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Women's Journey to Empowerment in the 21st Century: A Transnational Feminist Analysis of Women's Lives in Modern Times

Women's Journey to Empowerment in the 21st Century

A Transnational Feminist Analysis of Women's Lives in Modern Times

EDITED BY KRISTEN ZALESKI

ANNALISA ENRILE

EUGENIA L. WEISS

XIYING WANG

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CASE STUDY: "I DON'T STOP FIGHTING"—ALICJA TYSIĄC

Alicja Tysiąc was the first woman to file a complaint with the European Court of Human Rights (ECHR) due to refusal of lawful abortion (ECHR, 2007). She suffered from severe myopia, an eyesight condition with a threat of blindness. When she became pregnant for the third time, three ophthalmologists with whom she consulted confirmed that the continuation of pregnancy could lead to blindness. At the same time, these doctors did not agree to write the necessary referral to authorize legal abortion. A gynecologist from the Warsaw clinic refused to perform an abortion, finding no medical grounds for it. Alicja was forced to give birth, which caused further damage to her eyesight. She raises her children alone, and the social welfare system qualifies her as a disabled person, belonging to the highest category of disability.

Alicja sued the Polish state in the ECHR. The Court agreed with Alicja that the Polish state violated Article 8 of the Convention (the right to respect for private life) and awarded compensation in the amount of 25,000 Euros. This, however, is not the end of Alicja's story; her victory outraged the anti-choice movement. She has been the subject of the most violent hate speech and personal attacks on her and her family. Opponents could not bear that she broke the taboo surrounding abortion and openly and publicly admitted that she wanted an abortion.

The assaults have continued, with accusations that "she took money for wanting to kill her baby" ("Zobacz," 2009). Pro-life groups have been trying to sow conflict in her family relations by falsely pitting Alicja's daughter, Julia, against her mother. Alicja has not surrendered. She filed a complaint with the Polish court against one journalist who compared her behavior to that of fascist leaders of World War II; she won the

case. Over the years, Alicja has become an outspoken advocate for women's rights. In a recent interview (Niemczyńska, 2016), she said that her daughter Julia, who is now 16 years old, declared that if she were in Alicja's situation, she would have made the same decision as her mother.

Case Study: "Our Child Will Be Dying in Torment"—Agnieszka and Jacek

Agnieszka and Jacek wanted their first child very much. Unsuccessfully, they tried to have a baby for 13 years. When Agnieszka became pregnant in 2014, their happiness about the pregnancy sharply ended when an ultrasound test indicated lethal malformation of the fetus. They decided to have a legal abortion. Unfortunately, the director of their hospital, famous anti-abortion advocate Professor Bogdan Chazan, refused to allow the pregnancy termination to be performed in his hospital. He also declined to refer Agnieszka to another hospital. He cited the conscience clause (discussion later). This was illegal: He had no right to do so because he was not Agnieszka's doctor but, rather, the manager of the hospital, who by law cannot object on behalf of other doctors. Agnieszka was forced to continue the pregnancy to term. She said in a heartbreaking television interview that "when other mothers planned to buy a cradle for their child-to-come, we planned a funeral. I had to give birth to the child so that he could die." The born baby was drastically damaged; he died after 10 days in pain. As Jacek said in the same interview, "Doctor Chazan forced us to watch our child suffer terrible pain for 10 days" (Górka, 2016).

The case of Agnieszka and Jacek was publicly debated. Professor Chazan was dismissed from the hospital where he worked, but he has become a hero and a martyr for the anti-abortion cause. The couple decided to go to the Polish court and sue Chazan; however, the prosecutor rejected the case before it could be heard by the court on the questionable grounds that the pregnancy did not endanger the woman's life ("Śledztwo," 2015). Anti-abortion groups used the Chazan case to reduce doctors' obligations toward women.

In October 2016, Agnieszka and Jacek decided to tell their story in a television interview (Górka, 2016). They wanted to warn against attempts to further restrict abortion after the leader of the ruling party, Jarosław Kaczyński, confirmed that the government wanted to make sure that even very malformed fetuses would be delivered so that the born child could be named, baptized, and buried (Fishwick, 2016).

Under the rule of restrictive legislation, hundreds of women and their families have suffered physically and emotionally because they could not obtain legal abortions. As the cases of Alicja Tysiąc and Agnieszka and Jacek have shown, women who seek abortion on medical grounds, to which they are legally entitled (when their health is at risk or the fetus is badly deformed), are undergoing hell (Federation for Women and Family Planning, 2005). Few women decide to bring legal charges against hospitals. Many seek support of international institutions when domestic, Polish institutions fail. The three cases won through ECHR give hope to Polish women.

Abortion on criminal grounds—that is, when pregnancy is a result of rape or incest—is also a complete fiction. A government report ("Sprawozdanie Rady Ministrow," 2014) indicated that from 2010 through 2013 in public hospitals, a total of four abortions were performed: No abortions were performed in 2010 and 2011,

one abortion was performed in 2012, and three abortions were performed in 2013. These numbers are striking when taking into account the fact that approximately 20% of women report experiencing rape, in most cases by family members (Grzybek & Grabowska, 2016). Indeed, abortions are performed, but not legally and not in secure and healthy environments.

OVERVIEW

The stories of Alicja Tysiąc and Agnieszka and Jacek, and many more untold, exemplify "culture wars" and speak of pain, angst, and the brutality inflicted by the Polish state on women. Polish women do not, however, remain silent. The autumn of 2016 in Poland witnessed unprecedented women's resistance in the 25-year history of the struggle over reproductive rights. The National Strike of Women and Black Protest—street actions organized by women throughout the country and reported by the world media—were prompted by the attempt to ban abortion on any grounds, even to save a woman's life. This latest abortion crisis demonstrates that although reproductive rights in Poland have been the subject of heated political debates that have taken place regularly since the 1989 political transformation, they remain unresolved and are contested by both sides of the confrontation.

Poland is not unique; similar debates and attacks on women's reproductive rights are taking place in many areas of the world, including Central and Eastern Europe (CEE). What is characteristic of the Polish case is, on the one hand, an extreme radical and fanatic approach by conservative politicians and the pro-life movement (still rather unusual in Europe) and, on the other hand, remarkable resilience and engagement of individual Polish women and informal groups that have translated into a mass mobilization. Continuous presentation of extreme legal proposals by anti-choice radicals, such as a full ban on abortion or limitation of access to infertility treatment, as well as the use of fanatical methods in public spaces (e.g., billboards with images of bloody fetuses placed on cars parked in front of hospitals or schools) have led to increased mobilization, radicalization, and more rapid response on the part of the pro-choice movement. The pro-choice movement began to protest not only in front of the Parliament but also in front of religious institutions and churches using quite strong language and visuals as it learned that only drastic slogans and actions have impact on legislators. The aim of the conservatives is to implement one of the most restrictive pieces of legislation that would secure a complete ban on abortion—a ban that demonstrates neither sympathy nor respect for women. In response, women have shown their power of resistance.

This chapter examines the actions of the Polish state with regard to women's reproductive rights. It demonstrates how such state violence instigates and provides encouragement to others to pursue similar behavior. The alliance between state and church has produced a set of legal and moral controls over women's bodies and shifted the power to decide away from women. Indeed, as soon as women become pregnant, they cannot make autonomous decisions about their reproduction and fertility; a doctor, a policeman, a prosecutor, the media, anti-abortion believers, and/or a priest have more to say about a woman's pregnancy and can make decisions regarding it. De facto, the state and church have become women's enemy, standing in opposition to them and participating in furthering women's oppression.

Figure 14.1 Demonstration "No to torturing women" (Nie dla torturowania kobiet) in front of the Polish Parliament in Warsaw on April 3rd 2016 (before Black Monday). Photo Katarzyna Pierzchała.

Furthermore, public and political debates and controversies regarding women's autonomous reproductive choices continue to be the subject of struggle at various scales and are not confined within national borders; they take place in local communities, in national parliaments, and in international courts. These transnational and local battles have resulted in the development of a global community of mutual support and a flow of information and knowledge, as well as strategy and resource sharing. After years of communist isolation, the opening of borders by democratic Poland allowed for transnational flows and mobility to take place; unsurprisingly, both sides of these disputes benefitted from the new political and social context.

This chapter discusses the broader, regional context of reproductive rights in CEE. Next, a brief history of the abortion struggle in Poland is presented, and then the impact of restrictive anti-abortion legislation on women's lives is examined. Finally, we show that despite years of relentless pro-life pressure that has resulted in a change of public attitudes, women continue to resist, organize, and mobilize; thus, the struggle over women's reproductive rights continues (Karwowska, 2018).

HISTORICAL TRENDS

Democratization of Eastern Europe and the Revival of Conservatism

Political transformation and the establishment of new democracies in Poland and in the rest of CEE was not without pain and costs. Chief among these was the revival of new political forces and trends, such as nationalism, xenophobia, radical right-wing

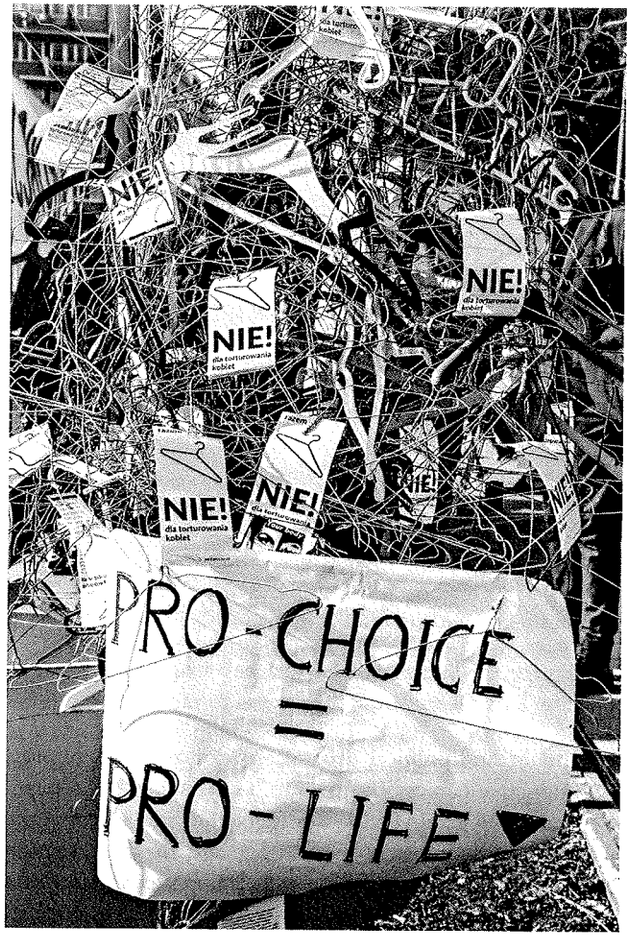

Figure 14.2 "Hangers – symbol od pro-choice movement—left behind after the demonstration No to torturing women" (Nie dla torturowania kobiet) in front of the Polish Parliament in Warsaw on April 3rd 2016. Photo Katarzyna Pierzchała.

ideas, and religious fundamentalism (Meyer Resende, 2015; Pankowski, 2010). The shift from a socialist welfare state guaranteeing relative economic security to neoliberalism and a free market economy that left many people behind and with fewer resources to live fed radical movements and conservative attitudes and led to the emergence of conservative and populist perspectives. In a time of political and economic transformation and growing insecurity, the Roman Catholic Church used the opportunity to strengthen itself institutionally, reintroduce religion to schools, and prioritize anti-choice teaching. Indeed, in many countries in CEE, such as Poland, Hungary, Lithuania, and Slovakia, or even farther south in Croatia, such ideologies and beliefs have quickly taken strong roots. Anti-choice proponents have argued that legal abortion is an obsolete idea, attributed to communist ideology, and should be abolished as a communist remnant in the new democratic societies. The experience of the region shows that democracy and women's rights do not always go hand in hand.

As Regulska and Grabowska (2013) argue, "Violations of women's human rights, particularly in the areas of women's reproductive rights and violence against women, persist even in the countries of the region where democratic consolidation and economic reforms have advanced" (p. 143).

Poland was the first country in CEE to severely restrict abortion in the early 1990s. Pressure by the Roman Catholic Church, which is powerful in Poland, and personal engagement of the beloved "Sainted Father," or the "Polish Pope," were behind the push to change existing legislation to restrict abortion. John Paul II, who visited his fatherland every other year, warned against the "culture of death" and preached repeatedly that "the nation that kills its own children has no future," alluding to abortion ("John Paul II," 2005). Mishtal (2015) describes the Polish transition as "the central contradiction of postsocialist democratization in Poland—that it is an emerging democracy, on the one hand; and . . . a declining tolerance for reproductive rights, women's rights, and political or religious pluralism, on the other hand" (p. 11). She further observes that reproductive politics and "governance of women's bodies in postsocialist politics is an essential constitutive feature of the Polish democratization process" (p. 11).

Hunter's (1992) concept of "culture war," although applied to the US context when it was created, illustrates well the tensions that emerged in Poland after the transition. Reproductive rights, especially as they relate to abortion, sex education, LGBT rights, the role of the church and its impact on state legislation and policies, tensions around conservative versus modern families, and debates about traditional women's roles and gender equality, are continuously deliberated, disputed, and contested. They are also a frequent subject of political mobilization and demonstrations, media attacks, and family clashes.

The additional dimension that frames these culture wars in Poland and in CEE is a desire to catch up with the West and to become equal. Whereas conservatives want to maintain control over ruled societies, liberals see an opportunity to become a member of Western Europe, something to which Eastern Europeans have long aspired. For conservatives, reproductive issues are fundamental; they envision a society that is controlled and governed by tradition and religious morality. Polish liberals would prefer not to address reproductive health at all, leaving it within the private sphere and maintaining status quo. Therefore, although they oppose any attempt of liberalization of abortion, they disagree with increasing restrictions to reproductive choices.

Since 1989, attempts to restrict abortion have been undertaken in many countries throughout the region, especially those in which the Catholic religion dominates (Lithuania, Croatia, Hungary, Slovakia, and Russia, in addition to Poland). When right-wing parties have returned to power, abortion debates returned to the political agenda. For example, although in Hungary the law still allows for abortion to be performed on social grounds, some restrictions have been introduced in order to inhibit access to health services ("Abortions in Hungary," 2016). Moreover, the protection of life became constitutionally guaranteed in 2012, and this opened the door to further legal restrictions. Similarly, in Russia, anti-abortion campaigns are constantly undertaken by religious anti-choice groups supported by the head of the Russian Orthodox Church, Patriarch Kirill, who has been pushing to ban abortion for more than a decade (Cichowlas, 2016). Since the fall of the Soviet Union, attempts to restrict access to legal abortion have been made on a regular basis; however, to

date, only minor procedural restrictions, introduced in 2011, have been implemented (Population Research Institute, 2011). In these discussions, demographic arguments about the nation dying as a result of low birth rates, so compelling in Russia, were used frequently. Many believe, against the evidence, as in Romania or Poland, that if women are forced to give birth due to abortion restrictions, the rate of childbirth will increase ("Półtawska apeluje do Polaków," 2015). Paradoxically, these diverse discriminatory laws have been introduced democratically—fundamentalists have learned how to use democratic systems efficiently to promote an anti-woman agenda; as a result, women in CEE cannot feel safe.

The dynamic situation within the region did not remain unnoticed by outside parties involved in reproductive rights debates. International pro-life movements, especially from the United States, began to support local CEE groups financially and operationally (e.g., Human Life International [https://www.hli.org], Matercare International [n.d.], and Pharmacists for Life International [http://www.pfli.org]). Similarly, women's groups and activists engaged international supporters of women's reproductive rights. As discussed later, they crossed national boundaries into CEE and built transnational networks of support.

HISTORY OF ABORTION STRUGGLES IN POLAND

The history of abortion in Poland is uneven and rather twisted. During the past 100 years, Polish legislation has made a full circle from very restrictive laws of the 1920s and early 1930s to being at the forefront of liberal legislation in the 1950s–1980s and then again losing its progressive stand after 1989. Indeed, during the past two decades (since the 1990s), Poland has become a disgraceful leader of backward repressive policies. One might ask if and when this trend will reverse again and the pendulum will move toward more progressive pro-women policies.

First Liberalization, Before World War II

In 1930, Tadeusz Boy-Żeleński, a famous Polish medical doctor, writer, and social activist, wrote the following in his book, *Women's Hell* (1930/2013):

> To push a poor girl into motherhood, take her job away because of pregnancy, kick her in disdain, throw on her the entire burden of guilt, threaten her with years in prison if she is desperately trying to get rid of this problem beyond her capacity—this is the philosophy of laws obviously written by men. (p. 11)

This sentence is still relevant today, more than 80 years later. Boy-Żeleński and journalist, writer, and social activist Irena Krzywicka were campaigning for liberalization of restrictive anti-abortion laws in the 1920s and 1930s. In numerous articles and essays describing women's reproductive oppression as women's hell and "the greatest crime of the Criminal Code" (p. 8), they worked hard to raise awareness in society about the need for liberalization of anti-abortion legislation.

Their work was not in vain. Because of their and others' tireless efforts, before World War II, Poland became one of the first countries in the world to introduce legal

abortion in certain conditions. The state failed, however, to liberalize abortion on social grounds. In 1932 (Criminal Code, 1932), abortion was, in the end, legalized on medical and criminal grounds despite strong opposition from the Roman Catholic Church. Polish abortion regulations of 1932 were second only to those of the Soviet Union in terms of their liberal character at that time. Women in the Soviet Union enjoyed liberal laws between 1920 and 1936, when Joseph Stalin restricted access to abortion for Russian women.

Socialist Era: Abortion on Social Grounds Legalized

> A woman cannot be forced to give birth. Abortion has always been a social issue. At that time (in the 1950s of the twentieth century) there was no effective contraception. Women hurt as a result of unsafe, hidden abortions, [they] constituted the majority of patients in gynecological wards of the Polish hospitals.
>
> —Dąbrowska-Szulc (2006)

After World War II, the impoverished Polish society, in a completely demolished country, suffered significant economic and political hardships. The League of Polish Women—the only women's organization allowed under communism—together with doctors, the medical community, and family planning activists, raised the need of liberalizing abortion laws on social grounds because many women were dying as a result of illegal and unsafe abortions. However, resistance to this idea was very strong on the part of policymakers because in the entire Stalin-ruled Soviet Bloc, of which Poland was a part, abortion was illegal. The Roman Catholic Church, although not as powerful under communism as in the past, was nevertheless still very influential, and it also vehemently protested against any changes to anti-abortion legislation.

Liberalization of the right to abortion in Poland, Russia, Bulgaria, Hungary, Czechoslovakia, and other states of the Soviet Bloc was only possible after Stalin's death in 1953. Yet, in order to change the law, a favorable political climate would not be sufficient; what was needed was the mobilization and active engagement of many people—women politicians, medical doctors, social activists, and others. Unfortunately, that period in the history of abortion rights struggles has not been well documented, and it is only known and remembered on the basis of a few oral testimonies by those who participated in these processes.

In 1956, Maria Jaszczuk, a member of Parliament, proposed a law that would legalize abortion on social grounds. After lengthy discussions, the new legislation was approved by the Polish Parliament (Zielińska, 1990). This liberalization basically made abortion available upon request throughout the communist period. In the 1960s, European women, including those from Sweden (Francome, 2015), traveled to Poland for abortions because restrictive anti-abortion laws remained in Western Europe until the early 1970s.

For almost 40 years, the abortion law was neither criticized nor challenged, and it was largely used by women who had very limited access to any other forms of contraception. The controversies regarding abortion were to occur, unexpectedly, soon after the 1989 democratic transformation of Poland.

Restrictive Legislation in Democratized Poland

The process of abolishing the communist political system and introducing a market economy and democratic rule of law started in Poland in 1980 with a general strike in the Gdańsk shipyard. Soon after, the entire country, organized by the Solidarity Trade Union and led by the popular leader Lech Wałęsa, was rising in protest, but also in hope for a change. Unfortunately, the sense of possibilities did not last long; martial law was imposed by the communist regime on December 13, 1981. Eight years of underground resistance undertaken by the political opposition and many civic movements under the Solidarity umbrella prepared fertile ground and built momentum that led to the democratic transformation.

June 4, 1989, is an important date in Polish and European contemporary history. It was a day of semi-democratic parliamentary elections, as a result of which candidates of the democratic opposition were elected to the Polish Parliament, which subsequently led to the formation of the first government having democratic legitimacy. This is also a symbolic date, marking the beginning of the groundbreaking political transformation of Europe that resulted in the establishment of the democratic Republic of Poland, soon followed by the demolition of the Berlin Wall in November 1989. These events led to the fall of the communist and totalitarian regimes of the Soviet Bloc and denoted the end of the Cold War and the collapse of the Soviet Union. Fifteen new states were established, and thus the social, economic, and political geography of Europe was changed.

The euphoria of freedom and liberation was short-lived, however, because these new democratic processes brought about negative effects regarding women's reproductive rights. Although in 1989 the anti-abortion stance was still unexpected and undesired by a majority of society, this was a sentiment and a belief that would shift during the next several years. The Roman Catholic Church, which under the communist regime played a positive role in supporting the democratic opposition, gained unprecedented access to the political arena in the new political context. This sudden security afforded to the Church allowed for the revelation of its conservative face, up to now almost absent in religious teaching and unnoticed by the majority of society (Nowicka, 1996). The Church, nascent anti-choice groups, and Catholic parliamentarians started to push Parliament to introduce a ban on abortion, thus declaring war against women's rights.

Polish society was completely unprepared for the possibility of restrictions on abortion. For almost 40 years, generations of women had lived under the liberalized rule of abortion law; abortion was easily accessible and widely practiced in public and private health care facilities. Only the oldest women remembered the controversies and disputes that occurred in the 1950s. Society, in shock, observed drastic anti-choice propaganda using violent ideological language previously unheard of but increasingly utilized by church, the media, and in Parliament. Social movements, including the women's movement, absent under communism, were in the early stages of development, and there were no organizations that could effectively oppose those threats.

The late 1980s and early 1990s war over women's bodies and autonomy resulted in drastic changes to laws. At that time, the radical right-wing parties began to submit anti-abortion draft laws in Parliament; at least six legislative proposals were submitted,

each proposing a full ban on abortion (with some variations) and criminalizing women who underwent abortions. These most repressive drafts were rejected by Parliament one after another due to massive social mobilization. People began to undertake a variety of actions aimed at preventing the imminent ban: The new pro-choice organizations fought back.

The most successful pro-choice campaign was initiated by two former opposition leaders and at that time members of Parliament, Barbara Labuda and Zbigniew Bujak, who established the committee that called for a national referendum on the issue of criminalization of abortion. The committee managed to collect more than 1.5 million signatures in support of a referendum on abortion legislation. At that time, 65% of people were against restricting abortion (Nowicka, 2004). Unfortunately, Parliament, which was much more conservative than society, voted against the referendum. Nevertheless, the widespread mobilization of society did have an impact on the debated legislation, and the anti-abortion law, although finally passed, was less repressive than previous proposals. The anti-abortion law, officially called the Law on Family Planning, Human Embryo Protection, and Conditions of Admissibility of Pregnancy Termination, was finally accepted January 7, 1993. It permitted abortion under three conditions: (1) to save a woman's life and health, (2) in cases in which there is serious fetal malformation, and (3) when pregnancy is a result of crime (rape and incest). The key change introduced was the elimination of legal abortion on socioeconomic grounds, which was the main reason for abortions in Poland during the communist period.

Since the law change, the abortion issue was regularly reintroduced to the political agenda, either by the pro-choice movement—which continued efforts to liberalize restrictions to abortion—or by the increasingly stronger anti-choice movement, which became especially strong at the beginning of the 21st century. In 1994, Parliament, dominated by the left-wing Social Democrats, revised the law and allowed abortion on social grounds. Unfortunately, it could not be implemented because Lech Wałęsa, a devoted Catholic and the former Solidarity leader who had become president of Poland, vetoed the law.

A second attempt at liberalizing anti-abortion legislation was undertaken in 1996, after a new president was sworn in. For a second time, the parliamentary left majority passed a law that liberalized abortion termination on socioeconomic grounds, and this time, President Aleksander Kwaśniewski, of left provenance, signed it. However, the Solidarity trade union, which in the 1990s transformed into a radical conservative anti-choice political force closely connected with the Church, again played a negative role in restricting women's rights. It filed a complaint in the Constitutional Tribunal maintaining that the liberalized law was unconstitutional. In 1997, the Constitutional Tribunal, dominated by conservative justices, adopted the very controversial ruling that abortion on social grounds is unconstitutional. After only 1 year of greater freedom, abortion became restricted again. These years of struggles, but also of anti-abortion propaganda offered by the Church, media, and state institutions such as the Constitutional Tribunal and from the highest political figures who had gained respect among the citizens, such as Lech Wałęsa, began to have a social effect; people were no longer as supportive of legalized abortion as they had been a decade earlier.

Hardening of Anti-Choice Sentiments and the Emergence of Transnational Solidarity

Whereas at the end of the 20th century pro-choice advocates had well-grounded assumptions that anti-abortion laws could be liberalized, at the beginning of the 21st century, the chances for liberalization were diminished greatly, as the case of Alicja Tysiąc and that of Agnieszka and Jacek exemplified. Worse, anti-abortionists continued proposing repressive laws and policies not only against abortion but also against contraception and in vitro fertilization. These unfavorable developments for women's rights occurred as a result of several factors. The weakening of the political left, which ruled for many years but lost power in 2005 and became an opposition party, was clearly a strong deterring force. By 2015, no left parties were elected to Parliament, which meant that there was no party to articulate a women's agenda. Since 2005, the leadership of Poland has alternated between two main right-wing parties—one more centrist, Civic Platform (Platforma Obywatelska), and the radical right-wing Law and Justice (Prawo i Sprawiedliwość [PiS]). Second, the position of the Roman Catholic Church became even stronger than in the past due to numerous legal and financial concessions received from every political ruling force, as a result of which its impact on the state policies related to reproductive health and rights significantly increased (Mishtal, 2015, pp. 1–2). Finally, the anti-choice movement had grown and become very powerful, supported not only by the Catholic Church but also by international anti-choice movements. Three powerful anti-choice proposals were introduced in 2006, 2011, and 2015. The proponents of the first proposal tried unsuccessfully to introduce in the Polish Constitution the protection of life from the moment of conception until natural death. The two other attempts were undertaken through a Civic Legal Initiative and proposed a full ban on abortion. Although none of these initiatives succeeded, they lost only narrowly; the most serious danger was inevitably approaching.

Despite many setbacks within the country, pro-choice organizations continued their struggle for liberalization of abortion, often with the help and support of the international women's movement. One of the largest campaigns in Poland was undertaken in collaboration with Rebecca Gompert, Dutch founder of the Women on Waves (WoW) project (Moore, 2003). The Women's Committee (Komitet Ster–Kobiety Decydują) invited WoW to participate in the campaign. Members of WoW arrived at Władysławowo, a small town located on the coast of the Baltic Sea, and set up the campaign on a boat named *Langenort*. WoW provided legal abortions on board the Dutch ship in extraterritorial waters, but its main focus was to raise awareness about the violation of women's reproductive rights in Poland. The *Langenort* was stationed in the Baltic Sea for almost 2 weeks in 2003. The project generated extensive media coverage throughout the world.

Fanatic opponents arrived in Władysławowo to block women from getting on the boat and receiving abortion services. Although the tensions and protests were visible, the most important outcome in addition to supporting individual women was the fact that public opinion and the media expressed support for women. WoW and a follow-up initiative, Women on Web (n.d.), continued their solidarity actions and engagement in supporting Polish women, and women in other countries with repressive legislation, by providing abortion pills via mail.

The previously discussed events underscore a clear division between women's rights and needs and the beliefs of the Polish state. Throughout the years, the Polish state and its agencies have not only become more responsive to conservative political pressures as exhibited by the Vatican and the Polish Catholic Church but also

Figure 14.3 Black Monday called also National Strike of Women and also Umbrella Revolution—demonstration at Warsaw Castle Square on October 3rd 2016 to protest against parliamentary decision to proceed the draft law aimed at full ban on abortion and to reject liberal legislation. Photo Katarzyna Pierzchała.

Figure 14.4 "Angry women" demonstrating during Black Monday called also National Strike of Women and also Umbrella Revolution (October 3rd 2019) in Warsaw at Nowogrodzka Street in front of the office of Chief Leader of ruling party Law and Justice—Jarosław Kaczyński. Photo Katarzyna Pierzchała.

embraced what Mishtal (2015, pp. 17–22) calls "the politics of morality." That moral stance, as exhibited by state, media, and the Church, as well as by an increasingly larger segment of Polish society, gives power to many—except women, as experienced by Alicja and Agnieszka—to intervene and control women's lives. These interventions have propagated gender-biased policies and regulations in which women are not only controlled but also responsible for the acts of others over which they themselves do not have power. Surveillance, control, and abuse of institutional power by the state and its institutions created the governance environment within which a multiplicity of actors (priests, bishops, and church hierarchy; presidents, prime ministers, elected members of Parliament, political parties, governmental units, and their officers; pro-life international and domestic organizations and nongovernmental organizations; lobbyists, advocates, lawyers, and courts; and doctors, nurses, and ordinary people) are permitted to pursue their anti-women agenda. Government authorities do not even pretend that they are trying to help women, and this was especially evident in the government's appeal to ECHR of the Alicja Tysiąc judgment issued earlier by ECHR. The Polish government explicitly stated that it is not obliged to help women get lawful abortions because this is their own business (the Polish government eventually lost the case because it was rejected by ECHR in September 2007).

RECENT DEVELOPMENTS OF NOTE

The Umbrella Revolution and the National Women's Strike: The Mobilization of 2016

The recent abortion crisis in Poland was fueled by the shocking attempt to introduce a full ban on abortion, which was proposed by radical anti-choice groups supported by the Roman Catholic Church and the right-wing ruling party, PiS. In spring 2016, the extremist organization Pro Foundation announced it would submit to Parliament a Civic Legal Initiative that would criminalize women who underwent abortion and would ban abortion even if a pregnancy threatens a woman's life. Soon after, a pro-choice initiative called Save the Women started to collect signatures to propose a draft law liberalizing abortion (The Law on Women's Rights and Conscious Parenthood) on request until the 12th week of pregnancy. Both civic initiatives collected more than the obligatory 100,000 signatures; the Pro Foundation collected half a million signatures due to the support of Church structures, and the Save the Women committee collected 250,000 signatures. Street protests against the ban of abortion started immediately after the announcement, and they became stronger in fall 2016, when Parliament was due to start proceedings.

On September 23, 2016, the Polish Parliament voted in favor of beginning parliamentary proceedings in support of the repressive draft law and almost simultaneously (a few minutes later) rejected the rather modest pro-choice draft. As a result, women, men, students, workers, old and young demonstrated throughout the country (Centrum Badania Opinii Społecznej [CBOS], 2016). Countless street protests and numerous actions exploded not only in Warsaw, the capital city, but also in other cities throughout the country. The most visible pro-choice demonstration was the Black Protest, lasting approximately 2 weeks, during which ordinary and celebrity women and men wore black clothes. The culmination of all the protests was the National Women's Strike.

Krystyna Janda, a famous Polish actress and theater director, reminded Polish citizens that 40 years ago, women in Iceland organized a general strike, and she called on Polish women to do the same. She did not expect any response; yet the response throughout the country was remarkable. Marta Lempart, a publicly unknown woman, proposed via social media the National Strike of Women for October 3 (Lempart, 2016). Thousands of women and many supporting men declared participation in the strike. Thousands of women did not go to work, and those who could not attend the protest wore black at work. Many employers declared solidarity with the women's strike. Universities and even schools supported their students on that day and did not count their absences against them. Unprecedented rallies spontaneously organized by ordinary women in approximately 150 cities and small localities gathered thousands of people in the streets despite heavy rain, which led to the campaign being called the "umbrella revolution." This massive mobilization terrified the ruling party, which obviously was not expecting such huge opposition and the successful self-organization of the grassroots society in such a short time. Three days later, on October 6, after very short proceedings, the Sejm (the lower chamber of the Polish Parliament) rejected the repressive draft law.

For the first time, the ruling authoritarian regime of the PiS party decided to withdraw one of its unpopular political projects. The political significance of such a move did not escape attention; the importance of such a step goes far beyond women's reproductive rights. There is no question that women showed their power and won. The largest Polish daily, *Gazeta Wyborcza*, announced enthusiastically on the front page, "Polish Women Won Against Law and Justice" (Kondzińska, 2016). A famous Polish social activist and a leader of the largest charity organization in Poland, Jerzy Owsiak (2016), said, "It was the most beautiful civic Monday in a new reality," suggesting the critical significance of the women's victory for other opposition movements and actions. As noted by Kublik (2016), many believed that

> women together can do a lot. They have woken up the sense of potency in Poles, citizen's strength versus state authority, which they would rather not give up. The conservative revolution carried out by the ruling party generated resistance, the "umbrella revolution." And it seems today that this rebellious power may be more attractive for society than the power of "good change" [as the Law and Justice Party describes their rule].

As is often the case in such movements, the actual concerns expressed by women are less important than other political considerations. Presumably, the ruling party calculated that it is better not to fight over this particular project, even if some conservative quarters will be upset, than to have thousands of people throughout the country on the streets demonstrating for a long period of time. Thus, the regime voicelessly showed its fear of the public expression of discontent; once that was revealed, people also recognized their power, and the protests continued.

The umbrella revolution showed the strong connection of the Polish women's movement with international movements and a solidarity of global women with struggles for women's reproductive rights everywhere. Support actions and rallies in front of Polish embassies were organized not only in major Western European cities such as London, Paris, and Berlin but also in Nairobi, Kenya, and other cities. Women from Iceland who organized their strike in 1975 sent a very moving and encouraging

YouTube message to Polish activists, connecting all women's struggles together ("Icelandic Women," 2016). Polish women, for their part, acknowledged other struggles taking place abroad; they explicitly expressed solidarity with Irish women fighting repressive anti-abortion legislation in Ireland. The demonstrations generated much interest and widespread coverage by the world media, thus generating publicity for women's struggles in Poland.

The persistent—now more than two decades long—commitment of Polish women nationally and internationally to oppose a ban on abortion and to protect women's rights has been primarily sustained through grassroots mobilizations. Impressively, the driving force behind the protests was not mainstream women's organizations (which of course did join such protests) but, rather, individuals and informal groups who via the internet built networks that resulted in the National Strike. In most cases, these individuals had never before participated in any form of public life, including protest actions. The National Strike and Black Protest resembled a peaceful uprising—a decentralized mass movement that adopted diverse forms of protests, from street actions to the symbolic wearing of black clothes. These strategies allowed for mass mobilization, resembling the mass solidarity mobilizations of the 1970s and 1980s in Poland.

Despite this first victory, the struggle is not over. The ruling party has experienced renewed pressures from the anti-choice movement and the Roman Catholic Church. The 2016 legislation discussed in the following section, milder by their standards, proposed to ban abortions in the case of fetal malformation and especially in cases of Down syndrome genetic disorder. Women's movements have decided not to close their umbrellas and to continue fighting against new restrictions.

CURRENT CONDITIONS

The Force of Anti-Abortion Law: The "Underground Women's State"

The anti-abortion law in effect for almost 25 years had numerous negative effects on women's lives, health, and autonomy (Nowicka, 2008). Most important, it caused much suffering. Eliminating access to abortion on social grounds neither reduced the need for abortion nor stopped the procedure from being performed; the law just pushed abortions to a hidden and risky underground (Snochowska-Gonzalez & Zdrojewska, 2009), endangering thousands of women and limiting their access to safe abortion. What was also unexpected is that the law turned out to be even more restrictive in practice.

The ECHR (2007), which offered the judgment in the case of Alicja Tysiąc, argued that the current law has a chilling effect; women de facto can exercise fewer rights than they actually have de jure. The Court noted,

> The legal prohibition on abortion, taken together with the risk of their incurring criminal responsibility under Article 156 § 1 of the Criminal Code, can well have a chilling effect on doctors when deciding whether the requirements of legal abortion are met in an individual case. (p. 27)

Indeed, the implementation of anti-abortion law goes far beyond what is contained in the law by practically banning almost all abortions and, at the same time, failing to implement its preventive provision. According to the law, the government is obliged to guarantee modern sex education in school curricula and to offer full access to family planning. Yet, such policies have never been implemented. Although contraception is available with a doctor's prescription at pharmacies, public doctors rarely provide such prescriptions to women. On the other hand, condoms are widely available without prescription, in shops and gas stations. As a result, women in need of contraceptives have to visit private doctors, which in turn increases the cost of securing contraceptives on a regular basis, making contraception especially difficult for women with limited economic resources. Currently, there is neither a policy nor plans to improve access to modern family planning that would support disadvantaged and young women and diminish unwanted pregnancies and, subsequently, the need for abortion. Sex education is also not part of school curricula. Schools offer religiously biased, pro-family programs that are meant to promote sex only after marriage, natural contraception, and anti-abortion attitudes among the young; they do not provide basic information on broader sexuality, including how to avoid the consequences of premature sex.

The prolonged anti-abortion drive has had many negative consequences for women and their health and also for the future of the pro-choice movement. At least three consequences require further discussion: (1) the impact of restricted abortion on access, (2) the creation of an underground abortion business, and (3) the increased and very effective use of the conscience clause.

Inaccessibility of Legal Abortion

> Once the legislature decides to allow abortion, it must not structure its legal framework in a way which would limit real possibilities to obtain it.
>
> —ECHR (2007, p. 27)

Although Polish law allows for abortion on a few grounds, most women are not able to exercise this right in public hospitals. Stigma surrounding abortion, fear of many providers not to be labeled as abortionists and pressure on medical doctors executed by anti-choice and religious movements, combined with opportunistic attitudes aimed at avoiding controversial services, has led to denial of legal abortion services in most hospitals. The Coalition of NGOs' (2016) report to the United Nations Human Rights Committee states,

> [Women's] access to services is effectively curtailed by Poland's maintenance of criminal sanctions for abortions performed outside of the very limited circumstances allowed for by the law and by the highly restrictive nature of the law itself. These combine to generate a punitive and stigmatizing environment that undermines effective implementation of Poland's abortion law and creates a chilling effect for medical professionals.

A Polish government report ("Sprawozdanie Rady Ministrow," 2014) states that almost no legal abortions are being performed in the public health care system, and the numbers are declining yearly (only 752 abortions were performed in 2012, and

744 were performed in 2013). These official numbers are particularly striking considering the fact that women of reproductive age constitute more than 10 million of the Polish population of 38 million. According to the government report, there are voivodeships (the largest administrative unit in Poland) in which almost no abortions were performed in 2013. For example, in Lublin voivodeship, with 2 million inhabitants, only 2 abortions were performed, and in Podkarpacie voivodeship, also with 2 million inhabitants, only 3 abortions were performed. The largest number of pregnancy terminations, 244, took place in Mazovian voivodeship (where Warsaw, the capital of Poland, is located), which is inhabited by more than 5 million people.

This symbolic number of legal abortions is a clear indication that access to abortion services has been dramatically restricted in Poland. Women who need abortions are forced to seek help underground or outside of the Polish health system. The situation is even worse when the fetus is deformed.

In November 2016, the ruling party passed a law ("Ustawa o Wsparciu," 2016) on the support of pregnant women and their families "for life." This law aimed to encourage women to give birth to deformed fetuses by providing a one-time allowance of 4,000 PLN (approximately $1,000). The one-time allowance is equivalent to approximately 2 months' salary and therefore will have only a short-term positive impact on the family budget. It will certainly not change drastically the situation of a family affected by the birth of a child requiring long-term special care and long-term support. This law has been ridiculed by the women's movement as a form of cheap bribery. Rather than supporting women's decisions in cases of fetal malformation, the state pushes women to make the heroic act of having and raising children with numerous health and mental challenges.

Abortion Underground

Most women who cannot continue pregnancy decide to have illegal abortions in a so-called abortion underground, which started operating even before the law was restricted because women already experienced problems with accessing limited legal abortion services. The character of the abortion underground has changed throughout the years, reflecting medical developments, especially increased access to medical abortion. At first, illegal abortion services were offered by gynecologists in small private clinics by surgical methods. Doctors performed illegal abortions purely for financial reasons and treated them as a source of additional, nontaxed income. Currently in Poland, unlike in the 1950s, doctors do not support women in their struggle for reproductive rights; the motivation of sympathy or support is very rare. Therefore, prices for abortions are high, on average approximately $500, which is slightly more than the monthly minimum wage. This means that for the majority of Polish women, obtaining an abortion is extremely expensive and hardly accessible. Although abortion in the underground is relatively safe because it is often performed by medical doctors, there have been cases of women dying due to post-abortion complications.

Traveling abroad for abortion, sometimes called—inadequately and frivolously—"abortion tourism," is another "option" for women seeking abortion. Such practices are already quite developed and are growing. With open borders, Polish women seeking abortions travel to many European countries, primarily Slovakia, the Czech Republic,

Germany, Austria, the Netherlands, and the United Kingdom. In some countries, medical clinics have developed services designed specifically for Polish women. This option is often chosen by well-off women because high service costs prevent many others from being able to use these clinics.

In recent years, the phenomenon of abortion via internet has been exploding. Some international feminist nongovernmental organizations provide abortion pills (i.e., medical abortions) through a medically sound, woman-friendly internet service located outside of Poland ("Potrzebuję Pigułek Aborcyjnych," n.d.). The web page is accessible to women throughout the world and provides online counseling (in Polish and other languages), followed by mail delivery of the pills. The service suggests a reasonable voluntary donation (less than $100) for those who can afford it. However, delivery does not always occur due to mail screening in some regions of Poland, resulting in the confiscation of pill packages.

The climate of crime surrounding abortion leads to situations in which women seeking abortion services outside of health systems are often exposed to crooks who want to make a profit on desperate women; they offer false pills to women, which often are just placebos. Although official statistics regarding illegal abortions are not collected due to their criminal nature, according to estimates provided by the Federation for Women and Family Planning, up to 150,000 abortions may be performed in the underground (Nowicka, 2008).

Conscience Clause

Doctors or even entire hospitals that are denying abortions evoke the conscience clause, which is guaranteed by law. Refusals based on conscience are widespread and constitute a key obstacle to accessing pregnancy termination services. Theoretically, Article 39 of the law obliges a doctor using the conscience clause to refer a patient to another doctor who will provide the service in question ("Ustawa o Zawodzie Lekarza," 1996). However, this obligation was never practiced by doctors–objectors. They did not want to help women even by providing information. Moreover, they believed that this obligation of referral was unacceptable because they would be indirectly participating in abortion. Therefore, the Supreme Medical Chamber sued to void Article 39 in the Constitutional Tribunal. The Tribunal, dominated by conservative justices, agreed with doctors and released them from the duty of providing women information on abortion. This filing was a direct result of Dr. Chazan's behavior in Agnieszka and Jacek's case discussed previously.

At the same time, the ruling did not indicate who should inform women about the clinics performing abortions. Thus, the Constitutional Tribunal (2015) adjudged that doctors' right to refusal prevails over women's right to medical service. The Tribunal's conscience clause judgment went against recommendations of the United Nations Committee on Economic, Social and Cultural Rights (2009), which called on Poland to "take all effective measures to ensure that women enjoy their right to sexual and reproductive health, including by enforcing the legislation on abortion and implementing a mechanism of timely and systematic referral in the event of conscientious objection" (p. 6).

Polish doctors deny women not only abortion but also other reproductive health services, including contraception counseling, in vitro fertilization, and/or prenatal

examinations (amniocentesis). Women seeking reproductive health services have been de facto expelled from the health care system. Many of them are not even trying to seek "controversial" services in the public health system, although as insured, they could have access to services free of charge. Instead, they go directly to private clinics inside or outside of the country to avoid humiliating treatment and unnecessary procedures that do not guarantee access to services. Those who cannot afford private health care take a risk and utilize underground services, travel abroad, or have to accept the outcomes.

LOOKING TO THE FUTURE

The Future of Institutionalized State Violence Against Women

The situation of Polish women regarding their reproductive rights confirms that the Polish state, represented by its health and law enforcement institutions, acts violently against women. On numerous occasions, as discussed previously, the state has sided against women's interests, and it is no longer safeguarding the implementation of the few reproductive rights that women still have under the constitution and Polish law. Women seeking lawful abortions can hardly exercise their rights because hospitals refuse to perform them even if pregnancy constitutes a risk to their lives; we can argue, then, that in Poland there is currently almost a full ban on abortion.

There is no effective legal mechanism by which women trying to exercise their rights can complain. Even the weak mechanisms, such as the referral obligations imposed on doctors using the conscience clause, were abolished by the Constitutional Tribunal. If a woman files a complaint in the Polish court for denial of legal services, she usually loses the case, and thus only the international arena remains open to women seeking justice.

For years, no matter who has been in power, Poland has persistently ignored recommendations of several of the United Nations human rights committees that monitor the implementation of the human rights conventions as well as those of the European human rights bodies, including ECHR and the Commissioner for Human Rights of the Council of Europe. These international institutions regularly provide Poland with recommendations on how to improve the law and policies regarding human rights of women in the sphere of reproduction and sexuality. No significant actions have ever been taken by the Polish government to address these concerns. The state policies completely ignore the implications of the anti-abortion law on women's lives, health, and personal circumstances. Such anti-women state policies constitute a form of institutionalized violence that discriminates against women and leads to multiple forms of control, oppression, and bodily harm. In the oppressive state, no woman of reproductive age can be free of fear, stigma, and loneliness.

One significant aspect of the state violence against women is the impact that these repressive policies has had on people's attitudes and opinions. In 2013, the Public Opinion Research Center (CBOS, 2013) published the results of an in-depth study titled "Abortion Experience of Polish Women." CBOS observed that according to its research (which has been carried out regularly since the early 1990s), attitudes and opinions regarding abortion have changed significantly. Paradoxically, acceptance

of repressive legislation has increased during the past 20 years. The CBOS analysis argues that this shift is due to the normative role of the law in force and the stigma surrounding the issue of reproductive rights, but also because of submissiveness to existing law rather than to people's real beliefs and convictions.

It seems, however, that decreased support for abortion has also resulted from the continuous, vehement, anti-choice propaganda by the Catholic Church during religious services, on the one hand, and state support of the pro-life movement, on the other hand. The Polish education system, for example, plays a critical role in forming children's attitudes. By allowing anti-abortion religious instruction to be provided in the public schools and simultaneously failing to provide modern sex education or, more commonly, by offering so-called pro-family education guided by religious teaching on reproduction and sexuality, schools shape children's attitudes and instill them in the next generation. Moreover, many state institutions, including government, parliament, health, and law enforcement institutions, instill in women the conviction that abortion is morally wrong and that they should feel guilty if they consider pregnancy termination.

CONCLUSION

Despite the propaganda, women do undergo abortion. Although such propaganda has only limited impact on women's ultimate decision regarding whether or not to have an abortion, it does negatively impact women's well-being. Many women declare anti-abortion attitudes against their self-interest, even if in reality they actually do have an abortion if faced with such a decision. Among adult women, no more than one in four but no less than one in three has had at least one abortion. This, as noted by CBOS (2013), translates to 4.1–5.8 million women. Practicing Catholic women have more abortions than those who do not attend church, which can be attributed to anti-contraception propaganda promulgated by the Church.

It is difficult to predict how the overall situation regarding women's reproductive rights will develop in the near future, especially given the highly unfavorable political climate. One major question is whether the ruling party, PiS, will decide to push for further restrictions to already very restrictive reproductive legislation and policies or will give up, not daring to risk open confrontation with nascent women's movements and umbrella revolutions. Powerful pressures of anti-choice groups will continue and may in fact lead to further restrictions, if not by legislation then by government regulations.

The major question is whether the umbrella revolution was a short-term campaign or is the beginning of a larger, sustainable women's movement that will not only preclude the ruling party from further anti-women legal restrictions but also, in the longer term, soften existing limitations regarding women's rights, including reproductive choices. Although it is too early to predict, current self-mobilization and the determination of women throughout the country give some cause for cautious optimism that this more forceful mobilization of women will have a transformative and empowering effect and will reinforce the past determination with which women resisted states' intrusions into their bodies. Will the National Strike become a turning point, leading to societal change in which women's autonomy and decision-making are universally recognized? It remains to be determined.

DISCUSSION QUESTIONS

1. How have women's rights in Poland been affected by the democratic transition?
2. Why have reproductive rights of women in Poland become subject to restrictive state policies?
3. How have Polish women exercised their agency in their struggle to resist negative changes that limit their rights?

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15

Stepping Forward, Standing Strong

Philippine Women Human Rights Defenders

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CASE STUDY: LIZA MAZA

In July 2018, Liza Maza was forced into hiding. Arrest warrants for double murder had been issued against her and three fellow activists and former legislators.

Liza Maza is Chairperson Emerita of GABRIELA, a Philippine-based international women's organization, and Lead Convener of the National Anti-Poverty Commission in the Philippines. As a former congresswoman, she is author and co-author of laws that have served to protect and ensure women's rights and welfare, including the Magna Carta of Women, the Anti-Trafficking of Persons Act of 2003, the Juvenile Justice and Welfare Act of 2006, the Philippine Nursing Act, Anti-Torture Law, the Rent Control Act of 2009, and the Anti-Violence Against Women and Their Children Act of 2004.

The warrant for Liza's arrest was based on murder charges that had already been dismissed in 2006, determined by the court as baseless, with indisputable evidence supporting the innocence of the accused. The lawless climate of the Duterte government has been characterized by the tens of thousands of killings under its so-called "war on drugs" and the assassinations of political opponents. Due to the extreme militarism prevalent in the country, with impunity being the norm, there was no guarantee that the judicial system would or could do its job.

A few days after the issuance of the arrest warrants, on July 30, 2018, the Philippine National Police launched a manhunt. On August 4, a civic society group offered a bounty of P1 million for information leading to the arrest of Maza and the three former congresspersons. Notably, this reward offer was announced by former Philippine president Gloria Macapagal Arroyo's lawyer. This is the same president under whom the original double-murder case, which began in 2004, had been filed. By 2006, the