#czarnyprotest: The Black Protest for Abortion Rights in Poland – History of a struggle

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In Poland the law on abortion is one of the most restrictive in the European Union, sex education does not exist, and contraception is both expensive and hard to obtain because a medical prescription is often needed.

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According to a 1993 law, abortion is allowed only in three cases: when pregnancy is a threat to a woman's life or health; when there is a high possibility of severe malformation or illness of a fetus, confirmed by a prenatal exam; or when a pregnancy is the result of a crime (rape, incest, or pedophilia). [1] In other cases it is criminalized. A doctor or anyone else who helps a woman to perform an abortion, including a partner, a family member, or a friend, may be punished with three years of imprisonment. A woman who has aborted is not prosecuted. For more than 20 years this very restrictive law has been called a compromise by conservative, liberal, and social-democratic politicians.

In practice, even in these three cases of technically allowable abortion, it is almost unavailable. A recent study, conducted by the feminist organization Federation for Women and Family Planning, found that due to a lack of official ministerial guidelines and the chilling effects of the law, hospitals either do not have any procedures for abortion (the majority) or they have procedures that are unnecessarily complicated. Moreover, some hospitals told the Federation that, contrary to their financial reports, they do not do abortions. The "conscience clause," that is, the right to refuse to perform abortion because of religious beliefs, is often invoked. [2]

Due to these circumstances, the abortion underground is thriving. According to the estimates of the Federation for Women and Family Planning, in Poland 80,000 to 100,000 abortions are performed per year, [3] with only some hundreds of these done legally.

There are underground clinics that provide abortions, which are often performed by the same doctors who in public hospitals cite the "conscience clause" in refusing to perform the procedure

legally. [4] Abortion pills are obtained from Women on Waves, an international organization that provides pills in countries where abortions are illegal; or they are obtained on the black market, though in the latter case women run the risk of receiving fake or adulterated pills. Women also take some legal medicines that in high doses can induce abortion, such as Cytotec, which is meant for peptic ulcers. Abortion migration is flourishing: Poles travel to Great Britain, Germany, Holland, Austria, the Czech Republic, and Slovakia. Some clinics abroad have even developed special facilities for Polish patients, organizing trips and hotels for women seeking abortions. [5] There is a sharp social division between those women who have access to the information and resources to obtain safe abortions despite the restrictive law and those women who don't have access to such resources and therefore use the most dangerous home methods, making them victims of the "compromise." [6]

The Left and Abortion

In 1993 a mass movement against an anti-abortion law was crushed when a 1.7 million- signature appeal for a referendum on abortion was rejected by Parliament. Neoliberal social democracy was not helpful: The "post-Communist" Democratic Left Alliance (SLD), which held power from 2001-2005, worked to obtain parliamentary support for introducing neoliberal reforms and sending Polish troops to Iraq and Afghanistan, and it also openly accepted the restrictive abortion law. [7]

Feminist and left organizations have struggled for women's rights but they have not succeeded in mobilizing the masses. In March 2016, for example, a traditional Manifa—an annual feminist demonstration held in Warsaw for 17 years—was organized under the slogan "Abortion in Defense of Life" and gathered no more than a thousand participants.

Moreover, some left circles tried to tone down the demand for the right to abortion, or even tried to eliminate it from their discourse, out of adherence to conservative views or to a belief that only well-educated and affluent women from big cities supported abortion rights.

Another example of left ambivalence about abortion arose during the electoral campaign [8] conducted by the Partia Razem (Together Party), a left party formed in 2015 and now one of the leaders of the Black Protest. Two women activists interviewed by a right-wing web site about their program for poor women spoke about social support for women and families but did not say a word about reproductive rights. [9] Although the electoral program of Razem had points on sex education, the funding of contraception, and in vitro fertilization, it did not mention abortion. In the party's programmatic declaration there is a section on abortion, but it is formulated in a very indirect manner, presenting abortion not as a right but as involving a question of worldview; opposition to existing law is expressed, but the open demand for legalization is not. [10]

The Ordo Iuris Bill

In spring 2016, ultraconservative groups launched a citizens' legislative committee called Stop Aborcji (Stop Abortion) and started collecting signatures in support of a total ban on abortion. According to the project, which was led by Ordo Iuris, a conservative Christian legal group opposing abortion, all those involved in an abortion, from the woman who has the abortion to all those helping her, would face five years of imprisonment. In the case of unintentional abortion they would face a penalty of three years of imprisonment. [11] The ban would lead to the criminalization of miscarriage, subjecting miscarriages to a prosecutor's investigations, [12] and would make it impossible to provide safe early termination of ectopic pregnancies.

Termination of a pregnancy would be decriminalized only in situations of direct threat to women's lives, and prenatal investigations of fetal health would be blocked or hindered. [13] A gynecologist, Professor Romuald Dębski, saw the bill as the end to prenatal diagnostics and therapy: "It will be a ban on touching a baby [fetus] with a needle because I could be liable for three years for that." [14] He also commented, "When the law is changed, I'll not be allowed to do laparoscopy to a patient with ectopic pregnancy in order to prevent that threat to life because it will not be an action occurring in a life-threatening state. It is absurd!" [15]

The bill banning abortion was supported by the Catholic Church and the politicians of the conservative ruling party Law and Justice (PiS), including Prime Minister Beata Szydło, who said that she personally supported a total ban on abortion. [16] The Catholic Bishops' Conference issued a communication calling for support for the bill, claiming that "on the question of the protection of life of the unborn, one should not stop at the present compromise" and appealed for "full legal protection of life of the unborn." [17] On April 3, 2016, the communication was read in churches across the country during Sunday services.

Reactions: Protests and the Save the Women Bill

This fundamentalist offensive provoked intense social reactions: On April 3, 2016, in big cities all over Poland, demonstrations against the project were held. They were organized by Razem, and they spontaneously attracted many people. In Warsaw several thousand protesters gathered in front of the Parliament. A Facebook group, Dziewuchy dziewuchom (Girls for Girls), was launched on April 1 and gained 100,000 fans in ten days. [18]

On May 12, a citizens' legislative committee called Save the Women (Ratujmy kobiety) was launched and began collecting signatures for a bill liberalizing the existing law. The leader of the committee was Barbara Nowacka, a young social-democratic activist. The bill was modeled on laws adopted by the majority of EU states. It would legalize abortion until the twelfth week of pregnancy; if a pregnancy was the result of a crime, the term would be prolonged to 18 weeks, and if a fetus was severely malformed or sick, to 24 weeks. Another aim of the bill was to introduce sex education and make contraception available: Contraception would be subsidized by the state and free for the poor, and it would also be made available for people under 18 without requiring the permission of a parent. [19]

The Save the Women initiative collected 215,000 signatures and Stop Abortion, around 450,000. In Poland, a citizens' legislative initiative needs 100,000 signatures to advance; both bills were successful and reached the Parliament.

In September, when the Parliament was soon to debate the bills, the political atmosphere became heated. "Black Protest" arose as a hashtag and slogan. At the beginning, it seemed to be just another "clicktivist" practice that would produce no effect beyond an additional way of posting selfies to social media, this time with those posting dressed in black. However, on September 22, when the parliamentary debate on both bills was held, a few thousand people gathered outside the Parliament building under this slogan, along with protesters gathered in two different demonstrations, organized respectively by Save the Women and Razem.

On September 23 the ultraconservative Ordo Iuris bill advanced to the second reading stage, while the Save the Women bill was rejected—this despite PiS's having declared that it never would reject a citizens' bill in the first reading, a practice that the public generally perceives as a manifestation of arrogance of power.

The Right to Abortion Is Not an Idea of Spoiled Elites

A telephone survey of a representative sample of 1,001 respondents, conducted by IPSOS for Oko.press just after the parliamentary voting, revealed that support for liberalization had significantly increased, going from 25 percent of respondents in September 2015, to 29 percent in April 2016, and then to 37 percent in September 2016. Concerning liberalization in the September survey, 39 percent of women respondents and 35 percent of male respondents said they supported the right to abortion for socio-economic reasons. Moreover, the survey data smashed the myth that the demand for abortion rights comes largely from privileged, affluent, well-educated women from big cities. The idea of liberalizing existing law was supported by 39 percent of respondents with elementary and junior high school education, 43 percent of respondents with basic vocational education, 37 percent of respondents with a high school education, and only 27 percent of respondents with university degrees. Fully 64 percent of those with university degrees supported the existing law. This could be explained by the fact that the abortion underground and migration are much more available to more educated women because of their higher incomes. [20]

Another one of the numerous demonstrations of the Committee for the Defense of Democracy (KOD) was planned for September 24. KOD is a multiclass movement, defending democratic rights and freedoms, that emerged from the opposition to authoritarian moves of the PiS government in December 2015. Because of KOD, Poland has become an arena of anti-governmental protests whose intensity has had no parallel over the preceding 20 years. KOD demonstrations regularly turn out tens of thousands of protesters.

An appeal for a Black Protest at the KOD march was issued. The “Black Bloc” was formed by around 200 people but many other participants at the KOD demonstration also dressed in black. Although it is hard to judge how many of them wore black for political reasons (it was cold, and black, warm clothes are very popular in Poland), women dressed in black led the crowd in chanting slogans against tightening the law on abortion.

The KOD leader, Mateusz Kijowski, spoke on the vote against the Save the Women project in its first reading: “Yesterday the parliamentary majority showed deep contempt for hundreds of thousands of Poles. They did not allow debate on the bill on human rights, which was signed by more than 200,000 Polish women and men.” He read a letter from Agnieszka Holland, a film director, who wrote, “Today the PiS government wants to deprive women of freedom and equality. They want to take away from women the right and freedom to decide about their own lives, to take away their dignity, decreeing that a woman’s life is worth less than the life of an embryo.” [21]

Black Monday

On October 1, a demonstration was held in Warsaw; as many as ten thousand people gathered in front of Parliament. It was clear that mobilization was intensifying, but the high point came on Monday, October 3, with the call for a women’s strike.

That day demonstrations were held in 143 cities, towns, and municipalities. The slogans were typically feminist like “My Body, My Choice”; “I Think, I Feel, I Decide”; “We Have Brains, Not Only Uteruses,” but also “Poland Is a Woman” and directly anti-government like “Beata, Sorry, Your Government Will Be Overthrown by Women”; “Jarosław, Hands Off Women”; and “Abortion of the Government.”

In Warsaw tens of thousands of women gathered in Castle Square in the Old Town. For many

participants it was the first demonstration of their lives. Its success was completely unexpected, which was confirmed even by the choice of the place for the mobilization: Castle Square is too small for such a massive gathering. The crowd was so big, the square was so small, the mass pressure so strong, and the situation so risky that people were even told by organizers not to move under the threat of dissolving the demonstration.

One of the women for whom the Black Protest was their first demonstration was Anna Nowak (name changed), a young gynecologist from a village in Western Pomerania. “It was my duty to go to the protest. If this bill was adopted, my patients would have no access to prenatal exams and no choice but to give birth to disabled babies. That often means, for a woman, exclusion from the labor market and a breakdown of a relationship because they are often left by their partners.” Dr. Nowak recollects, “I remember a girl whose fetus was malformed and she was refused legal abortion. The fetus was big and allegedly the pregnancy was too advanced. It was not true—malformed fetuses are often very big. She was forced to continue the pregnancy. In the fortieth week she gave birth to a baby who died after three minutes. I delivered that baby.” Dr. Nowak supports the idea of liberalizing existing law: “Everybody must have a choice.” [22]

In the response to the call, some women did not go to work and were replaced by their male colleagues. Some higher officials openly supported the strike. Robert Biedroń, mayor of the city of Słupsk in Western Pomerania and an LGBTQ activist, said before the demonstration on Monday, “I have received lots of declarations that women will not come to work. There are whole departments [in the Słupsk town hall] that will not come to work. It can paralyze the functioning of the town hall, but I totally understand it. I believe that women have to show what the world will look like when women get pissed off and when they show that they also want to decide on democracy.” [23]

At numerous universities it was announced that students who were not in class on October 3 would not be marked absent. Some private entrepreneurs closed their shops or facilities, such as Radosław Olszewski, an owner of a chain of restaurants in Wroclaw. He closed all his restaurants, which employ 100 people, 80 of them women. [24]

Many women came to work dressed in black, such as the majority of female employees in the Indesit factory in Łódź. [25] In many workplaces some women limited their duties, with secretaries, for example, not answering their office phones. [26]

Because of the variety of forms of participation in the Black Protest it is hard to evaluate its scope, but it is clear that it was massive. According to police estimates, around 100,000 people took part in street demonstrations alone. And in the survey conducted just after Black Monday, 67 percent of respondents declared that they supported the Black Protest. [27]

Success

The effect of the unexpected mass protest was also unexpected: PiS withdrew its support for the fundamentalist project, and on October 6 it was rejected by Parliament. Jarosław Kaczyński, the leader of the party, whose real role much exceeds his formal position, admitted during the parliamentary debate that it was “a giant misunderstanding,” and “they came to the conclusion” that the Ordo Iuris project “is not a proper thing, and its result would be opposite [to the expected one].” He assured the public that PiS was “supporting the idea of protecting life,” but said it needed a well-considered action, which that project was not. [28] Beata Szydło, the prime minister, announced new social support to encourage women to bear and raise disabled children. Even the Bishops’ Conference withdrew its active support for the project, declaring that it did not support the idea of punishing women for abortion. [29]

Aftermath: The Struggle Continues

The sudden governmental withdrawal was not necessarily definitive, because the government and the ruling party are also under pressure from disappointed ultraconservatives. The idea of a new bill tightening the existing law, with this one sponsored by the government, has emerged very quickly. Such a new bill would criminalize abortion in the case of fetal malformation or illness, but it is not clear if the government actually intends to proceed with this or whether it is a sort of discursive play to calm down ultraconservatives who accuse PiS of a betrayal. At the moment a new law, For Life, has been adopted, which provides around a thousand euros to a woman who decides to continue a pregnancy and give birth when the fetus is malformed or sick. This law is in the spirit of the earlier words of Kaczyński: "We will aspire to assure that even cases of very difficult pregnancies, when a baby is condemned to death or severely malformed, will end up with a delivery to let the baby be baptised, buried, given a name." [30]

In October, the first abortion coming-out event by a young female celebrity took place in Poland, with pop singer Natalia Przybysz recording a song about her own abortion. The song is about taking 42 pills of Cytotec, which did not help, and about her trip to Slovakia to get medical attention to end her pregnancy. [31] She also gave an interview in which she described her story in detail. [32] The interview sparked a wave of attacks on her: She was called a "bitch" and a "murderer," with the tabloid Super Express providing the headline, "She killed the baby to make room for books." [33] In the small town of Nadarzyn, in Mazovia, a protest was organized against a concert by Przybysz. On the other hand, her openness about her abortion was enthusiastically welcomed by feminists and by left-wing and even some liberal circles. Women immediately organized an online collection of anonymous posts on their own abortion experiences. [34] However, the critics of Przybysz included some participants in the Black Protest who opposed tightening the existing law but supported the status quo "compromise."

In that context, new protests were organized, especially on October 23 and 24. In numerous cities and towns, actions and demonstrations took place, although they were much smaller than on Black Monday. The division in the movement became more visible not only because the different stands on the pro-choice position became evident, but also because some left-wing circles started to attack KOD, claiming, for instance, that "KOD is appropriating the Black Protest." [35] In Poland, supporters of the old regime as well as followers of Antonio Negri's theories tended to disavow KOD from the very beginning as a movement in the service of liberal opposition, which aimed "to mask the exploitation," and in this sense not different from PiS, [36] as described by a prominent Razem supporter and Negri follower, Professor Jan Sowa.

Małgorzata Tracz, a president of the Greens, which has supported KOD from the very beginning, confirms that many KOD women were engaged in the Black Protest. She also admits that lots of participants in the movement were women who were against the attack on the "compromise" but did not support the liberalization of abortion laws. She says, "The myth of compromise has blocked the possibility of debate. But as a participant and an organizer, I see the change; lots of women are changing their mind in the course of the events. The protests were against tightening the law on abortion, and our job is to stimulate the debate on liberalization. Now it is time for the next step." She appreciates the abortion coming-out of Natalia Przybysz and sees a desperate need for further abortion coming-outs. At the same time she is critical about comments like "They did not know where they were and what they took part in," as some Black Protesters said of those participants who are satisfied with the status quo and who attack Przybysz. Tracz emphasizes that "this is the effect of the myth of compromise, which we have to struggle against." [37]

Conclusions

Although it is very tempting to look at the Black Protest through idealistic glasses and see it as a new social movement spontaneously emerging from the grassroots, to understand this phenomenon a more materialist and classically Marxist approach is needed.

During the last year in Poland, after PiS gained power, a political reconfiguration occurred. Poland had many years of social peace, when most radical neoliberal reforms did not result in mobilization against the government, even after a dramatic pension reform in 2012 that increased the age of pension eligibility from 60 years for women and 65 years for men to 67 years for both. In December 2015, though, people suddenly took to the streets because of PiS's attempt to take control of the Constitutional Tribunal, which had not previously been an institution of special popular interest. This movement is KOD, which was at one moment able to organize a demonstration of 100,000 people in Warsaw (which is an extraordinary number for Poland) under pro-democracy slogans. This movement has played an enormous role in the rebirth of the culture of protest. It has become clear that in Poland democratic political demands have much more potential for mobilizing masses than do social demands.

It seems that this mobilizing potential of political demands also played a role in the Black Protest, and that this at least partly explains its success. In a very short time the right to abortion—even when understood very narrowly as a right to terminate pregnancy resulting from rape or when a fetus is malformed—was raised from a social or even ideological question to the level of one of fundamental rights and civic freedoms. The struggle for the right to abortion was linked to other struggles for democratic freedoms, and the attempt of PiS to tighten the abortion law was understood as another attack on democracy. It is at least somewhat symbolic that one of most visible celebrities who stood against tightening the abortion law was Krystyna Janda, who had played the main role in Man of Marble and Man of Iron by Andrzej Wajda—movies that symbolize the struggle against the suppression of democratic and workers' rights under Stalinism. When Janda posted about the 1975 Women's Strike in Iceland on her Facebook profile, it was broadly interpreted as a call for a women's strike in Poland (although she did not intend this).

All in all, in Poland mass women's protests, which have no precedent, immediately forced the Parliament to give up the idea of tightening the law on abortion. The governing party capitulated publicly in the face of the explosion of mass discontent. The scale and force of the protest astonished everybody. The Black Protest is an important confirmation that the tradition and culture of mass political protest is being reborn in Poland at the moment.

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P.S.

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Footnotes

[1] Ustawa z dnia 7 stycznia 1993 r. o planowaniu rodziny, ochronie płodu ludzkiego i warunkach dopuszczalności przerywania ciąży, English translation.

[2] "Dzień dobry, chcę przerwać ciążę…." O procedurach dostępu do legalnej aborcji w polskich szpitalach, Federacja na rzecz Kobiet i Planowania Rodziny, Warszawa, 2016, tinyurl.com/zy8wo5f.

[3] 20 lat tzw. ustawy antyaborcyjnej w Polsce, Federacja na rzecz Kobiet i Planowania Rodziny, Warszawa, 2013, p. 23.

[4] Ibid, p. 21.

[5] Ibid, pp. 21-22.

[6] Ibid p 24

[7] See: K. Chmielewska, T. Żukowski, "Aborcyjny kompromis?" Przegląd, 2006, no 46, p. 36-38.

[8] In the Twenty-First century Razem has been the first left-wing extra-parliamentary party that managed to achieve 3 percent threshold at the parliamentary election, which provides the state subvention and lets the party enter the political mainstream.

[9] "What can feminists who joined the Together Party offer to mothers from families struggling to make ends meet and young women who earn very little working at a checkout counter in a little shop in a small town?

"K.P.: Women earn less in general. Additionally they have much longer breaks in their professional life, because they usually take care of children. Women more often bear the consequences of the breakdown of marriage and of unwanted pregnancy, and with their children they have to leave their homes because of violence. Finally, it is more difficult for them to find a job just because they can become mothers. The state has to intervene here. Otherwise, women will always be at risk in the labor market.

"The state must provide support. Therefore we want to change the rules of functioning of the Alimentary Fund. Our priority is development of the network of nurseries and kindergartens to make space in free facilities for all children in need. Because of today's labor market we must provide the facilities that operate in the afternoons and during weekends. We want to introduce — along the pattern of Sweden — a 480-days single parental leave shared equally between parents. Thanks to that, children will get longer care at home and women will have fewer problems with finding a job." — K. Wołodźko, K. Paprota, M. Zawisza, "Millera odsyłamy do prokuratora" - coś nie tak z tym zjednoczeniem lewicy.

[10] "We are against solving the problem of abortion through criminal repression. The law which is in force in Poland does not function — affluent women bypass it very easily while it goes against poor women. Independently from differences between us on ethical evaluation of abortion, we are convinced that it is not a role of a state to support one worldview. The decision on maternity should be in the hands of a women" — Deklaracja Programowa Razem.

[11] Obywatelski projekt ustawy o zmianie ustawy z dnia 7 stycznia 1993 r. o planowaniu rodziny,

ochronie płodu ludzkiego i warunkach dopuszczalności przerywania ciąży oraz ustawy z dnia 6 czerwca 1997 r. — Kodeks karny

[12] M. Płatek, Opinia prawna na temat projektu ustawy o zmianie ustawy o planowaniu rodziny, ochronie płodu ludzkiego i warunkach dopuszczalności przerywania ciąży (Dz. U. z 1993 r. nr 17, poz. 78 ze zm.) oraz ustawy z dnia 6 czerwca 1997 r. — Kodeks karny (Dz. U. nr 88, poz. 553 ze zm.), Instytut Spraw Publicznych-Heinrich Böll Stiftung, Warszawa, 2016, pp. 11-12.

[13] Ibid, pp. 11, 16.

[14] Prof. Dębski: Nie będzie w Polsce żadnego leczenia prenatalnego.

[15] M. Gostkiewicz, Dębski: Prowadziłem ciążę po in vitro w rodzinie biskupa. Jak to ich dotyczy, nagle zmieniają poglądy.

[16] Sygnały dnia, March 31, 2016 - rozmowa z Beatą Szydło.

[17] Komunikat Prezydium KEP w sprawie pełnej ochrony życia człowieka Komunikat Prezydium KEP w sprawie pełnej ochrony życia człowieka.

[18] Dziewuchy Dziewuchom.

[19] Obywatelski projekt ustawy o prawach kobiet i świadomym rodzicielstwie.

[20] Piotr Pacewicz, Sondaż Oko.press. Rośnie liczba zwolenników liberalizacji ustawy antyaborcyjnej.

[21] Warszawa, Sept. 24, 2016, Manifestacja jedna Polska dość podziałów — Przemówienia, from: 4.37.

[22] Phone conversation with the author, Oct. 31, 2016.

[23] Biedroń wspiera strajk kobiet.

[24] TVN24.

[25] M. Witkowska, “Czarny Poniedziałek w Łodzi. Strajk kobiet 3 października,” Dziennik Łódzki.

[26] Observation made in a hospital in Warsaw.

[27] Tych liczb przestraszyło się PiS?

[28] Jarosław Kaczyński’s speech at 27th parliamentary sitting, Oct. 6, 2016, transcript available at official site.

[29] Komunikat w kwestii ochrony życia.

[30] Wywiad prezesa PiS dla Polskiej Agencji Prasowej.

[31] Natalia Przybysz, Przez sen.

[32] P. Reiter, Natalia Przybysz: Aborcja: mój protest-song, “Wysokie Obcasy — Gazeta Wyborcza.”

[33] “Zabiła dziecko by mieć miejsce na książki,” Super Express, Oct. 24, 2016, p. 2.

[34] http://www.mialamaborcje.pl/

[35] P. Nowak, Jak KOD zatruwa Czarny Protest.

[36] K. Leśniewicz, “Klęska liberalnych elit. Rozmowa z dr. hab. Janem Sową,” Przegląd, 2016 no 38, p. 9.

[37] Phone conversation with the author, Oct. 31, 2016.