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Recent Experiences with Legal Restrictions And the Incidence of Abortion in Poland

by

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Contrary to the tendency in most other developed countries, in 1993 Poland implemented a more restrictive abortion law. These relatively recent changes in Polish law regulating access to abortion in Poland offer an opportunity to examine the interaction between legal restrictions and utilization and outcomes of abortion.

Under the Communist regime in Poland, there had been nearly unlimited access to abortion beginning as early as 1956.¹ The law permitted abortion in the first 12 weeks of pregnancy in cases of severe social situations, with the woman solely responsible for determining whether there were severe conditions. Abortion was available for free in public hospitals, but some women paid for abortions in private practices, as they preferred. Under this law, abortion was widespread in Poland — 200,000 legal abortions were registered in 1963.¹ Some analysts have suggested that the actual numbers were as high as 500-600,000 abortions per year, close to the number of births.²

There was probably some decrease in abortions in the 1970s and 80s, when the number of registered abortions moved down towards 130,000 per year. Since abortion was free in the hospital and relatively costly in private practice, and hospitals were much more reliable about reporting abortions, changes in registered abortion probably reflected an overall decrease in abortion during this time.³ Actually, this decrease was temporarily accompanied by an increase in the fertility rate.⁴ This may reflect changes in cultural trends regarding fertility and abortion because there was less

suppression of the Catholic Church and pro-life groups by the Communist regime during this time.

After the fall of Communism in Poland, steps were taken towards a more restrictive abortion law.⁵ After four years of intensive public discussion, a law was introduced in 1993, "On Family Planning, the Protection of the Human Fetus and Permissible Conditions for Abortion."⁶ This law defines the current conditions under which abortion can be legally performed in Poland. It must be performed by a legal doctor and only if at least one of the following conditions is present:

- A. The pregnancy presents a risk to the life or health of the pregnant woman.
- B. Prenatal diagnosis (or other medical evaluation) indicates a high probability of a severe irreversible deformity or life-threatening condition in the fetus.
- C. There is substantial evidence that the pregnancy is the result of incest or rape.

In a case of illegal abortion, the person performing the abortion is subject to punishment under the law, but not the pregnant woman.

Because of public and political interest, the outcomes of this law were studied by the Polish government on a yearly basis. The annual report from September, 2002 (see Appendix) contains data on the prevalence of abortion.⁷ Under the restrictive law, the rates of legally induced abortion have dropped to less than 1,000 cases a year, and that level has been constant over the previous seven years. While the ratio of elective abortions to births has dropped dramatically, the ratio of spontaneous abortions to births remained stable at about 11 spontaneous abortions per 100 births, the same as before the restrictive law went into effect. Prenatal mortality has dropped from 19.3 in 1990 to 7.7 per 1,000 births in 2001, a drop of approximately 60%. There was no increase in maternal mortality (71 cases in 1991 and 21 in 1999)⁸ or in infanticide, which decreased slightly from 50 in 1990 to 26 in 2001. The number of children abandoned in hospitals after delivery has fluctuated slightly: 738 cases in 1995, 594 cases in 1998, and 737 in 1999, and remains an infrequent occurrence.⁷

This seems to be striking evidence that there has been no negative impact on public health in terms of maternal mortality or infanticide, in sharp contrast to opinions that are usually expressed in favor of liberal abortion law. However, several questions remain to be answered.

Most importantly, how many abortions are performed illegally in Poland? Traditionally, an excess of reported spontaneous abortions is seen

as a sensitive marker for illegally induced abortions. However, this excess was not observed under the restrictive law. The ratio of spontaneous abortion to live births is similar now to what it was previously under the liberal law, when illegal abortion may have existed but was surely not common. Another possible explanation for the absence of observable impact on public health could be that abortions that used to be performed legally are now performed in illegal settings but in good clinical conditions. This may be true for some portion of illegal abortion, but it seems very unlikely that so many abortions (on the order of 130,000 as registered in 1985) that were legal and registered under the liberal law could shift completely to an underground system of abortion, which is purported to be too expensive for poorer women.⁹

In this situation one would expect that a considerable number of illegal abortions would be performed in poor conditions and this should be reflected in available statistics on maternal and child health. This was what some experts suggested as the likely consequence which would result from the introduction of legal restrictions.¹⁰ The reality, an absence of detrimental effects, is evidence in favor of lower abortion activity overall.

Number of Illegal Abortions Estimated

The number of illegal abortions is clearly a critical issue in evaluation of the restrictive law. Because direct data are difficult to obtain, some estimates have been suggested. A woman's advocacy organization which supports more liberal abortion law published a report estimating that, in 1999, there were 80,000 to 200,000 illegal abortions. This estimate was based on two assumptions: The first was that the incidence of abortion performed illegally is similar to neighboring countries, where abortions are not restricted. The second assumption was that the ratio of induced abortions to births remained constant prior to and after the implementation of the restrictive law. The low estimate, 80,000, is based on a hypothetical underreporting of abortion in the early eighties. Both calculations assume without question that there is no impact of changes in the law other than shifting abortions from legal into illegal. While these estimates may give an idea of what the prevalence of abortion would be if abortion were legally available, they merely exclude any influence of the restrictions. Of note, an earlier report from the same organization placed the estimated number of abortions in Poland in 1994 at 50,000, substantially lower than the more recent low estimate of 80,000 for 1999.¹²

Two studies have sought to obtain a direct measure of the number of abortions in Poland. A survey of 210 rural women in three different regions was conducted in August, 1999, in which two of 194 women responded that they had an induced abortion in "this year."¹¹ These data were

extrapolated to the entire rural population of Poland resulting in an estimate that the number of abortions in this population was 90,000 in 1999. This calculation was based on the assumption that 75% of all women (> 14 years old) in the rural population were of reproductive age. However, according to official data only 62% of Polish rural women were in the 15-49 age group and only 47% in the 18-44 age group.⁸ Since the study involved only women in ages 18-44 and the risk of pregnancy is considerably lower in the 15-17 and 45-49 age groups, the estimation should consider only the former group. Further, women aged 25-34 were overrepresented in the study population. Therefore the estimate of 90,000 nearly doubles the number of abortions that are identifiable by the collected data. The study also lacks any explanation of why the relatively small sample of 210 was chosen, i.e., what probability of abortion was assumed prior to the study. Another problem is the global extrapolation from the study sample without any comments on non-respondents and no comparison of the respondents to the basis population. Because of these major methodological flaws the reported study cannot be sufficient for a quantitative assessment of incidence of abortion in Poland. Nevertheless, this study does confirm that some abortions do take place despite the restrictive law, which is consistent with information about some level of indirect advertisement on abortion given in the local press.¹³

In our own survey of family planning in a convenient sample of 488 postpartum women, completed in 1997-98, we studied the lifetime prevalence of induced abortion.¹⁴ It was much lower in Cracow, Poland (4 out of 249 women), than Berlin, Germany (46 out of 239), whereas the ratio of spontaneous abortion to all pregnancies was virtually the same in both groups. Additionally, none of the reported abortions in Cracow was performed in 1993-97.¹⁴ The numbers for Berlin were consistent with the known ratio of one abortion in three pregnancies in the corresponding German population.¹⁵ Although our data are limited to a selected population of women giving birth in both groups, they show a large difference in the incidence of abortion between a sample from a Polish urban population and a German urban population where abortion is widely available and used. There is a number of possible explanations which may diminish the observed difference, but surely an underlying difference in behavior between the populations remains. Respondents in Cracow might have been reluctant to disclose information about previous abortions because of the restrictive law. However, just assuming an arbitrary level of non-disclosure consistent with former assumptions about expected incidence of abortion would be again a logical circle.

While the question of the number of abortions illegally performed in Poland cannot be answered definitively, the question remains if there are

any mechanisms which could possibly result in a real decrease in the number of abortions.

It is conventional wisdom that the number of abortions is rather independent of any governmental action, and that any decrease in abortion numbers is expected to arise only from a higher prevalence of the use of more effective family planning methods. However, it is instructive to examine events surrounding the re-unification of Germany. There is a distinct pattern of change in fertility over time in the former East Germany. In what was East Berlin the pregnancy rate dropped by 40% in 1990 and has remained at the same level ever since.¹⁵ Over this same time period, there was little change in the percentage of pregnancies ending in abortion (around 30%). The most likely causes of this dramatic change in both the pregnancy rate and the absolute abortion rate were adverse economic developments that discouraged having children. Further, this dramatic change in both planned and unplanned pregnancies is not to be explained by the introduction of more effective family planning methods. The prevalence of oral contraception in the former East Germany (GDR) was 64% at the time, the highest in the world.¹⁶ Oral contraception was free in GDR, but now, after re-unification with West Germany, must be purchased.¹⁶ Surveys over time confirmed that the relative prevalence of different family planning methods used did not change after reunification, leaving the only possible explanation that there was a more effective use of the same methods.^{17, 18} Such changes in effectiveness during typical use are difficult to assess. However, the evidence described points towards a strong effect of such changes on the incidence of abortion.

The Results in Poland

Returning to the situation in Poland, the number of births has dropped by 34% between 1985 and 1995 (see Appendix). Assuming all the data in the Appendix are true, the number of all pregnancies dropped by 46% during these years. Whereas the real number of abortions in 1995 supposedly exceeds the officially reported number of 559, the level of decrease in the overall pregnancy rate is still comparable to the development observed in the former East Germany. A proportional decrease of births and abortion rate would copy the development in the former GDR and is justified by economic pressures similar to or even worse than those in Germany.

It is important to recognize that the number of reported elective abortions in Poland decreased dramatically even prior to the change in the law (see Appendix). In 1992 the number of elective abortions reported was 9% of that in 1985, while the number of births was 76% of that in the same

year. Yet, in 1992, abortion was still legally available. For reasons already described, this decrease in reported abortions probably reflects a decrease in all abortions, although venues providing higher levels of privacy were probably less likely to report completely and may have experienced less of a decrease. There were substantial social changes relative to abortion beginning around the fall of Communism in 1989. These included some changes as to what was culturally appropriate since the liberal law was looked upon as a measure of the Communist regime. Increased role and influence of the Catholic Church, greatly increased activity by pro-life organizations, and a substantial and extended public dialogue about the issue of abortion culminated in the passage of the 1993 law. These social changes are probably at least partially responsible for the decline in the rate of elective abortion even before the change in legal responsibility.

After access to abortion was limited by law in 1993, there were strong motivations for more effective use of family planning. In fact, the restriction on abortion is likely to have resulted in some unplanned pregnancies coming to full term, which would otherwise have been aborted. This means that the decrease in actual abortion numbers should be somewhat greater than the decrease in the number of births. Although family planning in Poland differs from Germany,¹⁹ the higher use of user dependent methods (natural family planning, barriers, withdrawal) allows even more potential for increasing typical use effectiveness by stronger motivation and more consistent use. Besides, there was also a considerable shifting from withdrawal and calendar methods to modern natural family planning or oral contraception.¹⁴

Based on this analysis, a real decrease in the total number of abortions in Poland seems likely. The restrictive law is not the single and probably not the strongest influence, but it seems to be a part and even a consequence of the underlying cultural changes. Further, the indirect evidence of the lack of a negative impact on public health since 1993 suggests that there have been low numbers of illegal abortions during the time of the restrictive law.

From Eastern Germany, we learn that abortion rates can be strongly reduced by economic conditions, even if the change is experienced in the overall pregnancy rate rather than selective effects on abortions only. The Polish experience suggests that legal restrictions on abortion might decrease its incidence without negative impact on public health. Both experiences support the assumption that external economic and/or legal pressure might increase the effectiveness with which couples avoid unplanned pregnancies, with corresponding lower abortion rates.

Although there remains room for debate about the actual incidence of induced abortion in Poland, the absence of measurable negative impact on public health from the restrictive law of 1993 cannot be dismissed and

should be carefully noted. While decisions about abortion law are fundamentally political, we must acknowledge the possibility that at least under some circumstances, restrictive legislation may be a part of the process leading to decrease in the rates of abortion without having negative impact on public health.

Appendix:

Live births, induced abortions, and spontaneous abortions registered in Poland.⁷

Year	Live Births	Induced Abortions		Spontaneous Abortions	
	Number	Number	Number per 100 births	Number	Number per 100 births
1970	547,800	148,219	27.1	65,103	11.9
1975	646,400	138,634	21.4	73,273	11.3
1980	695,200	137,950	19.8	68,757	9.9
1985	680,100	135,564	19.9	72,785	10.7
1986	637,200	129,719	20.4	68,006	10.7
1987	607,800	123,534	20.3	66,751	11.0
1988	589,900	105,333	17.9	59,076	10.0
1989	546,400	82,137	15.0	59,549	10.9
1990	547,700	59,417	10.8	59,454	10.9
1991	547,700	30,878	5.6	55,992	10.2
1992	515,200	11,640	2.3	51,802	10.1
1993	494,300	777	0.2	53,057	10.7
1994	481,300	782	0.2	46,970	9.8
1995	433,100	559	0.1	45,300	10.5
1996	428,200	495	0.1	45,054	10.5
1997	412,700	3,047*	0.7	44,185	10.7
1998	395,600	310	0.1	43,959	11.1
1999	382,000	151	0.04	41,568	10.9
2000	378,300	138	0.036	41,007	10.8
2001	368,200	124	0.034	40,559	11.0

* During 1997, the 1956 law was temporarily in force for some months

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