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**THE POLISH PARLIAMENT AND THE MAKING OF POLITICS  
THROUGH ABORTION: NATION, GENDER AND DEMOCRACY IN THE  
1996 LIBERALISATION AMENDMENT DEBATE<sup>1</sup>**

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**ABSTRACT**

**KEYWORDS**

Poland, abortion, abortion law, reproductive policy, postcommunism.

**INTRODUCTION**

Why have reproductive policies been the focus of so much attention across postcommunist Central and Eastern Europe, and particularly Poland, since 1989? Gal and Kligman argue that debates about reproduction have been, and continue to be, central, to the ‘making’ of politics, both in East/Central Europe and beyond (2000a, 2000b). Reproductive debates, they argue, constitute and address women as a political group, constructing gendered relationships between states and citizens. Moreover, and

as many others have argued elsewhere, nations and their boundaries are made and remade, literally and metaphorically, through discourses and practices on reproduction.<sup>2</sup> Gal and Kligman argue that debates about reproduction stand in as ‘coded arguments’ through which political legitimacy and state morality is debated (Gal and Kligman 2000a: 15-16).

As I have argued elsewhere, contestations around reproductive policy are arguments about the proper shape of postcommunist states, political arrangements and civil society (Kramer 2005, 2006a, 2006b, 2007). Debate around reproduction serves as a substitute issue where wider concerns and anxieties around the proper ordering of the re/constructed postcommunist polity, (gendered) citizens and nation/state are played out, and where the legitimacy of political authority is articulated and contested. Despite having real and material effects on women’s lives, postcommunist abortion debates are thus explained as being more properly about the nature of democracy and the character of the nation-state, than simply about reproduction (Gal and Kligman 2000a: 30).

Cusack comments that:

The nation’s identity is generally sought in particular historical claims and traditions that focus on women’s role in relation to home and family.

Women’s and men’s relations to the modern nation thus have different trajectories: while women are taken to represent the nation’s traditional face, men appropriate the future.

(2000: 545)

This analysis resonates with the gendered citizenship models in play in the East Central European postcommunist context. Whilst individualism pervades men's public representations as citizen-workers in the public sphere, collectivism and the national good pervades the areas of motherhood and reproduction (Alsop and Hockey 2001; Mizielieńska 2001). The contemporary nationalist/postcommunist nostalgia for tradition, identity and authenticity produces a conception of gender whereby women become symbolic markers as guardians of the nation in their capacity as biological reproducers (Pettman 1996). Thus postcommunist transformation is being effected in part through the eradication of the gender equality project in a way that impacts on women's claims to equal citizenship rights.

In abortion debates globally meanwhile, the foetus is not just omni-present, it is also privileged and reified, becoming symbolic of life itself. With the angle of vision centred on the foetus, women's bodies become mere 'containers' for the foetus. The attribution of rights to the foetus (and its elision with vulnerable, 'unborn child') has led to the displacement of women as subjects of abortion law and the construction of a supposedly 'natural antagonism' between the interests of woman and foetus (Chavkin 1992; Hartouni 1997; Daniels 1993).

This has resulted in the transformation of abortion from a medical to a moral issue and the disappearance of women's rights from reproductive debates. But the impact of foetal citizenship is still greater than this, as it is predicated upon making women's citizenship rights subsidiary to the rights of the foetus. As Franklin puts it: 'such a concept threatens the bodily integrity, the individual autonomy and the right to bodily

sovereignty of women. Foetal citizenship contradicts the citizenship of women; indeed it contradicts their individuality' (Franklin 1991: 201; see also Daniels 1993: 1).

In Poland, the abortion question has become virtually a permanent feature of the parliamentary agenda (Gal and Kligman 2000a). Zielińska has further noted that 'the abortion debate is the best test of a politician's attitude to the Catholic Church, the electorate, the party caucus or colleagues' (2000: 52). The question of abortion is not 'just' about abortion, even though that is of course crucially important in its own right, but also 'represents a coded discourse' through which 'the shape of the state, the state's obligations to society (and vice versa), the rule of law, and, last, but certainly not least, the scope of the protection of civil rights and fundamental freedoms' is debated (Zielińska 2000: 24). From this perspective, Polish transformation is not simply affecting abortion policy, but rather it is, in part, *through* abortion debate, that social and political transformation is being (discursively) effected (Einhorn 1993; Titkow 1993; Kulczycki 1999; Fuszara 2000; Zielińska 2000).

This paper analyses Parliamentary debate in the Polish Sejm (the lower chamber) during the second reading of the 1996 liberalisation of abortion amendment, offering a detailed and critical engagement with the ways in which, as Gal and Kligman put it, reproduction 'makes' politics (2000a, 2000b). Analysing how such discourses are gendered, this paper does not allow scope for discussing how the question of abortion has made and re-made the political stage in Poland through the mobilisation of interested parties including the Polish feminist movement, NGOs and the Roman Catholic Church, as well as political parties and institutions, although that is important

in its own right (see for example, Rukszto 1997; Einhorn and Sever 2003:176-7). Rather, my aim here is to analyse a particular moment in parliamentary abortion debate where abortion functions as a ‘stand-in’ issue and vehicle for the articulation and contestation of political authority. This allows an examination of the meanings attributed to abortion over and above reproductive policy by Parliamentary Deputies, particularly in relation to the future, present and past of the Polish nation-state. I will begin by offering a brief introduction to postcommunist Polish politics and abortion debate since 1989.

## **THE POSTCOMMUNIST POLISH POLITICAL SYSTEM**

Poland is a Parliamentary democracy, with both houses of Parliament (the Sejm and the Senate) elected simultaneously for four-year terms. After successful passage through the Sejm, a bill passes to the Senate, which has the power to amend, adopt, or reject the bill by majority vote. The bill is then returned to the Sejm.

### **Parliamentary Parties and Groupings (1989-1996)**

In 1991 twenty-four parties gained representation in the Sejm. In 1993, only seven parties won seats. In this period, Polish political parties can be broadly categorised into two groups: post-Communist or post-Solidarity.

#### ***Postcommunist Parties***

The SLD or Social Democratic Alliance was the successor party to the Soviet era Communist Party (PZPR), reconstituted as a pro-European social democratic party. A traditional coalition partner of the SLD, the PSL or Polish Peasants' Party was the second postcommunist party, with a mass base of support from within the peasantry.

### ***Post-Solidarity Parties***

By 1993 Solidarity had splintered into seven parties along economic, political and religious lines, necessitating the construction of individual party identities. The major post-Solidarity parties then included the Democratic Union (UD), the Union of Labour (UP), the Confederation of Independent Poland (KPN), the German Minority (MN) and the Nonpartisan Reform Bloc (BBWR). During the 1993-7 term of the Sejm, the UD merged with the Liberal Democratic Congress to form the Freedom Union (UW). The UP was the most left-wing of these parties.

### **Election Results**

In June 1989 the Sejm was elected under the first semi-free elections in Poland, with all but one of the seats contested taken by a Solidarity representative. In December 1990 Lech Wałęsa was elected President and in October 1991 full free elections saw seventeen parties elected, and a post-Solidarity coalition government took office. In September 1993, seven parties were elected, with the SLD taking power in coalition with the PSL. This election result was largely due to the fragmentation of the post-Solidarity groupings and the electoral system rather than the result of overwhelming support for the post-communist parties.

## **ABORTION DEBATE IN POLAND 1989-1997**

The issue of abortion has remained a consistent topic of debate in Poland since 1989, with numerous heated Parliamentary debates, repeated opinion polling, public marches and demonstrations, together with substantial coverage and analysis in the Polish media. After 1956 and under the provisions of the Abortion Admissibility Law, access to abortion in Poland was available virtually ‘on demand’ if the woman faced ‘difficult living conditions’ or if the woman was in a ‘difficult personal situation’ (Kulczycki 1995:474).<sup>3</sup>

A concrete proposal to restrict abortion was submitted in the Sejm in June 1989. Initiated by Deputies from the Polish Catholic and Social Union, it was prepared in conjunction with experts from the Polish Episcopate and prohibited abortion in all cases (Fuszara 1991a: 216-7). It was shelved in the light of massive public protest and substantial public debate (Fuszara 1991b: 124). Following the first semi-free elections, attempts to restrict abortion continued. The Episcopate Family Council ‘urged’ the Sejm to continue work on the anti-abortion bill (Zielińska 2000: 28) whilst the Ministry of Health passed an executive order which stipulated that women seeking an abortion in a public hospital must have certificates from two gynaecologists, a GP and psychologist. Meanwhile the Code of Medical Ethics ratified in May 1992 did not permit abortion in the case of genetic deformity. Thus access to abortion was considerably restricted even before restrictive legislation was passed.



Further legislative attempts to restrict access to abortion followed soon after the 1991 elections with the Christian-National Union (ZChN) proposing a very restrictive abortion bill in 1991.<sup>4</sup> In the Spring of 1992, meanwhile, an alternative draft proposal allowed for sex education, access to family planning and access to abortion as a ‘last resort’. A Labour Union (UP) bill proposed a referendum on abortion, collecting over a million signatures in support. Both these bills were rejected, whilst the 1991 ‘anti-abortion’ draft bill was referred to a special commission (Zielińska 2000: 31).

In 1993 the ‘Law on Family Planning, Legal Protection of the Foetus and the Conditions of the Permissibility of Abortion’ or ‘anti-abortion law’ was passed. This permitted abortion only in public hospitals, when there was a serious threat to the life or health of the woman, if pregnancy was the result of a crime, or if prenatal tests indicated the foetus to be severely and incurably damaged. Access to abortion was further limited by requiring confirmation by a public prosecutor in the case of rape or incest, requiring the ‘threat’ to the woman’s life or health to be certified by three doctors, and allowing pre-natal testing only if there was already ‘good reason’ to suppose foetal defects (Kulczycki 1995: 474). The 1993 abortion law also required the state and local government to provide assistance to ‘the conceived child and its mother’, to provide education which promoted increased knowledge of ‘sexuality, conscious and responsible parenthood, the value of the family and of conceived life’, and to provide free access to ‘the methods and means of birth control’ (cited in Zielińska 2000: 32).

The passage of the 1993 bill represented a significant restriction of access to abortion and a move away from Poland’s relatively liberal pre-communist abortion policy<sup>5</sup> as

well as a move away from state socialist policy on abortion. The 1993 law was both less restrictive than the original drafts and proponents of the bill had intended, and more restrictive than those who opposed the original drafts had hoped, satisfying nobody.

After the second round of parliamentary elections in 1993, which showed a swing back to the left on an election platform which included a pledge to liberalise abortion law, unsuccessful attempts were made in 1994 (Bystydzienski 1999: 101) and 1995 (Zielińska 2000: 32-33) to widen women's access to abortion. In March 1996 yet another liberalisation amendment (sponsored by the UP but supported by the postcommunist SLD) passed through Parliament. Despite rejection in the Senate, it passed through the Sejm and into law. This allowed abortions under a 'socio-economic conditions' clause and removed the notion of life beginning at conception which had informed the restrictive 1993 law (Girard and Nowicka 2002). Abortions were permitted in private practices and subsidies were introduced for specified contraceptive pills, whilst 'positive' features of the 1993 law, such as sex education and assistance to pregnant women were retained (Zielińska 2000: 33).

In December 1996, a group of senators took the liberalised law to the Constitutional Tribunal. The day before Pope John Paul II visited Poland, in June 1997, the Constitutional Tribunal controversially pronounced that 'most of the 1996 amendments were unconstitutional because they conflicted with the fetus' constitutionally protected right to life' (Zielińska 2000: 33), even though neither the 1952 nor the 1992 Constitution (Small Constitution) then in force mentioned any such right to life (Zielińska 2000: 34-35; Holc 2004).<sup>6</sup>

In 1997 the SLD unsuccessfully proposed a referendum to liberalise abortion law, while the Constitutional Tribunal ruling was ratified by the Sejm, and the 1993 ‘anti-abortion law’ was re-introduced. The 2001 election saw an SLD government elected on a mandate of abortion law reform formed in coalition with the Labour Union (UP). However, the SLD’s need for the support of the Roman Catholic Church in the campaign for a ‘yes’ vote for Polish entry into the EU saw the withdrawal of the SLD from abortion debate altogether.<sup>7</sup>

A further attempt to liberalise abortion, sponsored by the Parliamentary Women’s Group was rejected by the Sejm in 2004. In January 2007, debate shifted to ‘protecting unborn life’ in the Polish Constitution from the moment of conception, such that abortion on any grounds would become illegal.<sup>8</sup> Policies which work to limit access to contraception, particularly oral contraceptives, for example publicising the negative side-effects of hormonal pills and printing ‘health warnings’ on pill packets have also been considered by members of the Parliamentary Committee for Family and Women’s Rights. In March 2007 the European Court of Human Rights in the test case *Tysi c v. Poland* judged that Poland was failing to guarantee access to lawful abortions<sup>9</sup>. However, although the Polish government elected on a nationalist and traditionalist Catholic, ‘pro-family’ mandate was voted out in favour of the centre-right Civic Platform in October 2007, it seems unlikely that access to abortion will be liberalised in the near future<sup>10</sup>. Abortion remains a highly topical issue<sup>11</sup>.

Accessing abortion under the terms of the 1993 law in public hospitals remains extremely difficult: official figures show a decrease from 782 legal abortions in 1994

to 125 in 2001 (cited in Wojciechowska-Nowak 2003). The restriction of access to abortion on medical grounds disproportionately affects the poorest women, as the very poorest are most likely to suffer health problems associated with pregnancy (Nowicka and Tajak 2000).

The abortion underground is well developed in large towns and cities: the Federation for Women and Family Planning estimate 80,000 to 200,000 illegal terminations are performed annually. Meanwhile, the question of access to sex education, contraception and pre-natal testing (see Kramer 2006b) is becoming increasingly politicised and restricted. Sex education was removed from the Polish curriculum in 1999, and gynaecologists remain reluctant to prescribe oral contraceptives, which are only partially subsidised by the state, and remain the contraceptive choice of only between 11 to 19 per cent of Polish women (Lech 2004). This all further limits Polish women's agency, and particularly constrains the ability of the very poorest to make informed decisions about their reproductive health.<sup>12</sup>

Two main constituencies have mobilised around the question of abortion. The pro-choice camp includes socialists, post-communists and liberals together with the Polish Parliamentary Women's Group, NGOs and feminists, women's groups, and some Christian intellectuals, whilst the pro-life camp is largely affiliated to the Roman Catholic Church. The Church has been instrumental in preventing the question of abortion being put before a national Referendum, given that around 60 per cent of Poles accept abortion with certain limits.<sup>13</sup> It has organised petitions and country-wide pro-life marches and demonstrations, including a picket outside the Sejm itself. It has thus played a particularly influential role in abortion policy (Heinen 1992;

Kulczycki 1995; Millard 1995; Plakwicz and Zielińska 1994; Titkow 1994; Zielińska 2000). Of course one of the reasons that the Roman Catholic Church has wielded such influence in Poland is because Pope John Paul II was Polish.

## **THE SECOND READING OF THE ABORTION LIBERALISATION**

### **AMENDMENT DEBATE**

The material analysed here is sourced from the official public transcript of the second reading of the liberalisation bill in the Sejm in August 2006, this being probably the most important debate for deciding the eventual outcome of the legislation.<sup>14</sup> The heated night-time debate took place in dramatic circumstances, with around 1,000 protestors picketing the Sejm building. The bill passed by only one vote with the vote taking place at three o'clock in the morning.<sup>15</sup> Front-page news across the Polish media, the Polish Episcopacy announced the bill to be a 'crime against humanity' and declared that those Deputies who voted in favour of the liberalisation amendment could be ex-communicated.

### **Methods of Analysis**

The following develops a linguistic and semiotic analysis of substantive arguments, terminology and rhetorical techniques. These include identifying temporal signifiers (appeals to Poland's future), historical signifiers (appeals to Poland's past), as well as appeals to scientific research and knowledge. I have also analysed substantive claims with regard to moral arguments (such as the sanctity of human life), empirical evidence (such as sociological data) and political points of view (for example, the

relationship between abortion and democracy). The terminology being applied, including the elimination of neutral terms and the exclusion and re-definition of words, is also examined. All translations are my own.

The debate begins with an introduction by the Deputy-Rapporteur, Marek Balicki. This is followed by reports from the Under-secretary of State in the Ministry of Health and Social Welfare (representative of the Council of Ministers), Deputy Krzysztof Kuszewski, and the Deputy Chair of the Social Policy Committee, Krystyna Sienkiewicz. Following a speech from the President of the Supreme Court against the amendment, Adam Strzembosz, spokespersons for each political party or grouping state their position. Representatives of the SLD, UP and PPS speak in favour of the liberalisation amendment. Spokespersons for the UW, BBWR-KPN, KPKPN, BBWR 'Solidarity in Elections', MN, Nowa Polska and PSL all speak out against the liberalisation amendment, whilst the UW is divided on the issue. This section concludes with the Minister of National education discussing the sex education element of the amendment. From this point, the Chamber hears individual speeches by Deputies, whilst the last section of the debate features questions.

## **ENVISAGING POLISH FUTURES: WORKING TOWARDS AN ABORTION-FREE POLISH FUTURE?**

Abortion is 'naturally' and universally rejected by all those participating in the debate, except as a last resort, including those speaking in favour of the liberalisation of abortion amendment. Those speaking in support of the liberalisation of abortion are

particularly keen to stress that they are not pro-abortion, but pro-choice. One SLD

Deputy states:

None of us sitting here on the left-hand side of the room think that abortion is [an appropriate] method of limiting births. We repeat this [statement] at every juncture... None of us support abortion, but the possibility [of abortion] must be guaranteed to women...

(Sierakowska<sup>16</sup>, Polish Sejm 1996: 109)

This emphasises that the SLD does not support abortion for its own sake, but only for women who find themselves in a difficult situation with ‘no way out’, distancing the (postcommunist) SLD from the use of abortion as a universal method of birth control as practised under state socialism.

Deputy and former doctor Marek Balicki meanwhile states:

... the liberalisation of regulations relating to abortions does not signify a change in the opinion of society of the harmfulness of such a phenomenon, but rather marks a change in the tactics of fighting it. The proposed liberalisation is an expression of the conviction that the strategy of protecting the life of the foetus by means of legal-criminal regulation is not appropriate...

(Balicki<sup>17</sup>, Polish Sejm 1996: 99)

Here the amendment is described as an improved *strategy* for fighting the practice of abortion. This identifies a continuity of purpose in both the restrictive 1993 law and

the liberalisation amendment since both note the harmfulness of abortion and aim to restrict the number of abortions performed. Balicki stresses that the liberalisation amendment provides an informed alternative to the 1993 restrictive abortion law, describing it as a new strategy of fighting abortion, alongside sex education and increased contraceptive use. Increasing the state subsidy on the contraceptive pill from 30 per cent to 50 per cent for example is described as one of the ‘solutions’ to the problem of abortion, providing cheap and easy access to other forms of birth control (Balicki, Polish Sejm 1996: 100).

Both pro-liberalisation and anti-liberalisation Deputies describe their position as anti-abortion, and represent an ideal Polish future where no abortions are performed. Both sides similarly ascribe an important role to abortion in determining Poland’s international standing, characterising the abortion issue in relation to the Polish nation’s future and past experiences. However, whilst both share common ground in this fashion, both positions use such frameworks to advance very different arguments.

In response to the repeated assertions of the anti-liberalisation lobby that the so-called ‘socio-economic conditions’ clause will result in unlimited abortions, the pro-liberalisation lobby outline the strict conditions under which it will be introduced. These include an upper time limit of twelve weeks, a medical consultation, and an obligatory three-day period between the consultation and the abortion operation (see for example, Jaruga-Nowacka<sup>18</sup>, Polish Sejm 1996: 112). Emphasising the limits and conditions in this way counters arguments that abortions on ‘socio-economic’ conditions logically entails the return of abortion ‘on demand’.



## **ENVISAGING POLISH FUTURES: MEASURING ‘DISTANCE ACHIEVED’ SINCE STATE SOCIALISM**

In the abortion debate, pre-1989 is constructed as a period in which multiple abortions took place as a routine form of birth control, with disastrous consequences for women’s health. The postcommunist period, meanwhile, is characterised as having had a positive impact on abortion practices. Izabela Jaruga-Nowacka notes on behalf of the UP that:

...the six-year-long discussion of abortion has brought measurable results. Our attitude to abortion has been changed, there has been growth in knowledge of the moral aspects and the endangerment to health in [or consequent to] such decisions. Citizens themselves aim to acquire information about contraception and methods of preventing pregnancy, applying this [information] in accordance with their expressed outlook on life.

(Jaruga-Nowacka, Polish Sejm 1996: 111)

Pointing up the socialist legacy of multiple abortions and lack of regard or respect for women’s bodies and women’s health, Jaruga-Nowacka characterises the state socialist period as having produced a skewed attitude to abortion which needs to be reformed. She argues that the result of repeated political abortion debates has been to publicise the negative effects of having an abortion, and to encourage women to seek alternative methods of birth control. Thus the degree of attitude change in relation to abortion from that characteristic of the state socialist period (presumably effected by government policy) ‘measures’ the achievements of the post-socialist political system.

In other words, reduced numbers of abortions (or even, reducing the wish or need of women to have an abortion at all) is described as moving beyond communist values and policies to a properly postcommunist ideals system.

The relationship between abortion policy and postcommunist reform is further tackled, albeit to very different effect, in Strzembosz's pronouncements on the purpose of law and the relationship between morality and law:

...in the whole world in the sociology of law, it is a well-known regularity that [...] if something is penalised, especially through criminal law, then even those people which do not approve its first prohibition show a tendency to accept it as a moral order. Such is the relationship between morals and laws, this marks the mutual influence of one normative system on the second. This is a normal occurrence in normal society and a normal state.

(Strzembosz<sup>19</sup>, Polish Sejm 1996: 106)

Strzembosz expresses a desire for a 'normal society and a normal state' in which there is a relationship between laws and morality such that the law encourages and shapes social attitudes. In other words, Strzembosz posits that the worth of restrictive abortion law lies in changing attitudes to abortion such that (the) 'people' begin to express a more conservative view towards it. So Strzembosz acknowledges the importance of public opinion; however, rather than describing legislative arrangements as being in line with public opinion, he characterises the purpose of the (paternal) state as being to shift public opinion into line with what he describes as 'morality'.

This extract shows that there is a universal rejection of abortion practice and policy under state socialism: whilst not mentioning abortion policy itself, Strzembosz argues that the adoption of restrictive abortion policy can ‘normalise’ society and state. Changed abortion policy is recognised as part and parcel of postcommunist reform, and used as a yardstick by which to measure the scale and effectiveness of such reform.

### **The International Dimension**

The significance of the abortion debate is also signalled in terms of its pan-cultural and global resonance. Introducing the Committees’ reports on the liberalisation amendment at the start of the debate, Marek Balicki (SLD) states:

The Committees... are conscious that ... abortion is a serious political, social, ethical, health and legal problem. Many even think that it is one of the most fundamental and difficult issues at the end of the twentieth century, which is being faced by other contemporary societies. Poland is not an exception in this.

(Balicki, Polish Sejm 1996: 98)

Going on to refer to legal disputes about abortion in Germany, the USA and Great Britain, Balicki argues that the abortion issue can be understood as emblematic of the late twentieth century condition. Describing it as an international concern emphasises Polish membership in a community of nations that is struggling to resolve the

question of abortion. It is significant however, that the international community which Balicki references is Western and non-Catholic. Despite the fact that reproductive politics have surfaced across East Central Europe as a topic of debate since the dissolution of state socialism, it is the US, British and German contexts which are mentioned, whilst the (Roman Catholic) Irish case is conspicuous by its absence.

The European and US experience of abortion debate, together with the liberal provisions that have been established as a result of such debate, are referred to repeatedly by those Deputies speaking from a pro-liberalisation position. Izabella Sierakowska, speaking on behalf of the SLD, notes that:

The Polish Sejm is not the first Parliament which has made this decision [on abortion]. With the exception of Ireland and Luxembourg, the Parliaments of Europe and America admit—under various circumstances—abortion and full access to contraception, information and sex education. And there have been results – a massive fall in the numbers of abortions, the disappearance of backstreet abortions, significantly fewer [teenage] pregnancies... In abortion debate, which has been ongoing for several years, it really comes down to this [question], in which society we would like to live – whether in that [society] in which there is interference in the most intimate decisions, or in that [society] which is marked by a legal framework of compassion and tolerance, freedom of conscience and the right to silence.

(Sierakowska, Polish Sejm 1996: 109)

Sierakowska situates the Polish experience of abortion debate within a wider international, Western dimension. Once again the experience of those countries, which are Western and have enacted more restrictive abortion provisions, are dismissed as ‘exceptions’ to the rule: the experiences of Ireland and Luxembourg are described as anomalies. The common experience described here is liberal abortion provision, free access to sex education, information and contraception, resulting in measurable and positive outcomes. Those societies which allow such liberal provisions are further described as valorising ‘compassion and tolerance, freedom of conscience and the right to silence,’ values which Poland is encouraged to aspire to as a democratic, European and therefore Western state. Sierakowska suggests that Poland can emulate Europe and the US, and join the Western ‘club’ by adopting liberal abortion provision. Describing previously enacted abortion provision as ‘interference in the most intimate decisions’ also infers that the current restrictive legislation shares common characteristics with the recent experience of state socialism, which of course legitimated (and was necessitated by) state intrusion into every aspect of citizens’ lives.

Various pro-liberalisation and anti-liberalisation speakers draw attention to the significance of abortion regulation for determining Polish standing both in Europe and internationally. Barbara Labuda<sup>20</sup> (non-affiliated) notes that:

...it is said about Poland in Europe, unfortunately, that it is the last didactic ideological state in Europe. This is a sad qualification. I don’t know whether we would agree with this, but this is what is said about our country... [it is also said]... amongst other things... that the hierarchy of the Catholic Church,

with distress I must state, attempts to have influence over state legislation.

This is not normal in a secular democratic country.

(Labuda, Polish Sejm 1996: 123)

Labuda refers to the ‘standing’ of Poland in Europe, arguing that the adoption of restrictive abortion legislation has contributed to an understanding of Poland as ‘backward’. She argues that the institution and machinations of the Church has resulted in the international community considering Poland not to be a fully democratic state. Indirectly, this suggests that the adoption of liberal abortion policy would increase the standing of Poland abroad, as well as helping to institute a properly democratic regime.

Those arguing against the liberalisation of abortion also refer to the importance of abortion policy for determining Polish standing in the international community. For example, Bernard Szweda (Nowa Polska—‘New Poland’) refers to the recurrence of abortion debate as bringing ‘shame’ to Poland (Szweda, Polish Sejm 1996: 117). He further argues that Poland should not aspire for inclusion into Western Europe since:

Abortion is one of the principle formations of Western Europe’s new civilisation, the civilisation of death, the consumption of society disillusioned with the purpose of life, moving towards demoralisation. This is a forewarning of the path that we are upon.

(Szweda, Polish Sejm 1996: 117)

Here Western culture represents over-consumption, death, demoralisation and a lack of knowledge of the ‘purpose of life’, emblematised in liberal abortion policy. Rather than a model to emulate, Western Europe is here argued to represent a dangerous path of which Poland needs to steer well clear

Speaking in his capacity as President of the Supreme Court, Adam Strzembosz states that according to his personal convictions:

I am supporter of that conception of human life, in which it is possible to avoid suffering at all costs. I know that this attitude does not find understanding or support in many places, but if (this understanding) becomes eliminated from European civilisation, this civilisation will not exist [in the future].

(Strzembosz, Polish Sejm 1996: 107)

Both Szweda and Strzembosz root the question of abortion policy not just in terms of the future of the Polish state, but also the future of European ‘civilisation’: both characterise liberal abortion legislation as propelling European ‘civilisation’ along the path to self-destruction. Szweda contests the notion that Poland naturally belongs in Western Europe, arguing that inclusion in such a community would not bring Poland benefits.

In all of these examples, it is striking that the problem of abortion is characterised as a European or an international problem. Moreover, state policy and procedure is critiqued not just for its domestic impact, but also in terms of what impact this will

have on Poland's standing in the world: considerable anxiety is manifested here around international perceptions of Polish postcommunist reform.

### **Safeguarding the Nation and Protecting Life**

Those speaking in opposition to the draft liberalisation amendment consistently couch their arguments in terms of 'defending life' and 'protecting the nation'. In common with abortion debate in Western Europe, defending restrictive abortion policy here revolves around safeguarding the dignity of life and humankind. Włodimierz Puzyna, speaking on behalf of anti-liberalisation UW Deputies, argues that the provisions of the amendment result in the 'liquidation of the guarantees of the protection of life' currently admitted by the 1993 law (see Puzyna, Polish Sejm 1996: 110).

Grzegorz Cygonik echoes this when he describes the response of the KPKPN towards the liberalisation of abortion amendment: 'The adopted direction [of the liberalisation amendment] is [in favour of] killing and this is beneath the dignity of Man[kind]' (Cygonik, Polish Sejm 1996: 114). Describing abortion as 'killing' and destroying the 'dignity of mankind' is a common feature of abortion debate globally. What makes it particularly interesting in the Polish context is that it acquires a different dimension in the context of a state newly liberated from state socialist rule. Here 'protecting the (postcommunist) foetus' becomes equated with establishing human rights purposefully denied or suppressed under socialism. Protecting 'unborn life' is thus harnessed to the wider concern of re-instating rights and instituting accountable and representative democracy.



Meanwhile, Aleksander Bentkowski (PSL) describes abortion in relation to the potential extinction of the Polish nation:

...why now, when we are a free country, when we can freely decide about our development, about the future of Poles, do we propose such a law for the nation? Why now, when for the last 13 years in Poland there has been a systematic fall in live births, when we are approaching the boundaries of our development, when more Poles die than are born?

(Bentkowski, Polish Sejm 1996: 119)

Bentkowski uses arguments around the potential extinction of the nation to substantiate PSL opposition to the liberalisation of abortion. He suggests that previous liberal abortion legislation has resulted from coercion, when Poland has not been able to decide abortion policy for itself, arguing that liberal abortion policy has therefore historically reflected an agenda not concurrent with the wishes of the Polish nation. The aim of abortion policy in a 'free country' is assumed to be to protect 'the future of Poles', something not previously safeguarded under state socialism, and something that is potentially in danger given the falling birth rate. Liberal abortion policy is thus described as not taking responsibility for the 'nation', or as being unwilling to sever connections with the old (Soviet imperialist) state socialist ways of thinking.

### **Interrogating the Nation's Past**

I have already commented on the ways in which political abortion debate characterises the state socialist legacy on abortion policy. At the same time, certain

other periods of Polish history and traditions are also used to interrogate the significance of abortion policy for the future Polish nation/state. Contemporary abortion policy is situated within the wider context of historic abortion policy by Izabella Sierakowska, the SLD spokesperson. She describes the inter-war campaigns to repeal the restrictive abortion law, going on to describe Stalinist and Nazi abortion policy thus:

After the war Poland conformed to a very strict law. Which? [A] Stalinist law. This enforced a complete ban on abortion: abortion was not possible. That's not all; after 1944 Stalin also introduced a ban on divorce. And therefore it was [compulsory] to give birth and not to divorce...

I remember another interesting fact. In 1933 the Nazis introduced a new marriage law, strictly forbidding abortion. What's more, a woman did not have the right to consent to [abort a foetus] even when it threatened her with death or crippled her or would [result] in the loss of her health. She [had to] give birth, give birth, and give birth.

(Sierakowska, Polish Sejm 1996: 109)

Here Sierakowska draws attention to the fact that both the Stalinist and the Nazi régimes espoused strict control of fertility, with abortion banned outright by both.<sup>21</sup> At the same time she goes on to distance the PZPR from the Stalinist abortion law, arguing that Beirut, the immediate post-war leader of the PZPR, refused to let the Soviet Union dictate abortion policy. The 1956 law is thus recuperated and presented as a Polish, rather than a Soviet-Union imposed, policy.

What is interesting here is the fact that both the Stalinist and the Nazi régimes are identified for their absolute, totalitarian control over women's bodies. Sierakowska stresses the common feature of both Stalinist and Nazi prescriptions obliging women 'to give birth, give birth and give birth'. It is this compulsion, in other words, the totalitarian dystopian aspect, which receives attention here. At the same time, Sierakowska draws attention to previous Polish attempts to liberalise abortion in the inter-war years. In this way Sierakowska simultaneously makes an association between restrictive abortion policy and the Nazi and Stalinist projects, as well as arguing that precedents for a liberalisation of abortion pre-date the state socialist era. Re-interpreting the nation's past, this extract represents an attempt to de-legitimize restrictive abortion law and recuperate *Polish* state socialist policy on abortion.

Conceptions of the ideal future for the Polish nation are projected through an assessment of those aspects of the past that should be retained, such as Polish tradition and culture. Jerzy Wuttke states that his party (The Non-Party Bloc in Support of Reforms—Solidarity in Elections) 'joins [those] against the use ...of ...therapy as well as sexual education... [which] only expresses secular world outlooks, in opposition to the centuries-old Christian, Catholic, Polish nation's traditions'(Wuttke, Polish Sejm 1996: 115). Here Wuttke objects to the fact that the liberalisation amendment places the authority for teaching on sexuality outside the Church's sphere of influence. Such a challenge to Church authority is described as a threat to the Polish nation's projected future, resulting in the erosion of Polish tradition and identity. 'Polishness' is equated with 'being Roman Catholic', therefore a threat on Roman Catholicism is also a threat on 'Polishness'.

The impact of the liberalisation of abortion is also related to the Polish nation's past threat of extinction through the tragic experiences of Partition and colonisation. After describing the drastic fall in the birth rate as endangering the future of the nation, Bentkowski (PSL) states:

But this fact is very depressing, that never in the history of our country has abortion law been as tolerant as is proposed in the draft bill. In none of the countries of Europe is there such a liberty [to have an] abortion. There is no way to understand why Poles, a nation so experienced through [its] history, deserves such a law.

(Bentkowski, Polish Sejm 1996: 119)

Referring to the Polish nation as 'experienced through [its] history' implicitly refers to the past threat of extinction through Partition and colonisation, equating this with the contemporary threat of extinction through a declining birth rate and liberal abortion law enacted from within, by Poles. Bentkowski stresses the fact that the proposed liberalisation of abortion deviates from Polish tradition by drawing attention to its disjuncture with the past, as well as stressing that abortion law liberal to this degree is even a non-European practice.<sup>22</sup>

Bentkowski describes Poland as a nation reborn from its tragic experiences, endured over centuries of suffering. He argues that because of this suffering, Poland 'deserves' to be treated better. So not only does Bentkowski represent the liberalisation of abortion as something injurious to Poland, it is a particularly harsh affront because of

the previous hurts it has endured, and because such legislation represents self-harm, since the initiative for abortion liberalisation comes from within, from Poles.

Pro- and anti-liberalisation Deputies both describe their position as anti-abortion, and represent an ideal Polish future where no abortions are performed. Both sides similarly ascribe an important role to abortion for determining Poland's international standing, further characterising the abortion issue in relation to the Polish nation's future and past experiences. However, whilst both share common ground in this fashion, both positions use such frameworks to advance very different arguments.

## **CONCLUSION**

This discussion has focused on the ways in which abortion debate in the second reading of the liberalisation amendment constructs the meaning of abortion. Throughout I have identified the relationship of the abortion issue to various anxieties including the pace and purpose of postcommunist reform; the purpose of law more generally; the legitimacy of particular factions to represent Polish society; the perceived instability of the political system as well as the relationship between Church and state and the protection of the Polish nation and family.

I would argue, then, that Sejm debate around the liberalisation amendment is a key (gendered) site for the articulation of competing democratic and nationalist projects. All participants in the Sejm liberalisation debate distance themselves from a pro-abortion position, whilst abortion is consistently related to the broader issue of the purpose and pace of postcommunist reform and the democratisation project, 'making'

Polish politics. It is used to construct lines of divide between political factions and interests, constructing right and left, post-Solidarity and post-communist, modernity and tradition, secularist positions and Church affiliations, whilst virtually displacing women as subjects of abortion law. The ‘abortion question’ then is about more than ‘simply’ abortion. It represents a stand-in symbolic issue where the meaning of the Polish past can be interrogated, where nationalist futures are imagined, and through which competing political projects are articulated.

## NOTES

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<sup>1</sup> The original version of this paper was delivered at the Warsaw Special Convention of the Association for the Study of Nationalities, 18-21 July 2004. The Economic and Social Research Council supported this research through its provision of a doctoral and postdoctoral fellowship.

<sup>2</sup> See, for example, Anthias and Yuval-Davis 1989; Bracewell 2000; Maleck-Lewy and Ferree 2000; and Yuval-Davis 1998.

<sup>3</sup> Unreliable birth control practices, together with the lack of family planning instruction or sex education meant that under state socialism abortion was routinely used to restrict family size (Bystydzieński 1999: 98).

<sup>4</sup> This gave a penalty of up to two years for the abortion provider, except when an abortion was necessary to save a woman’s life, re-introduced penalties for self-

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induced abortions and prohibited anyone from causing harm or damage to a foetus  
(Zielińska 2000: 31)

<sup>5</sup> Zielińska notes that Poland has traditionally had relatively liberal abortion legislation. (2000: 25).

<sup>6</sup> The Polish Constitution introduced in April 1997 and in force since October 1997 allows for the ‘explicit guarantee of the legal protection of everyone’s lives and does not single out the unborn’ (see Art.38, cited in Zielińska 2000: 33).

<sup>7</sup> This accommodation between the Church and the SLD at the expense of women’s improved access to abortion was publicised in ‘The Letter of a Hundred Women’, ‘List stu Kobiet’, submitted to the European Parliament in February 2002.

<sup>8</sup> This defeated bill was proposed by the League of Polish Families to amend Article 38 of the Polish Constitution.

<sup>9</sup> Alicja Tysiąc requested an abortion on recognised medical grounds and with appropriate medical certification. She was still denied an abortion. Tysiąc pressed criminal charges against the doctor who refused her request, but the local prosecutor's office dismissed the case. It remains very difficult to obtain an abortion, even when legal. For example, in August 2008, a 14 year old girl, Agata, who had been raped, was denied access to an abortion by multiple hospitals. Although she finally obtained an abortion, her personal information was leaked by one hospital to anti-choice advocates, leading to her harassment, and she was even temporarily removed from her mother’s custody as she supported her desire for a termination. I have written elsewhere about the problematic role of the medical profession in mediating women’s access to abortion and pre-natal testing (Kramer 2006a; 2006b).

<sup>10</sup> It was reported in September 2008 that a new Mother and Child department is to be established in January 2009 at the Ministry of Health to monitor pregnant women and fight the so-called ‘abortion underground’. Registration would be voluntary for pregnant women, but Polish women’s rights organisations have accused the government of wishing to obtain the details of pregnant women so as to be able to track down those who opt for terminations.

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<sup>11</sup> Two other widely reported examples of abortion debate include the use of pro-life rhetoric by Polish euro-sceptic parties in the EU and the 2003 visit of the Dutch ship ‘Women on Waves’, which sought to mount a pro-choice campaign including workshops, disseminating contraceptives, and even hoping to perform abortions in international waters (See Zolkos n.d.: 7).

<sup>12</sup> Given the paucity of data, it remains very hard to determine how the restrictive abortion law affects women from minority groups, for example Roma and non-Catholics.

<sup>13</sup> See for example Centrum Badania Opinii Społecznej (2005)..

<sup>14</sup> Full minutes of Sejm sittings are available from the Sejm official website located at <http://www.sejm.gov.pl/english.html>.

<sup>15</sup> Of the 176 Deputies who abstained from the vote, around 120 left the building during a break in the hope that this would make the session inquorate. The attempt failed.

<sup>16</sup> Izabella Sierakowska was Vice-Chairperson of the Social Democracy of the Polish Republic (SDRP) between 1991-99. She is identified with the pro-choice camp, for example participating in the Polish Federation for Women and Family Planning’s 2001 Tribunal on anti-abortion law in Poland.



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<sup>17</sup> Marek Balicki, former doctor and future Health Minister, is identified with the pro-choice camp.

<sup>18</sup> Izabela Jaruga-Nowacka is former President of The League of Polish Women and was Vice-Chairperson of Unia Pracy (Labour Union) between 1998-2004.

<sup>19</sup> Adam Strzembosz was Deputy State Secretary in the Ministry of Justice (1990–91), judge of the Supreme Court (1990-98), First President of the Supreme Court (1994–98). He stood in the 1995 Presidential Election.

<sup>20</sup> Barbara Labuda was expelled from the UW in 1995 in part for her liberal views on abortion. She was at this time also Chair of the Parliamentary Women’s Group.

<sup>21</sup> Of course such a description of Nazi fertility policy does not take account of the fact that only certain women were encouraged to reproduce—others, such as the mentally ill, were forcibly sterilised.

<sup>22</sup> In the main, abortion is allowed on request throughout Europe.

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