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Reproductive Justice in Poland: Legal Challenges and Societal Impacts

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A Journey Through Science, Religion, and the Fight for Reproductive Rights

Preface by Carmine Iorio and Viviana Gianadda

In 1987, in the city of Białystok, a pivotal moment in Polish history unfolded: nine years after the birth of Louise Joy Brown, the world's first person conceived through In Vitro Fertilisation (IVF), Magdalena was born—the first Polish child conceived through this method. This event, which occurred during the early years of Pope John Paul II's pontificate, sparked a legal and bioethical debate that still resonates nearly four decades later.

Initially, from 1987 to 1991, IVF was publicly funded but restricted to heterosexual couples with medically diagnosed infertility. When public funding ceased in 1991, access became limited to wealthier couples able to afford private treatment. Public funding resumed in 2013, alongside the introduction of the Infertility Treatment Act in 2015. However, this progress was short-lived: in 2016, public funding was once again withdrawn and redirected to NaProTECHNOLOGY, a practice in line with Catholic bioethics.

Throughout this period, the Catholic Church has remained a vocal opponent of IVF, condemning it as immoral and contributing to the persistence of societal stigma surrounding this treatment. Despite growing public acceptance and efforts by medical organisations to promote evidence-based discussions, the debate on IVF has often been undermined by the spread of disinformation and ideological rhetoric.

Unfortunately, this rhetoric continues to shape policies today, as infertility is still narrowly framed by lawmakers as a medical issue affecting only heterosexual couples. As a result, non-heteronormative families—same-sex couples, transgender individuals, and single parents—are systematically excluded from conversations about reproductive rights, reinforcing social inequalities and limiting access to assisted reproductive technologies.

The regulation and social perception of IVF is only one of the central themes explored in *Reproductive Justice in Poland: Legal Challenges and Societal Impacts*, written by Professor Maria Boratyńska. Her comprehensive analysis sheds light on the complex socio-political landscape of reproductive rights in Poland.

Professor Boratyńska navigates through a landscape shaped by shifting policies, contrasting societal attitudes, and the powerful presence of religious institutions. From the contentious regulation of abortion and contraception to the polarised debate around IVF, her analysis reveals the ongoing struggle between progress and resistance in Polish society.

But it is not just a legal analysis, it is a profound exploration of how reproductive justice impacts real lives. In fact, one of the book's greatest strengths lies in its ability to connect technical legal discourse with the personal experiences of those directly affected: couples seeking to become parents, individuals battling the stigma of reproductive choices, and medical professionals caught between their duty of care and restrictive laws.

At its core, Boratyńska's work raises fundamental questions: Who has the authority to decide what is "natural" or "normal"? Should personal freedoms be subject to the moral judgments of others? How can a society uphold human dignity while denying individuals the right to make decisions about their own bodies?

Reproductive Justice in Poland: Legal Challenges and Societal Impacts reminds us that reproductive rights are not static; they are fragile, evolving, and continually threatened. Therefore, it challenges us to imagine a future where healthcare policies are guided by scientific evidence rather than ideology, and where dignity, equality, and access to care are not privileges but fundamental rights.

Dive into this powerful work, engage with its critical questions, and join the ongoing conversation on reproductive justice.

Reproductive Rights in Poland: Legal Challenges and Persistent Barriers

Legal Framework, Developments, and Social Perspectives

Polish reproductive rights are included in legal acts, yet, at times, they seem to be almost non-existent. The Family Planning Act (FPA) of 1993, was the first legislation to address these rights, with a predominant focus on respecting negative reproductive autonomy [1]. The preamble to the Act states: “Recognising the right of every person to responsibly decide whether to have children and to access information, education, counselling, and means for the exercise of this right, the following provisions shall be established” [1].

Over the years, the law has been amended only in relation to abortion, while other rights enshrined in it have largely remained neglected. In 2015, the Infertility Treatment Act (ITA) was enacted [2]. Simultaneously, perinatal care standards were introduced through three regulations. In 2016, the Act on supporting pregnant women and families “For life”, known as the For Life Act (FLA), was passed [3]. It established various social and protective measures, including the confirmation of women’s right to prenatal examinations, which represented its greatest benefit.

The reproductive rights enshrined in the FPA have remained virtually unchanged since 1993, despite significant advances in medical knowledge. At the same time, these rights have increasingly become more theoretical, primarily because their implementation, more so than in other areas of healthcare, is influenced by power and financial resources—namely, legal access and reimbursement. Those who make decisions regarding human reproduction essentially wield control over fundamental aspects of individuals’ lives, as reproduction and attitudes towards it are central to the existence of individuals, couples, and societies.

Reproductive health protection does not automatically fall under the category of health protection, which is typically focused on the treatment of diseases. Pregnancy is not a medical condition but a physiological state, often referred to euphemistically as ‘different’. Preventive contraception does not cure any medical condition, and for a long time, the therapeutic nature of assisted reproduction technologies (ART) has been questioned in Poland. This demonstrates that access to reproductive health measures is essentially influenced by social conventions.

While prenatal diagnosis has a clear health-related purpose, its objectives are sometimes distorted to provide grounds for the legal termination of pregnancy due to embryopathological reasons, which, in a similarly biased manner, are often referred to as ‘eugenic’. In its judgment of 21 November 2003, the Supreme Court endorsed the legal science perspective that “separates the right to family planning within the system of personal rights, empowers a woman in matters of procreation, and opposes instrumental treatment of her” [4]. In its judgment of 13 October 2005, the Court expanded on this idea, considering that the right to informed family planning is a subjective right of parents [5]. Although this specifically concerned the right to legal termination of pregnancy, the finding holds broader significance.

At the same time, the opinion of the Expert Team of the Polish Episcopal Conference for the Protection of Human Rights and Fundamental Freedoms, dated 14 February 2014, remains memorable [6]. It concerned the Recommendation of the Bioethics Committee at the Presidium of the Polish Academy of Sciences No. 4/2013 of 12 November 2013 on the medical conscience clause. The panel of experts criticised the Bioethics Committee for "arbitrarily using created so-called reproductive rights or the concept of reproductive health as synonyms for individual rights in the field of health protection, access to contraceptives, and termination of pregnancy". According to the Polish Episcopal Conference, the term 'reproductive health' is increasingly used in legally invalid documents from international organisations and in the terminology of specific scientific communities. It is not possible to derive from it any apparently important so-called reproductive rights.

Current Legal Issues and European Court of Human Rights Rulings

The current legal situation therefore consists of:

- The unclear status of reproductive rights, referred to in the law as 'family planning'. The ambiguity primarily arises from the fact that these rights are treated more as duties of the authorities rather than as rights of citizens. Consequently, the theoretically guaranteed free access to 'family planning' means, including contraception, remains illusory, unless supported by specific regulations that ensure practical access. This is particularly evident in the regulated access to emergency contraception. The context of contraception is associated with endless disputes about the permissibility of sterilisation on request, which is considered as punishable as serious bodily harm.
- The criminalisation of female genital mutilation, rightly introduced in 2023. However, this legal change does not extend to the circumcision of men.
- Persistent difficulties in accessing and reliably performing prenatal examinations.
- Medical care for pregnant women is characterised by doctors' fears of being accused of illegal abortion, leading to omissions in terminating life-threatening pregnancies.
- A trend towards a narrow interpretation of the grounds for legal termination of pregnancy, which has led to the practical unavailability of such treatments within the country. This situation has been aggravated by a slippery slope effect, resulting increasingly restricted access to protective measures.

Each of the statutory grounds for legal termination of pregnancy in Poland has been reviewed by the European Court of Human Rights (ECHR), which has unequivocally identified violations of the European Convention on Human Rights [7] in this area:

- When pregnancy poses a threat to the life or health of the pregnant woman—as established in the case of *Tysiąc v. Poland* [8].
- When prenatal examinations or other medical indications suggest a high probability of severe and irreversible impairment of the foetus or an incurable life-threatening disease—as addressed in the previous legal situation in the case of *RR v. Poland* [9].
- When legal termination of pregnancy for severe foetal abnormalities was declared unconstitutional by the politicised Constitutional Tribunal—as seen in the case *ML v. Poland* [10].
- When there is a reasonable suspicion that the pregnancy resulted from a criminal act—as demonstrated in the case *P and S v. Poland* [11].

Despite these rulings, the awarded damages were not paid, and no significant legal reforms have occurred. The issue, in reality, is not merely about the shape of the law but about its non-application and even deliberate obstruction. Therefore, robust substantive, procedural and bureaucratic safeguards would be even more important.

Contraception Access in Poland: Legal Challenges and Controversy

Access to Contraception

In accordance with Article 2 of the FPA, "government and local government authorities, within the scope of their competences specified in special regulations, are obliged to provide citizens with free access to methods and means for conscious procreation" [1].

Access to hormonal contraception, which is considered the most effective form, largely depends on the method of financing. The provisions of the Publicly Funded Healthcare Act (PFHA) and the relevant Ordinances of the Minister of Health regarding guaranteed outpatient specialist care [12] are crucial. This form of care includes specialist health services in gynaecology and obstetrics, such as obstetric and gynaecological consultations, as well as gynaecological advice for girls, particularly in the area of reproductive health.

The National Health Fund (NHF) also finances the insertion and removal of intrauterine contraceptive devices, although the cost of the device itself is borne by the patient. All clinics and gynaecological and obstetric surgeries with a NHF contract are required to offer these services.

However, information provided to potential patients by the Foundation for Women and Family Planning (FEDERA) indicates that this is not always the case, leading the organisation to intervene with the NHF and the Patient Ombudsman [13]. Insufficient access to contraception in many regions of the country has also been highlighted by international bodies monitoring the implementation of reproductive rights by the Polish government.[1]

Emergency Contraception Controversy

In 2016, the issue of the availability of emergency contraception in the form of the 'morning after' pill, sold under the name ellaOne®, sparked significant controversy in Poland. Access to emergency contraception in Poland is considered the worst in Europe [15]. According to the Pharmaceutical Act [16], a doctor's prescription is required to obtain the drug, which is not reimbursed and costs an average of PLN 120, with prices ranging between PLN 68 and PLN 180. Additionally, minors—individuals under the age of 18—must have parental or guardian consent to receive a prescription.

In 2015, under the influence of European Union (EU) law, Poland made a decision regarding the non-prescription sale of emergency contraception, considering placing ellaOne® in the over-the-counter (OTC) category for individuals aged 15 and over. However, in practice, ellaOne® remained a prescription-only medication

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[1] The Polish State authorities have never taken any effort to monitor the *de facto* implementation of the law, the observances of the relevant women's rights that it provides, and the impact that the law itself and the way it works have on women's lives. For example, in its concluding observations on the implementation of the 2007 CEDAW (Committee on the Elimination of Discrimination Against Women) Convention, the Committee argued that "as a result of the restructuring of the health sector in Poland, there has been a decrease in the number of clinics and health services available to women, in particular in rural areas. The Committee is concerned about the lack of official data and research on the prevalence of illegal abortion in Poland and its impact on women's health and life" [14].

and was not reclassified as an OTC drug. Bartosz Arłukowicz, the then-Minister of Health, and the Polish government referred to legal and systemic considerations, including Polish law and its alignment with European regulations, when discussing the classification and accessibility of emergency contraception. One of the key arguments for maintaining the prescription requirement was Article 200 of the Polish Penal Code [17], which criminalises sexual intercourse with individuals under the age of 15.

At the meeting of the *Sejm*[2] Committee on Health Affairs on April 6, 2017, concerning the change in the availability category of the ellaOne® pill, the then-Minister of Health, Konstanty Radziwiłł, controversially argued that it could have an early-abortive effect. He asserted that requiring a prescription would enable patients to seek medical advice on whether the medication could adversely affect their health. He also noted that all hormonal contraceptives are currently available only by prescription, drawing a comparison to other prescription medications that are required for urgent medical conditions, such as those used in treating life-threatening anaphylactic shock.

Supporting these arguments, Krzysztof Ostrowski, a member of the Law and Justice party, claimed that the ellaOne® pill had an early-abortive effect and alleged that he had witnessed several instances where "women in pharmacies were buying this medication by the handful". He also asserted that the drug was being misused by teenagers.

The decision by the Minister of Health was criticised as exhibiting unacceptable arbitrariness [18]. The Minister did not provide reliable studies demonstrating that the medication was often misused, leading to a direct or indirect threat to human health. There is no evidence suggesting a risk to life—implicitly referring to an embryo, not the woman—as the characteristics of ellaOne®, as established by the Marketing Authorisation Holder, clearly indicate its contraceptive rather than abortifacient effect. The World Health Organisation (WHO) also classifies this product as an emergency contraceptive. In the Polish context, claims that women, particularly teenagers, are purchasing the medication "by the handful" are considered unreliable due to its high price and sales data which do not support these assertions.[3]

Legislative Challenges and Barriers to Access

The classification of this medicinal product to a prescription-only status in Poland, combined with the reliance on conscience clauses by some doctors and pharmacists refusing to dispense pharmacological contraceptives, alongside lengthy waiting times for gynaecological consultations, has resulted in significantly reduced access—if not completely restricted in some regions—to ellaOne®, undermining its intended emergency use [18].

This restriction was further solidified through the introduction of a new provision via an amendment to the Pharmaceutical Act. Specifically, a new paragraph 1a was added to Article 23a, classifying all contraceptive medicinal products as prescription-only medicines.

It is noteworthy that the availability category for any other medicinal product in Poland is not defined at the statutory level. This approach clearly obstructs access by placing the regulation under an Act, which is considerably more difficult to amend or repeal compared to a ministerial regulation.

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[2] The *Sejm*, as the lower house of the National Assembly of Poland, has primary responsibilities that include debating and passing laws, approving the state budget, and overseeing the government's activities. It also plays a crucial role in shaping national policy and representing the interests of Polish citizens.

[3] According to research conducted by the company Millward Brown, a total of 179,400 packages of this drug were sold in 2016, indicating that these pills were purchased sporadically. Emergency contraception is most commonly used by women aged 25–30, rather than by underage girls, who accounted for only 2% of the product sold. Men frequently make these purchases. Data from QuintilesIMS shows that in 2017, 143,700 ellaOne® pills were sold between January and August, meaning that approximately 2.9% of women aged 15–49 used this product. This represents one of the lowest levels in Europe, ranking 22nd out of 24 countries surveyed, where the average market penetration of this drug was 6.4% [19].

Presidential Veto and Response in 2024

In January 2024, Prime Minister Donald Tusk announced an amendment to the Pharmaceutical Act [20]. After the *Sejm* adopted the government bill, it was routinely submitted to the President Andrzej Duda for signature on March 8, 2024. However, on March 29, the President vetoed the bill, citing concerns that the new version would restore access to emergency contraception for 15-year-olds. The President claimed to have listened to the voices of parents who were reported to have contacted him extensively through numerous correspondence and clearly expressed the need to protect the rights and constitutional standard of healthcare for children.

Nonetheless, the Polish Constitution [21] does not specifically establish a standard of healthcare for children, and the President appears to have overlooked provisions in the Convention on the Rights of the Child. General Comment No. 15 (2013) on Article 24 of the Convention, which outlines the child's right to the highest attainable standard of health, states: "In accordance with their evolving capacities, children should have access to confidential counselling and advice without parental or legal guardian consent, where this is assessed by professionals working with the child to be in the child's best interests. States should clarify the legislative procedures for appointing appropriate caregivers for children without parents or legal guardians, who can consent on the child's behalf or assist the child in consenting, depending on the child's age and maturity. States should review and consider allowing children to consent to certain medical treatments and interventions without the permission of a parent, caregiver, or guardian, such as HIV testing and sexual and reproductive health services, including education and guidance on sexual health, contraception and safe abortion" [22].

In the President's view, the use of such medications should be supervised by a doctor until the age of 18, as it is the doctor's responsibility to assess the effects of the medication, not a 15-year-old [23]. This stance can be seen as a pretext to deny access to emergency contraception for all women. It is plausible that the President has not adequately considered the relative risks of a single dose of ulipristal acetate—the active ingredient in ellaOne®, which prevents ovulation—compared to the risk of pregnancy in adolescents. A single dose of ulipristal acetate is generally considered safe and educating young girls about contraception is important. However, with regular contraception still requiring parental consent, the only practical option remains the purchase of condoms.

Alternative solutions and pharmacist services

Overriding the presidential veto would require a qualified majority in the *Sejm*, a challenging feat given the narrow dominance of liberal and democratic forces. Consequently, the law remains unchanged. In light of these developments, Izabela Leszczyna announced the implementation of alternative solutions [24] to address this sensitive issue. Such tactics are highly questionable from the standpoint of the rule of law, as they could undermine the established hierarchy of normative acts: a statutory provision cannot be amended by a regulation.

Nevertheless, the approach taken involved issuing an order concerning a pilot programme for pharmacist care in the field of reproductive health [25,26,27]. This was essentially an attempt to circumvent the statutory barrier and facilitate the purchase of emergency contraception based on a pharmaceutical prescription, a possibility provided under Polish law in certain circumstances. The dispensing of the prescription would be accompanied by a pharmacist's service, which would include discussing the rules for conducting tests and pharmacotherapy, along with future treatment instructions. However, this type of service, categorised as pharmaceutical care, cannot be provided to a minor without parental consent.

Pharmacists should conduct interviews with minor girls in a separate room, away from other clients, a practice that should be endorsed. However, the content of the interview is limited to:

- Determining the reason for dispensing the medicinal product.

- Discussing the principles of performing tests for self-monitoring and interpreting results from *in vitro*[4] diagnostic medical devices for pregnancy diagnosis.
- Discussing the principles of performing tests for self-monitoring and interpretating results from *in vitro* diagnostic medical devices for diagnosing urogenital diseases in both women and men.
- Discussing the principles of pharmacotherapy during pregnancy or childbirth.
- Instructing the patient on the appropriateness of treatment as part of primary care, outpatient specialist care, or hospital treatment, depending on the identified health problem.

Article 4.2 of the Act on the Profession of Pharmacist separately identifies pharmaceutical care [28],[5] which is classified as a health service, and pharmaceutical services, which include, among other things, the dispensing and preparation of medicinal products, conducting pharmaceutical interviews and providing advice to ensure proper use of medications. Therefore, it can be inferred that pharmaceutical services do not constitute a health service under the law. Literally speaking, pharmaceutical services are primarily technical in nature: they involve dispensing or preparing medications, collecting the information necessary to dispense the correct non-prescription medicine, and offering basic advice on proper use. For emergency contraception, the primary medical concern is to identify contraindications, specifically hypersensitivity to the active substance or excipients, as well as the concurrent use of ellaOne® with medications that can interfere with its effectiveness [29,30].

The regulation was eventually revised to refer to the activity as 'service' rather than 'care', despite still encompassing interviewing and counselling. Given the listed activities, the pharmaceutical services mentioned in the Reproductive Health Pilot generally have the characteristics of health services, but have been termed differently. In my opinion, their proliferation, extending well beyond contraception, also seems to have a masking purpose. The interview process is also so basic that it is practically indistinguishable from the one conducted prior to dispensing simple analgesics or antihistamines. The technical nature of this interview suggests it should be classified as a pharmaceutical service rather than a health service [29]. Ultimately, this represents a situation where real difficulties are created by barriers cleverly inserted into the law by previous authorities.

Importantly, however, the information obtained through the interview and its subsequent processing do not, in my view, differ significantly from what a mother might ask when her daughter reports the issue directly: for emergency contraception, the main concern is confirming unprotected sexual intercourse. No specialised pharmaceutical knowledge is required to determine if risky behaviour has occurred in this specific case. An adult woman could obtain the ellaOne® directly without undergoing the interview process. If a concerned mother wishes to spare her daughter from uncomfortable questions from outsiders, the only obstacle would be the PESEL number[6], which indicates her age. However, granting access to emergency contraception for underage girls without parental consent appears to be designed to circumvent potential parental objections. It is worth noting that since a 15-year-old is legally permitted to engage in sexual activity without criminal liability for the partner, *a fortiori*[7] she should similarly be granted the independence to use contraceptives and seek medical care, rather than being limited to obtaining emergency contraception only in emergency situations.

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[4] It means "in glass" and refers to biological processes or reactions that occur outside a living organism, typically in a laboratory setting.

[5] Pharmaceutical care includes the following activities: conducting pharmaceutical consultations, performing drug reviews and diagnostic tests, developing individual pharmaceutical care plans, and issuing prescriptions as a follow-up to medical orders.

[6] The PESEL number (Powszechny Elektroniczny System Ewidencji Ludności) is a unique identification number assigned to residents of Poland. It is a crucial element of the country's civil registration system and serves various administrative purposes, including healthcare access, taxation, and social security. The PESEL number consists of 11 digits, which provide information such as the date of birth and gender of the individual.

[7] It means "from the stronger [argument]" and refers to a logical argument suggesting that if something is true in one case, it is even more likely to be true in another.

The Legal Framework for Access to Prenatal Testing

The FPA, in section 2a, introduced the right to prenatal screening, stating: “Government and local government bodies shall, within the scope of their powers as laid down in specific provisions, be obliged to ensure unimpeded access to prenatal information and examinations, particularly when there is an increased risk or suspicion of a genetic or developmental defect of the foetus or an incurable life-threatening disease of the foetus” [1]. This provision, introduced by the 1996 amendment and remaining in force until 2021, aligns with the conditions for the legal termination of pregnancy on embryopathological grounds.

However, this does not imply that the sole purpose of prenatal testing is limited to these circumstances. Despite this, the belief that prenatal testing was primarily linked to termination of pregnancy prevailed among legal professionals, and this interpretation was reflected in the commentary on rulings by Polish courts and the ECHR. In several cases, substantial damages were awarded for preventing or hindering access to prenatal tests, for the negligent performance of such tests, and even for concealing unsatisfactory results.

The imprecise wording of the FPA raises questions not only about the right to prenatal examinations, but, more significantly, about the conditions under which they are to be provided. The legal situation was improved by the enactment of the FLA. This law outlines the entitlement of pregnant women and families to assistance in accessing health care services, with a particular focus on prenatal diagnosis.

As a general principle, the law guarantees unimpeded access to these services, particularly in cases where there is a suspicion of foetal abnormalities. The right to unimpeded access should imply that there are no organisational barriers within the healthcare system, including restrictions by referral requirements. Questioning unimpeded access serves primarily an informative function for specialists consulting the patient, as the tests must be specifically targeted at detecting particular defects.

Misidentification of suspected defects may result in inappropriate testing and, consequently, inaccurate results [31,32]. According to the FPA, the right to prenatal screening encompasses both the right to be informed about available tests and the right to undergo these tests [1]. Access to accurate information is of crucial importance, as patients must be made aware not only of the possibility of undergoing tests but also of the types of tests available.

The information provided should be reliable, complete and accessible, covering the nature of the examination, the method of its administration, its purpose, and availability. These are essential functional requirements, without which the rights granted would be rendered meaningless. In practice, the most common issues arise with the provision of information and the process of obtaining a referral for testing.

Consent, Autonomy, and Parental Involvement in Prenatal Testing

The FLA confers the right to prenatal diagnosis "for the benefit of a pregnant woman and a child". Consent for the examination is granted by the patient concerned. The foetus, of course, does not possess such capacity, and any other individual acting in its interest would lack the legal means to override the pregnant woman's consent regarding bodily integrity and intervention in her body. Although the prenatal examination aims to determine the health status of the foetus, it necessarily occurs within the context of the woman's body.

Forcing consent for the examination in the interest of the foetus, with the hope of undertaking intrauterine treatment, would require a separate and explicit legal basis, as is the case for all forced interventions outlined in medical law. No such legal basis exists in Poland. For the same reasons, there are no legal mechanisms to revoke consent for the examination once it has been granted by the woman. Any obstruction to access for research would equate to denying a woman the knowledge she is entitled to, both for her own benefit and for that of her future child.

Although undergoing invasive tests carries a low risk of miscarriage, this risk must be considered in the balance of benefits and drawbacks. Without the examination, the condition of the foetus remains unknown, making it impossible to undertake potential treatment or preventive measures. From a theoretical perspective, it is conceivable that the prospective father might express parallel consent to the examination, as he has a personal interest in receiving information and may also fear the risk of miscarriage.

The hypothetical right of the future father to consent to prenatal examination, if it were to exist alongside the woman's right, would serve as a sufficient condition: the woman's consent would be necessary, but without the man's consent, the examination could not proceed. In the event of refusal, the patient would thus be deprived of information regarding the condition of the foetus, which could impact her own health. The judiciary derives the right to this information from the personal interest of family planning. A man's involvement could only be detrimental, restricting a woman's right to make decisions about her own body by preventing her from receiving necessary information.

The notion that the future father should have the right to consent to a prenatal examination, as developed in Poland by Joanna Haberko [33], was conceived with the intention of restricting or, ideally, prohibiting access to prenatal examinations, as such information could also facilitate abortion. This idea has thus been rightly criticised.

Balancing Parental Rights and Foetal Rights in Prenatal Testing

As long as the foetus is *in utero*[8], the woman remains the sole individual entitled to request, consent to, or refuse the examination and to receive the results with full descriptions. A man may only have the right to be informed about the results concerning the foetus, including any diseases and dysfunctions identified. Therefore, a man does not possess the right to insist on testing, object to it, or receive results that include sensitive information about the woman.

However, the question of obtaining information about the health of the foetus, distinct from information about the woman's body, remains. It should be acknowledged that this information is equally important for the emotional well-being of both the future father and the future mother. Positive news brings relief and optimism, while negative news is crucial for decisions regarding the care of a sick child and the potential emotional and financial costs involved [34,35]. In this respect, the right of both future parents to recei-

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[8] It means "in the womb" and refers to conditions or circumstances existing inside the uterus.

ve information about the foetus should be considered equivalent, although there is currently no explicit legal basis for this. Nevertheless, this right can only be inferred from the protection of personal rights and may be seen as an extension of the right to family planning.

In some respects, this represents a common good for both the woman and the man, and when it does not infringe upon the other partner's interests, it should be acknowledged that it can be pursued independently and in one's own interest. This need can be described as an informational necessity arising from parental care for the health of the unborn child. The infringement occurs when information that is essential for the emotional well-being of the future parents is withheld, leading to persistent uncertainty, fear, and psychological distress. For a woman, the need for information is expressed through her willingness to undergo tests that involve interference with her own body and her right to receive complete result. For a man, it pertains to the receipt of information regarding the health of the foetus, if any.

Refusal to issue a referral, perform an examination, or provide accurate information constitutes a violation of the rights of the woman as a patient, which falls under the protection of medical law.

Refusal or distortion of information concerning a man may be classified as a violation of personal interests, but only if the man can demonstrate that the sought protection serves his interests, which may not be evident in the case of prospective paternity.[9] As part of this protection, it is permissible to demand the cessation of violations, namely the disclosure of information. However, for a man, the satisfaction of the need for information always depends on whether the examination has already been conducted at the woman's request.

The man's right to information about the health of the future child is therefore only independent at the stage of applying for the results; in all other respects, it depends on the woman's decision to proceed with testing. In this sense, the woman whose body is carrying the pregnancy holds the primary entitlement, while the man has a derived right, as the exercise of his rights must not infringe upon the woman's rights.

The provisions of the FLA indicate that the foetus is the stakeholder for whose benefit the examination is conducted. The law employs the term 'child'—similarly to the Civil Code [36] regarding claims for compensation for damage suffered prior to birth—but there is no implication that a child can be referred to as an organism during the foetal stage.[10] The only legal act encompassing the prenatal phase from conception is the Ombudsman for Children Act (Art. 2) [38]. However, this act is specific and not systemic, meaning the *nasciturus*[11] is regarded as a child only for the purposes of this particular law.

In legal doctrine, there is a noticeable trend towards the protection of life from the point of conception. Proponents of this view seek *de lege lata*[12] evidence to support the thesis that human life should receive equally strong legal protection at all stages of its existence. Within this context, the concept of 'child' and 'person' are extended not only to the foetus *in utero*, but also to the unimplanted embryo. As a result, this perspective seeks to establish the existence and validity of parental authority of both parents over the embryo.

The consequence of this approach is the assertion that health decisions regarding the foetus, including consent to prenatal diagnostics, require the cooperation of both parents, and the court has the power to make care decisions in the form of *ad hoc*[13] orders [35]. However, altering the expression 'conceived child' in all cases

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[9] Paradoxically, proving the legitimacy of assisted reproduction using non-partner donation will be the easiest, as its admissibility hinges on the prior submission of the cohabitee's statement of intent to become a father to the head of the registry office.

[10] "Polish criminal legislation protects human life from conception until death. However, the intensity and scope of protection for human life and life in the prenatal phase differ, as seen in the Criminal Code, where the term 'conceived child' is referred to in Articles 152, 153, and 157a [...]. The existence of these provisions makes it clear that human life and health, from conception to death, are legally protected goods, though different rules apply to a 'conceived child' versus an adult human being" [37].

[11] It means "one who is about to be born" and refers to a foetus or an unborn child.

[12] It means "from the law as it stands" and refers to the current state of the law.

[13] It means "for this" and refers to something created or done for a specific purpose or situation.

does not change the fact that Polish law does not provide full protection of life from the moment of conception. The terminology used in statutes is inconsistent, yet it underscores the decisive nature of the moment of live birth, or at least the ability to live independently outside the mother's body.

Moreover, the regulations, particularly those pertaining to criminal law, indicate that the protection of the life and health of *nasciturus* cannot infringe upon the life or health of a pregnant woman. In the event of a conflict of interests, a proper balance is required; however, the systemic framework favours the woman: a doctor who saves a woman's life at the expense of the foetus does not commit a crime.

The interest of the future child, represented by the foetus, is demonstrated through the performance of prenatal examinations aimed at detecting possible defects and considering the potential for their treatment. It is in the best interest of the child to be born in optimal health and, consequently, to identify any treatable defects in a timely manner, or at least to mitigate adverse health effects. Future parents also share this interest, desiring that their child would be born as healthy as possible. In instances where the examination was conducted negligently, resulting in a lack of diagnosis that prevented treatment *in utero,* both the parent and the child sought redress for the prenatal harm caused.

The right to prenatal examinations, as previously mentioned, serves to obtain information; therefore, it is manifestly contrary to this principle not to provide the results. The deliberate concealment of such information constitutes evidence of wilful misconduct, irrespective of intention. The informative purpose of the examination is evident, and the fact that a particular patient undergoes diagnostics clearly indicates a desire to obtain a reliable and truthful result. This excludes *a priori*[14] the exercise of any therapeutic privilege or manipulation of information in order to avoid upsetting anyone. If the patient does not wish to feel anxious, she may choose not to apply for a referral or to undergo an examination, which is entirely voluntary and not directly linked to her treatment.

The Ethical Dilemma of Prenatal Information and Parental Autonomy

The right to information is an intrinsic right of the patient, protected independently of the role that information may play in a given case. However, the consequences of failing to obtain this information may exacerbate existing harm. The harm to the mother arises from remaining in the false belief that she will give birth to a healthy child, free from congenital defects. The shock that accompanies the revelation of the truth can be more profound than if that knowledge had been available in advance.

Conversely, it is argued that if a genetic defect is detected, and therapy is not an option, the knowledge gained may be unbearable. Such a situation could result in emotional distress, disrupt family life and social relationships, and become a source of discrimination. This has led to the view that autonomy *sensu largo*[15] should also encompass the right to remain ignorant of an individual's impending risks and illnesses [39]. In light of available data, concerns about 'cultural pressure' to undergo prenatal examinations, and subsequently the 'responsibility pressure' to terminate a defective pregnancy, should be considered unrealistically and even obsessively exaggerated [39].

Access to invasive tests is not straightforward, and the procedures themselves can be very unpleasant. According to specialists, who are both researchers and clinical practitioners [31], there is no pressure exerted on patients to either undergo examinations or make decisions regarding the pregnancy; rather, care is offered through perinatological hospices. However, the situation is complex, as Polish medical law does not require information to be provided under duress: patients can always request not to be informed, making it difficult to accept the notion

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[14] It means "from the former" and refers to knowledge or justification that is independent of experience.

[15] It means "in a broad sense" and refers to a wider interpretation or understanding of a concept.

that patients automatically and thoughtlessly undergo invasive examinations that are crucial for their future motherhood [39].

Ultimately, these matters pertain to individual preferences. Fourteen perinatal hospices operate successfully in the country, despite a lack of funding through public health insurance. The law does not regulate access to prenatal tests based on their type; however, regarding genetic tests—whose usefulness is limited in terms of therapeutic possibilities—ethical doubts arise [40]. There are clear indications that the information obtained about foetal defects is often used solely for one purpose: to terminate pregnancies [41].

Nevertheless, genetic testing is functionally linked to the detection of other birth defects, as genetic defects are statistically often accompanied by specific somatic conditions, such as heart defects (e.g., in Down syndrome) or urinary tract defects (e.g., in Turner syndrome). Therefore, the identification of a genetic defect therefore allows for further research into the health of the foetus.

The Role of Prenatal Testing and Ethical Considerations in Decision-Making

The right to prenatal examinations is tendentiously associated with the right to terminate a pregnancy. This association deliberately connects an axiologically neutral topic—information—with an axiologically contentious issue—abortion. Consequently, the right to knowledge is reduced to a secondary role in the face of a controversial axiological abortion. Reducing prenatal examinations to mere grounds for terminating a pregnancy is a flawed assumption, as these diagnoses mainly serve the welfare of the future child. The right to terminate a pregnancy based on these tests is merely a byproduct, not the primary purpose of the examination itself [35].

Admittedly, an unsatisfactory result may serve as a basis for legal abortion, but this issue pertains to the application of the knowledge provided. In *RR v. Poland*, the ECHR noted: "Prenatal genetic tests serve various purposes, and they should not be identified with encouraging pregnant women to seek an abortion. Firstly, they can simply dispel suspicion that the foetus has some malformation; secondly, a woman bearing the foetus concerned can well choose to carry the pregnancy to term and have the baby; thirdly, in certain cases—not in the present one—prenatal diagnosis of an ailment makes it possible to embark on prenatal treatment; fourthly, even in the event of a negative diagnosis, it allows the woman and her family to prepare for the birth of a child affected with an ailment, in terms of counselling and coping with the stress occasioned by such a diagnosis" [9].

The purpose of the examination is to obtain information, and it is up to the authorised persons to use that information as they see fit.[16] Failure to provide this information deprives the patient of the opportunity to make an informed decision regarding their health and thus violates the patient's fundamental right [42]. The argument that the patient should remain uninformed to prevent misuse of this knowledge is rooted in excessive paternalism and contradicts the law, which mandates complete information. Ethical considerations in this regard are unfounded.

The issue of information and its usage are distinct. While one may contemplate the implications of this knowledge, it is impossible to determine how it will be used. The manner in which information is used depends entirely on the patient and is beyond the physician's control. Information is a prerequisite for making well-informed decisions. The argument that it gives the patient a 'weapon' to take advantage of an ethically characterised medical service results

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[16] "As a paediatrician, I regard the foetus as a person who requires postnatal therapy. Therefore, the more I know before birth, the better I can care for both the baby and the mother. Additionally, the family can receive more comprehensive information about the real chances of treating the expected child. The prognosis varies significantly: a newborn with an isolated, albeit severe, heart defect has different chances compared to a child with multiple organ defects, and there is no possibility of recovery if a lethal chromosomal aberration is identified. All this information should be provided to future parents, who can then make informed decisions based on our examination and the information obtained" [31].

from a misunderstanding. While information is a necessary condition, an autonomous decision by the patient is the sufficient condition for the performance of any procedure, and no one other than the patient should influence this decision.

It cannot be argued that conveying factual information inherently affects another person's decision or that such information, in itself, constitutes an encouragement to act in a particular way. Information simply provides data, and in medical law, patients are entitled to it regardless of how it is used, and not on the condition that it is used 'appropriately'—whatever that may mean. It is treated as axiologically neutral in the sense that it is merely a source of knowledge about health status. Therefore, denying it to a patient—either by withholding information or by refusing to provide a referral for examination—cannot, in my opinion, be justified by a conscience clause [34,42,43,44,45]. Medical information is ethically neutral and non-directive,[17] yet it constitutes a legally defined fundamental value for the patient, serving as a premise for informed decision-making in health matters: a precondition for exercising other rights. Deliberately depriving a patient of this information results in a lack of discernment, and such actions are not ethically neutral but unequivocally reprehensible, as they constitute manipulation. Regulating information based on the hypothetical use made of it by the patient would be tantamount to rejecting the principle of respect for autonomy [34].

The tragedy is that omissions in prenatal examinations negatively impact not only the mental health of mothers, who are surprised and completely unprepared for the birth of children with severe disabilities, but also the opportunities for treatment during the foetal period. In Poland, several medical facilities successfully perform advanced intrauterine procedures. The country ranks among the world leaders in the number of prenatal heart procedures on foetuses. These surgeries have been conducted for 15 years and their frequency places Poland close to the world's largest centre in Boston, which has been performing them for almost 25 years. Polish surgical techniques are at a comparable level, and as of 2018, more operations were being carried out annually in Poland than at the Boston hospital. Intrauterine closure of meningospinal hernias is undertaken by only a few centres worldwide, including a Polish clinic in Bytom. Other procedures, such as prenatal diaphragmatic hernia repairs and interventions for twin-to-twin transfusion syndrome, are also conducted in Poland.[18]

These achievements are due primarily to prenatal diagnosis, without which *in utero* therapy would not be possible. It is crucial for doctors to detect foetal abnormalities early [47]. Analyses of compensation claims, disciplinary actions regarding the professional liability of doctors, and prosecutorial investigations suggest that, in many cases, the basic ultrasound examinations assessing the foetus's condition were performed cursorily, with little interest in obtaining reliable results [48]. Such an approach harms foetal health and seems irrational, unless driven by convenience, allowing doctors to avoid involvement in later decisions about whether to continue or terminate the pregnancy.

Informed Consent and Ethical Boundaries in Medical Procedures on Foetuses

It is important to remember that medical procedures on foetuses, despite being outstanding accomplishments of modern medicine, still carry a high risk of failure. Estimating success rates is largely statistical, and in any given case, the procedure may entail complications far more severe than initially anticipated, both for the foetus and the expectant mother [49]. In light of this uncertainty, it is even more vital to fully inform the woman before she makes a decision,

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[17] "Conversely, a directive may influence the way information is communicated, which is why in perinatology, there is a strong emphasis on providing patients with non-intrusive information" [31].

[18] "The aim of the procedure is to separate the bloodstreams of foetuses in a single-coronary twin pregnancy, which involves a common placenta" [46].

to confront her expectations with medical realities [50,51], and to ensure she has full freedom of choice.

It is clear that for a pregnant woman, these procedures lack any therapeutic purpose and simultaneously increase the risk of inducing childbirth at that moment. A woman's voluntary sacrifice for the potential benefit of the foetus is socially accepted and justified, but her refusal to do so in order to preserve her own health should be equally respected. Risking her health and life for the unborn child is a purely altruistic act [50], as is organ donation for transplantation [35,52]. Therefore, from an ethical perspective it should be seen as an act of sacrifice, not an obligation.[19]

Informed consent from the woman is crucial for the admissibility of any medical intervention. This applies equally to any treatment, regardless of its complications, including difficult foetal surgeries or caesarean sections, which, though routine, still carry a risk of death. However, this consent must be based on full knowledge of both the potential benefits of saving the future child's health or life and, particular, the risks to the woman herself. Regardless of the possible advantages, such procedures pose significant health risks. Photographs of smiling, pregnant women accompanied by equally smiling doctors only show that, following the procedure, the pregnancy was maintained and the woman appears healthy. However, it remains uncertain how the birth will unfold, what the woman's health will be upon leaving the maternity ward, and how much the procedure will improve the child's condition.

Accurate and timely prenatal diagnosis is essential for weighing the benefits and risks associated with *in utero* foetal treatment, as well as the physical risks to the woman. Not all such procedures can be performed using minimally invasive methods, and those requiring an open uterus are highly invasive. For her safety, the woman should be fully informed about the surgical technique and the risks of potentially fatal complications [51].

Legal and Ethical Limits on Overriding a Woman's Autonomy in Foetal Treatment

Similar operations, when performed after the child's birth, are much easier and do not burden the mother's body, though they come at the cost of increased disability for the child.[20] However, a pregnant woman cannot be seen as legally obliged to undergo surgery for the unborn child's benefit. Under criminal law, the mother is treated as a guarantor of the child's legal interests only after birth. Even if the guarantor's obligations were extended to the prenatal period, they would not include medical treatments. The Polish Penal Code [17] excludes criminal liability for failing to assist a person in danger if doing so would require undergoing a medical procedure [53]. From a criminal law perspective, it is therefore justified to conclude that a pregnant woman has the right to refuse any medical intervention aimed at the foetus's welfare, for any reasons, even irrational ones.

In addition, by opposing interference with her body, the woman exercises her own rights as a patient, which are guaranteed by the Polish Constitution [21] and other legal statutes. Irrespective of her motivation and the consequences, it cannot be argued that such a decision is unlawful [54]. This argument presents a consistent response from two researchers [35,54] to the postulate that, in the name of protecting the health interests of the unborn, the self-determination of the pregnant woman should be limited through a broad interpretation of circumstances and conditions leading to material incompetence. Consequently, it is suggested that a woman in this condition should be considered incapable of expressing informed consent [33]. Such rea-

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[19] In [35], a methodical polemic was conducted against views that grant decision-making powers to third parties (such as the future father, court, or curator) with the intent of overriding a woman's negative will.

[20] "Operational closure of the hernia before birth reduces the risk of hydrocephalus, enhances the effectiveness of subsequent motor rehabilitation of the lower limbs, and increases the child's chances of independent walking and proper intellectual development" [51].

soning tends to deprive individuals of autonomy based on a physiological state that, from a medical perspective, does not affect intellectual competence [55].

Moreover, justifying the overriding of a woman's refusal to treat the foetus by invoking a state of necessity is untenable.[21] According to the Penal Code [17], this can only occur if the good being sacrificed is of lesser value or does not represent a value that is obviously higher than that of the good being rescued. Valuing the legal rights of the woman and the unborn requires prioritising the woman's rights: bodily integrity, whose infringement entails the potential for significant bodily injury; freedom, defined as decision-making autonomy; and the harm that results from violations of dignity and the infliction of suffering.

According to prevailing views, the patient's right to self-determination derives from human dignity and is considered to hold greater importance within the hierarchy of constitutionally protected goods than health and life [35,54,57,58,59,60]. Even if this perspective were not universally accepted, it would still necessitate sacrificing several legal interests of the woman, including her endangered life, to protect her unborn child. The issue of authorising the violation of a woman's bodily integrity to save a foetus or newborn directly impacts her right to self-determination and cannot be reduced merely to a health risk [35,61]. Implementing such a decision would require coercion, equating to an act of assault involving serious bodily harm, justified by the protection of another person's life. This does not satisfy the legal and ethical criterion that the good being sacrificed must clearly be of lesser value than the good being preserved, particularly considering the significant risks associated with intrauterine surgery, as with caesarean section. In the worst-case scenario, the requirement for sacrifice would therefore result in a situation where the choice is between the life of the mother and the life of the unborn child [55]. Notably, in 2019, there was at least one case of a pregnant woman dying during an operation aimed at correcting a congenital defect of the foetus.[22]

This balance is independent of recognising the unborn as a separate subject of rights from the woman, a notion that lacks sufficient normative support and is characterised by a particular worldview [35,62]. These remarks may seem exaggerated, but the issues raised are interrelated and share similar legal frameworks. Foetal surgery, even if perceived as an exotic concept, represents a patient's decision that is on equal footing with others, such as caesarean delivery. Although women are not pressured to undergo *in utero* treatment, attempts are already being made to mandate caesarean sections. Both types of procedures are serious abdominal operations that carry a risk of death.

There can be no real choice without the requisite knowledge to make an informed decision, and only reliable research can provide this understanding. If such research is intentionally conducted poorly,[23] it effectively suppresses knowledge, allowing medical paternalism to prevail, particularly in the diagnostic context [48].

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[21] The application of these provisions is systematically deemed unacceptable under medical law, as they ensure respect for patient autonomy and function as *lex specialis* in relation to criminal law regulations [56].

[22] Oral information obtained from an anatomopathologist in charge of a forensic facility in a large city.

[23] This is how Dangel, previously quoted, describes the situation, stating that patients with advanced foetal defects often come under her care for prenatal surgery, which offers a genuine chance of success.

Abortion in Poland: Legal Battles, Healthcare Impacts, and Ethical Dilemmas [63]

The Chilling Effect on Healthcare Following the Constitutional Tribunal's Ruling

The ruling of the Polish Constitutional Tribunal on 22 October 2020 (K 1/20) [64] resulted in the loss of validity of the condition of legal termination of pregnancy for embryopathological reasons. It was anticipated at that time that this decision would adversely affect other aspects of reproductive rights, including the right to prenatal diagnosis and the right to terminate pregnancy for various reasons. Access to legal abortion in Poland has been an area targeted by extremists seeking to gradually dismantle the existing provisions, ultimately aiming for a complete ban on abortion.

In the context of a condition that protects the health and life of a pregnant woman and legalises the termination of pregnancy, there is an inherent conflict between two protected interests: the welfare of the woman, particularly her health, and the life of the foetus. The law resolves this conflict in favour of the woman's health. This is not only a matter governed by the FPA, but is also reinforced by the Penal Code [17], which clearly states that a doctor acting to preserve a woman's health at the expense of the foetus does not commit a crime.

However, the increasingly oppressive atmosphere following the controversial decision of the Constitutional Tribunal has negatively impacted pregnant women's access to healthcare. Doctors are becoming increasingly hesitant to undertake decisive medical interventions for fear of harming the developing foetus and exposing themselves to criminal liability. A general lack of legal awareness fosters misconceptions regarding the law and contributes to widespread misunderstandings. This has led to legal myths surrounding the alleged inadmissibility of abortion while foetal cardiac activity persists, as well as the supposed obligation to denounce a patient who presents with complications following a self-induced abortion.[24]

Sooner or later, the result of such distortions must have been dramatic: on 22 September 2021, a pregnant patient named Izabela died in a hospital in Pszczyna. "A thirty-year-old woman, who was 22 weeks pregnant, died at the District Hospital in Pszczyna. Upon admission, anhydramnios was diagnosed and previously identified foetal malformations were confirmed. During her hospitalisation, the foetus died. Less than 24 hours after admission, the patient also expired. The cause of death was septic shock", stated the family of the deceased.[25]

Public opinion largely holds that her death resulted from the Tribunal's decision, which has exacerbated the chilling effect among doctors, leading them to adopt overly cautious attitudes towards pregnant patients instead of implementing adequate emergency measures. There have been additional fatalities; reports indicate that there have been six such cases. Media commentary frequently highlights distortions in the interpretation of abortion laws, coupled with complaints regarding the imprecise nature of the legislation that fails to provide sufficient legal assurance to doctors when it comes to safeguarding the health and life of pregnant patients.

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[24] Under Polish law, a woman who has terminated her pregnancy does not commit a crime.

[25] The announcement is quoted in numerous media reports, such as OKO.press.

Confused medical students are increasingly posing perplexing questions, burdened by hearsay knowledge that is often distorted. According to the FPA, abortion may be performed if the pregnancy poses a threat to the life or health of the pregnant woman and, and it must be carried out by a doctor in a hospital [1]. This is the sole condition that, at least in theory, does not encounter any time restrictions. Therefore, it is irrelevant whether the foetus is capable of independent life.

This capacity only limits the permissibility of abortion for embryopathological reasons, which became moot when that condition lost its force. The ability of the foetus to survive independently outside the woman's body merely intensifies the penalties for unlawful termination of pregnancy (Article 152(3) of the Penal Code [17], in violation of the provisions of the Act and with the woman's consent) and for termination of pregnancy by force (Article 153(2)).

However, this does not hinder the termination of pregnancy in a situation where the life or health of the woman is at risk. In no circumstance should there be grounds for endangering the life or health of the mother in such situations to save the foetus, unless she expressly requests it. The FPA indicates that a risk to a woman's health is a sufficient reason for terminating a pregnancy [1]. The general wording of this provision has been questioned, as the level of risk can vary.

Legal and Medical Misinterpretations Regarding Pregnancy Termination

In 2008, preliminary steps were taken to file a constitutional complaint against this provision for being too vague. The Ombudsman convened an expert meeting on 22 January 2008, which ultimately led to the abandonment of the idea [65]. During this meeting, law professor Eleonora Zielińska argued that the concept of a threat to a woman's health may appear insufficiently defined only on the surface: the mere use of the word 'threat' in legislation must be understood as indicative of a serious danger. This implies that such situations pose a significant risk to health, rather than trivial concerns.

A pertinent example might be a worsening heart defect, cancer, or even severe persistent vomiting that debilitates the body [66], but not, for instance, ordinary varicose veins or haemorrhoids. Similar wording, "danger threatening the life or health of a pregnant woman", is used in Article 157a(2) of the Penal Code [17], which outlines the circumstances that exclude the unlawfulness of bodily harm to a child conceived as a result of therapeutic measures taken against a pregnant woman [67].

Interpretation must acknowledge that a woman cannot be expected to make sacrifices that exceed the ordinary health compromises associated with pregnancy and childbirth [67,68]. Attempts to clarify the indications in legal norms would likely be futile. In cases of pregnancy, the potential risk to the patient's health or life cannot always be determined with certainty. Thus, the introduction of the concept of risk or threat without further explanation is, in my view, rational and justified. The certainty of future health damage cannot serve as a statutory condition where it is *de facto*[26] impossible to ascertain. No law can alter this; it can only provide general guidelines. This is an area in which even approximate recommendations may be developed by medical societies.

Following the tragedy in Pszczyna, the then-National Consultant for Public Health and Food Safety in Poland, specialising in Gynaecology and Obstetrics, hastily established standards of conduct, albeit only within a very narrow scope: in cases of premature rupture of membranes, as this was the cause of health complications in this specific instance. This approach resembles patching a gap with chewing gum, as for nearly thirty years no medical society has succeeded in formulating comprehensive guidelines for terminating a pregnancy that threatens the health or life of the woman carrying it. As gynaecologist Professor Krzysztof Preis remarked, "Due to the complexity and ambiguity of such situa-

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[26] It means "in fact" and refers to a situation that exists in reality, even if not legally recognised.

tions, it is very difficult to provide uniform recommendations" [69]. If such a task exceeds the esteemed capabilities of the highest medical authorities, it seems all the more unreasonable to rely on the legislator.

Apart from this, there are drastic examples of downplaying health risks that have led to the death or serious disability of patients. The high-profile case of Alice Tysiąc, whose third pregnancy resulted in the loss of her sight, and was settled by the ECHR, serves as a clear example of this [8].

The relevant legislation legalises the termination of pregnancy under two classes of circumstances: life-threatening or health-threatening. These categories are independent of one another, meaning that a threat to health alone is sufficient to warrant a decision regarding the recommended termination of pregnancy, with the patient's consent, particularly when a threat to life is also present. The alternative formulation does not imply that the justification for termination is limited solely to life-threatening conditions. One does not need to possess profound legal knowledge to recognise this; nonetheless, misunderstandings persist in the context of this provision. It is unnecessary to explain that escalating health disorders can lead to life-threatening conditions. However, the law does not require one to wait until the last moment.

Meanwhile, "doctors wait until the last minute", stated Kamila Ferenc from FEDERA, "so that the saving of lives is absolutely indisputable. But this is not the correct interpretation of the provision; it is imposed by the politicised prosecutor's office, organisations and people such as Kaja Godek[27] or *Ordo Iuris* (Order of Law), as well as by the authorities. Polish doctors are playing with women's lives today" [70].

Medical activities aimed at safeguarding not only the life but also the health of a woman are fully legal. From this perspective, the method of intervention is inconsequential, especially since the FPA clearly allows for the termination of pregnancy to protect these interests. From this perspective, the method of intervention is inconsequential, especially since the FPA clearly allows for the termination of pregnancy to protect these interests [1]. Therefore, it is both possible and necessary to adopt a method that aligns with a woman's best health well-being. There is no legal stipulation that limits the recognition of a direct or critical threat to a woman. This myth, however, persists within the medical community and has been propagated by extremists who claim the authority to impose non-existent restrictions.

The imminent threat to a woman's life is significant only in that it allows the same doctor who identifies the threat to proceed with the termination of the pregnancy. Article 4a.5 of the FPA state that "the occurrence of the circumstances referred to in paragraphs 1 and 2 shall be determined by a doctor other than the one who terminates the pregnancy, unless the pregnancy directly endangers the life of the woman" [1]. This is the only legal context in the Act in which the condition of immediacy of the threat arises, leading to the logical conclusion that an imminent threat is not required in all other contexts of legal abortion for health reasons.

Delays in Ectopic Pregnancy Treatment and the Influence of Religious Views

The ongoing concern stems from reports of doctors delaying the termination of ectopic pregnancy until the last possible moment. Medical students declare that this behaviour is presented to them by professors as the correct approach.[28] The threat to a woman's life in these cases is clear, as a pregnancy located outside the uterus (e.g., in the fallopian tube, ovary, abdominal cavity, or cervix) has no viable chance of proper development and poses a significant risk of haemorrhage.

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[27] Kaja Godek is a Polish anti-abortion activist.

[28] Such a report was presented during a medical law lecture at a medical university, implicitly questioning whether this practice is appropriate.

According to a recognised textbook of gynaecology and obstetrics for medical students [71], it is currently believed that, under favourable conditions, all women should receive surgical conservative treatment, which involves removing the gestational sac with minimal damage to the organ where the implantation occurred [72]. In contrast, radical treatment entails the removal of both the foetal tissue and the affected organ, such as the fallopian tube, ovary or uterine horn [72].

An alternative option is conservative pharmacological treatment using methotrexate, an effective therapy for early, unruptured ectopic pregnancies. However, this procedure is sometimes perceived as controversial, particularly when administered locally [73], as methotrexate is a cytostatic drug also used in oncology that slows the multiplication of rapidly dividing cells and can cause chemotherapeutic side effects. Nevertheless, a relative contraindication to the use of methotrexate is the detection of embryonic cardiac activity [74].

A certain percentage of ectopic pregnancies resolve spontaneously, either through absorption by the fallopian tube or through miscarriage, and even death. This biological occurrence offers limited possibilities for anticipatory management. However, the absence of strict criteria for the use of this method forces clinicians to treat it as a complementary approach [75]. It is estimated that anticipatory management—whether conservative surgical or pharmacological treatment—is effective in only around 20% of early-diagnosed ectopic pregnancies [76], a percentage so low that any decision to pursue this method must be fully agreed upon with a well-informed patient.

The observed practice of waiting until the threat to a woman's life is immediate contradicts all the aforementioned medical guidelines, which warrants an examination of its causes. These delays appear to be influenced by the views of ecclesiastical hierarchs and theologians. They cite "extremely rare cases where it has been possible to carry a child to a point where it could survive outside the womb and be surgically delivered from the mother's abdominal cavity. For this reason, the Holy Office, in its rulings of the 19th and early 20th centuries, formulated a general principle for all ectopic pregnancies and obstetric conflicts, which states that every effort must be made to save both the mother and the child" [77,78].

Józef Wróbel, bishop and professor at the Catholic University of Lublin, asserts that the position of the Holy Office suggests that, in certain cases, it may be appropriate to delay action until a premature child can survive independently—specifically by using an incubator—and even if this entails some risk to the mother's health or life [79]. He adds that a fairly common medical practice in this context—cutting the fallopian tube and flushing the embryo—is immoral, as the 'child' is a direct subject of medical intervention. In other words, death is directly inflicted upon it. Instead, the bishop advocates for the ethical removal of the organ that poses a threat to the woman's life, along with the embryo, at least within the defectively developing tissue or another part of the reproductive system where the embryo has incorrectly implanted.

As a result, the destruction of the foetus is an unintended and unwanted side effect of medical action, rather than the purpose of the intervention [79]. It is evident that the episcopal recommendation favours radical surgical treatment, while the more conservative intervention is considered 'immoral'. This presents a striking hypocrisy in this, as the invasive and mutilating removal of the entire affected organ does not serve to preserve the life of the embryo, which will die regardless. Such practices occur with complete disregard for a woman's health and treat her body and person purely instrumentally.

Furthermore, in light of current medical knowledge, advocating for the continuation of an ectopic pregnancy until the premature baby can be rescued constitutes urging doctors to violate their basic professional obligations and exposes the woman to the immediate danger of losing her life. The likelihood that an almost six-month ectopic[29] pregnancy will not result in lethal haemorrhage is close to zero, and similarly the chances of survival for the woman can also be assessed as nearly non-existent.

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[29] "Research indicates that the chances of survival for extremely immature newborns –those born at or before 24 weeks of gestation–are minimal. Recent epidemiological studies have conclusively demonstrated that, despite significant advancements in neonatal care, the survival limit for most newborns remains at 24 weeks. This finding suggests that we are approaching the natural limits of technically sustained survival" [80].

Legal and Medical Confusion in High-Risk Pregnancy Termination

It is common for a clergyman to lack expertise in matters of pregnancy and childbirth. While no one expects clergymen to possess medical knowledge, it is imperative that doctors do. Consequently, such misguided Church 'instructions' cannot justify the actions of medical professionals under any circumstances. Moreover, it is worth noting that radical amputation performed without adequate medical indications—i.e., when there are compelling reasons to support the conservative method— constitutes serious bodily injury. As law professor Olga Sitarz rightly points out, "the doctor's culpable failure to acknowledge medical indications for termination of pregnancy, resulting in the death of a pregnant woman, should be recognised as a medical error on general principles, with all the consequences" [78].

The tragic case of Isabella and the subsequent public outrage prompted the Ministry of Health to issue a statement reminding that "in situations threatening a woman's life or health (e.g., suspected infection of the uterine cavity, haemorrhage, etc.), it is lawful to terminate the pregnancy immediately [...]. It must be emphasised that these are distinct grounds. The occurrence of just one of them is sufficient legal justification for the doctor to take action" [81].

The omissions made in this case, along with the prevailing belief among doctors that an ectopic pregnancy can only be interrupted at the moment of an imminent threat to a woman's life, clearly highlight the ongoing legal uncertainty within the medical community. Another myth is that, irrespective of the circumstances surrounding the pregnancy, termination is not permitted as long as there is a detectable foetal heartbeat [82].

In this context, it is important to note the seemingly obvious observation that the conditions for legalizing termination of pregnancy pertain to a viable pregnancy and do not depend on its demise. A pregnancy will not be terminated solely because it has ceased developing naturally [83,84]. The medical procedures undertaken will focus exclusively on removing its effects from the woman's body. In judicial proceedings, it has been explicitly stated that "the termination of a non-viable pregnancy and the accompanying curettage of the woman's uterine cavity do not constitute a criminal offence" [85].

However, regarding the legal termination of pregnancy for therapeutic reasons, the issue of identified foetal defects requires clarification. As is known, the independent embryopathological criterion for terminating a pregnancy was declared unconstitutional by the Constitutional Tribunal and has thus lost its validity. However, medical knowledge indicates that, under certain circumstances, the poor health of the foetus can adversely affect the woman's health, causing infections, or specific somatic ailments that necessitate the early termination of pregnancy—as in the case of certain cardiac defects or genetic abnormalities—or the planning of a caesarean section—e.g., in instances of hydrocephalus or conjoined twins.

"Consider a situation where there is a suspicion that a baby might have Down syndrome. Ironically, if the baby were healthy, doctors might paradoxically find it easier to decide to terminate the pregnancy if the mother's life were at risk, as it would be clear that doing so posed a direct threat to her health", states Professor Marzena Dębska [86]. In contrast, they might fear facing accusations in a situation where the pregnancy is terminated due to Down syndrome, questioning whether there was truly any danger involved. Moreover, this decision could be made without any witnesses present.

This creates a misleading confusion between the legal medical grounds for abortion and the outlawed embryopathological premise. The repeal of the latter by the Constitutional Tribunal, along with the accompanying campaign against doctors—which included organised actions by overzealous prosecutors directed at the hospital in Białystok[30]—before the publication of the decision, has clearly left a strong imprint on the minds of medical professionals. If Professor

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[30] The requests made by the Bialystok Public Prosecutor's Office concerning access to hospital records of patients seeking termination of pregnancy, which have no legal basis, are available [87].

Dębska is correct, this will affect every case of pregnancy posing health risks and thereby restricting the application of the therapeutic condition.

Misleading Legal Interpretations and Mental Health in Pregnancy Termination Decisions

The congenital defect of the foetus does not constitute an obstacle to terminating a pregnancy in order to protect the woman's health. The introduction of a ban on abortion for embryopathological reasons does not imply that such pregnancy must never be terminated. On the contrary, the threat to a woman's health or life is an independent factor that does not rely on any other considerations. The law is explicit: the grounds for endangering a pregnant woman's health or life are outlined in a single provision of the Act, where medical and embryopathological conditions are regulated in distinct sections, which cannot interfere with or overlap when one of them ceases to apply.

There are documented cases where knowledge of severe foetal damage negatively impacts a woman's mental health, even leading to suicidal tendencies. This issue was less significant when the termination of such pregnancies was permissible due to suspected severe and irreversible foetal damage or incurable life-threatening diseases. However, due to culpable deficiencies in prenatal diagnosis, some women discovered foetal defects too late to make informed decisions—whether to terminate the pregnancy or to pursue prenatal procedures, that might enable the child to be born with fewer disabilities. In compensation judgments, there are mentions of the psychological trauma experienced by women in these situations. Therefore, it is essential not to underestimate mental health issues in pregnant women and to ensure they receive appropriate psychotherapy or enforced psychiatric observation.

It is also important to address another misinformation issue, as highlighted in a misleading memorandum sent to hospital directors by an organisation called *Ordo Iuris*. It claims that the terms 'threat' and 'danger' used in legal provisions clearly indicate that mental health issues—e.g., depression—are not included [88]. This assertion relies solely on the legal opinion of Professor Zielińska, which reveals no references to mental health concerns [67]. This kind of intellectual manipulation, often referred to as 'pious lies', is designed to deliberately confuse doctors regarding the applicable law. Ironically, this reference is entitled "*Walka z dezinformacją na temat wyroku Trybunału Konstytucyjnego*" (Fight against Disinformation about the Constitutional Tribunal's Judgment).

The consequences of this misinformation were prompt. The University Clinical Hospital in Białystok, previously investigated by the prosecutor's office, refused to terminate the pregnancy of a woman diagnosed with a lethal foetal defect—anencephaly—despite her having two certificates from psychiatrists. The refusal was justified by the aforementioned opinion from *Ordo Iuris*, which claimed that depression does not constitute a health risk. This situation exemplifies the impact of deceptive propaganda. Furthermore, the hospital administration referenced outdated provisions of the Penal Code [17], highlighting the confusion surrounding the law. The hospital issued a statement indicating that doctors are apprehensive about making decisions on pregnancy terminations due to various interpretations of the amended abortion law [89]: "Doctors are afraid that criminal liability will depend on the subjective assessment of prosecutors, courts, and court experts. The ambiguity of the laws and the lack of guidelines present a significant problem for doctors for pregnant women, who are already facing a harrowing decision" [90].

It is to be hoped that at least psychiatrists will not be misled, despite the fact that some refuse to issue appropriate certificates. However, it is important to recall that they possess up-to-date medical knowledge that cannot be distorted by ideology. Consequently, a statement of psychiatric truth[31] made by a doctor other than the one terminating the pregnancy will not expose them to any legal liability. A medical diagnosis can only be effectively challenged by another doctor of the same specialty, and even if a diagnosis is found to be incorrect—especially in psychiatry—identifying any diagnostic error is extremely difficult.

Another legal myth warrants clarification: the number of specialist opinions required for the legal termination of pregnancy. The FPA and its executive order specify a singular number [91]. While it is prudent to consult a second gynaecologist for assurance and personal legal security, this is entirely different from mandating that patients provide two specialist opinions. A second opinion is always beneficial in uncertain situations, but imposing formal requirements that exceeds the statutory provisions—regardless of good intentions—is illegal and detrimental to the patient's legal interests. This is confirmed by court rulings and the documented practices of women's organisations.[32]

Legal and Ethical Dilemmas in Criminalising Abortion and Breaching Medical Confidentiality

There is a widely shared belief that a system where a doctor must choose between the health of a patient seeking medical assistance and their own legal security is deeply flawed. An erroneous choice between these fears can have dire consequences. Being manipulated by tendentious memoranda from organisations such as *Ordo Iuris* leads to this predicament. However, it is not *Ordo Iuris* that is accountable for safeguarding health and life; rather, they, along with the ruling authorities, evade any responsibility for the current situation. Ultimately, all legal responsibility rests with doctors, who are directly involved in patient care, and their professional judgement is crucial for assessing individual clinical cases.

The termination of pregnancy has become clouded with myths and distortions skilfully perpetuated by ideologues. However, healthcare professionals, whose main responsibility is to treat illnesses and alleviate suffering, must engage thoughtfully with this issue. A fundamental step towards normalising the relationship between medical practice and legal regulations is to abolish the criminalisation of doctors who perform abortions. This is a cause that should be championed by all individuals of goodwill. The prevailing climate of fear is detrimental not only to doctors and patients but also to society as a whole, with the exception of the fanatical defenders of 'conceived life' at all costs. In pursuit of ideological goals endorsed by a minority, doctors and patients are placed in conflict, leading to tragic consequences [93].

Contrary to popular belief, it is clear what constitutes a threat to health or life. It is untrue that action is permissible only in cases of immediate danger or, worse, critical threats to life. Arguments relying on hypothetical abuses involving trivial reasons for abortion are purely theoretical and lack any factual basis. In practice, obtaining a medical certificate to terminate a pregnancy is so arduous that it is nearly impossible.

After the publication of the Constitutional Tribunal's judgment K 1/20, violent street protests erupted, brutally suppressed by the police. In this climate of repression, there were several instances of septic tanks being searched for aborted foetuses on the orders of prosecutors

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[31] This contrasts with the intentional attestation of falsehoods, which constitutes a criminal act.

[32] "The defendant's belief that there should be two doctors confirming the circumstances that legalise abortion can only be explained by a complete ignorance of the legal status", the OSL concluded. A recital of two medical certificates also appeared in *Tysiąc v. Poland* [8], but this distortion was reproduced by the Court itself. Although it was not relevant to the decision, it illustrates the repercussions that predominantly incorrect practices may have. The applicants in another ECHR case, *P and S v. Poland* [11], also faced a proliferation of bureaucratic obstacles. This leads to the conclusion that there is a widespread practice of bureaucratic dissuasion of patients [68,92].

[94,95,96], alongside cases of women being interrogated like criminals on charges of infanticide. A forensic doctor even published the results of a study examining the use of a test to detect misoprostol—a medication often used to induce abortion—in the blood of hospital patients, raising further ethical questions. Consequently, doctors began to question whether they should inform the police if they found traces of self-induced abortion, leading to several criminal convictions for assisting an abortion. What is unfolding in our country resembles a medical thriller.

It should be clearly emphasised that, under Polish criminal law, a woman interrupting her own pregnancy does not commit a crime; therefore, interrogating her as a suspect by law enforcement authorities is a gross abuse of the law. The whistleblowing by neighbours regarding a woman who "suddenly slimmed down" is a despicable act, undoubtedly encouraged by the oppressive atmosphere described. The crime of infanticide—classified as a privileged murder, which is punishable by a significantly lower penalty than under general rules—pertains only to situations involving childbirth and behaviour influenced by its course. The law refers to a 'child' rather than a 'conceived child',[33] meaning it must be a viable newborn rather than a miscarriage.

The forensic doctor arriving at the scene should first measure the remains with a ruler and, based on the result, indicatively determine the age of the pregnancy. If it is established that the foetus cannot live independently, this should conclude the discussion. However, a doctor who attends to a patient who has taken abortifacient measures has neither the obligation nor the right to denounce her. In one such instance, a psychiatrist—also a woman—reported her own patient, who was under her constant care. Additionally, the press reported on the accounts provided by paramedics [97]. A representative of the medical profession is bound by medical confidentiality, and adherence to this obligation does not constitute the concealment of a crime that has not been committed. Notifying the police in such circumstances is excessive and lacks legal justification; furthermore, it represents a serious breach of loyalty to the patient and a blatant violation of medical confidentiality.

Legal Uncertainty and the Impact of ECHR Rulings on Abortion Practices in Poland

In January 2021, FEDERA launched the initiative "*Skarga kobiet*" (Women's Complaint), under which women whose rights were at risk following the judgment of the Constitutional Tribunal on 22 October 2020 lodged complaints with the ECHR based on a template published on the Foundation's website. According to the foundation's lawyers, this condition was met by women of reproductive age, for whom the tightening of abortion laws posed a threat to their rights as outlined in the European Convention on Human Rights, particularly the principles of respect for private and family life and the prohibition of torture and inhuman or degrading treatment. By its decision of 16 May 2023 (No 4188/21) in *AM v. Poland*, the ECHR dismissed the actions brought under this initiative on the grounds that there was no individual and direct infringement of the applicants' fundamental rights [98].

Conversely, the complaint of a patient—ML—whose hospital refused to terminate a defective pregnancy was favourably resolved, resulting in her being forced to undergo surgery abroad [10]. The woman had been scheduled to have an abortion at the hospital due to detected foetal defects, but following the publication of the critical judgment from the Constitutional Tribunal, the hospital cancelled the procedure. Due to time pressure, stress and bewilderment, ML immediately travelled to the Netherlands and underwent surgery there in a private clinic. She had to bear the high costs of travel and medical fees independently, whereas, under ordinary circumstances, abortion is reimbursed in Poland.

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[33] The Penal Code distinguishes between these concepts.

In her complaint, ML alleged violations of her freedom from torture and inhuman or degrading treatment, as well as her right to a fair trial: unlawful interference with her right to private life resulting from the entry into force of the judgment of the Constitutional Tribunal, issued in violation of Article 6 of the Convention. The Tribunal did not address the issue of torture and inhuman or degrading treatment, but it acknowledged that the applicant was justified in raising concerns about the violation of her right to a court, stemming from the validity of a judgment issued by an improperly constituted Constitutional Tribunal in Poland.[34]

The ECHR judgment obliges Polish national courts to disregard the defective judgments of the Constitutional Tribunal, particularly the judgment of 22 October 2020, which was the subject of the complaint. Consequently, this judgment should, in practice, lead to the decriminalisation and the resumption of abortion procedures with the woman's consent for embryopathological reasons. However, the Polish authorities have not taken a clear stance on this matter, despite the fact that they could and should unequivocally declare that the conditions legalising the termination of pregnancy for embryopathological reasons have not ceased to apply, as they were overturned by a judgment deemed defective. Such a declaration is urgently needed to ensure the legal security of doctors in the exercise of their profession.

In light of the concerns expressed by the medical community regarding the current scope of the FPA, the President of the Supreme Medical Council requested the Ombudsman to provide a position on this matter. Ombudsman Marcin Wiącek officially responded that, under the current legal framework, there is no available procedure to challenge the defective judgment of the Constitutional Tribunal dated 22 October 2020 (ref. K 1/20) in a manner that would lead to the restoration of the norm deemed unconstitutional in that ruling. The judgment was lawfully published, resulting in the repeal of the provision specified in its operative part (i.e., the embryopathological condition legalising abortion).

Conversely, the ECHR judgment of 14 December 2023 in *ML v. Poland* imposes an obligation on public authorities to implement its findings, which may particularly affect the practices of ordinary courts. Consequently, the decision in *ML v. Poland* should be considered in criminal cases concerning the termination of pregnancy to exempt doctors from criminal liability where prenatal tests or other medical evidence indicate a high probability of severe and irreversible impairment of the foetus or an incurable life-threatening disease.

One of the fundamental principles of criminal liability is the assurance that an offence must be clearly defined by law—the principle of *nullum crimen sine lege*[35], which dictates that the criminalisation of a given conduct must occur through a procedure that leaves no doubt as to its legality. In this instance, the scope of criminalisation regarding acts related to the termination of pregnancy is currently determined not by law but by a judgment of the Constitutional Tribunal, which was issued by a composition challenged in the ECHR decision. The ECHR ruling should also be considered by civil courts adjudicating cases related to the improper performance of hospital contracts with the NHF.

Physicians performing abortions based on the embryopathological condition—irrespective of the prevailing interpretation regarding the effect of ECHR judgments on ordinary courts' practices—remain in a state of uncertainty regarding the scope of their criminal liability. In cases of unjustified refusal to perform the procedure, they may face civil liability for damages and disciplinary action, while medical institutions could also be subject to financial penalties [100].

In other words, ordinary courts should respect the ECHR judgment when ruling on such matters and disregard the verdict of the Constitutional Tribunal. Doctors performing abortions for embryopathological reasons have the right to expect this legal stance to be upheld. Theoretically, they should not fear criminal liability. However, before an acquittal is handed down, a doctor may face significant challenges from an overzealous prosecutor's office.

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[34] The point was that, during the full court hearing of the case, two judges were appointed incorrectly because the seats had already been properly filled earlier—these are referred to as the so-called doubles [99].

[35] It means "no crime without law" and asserts that an act cannot be considered a crime unless it is clearly defined by law.

Political Struggles and Legislative Efforts to Liberalise Abortion Laws in Poland

For some time, there has been a well-established pattern of reproductive rights violations. Shifting the attitudes of officials and law enforcement will take years, and legislative changes are essential to drive this transformation. These changes must also serve to educate the public, including potential informers, to discourage unwarranted interference.

Meanwhile, there has only been a change in the practical approach towards legal abortion. As Deputy Minister of Health Wojciech Konieczny commented, "Previously, if a woman gained access to an abortion in a hospital, it was, so to speak, pursued by the prosecutor's office. [...] Now, the situation will be reversed. If she does not receive such treatment, the reasons for refusal will be scrutinised". He also cautiously expressed a personal view, stating his opposition to cases where, in situations posing a risk to the patient's life or health, the conscience clause is invoked: "In my opinion, this is an exceptionally rare and incidental situation in which a patient's life and health may be at risk, and the gynaecologist refuses to perform an abortion". This statement highlights the disconnect between political rhetoric and the reality of Polish medical law, which does not permit the application of the conscience clause in such circumstances, meaning that these situations should not occur.

However, another of the Deputy Minister's statements is significant: he emphasised that abortion services must be available, and that the Ministry of Health is informing hospitals of the consequences of non-compliance. He further noted that the Ministry is working to ensure that no patient referrals for abortion procedures are denied [101]. Nevertheless, this declaration was made solely in the context of threats to the life or health of the woman.

In the implementation of pre-election promises, the government began legislative work aimed at liberalising the abortion law. This process was slow from the outset, as the Marshal of the *Sejm*, Szymon Hołownia, delayed the planning of sessions on this subject. He claimed that his intention was not to incite emotions before the first round of local elections. This prompted an immediate response from the Left,[36] which accused the Third Way[37] of forming a silent coalition with the Confederation[38] in obstructing women's rights.

Krzysztof Bosak, a member of the Confederation, exacerbated the situation by revealing on TVP Info that at the Seniors' Convention, Hołownia stated that abortion projects would ultimately fail because the PO/PSL deputies would not want to alienate parish priests before the elections. "You replaced the *Sejm* Freezer with a smiling cold store", said Anna Maria Żukowska, a Member of Parliament (MP) of the Left, to Hołownia at the meeting on 6 March 2024, implying that he had merely exchanged the *Sejm*'s stagnant inaction on abortion for a superficially friendly approach, while the underlying issues remained unresolved. Indeed, Hołownia kept his word, as the parliamentary meeting devoted to the liberalisation of abortion law took place on 11 April 2024.

Following the first reading of four bills submitted for discussion to liberalise the current abortion laws, none were rejected, and all four were referred to the committee for further consideration. The Confederation submitted applications for the rejection of all projects, while Law and Justice[39] applied for the rejection of three of them, excluding the Third Way project. A public hearing in the *Sejm* on the draft laws took place on 16 May 2024 and lasted for eight hours. This session was not without embarrassing scenes and unsophisticated invectives regarding the alleged mass genocide of Poles, in which Godek typically excelled. An extraordinary parliamentary committee was established, consisting almost exclusively of women MPs representing various political groups. Now, we must wait, as the committee's work is progressing slowly. Undoubtedly, it would have been easier if a single draft law had been submitted; however, there are four distinct projects, each with its own provisions.

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[36] This is the name of a Polish political party.

[37] This is the name of a Polish political coalition.

[38] This is the name of a Polish political party.

[39] This is the name of a Polish political party, also called PiS, that lost power in the last elections held in 2023.

The Four Bills

The First Proposal

The Left's first draft focuses on changes to the Penal Code [17] and aims to decriminalise abortion, primarily assisting confused doctors and individuals who wish to help a woman terminate her pregnancy. The amendment proposes the repeal of Sections 1 and 2 of Article 152 of the Penal Code [17]. The first paragraph addresses the punishment for conducting an illegal abortion with the woman's consent, while the second pertains to assisting and inciting an illegal abortion: importantly, a woman who terminates her pregnancy does not commit a crime. The draft also revises the wording of paragraph 3, concerning the penalty for abortion once the foetus—referred to as a 'conceived child' in the Penal Code [17]—has reached the viability threshold outside the pregnant woman's body.

According to the proposed amendment, performing an abortion, with the woman's consent, after 24 weeks of pregnancy would incur a penalty of up to five years in prison (currently, the penalty ranges from six months to eight years). However, under the provision proposed by the Left, there would be no crime if an abortion after 24 weeks of pregnancy were performed due to severe, irreversible impairment or an incurable disease of the foetus, and when the perpetrator or the person instigating or assisting in a prohibited act—in this case, abortion—is a close relative of the pregnant woman (e.g., husband, sister, or parent).

If the law were to come into force, abortion under public healthcare would still be accessible only in two instances: when the pregnancy resulted from a prohibited act and in cases of threats to the life or health of the pregnant woman. However, there would be no criminal liability for assisting in an abortion or performing the procedure up to 24 weeks, with the woman's consent.

FEDERA emphasises that the criminalisation of abortion aims to make access difficult or even impossible, whether for non-statutory procedures or those guaranteed by law. This strategy seeks to intimidate individuals and suppress discussions surrounding abortion, ultimately hindering the ability to consult on decisions or pose questions. Consequently, medical professionals face challenges in their work, and patient trust in medical staff diminishes. Although the Penal Code [17] does not prohibit conversations about abortion, the practical effects of current legislation lead to silence and restrict access to reliable information, even as the need for abortion persists [102]. This situation represents the minimum threshold from which meaningful change must begin. The project is structured to facilitate prioritisation and to ensure the shortest possible legislative path, thereby requiring robust political will.

The Second Proposal

The second proposal, which also originates from the Left, pertains to the Safe Termination of Pregnancy Bill. This legislation permits abortion up to 12 weeks of pregnancy without the necessity of providing a reason. Beyond this period, termination will be permissible under the following circumstances: i) if the pregnancy poses a threat to the life or health of the pregnant individual, without a specified time limit; ii) if developmental or genetic abnormalities of the foetus are present, up to the end of the 24th week of pregnancy, and thereafter if such abnormalities would prevent the foetus from being viable outside the womb; iii) if the pregnancy results from a prohibited act, up to the end of the 24th week of pregnancy, contingent upon a decision from the prosecutor, which must be rendered within seven days of the application being submitted.

A notable drawback of this latter solution is the requirement for a prosecutor's decision even in cases of sexual abuse involving a child under the age of 15, which is classified as a crime of paedophilia, unless the offender is also a minor. The distinction between a crime and a prohibited act serves to favour the classification of criminal acts, thereby permitting legal interruption of pregnancies resulting from adolescent romance. However, the sole evidence substantiating that a crime has occurred is the date of birth of the girl, which leaves the District Attorney with no involvement in this matter.

Additionally, the project introduces pharmacological abortion, as a viable alternative alongside surgical methods for terminating a pregnancy. Medications will be dispensed by pharmacies based on a prescription; however, a pregnant woman seeking an abortion will have access to either outpatient or hospital care during the procedure. The abortion must be conducted within 72 hours following the application—in any form—submitted by the pregnant woman.

The bill also addresses the medical conscience clause. In instances where a practitioner declines to perform the procedure, the head of the relevant branch or entity is obligated to appoint another physician within the same facility or, if no such individual is available, to secure a contract with a subcontractor capable of providing the service. Should these obligations remain unmet, the NHF reserves the right to terminate the contract with the healthcare provider.

Furthermore, the draft provides for the repeal of Article 152 of the Penal Code [17], thereby ensuring the total decriminalisation of abortion, including both assistance and the performance of the procedure.

The Third Proposal

The third proposal, titled "*O świadomym rodzicielstwie*" (On Conscious Parenthood), was submitted by a group of deputies from the Civic Coalition. It stipulates that a pregnant woman is entitled to a health benefit in the form of termination of pregnancy upon request during the first 12 weeks. Termination of pregnancy after 12 weeks is permissible only under specific conditions: i) when the pregnancy poses a threat to the life or health of the pregnant woman, without a specified time limit; ii) if there are developmental or genetic abnormalities of the foetus, up to the end of the 24th week of pregnancy, and may be allowed afterwards if these conditions prevent independent life and no cure is possible; iii) when the pregnancy was caused by a criminal act, up to 18 weeks of pregnancy, based on a declaration made by the pregnant person, subject to penalties for providing false statements.

The establishment of a 24-week limit for termination of pregnancy on embryopathological grounds offers a specific timeframe, which has historically been the subject of legal disputes, despite advancements in medical knowledge. The ruling by the ECHR in *RR v. Poland* is interpreted as establishing a legal abortion limit at 22 weeks of pregnancy. Moreover, both Polish legislative drafts provide for an exception to this rule, allowing for no time limits if the foetus is affected by a lethal defect. The 24-week limit is presented *prima facie*[40] as rational, given that, according to current medical knowledge, viable chances of survival are approximately 50% for a newborn under conditions of extreme prematurity [80]. However, it is important to emphasise that this statistic applies solely to ordinarily healthy infants, and in contrast, the 24-week limit regarding foetuses affected by defects, whose survival rates are generally lower, may not appear adequately justified, potentially reflecting either a simplistic rationale or a cautious approach.

According to the draft by the Civic Coalition, termination of pregnancy may be performed within or outside a medical institution, based on an independent decision by the pregnant person, whose written consent is required, and may be carried out using all available methods consistent with the current state of medical knowledge. An entity that holds an agreement with the NHF covering health services for pregnant individuals is obliged to provide abortion services, including the engagement of a subcontractor. The procedure must be conducted within 72 hours, except in situations where the health or life of the pregnant individual is at risk, in which case it should be performed immediately.

This proposal represents a significant advancement over the existing FPA, which mandates that abortions must take place within a hospital setting [1]. Since 1993, medical knowledge regarding abortion has progressed substantially. It is now widely recognised that the self-administration of misoprostol poses no danger to health or life when undertaken in the early stages of pregnancy, thereby negating the necessity for a medical environment, particularly a hospital.

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[40] It means "at first sight" and refers to something that is accepted as correct until proven otherwise.

The Fourth Proposal

The fourth bill was submitted to the *Sejm* by the Third Way coalition, comprising the PSL[41] and Poland 2050.[42] This proposal seeks to reverse the 2020 ruling by the Constitutional Tribunal, which further restricted abortion access. The Third Way's bill allows for the termination of pregnancy in only three circumstances: i) when the pregnancy endangers the health or life of the woman; ii) when there is a high likelihood of serious and irreversible foetal abnormalities or a life-threatening incurable disease: iii) when there is a suspicion that the pregnancy resulted from a criminal act. Regarding the legal conditions, the bill reinstates the so-called "abortion compromise" in place before the Constitutional Tribunal's ruling.

The draft law stipulates that abortions must be performed using all available methods consistent with the current state of medical knowledge, including pharmacological abortion. When this approach is used, the procedure may take place outside a medical facility. In such cases, the person undergoing the abortion is entitled to 24-hour access to a medical institution for assistance.

In cases where the pregnancy results from a criminal act, the bill requires the prosecutor to issue a decision within three days of the application being submitted, which may be based solely on the woman's unequivocal statement. Should the prosecutor refuses, the decision can be appealed to the district court, which must resolve the matter within three calendar days. Abortions must be performed within 72 hours in the cases specified by law, though this timeframe may be shortened if the pregnancy poses a risk to the woman's life or if it would lead to exceeding the legal limit of 12 weeks, after which the procedure becomes unlawful.

A notable advantage of the proposed changes is the clearly defined and short deadlines for the required actions, which aim to counteract the delays observed in practice, where procedures are postponed until the statutory deadlines are surpassed. Additionally, the Third Way politicians have suggested the possibility of holding a referendum on this issue; however, no formal request has yet been submitted. The notion of a referendum poses risks, as the outcome is highly dependent on the phrasing of the questions, which could be more or less biased. It has also long been understood that *de facto* power rests with those who control the administration of such matters.

Legislative Process and Amendments to the Abortion Law

The establishment of a parliamentary extraordinary committee does not inherently ensure an expedited legislative process. The pace of work within such committees is directly contingent upon the authority to which they are accountable, as well as the extent of their commitment to delivering prompt outcomes. For instance, the current Minister of Justice, Adam Bodnar, assumed responsibility for an inter-ministerial task force established in mid-2023 by then-Prime Minister Mateusz Morawiecki, with the mandate to draft legislation to abolish incapacitation and replace it with legal frameworks to support individuals with disabilities. Nevertheless, it was not until mid-January 2024 that the task force began to make significant headway. Experts were co-opted, representatives from social organisations were invited to participate, and the Minister unequivocally stated that the draft legislation should be finalised by mid-June 2024, with the aim of having the laws enacted by mid-2025. Officials from the Ministry of Justice prepared a detailed work schedule, ensuring that deadlines were met. The task force was divided into smaller working groups, which adhered to a rigorous schedule, conducting online meetings at least once per week, and in some weeks, multiple times. The bill has now been included in the legislative agenda of the *Sejm*, and the task force, now operating at a more measured pace, is currently considering self-amendments.

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[41] This is the name of a Polish political party, abbreviated as PSL, which stands for the Polish People's Party.

[42] This is the name of a Polish political party.

The extraordinary committee *Sejm*, appointed to address the liberalisation of abortion law, should operate with a similar level of urgency if it intends to achieve meaningful outcomes within a reasonable timeframe. According to public information available on the *Sejm*'s website, meetings are held bi-weekly. At the time this text was written, seven meetings had been taken place, with the most recent one on 9 June, marking the fourth consecutive session dedicated to amendments to the Penal Code [17].

These meetings have often featured heated exchanges between pro-life and pro-choice advocates. In the background of these debates, officials and experts have introduced amendments to the Left's initial draft, which primarily focuses on changes to the Penal Code [17], wherein abortion is still classified as a criminal offence, except in certain cases provided for by law.

The revised draft proposes the repeal of provisions that criminalise the termination of pregnancy with the woman's consent, as well as the provision of assistance in illegal abortions or the incitement to such acts. However, it establishes that only individuals who terminate a pregnancy, with the woman's consent, beyond 12 weeks—outside the exceptions specified in the FPA [1]—would be subject to prosecution. Additionally, the previous provision, which exempts physicians from liability if the abortion is necessary to avert a threat to the woman's health or life, has been modified. The draft clarifies that the termination of a pregnancy is not a criminal offence if prenatal tests or other medical indications reveal a substantial likelihood of serious and irreversible foetal abnormalities or an incurable life-threatening condition. It further establishes that this exemption extends to nurses and midwives performing abortions under such circumstances.

The amended bill has now been referred for a second reading in the *Sejm*. However, President Duda has publicly declared that he will not sign the bill into law. His term is set to conclude in the middle of 2025, and it is anticipated that several pieces of legislation may remain pending until that time. The second reading of the bill took place on 12 July 2024. During the session, the *Sejm* initially voted on a motion to reject the bill in its entirety, which was narrowly defeated by a single vote. However, in a subsequent vote on the bill as a whole, it was rejected by a margin of three votes. Notably, none of the MPs from the Civic Coalition, Poland 2050 or the Left, whose MPs had proposed the amendments, voted against the bill. The rejection was primarily driven by the votes of PSL members, with 29 in favour and 24 against, while several politicians abstained. It is likely that President Duda's earlier declaration influenced the final outcome, demonstrating that even minor interventions can have a significant impact on decisions regarding such sensitive matters.

Despite this setback, on November 8, 2024, the *Sejm* passed the first reading of a bill proposing the partial decriminalisation of abortion, which has now been referred to committee. The legislation seeks to decriminalise the termination of pregnancy with the woman's consent and the assistance in self-induced abortion. This represents the second attempt by the bill's proponents to secure parliamentary support for the decriminalisation of abortion. In this context, decriminalisation consists of abolishing penalties for acts such as procuring abortion pills on behalf of another person or facilitating access to abortion services abroad. The bill further proposes abolishing criminal liability for terminating another person's pregnancy up to the 12th week of gestation.

Expert Legal Opinion and Respect for Human Dignity in Abortion Laws

In an expert opinion requested by the Commission, which summarises all four bills, Ewa Plebanek, a lawyer holding a doctorate in legal sciences and serving as an assistant professor at the Department of Criminal Law at the University of Economics in Krakow, rightly argues that the most challenging justifications for legal abortion will be the mere request of a pregnant woman and severe foetal pathologies. This is due to the negative rulings of the Polish Constitutional Tribunal regarding these two issues, particularly highlighted in its 1997 judgement on "abortion for demand". Consequently, the draft law must be formulated and justified in such a manner as to effectively counter the substantive grounds for both decisions.

From the existing jurisprudence of the Constitutional Tribunal and the prevailing views of legal science, it emerges that the proposed legislation should assume that abortion is, in principle, unlawful. However, it may be legal under specific circumstances outlined in the Act. The explanatory memorandum, along with the substantive provisions governing the content, scope of authorisation, and extent of criminalisation, must clearly state that they do not arise from a denial of the necessity to protect the life of the foetus or from the conviction that the life of the foetus is less worthwhile than the rights of a pregnant person that may conflict with it.

This underscores the message that a state that respects the dignity and rights of individuals should refrain from imposing a legal obligation to continue a pregnancy in situations of conflict that are ambiguous and profoundly personal. Respect for the dignity of the pregnant individual necessitates that, in situations identified as conflicts of law, the decision should be left to the discretion of the pregnant person. There is no requirement, in the abstract, to weigh and compare the interests of a woman with those of the foetus at various stages of its development or concerning its health status.

In the explanatory memorandum for the draft law, which will be prepared by the Commission, it is imperative to emphasise that the final formulation of the abortion law model is inevitably influenced by the constitutional principle of proportionality—in terms of instrumental rationality—as well as the principles of necessity and adequate protection. From the perspective of constitutional oversight and ensuring broad social consensus, it is essential to pursue a normative approach to individual permits that adequately reveals their *ratio legis*.[43] Particular attention should be given to severe foetal pathologies and the authorisation for voluntary termination of pregnancy without the necessity of justification.

To optimally express the *ratio legis* behind consent related to foetal defects, consideration should be given to integrating the embryopathological indication into the broader category of medical or therapeutic indication. This can be achieved by explicitly linking it to the current or future health status of the woman within statutory definitions or regulations. If the committee decides to maintain the embryopathological indication as a distinct category, it should clarify how the foetal condition may impact the pregnant woman. Such clarification will reinforce that the basis for the permit is the protection of women's dignity and health.

Moreover, this approach counters the misleading belief promoted by some opponents that allowing abortion in cases of foetal defects implies that individuals with disabilities are less valuable or should be marginalised. By shifting the focus away from the foetal pathology as an independent cause and towards the implications for the woman—who would otherwise be legally compelled to report her pregnancy [103]—the need to respect her rights and choices is emphasised.

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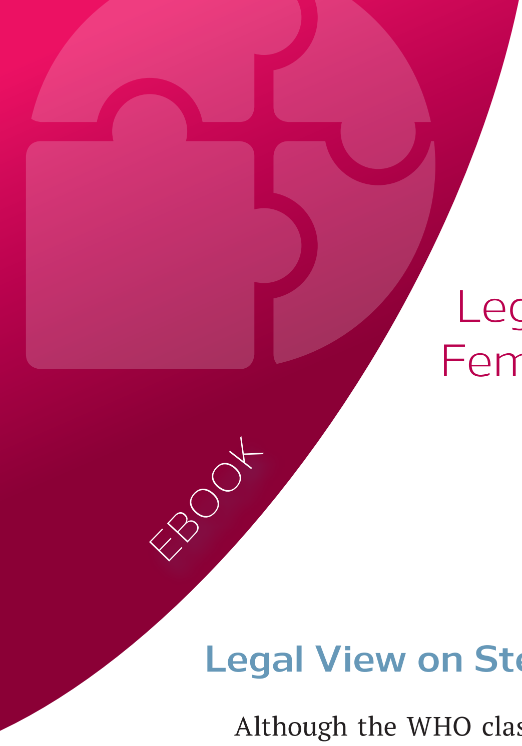
[43] It means "reason for the law" and refers to the underlying rationale or purpose behind a legal provision.



Legal Perspectives on Sterilisation and Female Genital Mutilation

Legal View on Sterilisation Procedures

Although the WHO classifies vasectomy and tubal ligation in women as permanent contraceptive methods [104], there remains a belief in Poland that such procedures constitute a form of intentional serious bodily injury under the Penal Code [17], specifically "deprivation of the ability to beget". To refute this argument, it is important to note that neither of these treatments permanently deprives individuals of the ability to beget; rather, they only prevent the immediate possibility of fertilisation. Should an individual change their mind, they still have the option of using *in vitro* fertilisation (IVF).

In many European countries, sterilisation procedures requested by patients for contraceptive purposes are explicitly permitted by special laws and are typically subject to various conditions, such as the patient's age, a period for reflection, or the consent of the spouse, etc. In countries without specific regulations, informed and voluntary consent from the patient is generally deemed sufficient for the legality of such procedures, provided they are performed in accordance with established medical standards [105].

Differences in Approach to Vasectomy and Tubal Ligation

Currently, among Polish doctors, it is believed that vasectomy in men is permissible without restrictions, provided there is consent. Therefore, such procedure is carried out without issue in private clinics. In contrast, there is an unfounded belief that tubal ligation for women constitutes a criminal act, which results in this procedure being rarely performed.

Nevertheless, there have been several scandals involving cases where tubal ligation was carried out during caesarean sections secretly and without the patient's consent. In these instances, the accused doctors were reportedly motivated by the belief that the patient's future pregnancies could pose a serious health risk. Fear of criminal liability, coupled with the incorrect belief that sterilisation is illegal even for health protection purposes, has led some doctors to perform these procedures covertly.

Criminalising Female Genital Mutilation

Concerns were raised by the introduction of a new provision in the Polish Penal Code [17] criminalising "excision, infibulation or other permanent and significant mutilation of the female genital organ". The *ratio legis* of such a measure was obvious: this clause was intended to more effectively combat female genital mutilation, which is also becoming an issue in Poland, as required by the Istanbul Convention [106].

However, there has been speculation that this new provision might be a political manoeuvre by the previous government, with some suggesting that the phrase "other permanent and significant mutilation of the female genital organ", could be interpreted to include sterilisation.

Legal and Ethical Challenges in Access to Medically Assisted Procreation in Poland

Access to Medical Methods of Assisted Reproduction and Financial Barriers

The legal vacuum regarding medically assisted procreation (MAP) persisted in Poland until 2015, when the ITA [2] was adopted amidst significant challenges. For individuals who are unable to conceive through natural means, advanced medical techniques are essential.

These methods often require substantial financial investments and necessitate the involvement of trustworthy, accredited centre to avoid falling victim to unqualified practitioners or mishaps, such as the incident at the infertility treatment centre in Police where a couple gave birth to a child genetically related to the husband but not to the wife, despite her having giving birth.

The costs associated with medical care, research, medications, and treatments are considerable; thus, the absence of reimbursement creates a financial barrier that result in a significant disparity in access. Further manifestations of this injustice can be found in Polish law, which, at the time of its adoption, was already conservative and archaic.

Nonetheless, there was a sense of relief that some legislation existed, especially considering that extremists had advocated for the criminalisation of *in vitro* treatments.

Infertility as a Disease and Legal Framework for MAP

From a legal standpoint, the Polish ITA [2] has established that infertility is indeed a disease. The title and wording of the Act employ the term ‘treatment’, thereby recognising infertility as a medical condition for which MAP procedures are considered therapeutic methods.

It is noteworthy that Poland was the last country in the EU without adequate regulation in this area. While foreign courts addressed disputes regarding the forced implantation of all embryos or the rights to frozen embryos in the event of a couple’s separation, Poland maintained a stance of deliberate avoidance until 2015—a situation that was ultimately catalysed by the scandal in Police.

The outcome of these circumventions resulted in a legal act that is, at its inception, already outdated.

Non-Partner Donation, Age Criteria, and Ethical Considerations

One advantage of the Act is that it does not prohibit non-partner donation of gametes and embryos, nor does it explicitly establish an age criterion for access to treatment. Age restrictions were introduced solely for the purpose of reimbursement of IVF treatments, which, incidentally, were restored only in the spring of 2024.

The Act provides access to treatment exclusively for individuals with full legal capacity and, without imposing any upper age limits, refers generally to current medical knowledge. This raises a pertinent question: can patients be denied treatment on the grounds of age?

Given the option of non-partner donation of gametes and the capability of medical interventions to facilitate pregnancy even in postmenopausal women[44] through hormone administration, this question warrants careful consideration. Moreover, should an age limit be established, it should be non-discriminatory for both sexes, although uniformity is not required.[45]

Rational grounds for refusal could include health contraindications to pregnancy at a particular age and a lack of reasonable prospects for parents to reach the age of majority for the child born in a state of health that permits adequate care and upbringing. Nevertheless, some argue that doctors should refuse treatment on ethical reasons and in accordance with statutory procedural requirement, particularly concerning the legal protection of life and health, as well as the best interests and rights of the child [109].

Furthermore, it is contended that assisted reproduction services should not be provided where infertility is attributable to non-medical factors, in particular natural age-related declines in fertility [109].

However, menopause and andropause occur at different ages—sometimes beyond fifty years and sometimes as early as thirty—while medical practice can only rely on statistical averages. Therefore, any attempt to define a specific age limit may be perceived as arbitrary and invites scrutiny regarding the justification for implementing such a restriction. According to another perspective, it is reasonable not to impose age limitations on donors of gametes and embryo recipients. To restrict an individual's positive reproductive autonomy, compelling arguments must be presented. Protecting citizens' health from themselves, particularly when they are considered too old to bear children and thus denied the opportunity for parenthood, appears as an excessive paternalistic intervention. Conversely, reimbursement of treatments within a certain age range establishes a framework for systemic and economic support, beyond which patients assume financial and health risks of their own accord.

In Poland, infertile patients endured a protracted wait for the passage of the relevant legislation, with its enactment uncertain for an extended period as the then-President Bronisław Komorowski hesitated to sign it into law. Had a presidential veto been exercised, it would have been nearly impossible to overturn it with a qualified majority. However, Komorowski was eventually persuaded, and the law remains in force to this day. Nevertheless, this does not imply that debates surrounding assisted reproduction in Poland have ceased, nor has the antagonistic stance of the ecclesiastical hierarchy softened.

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[44] Prior to the entry into force of the Act, the Polish press reported several cases of women over the age of 60 giving birth [107,108].

[45] Numerous national legislations adopt age limits for women. Typically, the permissible maximum age of a woman is 45–50 years [109].

Discourse on In Vitro Fertilisation (IVF) in Poland a Social and Legal Report[46]

Chapter I: Legal and Ethical Aspects

Historical Evolution and Legal Development: Scientific Research and Legislative Challenges

The history of infertility treatment through IVF is well-documented; thus, this report will highlight only the most pertinent facts, particularly those relevant to Poland. The therapeutic method of IVF is legal and regulated in most countries. However, the various legal frameworks differ significantly regarding the conditions of availability and funding, the storage and disposition of surplus embryos, the possibility of using non-partner gamete or embryo donation, and its application in surrogacy arrangements.

The first Polish child born as a result of IVF is a woman named Magdalena, whose birth followed a procedure conducted in 1987 by Professor Marian Szamatowicz at the Department of Gynaecology of the Medical University of Bialystok. Until 1991, infertility treatment was publicly funded in Poland; thereafter, it transitioned to contract-based funding, predominantly in non-public facilities. The terms and conditions governing IVF procedures were defined by professional standards informed by current medical knowledge, particularly those issued by the Polish Gynaecological Society (PTG) and the Polish Society for Reproductive Medicine, which has since evolved into the Polish Society for Reproductive Medicine and Embryology (PTMRiE) [110,111].

The enactment of the Polish ITA in 2015 was preceded by significant ideological disputes and conflicts that, while they have since diminished in intensity, have not entirely subsided. Following the legal resolution of fundamental issues, research commenced on public reception of the law and the integration of families formed through the use of IVF into society. In addition to legal analyses, notable anthropological studies [112,113,114,115,116,117] and autobiographical accounts of patients have been published.

The Constitutional Tribunal ruled that it was not unconstitutional to retrieve deposited embryos from independent women without partners who had initiated procedures prior to the law's enactment. In 2016, the government's publicly funded infertility treatment programme was terminated by the then-Minister of Health Radziwiłł and replaced with a refunded assisted reproductive method known as NaProTECHNOLOGY.[47]

A comprehensive legal monograph was published in 2018 [118], following the release of a formalistic commentary on the law in 2016 [119]. An interdisciplinary scientific conference, endorsed by the Bioethics Committee of the Polish

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[46] The report was partly written under the grant "*Rozwój bioetyki partycypacyjnej*" (Development of Participatory Bioethics) (No. 0185/NPRH4/H2b/83/2016), funded by the Minister of Science and Higher Education's programme "*Narodowy Program Rozwoju Humanistyki*" (National Programme for the Development of the Humanities) from 2016 to 2019. The part covering later years is not associated with any formal research project.

[47] NaProTECHNOLOGY (Natural Procreative Technology) represents a holistic approach to fertility that prioritises the understanding and monitoring of female menstrual cycles. Its primary aim is to identify and address the underlying causes of infertility, distinguishing it significantly from IVF. While IVF typically involves the laboratory manipulation of eggs and sperm, leading to the transfer of embryos into the uterus, NaProTECHNOLOGY focuses on natural methods to enhance reproductive health.

Academy of Sciences and organised by the Centre for Bioethics and Biopraxis at the University of Warsaw, in collaboration with the Student Association of Medical and Pharmaceutical Law *Ius et Medicina* (Law and Medicine) at the Faculty of Law and Administration of the same university [120], was convened on 17 May 2017. During this conference, the provisions of the law were in relation to various topics, including respect for the reproductive autonomy of patients, the nuances of physician-patient privilege, issues of filiation and inheritance rights, the status of *in vitro* embryos, violations of the personal rights of patients and their children in public debate, contractual dimensions of the procedure, the specifics of *post-mortem*[48] donor insemination, along with the necessity for individuals to understand their genetic origins in cases of non-partner donation, and concerns regarding NaProTECHNOLOGY.

The conference's proceedings were subsequently published in a special thematic issue of the quarterly journal *Law and Medicine* (No. 4/2017) [121]. From 2013 to 2018, researchers affiliated with the Interdisciplinary Team for Childhood Studies at the University of Warsaw undertook a project titled "*Nowe technologie reprodukcyjne – perspektywa badań nad dzieckiem*" (New Reproductive Technologies – The Perspective of Childhood Studies).[49] The culmination of this project was the anthology "*Dziecko, in vitro, społeczeństwo*" (Child, *In Vitro*, Society), published in 2018 [112]. The conclusions drawn therein not only address the primary focus of the research—namely, the sentiments and reflections of children conceived through IVF—but also examine the social ramifications of IVF and its implications for family dynamics.

In 2016, a documentary film titled "*Trzy rozmowy o życiu*" (Three Conversations About Life), written and directed by Julia Staniszewska, was produced [122]. The film addresses the moral conflict experienced by a mother with radical religious convictions regarding her daughter's use of IVF. On 2 October 2019, the Ombudsman's Office hosted a conference entitled "*In vitro – doświadczenie i przyszłość*" (*In Vitro* – Experience and Future) [123]. The impetus for this event was a collection of journalistic interviews by Małgorzata Rozenek-Majdan, titled "*In vitro. Intymne rozmowy*" (*In Vitro*. Intimate Conversations), published in 2019 [124]. Notably, the Ombudsman had not previously engaged with the issue, despite earlier publications by female scientists and researchers. However, the involvement of a television celebrity in this matter can be considered a success from the perspective of patients' interests.

During the conference, one pertinent comment articulated the necessity for patients and their children to receive support from the Ombudsman in defending their rights, emphasising that they are, fundamentally, ordinary individuals wishing to have children. Concurrently, there were legislative calls to either repeal the existing law or impose fundamentalist restrictions,[50] which were vehemently opposed by the then-Ombudsman Bodnar [123].

In 2019, the Council of Europe issued recommendations to abolish the anonymity associated with non-partner gamete donations, citing violations of the right to know one's own identity for children conceived through such means [125]. As is often the case, the Polish legislature failed to respond adequately. Meanwhile, key issues pertaining to the human rights context require evaluation in light of recent European recommendations and the WHO's efforts to redefine infertility. Given the evident passivity of the legislator, a flexible interpretation of the law emerges as the sole avenue for addressing its deficiencies.

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[48] It means "after death".

[49] The project was supported through funding from the National Science Centre granted under Decision No. DEC-2012/07/E/HS3/01024.

[50] The bill, which the Speaker of the Sejm ultimately did not assign a number, proposed the following provisions:
- Restricting access to IVF methods to married couples only
- Permitting the IVF of only one reproductive cell
- Prohibiting the cryopreservation of embryos, except when transfer to the woman's body is not possible due to force majeure
- Establishing criminal liability for those using assisted reproductive methods for surrogacy, including giving birth and abandoning the child by transferring it to others or participating in surrogacy, whether commercially or altruistically
- Eliminating the anonymity of non-partner donors.

Anthropological and Moral Perspectives: Legal Debates and the Exclusion of Patient Voices

This report clarifies the most critical findings of anthropological research, citing relevant observations and public opinions from both print and digital sources, while providing legal commentary where necessary. The extensive legal analyses aim to explain the background to some arguments and illustrate how the law—predominantly civil law, with its libertarian principles of autonomy of will and freedom of contract—can be interpreted and used as a tool for limiting freedom and curtailing rights.

The primary anthropological source is Anna Krawczak's widely regarded study "*In vitro. Bez strachu. Bez ideologii*" (*In vitro*. Without Fear, without Ideology), published in 2016 [126]. Its value and credibility stem from the unique combination of the author's qualifications: her educational background as a cultural anthropologist, her extensive experience in a non-governmental organisation—having been an active member of the *Nasz Bocian* (Our Stork) Association for the Treatment of Infertility and Support for Adoption for many years—her expertise as a member of the Programme Council of the National Infertility Treatment Programme at the Ministry of Health, the European Society of Human Reproduction and Embryology, and Fertility Europe, as well as her deeply personal experiences of giving birth to her second child through IVF. This combination positions her as a participant observer, patient-expert, and *sui generis*[51] witness-expert. The empirical material derives from patients' reports, letters, requests for intervention, and interviews recalled by the author. Consequently, the observations presented can serve as a reference point for other perspectives on the issue and delineate several areas of discourse. The experiences and positions of patients, whose voices are represented and invoked by Krawczak, will be juxtaposed and compared with the views of representatives from various communities lacking these experiences, as well as with the legal solutions ultimately adopted. This approach is notably distinct from previous studies, which typically operated from a paternalistic stance of "knowing better what is right for the patient" while often neglecting to solicit the opinions of the primary stakeholders.

In standard medical matters, the patient gives informed consent to proposed medical interventions of a predominantly therapeutic nature. The initial paternalism inherent in such arrangements is unavoidable, as the treatment concept is primarily dictated by the medical knowledge that is often inaccessible to patients. However, a different scenario arises when a patient is not offered or is even denied treatment, despite the clinical situation, medical indications, and anticipated efficacy supporting its provision.

According to the Professions of Doctor and Dentist Act (PDDA) [127], a physician is permitted to refuse medical assistance only for serious and legitimate reasons, thus establishing a category of exceptions to the general obligation to provide medical care. The implicit question raised in this report concerns the basis upon which non-medical members of society presume the right to deny others access to treatment that is essential for fulfilling one of their fundamental biological needs. Therefore, the phenomenon of disregarding the opinions of those most affected—namely, individuals suffering from infertility—reflects a broader issue of societal bias, which I term "working social paternalism".

Krawczak, identifying herself as a Catholic and disclosing her personal experience with infertility treatment, challenges the information found in scientific publications and medical guidelines by juxtaposing them with Vatican directives and pompous descriptions of human reproduction from Catholic sources, which present it as a conjugal act and a manifestation of married love. She first addresses an obvious point, though conveniently ignored in these lofty arguments, that fertilisation and pregnancy do not necessarily require conjugal acts or married love. Frequently, "a combination of violence, ejaculation and ovulation"—a clear reference to rape—can result in conception, yet the human dignity of a child born from such circumstances is not questioned, while dignity is often denied to couples utilising ART.

"It lacks the sexual relationship required by the moral order, specifically the relationship that fulfils the full meaning of mutual self-giving and human procreation within the context of

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[51] It means "of its own kind" and refers to something unique or different from all others.

true love"— reports the "Instruction on Respect for Human Life in Its Origin and on the Dignity of Procreation: Replies to Certain Questions of the Day", issued by the Vatican on 22 February 1987 [128]. Krawczak critiques this instruction, questioning why the dignity of a future child should be determined by the "geography of conception". She further asks whether human dignity is based solely on sexual intercourse, and why the entire scope of personal experience is ignored, including the boundless love for a child that exists only in dreams—love that has enabled parents to endure the hardship of infertility without losing hope. Why should love between two people be confined to something as trivial as sexual intercourse, and not be recognised in their enduring commitment to one another in the face of illness and pain of infertility? Do these values not matter?

As can be seen, these questions are not devoid of emotion, but in matters so deeply tied to private life, it is nearly impossible to avoid emotion, especially when the subject directly affects the individual concerned. While this is a personal line of argument, it is informed by specific experiences, and, as such, deserves serious consideration. Yet, the debate surrounding the regulation of MAP largely overlooks the voices of patients.

Legal, Ethical, and Social Perspectives on Dignity, Autonomy, and Improper Begetting

To trace the origins of this debate in Poland, we must look back to November 2007. At that time, the Minister of Health Ewa Kopacz spoke about the necessity for legal regulation of IVF treatments to allow for their reimbursement. In an interview with Radio TOK FM, Kopacz stated, "Following Article 18 [of the European Convention] [129], there must be a law in Poland to regulate this method of fertilisation precisely so that it will be financed by the state and no longer provoke controversy in certain circles". She reiterated her position later that month, advocating for state funding of IVF procedures. This prompted the Polish Bishops' Conference's Council for the Family to send a letter to members of the Polish parliament, reaffirming the Church's teachings and Pope John Paul II's stance on the immorality and unacceptability of IVF [130].

At the same time, the editorial board of the journal *Prawo i Medycyna* received an article titled "*Moralne i prawne aspekty dążenia małżonków do posiadania dziecka w kontekście techniki zapłodnienia pozaustrojowego (in vitro)*" (Moral and Legal Aspects of the Desire of Spouses to Have a Child in the Context of In Vitro Fertilisation Technology), which was eventually published in early 2008 [131]. The Authors—a scholar affiliated with a Catholic university[52] and a master of Theology—represented the polarised nature of the issue. The decision to publish the article was not immediate, as there were concerns about its scientific quality. However, the significance of the topic warranted further discussion, and it was decided to publish the article alongside other studies in a single issue, thereby fostering a broader debate.[53] The discussion soon evolved into a sharp polemic [131,132,133,134,135], although many of the arguments presented became outdated following the passage of Poland's infertility treatment law.

The perspective of the Vatican, as quoted by Krawczak in the aforementioned article, recurs as a supposedly objective argument. The authors of the study employ the expression "dignity of the transmission of life", which they unjustifiably reserve solely for married couples engaged in coital sex. They further assert, with considerable commitment, an alleged contradiction between assisted reproduction—which they deem immoral—and the principles of social intercourse, thereby questioning the validity of arrangements for IVF made with patients. Exploiting the absence of legal regulation surrounding MAP during that period, they challenge the therapeutic nature of the procedures. The hypocrisy of these authors lies in cloaking confessional arguments under the guise of legal objectivity. They claim that patients' dignity is allegedly compromised by their passive involvement in the IVF process while simultaneously

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[52] This also constitutes an anthropological observation, specifically reflecting a fellowship at the Università Cattolica del Sacro Cuore A. Gemelli, Roma, Facoltà di Medicina e Chirurgia, Istituto di Bioetica (October-November 2007).

[53] The information is based on first-hand experience, as the author of the report was a member of the editorial board of *Prawo i Medycyna'* throughout the journal's entire existence.

diminishing the intimacy associated with the reproductive activities connected to it.

This position warrants some commentary. The arbitrary, principle-centred approach to dignity as a human right is a notable characteristic of Polish legal doctrine, evident in commentaries on the Constitution, particularly regarding the criminalisation of euthanasia and assisted suicide [136]. This viewpoint can negatively influence the interpretation of patients' rights.[54] Conceptualising dignity as a limiting value justifies labelling certain behaviours, viewed negatively as unworthy of a human being, as unacceptable. While this argument may hold some weight regarding practices that are morally controversial,[55] *in vitro* procedures are globally accepted as a method of assisted reproduction, with moral objections primarily stemming from staunch Catholics.

Consequently, these limitations reflect religious precepts and interpretations of dignity dictated by those beliefs, which are not universally applicable outside the community of believers. Regardless of its interpretation, the Polish Constitution defines human dignity as a foundation for freedom and rights. When one attempts to make this concept a source of prohibitions and restrictions—arguing that individuals cannot undergo IVF because their participation is deemed 'passive' and "inconsistent with the dignity of spouses"—the concept of dignity transforms into its own antithesis. Robust justification is required for such claims, demonstrating that they either offend humanity or violate personality rights that authorities are not permitted to infringe upon.

The connotations of human dignity must be firmly anchored in a framework of universally recognised values. It is insufficient to assert that something is unworthy of a human being without further elaboration, expecting the assertion to validate itself. The core issue is that anyone invoking dignity as a basis for a specific rule must first clarify what they mean by the term 'dignity' and explain how they arrive at their conclusions. These arguments must be well-founded and reference culturally and historically established values; mere subjective conviction from the individual making the judgment lacks authoritative weight. Those who invoke a breach of dignity must explain the logical mechanisms underlying their claims.

Haberko and Olszewski acknowledge that arguments based on dignity often remain unclear [134]. However, the issue does not lie in vagueness but in the fact that dignity—central to the human rights framework—represents a concept so ambiguous that it can equally be used to support both a claim and its negation. The lack of clarity surrounding this term does not exempt individuals from the obligation to provide justification when asserting a failure of dignity. Otherwise, the entire concept risks becoming an esoteric and undiscussable doctrine. If someone cannot or will not articulate their argument in universally comprehensible terms, then there is little room for discussion. A mere assertion that something "does not align with human dignity" can be readily countered with a simple denial [135].

The concept of the 'dignity of the transmission of life' parallels that of the 'dignity of the embryo'. However, it is essential to explain what this 'dignity of the transmission of life' precisely entails, particularly when it includes genital intercourse and is purportedly violated by medical assistance. What constitutes the couple's passive participation in this act, and why is it deemed reprehensible? Expressions such as "the dignity of the transmission of life" and "the dignity of procreation" remain unfamiliar to secular legal frameworks, which means they have not been formally defined anywhere, posing significant risks of arbitrary application. While the path for clarification theoretically exists, formulating a reasonable justification appears unlikely.

In medical contexts, a patient is constantly and inevitably stripped of intimacy during procedures, such as when undressing before a doctor or undergoing a rectal examination. In

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[54] The object of protection of the patient's right to dignity is supposedly "an objective non-material interest, detached from subjective preferences and the capacity for autonomous expression of will" [137].

[55] The following are routinely cited as examples: BDSM practices and earning money by participating in peep shows. A notable case in this context is *Manuel Wackenheim v. France* [138], in which ECHR ruled on the impermissibility of hiring oneself out for a specific type of entertainment known as 'midget throwing'. In contrast, foreign domestic judiciaries have increasingly moved away from an objectivist view of dignity choosing instead to empower individuals by allowing them to make their own decisions regarding such activities. This shift is exemplified by the later French decisions in the *Manuel Wackenheim v. France* case, such as the Conseil d'État ruling [139].

the case of infertility treatment—regardless of the method employed—this stripping necessarily encompasses both partners, similar to the dynamics observed in couples' psychotherapy. If two adults voluntarily choose to strip their relationship of intimacy, it is presumably for a compelling reason. Moreover, intimacy is not classified as a personal right that an individual cannot relinquish; thus, informed consent from the individuals involved negates the illegality of any perceived violation. It seems evident that only the individuals directly affected possess the legitimacy to determine whether the costs incurred are justified. Arguing otherwise reflects a paternalistic stance: patients should be prohibited from relinquishing their intimacy because an external party believes they know what is best for them.

One can reasonably contend that invoking dignity as a rationale for imposing prohibitions on certain behaviours serves as a moralistic pretext for decisions that limit the autonomy and self-determination of individuals. The arguments presented by Olszewski and Haberko falls precisely within this framework, and they further extend this reasoning arbitrarily to children conceived through IVF. It is asserted that IVF allegedly "does not correspond to the dignity" of the individual born as a result of the procedure [131]. The moralising discourse directed at parents continues in the text: "If one genuinely desires a child for the sake of the child, one should respect natural law and the manner of birth, which ensures that the child's dignity is upheld" [131]. In other words, only copulation would guarantee a dignified method of birth. This argument may be characterised as the concept of improper begetting.

However, there is no rational basis for asserting that an individual suffers any detriment simply because they were conceived through IVF. The argument against the permissibility of the procedure is framed in terms of the rights and welfare of the child, which critics assert are compromised by such methods. It is suggested that a fundamental conflict exists between the aspirations of the infertile couple and the welfare of the child resulting from this process [131].[56] It remains unclear how a doctor's role in combining two generative cells and implanting the embryo in the uterus constitutes a violation of the dignity of the future child or on what grounds such a child might be deemed or feel inferior to others.

These questions will later be addressed by the fundamentalists referenced below, whose responses draw upon zoological and veterinary terminology, comparisons to the practices of Dr Frankenstein, allegations of murder, as well as negating positive parental sentiments and arbitrarily objectifying couples seeking to conceive through IVF. However, it is noteworthy that such assertions lack factual basis. They are mere projections of the authors' imagination and are likely to evoke professional interest only among those who resonate with similar associations.

As will be further discussed, the concept of improper begetting was creatively employed by church officials and some Catholic publicists to publicly heap invectives upon entire families. Compared to these instances, the referenced article from 15 years ago presents a relatively benign account, relying solely on appeals of moral disgust. This article was written during a time when IVF—then primarily the preserve of the private sector due to the absence of legal regulation—was enjoying, as it still does, considerable success. At that time, no signs of social ostracism were evident, and the primary concerns revolved around the high cost of treatment and the inconsistent quality of medical care. Indeed, there was no established system of quality control. In retrospect, the article can be seen as a preliminary effort to foster disapproval.

The discrepancy outlined provides a useful starting point for considering the argument of respect for dignity—which, according to the Constitution, is an inherent and inalienable right—in relation to the various positions discussed. The initial hypothesis suggests that the constitutional concept of dignity, frequently invoked by both ecclesiastical doctrine and a segment of legal doctrine aligned with it, is articulated in terms that are too general to yield specific, practical insights in the discussion. The foundational question is to what extent the

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[56] The authors did not mention this, but the argument regarding the rights of the child originates from the Congregation for the Doctrine of Faith. However, the Congregation's doctrine is not as widely recognised as Pythagoras' theorem, so it should be cited reliably [140].

exercise of reproductive freedom, considered a human right, might infringe upon dignity, and whose dignity would be affected. Subsequently, it is pertinent to determine whether the concept of dignity can be applied to an entity that does not yet physically exist: an intended, yet-to-be-born child, which, at the time a couple undergoes a medically assisted reproductive procedure, remains merely a conceptual entity. Finally, it is important to evaluate whether such far-reaching prior protection holds any meaning or significance, and for whom, as well as what hypothetical values might be violated by the actions of a couple desiring a child or an individual wishing to have a child on their own.

Public Reception, Legal Disputes, and Persistent Opposition: Manipulation and Misrepresentation of IVF

In Poland, the social evaluation of IVF is generally favourable, albeit with certain limitations, suggesting that the general public accepts this method of reproduction. However, some church hierarchs and representatives of Catholic communities continue to attempt to manipulate public sentiment on this issue.[57] As a result, they have succeeded in creating an atmosphere of slander, employing innuendo and outright falsehoods to mislead those lacking education on the matter. At the same time, the stigmatisation of children born through IVF by the Church scene is in direct contradiction to the Catholic Church's own teaching, which emphasise the importance of accepting all children with love [142,143].

In light of the final enactment of the ITA in 2015, following numerous challenges and unsuccessful attempts,[58] the previously quoted dissent is now largely of historical significance. Nevertheless, its repercussions continue to be felt, necessitating a return to the topic. Prior to the enactment of the Act, certain lawyers, "under the sign of the cross", engaged in truly acrobatic efforts to prove the alleged immorality of the proposed legal solution. The position of the Congregation for the Doctrine of the Faith, which condemns the very essence of non-coital fertilisation techniques as immoral due to the belief that "the artificial creation of life involves the intentional killing of human beings", has been adopted as a model.[59] According to this view, the immorality inherent in artificial fertilisation techniques lies in the artificial creation of life, which is supposedly entirely dependent on the will of gamete donors or medical personnel [140].

It is suggested that the parents are solely focused on providing the appropriate biological components, while the doctor assumes the role of a genetic engineer, transforming the provided material [140]. However, as we know, IVF does not involve any form of transformation; it merely facilitates the fusion of reproductive cells formed naturally within the donors' bodies. The preceding hormonal stimulation aims to increase the yield of mature gametes, but this is effective only if the body is capable of producing them. The suggestion of an alleged genetically engineered transformation represents a demagogic fallacy, manipulating terminology to create a false association between the straightforward procedure of fusing two reproductive cells and more complex concepts like genetic engineering or chromosomal tampering, which carry inherently negative connotations.

Consequently, this rhetoric perpetuates a biased superstition, by opposing 'artificiality' to an idealised notion of 'naturalness'. It is worth noting that both of these concepts are too relative to be effective arguments in any serious discussion. Nonetheless, this did not prevent the

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[57] The issue of stigmatisation and discrimination against children conceived through this method was addressed in a civic hearing held in the *Sejm* on January 24, 2012, organised by the "Our Stork" Association [141].

[58] During the 2007–2011 term of the *Sejm*, at least seven bills regulating this matter were submitted. Three of these explicitly prohibited the creation of embryos outside the woman's body (*Sejm* Print No. 3466 [144]; *Sejm* Print No. 2741 [145]; *Sejm* Print No. 3471 [146]). One bill, known as the Gowin bill as proposed by MP Gowin, was only moderate in this regard—the bill on the protection of the human genome and the human embryo, on the establishment of the Polish Bioethics Council and amendments to other laws, proposed on August 28, 2009 (VI term, *Sejm* print No. 3467 [147]). Two projects deemed liberal are the so-called Balicki project—a parliamentary bill on fundamental human rights and freedoms in the field of applications of biology and medicine and on the establishment of the Polish Bioethics Council proposed on August 28, 2009 (VI term, *Sejm* print. No. 3468 [148])—and the project on financing medically assisted reproduction procedures from public funds—a parliamentary bill amending the law on health care services financed from public funds, proposed on September 5, 2008 (VI term, *Sejm* print No. 1284 [149]).

[59] It is likely that the term 'human beings' refers to the excess embryos produced during the IVF procedure [140].

construction of baseless implications. According to Oktawian Nawrot, in the case of ‘natural conception’, the child can be viewed as a product of chance or nature—an outcome that fundamentally exists independently of the parents’ intentions, making the parents also subjects within this process. When ART are employed, the elements of chance and nature are significantly diminished. The parents are thus perceived as being morally and causally responsible not only for the existence of the child but also, purportedly, for the specific characteristics of the child [140]. The author thereby insinuates that prospective parents are given undue influence over the traits of the offspring they are bringing into the world, a notion which is fundamentally misleading and driven by an obsession with genetic manipulation. Nawrot further addresses the purported conflict between the dignity of the human being—arbitrarily equated with the embryo—and the reproductive freedom of those seeking to have a child. He cites Malgorzata Gałązka [150] as a key advocate of this view, particularly highlighting her emphasis on the notion of a child being especially wanted [151]. On this basis, Nawrot draws the flawed conclusion—a clear *non sequitur*[60]—that “the product of procreation begins to bear the mark of an object or, even more significantly, a commodity” [140].

This perspective, through a series of distortions and gradual shifts in meaning, portrays individuals undergoing infertility treatment as figures of selfish consumerists who are allegedly compromising the dignity of their future children. In contrast, Leszek Bosek argued at the time that the concept of IVF was in conflict with constitutional values. This sparked a debate over whether the Constitutional Tribunal’s ruling on the unconstitutionality of legal termination of pregnancy for so-called ‘social reasons’ [152] also suggested that any method of fertilisation other than what was defined as ‘natural’ should be deemed inadmissible.[61] Philosopher Kazimierz Szewczyk contested this view, effortlessly demonstrating that nothing in the Constitutional Tribunal’s reasoning supported such a conclusion.[62]

In particular, Bosek misrepresented excerpts from the Constitutional Tribunal’s justification, which stated, “It follows from [the Tribunal’s] statement that a human embryo created outside the woman’s body cannot be considered the subject of the right to parenthood for that woman or her husband—the genetic father. In particular, they are not entitled to determine its existence or termination. This position is deemed the only acceptable one in light of the superior constitutional principles and values that prohibit any differentiation regarding the value of human life and the dignity of the embryo” [155].

The response to this assertion is clear: it represents a *non sequitur*, as the Constitutional Tribunal does not address assisted reproduction at all. Rather, it stated that “any public or private interests that could justify the introduction of this type of regulation [negative legal consequences associated with childbirth] should be contraposed [...] to the right of parents to have children” [156].

Although the Constitutional Tribunal did not contemplate assisted reproduction in its ruling on the termination of pregnancy, it articulated general principles regarding the right to parenthood that can be applied to this method of conception. Thus, it follows that the positive aspect of the right to family planning should not be unduly restricted. The argument presented serves as a vivid illustration of a phenomenon noted at the time: legal moralists, in their efforts to pre-emptively disavow legal solutions favourable to the positive reproductive autonomy of patients, often relied on rhetorical tricks rather than sound arguments. However, the passage of the ITA led to a significant reduction in criticism surrounding this issue.

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[60] It means “it does not follow” and refers to a conclusion that does not logically follow from the premises.

[61] Bosek’s work was quoted as alleged evidence from a fragment of the Constitutional Tribunal reasoning: “the current state of empirical science does not provide sufficient grounds for any other moment of origin of human life [than fertilisation – LB]” [153].

[62] “The trouble is that I could not find such a sentence in the text of the ruling. The ruling states: ‘Since human life is a constitutional value, even in the prenatal phase, any attempt to subjectively limit the legal protection of health during this phase must demonstrate a non-arbitrary criterion justifying such differentiation. The current state of empirical science does not provide a basis for such a distinction” [154].

Nevertheless, Gałązka once again voiced her concerns. On one hand, she sought to influence public opinion with the long-debunked reports suggesting that children born as a result of IVF exhibit a higher incidence of various diseases, including cancer, compared to the general population [150,157].[63] On the other hand, Gałązka also referenced abandoned legislative proposals, implicitly calling for a complete ban on IVF [150]. Shortly after the law was enacted, Haberko also entered the discourse, citing an argument from an opinion of the *Ordo Iuris* Foundation without providing a source. She stated, "the definition contained in the law reducing the embryo to a group of cells and giving it a biological character cannot be defended in the context of human dignity [...]. Such a position ignores its objective, separate identity, not only ethically but also biologically, in relation to its biological parents" [119].

It is paradoxical that a recent advocate for the moral condemnation of the IVF method would write a commentary on a law that, in principle, regulates this issue positively. This circumstance invites a particularly detached approach to the theses articulated in her commentary. There is little surprise in observing priests engaging in ideological black propaganda against IVF. Legitimate objections can and should be raised regarding the linguistic aspects of their messaging, which will be discussed later. However, the ideological fanatism displayed by certain authors, who claim to represent a secular perspective and simultaneously engage in overt misrepresentations, including the deliberate distortion of others' views, constitutes a distinct social phenomenon.

While this issue may not warrant in-depth study, it deserves mention as a peculiar anomaly and serves as a caution against taking such statements at face value. It is essential that views conditioned by religious beliefs are accompanied by appropriate explanations. Yet, as can be observed, there is a common tendency to present these views as supposedly scientifically objective without acknowledging their underlying dependencies. At times, the resulting absurdity borders on the comical, as the arguments appear ludicrous when stripped of their true religious foundation.

Ethical Concerns, NaProTECHNOLOGY, and the Future of Reproductive Health in Poland

In contrast, an example of an honest approach can be found in the April 2008 issue of the Catholic-affiliated monthly magazine *Znak*, which featured a topic titled "*Dzieci Boże z probówki. Chrześcijanie wobec in vitro*" (God's Children from a Test Tube. Christians on *In Vitro*) [158]. This issue published nine texts that examined the subject from different angles while transparently disclosing the affiliations and worldviews of the authors [159,160,161,162,163,164,165,166,167].

In Poland, the media's reception of IVF treatment is quite complex. While public opinion largely favours ART, the voice of the primary stakeholders—those patients who are directly affected—often remain underrepresented. The challenge of infertility weighs heavily upon them, with reproductive inability frequently viewed as a source of shame. Many perceive their struggle to conceive as an embarrassing failure to fulfil a basic life activity that seems effortless for others. Infertility is sometimes wielded as an insult, and those who openly disclose their condition often find themselves the targets of ridicule jokes. Consequently, conversations about infertility are largely confined to medical secrecy.

While physicians may hold varying worldviews, there is a group of specialists who are notably supportive and willing to assist. For both parents and doctors, the birth of every child through IVF is seen as a joyful success. It is rare to encounter doctors who oppose IVF; in-

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[63] The authors point out that scientific reports confirm only a slightly increased risk of birth defects compared to the general population. However, studies examining the health of children born to parents who experienced long-term unintentional childlessness show that this group has an even higher risk of birth defects than children born through IVF. This suggests that the causes of birth defects in offspring are more closely related to the parents' infertility rather than the treatment itself. The most significant health issues for children born through medical assistance in fertilisation are prematurity and low birth weight (less than 2,500 g). The primary causes of these complications include multifetal pregnancies, advanced maternal age, and health conditions associated with infertility. Notably, multifetal pregnancies often result from uncontrolled ovulation induction and stimulation that leads to natural reproduction, as well as the transfer of multiple embryos during the IVF process.

deed, there are no known cases of practitioners in this field refusing to perform the procedure on the basis of the conscience clause. This suggests that those who choose to specialise in IVF are likely motivated by a genuine desire to help, as acquiring the necessary knowledge and skills requires a strong commitment. IVF methods in Poland are notably effective—with success rates between 30 and 40%—and the clinics offering these services are generally thriving and do not suffer from a shortage of patients.

In contrast, the Catholic Church firmly opposes IVF, using the strong term 'wickedness' to describe the practice. This rhetoric is often echoed by lawyers who claim to offer "scientifically objective judgments" on the matter. While discussions around IVF include voices from various professional backgrounds, the perspectives of patients affected by infertility are conspicuously missing. Instead, the media often portrays them as passive victims of unfortunate circumstances, rather than as active participants in the conversation surrounding their reproductive choice.

In discussions surrounding infertility treatment, it is crucial to distinguish whether the perceived stripping of dignity and intimacy experienced by patients is due solely to the surgical procedures themselves or perhaps the manner in which they are treated by certain members of the medical staff. The medicalisation and dehumanisation of specific forms of treatment and care, particularly in perinatal care, are frequently reported by patients as sources of psychological distress, regardless of their acceptance of necessary medical interventions. This emotional discomfort creates a fertile environment for unscrupulous individuals—quacks, charlatans, and impostors—who, fully aware of these psychological dynamics, exploit them ruthlessly to attract and financially prey on patients dissatisfied with standard medical care.

In this context, the morally questionable ideological promotion of NaProTECHNOLOGY as a modern treatment method and an alternative to IVF warrants particular scrutiny. The propaganda elements associated with NaProTECHNOLOGY, along with its dubious medical credibility, deserve thorough examination—a task that Krawczak has partly undertaken in her book. It is essential to clearly demonstrate the harm inflicted on patients' rights and welfare by aggressively discouraging them from pursuing reliable treatment method. This leads to the omission of proper diagnoses—commonly referred to as the 'theft of reproductive time'—resulting in lost opportunities for effective treatment. The damage is further worsened by redirecting patients towards excessively prolonged observational practices and ineffective fertility treatments, which are often focused solely on women while neglecting to provide adequate care for men.

A comparison between NaProTECHNOLOGY and the statutory and ethical obligations of medical professionals is crucial, particularly concerning the treatment methods they employ, which should comply with the principles of evidence-based medicine. Furthermore, it is enlightening to examine NaProTECHNOLOGY alongside the legal precedents established by medical courts in instances of malpractice, including the crime of offering paid treatment without the required authorisation. In this context, summarising the moral, intellectual, and legal abuses already identified in this area becomes essential, as it provides a comprehensive understanding of the implications and responsibilities involved in such practices.

The official position paper from 2016 by PTMRiE, in collaboration with the Fertility and Infertility Section of PTG, offers valuable insights regarding the application of NaProTECHNOLOGY in infertility treatment [168]. The authors of this document emphasise that prolonged diagnosis and the use of unjustified and ineffective treatment for patients suffering from conditions such as inoperable obstruction or absence of fallopian tubes, sever pelvic adhesions, advanced endometriosis—especially in women over 35—or any form of male infertility are inconsistent with the principles of medical practice. Good medical practice requires the application of knowledge based on medical facts in clinical setting, which is not the case with NaProTECHNOLOGY. A few isolated papers published in journals unrelated to reproductive medicine do not provide sufficient evidence to consider NaProTECHNOLOGY as a course of action aligned with current, evidence-based medical knowledge.

Infertility treatment should employ methods with documented effectiveness, and the treatment approach should be tailored to the specific clinical situation of each couple. Unjustified prolongation of diagnostics and extended observation of reproductive cycles can limit or even deprive the chance of pregnancy, thereby disadvantaging the infertile couple and violating the fundamental medical principle of *primum non nocere*.[64] This issue has become particularly relevant since the closure of the government's *in vitro* infertility treatment programme in 2016, after which public funds were redirected to the NaProTECHNOLOGY infertility treatment programme.

Commenting on this shift in the promoted treatment method, Professor Marian Szamatowicz remarked: "To support NaProTECHNOLOGY is to endorse an ideology, not real science. It is quite perplexing that a procreation programme has been introduced in Poland that allows for diagnosis, but does not permit the use of modern treatment options once a diagnosis is made. To me, this is mockery and hypocrisy" [169].

This report addresses the fundamental area of human reproduction, highlighting its unique characteristics. Notably, potential sources of anthropological knowledge are frequently encountered throughout this subject. While it is important to acknowledge the achievements of others in this field, the author of this report cannot overlook the observations that emerge in plain sight. Discussions and the sharing of insights regarding reproduction arise nearly every day, creating opportunities for reflection and dialogue.

The primary focus for both anthropological researchers and medical professionals is on parents and their children who were conceived through successful IVF treatment. Within this group, it is feasible —though challenging—to find individuals willing to share their experiences. In contrast, online discussion forums are abundant with narratives of uncertainty, prolonged waiting, and the exhausting pursuit of pregnancy [113]. However, those who have faced unsuccessful attempts remain largely voiceless. They are often the least discussed and frequently silent, yet their perspective could provide valuable insights into the negative social repercussions resulting from the prolonged absence of legal regulation in Poland. This also relates to the uncontrolled nature of assisted reproduction practices offered by unqualified or inadequately prepared medical practitioners.

The initial consultations in Parliament regarding the draft law on infertility treatment in 2008 featured numerous accounts from patients who expressed dissatisfaction with costly and ineffective pharmacotherapy, as well as the substandard quality of medical services available in this field.[65] The law's enactment appears to have been expedited by a medical scandal at a clinic in Police, where inadequate quality control and organisational standards resulted in the mismanagement of gametes. Consequently, a girl was born with severe congenital disorders and was genetically unrelated to the woman who gave birth to her but related to the man [170].

Since 2016, when the government's reimbursement programme for IVF treatments was terminated, the Minister of Health Radziwiłł chose instead to allocate public funds to NaProTECHNOLOGY.[66] This shift necessitates an examination of the experiences and outcomes of those who have invested their reproductive time in this particular method. The author knows one couple, both over 37 years old, who ultimately opted to adopt a child after spending six years on NaProTECHNOLOGY, during which they felt they were chasing unrealistic expectations. This raises the question of the broader social implications of this phenomenon.

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[64] It means "first, do no harm" and refers to a principle in medicine that emphasises the importance of avoiding harm to patients.

[65] Oral statements from discussants recorded during a conference in the *Sejm* on January 23, 2008, focused on the medical, ethical, and legal aspects of infertility treatment using the IVF method.

[66] The Programme for Comprehensive Protection of Procreative Health in Poland (2016–2020) replaced the government's *in vitro* reimbursement programme. According to statements from the Minister, the decision was driven by both financial and ethical considerations. The programme was launched in 2016, and over the next two years, the Ministry invested less than PLN 30 million in equipment and facility adaptations. The first couples began diagnostic testing in 2017, costing the state budget PLN 46,650. In 2018, an additional PLN 809,000 was allocated for this purpose. During the first year of the programme, 1,289 couples underwent testing. By 2018, the programme, which replaced IVF subsidies, had resulted in 70 pregnancies, yielding an effectiveness rate of 5%. This means that the cost of delivering a single child through this programme exceeded PLN 440,000, with diagnostic costs alone amounting to PLN 12,000. In contrast, the government's IVF support programme resulted in the birth of 22,000 children, with each birth costing the state only PLN 11,000 [128,172].

Chapter II: Public Perception and Social Stigmatisation

Public Acceptance, Social Stigma, and the Influence of the Church: Manipulation and Misrepresentation in the IVF Debate

Social studies show that in Poland, the method of IVF is accepted by 80% of respondents. Even in research conducted outside churches after Sunday Masses, the percentage of respondents accepting IVF does not fall below 60% [171]. Despite the widespread acceptance of this method, many individuals feel compelled to conceal their use of it. This is largely because public debate on the topic is dominated by individuals who know little about IVF or infertility and do not understand the issues [171]. Yet, this does not stop them from spewing invective. This lack of empathy for the suffering of others is particularly evident in the statements of some priests and in the moral lessons delivered in the confessional, often supported by certain lawyers. Meanwhile, as one physician pointed out, after 2–3 years of unsuccessful infertility treatment, one in three couples will experience depression and anxiety, requiring psychiatric support.[67]

Social ostracism, which did not exist two decades ago, now compels patients to hide their efforts from family members, neighbours, and eventually even from their own children, in order to protect them from stigmatisation and verbal abuse. The manipulation of public opinion is driven by false statements, such as absurd comparison between pregnancy termination and murder. Krawczak repeatedly highlights some of the most shocking examples: accusations of "embryo selection", "selective abortions after IVF",[68] "embryo murder", or claims that "IVF is against nature". The zealous protection of embryos influenced the final provisions of the ITA, which became highly restrictive in this regard [2]. This is evident, for example, in the statutory regulation limiting the number of embryos created—ordinarily, a maximum of six. The issue of storing unused embryos has long been used as a major argument against IVF. Cryopreservation has been portrayed as a form of killing, as has the pre-implantation selection of only healthy embryos capable of normal development.

Refuting these claims requires reference to sound medical knowledge, which an ordinary citizen may not possess, as well as to the intricacies of the procedures and their effects on pregnancy outcomes. It is a demanding task, as is often the case when falsehoods are allowed to spread unchecked. The responsibility for correcting these misconceptions falls to medical associations such as PTMRiE, which diligently publishes informed and accurate positions.[69] However, this does not prevent fanatics from continuing to spread misinformation. Combating such abuses requires substantial expertise to identify credible sources, consult them, and consistently compare legal and ethical concepts with the latest medical knowledge. Sifting truth from falsehood demands effort and resources, a process that may seem tedious but is necessary.

Professor Zbigniew Szawarski, a bioethicist, has highlighted the consequences of the ideological blockade on bioethical debate. In Poland, it is difficult to engage in such discussions because the Catholic Church claims a monopoly on moral authority. As a result, it becomes increasingly challenging to turn to secular ethics and explore how it addresses human tragedy and the existence of evil in the world [171]. The belief of having a monopoly on morality is evident in statements such as the following: "I am a Christian, and the Church rejects such methods. So far, no Catholic perspective has been represented in the *Sejm*, and it is time for that to change. We want to

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[67] Dr Piotr Lewandowski, from the Department of Infertility Treatment 'Novum' in Warsaw, remarked [171].

[68] According to European IVF monitoring reports, no reductions in multiple pregnancies following extracorporeal fertilisation were observed in Poland between 2007 and 2010, with no data collected prior to that period [172]. Krawczak reports a similar case, though it involved irresponsible hormonal stimulation before insemination, which resulted in a quintuple pregnancy, posing a serious risk to the life of a woman expecting her first child [126].

[69] These positions address critical issues, including medical indications that justify the fertilisation of more than six ova in women under the age of 35, the health outcomes of children conceived through assisted reproductive techniques, such as extracorporeal fertilisation, and the proposed restrictions on *in vitro* treatment. It also examines the use of NaProTECHNOLOGY in infertility treatment, significant adverse events and reactions related to ART, and the professional standards for clinical embryologists working in MAP centres and reproductive cells and embryo banks in Poland [173].

raise awareness because no one truly understands what IVF is", says Jacek Kotula, the head of the Rzeszów association *Contra In Vitro* (Against *In Vitro*), which is supported by the Church [174] and advocates for a complete ban on IVF, calling for doctors who "commit such crimes" to face three-year prison sentences.

However, it is not true that "no one truly understands what IVF is". Any patient considering medical treatment is entitled to complete and comprehensive medical information. This is a legal obligation under the PDDA (1997) and is further guaranteed by the Patients' Rights and Patient Ombudsman Act (2009) [175]. The knowledge about infertility and its treatments is readily available in medical textbooks and should be sought there. Moreover, popular press coverage from 2007 and 2008 also helped to disseminate this information [176,177,178,179,180,181,182,183], reinforcing the fact that ignorance is not a valid argument in any debate.

Kotula continues, "I read the Holy Scriptures, and it is clearly stated there that IVF is morally wicked. This is simply murder, and since murder is addressed in the Penal Code [17] with severe penalties for it, IVF should also be punished" [174]. In response, Krawczak counters, "Well, I have also read the Scriptures, and it is unbelievable, but neither Jesus nor any of the Evangelists issued their descendants a sentence regarding extracorporeal fertilisation" [126]. She goes on to express her discontent, stating, "I had the dubious pleasure of attending the presentation of the document [184] at the headquarters of the Polish Bishops' Conference. Listening to its reported assumptions, I felt humiliated both as a mother and as a citizen. It is hard for me to imagine what someone referred to as a 'product' in this document might feel".

This document, adopted by the Polish Bishops' Conference, asserts: "For couples without children, as an alternative to further efforts to conceive, the procedure of conception outside the mother's body—commonly known as IVF—is permitted. Its goal is to produce a human in a laboratory and then transfer the embryo mechanically into the mother's body. Thus, the *in vitro* method is another form of human experiment. It involves the production of a human being, which essentially constitutes an appropriation of human life. And yet, the embryo is a human being. Every embryo is a vulnerable member of the human family whose dignity and rights have been ruthlessly trampled upon. [...] [*In vitro*] unity and fusion between spouses should be separated from the act of conception. In fact, sperm is obtained from the father through self-rape, the mother's body is repeatedly manipulated, and the child ultimately becomes a product" [184].

In response, Krawczak remarked, "It is a great mystery why embryos receive more compassion from the Polish episcopate than children born through IVF, who have been labelled as the products of human experimentation. Their human dignity has been completely disregarded, and this is the point where I agree with the episcopate. However, I find the sources of dignity not in a Petri dish but in the language in which the document was composed" [126]. Dependence on a single worldview is also reflected at the linguistic level. Even a cursory lexical analysis of scientific studies and ordinary reports from debates and conferences reveals that the term 'procreation' is more frequently used to describe human reproduction—which carries a pronounced theological inclination—rather than the more neutral term 'reproduction'.

In addition, when referring to the beginning of human life, even legal texts use the term 'conception', which lacks a biological equivalent and shares a similar conceptual origin. This terminology has firmly penetrated general language, including worldview-neutral studies, leading to further distortion.

While referring to human reproduction as 'procreation' is primarily seen as hyperbolic without seriously distorting connotations,[70] the use of the seemingly innocuous natural term 'conception'—especially in the phrase "the conceived child"—can lead to biased interpretations marked by religious connotations that aim to equate the embryo, and in extreme cases even gamete, with a fully born human being. For example, one of the most recent commentaries on the Civil Code [185] illustrates this issue, where the term 'beginning' is burdened with an evident lack of biological knowledge. The result is a forceful argument aimed at proving the exi-

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[70] Unless the allegations of unacceptable procreation and the trivialisation of divine intention concerning doctors who perform *in vitro* fertilisation are addressed, this theme will persist in the most extreme discussions.

stence of civil law subjectivity for a person "from the moment of conception".

The commentary asserts: "Accepting that subjectivity is a broader category than legal capacity makes it easier to describe the civil status of *nasciturus*. There is no doubt that, as a living organism with the human genome, the *nasciturus* is human and, therefore, a subject of the law; however, this does not imply that it must possess legal capacity. Thus, a person—and simultaneously a subject—acquires legal capacity only at a certain stage of existence, namely at the moment of birth. Accepting the identity of ability and subjectivity, combined with the recognition of the conditional capacity of the *nasciturus*, would lead to an unacceptable conclusion that a person in the prenatal phase possesses only conditional subjectivity and is therefore only conditionally a human being. Meanwhile, it must be acknowledged that a stillborn child, who has never acquired legal capacity, was nevertheless a subject" [185].

However, to recognise humanity, more differentiating criteria are required than merely possessing a human genome, which includes every cell of the human body. The assertion that "the unacceptable conclusion that a person in the prenatal phase has only conditional subjectivity, and therefore is a human being only conditionally" transcends even the concept of conditional juridical capacity. It is based on a purely arbitrary assumption that life in the prenatal phase undoubtedly qualifies as a human being.

In the following section (11) of the comment, it is stated that "*nasciturus* refers to a child conceived but not yet born. The *nasciturus* is a human being and a subject, not an object of rights, although it does not yet possess legal capacity and is not considered a natural person, i.e., a party to civil law relations". This understanding leads to further issues, as highlighted in the following passage (15), which reveals evident intellectual abuses: "The beginning of the *nasciturus* can be defined as the moment when reproductive cells are released from the body—which occurs before conception—but not earlier than the formation of these cells within the human body. Of course, certain reproductive cells can only be classified as *nasciturus* retrospectively, i.e., when fertilisation has occurred, and fully when the baby is born alive" [186].

This argument aims to promote the view that legal protection afforded to a person—a child—is granted even earlier than during the zygote or embryo phases. However, there is no legal basis in Polish law for this, necessitating its creation through a shortcut method, i.e., by inferring effects without adequate justification. This leads to pure absurdity: a sperm or an oocyte is to be considered a *nasciturus*, but only with retroactive effect—applying solely when fertilisation occurs.

It is unnecessary to elaborate on the fact that this interpretation does not align with either the Constitution [21] or the Civil Code [36]—under which legal capacity is acquired only at birth—nor does it correspond with reproductive laws pertaining to family planning and infertility treatment.

Although commentaries on the Civil Code are primarily read by professionals, if they contain inaccuracies, there is a risk that such falsehoods will be uncritically reproduced in detailed studies, including civil law manuals. When an unprepared reader encounters such reasoning, it is hardly surprising that they may indiscriminately accept not only the propagated falsehoods regarding the "murdering of embryos" but also the notion of "murdered eggs and sperm". This illustrates the connection between one falsehood and another.

Addressing Public Stigmatisation and Misinformation: Defending the Dignity of IVF Children and Families in Poland

On 9 October 2010, Andrzej Saramonowicz, a director and father of two daughters—one of whom was conceived through IVF—prepared and published online a a "*Apel do mediów, Rzecznika Praw Obywatelskich i Rzecznika Praw Dziecka o obronę praw człowieka*" (Statement to the Media, the Ombudsman, and the Ombudsman for Children regarding the Defence of Human Rights). He stated, "This is not a petition supporting the IVF method; rather, it is an appeal to protect the rights of children conceived through

IVF and to address the language used by public figures, such as 'children from the tube', 'murderers', 'veterinary methods', and 'the form of abortion'. Such language reflects the psychological distress of many citizens in this country" [126].

Examples of false and offensive statements can be multiplied. This empirical material serves as a research field for legal and sociological analysis concerning the mechanisms that violate the dignity of individuals belonging to a clearly defined social group and for proposing measures for adequate protection, including criminal and civil liability for such publications. Here, I will mention only a few prominent examples.

"In *vitro* reimbursement is the payment for murder. At the price of one life, to give pleasure to parents and provide them with a child, another is killed", stated Archbishop Józef Michalik [126]. "The Clinic also deals with the freezing of human beings. The killing of those who do not conform to certain norms is eugenics comparable to the killing of the disabled by the Nazis. A woman's body is the place where life is born. But a woman's body in which 'supernumerous' embryos are killed or frozen becomes a coffin", wrote Marcin Konik Korn, columnist for Catholic weekly magazine *Niedziela* [126].

"There are doctors who claim they can identify if a child was conceived through IVF just by looking at their face, as it may display a tactile furrow characteristic of certain genetic defect syndromes", remarked Fr Franciszek Longchamps de Bérier, professor at the Department of Roman Law at the Faculty of Law and Administration of the Jagiellonian University, in *Uważam Rze*. "The professor's comments have crossed all boundaries of media hooliganism and barbarism", replied the father of a child born through IVF, accusing the priest of unprecedented stigmatisation of children conceived via IVF [187].

In response, the priest's tone remained unchanged, "Your objection was prompted by the following excerpt from my statement to the weekly *Uważam Rze*: 'There are doctors who claim they can identify if a child was conceived through IVF just by looking at their face, as it may display a tactile furrow characteristic of certain genetic defect syndromes'. This occurred not so much because two sentences were taken out of context, but because they were part of a broader discussion on genetic defect syndromes, and also contained a typo. You claim that my opinion is unsupported by any specific scientific research in the interview. However, an interview is a record of a conversation, not a scientific publication, and typically does not include footnotes. My view is informed by published research, the most recent of which, accessible in Polish, is a study by A. Midro titled "*Wybrane zaburzenia genetyczne u dzieci wynikające z zastosowania procedur zapłodnienia pozaustrojowego in vitro*" (Selected Genetic Disorders in Children Resulting from the Use of Procedures of Extracorporeal Fertilisation *in Vitro*), presented at the International Scientific Conference in Białystok [188]. Another source is "*Człowiek przejrzysty czyli Jego problemy z własną genetyką*" (Transparent Man: Problems with His Own Genetics) by S. Cebrat and M. Cebrat [189]. I also know doctors who share this opinion. Often, parents are unaware of the risks and believe their child is healthy, which leads them to defend their children's image, something I fully understand. Limited knowledge of genetic disorders and their long-term effects on children and adults can contribute to aggressive attitudes. This is a discussion worth having, particularly for those considering undergoing *in vitro* procedures" [190].

As you can see, the clergyman could not be dissuaded from his assertions, and with misguided concern and misplaced arrogance, he continued his insinuations. It is also worth noting that the organisers of the conference in Bialystok included the following entities: the Catholic Association of Polish Physicians in Białystok, the Interdepartmental Chair of Catholic Theology at the University of Bialystok, the Department of Marriage Infertility Treatment at NaProMedica, the Club of Catholic Intelligence in Bialystok, the Catholic Association "*Civitas Christiana*" (Christian State), Family Pastorship and the Catholic Association of Youth of the Bialystok

Archdiocese.[71] The post-conference publication has been classified as 'theological'.

"Priest Franciszek Longchamps de Bérier shared his reflections on IVF in an interview with Tomasz Krzyżak. It was in this conversation that he made the infamous remark about a 'tactile furrow', which, according to him, characterises the faces of children born through IVF. The priest asserts that one can read children's identities from their faces, as if it were an open book: the child conceived through natural means versus the child from the tube. According to Fr Longchamps de Bérier, common traits such as 'sleeping, tongue protrusion, or overgrowth' can easily lead doctors to recognise a child conceived through IVF", Krawczak sarcastically noted [126].

According to the *Nasz Bocian* Association for the Treatment of Infertility and Adoption Support, the clergyman has engaged in the unacceptable practice of assessing the phenotypes of children born through the IVF method. The outrageous suggestion that there are visual phenotypic differences between children conceived *in vivo* and those conceived *in vitro*—differences that supposedly indicate genetic defects unique to children conceived through IVF—exceeds all ethical boundaries in this discussion. This assertion implies that a specific group of children conceived *in vitro* visually and genetically distinguishes itself from the wider population, a claim that not only lacks scientific support but also fosters discrimination against these children. This message was conveyed by the members of the association in a letter addressed to the Ombudsman for Children, the Helsinki Foundation for Human Rights, the Polish Bishops' Conference, the editorial office of the weekly *Uważam Rze*, and to the priest himself.

To scientifically validate the disputed assertions, the association sent an open letter to the Polish Society of Human Genetics. In their response, the Society stated that the scientific data unequivocally indicate the absence of differences in body structure between children based on their method of conception. "It should also be emphasised that no eminent dysmorphologist, following a clinical examination, can conclude that a child was conceived using ART. We are concerned that recognised representatives of science, lacking substantive expertise in relevant fields, mislead the public and, as in the case of Fr Longchamps de Bérier, cause unnecessary stress among families with children conceived through ART technology—of which there are thousands in Poland and millions worldwide" [192].

Krawczak commented, "What surprised me throughout this situation is that the measured responses of the *Nasz Bocian* Association, along with feedback from various institutions—all consistently criticising both the content and form of Fr Longchamps de Bérier's statements—did not have the same level of social impact as this letter [from the father of a child conceived through IVF]. This was evident in the number of comments on Polish internet forums, articles referencing my husband's letter, and the broader phenomenon of awakening social reflection surrounding the issue. The focal point was a publicly expressed sense of impunity regarding the violation of children's dignity".

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[71] "We believe that our actions will amplify the voice of Catholic doctors and other medical professionals, making it strong enough and comprehensible in the ethical debate on the moral aspects of artificial fertilisation and the promotion of NaProTECHNOLOGY", stated Professor Midro. "The second day of the meeting will commence with a Mass at 9:00 a.m. in the old church of the Pharisees, led by Archbishop Stanisław Szymecki. Following this, Dr Henryk Midro will summarise and evaluate 15 years of activity of the Catholic Association of Polish Physicians in Bialystok. This will be followed by a screening of the film by the Polish Association of Defenders of Human Life, entitled "*Od poczęcia człowiek*" (A human being from conception). After the film, Fr Professor Stanisław Warless, the national health care minister, will deliver a lecture titled "*Prawo naturalne jako podstawa etyki ludzkiej prokreacji*" (Natural Law as the Foundation of the Ethics of Human Procreation), and Professor Urszula Dudziak will discuss the responsibility for love and life, which is both a condition and a manifestation of human health. Subsequently, Dr Wanda Półtawska will present a paper entitled "*Niespełnione pragnienie Jana Pawła II*" (The Unfulfilled Desire of John Paul II). The afternoon session of the conference will focus on NaProTECHNOLOGY as a natural method for treating infertility. Dr Tadeusz Wasilewski (MD) will present a lecture entitled "*Życie i godność każdej istoty ludzkiej a leczenie niepłodności małżeńskiej. In vitro czy naprotechnologia?*" (The Life and Dignity of Every Human Being, and the Treatment of Marital Infertility. In Vitro or NaProTECHNOLOGY?). Following this, Dr Phil Boyle from Ireland, who first introduced NaProTECHNOLOGY as a natural treatment for infertility in Europe, will present this multifactorial approach. Professor Alina Midro will then address selected genetic disorders in children resulting from the use of extracorporeal fertilisation procedures, while Dr Andrzej Kochański will deliver a lecture on "*Zaburzenia metylacji DNA w technologii wspomaganego rozrodu – skala i biologiczne znaczenie zjawiska*" (DNA Methylation Disorders in Assisted Reproductive Technology: The Scale and Biological Significance of the Phenomenon). Finally, Dariusz Wasilewski (MSc) will discuss the effectiveness of in vitro fertilisation within the context of health services financing in Poland, followed by Agnieszka Pietraszko (MSc), who will outline the legal situation of a child conceived through artificial insemination" [191].

The justified anger of a parent standing defending their child was likely something the representatives of the Polish Church and those formulating their subsequent harmful statements never anticipated [126].

The summary provided, albeit necessarily concise, could serve as a material for analysing the detrimental effects of spreading false statements and the breach of journalistic integrity that occurs when such statements are published *in statu nascendi*[72] without commentary. It is crucial to recognise that freedom of speech does not equate to the freedom to insult. Evaluating this issue from the perspective of the guarantees of reliability and objectivity established in the Press Law Act would be beneficial.

Since 2008, the *Nasz Bocian* Association has been running a project known as "*Ściana wstydu*" (Wall of Shame). The aim of this initiative is explained on the main page: "Many statements in the media regarding infertility and assisted reproduction methods are defamatory. Most of these remarks serve solely to offend and humiliate those affected by infertility. We will document these statements in the 'Wall of Shame'. The statements featured here are lies, slander or, at best, reflect a lack of understanding regarding assisted reproduction methods. All such statements are characterised by a lack of goodwill and a desire to demean infertile people who choose to seek assisted reproduction techniques" [193].

The content of the "*Ściana wstydu*" (Wall of Shame) may constitute separate research material for legal analysis. One notable statement from Bishop Tadeusz Pieronek asserts: "Life conceived through artificial means is the product of manipulation, not of the action of nature. Love cannot be expressed like a transaction at a store. Once the gate is opened, it will serve its purpose. And very quickly. The development of extracorporeal fertilisation methods may lead to a future where parents will order children with certain characteristics. They will choose gender, eye colour, hair, height, and even genes for genius or criminal tendencies. They will be similar to creators like Frankenstein. What better literary representation exists of a being brought to life against the natural order than the monster created by Frankenstein, which resonates with the concept of an *in vitro* original? It's a horrifying prospect, yet it is a reality we face. Furthermore, couples who choose IVF prefer to buy a child rather than consider adoption, as they are primarily focused on having their own biological child. This mindset reflects a consumerist approach rather than one oriented toward giving".

When asked, "As a confessor, what would you say to couples who confess that they have undergone *in vitro* procedures?", Bishop Pieronek replied, "I would respond as to someone who has committed abortion or murder" [126,194].

"Bishop Pieronek shared his original views about Frankenstein in January 2009. At that time, it seemed to me that the boundary of decency had been crossed in public debate. I expected the collective outrage from the Commissioner for Children's Rights and, naturally, a humble apology from Bishop Pieronek himself. Neither of these responses happened—although in later years the Ombudsman occasionally expressed a subdued disapproval", commented Krawczak [127].

"For several years me, my family and tens of thousands of others have faced systematic insults during sermons, lectures on marriage, and articles published in Catholic journals and on Catholic portals. Enlightened and educated people like Hołownia[73] continue to assert that these are mere individual, unofficial, trivial behaviours, when in truth, the reality is much more serious", she further explained, providing more examples [126].

Dr Urszula Dudziak, an instructor of natural family planning and lecturer at the Catholic University of Lublin, poses rhetorical questions, imagining the feelings of a pregnant woman who conceived via IVF: "Can a woman truly feel happiness when she is treated like a breeding mare, when her husband is relegated to the role of a sperm donor, and when the children are given breeding fluid, glass tubes, and cold freezers instead of a mother's warmth?" [195].

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[72] It means "in the state of being born" and refers to a situation that is still developing or in the process of becoming.

[73] Szymon Hołownia is a prominent Polish journalist, politician, writer, television presenter, and social activist. He was a candidate for the office of President of the Republic of Poland in both the first and second rounds of the 2020 elections. He is the president of the association "*Polska 2050*", established in 2020, and the founder and chairman of the party of the same name since 2022.

Krawczak responds, “I should feel insulted by her ignorance. What makes me different from Dr Dudziak is that I do not need to rely on the constructs of a sick fantasy. I have experienced this firsthand. I witnessed two of my children being placed in my womb on a screen. From that moment, I was pregnant, although I had no control over whether that pregnancy would endure. I appreciate Dr Dudziak’s zoological sensitivity, so I do not intend to persuade her to change her attitude or to undergo IVF. In return, I expect ordinary human decency and silence regarding experiences she does not understand” [126].[74]

Dr Dudziak makes two significant errors: she arbitrarily considers a few-celled embryo in a glass container as a child—which, at this stage, does not perceive sensations like cold or warmth, suggesting the author may be misinformed about biology. Moreover, she inaccurately describes its development, implying it occurs in a cylinder, similar to Huxley’s dystopia [196], when in reality, it develops in the uterus. The portrayal of a cold embryo suffering in a freezer echoes the hallucinations of Minister Gowin, who allegedly not only heard the “crying of frozen embryos” but also claimed to have seen embryos being travelling to Germany.[75] Such statements, viewed as rhetorical figures, might interest to a literary theorist. However, it is important to remember that *licentia poetica* applies only to artists, not to substantive debaters. Indeed, such narratives can be regarded as unhealthy fantasies that insinuate a notion of degenerate motherhood.

Another example of such misinformation comes from Fr Leszek Wilk, who runs a blog opposing IVF. He dramatically raises the question of whether a child conceived through IVF would hear from their parents: “We paid a lot of money for you, so don’t misbehave; you must achieve A+ grades in school, learn to play an instrument, and five foreign languages because we are investing in your education” [198]. This reflects a troubling consumerist mentality. How can a child achieve A+ grades if their physical condition is weaker than that of a child conceived naturally?

“I could present to him the findings of Wrocław anthropologists who are the only researchers in Poland to have conducted comparative studies of children conceived *in vitro* and those conceived naturally. However, I think he would not be interested in the fact that there are no developmental differences between these groups. Populism has always sold better than the truth”, Krawczak responds [199,200,201,202]. She continues, “Mirosław Rucki, a journalist for the Catholic magazine *Miłujcie się*, publicly asserts that a woman who has undergone IVF cannot be referred to as a mother, but rather as a ‘cell donor’. Similarly, my husband is not considered the father of our child, but he is merely a sperm donor. Sometimes, I can hardly believe my eyes when I read the comments on articles about IVF. I am frightened by the thoughtlessness, the ease with which harmful opinions are formed without knowledge of the subject, the cruelty, and the use of popular slogans that are also misleading” [126].

In this context, Archbishop Andrzej Dzięga, in July 2015, made the following troubling remarks to those born as a result of IVF: “You are a gift of God’s love to the world. Although this gift has been forced through some violence against nature in the laboratory, you do not cease to be a gift of God’s love. [...] It is not your fault that, for one of you to be born, dozens of other children had to be frozen or killed. It is not your fault. This will be the responsibility of the adults before God, those who commanded it and proposed it” [126,203].

No quoted preacher or publicist has ever retracted their statements or apologised for them. On the contrary, a notable escalation can be observed. During a sermon on *Corpus Christi* on 3 June 2021, Archbishop Marek Jędraszewski declared, “Remember, the new Poland cannot be Poland without God’s children! Poland’s infertile or murdering new mothers! Polish drinkers! Poland’s unbelief, without God’s love!”.

The *Nasz Bocian* Association issued an open letter to the Polish Bishops’ Conference, which was also sent to the Vatican. Excerpts from the letter read: “We, the infertile, along with our

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[74] The passage comes from the text of the civic hearing in the *Sejm*.

[75] Jarosław Gowin, referred to as ‘maniac’, is a Polish politician, philosopher, Catholic journalist, and doctor of humanities. As a member of the *Sejm* in 2008, he signed a draft bioethical law, which stipulated that IVF should be available only to married couples, and the embryo would receive absolute protection and be treated in the same manner as human beings. Therefore, cryoconservation of embryos was to be prohibited [197].

children and families listen almost weekly to the terrible acts we commit by seeking treatment. During sermons, pastoral letters or the installations of the Lord's Sepulchre, we are equated with thieves and even murderers. Even worse, we hear that our children have no souls, are marked with furrows, or are products of Frankenstein. Such words emanate from both ordinary vicar priests and high-ranking officials of the Polish Church. The Church has never apologised to us, our children, or our families. It has never corrected the falsehoods that fall from the lips of the highest hierarchs of the Polish Catholic Church. […] The Polish Catholic Church is complicit in the plight of every unborn child in a family affected by infertility. It shares responsibility for any divorce of a couple who did not endure together on the challenging journey of infertility. The Catholic Church in Poland is guilty of every tear shed by the infertile, their children, and their families after hearing further false and stigmatising words from a priest, bishop, or archbishop. On behalf of our community, we demand an apology to us and our families for the words spoken by Archbishop Marek Jędraszewski on 3 June 2021. At the same time, on behalf of the infertile within the Catholic Church, we request a clear declaration as to regarding their unconditional acceptance within the Polish Church" [204].

Stigmatisation, Confidentiality, and Legal Protection: Addressing Discrimination in IVF Medical Practice and Society

The conviction regarding the supposed health status of children conceived through ART has, as it turns out, infiltrated the medical community, leading to practices that clearly violate patients' rights. This was evident in a specific case that occurred in early January 2017 at a maternity hospital in Lower Silesia. A girl born through IVF was recorded in her health booklet with the annotation "state after IVF". When this information spread across news and social media, it incited outrage among parents of other IVF children, doctors, and ordinary citizens, who viewed such labelling as anti-IVF policy and a stigmatisation of both parents and children. The hospital director, who intervened with the girl's father, explained that such information was necessary to aid future medical care for the child. He likened it to recording information for a newborn with HIV. "We had several such cases reported to the *Nasz Bocian* Association, where similar entries were made. Each intervention resulted not in the removal of the entry but simply in the issuance of a new document", Krawczak stated in an interview with TVN24.

According to the then-Acting Patient Ombudsman, Krystyna Kozłowska, under the guidelines of the PTG, while information about a child's conception method can influence medical decisions during pregnancy consultations—such as choosing nature birth or a caesarean section—it is unnecessary for a doctor caring for the child, and no medical justification exists for its inclusion in the child's health record. The health booklet serves as an individual medical record for 18 years and may contain information about the prenatal period, delivery, and post-birth health conditions; however, it should not include details about conception methods, as they are irrelevant to medical care.

The Polish Medical Council opined that including such entries without medical justification demonstrates a lack of empathy and could lead to the stigmatisation of the patient until they reach the age of majority, which is completely unacceptable. It is understandable that the repercussions of such an entry could affect the entire family. Kozłowska asserted that in these situations, the right to respect for intimacy and dignity, as well as the right to medical records, are violated [205].

It is reasonable to conclude that only the information required by law and relevant to the patient's health should be recorded in medical documentation. Particularly given that a child's health booklet is a document with long-term circulation that will be seen by various individuals, the comparison made by some Internet users between the entry "state after IVF" and a scarlet letter is fitting. Furthermore, such a notation in a medical record that will be seen by various individuals constitutes a breach of medical confidentiality: as it involves the unwarranted disclosure of sensitive information without a legal basis, even in the numerous but strictly regulated exceptions.

It has become evident that parents of children born through IVF are often reluctant to disclose this information, even to paediatricians, due to fears of receiving biased or discriminatory treatment. This reluctance is particularly significant when the child was conceived using non-partner gamete donation. However, in specific medical cases, such information may be crucial, and it is beneficial if it is provided promptly and without resistance. Omitting this information can render the collection of family medical history pointless. Its absence might unnecessarily delay diagnosis or even lead it in the wrong direction. Conversely, hereditary diseases present in the parents who did not contribute genetically do not pose a direct risk to the child's health.

From the perspective of a violation of personal rights, it is irrelevant whether the alleged furrows are described as additional or tactile—such a misrepresentation is inherently stigmatising. The issue lies in the fact that, until recently, Polish courts denied civil protection of personal rights to individuals where the violation was not directly aimed at them but rather at a group—unless the group was small and its members could all be identified by name. Nevertheless, publicly voiced false statements about members of a group sharing a common characteristic—such as LGBTQ+ people, refugees, children conceived through IVF, or their parents—can lead to social stigmatisation, as has been particularly evident in relation to LGBTQ+ people. This stigmatisation impairs the ability of individuals to function normally in society and qualifies as a violation of individual rights. Persecution, repeated insults, exclusion, and harassment based on group membership can be associated with human rights violations and often lead to actual discrimination.

The violation of an individual's rights arises from their personal experience of hatred, ostracism or exclusion. A public statement contributing to this—e.g., by spreading patently false and defamatory information—should be subject to sanctions, which should include an order to retract the falsehood and to issue an apology for the offence. Similar hate can be observed towards the parents of children born through IVF and, to some extent, towards the children themselves. Fortunately, the intensity of this hate is not as strong as that directed at LGBTQ+ people. However, there is still a tacit societal acceptance of public insults towards these parents, especially by members of the clergy. A court ruling on such matters could serve as an educational tool for society. Yet, a breakthrough in adjudication will not happen without the establishment of civil cases brought by the victims in these courts. It is up to lawyers to pave the way for change by setting clear precedents, yet so far, there have been few individuals willing to take on this role and to become the faces of this change. Many parents prefer to shield their children from potential humiliation and thus choose to remain silent. Silence, however, is not a remedy for violence, including verbal violence, as it only emboldens the perpetrators.

In 2022, there was a shift in this internal resistance, driven by two key events. The first was a favourable ruling in a case against a decision by the District Court in Warsaw concerning the violation of the personal rights of LGBTQ+ people. The media widely covered the rulings from both instances [206,207]], and the case became known as "*Urbanik i inni przeciwko Kai Godek*" (The Urbanik Case and Others against Kaja Godek).[76] In this situation, a group of people who openly identified as homosexual sought the protection of their non-material personal rights, who had been violated by defamatory statements made by activist Kaja Godek against homosexuals. The plaintiffs demanded that the infringements cease, including an injunction preventing further publication of the offensive statements, and that Godek make a public apology.

The first instance court dismissed the case, citing traditional views rooted in Polish legal doctrine that personal rights cannot be protected unless the violation is directed specifically at the person concerned. Moreover, in the case of a group, protection is only granted if the group is small and all its members can be identified by name. However, in a judgment dated 10 February 2022 (case file VI ACa 141/21) [208], the Court of Appeal in Warsaw overturned the Regional Court's decision and referred the case back to it. The key arguments were as follows:

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[76] Press reports and the Internet highlighted these personalities, allowing those interested to act freely, unhindered by their names, and to engage actively on social media.

- The defendant's statements implied that homosexuals are perverted and that homosexuality is often linked with paedophilia. In addition, it was suggested that gay people want to adopt children for the purpose of abusing them. These statements are not only sharp and glaringly offensive but also constitute hate speech, inciting anger and hostility towards others, making them socially unacceptable.
- It is incorrect to claim that the LGBTQ+ community is an undefined and ambiguous collective. On the contrary, the group is clearly defined by specific characteristics shared by its members. If defamatory statements are directed at the entire group, each member of that group can feel personally offended. In this case, the plaintiffs represent individuals who are identifiable members of this clearly defined group. Thus, by insulting the group, the defendant could have offended any individual within it, especially since the statements made were of a general nature, without any exclusions. The general public's response to such statements, beyond journalistic or scientific circles, is not characterised by philosophical or academic debate; rather, it manifests as hate, exclusion, and even aggression towards identifiable individuals whose sexual orientation may be apparent in public. To determine the extent to which each plaintiff, specifically named in this case, was personally offended requires further examination, which the court of first instance failed to conduct.

This justification provides a clear basis for winning cases for other groups affected by hate speech, including patients using IVF and their children. If we substitute terms such as 'perversion', 'paedophilia' and 'child rape' with phrases directed at parents such as "the creators of Frankenstein", 'murder', "the logic of goods", 'embryonic mare', "such a woman cannot be called a mother", while labelling the children with terms like 'product', referencing the marking of the face with the tactile or additional furrow, or suggesting they lack a soul, the implications of the cited fragments of the judgment remain unchanged.

Hate Speech, Educational Bias, and Media Misrepresentation: Challenging Prejudices in the IVF Debate

The second event, which is considerably less edifying, involves the publication of a school textbook titled "*Historia i teraźniejszość*" (History and Present – HIT), promoted and endorsed by the Ministry of Education and Science [209].[77] This textbook has been subjected to significant criticism and ridicule for various reasons over the past few months, particularly for its content regarding IVF, which many perceive as offensive.

The following passage was included in the textbook: "With medical advancements and the rise of gender ideology, the 21st century has witnessed a further decline in traditional family structures. The currently promoted inclusive family model allows for the formation of various groups—sometimes comprising individuals of the same sex—who may bring children into the world outside the conventional relationship between a man and a woman, often in a laboratory setting. The increasingly sophisticated methods that separate sex from love and fertility reduce sexual relations to mere entertainment, while viewing fertility as a form of human production, akin to breeding. This situation raises a critical question: who will truly love the children conceived in this manner? Is Poland a nation that embraces such 'production'? Historically, parental love has been, and will continue to be, the foundation of every human being's identity, and its absence is often at the root cause of many humanity's failings".

Dorota Gawlikowska, an infertility psychologist and certified psychotherapist who conducts consultations, individual therapy, couples therapy, workshops, and support groups for individuals suffering from infertility, commented on the passage as follows: "First, the 'nature of human nature' is a construct rooted in prejudices and colloquial associations devoid of any scientific basis and it is inherently stigmatising. Furthermore, the implication that children conceived through medical assistance are unloved is unfounded in scientific research and reflects only the author's personal opinion. The intro-

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[77] This book was approved for school use in general education in high schools and technical schools as the first textbook for this subject.

duction to the textbook presents this as a fact for young people to consider, suggesting to children born through this method that they are not genuinely loved and cannot be loved because they are the products of a technological process, not the result of love, but rather of a commercial transaction between their parents and the clinic" [210].

The excerpt from the textbook sparked widespread outrage and is set to be removed due to public pressure. Nonetheless, the textbook has sold a significant number of copies, possibly driven by the sensationalism surrounding the issue or a public appetite for controversy. The critical passage addressing medical reproductive support has been quickly circulated and is readily available online. In response, distressed parents of children conceived through IVF decided to file civil lawsuits against the textbook's author, the Minister of Education, and the publishing house. This initiative was led by Kamil Mieszczankowski, a father who articulated his stance by stating, "I will not allow my daughter to be treated as an object of experimentation and portrayed as a child unloved by her parents in public school". He organised an online fundraiser that raised nearly PLN 300,000. The project, titled "*In vitro to HiT*" (*In Vitro*: History and Present), aims to support couples unable to afford *in vitro* treatment and has so far assisted five couples [211]. Additionally, several law firms are representing these parents in their legal cases [212].

A temporary summary of these events can be captured in the words of Bożena, the mother of twins conceived through IVF. "When I heard about this entry in the textbook, it felt as though someone had slapped me in the face. We thought all prejudices against 'artificial' children had been left behind, but they keep resurfacing". Following the struggle to conceive and after the birth of the twins, Bożena lived in a skyscraper in Gdańsk. She decided to relocate when she noticed in the elevator a neighbour covertly checking to see if her daughter had a supposed a genetic furrow on the forehead. "Do you remember that French priest who mentioned the tactile furrow that babies born via IVF might have? That's what she was looking for. We thought nothing could be worse. And yet..." [213].

This situation underscores the social damage inflicted by the spread of controlled lies. The contentious book serves as a secondary effect, and the author simply echoes the sentiments of his predecessors, who should also be held accountable. While pursuing a court case may not be a conventional method of participating in a debate, the persistent neglect of a serious social issue calls for unconventional responses.[78]

When addressing specific didactics, it is essential to recognise prior achievements for educational purposes. One notable book is "*Wobec in vitro. Genetyczne moralne filozoficzne teologiczne i prawne aspekty zapłodnienia pozaustrojowego*" (*In Vitro*. Genetic, Moral, Philosophical, Theological and Legal Aspects of In Vitro Fertilisation) [214], aimed at supporting the teaching of Roman Catholic religion in high school, a practice promoted by the Association of the Roman Catholic Religion in High Schools. The book is edited by two priests, Fr J. Grzybowski and Fr F. of Longchamps de Bérier, the latter being known for his memorable remarks regarding the tactile furrow.

In the Introduction, written by Archbishop Henryk Hoser, a section entitled "*Herezja antropologiczna*" (Anthropological Heresy) isincluded. A particularly striking excerpt, presented in bold, states: "The modern success of fertility support clinics through the *in vitro* procedures results from a civilisation paradigm imposed on entire communities: incentives for early sexual activity—the so-called sexualisation and eroticisation of adolescents—alongside the pervasive promotion of contraception, fostering a contraceptive mentality" [214].

In addition to prepared lesson plans, conferences, and lectures, the book features several essays, including "*Płodność jako dar i odpowiedzialność*" (Fertility as a Gift and Responsibility) by M. Barczentowicz [215], "*Zagrożenia genetycznego dziedzictwa u dzieci poczętych in vitro*" (Risks of Genetic Heritage in Children Conceived in Vitro) by A. Midro [216], and "*Prawne aspekty bioetyki*" (Legal Aspects of Bioethics) by M. Królikowski and F. Longchamps de Bérier [217]. The exact reasons for this publication's presence in the collections of the Faculty of Law and Administration's Library at the

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[78] This is confirmed, among others, by lawsuits for the protection of personal rights violated by environmental pollution.

University of Warsaw, where it was prominently displayed for several weeks, remain unclear.

The need for reliable reproductive education is emphasised in Professor Leszek Pawelczyk's remarks: "The world is astonished. IVF has been a globally recognised treatment method for over 40 years. Yet, in Poland, opposition continues, expressed through street protests and parliamentary debates. Even the European Society for Human Reproduction and Embryology (ESHRE) has raised concerns about the future of IVF in Poland. They question what measures—such as school-level education—are needed to safeguard the continuation of the *in vitro* programme. International scientific societies are baffled by our situation. About five to six years ago, PTMRiE began efforts to bring about change. Representatives from ESHRE and the American Society for Reproductive Medicine visited, offering assistance, presenting their findings, and sharing publications. However, their influence on over Poland's administrative or political decisions regarding *in vitro* practices remains limited" [169].[79]

Following the publication of the controversial textbook—which was harshly criticised, even by right-wing political groups—grassroots educational initiative began to emerge. The well-known daily newspaper *Gazeta Wyborcza*, a long-time advocate for educating the public on IVF methods, published an insert designed in the format a handbook. This insert provided key information about IVF, including details on its development, its creator, and Louise Brown, the first person born through IVF.

The representation of patients dealing with infertility in the media can significantly influence public perception and their place in societal debates. The visual medium, particularly television, plays a major role in shaping these impressions. With television being a widespread medium, as few people do not watch TV, the depiction of infertile patients weeping into tissues tends to dominate, shaping public perceptions through superficial and emotional visuals rather than nuanced understanding. As Krawczak observed, this portrayal is often detrimental to patients. She remarks, "The primary function of an infertile individual in the media is to present their sorrowful story. An expert patient is of no interest; in fact, such a patient does not seem to exist, especially in a society where medicine is perceived as patriarchal, not democratic [...]. Media outlets expect the 'social voices' to be filled with emotions and dramatic tones rather than meaningful content" [126].

This mode of communication *a priori* excludes patients from engaging in substantive discussions, thereby stripping them of their practical influence. Although some discussion programmes may provide a more open platform, they often fall back on a simplistic, reductive format. "In the Polish debate, it is commonly believed that IVF leads to the birth of disabled children. It is equated with abortion and, because it does not cure infertility, it should not be funded. The Church's promotion of NaProTECHNOLOGY is viewed as more effective".

Krawczak further observes, "Such views are repeated uncritically in print and television under the pretence of offering balanced viewpoints, but this superficial approach fails to consider the damaging consequences of spreading misinformation. This fails to advance public understanding of biotechnology, a field which, like any medical practice, has both benefits and risks. Instead, the public debate has become infantilised, focusing on irrelevant matters such as whether children born through IVF have 'antennas' or questioning the legality of a treatment recognised for over 37 years, whose inventor was awarded a Nobel Prize. As a result, the so-called experts in Polish media are often figures like Fr Dariusz Oko, editor Tomasz Terlikowski, and members of the Pro Right to Life Foundation, as they provide the emotional charge sought by viewers, allowing journalists to avoid engaging in more substantive discussion" [126].

The second description addresses the manner in which discussions are conducted. "Such exchanges often appear quite similar: guests, driven by their personal beliefs, advance like steamships, while I strive to remain steady in my boat, powered by the oars of scientific reason. How can one engage substantively with medical data when the opponent shouts, 'You keep your kids in the fridge!' or talks about 'the slaughter of innocent embryos'. Typically, I refrain from interrupting my interlocutors during

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[79] Professor Pawelczyk is the head of the Department of Infertility and Endocrinology of Reproduction at the Medical University in Poznań.

the broadcast, so I must wait for my adversary to finish their exaggerated comparisons of IVF to the Holocaust. In the meantime, just as I prepare to respond, the journalist usually shifts the topic smoothly. The outcomes of such exchanges are almost always predictable and seldom favour my position. This is not because defending my stance is inherently difficult, but rather because I am rarely given the opportunity to finish a sentence" [126].

At the same time, it is widely acknowledged that the average television viewer prefers entertainment over education, and this format of staged confrontations effectively meets that demand, ensuring high ratings. Popularising knowledge in a digestible manner on programs like breakfast television requires thorough preparation from journalists and a clear direction for the discussion, rather than merely allowing participants to shout over one another.

Krawczak also referred to another tactic in television journalism known as "planting as a fern".

"I took part in another debate where I addressed the situation surrounding Polish donation and acceptance of gametes in the context of European guidelines. In response, I was met with comments from medical professors such as: 'Honey, you're right, but it's not what you think'. I was also called 'kitty', 'sunshine', and 'darling', with a tendency to switch to a condescending 'you' during our exchanges" [126].

This type of paternalistic condescension from professors may arise from the fact that the topic at hand can be overly simplified and categorised within the domain of family. When a young woman, recognised as a mother, discusses issues related to parenthood and childcare, there is a tendency to reduce her to the role of an overly enthusiastic mother. This leads to her arguments being downplayed and treated with superiority by 'serious men'. This dynamic is evident in discussions surrounding both IVF and child vaccinations. Krawczak's experiences align closely with the author's own observations.

The Fallacy of Middle Ground and the Sterile IVF Debate

Krawczak's observations appear in a publication that, while seemingly popular, is one that 'serious scientists' are unlikely to consult. It is thus valuable to extract and reiterate some of her logical arguments for this report. The aim is to highlight two characteristic mechanisms in discussions: the notion that the truth lies in the middle and the concept of barren dispute.

Krawczak critically examines the phrase "the truth lies in the middle" regarding IVF, stating, "If, according to the principle adopted by many journalists, the truth regarding IVF is indeed in the middle, one end of the spectrum is characterised by the belief that children conceived through IVF have tactile furrows, are a manifestation of Dr Frankenstein's idea, and that IVF is equivalent to abortion. On the other end, the argument is made that, according to numerous studies and peer-reviewed publications, children born through IVF are not physically different from those conceived spontaneously. As a result, the medium of such a discussion will lie somewhere between slight impairment, partial monstrosity, and a diminished sense of pregnancy. After all, the truth lies in the middle, does it not?".

As Krawczak affirms, the Polish debate on IVF lacks any meaningful framework, as extreme and unscientific beliefs are juxtaposed with rational, moderate views. This dichotomy results in a systematic distortion of messages regarding IVF, pushing discussions toward an ideologically charged perspective. Consequently, families find themselves compelled to defend their choices, often feeling the need to assert that they are not 'monsters'.

This situation leads to a loss of rationality in the bioethical debate. If Poland were to include representatives of more libertarian viewpoints, the centre of this debate might be more appropriately positioned along the spectrum. However, the current distribution of voices creates a scenario where extreme radicals [126]—who argue that IVF is immoral and thus no one should have access to this method—are placed alongside those advocating moderate positions. As a result, the framework ceases to serve its purpose and instead perpetuates conservative paradigms in the ongoing discussion.

One faction in this debate argues that the law dishonours the memory of John Paul II, suggesting an association with 'forced onanism'. In contrast, the opposing view asserts that infertility is classified as a disease by the WHO and emphasises that IVF is unrelated to veterinary practices. Consequently, the discourse surrounding IVF resides in a complex space that encompasses ecclesiastical authority, embryological science, and misinformation [126].

Another important intellectual consideration is the phenomenon of sterile dispute, which is crucial for the public discussion surrounding IVF—specifically, the conflict between faith and science. Krawczak describes the barren dispute as a form of logomachy, a debate focused on words and concepts rather than the essence of the issues at hand. Such discussions will never lead to resolution, as participants fundamentally operate within different logical, philosophical, and epistemological frameworks. They cannot agree or find common ground, primarily because they speak different languages and, more importantly, are not genuinely interested in resolving the underlying issues. Their focus tends to be on presenting their positions and achieving rhetorical victories over their opponents, leaving the actual problems unresolved [126].

However, it is unlikely that this discourse will ever reach a consensus. "We can laugh at the concept of producing 'embryo creams' or dismiss Senator Chudowska as an eccentric whose opinions are not to be taken seriously. This barren dispute, however, is accompanied by a more insidious companion—systematic audience confusion. While the idea of serum derived from embryos might seem amusing the first time we hear it, when it is repeated in parliamentary proceedings for the sixth time, does it not gain a seriousness that demands our thoughtful consideration? In time, some may start to believe the claims, while others might hesitate. Nonsense, when repeated often enough, can become accepted as a social fact" [126].

Despite clear examples, the reasons for this confusion are numerous. A single study compiling all the propagated falsehoods about extracorporeal fertilisation would already produce a significant volume, while their deconstruction, clarification, and the effort to explain the mechanisms of falsehood would fill even more space. The statements quoted, alongside many similar ones gathered in Krawczak's book, show how much energy is expended and how many obstacles must be overcome to simply explain that infertile parents and their children conceived via IVF are not 'monsters'.

As Krawczak concludes, the only way to resolve the dispute between religion and science is to relinquish the argument itself: separating matters of personal belief from scientific inquiry, the state from the Church, and subjective opinions from objective facts.

Chapter III: Discriminatory Aspects of the Discourse on Parenting through IVF

Parenthood, Assisted Reproduction, and the Legal and Social Prejudices

In discussions concerning the need for parenthood, which is addressed through the method of extracorporeal fertilisation, a clear difference in attitudes emerges between those who experience failures in this area of life and the broader society. This includes individuals whose parenthood has come without difficulty and who therefore do not understand the issue, as well as Catholic clergy, who at least theoretically are unaffected by this matter yet propagate negative religious principles. Furthermore, medical specialists in assisted reproductive medicine—who encounter this issue in their daily practice and are often accused of bias—work alongside publicists and lawyers who advocate for one side or the other, depending on their worldview or personal experiences. Therefore, it is essential to recognise that the cognitive boundary exists between those in need and various categories of 'others'.

Fertility refers to a normal physiological state, while infertility denotes a divergence from this condition. Moreover, the Polish ITA classifies infertility as a disease that necessitates treatment for certain patients [2]. This treatment is symptomatic, similar to the approach used for many other diseases, with the resolution of the underlying cause depending on the patients' clinical condition, occasionally resulting in spontaneous pregnancy and childbirth. However, this does not constitute a valid argument for or against treatment because, as both the identification of causes and the proposed therapies involve the recognition and elimination of further obstacles.

Under normal circumstances, parenthood is theoretically accessible to any organism of reproductive age and does not require the fulfilment of specific criteria. Nevertheless, the situation differs in the case of adoption, where candidates must complete appropriate courses and evaluate their financial resources. Additionally, adoptive parents face higher legal requirements primarily because they declare their intent to care for a child already born, which is not genetically related to them and often has experienced difficult transitions and memories of biological parents. Consequently, their upbringing and emotional support can be significantly more challenging.

In light of the current lack of motivation and status of people choosing IVF in Poland, one might question the moral correctness of such inquiries and whether they violate the boundaries of protected privacy. Indeed, even in cases of non-partner donation, parenthood is more closely associated with 'natural' reproduction than with adopting an already-born child. The concept of IVF arose from the desire to have children of one's own, resulting in children who are either genetically related or born through gamete donation, and who are cared for and raised from birth. Moreover, mandatory training and increased responsibility are essential when undertaking the particularly demanding task of adoption. In contrast, the law does not impose any additional requirements on prospective 'natural' parents. Thus, why should the parental project of extracorporeal fertilisation authorise inquiries that are intrusive and question one's intentions? Such moral intrusion reflects an unreasonable suspicion of these individuals and violates their privacy. Comments or insinuations that cast doubt on one's purity of intention, moral standing, or emotional competence carry an apparent discriminatory undertone compared to 'natural' parenting. While gossip cannot be entirely prevented, it is not the primary concern; rather, the harmful statements from pulpits and the media should not receive social or legal approval.

A separate issue pertains to medical support for independent parenthood and access to assisted reproduction for non-heteronormative couples. From the context of the entire ITA, it can be inferred that only couples should be treated according to its stipulations [2]. However, the wording suggesting that the treatment of couples' infertility through ART occurs under the conditions set out in the Act indicates that the application of these methods for therapeutic purposes regarding couples is subject to the restrictions specified therein. The Act regulates these matters in a therapeutic context, narrowly understood as solely the treatment of infertility, and does not address non-medical support. Consequently, this latter area may be considered unregulated by law, especially since the title of the Act refers to "the treatment of infertility" rather than "medically assisted reproduction".

Thus, one may legitimately question whether it is permissible under Polish law to use IVF for purposes beyond treating partner infertility as defined by the Act. Can it be employed by individuals who, due to their personal circumstances, cannot conceive and give birth to a child without the assistance of a third party—particularly gamete donors—including same-sex couples, single individuals, and transgender or intersex persons whose biological sex, as dichotomously defined in Poland, does not align with their legal sex [218]? Ultimately, the legal regulation concerning the treatment of partner infertility does not equate to the inadmissibility of assisted reproduction in other configurations, which is justified solely by the fact that the law has regulated only one of its areas [218]. However, such a conclusion arises only from a broader interpretation.

When it comes to women choosing motherhood without a partner, access to ART prior to the adoption of the law on infertility treatment was determined differently in individual clinics, often depending on the ethical stances of the attending doctors. Some clinics even denied access outright on principle. Polish law recognises the possibility of independent parenthood and adoption; however, the ITA does not include provisions for independent IVF. This exclusion has been identified by the Constitutional Tribunal as a deliberate omission within the legislative framework. This conclusion arose from a decision made on 18 April 2018 [219], which examined the Ombudsman's request to assess the constitutionality of the provisions of the ITA as they pertained to women who were neither married nor cohabiting with a man, and who deposited embryos derived from their reproductive cell and those of an anonymous donor prior to the law's entry into force [2].

The Tribunal discontinued the proceedings, stating that the provisions under review do not apply to the entities for which the application was submitted, as they concern only married couples and cohabiting couples. The Tribunal further asserted that the legislator, in introducing the contested regulation, did not neglect or overlook the situation of embryos formed from the gametes of single women and anonymous donors deposited in banks before the law took effect. On the contrary, it exhaustively regulated their legal status in Article 97 of the ITA, which stipulates that such embryos are to be donated after 20 years from the law's entry into force, unless the donors had intended them for donation earlier [2].

According to the Tribunal, the Act deliberately excludes the legal possibility of their further use by single women. By attempting to regulate these issues for the first time in Polish law, the legislator consciously opted for a stricter framework, as evidenced by the materials from the legislative process, which is grounded in the right of the child to be raised in a family based on marriage or in an environment as close to it as possible. Under these circumstances, the contested provision cannot be regarded as a legislative omission but rather as a deliberate decision to restrict the group of individuals who may benefit from the *in vitro* procedure.

However, the Tribunal did not ignore the matter and issued a second order, indicating the deficiencies in the failure to regulate the treatment of embryos derived from the reproductive cells of single women and anonymous donors before the law came into effect, suggesting how this might be accomplished [220], yet in vain. No effective initiative has been undertaken on this issue. In summary, the Constitutional Tribunal ruled that the omission of access to ART for single women in the Act was a deliberate measure, emphasising the discriminatory aspect of the statutory solution. The Tribunal considered the case only within the confines of the application, which pertained specifically to women living alone. Therefore, the argument regarding deliberate legislative omission does not directly apply to the reproductive challenges faced by non-heteronormative couples [218].

In medical textbooks, infertility is classified as a couple's disease. This medical-biological understanding of infertility is primarily based on physiological criteria related to a heterosexual couple composed of a female and a male—in terms of their reproductive anatomy. However, this perspective fails to account for independent women without partners, individuals affected by reproductive system dysfunctions that prevent pregnancy—such as the absence of a uterus or an undeveloped vagina—along with homosexual, lesbian or non-binary couples, individuals with disorders of gender differentiation, and transgender persons. Furthermore, in public debates, these groups are largely overlooked, with single individuals typically advised to seek a suitable partner. This includes women who may be physiologically fertile, considering their hormone levels and overall health, as well as those who are infertile but eligible for treatment, alongside those who are permanently infertile. Incorporating such individuals into the concept of infertility is founded on social and human rights criteria, recognising that the desire for parenthood can and should be a right for every person, regardless of their gender, partnership status, or the nature of their relationship.

The WHO acknowledged that its previous definition of infertility excluded non-heteronormative individuals as it primarily reflected only the experiences of heterosexual people. Therefore, the aim is now to create a definition that is inclusive of all groups of people in need: "Individuals and couples have the right to decide the number, timing and spacing of their children. Infertility can hinder the realisation of these essential human rights. A wide range of people, including heterosexual couples, same-sex partners, older individuals, those not in sexual relationships, and those with certain medical conditions—such as some HIV sero-discordant couples and cancer survivors—may require infertility management and fertility care services. Inequities and disparities in access to such services disproportionately affect the poor, unmarried, uneducated, unemployed, and other marginalised groups" [221]. This statement by the

WHO reflects a growing global trend towards inclusivity in reproductive health, a trend that remains conspicuously absent in Poland, where access to such services is still severely limited.

In light of this, a pertinent example is France, where MAP is now available to all women. This is regulated by Decree No. 2021-1243 [222], dated 28 September 2021, which sets out the conditions for the organisation and funding of MAP procedures, and amends the French Public Health Code. Article R. 2141-38 provides that artificial insemination, the use of gametes or embryonic tissue collected, recovered or preserved for the purpose of MAP, as well as the transfer of embryos, may be carried out:

- Until the forty-fifth birthday of the woman who will bear the pregnancy, *regardless of whether she is* unmarried or married;
- Until the sixtieth birthday of the member of the couple who will not bear the pregnancy.

Meanwhile, in Poland, the need for assisted reproduction among unmarried women is often met with accusations of selfishness, suggesting that such decisions are driven by subjective motives rather than the best interests of the child. This discourse even extends to the alarming implication that permitting these procedures may result in the birth of children within same-sex relationships [118,223]. However, this latter argument can be interpreted as a manifestation of deeply internalised homophobia, evident among some proponents of Polish family law, which further underscores the growing resentment surrounding this issue.

Notably, the studies of Tadeusz Smyczyński are well-known in the legal community and have attracted significant criticism. In earlier research conducted in the early 1960s, concerns regarding public interest and the welfare of children born into incomplete families were cited as legal impediments [224,225]. In light of the moral advancements that have occurred over the past sixty years, these arguments can now be considered outdated.

Nearly three decades later, Krystyna Krzekotowska advocated for the availability of ART to single women, citing reproductive autonomy, humanitarian considerations, and an analogy to the institution of adoption, which is permissible under Polish law irrespective of the candidate's marital status [226]. Nevertheless, the principle of the best interests of the child, which constructs the right of the child to be born and raised in a complete family, resurfaces. Importantly, this perspective is grounded in a binary understanding of gender and the associated dichotomy of personal identities and societal roles.

Anna Woźniak, a researcher in childhood studies, draws a comparison to the British legal framework introduced in 2008. Prior to this amendment, the Human Fertilisation and Embryology Act (HFEA) included the concept of "the need of the child for a father", which defined the family structure as comprising both a mother and a father. However, following the 2008 amendment, this concept was removed, as it was deemed no longer relevant to the welfare of the child, according to the Code of Practice of the Human Fertilisation and Embryology Authority. In its place, the notion of supportive parenting was introduced, allowing for a broader understanding of family structures [112,227].

Furthermore, Woźniak references a ruling by the Austrian Constitutional Court in 2013, which determined that restricting access to MAP for homosexual or lesbian couples constitutes a violation of human rights. The Court stated: "The exclusion of women in same-sex relationships from access to MAP regarding sperm donation should be considered unconstitutional. The non-recognition of their right to have children represents a disproportionate interference with human rights protected by the European Convention on Human Rights. Therefore, limiting access to MAP solely to heterosexual couples is discriminatory" [112,228].

Formally, Polish law permits independent adoption; however, independent parenthood is not free from discrimination. The promotion of the so-called 'complete family' model, in which both women and men are expected to fulfil parental roles, serves as a tool for political and ideological propaganda. This notion is contradicted both by empirical realities and statistical evidence, as well as the findings of social research [229,230]. One must consistently avoid the use of stereotypes, as existing—albeit only on paper—legal provisions are often presented as justification for claims of equal treatment. The current regulations outlined in the ITA, which impose specific requirements as the conditions for the legality of collecting and combining gametes and performing intrauterine transfers, leave no scope for accommodating homosexual or lesbian couples or single mothers within this framework [2]. Consequently, these regulations should be regarded as discriminatory.

In Poland, individuals conceived through IVF are often regarded merely as patients at the embryo stage. The invectives directed towards them are primarily aimed at their parents, but these sentiments inevitably ricochet back to the children themselves. Despite the misleading assertions from certain church hierarchies that only the parents are criminals and that the children remain innocent, such propaganda and slander adversely affect the legal interests of these individuals.

In Poland, several adults, such as Magdalena Kołodziej, Agnieszka Ziółkowska, Małgorzata Kowalewska, and Karolina Wolf have voiced their experiences on this topic. In the documentary "*Jak zaczęła się twoja historia?*" (How Did Your Story Begin?), Kowalewska asserts, "What sets us apart is who we are, not the way we were conceived. Denouncing people born through IVF is a form of discrimination".[80] Similarly, Wolf recounted that a Member of Parliament, Piecha, had told her that several other children had died at the cost of her birth and that her parents had previously been denied the baptism of their daughter "because such children have no soul" [126,232].

Despite their efforts to raise public awareness through interviews and media appearances, these people encountered similar stigmatisation, ultimately discouraging them from defending their parents, the doctors who assisted them, and themselves. Kołodziej reinforces this sentiment, stating, "It is not the method of fertilisation that causes emotional problems for children conceived through IVF. It is the Catholic Church and its supporters who stigmatise us and ostracise us from society" [233].

Researchers from the Childhood Research Team emphasise that "our interlocutors must not forget Bishop Pieronek's comparison of IVF to the work of Dr Frankenstein, as well as Fr Longchamps de Bérier's argument about the tactile furrow that, according to him, characterises children born as a result of infertility treatments. Kowalewska directly urges, 'Stop the discrimination of IVF', Ziółkowska acknowledges, 'We hear and read it all. This entire sewage does not disappear into a vacuum' and Kołodziej remarks, 'I am ashamed of Poland and its representatives' in response to the parliamentary debate on infertility treatment" [126].

Such circumstances often divert attention towards merely defending the rights that exist and protesting against discrimination, rather than advocating for those rights that have been curtailed even at the legislative level. This includes the fundamental right to know one's identity for those conceived through non-partner donation—a right that should be afforded to every individual and is increasingly recognised worldwide.

Legal and Ethical Challenges of Non-Partner Donation: Secrecy, International Developments, and the Shift Towards Transparency

The ITA permits non-partner donation solely for the benefit of anonymous recipients. According to the explanatory memorandum accompanying the draft law, the secrecy surrounding the identities of donors and recipients of gametes and embryos is intended "to minimise the use of MAP for the practice of the so-called surrogacy" [2]. It explicitly states that "only anonymous donation of germ cells and embryos is allowed". However, while the recipient remains anonymous, the anonymity is not mutual. The law does not guarantee the donor's anonymity; any protection of their identity is only implied through general medical confidentiality principles.

Presumably, with the intention of maintaining this secrecy, the Act paternalistically imposes a solution upon recipients regarding the reproductive cells or embryos accepted through non-partner donation. The selection of these cells is made arbitrarily by the doctor based on phenotypic similarity to the donor, although it is unclear which recipient is affected, leading to an assumption that random selection is permitted. This approach primarily serves to facilitate future parents in concealing the fact of non-partner donations. Thus, the Act guarantees secrecy in

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[80] The film material was created at the request of the Interdisciplinary Research Team on Childhood at the University of Warsaw, featuring Małgorzata Kowalewska, the author and heroine of the film. The video is available on YouTube [231].

a rigid and restrictive manner, failing to address the diverse needs of recipients and preventing children from knowing their origins—thereby violating the respect for their identity.

Ultimately, the extent to which this information is disclosed to children rests solely with their parents, who often reveal little more than the fact of the non-partner donation itself. Such an approach to donation secrecy perpetuates the belief that medical assistance for reproduction, particularly through non-partner donation, is shameful [234].

An unfortunate consequence of maintaining recipient anonymity is the prohibition against disposing of embryos for the benefit of designated persons, particularly relatives, even in the event of the donor's death. While the intention behind preventing surrogate motherhood is clear, this has resulted in the unintended consequence of excluding the possibility of family donation. As a result, these children conceived under these circumstances may find themselves in a completely foreign environment, devoid of contact with their biological and genetic relatives, including older siblings. In the Act, the protection of *in vitro* embryos takes precedence over the right to identity. Donors of gametes or embryos are prohibited from disposing of them for the benefit of specific individuals, and after a period of 20 years or the contractual storage duration, embryos are forcibly donated to anonymous recipients. The forced transfer also included embryos created using non-partner donation prior to the enactment of the law. Such a solution clearly violates the rights of the donors, compelling them to respect private and family life and to make decisions about their personal lives. It is evident that any interference with reproductive decisions—by taking one's own genetic embryo and transferring it to another—constitutes a form of coercion.

Such regulations aim to ensure that all previously unused embryos are given the opportunity for implantation. However, this possibility remains theoretical, as it is impossible to predict whether there will be recipients with similar phenotypic characteristics for the embryos—since no other criteria can be applied. Consequently, the extensive protection offered is illusory; it relies solely on the chance of implantation, which increases with the commonality of the donor's phenotype. The likelihood of successful births would undoubtedly improve if donors were granted priority in decision-making and the need for phenotypic similarity were eliminated.

The forced transfer of embryos may lead to their birth in genetically unrelated families. Thus, mechanisms to ascertain one's genetic heritage are essential for identity reasons. It is worth considering the extent to which the secret of origin should remain at the discretion of the parents. According to the law, children will gain access to information about their donor's characteristics—listed rather succinctly as the year and place of birth of the donor and basic medical data only—only upon reaching the age of majority. Parents are granted access only in cases where there is an imminent threat to the child's health or life. However, this data is far from sufficient for understanding one's own identity.

An additional obstacle is the stipulation that non-partner donation is indicated only on the birth certificate of an extramarital child. Consequently, children born within a marriage, face complete obscurity regarding their origins, making it impossible to know without the parents' willingness to disclose such information.

The importance of knowing one's origins is encapsulated in the statement by the Nuffield Council on Bioethics, which asserts, "There is no more fundamental right than the right to one's own identity. [...] The right not to be deceived about one's own origin" [126,235]. In recent times, there has been a push to abandon the secrecy of origin in adoption, largely due to psychological and emotional considerations. Social messages and current scientific reports indicate that for adopted people, information about their origins is a crucial aspect of their identity, and concealing this information can cause emotional harm [126,236].

Krawczak, engaged in this area of parenting, reports on the research conducted by American scientist Elisabeth Marquardt. In 2010, Marquardt undertook the largest study to date on adult children born through donation [237]; 44% of respondents, who owe their birth to donation, believe that "donation is acceptable as long as parents do not lie to their children and tell them the truth". Furthermore, 36% of respondents indicated that the age at which they learned the truth significantly influenced their assessment of their parents: "While donation can be difficult for children, being truthful from early childhood makes it easier for the child" [126].

Initially, the idea of openly discussing a child's origins faced significant opposition from Polish parents, who displayed considerable resistance. Krawczak highlights the "*Powiedzieć i rozmawiać*" (Tell and Talk) social campaign launched in 2011, which used guides created by Olivia Montuschi of the Donor Conception Network. These guides, written by parents of children conceived through donation, aimed to support other parents in navigating conversations about their children's origins. They offered practical strategies for discussing the child's history and addressing any potential challenges that might arise.

Krawczak observes that, after five years, parents' perspectives began to evolve, with younger doctors, in particular, adopting a more liberal approach. This shift led to an agreement to share donor databases with patients [126]. She highlights the results of a 2014 public consultation involving 722 participants, where 81% supported the right for recipients to choose between open and anonymous donation. Additionally, 90.2% expressed a desire to select their own donor, rejecting the idea of being reduced to passive recipient. A further 80.8% expressed a need for access to more detailed donor information, such as childhood photographs, letters addressed to parents and future children, voice recordings, and psychological assessments. Notably, 92.6% of patients wanted their doctor to recommend consultation with a psychologist as part of the donation process, recognising it as a psychosocial process, not just a medical one [126,238].

Regarding the position of children born through non-partner donation, the first person to sue the national public administration—the Ministry of Health—under Article 8 of the European Convention on Human Rights, which protects the right to private life, was Joanna Rose, a British citizen born in 1972 [239]. In her complaint, she argued that the inability to access information about her donor's identity, and therefore about half of her genetic heritage, infringed her right to respect for private and family life. She claimed that the state contributed to this violation through long-standing negligence and continued disregard for her right to this information, as addressed by the HFEA of 1990, enacted during this period [236].

In its 2002 ruling [240], the Tribunal recognised an individual's right to know details of their identity, including information about their biological parents. It acknowledged that individuals have the right to receive information regarding their biological heritage—though it found no violation in this specific case. The Tribunal further affirmed that human rights safeguard people's vital interest in obtaining the information necessary to understand their childhood and early development. Although the confidentiality of donation is also a significant concern, the conflict between these interests is resolved in favour of the best interests of the child, who is entitled to information about their origins. This case led to changes in United Kingdom law: since 2004, non-partner donations have only been permitted if the donor consents to having their identity revealed when the child reaches the age of majority.

In Germany, a high-profile lawsuit was initiated by Sarah P. against the Centre for Reproductive Medicine in Essen. The Higher Regional Court in Hamm, Westphalia, ruled that a 21-year-old woman, conceived through sperm from an anonymous donor, had the right to know her biological father's identity, even though donor anonymity had been guaranteed up until that point [241]. At the same time, in Poland, doctors managing two fertility clinics expressed open dismay and declared solidarity with their German colleague, Dr Thomas Katzorke, who refused to share donor data [242].

Researchers predict that changes in the legal stance of countries without regulations that protect the human rights of individuals born through non-partner donation will likely occur only through public pressure, particularly from non-governmental organisations representing such people, their parents, and donors [243]. As Krawczak explains, the insistence on maintaining absolute anonymity in donation is an outdated approach, as it disregards the proven psychological needs of both parents and children and also excludes intra-family donation.

On 12 April 2019, the Parliamentary Assembly of the Council of Europe adopted Recommendation 2156, titled "Anonymous Donation of Sperm and Oocytes: Balancing the Rights of Parents, Donors and Children" [125]. The Assembly acknowledged the right to know one's origins—closely tied to the right to identity and personal development—as an essential component of the right to respect for private life, as established by the ECHR. This right includes access to information that enables individuals to trace their lineage, understand the circumstances of their birth, and confirm parentage. However, it is not absolute and must be balanced against the interests of other parties involved in the donation process.

The Assembly therefore recommends that the Committee of Ministers issue guidance to Member States to strengthen the protection of all parties' rights, with particular attention to individuals born through donation. As the most vulnerable group, their rights are of utmost importance in this matter. In the Member States of the Council of Europe, anonymity should be abolished for all future gamete donations, and the use of anonymously donated sperm and oocytes should be prohibited going forward. This means that, except in special cases—such as when the donor is a close relative or friend—the donor's identity would not be disclosed to the family at the time of donation, but would be revealed to the child upon reaching the age of 16 or 18. In the meantime, the child should be informed—preferably by the state—about the existence of additional information regarding their birth.

Consequently, a person born through donation would then have the choice to access this information and initiate contact with the donor, preferably after receiving appropriate counselling and support before making their decision. Moreover, revoking anonymity would not impact matters of filiation or inheritance. The donor would not have any access to the child born from the donation, but the child would be entitled to access the donor, and, under certain conditions, any half-siblings after turning 16 or 18.

In addition, Member States of the Council of Europe that allow gamete donations should establish and maintain a national register of donors and their descendants to facilitate the exchange of information as described above. This system would also enforce limits on the number of donations per donor, ensuring that closely related individuals do not marry and assisting in locating donors for medical purposes. Furthermore, clinics and service providers should be required to maintain and provide relevant documentation to the register, and a mechanism should be developed to enable the cross-border exchange of information between national registers.

Finally, the anonymity of gamete donors should not be retroactively revoked if anonymity was promised at the time of donation, except in cases of medical necessity or if the donor voluntarily agrees to waive the anonymity and be included in the register of donors and biological descendants. Donors should receive advice and counselling before deciding to waive anonymity. These principles should be upheld while maintaining the fundamental premise that gamete donation must remain a voluntary and altruistic act, intended solely to help others, and must not result in any financial gain or comparable benefit for the donor.

Knowing one's own identity, including genetic origin—which the ECHR has included within the scope of the right to respect for private life—has been prioritised over the preservation of anonymity for donors. The Recommendation further underscores voluntary donation as a fundamental value [125]. This means that no coercion can be exerted in this case; therefore, the provisions establishing the collection of unused embryos should be discontinued.

The Need for Legal Reform: Addressing Inconsistencies and Autonomy in the ITA

While Recommendation No. 2156 is not directly binding on Polish law, it illustrates a hierarchy of values that radically contrasts with that of the Polish ITA [2,125]. Given the results of social research and their timeline, it can be argued that our legal framework was outdated at the time of its adoption; furthermore, in terms of donation secrecy, it reflects a policy of fear.

"The donation was treated with a mindset reminiscent of the 1960s, completely disregarding psychological literature on the subject and research on families", commented Krawczak [126]. A breakthrough in this area can only be achieved through significant scandals and landmark judgments that compel society to reflect on the consequences of concealing crucial information. The shift in thinking regarding the abrogation of gamete donation anonymity—aimed at respecting the fundamental rights of children born through these methods—has been primarily driven by the firm stance of these individuals. Polish reproductive law systematically disregards the voice of patients; moreover, children conceived via ART do not even have legal status in this framework.

In light of the cited foreign judgments and Recommendation No. 2156 from the Council of Europe, the model regulating non-partner donation adopted in the ITA requires careful examination and reflection [2,125]. It is essential to reassess its *ratio legis,* emphasise the status of children born through donation, and consider potential demands for change, taking into account the conflict of interests. To equalise the rights of all individuals born as a result of non-partner donations, an additional protocol should be attached to the collective civil status records for each child, irrespective of the parents' marital status. The option for open family donation, which is currently lacking and results in detrimental effects, should definitely be reinstated. Following the Council of Europe Recommendation, transparency regarding non-partner donation—including what is referred to as prenatal adoption, akin to social adoption—should be introduced. To this end, the collection of donor data must be expanded, and documentation should be made accessible to children through these means upon request and at an appropriate age.

De lege lata, the provisions protecting donation secrecy must be evaluated in light of the legal mechanisms that enable its repeal—not only for the purposes of open intra-family donation with the consent of all parties involved, but also to align with Recommendation No. 2156 of the Council of Europe [125]. If one supports the view that the secrecy of donation constitutes a supplementary solution for protecting confidentiality and that a non-partner donor can legally consent to its revocation, this could serve as a criterion for eligibility for donation.

This change is necessary not only for patients and their future children but also for healthcare providers. The enactment of the ITA introduced unnecessary rigidity into the positive reproductive autonomy, which has further entrenched the perception that infertility is a shameful and hidden disease. Existing restrictions—including criminal sanctions for violations, defined in such an ambiguous manner that they violate the fundamental principle of clarity in criminal law—paralyse doctors, depriving them of a sense of legal security, and compel them to adhere strictly to the regulations. Consequently, they find themselves in untenable positions, such as maintaining the confidentiality of sperm donation.

For instance, there are no specific legal sanctions for a doctor who discloses donation confidentiality, nor for selecting an embryo based on the couple's preferences. While liability for breaching confidentiality can be inferred from the general principles of medical law, there is a legalising exception in the form of the patient's informed consent. Thus, the legality of assisted reproduction involving non-partner donations to a designated recipient may be called into question, as it could potentially violate confidentiality laws under Article 266 of the Penal Code [17]. This is especially relevant considering that both the related or closely related donors and recipients are insisting on proceeding with the donation together. The properly obtained consent from all parties involved to waive secrecy may be viewed as a circumstance that excludes unlawful conduct.

Next, under Article 78 of the ITA, a person who treats germ cells or embryos in a manner inconsistent with Articles 18, 20-22, or 23(1) shall face criminal liability; however, none of these provisions contains a literal limitation to the treatment of infertility [2]. Consequently, this context is only implied and does not suffice to formulate prohibitions that would also incur criminal liability. The vagueness of the present case makes it challenging to reconstruct the prohibition and the elements constituting "an act prohibiting the use of assisted reproduction techniques on a couple for a therapeutic purpose other than the treatment of partner infertility", potentially infringing the principle of *nullum crimen sine lege certa*. Thus, it can be argued that the use of IVF is not prohibited for therapeutic purposes related to reproduction outside the scope of infertility treatment.

Nonetheless, the issue is that the regulations are inconsistent, unclear, and crafted in a way that avoids addressing key issues. Although a flexible interpretation may help to some extent, such a sensitive area of practice is often approached with caution due to the fear of unclear sanctions. As a result, the law primarily serves a supervisory function. Instead of adhering to the principle of proportionality, which was asserted at the outset, it can be concluded that there is an irrational and excessive interference of the law in medical matters and personal freedoms. This includes strict, non-recommended limits capping the number of created embryos at six. This restriction can inadvertently lead to coerced oocyte donation and imposes bureaucratic oversight that enforces compliance with a mandatory sequence of ART, which contradicts current medical knowledge. A woman's negative autonomy in assisted reproduction is always protected by the obligation to obtain her consent for any transfer, allowing her to withdraw it freely and without restrictions.

In contrast, the positive autonomy of women in the context of partner donation permits the transfer of embryos even after the man's death. However, in cases of non-partner donation, the man's negative autonomy takes precedence. Consequently, the legislator has treated these types of donations unequally, leading to a disparity in embryo protection that disadvantages those resulting from non-partner donations.

The primary benefit of the ITA is its enactment, which has ended a period of legal uncertainty, uncontrolled violations of patients' rights, and lack of oversight in laboratory practices. This development is particularly important given the recent retreat from rationalism in many areas of life, creating opportunities for various charlatans who exploit patients' credulity with the false promises of so-called natural treatments. Therefore, patients should have access to medical assistance that aligns with the best current expertise and reflects the due diligence of healthcare providers. Although the Polish ITA largely meets these requirements, some exceptions still persist.

Conclusion

The Intersection of Religion, Politics, and Public Perception in IVF Treatment: Progress, Challenges, and Future Prospects in Poland

The social context of *in vitro* infertility treatment is undeniably multifaceted. Firstly, it was not immediately recognised within legal frameworks that infertility constitutes a disease requiring treatment. This situation exemplifies how the definition of illness can be influenced by social consensus. The lack of such consensus can result in overlooking important medical advancements and the recommendations made by the WHO.

In discussions surrounding human reproduction, religion has sought to assert its influence over both believers and non-believers. Passionate denunciations and the persistent spread of misinformation skew the discourse, marginalising rational and moderate viewpoints. This dynamic creates cognitive distortions that hinder the overall quality of the debate. If we set aside extreme views heavily influenced by religious ideologies, a straightforward and rational justification emerges: medicine has provided a treatment for infertility that benefits both individuals and society. Therefore, there is a legitimate health interest that warrants protection, especially since such treatment should be covered by public health insurance.

Observations suggested that, within Polish public debate—if it can even be deemed a discourse— the voices of patients and their children have not been adequately represented or considered significant. All parties and institutions involved appear to believe they possess superior knowledge, rendering the genuine concerns of those directly affected as mere inconveniences.

Historically, the state has not organised social campaigns focused on infertility and fertility support.[81] No official publications have been directed at infertile patients, unlike the materials provided for adoptive parents. Patients have had to rely on optimistic information available on commercial infertility treatment centres' websites or Catholic websites discussing infertility, often framed in ways that align with the perspectives noted in this report. Consequently, education has largely occurred through online forums with questionable credibility. The "*Nasz*

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[81] With the exception of the distasteful TV spot "Nie odkładaj macierzyństwa na potem" (Don't postpone motherhood) [244].

Bocian" forum has sought to fill this information void, attempting to relieve public authorities of their statutory responsibilities.

In her book, Krawczak expresses her disappointment that Poland's situation differs markedly from that in European medical conferences. There, patient communities have established their positions over decades, with representatives regularly presenting recommendations on infertility treatment and non-medical aspects of therapy. In Poland, initial steps towards including patients' voices were small and insufficient. However, starting in 2014, there was a noticeable regression: medical societies began inviting patient representatives to important sessions, but their inclusion was superficial, vaguely justified by references to the recommendations of the Supreme Medical Chamber (SMC).

This indicates a serious shortcoming within the medical community, revealing its paternalistic tendencies and reluctance to engage with sensitive issues. Even if the attitude of disregarding the voice of patients stems from the SMC, it remains inappropriate to so readily adopt such recommendations. It is challenging to discuss any meaningful debate when patients are excluded, effectively eliminating the platform for dialogue. As a result, patients and their representatives are not taken seriously enough.

The discourse surrounding medical methods for supporting reproduction should remain free from religious ideologies and focus on upholding human rights. The infertility treatment law in Poland, passed after extensive deliberation, is restrictive, paternalistic and outdated, reflecting mid-20th-century norms. While reforms are necessary, there is little optimism for meaningful change. Despite its imperfections, this legislation represents progress in the pursuit of civilised legal framework, but it maintains a fragile balance that could easily be destabilised.

The editors and authors of the volume "*Dziecko, in vitro, społeczeństwo*" (Child, *In Vitro*, Society) [112] conclude from their research that the Polish dispute over IVF is not simply a discussion about technology or ethics. At its core, it is a political issue, centred on the role of the Catholic Church in Poland, particularly its monopoly over moral authority and its influence in defining ethical perspectives on matters of the body and morality [112]. Ultimately, the dispute is about power and control, particularly regarding the Church's ability to shape moral norms and maintain its position within the broader political framework [112].

However, this situation necessitates a skilful application of the term 'manipulation', a tactic that has been well-established in times of crisis. Initially, patients and their children conceived through IVF were portrayed as repulsive monsters and criminals threatening the very fabric of a healthy society, as reflected in the stylistic choices of previous statements. Subsequently, there was a reliance on rigid ideologies that remained indifferent to rational arguments, supported by compliant jurists and religious moralists who adhered to unreflective principlism. These groups collectively manipulated public sentiment, resulting in what can only be described as a moral and legal lynching.

Among them were politicians, who fell into two categories: those who were thoughtlessly self-serving—such as those suggesting the production of 'embryo serum'—and those who sought to exploit the situation for political gain. Ultimately, the focus shifted away from welfare and compassion, centring instead on the governance of souls. The studied passivity of public authorities further contributed to an atmosphere that allowed the escalation of negative emotions.

In such circumstances, establishing a reimbursement programme for medical procedures not only affirms the official endorsement of a specific treatment method but also serves both educational and persuasive roles. To effectively counter social disorientation, it is essential to expose rational arguments while simultaneously preventing the entrenchment of disinformation and distortions. Public enlightenment should be promoted, and manipulations must be unmasked.

To achieve these goals, secular and scientific discourse must be separated from all ideological influences, starting with basic concepts and attributing to them neutral rather than axiological meanings. For instance, an embryo should be referred to as an 'embryo' rather than a 'conceived child'. Furthermore, access to public experts should be firmly restricted from Catholic clergy, activists from organisations such as *Ordo Iuris*, and jurists associated with them due to clear conflicts of interest.

Reimbursement for infertility treatment was reinstated in mid-2023. For the first time in the legal history of infertility treatment in Poland, the Senate, which drafted the relevant regulation, sought an opinion from the Bioethics Committee of the Presidium of the Polish Academy of Sciences. In its Position No. 2/2023, issued on 18 August 2023, the Committee reiterated its previous stance from 2012, expressing full support for the initiative [245].

Following a change in power resulting from the parliamentary elections on 15 October 2023, the Act amending the PFHA [246] and promoting IVF financing from the state budget was enacted on 29 November 2023 as a citizens' initiative that had been gathering signatures for some time. However, the Polish Episcopate opposed the law.

Since 2016, the financing of IVF procedures has been structured so that local government programmes fund medical care for qualified couples. Recently, on 18 March 2024, the first municipal infertility clinic in a public hospital was opened in Warsaw [247]. On 10 April 2024, the Minister of Health Leszczyna presented the framework for the governmental *in vitro* programme, which came into effect on 1 June 2024 and will run until 31 December 2028.

Compared to wealthier European countries, this programme is considered generous, offering up to six funded cycles and support for oocyte donation. Each year, PLN 500 million has been allocated for its implementation, amounting to a total of PLN 2.5 billion over the duration of the programme. Additionally, the programme includes provisions for preserving future fertility by collecting and storing gametes before or during oncological treatment.

A call for tenders for the programme's implementation will soon be announced, allowing MAP centres with adequate resources and equipment—including public entities—to participate [248]. However, it is important to note that the infertility treatment programme is currently only available to heterosexual couples, and the existing laws remain unchanged, thereby limiting access to this medical service for other groups.

Translated by Alexander Wiaderek

List of Abbreviations

ART (Assisted Reproductive Technologies)
ECHR (European Court of Human Rights)
ESHRE (European Society for Human Reproduction and Embryology)
EU (European Union)
FPA (Family Planning Act)
FEDERA (Foundation for Women and Family Planning)
FLA (For Life Act)
HFEA (Human Fertilisation and Embryology Act)
ITA (Infertility Treatment Act)
IVF (In vitro fertilisation)
MAP (Medically Assisted Procreation)
MP (Member of Parliament)
NHF (National Health Fund)
PDDA (Professions of Doctor and Dentist Act)
PFHA (Publicly Funded Health Care Act)
PTG (Polish Gynaecological Society)
PTMRiE (Polish Society for Reproductive Medicine and Embryology)
PDDA (Professions of Doctor and Dentist Act)
PFHA (Publicly Funded Health Care Act)
WHO (World Health Organization)

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A passionate advocate for interdisciplinary dialogue, Professor Boratyńska promotes collaboration between lawyers, doctors, and philosophers to develop comprehensive analyses of complex medical and legal issues. Her research covers a range of crucial topics, including conflicts of rights and duties in medicine, end-of-life care, reproductive rights, gender dysphoria, and medical decision-making for children.

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