permitted 12-week gestational period. Public protests ensued in March 2018. Feminist organisations and members of Congress have filed a challenge to the legality of the recent regulations, so a question remains in Chile as to whether and how implementation of the restrictive regulations will take place.

In Ireland, under the Constitution’s Eighth Amendment, abortion is a crime and only permissible when there is a real and substantial risk to the life, as distinct from the health, of the pregnant woman.13 This was inserted in the Constitution in 1983, after a bitterly contested referendum. The law has been condemned by the United Nations Human Rights Committee and by the European Court of Human Rights.13,14 This year, the Irish government announced that it will hold a referendum, planned for May 2018, on the provision of the Constitutions which limit abortion access.15 The result will have repercussions across the globe, especially in countries where the Catholic Church continues to play an important role in government and people’s lives.

It is now well established that legal restrictions on abortion do not diminish numbers of abortions but lead to increased morbidity and mortality, because more women seek illegal and unsafe abortions.16 Legal restrictions also lead many women to seek services in other countries, which is costly, delays access and creates social inequities. While not the only element at play, law reform is nonetheless critical to improving women’s access to safe abortion and contraception, and therefore to their overall health. Evidence, knowledge and advocacy play an important part in bringing about law reform. The international women and health movements have a long history of lobbying governments to change the law; more recently, using international human rights mechanisms and law to make governments accountable for the rights of their citizens and to enable reform for the expansion of legal grounds for safe abortion services.7

Along with the steady progress toward expanding legal permissibility of abortion, improved practices and means to perform medical and surgical abortion have resulted in better safety and availability of abortion care.16,17 The statistics are
eloquent. Over the last quarter of a century, abortion rates in developed regions have dropped significantly from 46 to 27 per 1000 women, accompanying increases in modern contraceptive use, decriminalisation of abortion and safer health services. Most recent figures for Switzerland, Spain and Great Britain, for example, show low abortion rates (5, 9 and 13 per 1000 women, respectively), although, in Eastern Europe, the incidence is still high at 42 per 1000 women. Globally, only small declines have been observed, from 40 to 35 abortions per 1000 women. Abortion rates are highest in Latin America and the Caribbean, with 44 abortions per 1000 women. In low- and middle-income countries, where over 80% of abortions occur, rates have remained stagnant at 36–39 per 1000 women. These are also the regions where abortion laws are, for the most part, still restricted.

Access to safe abortion can be limited by the law and by social and health services which are inadequate, of poor quality and under prioritised. These factors can put up barriers for women, for example, by introducing compulsory waiting periods and unnecessary requirements for approvals and licencing. Insufficient funds may be available for health services in general and competing priorities between different services can ensue. Providers themselves may be unskilled and others unwilling to provide abortion services for fear of negative repercussions. Some invoke the conscience clause and decline to perform abortions because of their own beliefs. Women often lack the information they need to obtain safe care. Those who are socially and economically disadvantaged or less educated are particularly vulnerable to restrictive legislation, poor services and unsupportive health personnel. Abortion is still stigmatised and steeped in secrecy, while efforts to ascertain the extent of abortion practices are often beset with lack of good data. Unsafe abortions are preventable, yet life-threatening complications, such as sepsis and haemorrhage, continue to occur. When conducted following World Health Organization guidance, abortion is one of the safest medical procedures.

The power of politics – a call for papers

The situations described in this editorial are examples of how politics affect sexual and reproductive health and rights (SRHR). In recognition of the power of politics, RHM will be putting forward a dedicated issue to assimilate and highlight the consequences of political activities, systems or change – whether at global, regional, state or local levels – not only on access to safe abortion but the whole range of SRHR issues, especially in low- and middle-income settings. The relevance of today’s politics to SRHR is clear, but not always well-documented. In this forthcoming RHM collection, we aspire to compile and generate perspectives and evidence to inspire debate, inform intervention and effect change which will result in improvements in people’s health and lives.

If you have a story to tell of the impact of politics on SRHR – whether positive or negative – we look forward to hearing from you. We ask all readers to watch the RHM pages for our upcoming call for papers.

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