

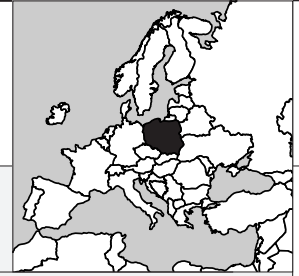


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6. Poland



Statistics

GENERAL

Population

- The total population of Poland is 38.7 million.¹
- The proportion of the population residing in urban areas is estimated to be 65%.²
- Between 1995 and 2000, the annual population growth rate is estimated at 0.1%.³
- In 1999, the gender ratio was estimated to be 106 women to 100 men.⁴

Territory

- The territory of Poland is 120,728 square miles.⁵

Economy

- In 1997, gross national product (GNP) was USD \$138.9 billion.⁶
- In 1997, gross domestic product (GDP) was USD \$135,659 million.⁷
- The average annual growth between 1990 and 1997 was 4.1%.⁸
- From 1990 to 1995, public expenditure on health was 4.8% of GDP.⁹

Employment

- Women comprised 46% of the labor force in 1997, compared to 45% in 1990.¹⁰

WOMEN'S STATUS

- In 1999, the life expectancy for women was 76.9 years, compared with 68.2 years for men.¹¹
- In 1997, the illiteracy rate among youth between the ages of 15 and 24 was 0% for females and 0% for males.¹²
- In 1998, gross primary school enrollment was 97% for girls and 99% for boys; gross secondary school enrollment was 81% for boys and 85% for girls.¹³

ADOLESCENTS

- 20% of the population is under 15 years of age.¹⁴

MATERNAL HEALTH

- Between 1995 and 2000, the total fertility rate is estimated at 1.53.¹⁵
- In 1998, there were 23 births per 1,000 women aged 15-19.¹⁶
- In 1998, the maternal mortality ratio was 10:100,000.¹⁷
- Infant mortality was at 15 per 1,000 live births.¹⁸
- 99% of births were attended by trained attendants.¹⁹

CONTRACEPTION AND ABORTION

- The contraceptive prevalence for any method (traditional, medical, barrier, natural) is estimated at 75%, and that for modern methods at 26%.²⁰

HIV/AIDS AND STIs

- In 1999, the estimated number of people living with HIV/AIDS was 13,000.²¹
- In 1997, the estimated number of women aged 15-49 living with HIV/AIDS was 25.²²
- In 1997, the estimated number of children aged 0-14 living with HIV/AIDS was 3.²³
- In 1999, the estimated cumulative number of AIDS deaths among adults and children was 500.²⁴

ENDNOTES

1. UNITED NATIONS POPULATION FUND (UNFPA), THE STATE OF WORLD POPULATION 1999 (visited July 13, 2000) <www.unfpa.org>.
2. *Id.*
3. *Id.*
4. THE WORLD'S WOMEN 2000. TRENDS AND STATISTICS, at 21.
5. UNITED NATIONS POPULATION FUND (UNFPA), THE STATE OF WORLD POPULATION 1998, at 810.
6. THE WORLD BANK, WORLD DEVELOPMENT REPORT 1998/9, at 191.
7. *Id.* at 213.
8. *Id.* at 211.
9. *Id.* at 203.
10. *Id.* at 195.
11. THE WORLD BANK, WORLD DEVELOPMENT INDICATORS 1999, at 83.
12. *Id.*
13. *Id.*
14. CIA, POLAND, WORLD FACTBOOK (visited Sept. 23, 1999) <<http://www.odci.gov/cia/publications/factbook/pl.html>>.
15. THE STATE OF WORLD POPULATION 1999, *supra* note 1.
16. *Id.*
17. *Id.*
18. *Id.*
19. *Id.*
20. *Id.*
21. UNAIDS & WHO, EPIDEMIOLOGICAL FACT SHEET ON HIV/AIDS AND SEXUALLY TRANSMITTED DISEASES-POLAND 3 (2000) (visited July 13, 2000) <www.unaids.org>.
22. UNAIDS & WHO, EPIDEMIOLOGICAL FACT SHEET ON HIV/AIDS AND SEXUALLY TRANSMITTED DISEASES-POLAND 3 (1998).
23. *Id.*
24. EPIDEMIOLOGICAL FACT SHEET ON HIV/AIDS AND SEXUALLY TRANSMITTED DISEASES-POLAND (2000), *supra* note 21, at 3.

In East Central Europe, Poland borders the Czech Republic and Slovakia to the south, Germany to the west, and Russia, Lithuania, Belarus, and Ukraine to the east.¹ The official language is Polish. Poland was among the first countries in East Central Europe to introduce open market reforms in 1990,² and it now possesses one of the most successful “transition” economies in the region.³ Currently Poland is being considered for membership in the European Union (EU), and its prospects seem assured.

Poland is distinctive in the region for its strong Catholic affiliation, with 95% of the population being Roman Catholic and 75% defining themselves as practicing Catholics. The remaining 5% are a mix of Protestant, Eastern Orthodox and other denominations.⁴ Ethnically, Poland is relatively homogeneous, with 97.6% of the population Polish, 1.3% German, 0.6% Ukrainian, and 0.5% Byelorussian. As of July 1999, there were 38.61 million people living in Poland — 19.85 million women.⁵

I. Setting the Stage: the Legal and Political Framework

Poland is a democratic republic⁶ with a legal system that is a mixture of Continental (Napoleonic) civil law, with some persistence of the previous state socialist regime.⁷ Its Constitution was ratified in October 1997.

A. THE STRUCTURE OF NATIONAL GOVERNMENT

The government of Poland is based on a separation and balance of power between the executive, legislative and judicial branches.⁸

Executive branch

The power of the executive branch is vested in the president of the republic and the Council of Ministers (*Rada Ministrów*).⁹ The president is elected by secret ballot in universal and direct elections and serves for a maximum of two five-year terms. A president must receive more than half of the valid votes.¹⁰ The president of the republic reviews bills passed by the legislative branch and can either sign them, return them to the House of Representatives (*Sejm*) for reconsideration, or submit them to the Constitutional Tribunal for a review of their constitutionality. If a bill is returned to the *Sejm* and re-passed by a three-fifths majority vote of at least half the statutory number of deputies, then the president must sign the bill and may no longer refer it to the Constitutional Tribunal. If the Constitutional Tribunal finds that the bill conforms to the Constitution, the president must sign it. If the Tribunal finds the bill unconstitutional, the president cannot sign it.¹¹ As Poland's representative in foreign affairs, the president of the republic has the authority to ratify and renounce international agreements,

appoint and recall representatives of Poland, and receive diplomatic representatives of other states, but the president is required to cooperate with the prime minister with respect to foreign policy.¹² The president of the republic is also the Supreme Commander of the Armed Forces.¹³ He grants Polish citizenship and consents to its renunciation,¹⁴ confers orders and decorations,¹⁵ and has the power of pardon.¹⁶

The Council of Ministers conducts the internal affairs and foreign policy of Poland and is responsible for affairs of state not reserved to other state organs or local governments. In particular, the Council of Ministers implements statutes, issues regulations, ratifies international agreements, coordinates the organs of state administration, adopts a draft state budget, and implements the budget after its adoption by the House of Representatives.¹⁷

The president of the Council of Ministers is the prime minister, who is appointed by the president of the republic and the House of Representatives.¹⁸ The prime minister proposes the composition of the Council,¹⁹ manages the work of the Council, implements the Council's policies, and, like other ministers, issues regulations.²⁰ The *Sejm* oversees the activities of the Council of Ministers.²¹ The Minister of Health and Social Assistance is responsible for health care policy and management.²²

Legislative branch

The power of the legislative branch is vested in the House of Representatives and the Senate.²³ All representatives serve four-year terms that can be shortened by a vote of at least two-thirds of the statutory number of deputies or by order of the president of the republic.²⁴ The *Sejm*, which has much greater powers than the Senate, is composed of 460 deputies, elected by secret ballot in universal, direct, and proportional elections.²⁵ The Senate is composed of 100 senators elected by secret ballot in universal and direct elections.²⁶

Legislation may be introduced by deputies, the Senate, the president of the republic, the Council of Ministers, or a petition signed by 100,000 citizens able to vote in *Sejm* elections.²⁷ The *Sejm* passes bills or resolutions by a simple majority vote of at least half of the statutory number of deputies, unless the Constitution requires a different majority for certain kinds of bills, or a statute or resolution requires a different majority for a given resolution.²⁸ Once passed by the *Sejm*, the Senate may amend it, adopt it, or reject it by simple majority vote.²⁹ The *Sejm* can amend or reject a Senate resolution by a majority vote.³⁰ The *Sejm*, by a majority vote of deputies present, can order a nationwide referendum on a matter of particular importance to the state. The president of the republic, with the consent of a majority vote of the Senate, can also order a referendum. A nationwide referendum is binding if more than half

of Poles eligible to vote have participated in it. A referendum's validity is subject to Supreme Court review.³¹

Judicial branch

The judicial branch consists of the Constitutional Tribunal,³² the Tribunal of State,³³ the Supreme Court, the common courts, administrative courts and military courts.³⁴

The Constitutional Tribunal adjudicates on the conformity to the Constitution of statutes, international agreements, actions of central state organs, and activities of political parties. It also hears individual complaints concerning constitutional infringements³⁵ and settles disputes over authority between central state organs.³⁶ The Constitutional Tribunal is composed of 15 judges chosen by the *Sejm* for non-renewable nine-year terms.³⁷ Rulings of the Constitutional Tribunal are final and binding.³⁸

The Tribunal of State adjudicates cases involving normative acts initiated by the president of the republic, the prime minister, and certain other state officials.³⁹ The Supreme Court has appellate jurisdiction over common and military courts.⁴⁰ The Chief Administrative Court and other administrative courts exercise control over public administration and determine the conformity of local government resolutions.⁴¹ Judges are appointed for an indefinite period by the president of the republic on the suggestion of the National Council of the Judiciary.⁴²

The common courts are organized into three tiers below the Supreme Court: regional, provincial and appellate. Regional courts are courts of first instance, provincial courts have original jurisdiction over the most serious offenses, while also handling appeals from regional courts, and appellate courts handle only appeals from the provincial level. The Supreme Court handles appeals only about questions of law. In addition, common courts are divided into civil, criminal, labor and family jurisdictions.⁴³

The government is further monitored by the Supreme Chamber of Control and the Commissioner for Citizen's Rights (Ombudsman). The Supreme Chamber of Control audits the organs of government administration, the National Bank of Poland, state legal entities, local government agencies, and other state organizational units to ensure the legality, economic prudence, efficacy and diligence of their activities.⁴⁴ The Ombudsman⁴⁵ reports annually to the *Sejm* and the Senate about the state of the freedoms and rights of the people of Poland.⁴⁶ The Commissioner is appointed by the *Sejm*, with the consent of the Senate, for a period of five years.⁴⁷ The Ombudsman may act when, upon the complaint of an individual or organization, violations of human rights and freedoms by public agencies and authorities are called to its attention.⁴⁸

B. THE STRUCTURE OF TERRITORIAL DIVISIONS

Regional and local governments

The 1998 administrative reform significantly reduced the central government's administrative presence at the local level.⁴⁹ Local government has been reconstructed into 16 provinces (*Wojewodztwa*),⁵⁰ and the provinces are divided into districts (*Powiat*), each of which consist of several communes (*Gmina*), the basic units of local self-government.⁵¹ Local governments perform all public tasks not reserved to other public authorities by the Constitution or statutes.⁵² They have their own constitutive and executive organs,⁵³ property rights, and the right to levy local taxes.⁵⁴ Matters concerning the local community can be decided by referendum.⁵⁵ *Gminas* have their own elections, which give them relative independence from central government. The *Gmina* Council is the legislative body, the mayor and municipal council are the executives.⁵⁶ The 350 democratically elected *Powiats* may also promulgate local regulations.⁵⁷ They also may execute at the local level some administrative and financial tasks of the state.⁵⁸ The *Powiat* is governed by its own legislative body (the Council), and an executive board.⁵⁹

The highest level of local government is the *Voïvod*, members of which are appointed partly by the central government and partly by newly created, democratically elected, regional assemblies (*Sejmiks*). The self-governing *Voïvodship Sejmiks* are responsible for the development and implementation of regional economic policies and, like *Powiats*, have independent legal identities and independent budgets.⁶⁰ The *Voïvods* concentrate on regional policies that relate to cultural life and local activities, including health and pro-family policies.⁶¹ Acts of local governments (*Gmina* and *Powiats*) are subject to review by the courts,⁶² the prime minister, *Voïvods*, and regional audit chambers.⁶³

C. SOURCES OF LAW

Domestic sources of law

Poland has a civil law system.⁶⁴ The sources of universally binding law are the Constitution, statutes, regulations and ratified international agreements.⁶⁵ The Constitution is the supreme law and is directly applicable.⁶⁶ Ratified international agreements become part of the domestic law and are directly applicable.⁶⁷ They have precedence over domestic law and are second in the hierarchy of laws.⁶⁸

Regulations implement statutes.⁶⁹ Resolutions of the government and orders of the premier and ministers are binding only on subordinate officials. They may not, therefore, constitute the basis of decisions concerning citizens, legal entities, and other subjects.⁷⁰ Resolutions and orders must comply with

universally binding law.⁷¹ Acts of local bodies are a source of universally binding law in the territory of the organ issuing such acts.⁷² According to Article 190(1) of the Constitution, judgments of the Constitutional Tribunal also have universal binding application. Finally, common law, when not in contradiction to statutory law, is another source of binding law.⁷³

International sources of law

International agreements are concluded by the Council of Ministers⁷⁴ and are ratified by the president.⁷⁵ If an international agreement concerns peace, alliances, political or military treaties; constitutional freedoms, rights or obligations of citizens; Poland's membership in international organizations; considerable financial obligations; or matters normally regulated by statute, then consent must be granted by statute before the agreement can be ratified.⁷⁶ The state may, by virtue of international agreements, delegate to an international organization the competence of state organs in relation to certain matters.⁷⁷ The ratification of such international agreements requires consent through a statute passed by two-thirds of the *Sejm* and by two-thirds of the Senate.⁷⁸ Such statutes may also be passed by a nationwide referendum.⁷⁹

Since 1980, Poland has been a state party to the Convention on the Elimination of All Forms of Discrimination Against Women.⁸⁰ Poland has also ratified the International Covenant on Civil and Political Rights,⁸¹ the International Covenant on Economic, Social and Cultural Rights,⁸² the First Optional Protocol to the International Covenant on Civil and Political Rights,⁸³ the Convention on the Rights of the Child,⁸⁴ the International Convention for the Elimination of All Forms of Racial Discrimination,⁸⁵ and the European Convention of Human Rights.⁸⁶ The European Agreement, signed on December 16, 1991 by the Republic of Poland to associate with the EU, obliges Poland to "harmonize" its law with that of the EU.⁸⁷

II. Examining Health and Reproductive Rights

Reproductive rights were not discussed during the period of state socialist rule, and unfortunately, little has changed since the transition. Generally, all governments have ignored in official state strategies, policies and program issues of women's reproductive health and rights, with the exception of abortion. Access to abortion has become considerably more difficult since 1989.

A. HEALTH LAWS AND POLICIES

The Constitution guarantees every citizen the right to health care financed by the state.⁸⁸ The Constitution also obliges

authorities to pay special attention to the health of children, pregnant women, disabled persons and the elderly.⁸⁹

Reform of the health care system is one of four major reforms implemented in Poland since January 1, 1999. (The others are reform of the social security system, education and state administration). Its cornerstone is the elimination of direct state financing of the health service.⁹⁰ In 1998, there were 8,461 medical clinics and health care centers in Poland, 5,256 situated in urban areas and 3,205 in rural areas.⁹¹ There are 715 general hospitals, and eight have specialized maternity departments,⁹² representing a marked decrease since the early 1980s. Poland has a high ratio of health care professionals per inhabitants: one doctor is responsible for 424 persons, while one nurse is responsible for 178.⁹³ There are 6,341 gynecological specialists,⁹⁴ while 24,434 midwives work in hospitals and other medical centers.⁹⁵ In 1998 there were 727 hospital beds per 100,000 inhabitants.⁹⁶

A number of laws regulate the provision of health care services: the law on health care institutions;⁹⁷ the law on national health insurance;⁹⁸ the law on the medical profession;⁹⁹ the law on care of the mentally disabled;¹⁰⁰ the law on family planning, protection of the human fetus and conditions of legal abortion;¹⁰¹ and the law on the profession of nurse and midwife.¹⁰²

Objectives of the health policies

The Polish government first set forth a National Health Program (NHP) in an interministerial document signed on September 3, 1996.¹⁰³ The NHP is based on the World Health Organization (WHO) strategy of "Health for All in the Year 2000."¹⁰⁴ The strategic goal of the NHP is to better public health by focusing on improving access to health care services and reforming lifestyle and environment risks.¹⁰⁵ The NHP addresses women's health and reproductive rights only insofar as two of its goals are to prevent premature births and to detect and prevent breast cancer.¹⁰⁶

A women's health policy was taken up in the 1997 National Program of Actions for Women, under the governmental Office of Plenipotentiary for Family and Women.¹⁰⁷ The program was never implemented.¹⁰⁸ In 1997, the Office became the Plenipotentiary for Family Affairs, and according to the legal act adopted by the government on November 7, 1997, the new office's mandate no longer includes women's issues and gender equality.¹⁰⁹ As a result, the women's health policy has been left to languish.

Poland has had in place since 1993 a National Program for Development of Prenatal Care. Its goal is to reduce the number of illnesses and deaths among mothers and newborn children;¹¹⁰ its actions are carried out on the regional level.¹¹¹ The national health policy of Poland therefore considers women

principally as mothers and devotes most of its women's health resources to pre-, peri- and postnatal care. The health care needs of women who wish to avoid childbearing and of postmenopausal women are not well met.

Implementing agencies

The Ministry of Health is charged with organizing and implementing public health care services and is in the process of reforming the health sector to promote decentralization and privatization. Under these reforms, responsibility for outpatient primary and specialty care services, as well as some inpatient care, has been transferred from the central government to large cities and local government service areas. Furthermore, authority previously held by central government officials has been delegated to managers of independent and relatively autonomous health institutions, including hospitals and publicly owned integrated health care maintenance organizations known as ZOZs.¹¹² The NHP is largely implemented by local governments, local communities and NGOs.¹¹³ The National Health Institution is in charge of negotiating contracts with health care providers and paying for treatment provided to insurance holders.¹¹⁴

Infrastructure of health services

Almost all primary care services are provided through polyclinics. A polyclinic is typically staffed by a multi-specialist team, consisting of an internist, pediatrician, gynecologist, and a dentist,¹¹⁵ with frequent use of referrals to other specialists after an initial consultation.¹¹⁶ Clinics located in the urban areas have a larger number of physicians and support staff than rural facilities. Outpatient clinics in urban areas usually have superior equipment and facilities, such as analytical or diagnostic laboratories, and many have separate dispensaries for children and women. They may also have dental or other specialist dispensaries. In 1991, there were 3,311 outpatient clinics, 1,903 of which were in urban districts.¹¹⁷

Approximately 95,000 people — 14% of all public health service employees — work in primary health care. However, their distribution among health facilities is uneven. The number of doctors per 10,000 inhabitants ranges from 11.4 in the rural Siedlce *Voivodship* to 38.4 in the Warsaw area. The ratio of physicians employed in primary health care relative to those working in hospitals or in specialized care appears to be insufficient: of all physicians in Poland, only 16% (14,000 doctors) are involved in the primary health care sector.¹¹⁸

Much of Polish health care is provided through publicly owned integrated health care maintenance organizations known as ZOZs, which combine primary and specialist care and, in some cases, inpatient services. The central government devolved ownership of public sector health care providers to

local and provincial governments in 1993, so that now most hospitals are owned by provincial governments. Under a provision of a 1995 law, Poland's 46 large cities ("*Gmina*") were offered ownership over primary care providers, including polyclinics, specialist clinics, public health providers and a few hospitals that were included in the related ZOZs. Local governments outside of large cities (also called *Gmina*) were given authority over primary care facilities in their jurisdiction.¹¹⁹ Inpatient care is provided by the *Voivodships* through hospitals, and each hospital has a minimum of four wards: internal medicine, surgery, gynecology and obstetrics, and pediatrics.¹²⁰ Legislation from 1991 allowed hospitals to function as "independent units," operating according to commercial law.¹²¹

A significant development for patients in the current health care reforms is the creation of family practitioners (FPs) who act as "gatekeepers." Patients are no longer permitted to go straight to a specialist. They must first register with an FP, who will assess the need for additional services. Although patients can visit FPs and hospitals of their choice, they must select doctors and institutions within their own province.¹²² This applies only to ZOZs, not to private clinics.

Cost of health services

Before 1989, the state socialist government provided all health care services. These were financed out of the national budget and managed by the Ministry of Health. Private practice was officially legal, but available only to those who had connections and could pay. Since 1989, government reforms created a system of national health insurance based on payment of premiums that entitle the contributor to a defined package of benefits. Eligibility is no longer automatic for all citizens, although coverage is intended to be virtually universal. Health care services are provided through state-owned or autonomous hospitals, clinics, and ZOZs that receive contracts and payments from a system of insurance funds. Private health care providers may also be approved and receive payments through insurance, under certain conditions.¹²³

The government no longer fully finances the operations of the health care system. Since January 1999, all employed citizens were obliged to pay 7.5% of their income¹²⁴ in the form of a mandatory, tax-deductible health insurance premium.¹²⁵ Those who are unemployed must register at the Bureau of Unemployment and Social Welfare Centers in order to obtain a waiver and receive insurance coverage. Family members are considered dependents and receive coverage under the insured principal. Retired pensioners make no contribution but are covered. The Ministry of Health pays for the care of orphans, persons on permanent welfare, and the poorest agricultural workers.¹²⁶ Additionally, article 8 of the Law on Health

Insurance guarantees to every insured person the use of public health services at no charge. Under this article approximately 97% of the population is entitled to free medical care.

The new health insurance system is executed through 16 fully autonomous funds known as "Sick Funds" (*Kasa Chorych*),¹²⁷ one for each *Voivodship*. There is also one nationwide fund for individuals in the uniformed services. The Funds' main purpose is to provide the best possible medical care, as far as their budget will permit, to all insured persons,¹²⁸ and thus cover the costs of medical consultations, diagnostic services, medical treatment, medical rehabilitation, nursing assistance, pre-, peri- and postnatal care, preventive care, and basic medicines.¹²⁹

While these health care reforms have been implemented only starting in 1999, already there are concerns related to accessibility of specialized medical services and the ability of the poor to access quality health services.¹³⁰ The Ombudsman has raised serious questions about the constitutionality of the Law on Health Insurance, and it is expected that the government will take up this matter eventually.¹³¹ In 1994, the health budget was 13.8% of the total state budget, increasing to 15.4% in 1996 and falling to 13.3% in 1998. The health expenditure per capita increased from USD \$111.50 in 1994 to USD \$167 in 1996.¹³² Total public expenditures for the health care system constituted 4.24% of Poland's GNP in 1997.¹³³ Private health insurance was not possible until 1999 — foreign companies were not allowed to sell it, and Polish companies did not offer health coverage.¹³⁴

One irony in Poland's health care system reforms involves the government's inattention to EU directives.¹³⁵ Poland was among the first wave of East European countries to apply for EU membership, but it participates in none of the four EU projects on health: health promotion; prevention and treatment of AIDS; prevention of cancer; and prevention of alcoholism.¹³⁶ Moreover, there is limited financing of health clinics for women, particularly those specializing in the prevention of women's illnesses (including cancers). This limited financing directly affects the availability of professional counseling and treatment for such diseases.¹³⁷ Finally, although family planning services are included in the package of free health care services available to women, the government dropped five of the eight contraceptives designated for reimbursement from the schedule of covered medications.¹³⁸

Regulation of health care providers

The Law on the Medical Profession¹³⁹ and the Code of Ethics¹⁴⁰ regulate health care professionals, who are obliged to respect human rights and protect the dignity of individuals who use their services.¹⁴¹ The Law on the Medical Profession defines

the conditions under which one may practice medicine. To become a physician, one must study medicine at a university, and upon graduation, pass the state examination. Physicians are required to register with the National Court of Physicians. They also have an obligation to continue their education and to take post-graduate courses designed for this purpose.¹⁴²

All doctors are required to join the Chamber of Physicians, which is organized both nationally and regionally.¹⁴³ The highest authority in this medical self-government is the National Congress of Doctors; each regional chamber has its own congress as well. The National Court of Physicians, regional courts, the National Spokesman for Professional Responsibility and regional spokespeople also operate within the medical profession's self-governing structures.¹⁴⁴ The professional self-governing bodies of physicians are supposed to regulate the quality of work and ethics of medical services.¹⁴⁵ Any person dissatisfied with medical service rendered can complain and press charges with regional chambers or can directly exercise his or her rights in a court of law. The Ombudsman is also entitled to lodge a complaint or initiate any form of legal action where there is a possibility of a rights violation.¹⁴⁶

The professions of nursing and midwifery are regulated by Law No. 410/1996 and the Midwifery regulations,¹⁴⁷ which were part of the broader health care reform. The law established a new three-year nursing curriculum that emphasized the professional aspects of the nurse's role and fostered the development of a curriculum that met European nursing and midwifery standards of education and training.¹⁴⁸ The new curriculum includes many new subject areas, such as mental illness, health promotion and research. In 1999 a new Institute of Postgraduate Education for nurses and midwives was established.¹⁴⁹

Polish pharmacists are organized into the Polish Pharmaceutical Chamber, whose organization is regulated by a 1991 law.¹⁵⁰ The main bodies of this Chamber are its Council, Commission, Court and Spokesperson. Similarly to physicians, pharmacists in 1993 adopted their own Code of Ethics.¹⁵¹

Patients' rights

There is no single document concerning patients' rights. Regulations on specific rights are included in different documents: the laws on health care and insurance; the law on the medical profession; regulations for specific clinics and hospitals; and the general codes of medical ethics. Article 39 of the Constitution forbids scientific experimentation, including medical experimentation, without the voluntary consent of the individual.

The Law on the Medical Profession provides that the patients have the right to medical care, delivered in accordance with modern prevailing medical standards, treatment, and professional ethics.¹⁵² Patients have the right to all information on

the state of their health, the physicians' diagnosis, and all possible courses of treatment; patients are entitled to know the possible negative consequences, as well as positive, of such treatments.¹⁵³ Patients have the right to consent to or refuse examination or other treatments.¹⁵⁴ The patient's informed consent for operations or other interventions must be obtained.¹⁵⁵ Patients have a right to any information about modifications a doctor has made during a course of treatment, due to risks of health or life.¹⁵⁶ A physician must respect the privacy and dignity of the patient.¹⁵⁷ Patients have the right to consent to, or refuse, the presence of persons other than a physician or medical staff.¹⁵⁸ All medical professionals must keep confidential any information about a patient gathered during the course of medical treatment.¹⁵⁹

The consent of the patient is required for all diagnostic, therapeutic and preventive procedures. If the patient is unable to give informed consent, it should be given on his or her behalf by the patient's statutory representative or a person having permanent care of the patient. If the patient refuses to give consent for a proposed procedure, the physician should, as far as possible, continue to provide medical care for the patient.¹⁶⁰ Should a patient successfully prove that a violation of his or her rights has occurred, courts can fine doctors, although actual damages are limited to losses.¹⁶¹ Responsibility for medical malpractice can be criminal and civil as well as involving discipline meted out through a professional body.¹⁶²

The Criminal Code punishes any person who performs a medical procedure without the patient's consent with a fine, limitation of freedom, or imprisonment for up to two years.¹⁶³

General provisions cover cases where serious harm was done to another person's health, and these carry possible prison terms of between one and ten years.¹⁶⁴ The provisions of the Criminal Code on battery, assault, manslaughter, murder, or physical or psychological mistreatment of family members or dependent persons also apply.

It is the duty of the Chamber of Physicians to supervise and discipline their members on issues of medical ethics.¹⁶⁵ Physicians must answer to medical courts for any conduct contrary to principles of professional ethics or laws regulating the practice of medicine.¹⁶⁶ Medical courts can issue a reprimand or a warning, can suspend the right to practice the medical profession for a period of six months to three years, and can permanently deprive the physician of the right to practice the profession.¹⁶⁷ Disciplinary proceedings do not exonerate doctors from separate civil or criminal responsibility.¹⁶⁸ An accused physician has the right to designate defending witnesses and to seek counsel from among physicians and attorneys.¹⁶⁹

There are some policies that may conflict with the guarantee of patient rights, particularly where the right to

information¹⁷⁰ concerning family planning is concerned.¹⁷¹ The head of the National Court of Physicians has given clear direction that doctors may refrain from prescribing contraception if it is against the dictates of their consciences,¹⁷² and doctors are under no obligation to refer or provide patients with additional information and alternatives.¹⁷³ There are additional concerns regarding patients' rights as rights to privacy and respect of patient's dignity are systematically violated.¹⁷⁴ Moreover, health care workers receive no human rights education in their professional training.¹⁷⁵

B. POPULATION POLICY

As is the trend in many European nations, there is an observable decline in Poland's birth rate. Families are having fewer children: in 1980, there was an average of 2.27 children per family; in 1995, that dropped to 1.61 children per family,¹⁷⁶ a rate demographers estimate falls below the level needed to maintain current population numbers.¹⁷⁷ Since 1992 the average life expectancy of men and women has been increasing — in 1997, it was 77 years for women and 68.5 for men. Infant mortality has decreased. The number of infant deaths per 1,000 live births dropped from 19.3 in 1990 to 10.2 in 1997¹⁷⁸ and 9.5 in 1998.¹⁷⁹ In 1998, there were 22,000 more births than deaths.¹⁸⁰

In response to a perceived population decline, the Polish government has adopted a pronatalist ideology. This ideology is reflected in the Polish Constitution, which states that "marriage, being a union of a man and a woman, as well as the family, motherhood and parenthood, shall be placed under the protection and care of the Republic of Poland."¹⁸¹ Article 71 of the Constitution specifies that "(1) The state, in its social and economic policy, shall take into account the good of the family. Families, finding themselves in difficult material and social circumstances — particularly those with many children or a single parent — shall have the right to special assistance from public authorities; and (2) A mother, before and after birth, shall have the right to special assistance from public authorities."

Poland's restrictive abortion and family planning laws constitute a de facto population policy that is both Catholic and pronatalist. Its employment laws and policies promote motherhood and make it difficult for women who do not take advantage of these state benefits to raise their children and to reenter the labor force on the same footing as men. Most recently, the government submitted a pro-family tax relief bill to the *Sejm*. The bill would reform the current tax code to give preferential treatment to families with at least two children and low incomes.¹⁸²

The government's pronatalist position is also expressed through a very restrictive abortion law, a lack of policies that promote and subsidize family planning programs, and its

withdrawal of support for modern hormonal contraceptives for women while considering state-supported access to the male impotence drug Viagra. Family planning services are generally not provided in the public health system and sterilization is illegal.¹⁸³ There are inconsistencies in this position, however. For instance, the allowance for extremely poor pregnant women is symbolic, and not all entitled women have received it.

C. FAMILY PLANNING

The Polish government committed itself to the 1994 International Conference on Population and Development Programme of Action, but has taken no practical action to fulfill this commitment. Family planning is officially included on the list of basic health care services provided by the state, but there are no systematic family planning services offered in its public health care institutions.¹⁸⁴ The United Nations Human Rights Committee has recently noted the insufficiency of public family planning programs and recommended Poland introduce policies and programs that would promote full and non-discriminatory access to all methods of family planning and that it reintroduce sex education in public schools.¹⁸⁵

The NHP aims to improve health in the sphere of women's reproduction, including in particular health services and counseling for women about family planning. Financed by the government and by funds from the United Nations Development Program (UNDP), a program called "Promotion of the Health of Mother and Child With Special Focus on Family Planning" was implemented by Poland. Its long-term aim is to improve the health of mothers and children as well as to reduce the number of unplanned pregnancies through the improvement of reproductive health services, including information, education, and communication about family planning.¹⁸⁶ NGOs were critical of this program due to its strong bias toward natural family planning. Another government program, "Perfecting Care of Mother and Child," seeks to reduce infant mortality to less than 10 deaths per 1,000 live births by the year 2000 (it was achieved in 1998). It also aims to reduce prematurity and the frequency of births of low-birth-weight babies. The program created local coordinated systems of care for pregnant women and newborn babies.¹⁸⁷

Services provided by NGOs/private sector

The only institutions in Poland providing a full range of reproductive health services are non-governmental organizations: a small network of Centers for Family Development ("Towarzystwo Rozwoju Rodziny," an International Planned Parenthood Federation affiliate offices with 10 branches, five specialized clinics and eight counseling centers) and the Federation for Women and Family Planning.

The branches of the Centers for Family Development organize regular information and education courses for young people, teachers, parents, and professionals on different aspects of sexual health and human reproduction. Recently, youth groups have been set up in five branches, aiming to develop youth-to-youth activities. The clinics provide free-of-charge psychosexual, legal, and family counseling.¹⁸⁸ The Ministry of Health and Social Welfare partially subsidizes some of these services so they can be offered free of charge by the network.¹⁸⁹

The Federation for Women and Family Planning defends women's reproductive rights through lobbying and advocacy activities. The Federation provides information and services on reproductive health — mainly family planning, prevention of sexually transmissible infections (STIs) and HIV/AIDS, reproductive tract infections, post-abortion counseling, and prevention of female cancers. Its publications on sexuality, women's reproductive rights and health, family planning, sex education, and other related issues are distributed through NGOs and health care centers.

D. CONTRACEPTION

Prevalence of contraceptives

Official data concerning the use of different family planning methods by married women older than 15 years reveal that 29.3% use no form of birth control, 27.4% use the rhythm method, 22.6% practice sexual intercourse without ejaculation (*coitus interruptus*), 14.2% use condoms, 5.1% use hormonal contraceptives, and 4.4% use IUDs.¹⁹⁰ Mass media opinion polls, on the other hand, indicate that most people favor *coitus interruptus* (45.8%) as their primary means of contraception.¹⁹¹ They also found that natural family planning is used by 35% of all Poles and that 31.8% use condoms. Some less common methods are the basal body temperature method (7.7%), ovulation control (7.3%), and spermicidal IUD (7.1%). Hormonal contraceptive pills are used by 6.3% of women, spermicide by 5.3%.¹⁹² Although there are no official statistics on the use of family planning services,¹⁹³ there are some data on the sale of contraceptives: in 1997 there were 3,321 packs of hormonal contraceptives sold in pharmacies; in 1998 this number grew about 27.8%, to 4,243 packs.¹⁹⁴

Legal status of contraceptives

There are more than 20 hormonal contraceptives approved and registered for sale in Poland.¹⁹⁵ Up until 1998, eight brands of oral contraception were completely subsidized by the state budget. In 1998, the government withdrew subsidies for five of these contraceptives.¹⁹⁶ The types of oral contraceptives that receive subsidies are high estrogen and do not meet the needs of most women. The Federation for Women and Family Planning made an official complaint to the Polish Ombudsman for

Human Rights about the withdrawal of state subsidies. Despite the Ombudsman's finding that this withdrawal constituted a discriminatory practice, the government has not reversed its decision.¹⁹⁷

The legal status and use of contraceptives is influenced by the position of the Catholic Church. Catholic media and organizations promote natural family planning and campaign against contraceptives by using the arguments that contraceptives are sinful and harmful.¹⁹⁸ The Church's propaganda against family planning in sermons, confessions, and religious classes affects even doctors, who do not prescribe contraceptives for fear of being criticized by the Church.

Contraceptives have the same legal status as any other pharmaceutical product.¹⁹⁹ All pharmaceutical products and medical articles, other than those specified, must be entered in a register overseen by the Commission on the Registration of Pharmaceutical Products and Medical Articles. Before they can be entered in the register, they must undergo laboratory and clinical trials. The manufacture of articles and products must be authorized by the Ministry of Health. The law also regulates the importation of products, requirements for pharmacies, the State Pharmacy Inspectorate, and penalties. Pharmacies can apply for a special exemption from carrying specific products, contraceptives included.²⁰⁰

Regulation of information on contraception

There are no formal restrictions on advertising contraception and birth control methods. However, there is not much of a climate for the dissemination of such information as there are no official programs or guidelines regulating professional counseling on family planning matters.²⁰¹ Many physicians do not know about, or are personally opposed to family planning and do not inform their patients about birth control methods.²⁰² Consequently, 45% of women have never been encouraged by their gynecologists to use birth control.²⁰³ Physicians are shielded by the Code of Medical Ethics, which obliges them to inform patients about contraception only if asked directly.²⁰⁴

E. ABORTION

Statistics on the number of abortions conducted in Poland are not available. Official data comes only from public health care institutions, and most abortions take place in private clinics. Unofficial documents suggest that between 30,000 and 200,000 abortions are performed, most illegally. More accurate figures put the estimate at 40,000 to 50,000 illegal abortions.²⁰⁵ Based on official documents alone, the number of abortions would appear to be declining. After implementation of the Abortion Law in 1994, the official number of abortions performed in public hospitals was 847; in 1995, it was 570; in 1996, 505.²⁰⁶ When the law was liberalized in 1997, there were 3,047

officially registered abortions at public health care institutions,²⁰⁷ but the official number of abortions declined abruptly again in 1998, to 310.²⁰⁸ These statistics suggest that women go to private clinics for abortions, whether or not they are authorized by law, or terminate their pregnancies abroad.

Legal status of abortion

Abortion had been legal in Poland since 1956. From 1956 to the early 1990s, abortion in practice was available upon request up to 12 weeks from the presumed date of conception if the woman faced "hard life conditions," or had a "difficult personal situation."²⁰⁹ Abortions were free of charge when performed in public hospitals and were subject to a fee if done in private clinics.²¹⁰

In 1990, Catholic groups initiated a campaign against abortion. Physicians, too, declared themselves to be against abortion, and in 1992 adopted a Code of Medical Ethics that permitted abortion only to save the mother's life and health or when pregnancy resulted from a criminal act.²¹¹ Because of these Code revisions, legal abortion became practically inaccessible in public hospitals and extremely expensive in private clinics. In 1993, the government adopted an anti-abortion law that was similarly restrictive. According to this law, abortion was legal only if a woman's life and health were threatened, when the pregnancy was the result of a crime, or in cases of severe fetal abnormality.²¹² After more than three years of debate, however, the *Sejm* in 1996 passed the Act on Family Planning, Human Embryo Protection and Conditions of Permissibility of Abortion, commonly known as the Polish Abortion Law.²¹³ It significantly liberalized the 1993 law, permitting abortion for social and economic reasons.²¹⁴ The Constitutional Tribunal in 1997 restricted the Polish Abortion Law,²¹⁵ reasoning that the "social indicators" mentioned were unconstitutional.²¹⁶

Currently, abortion is allowed in Poland only in three situations:

1. The pregnancy endangers the health or life of the mother. This must be diagnosed by a physician who will not be conducting the abortion.
2. A prenatal examination shows a high probability that the fetus has irreversible and severe disabilities or an incurable disease which endangers its life. These conditions must be diagnosed by a physician who will not be conducting the abortion.
3. The pregnancy is due to a criminal act. This must be established by the state prosecutor.²¹⁷

Abortions for reasons of life and health or fetal impairment are permissible only until the fetus is capable of living outside the

womb. Abortions where pregnancy results from a criminal act are possible only during the first 12 weeks of the pregnancy.²¹⁸

Requirements for obtaining legal abortion

The woman must consent in writing to have an abortion.²¹⁹ In case of a minor girl or a completely “incapacitated” woman, the written consent of her legal guardian is necessary. Girls over 13 years of age can give their own written consent. Incapacitated women must give their written consent as well, unless their mental state renders them incapable of consenting. If there is no consent of the legal representative, the consent of the guardianship court is required.²²⁰

Abortion is legal only if conducted by a doctor in a hospital, except when the pregnancy was due to a criminal act. In such cases, abortions may be performed in private clinics.²²¹ Women who are insured have the right to an operation free of charge in a public health care institution.²²² Abortions can be also conducted in a private clinic provided they meet the legal criteria.²²³ Doctors who perform abortions and doctors who ascertain the necessity of abortion must meet professional qualifications set by decree of the Ministry of Health.²²⁴

There is room for interpretation of the law; however, hospital administrators often narrowly construe provisions.²²⁵ There is no central or effective mechanism for overseeing hospital policies, and hospital administrators who do not approve of abortion may ignore the opinion of doctors. Sometimes directors promulgate policies that make it nearly impossible for women to access abortion services.²²⁶ The conscience clause gives an individual doctor the right to refuse to perform abortion. Although it requires the doctor to direct the woman to a physician who will perform one, in practice, these referrals are rarely made.²²⁷

Prenatal testing

The Polish Abortion Law also requires authorities to provide information and free prenatal screenings for all pregnant women, particularly if there are high risks of genetic defects or possibilities of incurable diseases.²²⁸ Prenatal examinations that do not significantly enhance the risk of miscarriage are permitted if the child comes from a family with genetically transmitted defects, if it is suspected that the fetus suffers from a genetic disease that can be cured, controlled or limited during the fetal period, or if it is suspected that the fetus is seriously injured.²²⁹

Nonetheless, prenatal screenings are rare, as most physicians do not refer women to those examinations for a variety of reasons, including objections on the basis of conscience. Moreover, a provision to punish anyone (including physicians) who threatens or provokes physical harm to a fetus was signed into law on July 29, 1999. It carries a sentence of up to two years in prison.²³⁰

Government funding/subsidizing of abortion services

Legal abortion for women who are insured is covered by health insurance when it takes place in public health care institutions.²³¹ Since the law on abortions is so restrictive, however, most abortions that take place are illegal. Women seeking abortion either find a doctor who will perform it illegally, or they go abroad. The average price of an illegal abortion is USD \$400, but the procedure can cost as much as USD \$800. Abroad, an abortion can be as much as USD \$1,300.²³²

Penalties for abortion

Performing an abortion outside of the framework of the Polish Abortion Law is illegal.²³³ Anyone who conducts an abortion with the prior consent of a woman, or who assists a pregnant woman in obtaining an illegal abortion or persuades her to do it,²³⁴ can be punished with up to three years of imprisonment.²³⁵ If an illegal abortion causes a woman's death, the jail term is between one and ten years.²³⁶ If an abortion is performed on a fetus capable of living outside of the womb, the sentence is increased up to an additional eight years of imprisonment.²³⁷

Anyone who uses physical or psychological force upon a pregnant woman to cause a miscarriage or abortion, without her prior consent, can be sentenced to between six months and eight years in prison.²³⁸ If such force causes the death of a fetus capable of living outside of the womb, an additional sentence of between one and ten years of imprisonment is imposed.²³⁹ If such actions cause the death of the woman, the sentence may be increased to up to 12 years of prison.²⁴⁰ A woman who seeks or undergoes an illegal abortion cannot be criminally prosecuted.²⁴¹ A mother can be punished if she kills her child while giving birth.²⁴²

Should an abortion seriously damage a woman's capacity to procreate, there can also be criminal liability.²⁴³ Harming the body of the fetus or upsetting its health and endangering its life is subject to a fine or imprisonment of up to two years.²⁴⁴ These acts are not crimes if they are performed by a doctor during medical procedures that are carried out to remove the threat to the life or health of the pregnant mother.²⁴⁵

Regulation of information on abortion

There is no specific legislative prohibition on advertising legal abortions, and hidden advertisements exist. Individual doctors and cooperatives regularly place advertisements such as “Gynecological services — full range” in both the national and the local press.²⁴⁶

Religious definitions/restrictions

The Catholic Church has been the driving force of the campaign against abortion and family planning. It has also

played a crucial role in the failure to implement sex education programs. The Church acts through sermons, media campaigns, and close cooperation with Christian National parties and pro-life organizations. The crusade against abortion began during the state socialist period. Between 1970 and 1980, the Church established organizations such as Concern for Life and Gaudium Vitae (Joy of Life), which launched a campaign against abortion and family planning. In the 1980s, these organizations were supported by trade unions and Lech Walesa.²⁴⁷

The key role the Church played in bringing down state socialism assured its lasting influence on legislators and the government. The majority of the society, despite its Catholicism, does not support the ban on abortion. However, the direct involvement of the Church — particularly the role of Pope John Paul II — obstructs the establishment of a stronger, better organized and more effective pro-choice movement.²⁴⁸ An amendment has been offered to the Law on the Medical Profession that would replace the word “fetus” with “conceived child.” Along with other proposed amendments to establish a definition of “life” from the moment of conception, this is an attempt to criminalize all abortions.²⁴⁹

F. STERILIZATION

Sterilization as a method of family planning is illegal. Even with the written consent of the patient, sterilization is considered to be a criminal injury, and carries a penalty of up to 10 years in prison.²⁵⁰ However, sterilization operations used to be performed under various pretenses, usually when the doctor viewed the patient’s situation as non-conducive to having children, such as when the mother has a mental disability.²⁵¹

G. HIV/AIDS AND SEXUALLY TRANSMISSIBLE INFECTIONS (STIs)

Prevalence of HIV/AIDS and STIs

There were 5,591 cases of HIV infection officially registered in Poland by the end of 1998.²⁵² Of the 794 people diagnosed with AIDS by June 30, 1999, 431 have died.²⁵³ The Ministry of Health officially estimates that there are between 25,000 and 30,000 people in Poland living with HIV/AIDS,²⁵⁴ most not officially registered. Women make up 24.9% of HIV-positive individuals;²⁵⁵ 86% of HIV-positive individuals are drug addicts.²⁵⁶ Official statistics report 2,152 cases of STIs for 1998, out of which 843 are women.²⁵⁷ The number of STIs has decreased in the last three years — from 2,788 in 1996 to 2,340 in 1997, and 2,152 in 1998.²⁵⁸

Laws affecting HIV/AIDS and STIs

The revised Criminal Code makes it a crime to directly and knowingly expose a person to HIV infection or another

sexually transmissible infection.²⁵⁹ Individuals with HIV/AIDS, identified by anonymous testing, must be informed about their status, and about legal consequences of infecting other people. Anyone who knowingly infects another person with the HIV virus can face three years of imprisonment.²⁶⁰ Any person who knowingly infects another person with an STI can be fined or imprisoned for up to one year.²⁶¹

Mandatory screening for HIV takes place whenever blood is donated²⁶² and during all hospital and clinic admissions,²⁶³ even though there are no legal requirements to do so. Examination is also obligatory for people working in schools and other educational institutions.²⁶⁴ Some employers demand that employees be tested. A doctor has no legal or ethical right to refuse to treat an infected patient. Women infected with HIV/AIDS do have a right to be informed about consequences for children should they become pregnant.²⁶⁵ Presumably, positive HIV status should be grounds to obtain a legal abortion.

Policies on prevention and treatment of HIV/AIDS and STIs

In 1996, the Ministry of Health introduced the National Program for the Prevention of HIV Infection and the Care of Persons Living with or Suffering from HIV/AIDS (National Program). The National Program’s main task is to prevent transmission of HIV.²⁶⁶ An order of the Ministry of Health and Social Welfare established the AIDS Council as an advisory body to the Ministry of Health. The Council’s functions include implementing the National Program, analyzing epidemiological data and social needs with regard to diagnosis, treatment, prevention and social issues, and formulating systems for evaluating the quality of programs. It is also to serve as a coordinating body between the Polish government and NGOs.²⁶⁷ The work of the Council and of the National Program leaves something to be desired. There are no public education campaigns promoting condom use and safe sex. There is no sex education in the schools. There is no reliable source of information about immediate prevention of HIV/AIDS, or how to behave when there is a possibility of infection.

Conclusions

Reproductive health care in Poland is in a particularly critical situation. Abortion remains effectively illegal under the 1993 law, and although such a restriction should make access to family planning services a high priority, such services are generally not provided in the public health care system. Women do not have adequate access to contraception due to lack of the state subsidies, insufficient knowledge of the medical community, and the lack of any public education programs.

III. Understanding the Exercise of Reproductive Rights: Women's Legal Status

A. LEGAL GUARANTEES OF GENDER EQUALITY/NON-DISCRIMINATION

The Polish Constitution grants men and women full and equal rights and freedom from discrimination on the basis of sex. Article 32(1) affirms the principle of equality before the law and public authorities. The second paragraph bans discrimination in political, social, or economic life "for any reason whatsoever." Article 33 guarantees equality between men and women: "(1) Men and women shall have equal rights in family, political, social, and economic life in the Republic of Poland. (2) Men and women shall have equal rights, in particular, regarding education, employment, and promotion, and shall have the right to equal compensation for work of similar value, to social security, to hold offices, and to receive public honors and decorations." To implement these provisions, the Parliamentary Group of Women introduced a bill on the equal status of the sexes, but it was rejected in March 1999 by the Polish Parliament.

B. CIVIL RIGHTS WITHIN MARRIAGE

Marriage laws

The Polish Constitution defines marriage as "a union of a man and a woman, as well as the family, motherhood and parenthood."²⁶⁹ The Family and Custody Code, dating from February 25, 1964, is still in force.²⁷⁰

The legal age for first marriage is 18 years of age.²⁷¹ With court permission, however, girls may be married at age 16.²⁷² Prohibited from marrying are individuals who are deprived of civil rights, who are mentally ill or disabled, who are already married, who want to marry those within two degrees of relation, or who want to marry an adopted child.²⁷³ An exception can be made for an individual with mental or physical disability if it can be shown that the disability will not affect any future children's health.²⁷⁴ Bigamy is punished with a fine or up to two years of imprisonment.²⁷⁵ A 1998 Concordat with the Vatican has put religious marriage on the same footing as civil marriage.²⁷⁶ Other religious marriage ceremonies can have the same status as civil ones provided they are so authorized by the law. Priests are obliged to report church weddings to the registrar's office.

Both the Constitution and the Family Code affirm the equality of men and women in marriage.²⁷⁷ This includes

sharing responsibility for the home and property, earning a living, and making important decisions together.²⁷⁸ Decisions regarding property must be made by both spouses together.²⁷⁹ Spouses are obligated to cohabitation (including physical relationship),²⁸⁰ mutual help and faithfulness, and cooperation for the benefit of the family.²⁸¹ Each spouse has to contribute to the family needs according to his or her earnings.²⁸² Spouses have equal rights and obligations with regard to their children.²⁸³ A woman may retain her family name or add her husband's family name to her own, provided that she declares so when she agrees to marry; a man need not make such a declaration.²⁸⁴ Children of a married couple automatically receive the father's family name unless a declaration is otherwise made.²⁸⁵ Children born to unmarried couples take the mother's family name unless the father otherwise agrees.²⁸⁶

The Polish Family Code does not regulate the status of a heterosexual couple living together outside of marriage. There are no specific regulations concerning the rights of these domestic partners with regard to property or custody,²⁸⁷ but some legal protections exist. For example, the housing law permits a partner to assume the lease of his or her deceased partner.²⁸⁸ If both partners legally acknowledge parenthood, they both have custody over their children.²⁸⁹ If either partner dies without a will, however, the property will not pass to the surviving partner.²⁹⁰

Divorce and annulment laws

Under the Family Code, marriage ends when one of the partners dies, the marriage has been annulled, or the parties divorce. Annulment is possible only if the marriage, when contracted, was unlawful (see list in previous section).²⁹¹ The result of the annulment with regard to children and financial matters is determined according to principles set out for divorce cases.²⁹²

Divorce is the most common way to end a marriage. A divorce is granted only after a trial in a provincial court.²⁹³ Legal grounds for divorce require that there is a complete and permanent rupture between the spouses.²⁹⁴ "Permanent rupture" is generally understood to mean that all economic, psychological and physical relations have ceased, but the Polish Supreme Court has allowed that there can be permanent rupture even when economic ties are ongoing.²⁹⁵ Generally, fault is an element of any legal action for divorce and a spouse who is at fault for breaking up the marriage (for example, by having an extramarital relationship) may not file for divorce.²⁹⁶ Only the wronged party may initiate a suit for divorce. There is "no fault" divorce if both parties mutually consent, or on the basis of overriding social norms.²⁹⁷ Women who seek divorce because of domestic and sexual violence often find themselves in a bitterly paradoxical situation. To obtain a divorce, there must be proof

that all physical and sexual relations have stopped, but courts have sometimes considered rape in marriage as evidence of an ongoing conjugal relationship. The rape, although a criminal offense, could bar an action for divorce.²⁹⁸ A court may also refuse to grant a divorce if it decides that it is in the children's best interests that the parents remain together.²⁹⁹

The court, in its divorce order, determines who was at fault in the marriage, who has custody of the children, who pays child support, and who retains the family apartment.³⁰⁰ A court may also decide about spousal maintenance, housing matters, and division of property.³⁰¹

Article 43(1) of the Family Code says that "both spouses have the right to an equal share of the joint marital property," but article 43(2) allows the property to be unequally divided if one of the spouses demands an evaluation by the court of his or her contribution to the marital property. This evaluation includes wages and housework.³⁰² Parties can also divide marital property by contractual agreement. If there is no agreement, a civil court will decide on the division of property after the divorce. Article 58 uses the "best interest of the child" standard to direct the disposition of the family apartment. In case of domestic violence, women can seek eviction of the abusive spouse during divorce proceedings.³⁰³ Similarly, articles 133 and 135 of the Family Code define the needs of the child as paramount when deciding child custody, visitation, and support matters. The non-custodial parent retains his or her parental rights with regard to the children's upbringing.³⁰⁴ According to the Constitution, limitation or deprivation of parental rights may be effected only in cases specified by statute and only on the basis of a final court judgment.³⁰⁵

The Family Code obliges spouses to support their children and ex-spouses. Parents have an obligation to financially support their children until the children are able to do so themselves (unless the children's property is enough for their needs).³⁰⁶ The level of imposed child support depends on the needs of the child and on the potential earnings and property of the parent. Needs of the child include food, shelter, clothing, medical costs and education.³⁰⁷ Alimony for ex-spouses can be decided during or after the divorce. The entitlement to alimony depends upon whether there was a finding of fault in the divorce proceedings.³⁰⁸ A wronged ex-spouse who is in financial need is generally entitled to claim alimony.³⁰⁹ Upon divorce, the former spouses are considered to be single persons. The regime of common property ends. The former spouses may change their surnames.³¹⁰

Separation

In April 1999, the *Sejm* passed a law on marital separation. The conditions for separation are identical to those of

divorce,³¹¹ and the only difference from divorce is that neither separated party may remarry.³¹² For instance, courts can reject an application for separation if there will be harm to minor children.³¹³ Many suspect the law on marital separation to be a concession to the Catholic Church as an alternative to divorce.³¹⁴

C. ECONOMIC AND SOCIAL RIGHTS

Property rights

The Polish Constitution protects private property ownership and the right of succession.³¹⁵ The Civil Code states that every owner has the right to freely use, profit from, and dispose of his or her own property.³¹⁶ Polish law does not discriminate on the basis of gender regarding property ownership or inheritance.

Labor rights

The Constitution guarantees equal rights for men and women with regard to employment and promotion. Men and women have the right to equal compensation for work of similar value.³¹⁷ Everyone is free to choose and pursue his or her occupation and to choose his or her place of work.³¹⁸ The Constitution pays special attention to families in difficult material and social situations, especially families with many children or a single parent, by entitling them to special assistance from public authorities.³¹⁹ Mothers, before and after birth, also have the constitutional right to special assistance from public authorities.³²⁰

The guarantee of constitutional equality is translated into employment relations through the Labor Code.³²¹ The Labor Code guarantees women and men equal rights when engaged in comparable work.³²² The Code clearly bans discrimination on the basis of sex, age, disability, race, nationality, religious and political beliefs, and trade union membership in labor relations.³²³ The Labor Code, however, lacks specific provisions and mechanisms to enforce legal claims. Moreover, it does not specifically cover discrimination in hiring.³²⁴

While discrimination is forbidden, exceptional or protective labor regulations are permitted. The Labor Code prohibits the employment of women in work that is particularly onerous or harmful to their health,³²⁵ and the Council of Ministers has enumerated such occupations. A 1979 order of the Council of Ministers banned women from more than 90 occupations in 20 fields of employment (including bus and truck driving). The list was changed in September 1996³²⁶ and divides professions into those prohibited for all women and those prohibited only for pregnant women. All women are banned from professions that require intensive physical labor, exposure to high noise, vibration, electromagnetic fields or radiation, work underground, or work at high altitudes. Pregnant and breast-feeding women are barred from work in areas of extreme

climate changes, as well as jobs that would expose them to even low levels of electric energy, such as from unfiltered computer screens. In addition, they cannot work around chemicals or biological matter that may cause injury to their physical or mental health.³²⁷

Pregnant women enjoy special protection under the Labor Code. A woman who is pregnant or on maternity leave cannot be fired unless she defaults in complying with the terms of her contract; her labor union must agree to her firing.³²⁸ A pregnant woman also can be dismissed if her company goes bankrupt or out of business.³²⁹ Pregnant women cannot work overtime or at night. A pregnant woman cannot work outside her usual work place without her consent.³³⁰ Employers must transfer a pregnant woman to another position if she performs work forbidden to pregnant women³³¹ or if she presents a medical certificate stating that her condition requires a transfer of duty.³³²

Until 2000, the Labor Code granted women the right to paid maternity leave for a duration of 16 weeks for the first birth, 18 weeks for the second birth, and 26 weeks in the case of a multiple birth.³³³ Women who are raising adopted children are also entitled to 18 weeks of maternity leave for the birth of their first biological child.³³⁴ Women who adopt children and who have filed with the guardianship court for adoption are entitled to leave amounting to 14 weeks or until the child reaches four months of age.³³⁵ In 1999, the *Sejm* amended the maternity leave to six months, to be phased in over two stages: in 2000, women are entitled to four weeks of additional leave. In 2001, they can take nine weeks for a multiple birth.³³⁶ Maternity leave begins two weeks prior to a woman's due date.³³⁷ The law also grants a breast-feeding mother the right to two 30-minute breaks (or two 45-minute breaks in the case of twins) from work, included in her working time.³³⁸ During maternity leave, women are entitled to maternity benefits³³⁹ of symbolic value paid from a maternity leave fund established by the government.³⁴⁰

The Labor Code states that at the request of the employee, the employer has to grant unpaid parental leave of up to three years to parents employed for a period of at least six months. Both parents, while employed, are equally entitled to this leave, but they cannot take advantage of parental leave at the same time. Parental leave may be taken once the maternity leave period ends. The three-year leave — until the child turns four years old — can be extended for another three years if the child has a chronic disease, disability, or mental deficiency which requires parental care.³⁴¹ Employers may not terminate an employee's contract during parental leave.³⁴²

A woman raising a child under four years old cannot be forced to work overtime, at night, or outside her usual work

place.³⁴³ Furthermore, the woman is entitled to health benefits for herself and her family members.³⁴⁴ In addition, some women are entitled to a child care financial benefit.³⁴⁵ Parents of children up to age 14 are also entitled to two days of paid leave per year.³⁴⁶ A 1995 Social Security Law also grants both parents leave with 80% pay if they are caring for a sick child for up to 60 days.³⁴⁷ Despite legal guarantees of equal treatment, many practices to the contrary are so prevalent and tolerated that they are the general rule in Poland. Employers prefer to hire men whom, given all the potential leaves, are perceived as costing them less money.³⁴⁸ Women are frequently asked about their marriage plans and their plans for having children,³⁴⁹ and there are documented cases of women who have been forced to submit to gynecological examinations before job offers were made. Such practices contradict many laws and regulations of the Ministry of Health, which expressly forbid examination in order to verify a woman's state of non-pregnancy for employment purposes.³⁵⁰ Additionally, one of the main causes for the pervasiveness of sex discrimination in Polish employment is a lack of legal means for addressing rights violations.³⁵¹

The economic transition brought an overall increase in unemployment.³⁵² The number of women employed in 1988 and 1995 decreased from 57% to 51%, while the number of men employed in that period dropped from 74% to 67%. In 1990, women made up 51% of the overall unemployment rate, with this number growing to 57% by 1996³⁵³ and 61% by June 1998.³⁵⁴ Another trend is that women aged 35 to 44 risk losing their jobs at a higher rate than younger women.³⁵⁵ Women over 35 years old face sharply limited employment opportunities.³⁵⁶ In addition, employment patterns have not changed over the last few years. As in the past, female employment is concentrated in the service sector and in light industries. Many women working in agriculture are unpaid family workers.³⁵⁷

Retirement

A 1999 pension system reform reestablished different retirement ages: 60 years of age for women and 65 years of age for men. (Women must also have an employment history of at least 20 years; men, 25 years.)³⁵⁸ The new system links the amount of retirement pension to the years of employment and amount of savings. The new legislation also forbids employers from dismissing women who reach retirement age but who still want to work. Instead, employers must employ them on the same basis as men.³⁵⁹

Access to credit

The 1997 Bank law defines credit relationships.³⁶⁰ Access to bank credit depends upon the personal ability to repay one's obligations, irrespective of sex.³⁶¹ Each bank has its own specific requirements which are gender neutral.

Access to education

The Polish Constitution guarantees each person, regardless of gender, the right to education.³⁶² Education is compulsory until 18 years of age,³⁶³ and public education is free of charge.³⁶⁴ There is a choice between public and non-public schools, and public funding is provided for educational institutions.³⁶⁵

Among the employed, women attain higher levels of education than men: 66% of employed women and only 39% of employed men have a mid-level or higher education.³⁶⁶ Women constituted 60% of university students in 1998–99.³⁶⁷ Nonetheless, the educational system perpetuates gender stereotypes by promoting women's roles in the family as primary.³⁶⁸ In a majority of public grammar schools, boys and girls take separate practical knowledge classes, where boys learn ironwork and carpentry, and girls learn cooking, baking and knitting.³⁶⁹ Textbooks are rife with gender stereotypes.³⁷⁰ Many vocational schools for women have been closed in recent years, and some technical schools do not accept girls. As a result, more girls than boys attend schools that do not prepare them for any particular profession.³⁷¹

National machinery for the promotion of women's equality

Currently, no national executive office exists for the advancement of women. In 1986, a decree of the Council of Ministers created the Government Plenipotentiary for Women, renamed in 1991 the Plenipotentiary for Women and Family. The office was last filled in May 1995. The plenipotentiary's tasks included analyzing the social situation of women, participating in projects related to improving social and economic conditions of families, supporting women's organizations and activities, cooperating with international organizations, and securing the execution of international obligations as written in ratified conventions and documents.³⁷² The Plenipotentiary also initiated a program on domestic violence prevention.

In 1995, the office was renamed Plenipotentiary for Family and Women, and it functioned until October 1997, when it was closed down by the new government. In November 1997, the Plenipotentiary for the Family Affairs was established,³⁷³ but its mandate does not include working for the advancement of women and instead advises the government mainly on matters relating to the family and children. The office may not initiate legislation, but with the consent of the Council of Ministers, it may submit draft legislation. The Plenipotentiary is responsible for implementation of conventions and international agreements; there is a separate budget for the implementation of selected programs. It is also responsible for implementing the

government's Nation Plan of Action, and in 1999 it launched a program to assist victims of domestic violence.³⁷⁴

The only group working on behalf of women's equality in the *Sejm* is the Parliamentary Group of Women (PGW). The group is currently composed of 34 deputies and four senators — 64% of all women parliamentarians, drawn mainly from the Democratic Left Alliance and the Freedom Union.³⁷⁵ Women currently make up 13% of the *Sejm* deputies.³⁷⁶ The current Parliament has rejected a draft law on the equal status of men and women as well as a bill on establishment of the parliamentary commission on equal status, both proposed by the PGW.

D. RIGHT TO PHYSICAL INTEGRITY

Among the goals of the National Plan of Action are working to eliminate acts of violence against women; analyzing the causes and effects of violence against women and the effectiveness of preventive methods; eliminating trafficking in women; and providing assistance to victims of violence linked with this trade and prostitution. Many ministries and governmental institutions share responsibility for meeting these goals. The Ministry of Justice monitors the crimes against family and women and also trains *Voivodship* family trustees. A special group in the Main Police Office was set up to deal with violence issues. The police do participate in the implementation of the Program of the Foundation against Trafficking in Women. The Polish Telecommunication Company created special, toll-free telephone numbers for the victims of violence and sexual molestation.³⁷⁷

Rape

Rape is defined as the use of force, threats, or deceit to force another person to engage in sexual intercourse.³⁷⁸ It carries a penalty of between one and ten years imprisonment.³⁷⁹ Additionally, anyone who uses force, threats, or deceit to force a person to engage in any kind of sexual activity, not necessarily sexual intercourse, may be sentenced to jail from three months to five years.³⁸⁰ If the rape is committed with particular cruelty or with the aid of another, the penalty is two to twelve years.³⁸¹ Murders in connection with rape carry a sentence of 12 to 25 years in prison or penal servitude for life.³⁸² If the perpetrator takes advantage of a person's mental disability in order to bring about sexual activity, the sentence can be six months to eight years of imprisonment.³⁸³ Sexual relations between brother and sister incur a sentence of three months to five years of imprisonment.³⁸⁴ Abuse of power to force sexual relations can also be a criminal offense, carrying up to three years in prison.

Marital rape exists as a criminal offense,³⁸⁵ but remains difficult to prove because of cultural stereotypes. If a woman decides

to report a marital rape, it is usually in the context of domestic violence.³⁸⁶ Cases of rape and enforced sexual intercourse occur fairly often in marriages, but many women do not report the crime, and convictions for marital rape are rare.³⁸⁷

To initiate a criminal investigation of rape, the woman must lodge a written complaint with the police. The district attorney's office can then open an investigation.³⁸⁸ This procedural requirement presents a needless impediment to the prosecution of rape. For example, even if an eyewitness to the rape reports the crime to the police, the police cannot begin an investigation until the woman herself presses the charges.³⁸⁹ In the case of rape, once a complaint has been filed, the charges may not be withdrawn.³⁹⁰ There have been some modifications in legal procedures and methods of investigation to render the process more "woman-friendly." Generally, however, there is little effective legal advice and psychological and social counseling offered to rape survivors.³⁹¹ There are other problems with the administration of justice in rape trials. Stereotypes abound, and testimony relating to how the woman was dressed, whether she behaved "provocatively" or was intoxicated is frequently admitted as evidence.³⁹²

There is no accurate data, but it is estimated that the number of rapes is actually 10 times higher than what is reported to the police, although this too is an unavailable figure. The only statistics available concern sentencing.³⁹³ Most rapists receive the minimal statutory sentences.³⁹⁴

Domestic violence

The Penal Code classifies domestic violence as a crime of abuse against family members³⁹⁵ and states: "Whoever abuses physically or psychologically a member of a family, a dependent of the perpetrator, a physically or mentally disabled person, or a juvenile may be found guilty and sentenced to three months to five years in jail."³⁹⁶ If the perpetrator acts with cruelty, the punishment is from one to ten years.³⁹⁷ If the woman attempts suicide because of the abuse, the punishment is from two to twelve years.³⁹⁸ Abuse is defined as behavior intended to cause either physical or mental (emotional) injury to another person.³⁹⁹ "Physical abuse" is defined as, among other things, punching, kicking, slapping, stabbing, or grabbing another person with the intent to harm. "Mental abuse" may be threats, insults, and words that degrade and humiliate, which are intended to create low self-esteem and a sense of worthlessness in another person.⁴⁰⁰ An "intimate relation" is a person whom the perpetrator is either materially or emotionally connected to in some way. Men and women who live in domestic partnerships without marrying, divorced couples who still live together, as well as married couples are covered by this code provision.

Domestic violence is publicly prosecuted in Poland and there is a legal obligation for the police and/or prosecutor to begin an investigation when they suspect domestic violence has occurred. The survivor need not press charges, but, in fact, domestic violence cases tend to be prosecuted only at the request of the survivor. The police have erected many obstacles, such as obtaining numerous medical certificates (which women have to obtain and often pay for themselves). But at the same time, police and prosecutors who are unwilling to develop a case against the perpetrator usually base their decision on the lack of evidence.

There is no "order of protection" to keep the perpetrator away, and there are very few shelters where survivors of domestic violence can go during the court procedures. The unresponsiveness and ineffectiveness of the criminal justice system means that there is serious underreporting of domestic violence.⁴⁰¹ When a case goes to trial and ends in conviction, the sentence is often suspended or is of extremely short duration. Domestic violence is considered a normal element of family life.⁴⁰²

As already mentioned, a government program against domestic violence was launched by the former Plenipotentiary for the Family and Women's Affairs in 1997. The new Plenipotentiary for Family Affairs suspended its implementation without any substantive reason,⁴⁰³ but in 1999 it initiated a new project to help domestic violence survivors and perpetrators, including proposing the creation of 12 Crisis Intervention Centers to assist women, children, and men find safe housing and counseling. Only a few of the Centers have been opened and run by local governments to date.⁴⁰⁴ Since 1997, the Polish government has cooperated with United Nations Development Program (UNDP) in the execution of the program "Counteracting Violence — Equalizing Chances" to try to eliminate some of the causes of family violence.⁴⁰⁵

Sexual harassment

Sexual harassment is not recognized by law in Poland.⁴⁰⁶ However, the Criminal Code places criminal liability on any person who takes advantage of his or her power in a relationship with the intent to obtain sexual gratification.⁴⁰⁷ The sentence for a violation can range from six months to three years.⁴⁰⁸ Use of these criminal provisions is rare; the Ministry of Justice has no record of any cases.⁴⁰⁹ This crime is investigated only if the victim reports it, and only where there is a relationship of dependency and a power differential, such as with a supervisor and an employee.⁴¹⁰

The Labor Code obliges employers to respect the dignity of an employee and to create a friendly work environment.⁴¹¹ It would be more likely for sexual harassment claims to be

brought under that provision, as a 1980 Supreme Court ruling stated that employers had a broad obligation to provide their workers with a safe environment.⁴¹² In a 1999 poll by the Warsaw-based newspaper *Gazeta Wyborcza*, 67% of women reported that they experienced sexual harassment during social occasions — 52% in public places and 43% at work.⁴¹³

Trafficking in women

Poland is highly visible in international trafficking⁴¹⁴ and is a sending country, a country of destination and a transit country, all at the same time. The Criminal Code defines trafficking in women as using a position of power to lead a person into prostitution by means of violence, threat, or trickery.⁴¹⁵ It carries a penalty of one to ten years of imprisonment.⁴¹⁶ Coercing another person into prostitution or facilitating this activity for financial gain is subject to a prison term of up to three years.⁴¹⁷ Enticing or abducting another person to perform prostitution abroad can bring a prison term of one to ten years.⁴¹⁸ Trafficking in individuals, even with consent, can be punished by up to three years in prison.⁴¹⁹ To “entice” is defined as coercing or tricking another person into moving to a new town, or relinquishing his or her passport or other important documents, by promising legitimate employment and then forcing that person into prostitution. The term “abduct” means taking a person somewhere against his or her will.⁴²⁰ Under Polish Law, these two terms are used interchangeably. It does not matter if this person was previously a prostitute.

Very few cases have been prosecuted under the trafficking provisions of the Criminal Code. It is known that organized crime plays a large role in trafficking in women. Since 1995, an NGO called La Strada has worked exclusively on the issue of trafficking.⁴²¹

Prostitution is not a crime in Poland, but forcing someone else into prostitution or “pimping” is criminal.⁴²² Pimping is defined as using violence, threats, deceit, or a relation of dependence to force someone into prostitution. It carries a penalty of one to ten years of imprisonment.

IV. Focusing on the Rights of a Special Group: Adolescents

Currently, 20% of the Polish population consists of children 15 years of age or younger.⁴²³ The Constitution of the Republic of Poland guarantees all children equal protection of their rights,⁴²⁴ and all citizens have the right to demand that the state protect children from violence, neglect, and immorality.⁴²⁵ The Constitution bans the permanent employment of children under the age of 16.⁴²⁶ As a special measure of protection,

the Constitution established an office of the Commissioner for Children’s Rights.⁴²⁷ In January 2000 the Parliament passed a new law regulating the Commissioner for Children’s Rights.⁴²⁸ That law could have grave implications for women’s reproductive autonomy and health as it grants to a fetus rights that could be interpreted to constrain women’s choice.

A. REPRODUCTIVE HEALTH AND ADOLESCENTS

The state is obliged to provide appropriate medical and health care services for children.⁴²⁹ All pediatric and adolescent health care services occur in local hospitals and clinics, and nurses, rather than physicians, are stationed in educational institutions, but not uniformly.⁴³⁰

Every year, teenagers — defined as people under 19 years of age — give birth to about 40,000 to 50,000 children.⁴³¹ Since 1993, the number of teenage pregnancies significantly increased so that in 1994 the number of births by mothers under age 18 constituted almost 4% of all births.⁴³² There is a growing concern that young, unmarried girls are abandoning their unwanted infants and are more prone toward committing infanticide. It should be noted that the penalty for infanticide has been increased.⁴³³ A woman can now be sentenced from between three months to five years in prison.

B. MARRIAGE AND ADOLESCENTS

By law, a person under 18 years of age cannot consent to marriage,⁴³⁴ however, a court can grant permission for a 16-year-old girl to marry, provided there are indications that marriage will serve the welfare of the future family.⁴³⁵ A marriage may be annulled if a man is younger than 18 or a woman younger than 16, and if there was no permission from the court. Annulment can be demanded by either spouse.⁴³⁶ In the case of pregnancy, however, a husband seeking to end the marriage cannot use the legal age requirement as grounds for an annulment.⁴³⁷

C. SEXUAL OFFENSES AGAINST ADOLESCENTS AND MINORS

Polish Law criminalizes sexual activity with children. Sexual molestation of a minor under 15 years of age carries up to 10 years of imprisonment,⁴³⁸ as does using children in pornography.⁴³⁹ Under a bill passed by Parliament on March 3, 2000, criminal penalties for child pornography were increased but the law was subsequently vetoed.⁴⁴⁰ Showing pornography to a child under 15 years of age can result in a fine and imprisonment of up to two years.⁴⁴¹ Anyone who induces a minor into prostitution can be imprisoned for up to 10 years.⁴⁴² Anyone who mistreats or neglects a minor can face up to five years of imprisonment.⁴⁴³

D. EDUCATION AND ADOLESCENTS

Since Poland's political and economic transition, enrollment in secondary schools has increased and enrollment in vocational schools has decreased — a result of the government's policy to eliminate vocational schools whose curricula are not adapted to the needs of the new market.⁴⁴⁴ Children and adolescents living in rural areas tend to be disadvantaged in their education in post-primary schools.⁴⁴⁵ Boys and girls have equal access to schools. More girls than boys attend secondary schools, but technical schools are more often chosen by boys. In 1997-98, girls represented 48.7% of primary schools pupils, 66.1% percent of secondary school pupils, 44.6% of pupils in technical schools, and 41% of students in specialized schools.⁴⁴⁶ Schools must assist a pregnant student in completing her education.⁴⁴⁷

As already mentioned, the educational system in many ways perpetuates gender stereotypes and promotes the patriarchal model of the family and the world.⁴⁴⁸ The 1999 education reforms did not address the issue of gender-sensitive revision of text books.

E. SEX EDUCATION

The Abortion Law had required the Minister of Education to prepare and introduce special school curricula on sex education,⁴⁴⁹ and on April 21, 1998, the Ministry of Education introduced a new curriculum on "Human Sex Life."⁴⁵⁰ However, after the elections in December 1998, Parliament removed the educational provisions from the Abortion Law,⁴⁵¹ and sex education has been amalgamated into a Catholic "pro-family" curriculum. Before introducing any course on sex education, the local school authorities must organize at least one meeting for all parents where the goals and content of a proposed course are presented, and parental approval for participation in the course is necessary.⁴⁵²

The government has made no attempt to provide secular, neutral information. Instead, all curricula and manuals present the Catholic Church's views of human sexuality, gender roles and contraception.⁴⁵³ Nevertheless, a 1997 survey found that 88% of respondents favored sex education in school, focused on teaching children, among other things, about how to avoid STIs and unwanted pregnancy.⁴⁵⁴

F. TRAFFICKING IN ADOLESCENTS

There has been a growth of trafficking in teenaged women, especially those between the ages of 15 and 18. Coercing a minor into prostitution, facilitating prostitution for financial gain, or gaining financially from the prostitution of a minor is subject to one to ten years in prison.⁴⁵⁵ Enticing or abducting a person to perform prostitution abroad is subject to the same punishment, regardless of the victim's age.⁴⁵⁶

Conclusions

Numerous forms of gender discrimination exist in Polish legislation as well as in the government's policies and programs. This has been noted independently by two United Nations committees on human rights — the Committee on Economic, Social, and Cultural Rights in 1998 and the Human Rights Committee in 1999⁴⁵⁷ — which both recommended the Polish government take action to stop and prevent gender discrimination.

NOTE ON SOURCES

The information in this chapter is drawn from primary sources of law in Polish and secondary sources in English and Polish. All primary sources of national law are in Polish. Unless otherwise noted, they are available at <<http://orka.sejm.gov.pl/PRAWO.nsf?OpenDatabase>> (database of the Polish Parliament). Unofficial English translations of some laws and regulations provided by The Federation for Women and Family Planning are on file with The Center for Reproductive Law & Policy. The chapter conforms to THE BLUEBOOK (16th ed. 1996). Blue book footnote style may show variations due to production incompatibilities with certain character fonts.

GLOSSARY OF ABBREVIATED TERMS

KONST.: Constitution of the Republic of Poland

Dz.U.: Journal of Laws

K.K.: Criminal Code

K.R.: Family and Custody Code

K.P.: Labor Code

ENDNOTES

1. CIA, POLAND, 1999 WORLD FACTBOOK (visited Jan. 17, 2000) <<http://www.odci.gov>> [hereinafter WORLD FACTBOOK].
2. THE WORLD BANK GROUP, POLAND (visited Jan. 17, 2000) <<http://www.worldbank.org/html/extdr/offrep/eca/pl2.htm>>.
3. WORLD FACTBOOK, *supra* note 1.
4. *Id.*
5. *Id.*
6. Konstytucja Rzeczypospolitej Polskiej [The Constitution of the Republic of Poland] [KONST], art. 2. The Constitution was adopted by the National Assembly on April 2, 1997, was passed by national referendum on May 23, 1997, and entered into force on October 16, 1997 (visited Jan. 17, 2000) <<http://www.sejm.gov.pl/prawo/konstytucja/kon1.htm>>; official English translation at <<http://www.sejm.gov.pl/english/konstytucja/kon1.htm>> (visited Jan. 17, 2000); see also WORLD FACTBOOK, *supra* note 1.
7. WORLD FACTBOOK, *supra* note 1.
8. KONST. art. 10.
9. *Id.* art. 10(2).
10. *Id.* art. 127.
11. *Id.* art. 122.
12. *Id.* art. 133.
13. *Id.* art. 134(1).
14. *Id.* art. 137.
15. *Id.* art. 138.
16. *Id.* art. 139.
17. *Id.* art. 146.
18. *Id.* art. 154.

19. *Id.* art. 154(1).
20. *Id.* art. 148.
21. *Id.* art. 95(2).
22. SIGMA, PUBLIC MANAGEMENT PROFILES, POLAND: DELIVERY SYSTEM (visited Jan. 17, 2000) <<http://www.oecd.org/puma>>.
23. KONST. art. 10(2).
24. *Id.* art. 98.
25. *Id.* art. 96.
26. *Id.* art. 97.
27. *Id.* art. 118. The third paragraph of this article mandates the sponsors of bills in the *Sejm* to indicate the financial consequences of the implementation of the bill.
28. *Id.* art. 120.
29. *Id.* arts. 121(2), 124.
30. *Id.* art. 121(3).
31. *Id.* art. 125.
32. *Id.* arts. 188 - 197.
33. *Id.* arts. 198 - 201.
34. *Id.* arts. 175 - 185.
35. *Id.* art. 188.
36. *Id.* art. 189.
37. *Id.* art. 19(1).
38. *Id.* arts. 190(1), 239(1).
39. *Id.* art. 198.
40. *Id.* art. 183(1).
41. *Id.* art. 184.
42. *Id.* art. 179.
43. BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, U.S. DEPARTMENT OF STATE, POLAND COUNTRY REPORT ON HUMAN RIGHTS PRACTICES FOR 1998 (released Feb. 26, 1999) <<http://www.state.gov>> [hereinafter STATE DEPT REPORT].
44. KONST. art. 203.
45. *Id.* art. 208(1).
46. *Id.* art. 212.
47. *Id.* art. 209(1).
48. *Id.* art. 80; Ustawa z dnia 15 lipca 1987 r. o Rzeczniku Praw Obywatelskich [Law of July 15, 1987 on the Ombudsman], Dziennik Ustaw [Journal of Laws] [Dz.U.] No. 109/1991, position [Pos.] 471; see *Other Areas Submitted to the Control of the Sejm* (visited Jan. 17, 2000) <<http://www.sejm.gov.pl/english/prace/cf5.htm>>; see generally Piotr Przybysz, *Polish Ombudsman Works for a Democratic Society*, PUBLIC MANAGEMENT FORUM, Vol. II, No. 3 (1996) (visited Jan. 17, 2000) <<http://www.oecd.org/puma>>.
49. *Core document forming part of the reports of States Parties : Poland. 16/04/99. HRI/CORE/1/Add.25/Rev.1, ¶ 24* (Apr. 16, 1999) U.N. HIGH COMMISSIONER FOR HUMAN RIGHTS (visited Jan. 19, 2000) <<http://www.unhcr.ch>> [hereinafter CORE DOCUMENT].
50. See *Constitution Watch - Poland Update*, E.EUR.CONST.REV., Vol. 7, No. 3, Summer 1998.
51. *Id.*; KONST. art. 164(1).
52. KONST. art. 163.
53. *Id.* art. 169.
54. *Id.* art. 168.
55. *Id.* art. 170.
56. CHANCELLERY OF THE PRIME MINISTER OF POLAND, GMINA - WHERE BASIC NEEDS ARE MET (visited Apr. 4, 2000) <<http://www.kprm.gov.pl/menu/menueng.html>>.
57. Ustawa z dnia 5 czerwca 1998 r. o samorządzie Powiatowym [Law of June 5, 1998 on the Organization of Powiats], art. 12(1), Dz.U. 91/1998, Pos. 578.
58. CHANCELLERY OF THE PRIME MINISTER OF POLAND, POWIAT - WHERE EQUAL OPPORTUNITIES ARE GUARANTEED (visited Apr. 4, 2000) <<http://www.kprm.gov.pl/menu/menueng.html>>.
59. Law of June 5, 1998 on the Organization of Powiats, art. 8(2).
60. CORE DOCUMENT, *supra* note 49, ¶ 24.
61. Ustawa z dnia 5 czerwca 1998 r. o samorządzie województwa [Law of June 5, 1998 on the Organization of *Województwa*], arts. 11(1), 11(2), 14, Dz.U. No. 91/1998, Pos. 576.
62. KONST. art. 184.
63. *Id.* art. 171.
64. WORLD FACTBOOK, *supra* note 1.
65. KONST. art. 87(1).
66. *Id.* art. 8.
67. *Id.* art. 91(1); see generally Ewa Letowska, *A Constitution of Possibilities*, E.EUR.CONST.REV., Vol. 6, Nos. 2 & 3, Spring/Summer 1997.
68. KONST. art. 91(2).
69. *Id.* art. 92(1).
70. *Id.* art. 93; see generally Wiktor Osiatynski, *A Brief History of the Constitution*, E. EUR.CONST.REV., Vol. 6, Nos. 2 & 3, Spring/Spring 1997.
71. KONST. art. 93(3).
72. *Id.* art. 87(2).
73. TERESA A. FILIPIAK ET AL., ZARYS PRAWA CYWILNEGO I RODZINNEGO [CIVIL LAW AND FAMILY LAW] 51 (1998).
74. KONST. art. 146(4).
75. *Id.* art. 133(1).
76. *Id.* art. 89(1). For international agreements that do not require consent, the prime minister must inform the *Sejm* of an intention to submit the agreement for ratification by the president of the Republic. *Id.* art. 89(2).
77. *Id.* art. 90(1).
78. *Id.* art. 90(2).
79. *Id.* art. 90(3).
80. *Opened for signature* Mar. 1, 1980, 1249 U.N.T.S. 13 (*entry into force* September 3, 1981).
81. *Adopted* Dec. 16, 1966, 999 U.N.T.S. 171 (*entry into force* Mar. 23, 1976, *for Poland* Jun. 18, 1977).
82. *Adopted* Dec. 16, 1966, 993 U.N.T.S. 3 (*entry into force* Jan. 3, 1976, *for Poland* Jun. 18, 1977).
83. *Adopted* Dec. 16, 1966, 999 U.N.T.S. 171 (*entry into force* Mar. 23, 1976, *for Poland* Feb. 7, 1992). The Protocol enables individuals to petition the Human Rights Committee set up by the Covenant about alleged violations of any of the rights set forth in the Covenant. The Protocol covers states that are a party to both the Covenant and the Protocol.
84. *Opened for signature* Nov. 20, 1989, 1577 U.N.T.S. 3 (*entry into force* Sept. 2, 1990, *for Poland* Jul. 7, 1991).
85. *Opened for signature* Mar. 7, 1966, 660 U.N.T.S. 195 (*entry into force* Jan. 4, 1969).
86. Convention for the Protection of Human Rights and Fundamental Freedoms, ETS No. 5 (*entry into force* Sept. 3, 1953). Last amended by Protocol No. 11, ETS No. 155 (*entry into force* Nov. 1, 1998).
87. Umowa Przejściowa dotycząca handlu i spraw związanych z handlem między Rzeczpospolitą Polską a Europejską Wspólnotą Gospodarczą i Europejską Wspólnotą Węgla i Stali, sporządzona w Brukseli dnia 16 grudnia 1991r. [Interim Agreement on Trade and Trade-Related Matters between the Republic of Poland and the European Economic Community and the European Coal and Steel Community], Dz.U. No. 17/1992, Pos. 69.
88. KONST. art. 68(1), (2).
89. *Id.* art. 68(3).
90. CORE DOCUMENT, *supra* note 49, ¶ 29.
91. *Sytuacja Demograficzna I Zdrowotna Ludności Polski w 1998 Roku [The Demographic and Health Status of People in Poland for 1998]*, at 3 tbl. 16 (visited Jan. 19, 2000) <<http://www.mzios.gov.pl/zdrowie/opis3.pdf>>.
92. *Id.* at 4.
93. *Zdrowie w Polsce [Health in Poland]* (visited Jan. 19, 2000) <<http://www.mzios.gov.pl/zdrowie/index.html>>.
94. *Lekarze specjaliści wg posiadanej specjalizacji [Distribution of Physicians according to Specialization]* (visited Jan. 19, 2000) <<http://www.mzios.gov.pl/zdrowie/zatrudnienie/lekarze/lekarze.html>>.
95. *Zatrudnienie kadr medycznych [Occupation of Medical Staff]* (visited Jan. 19, 2000) <http://www.mzios.gov.pl/zdrowie/zatrudnienie/zatr_kadr/zatr_kadr.html>.
96. *The Demographic and Health Status of People in Poland for 1998*, *supra* note 91, at 4 - 6; Maja Korzeniowska & Urszula Nowakowska, Women's Health, in POLISH WOMEN IN THE 90S, at 188 (Urszula Nowakowska, Women's Rights Center eds., 2000) [hereinafter *Women's Health*].
97. Ustawa z dnia 30 sierpnia 1991 r. o zakładach opieki zdrowotnej [Law of August 30, 1991 on Public Medical Care], Dz.U. No. 91/1991, Pos. 408; Ustawa z dnia 20 czerwca 1997 r. o zmianie ustawy o zakładach opieki zdrowotnej oraz o zmianie niektórych innych ustaw [Law of June 20, 1997 Amending the Law on Public Medical Care], Dz.U. No. 104/1997, Pos. 661; Ustawa z dnia 10 grudnia 1998 r. o zmianie ustaw: o zakładach opieki zdrowotnej, o zawodzie lekarza, o zawodach pielęgniarstwa i położniczym, o szkoleniu wyższym oraz o zmianie niektórych innych ustaw [Law of December 10, 1998 Amending the Public Medical Care, the Medical Profession, the Profession of Nurse and Midwife], Dz.U. No. 162/1998, Pos. 1115.
98. Ustawa z dnia 6 lutego 1997 r. o powszechnym ubezpieczeniu zdrowotnym [Law of February 6, 1997 on National Health Insurance], Dz.U. No. 28/1997, Pos. 153; Ustawa z

- dnia 18 lipca 1998 r. o zmianie ustawy o powszechnym ubezpieczeniu zdrowotnym oraz o zmianie niektórych ustaw [Law of July 18, 1998 Amending the National Health Insurance Act], Dz.U. No. 117/1998, Pos. 756.
99. Ustawa z dnia 5 grudnia 1996 r. o zawodzie lekarza [Law of December 5, 1996 on the Medical Profession], Dz.U. No. 28/1997, Pos. 152.
100. Ustawa z dnia 19 sierpnia 1994 r. o ochronie zdrowia psychicznego [Law of August 19, 1994 on Care of Mentally Disabled], Dz.U. No. 111/1994, Pos. 535.
101. Ustawa z dnia 7 stycznia 1993 r. o planowaniu rodziny, ochronie płodu ludzkiego i warunkach dopuszczalności przerywania ciąży [Law of January 7, 1993 on Family Planning, Human Embryo Protection and Conditions of Legal Termination of Pregnancy], Dz.U. No. 17/1993, Pos. 78; Ustawa z dnia 30 sierpnia 1996 r. o zmianie ustawy o planowaniu rodziny, ochronie płodu ludzkiego i warunkach dopuszczalności przerywania ciąży oraz o zmianie niektórych innych ustaw [Law of August 30, 1996 Amending the Law on Family Planning, Human Embryo Protection and Conditions of Legal Pregnancy Termination], Dz.U. No. 139/1996, Pos. 646 (English translations provided by The Federation for Women and Family Planning, on file with The Center for Reproductive Law & Policy); Orzeczenie Trybunału Konstytucyjnego z dnia 28 maja 1997 r. (Sygn.akt K.26/96), 78 [Decision of the Constitutional Tribunal from May 28, 1997]. The Tribunal ruled that the 1996 law violated the Constitution by allowing abortion in cases of "difficult conditions or difficult personal situations." According to the Tribunal decision and the 1993 law, abortion is allowed only when a pregnancy results from rape, endangers the woman's life or health, or when the embryo is irreversibly damaged. With the 1996 liberalized abortion law declared unconstitutional, Parliament voted back in place the stricter 1993 law. *Constitution Watch - Poland Update*, E.EUR.CONSTREV., Vol. 7, No. 1, Winter 1998 (visited Jan. 19, 2000) <<http://www.law.nyu.edu/eecr>>.
102. Ustawa z dnia 5 lipca 1996 r. o zawodach pielęgniarki i położnej [Law of July 5, 1996 on the Profession of Nurse and Midwife], Dz.U. No. 91/1996, Pos. 410.
103. NARODOWY PROGRAM ZDROWIA 1996-2005 [NATIONAL HEALTH PROGRAMME] (visited Oct. 27, 1998) <www.mziios.gov.pl/npz-wste.htm>.
104. WORLD HEALTH ORGANIZATION, GLOBAL STRATEGY FOR HEALTH FOR ALL BY THE YEAR 2000 (visited Jan. 19, 2000) <<http://policy.who.int>>.
105. NATIONAL HEALTH PROGRAMME, *supra* note 103.
106. *Id.* "Inequality in Health" focuses on the gender gap in mortality rates—men live 86 years less on average than women; see *Poland - Church and State Assail Reproductive Rights*, in RISKS, RIGHTS AND REFORMS 164-165 (WOMEN'S ENVIRONMENT AND DEVELOPMENT ORGANIZATION WEDO) (1999).
107. See INFORMATION ON THE IMPLEMENTATION IN POLAND OF THE DIRECTIVES INCLUDED IN THE FINAL DOCUMENTS OF THE 1995 FOURTH UNITED NATIONS WORLD CONFERENCE ON WOMEN: THE BEIJING DECLARATION - PLATFORM FOR ACTION 2000: GOVERNMENT'S PLENIPOTENTIARY FOR FAMILY AND WOMEN, OFFICE OF THE COUNCIL OF MINISTERS, THE NATIONAL PROGRAM OF ACTIONS FOR WOMEN (visited Jan. 19, 2000) <<http://www.un.org/esa/gopher-data/conf/fwcw/natrep/NatActPlans/poland.txt>>. The national program was the result of the cooperation between the office of the Plenipotentiary and 38 NGOs. KARAT COALITION FOR REGIONAL ACTION, REGIONAL REPORT ON INSTITUTIONAL MECHANISMS FOR THE ADVANCEMENT OF WOMEN IN THE COUNTRIES OF CENTRAL AND EASTERN EUROPE, PREPARED FOR 43RD SESSION OF THE COMMISSION ON THE STATUS OF WOMEN 17 (1999).
108. *Church and State Assail Reproductive Rights*, *supra* note 106, at 168.
109. THE POLISH FEDERATION FOR WOMEN AND FAMILY PLANNING, POLAND - INDEPENDENT REPORT SUBMITTED TO THE UNITED NATIONS HUMAN RIGHTS COMMITTEE ON GENDER DISCRIMINATION (1999) (visited Jan. 20, 2000) <<http://www.waw.pdi.net/~polfedwo/english/english1.htm>> [hereinafter INDEPENDENT REPORT].
110. MIĘDZYRESORTOWY ZESPÓŁ DO OPRACOWANIA RZĄDOWEGO PROGRAMU POLITYKI PRORODZINNEJ [INTERMINISTERIAL GROUP FOR PRESENTATION OF PROGRAMMES OF PROFAMILY POLICIES], PROGRAM POLITYKI RODZINNEJ [THE PROGRAMME OF FAMILY POLICIES], 37, 38/39 GAZETY PRAWNEJ (1997).
111. *Id.*
112. *Poland: Health Policy and Systems Development* (visited Jan. 20, 2000) <<http://www.hsph.harvard.edu/organizations/ddm/country/country.html#2>>.
113. *Church and State Assail Reproductive Rights*, *supra* note 106, at 164.
114. *Id.*
115. Mukesh Chawla et al., *Economics of A Family Practice in Krakow* (visited Jan. 20, 2000) <<http://www.hsph.harvard.edu/ihsq/publications/pdf/No-67.PDF>>, at 4.
116. Peter Berman, *National Health Insurance in Poland: A Coach without Horses?* (visited Jan. 20, 2000) <<http://www.hsph.harvard.edu/ihsq/publications/pdf/No-63.PDF>>, at 10.
117. Chawla, *supra* note 115, at 4.
118. *Id.*
119. Berman, *supra* note 116, at 10.
120. Chawla, *supra* note 115, at 4.
121. Berman, *supra* note 116, at 10.
122. Charlotte Gray, *Polish Health Care Morphs into New System at Breakneck Speed*, CMAJ 161:739 (Sept. 21, 1999) (visited Jan. 20, 2000) <<http://www.cma.ca>>.
123. Berman, *supra* note 116, at 8.
124. Ustawa z dnia 6 lutego 1997 r. o powszechnym ubezpieczeniu zdrowotnym [Law of February 6, 1997 on National Health Insurance], art. 19, Dz.U. No. 28/1997, Pos. 153.
125. *Poland: Leading Sectors for U. S. Export and Investment* (visited Jan. 20, 2000) <<http://tradeport.org/ts/countries/poland/sectors.html>>.
126. *Id.*
127. Krzysztof P. Jasiutowicz, *Health Care Reform in Poland* (visited Jan. 20, 2000) <www.friko.onet.pl/ez/kpjasen/nhs_reform.html>.
128. CORE DOCUMENT, *supra* note 49, ¶ 29.
129. *Women's Health*, *supra* note 96, at 191.
130. *Church and State Assail Reproductive Rights*, *supra* note 106, at 164.
131. Andrzej Malanowski, *Legislacyjny knot* [Legislative Botch] GAZETA UBEZPIECZENIOWA No. 10, Apr. 7-13, 1999, at 21.
132. *Church and State Assail Reproductive Rights*, *supra* note 106, at 164.
133. Ministerstwo Zdrowia i Opieki Społecznej [Ministry of Health and Social Welfare] (visited Jan. 20, 2000) <<http://www.mziios.gov.pl/zdrowie/wydatki/wydatki-b.html>>.
134. *Church and State Assail Reproductive Rights*, *supra* note 106, at 164.
135. See MINISTERSTWO FINANSÓW [MINISTRY OF FINANCE], CZARNA KSIĘGA MARNOTRAWSTWA W OCHRONIE ZDROWIA [THE BLACK BOOK OF WASTE IN THE MEDICAL CARE SECTOR] 171 (1998).
136. *Id.* at 172. 97% of the financing comes from EU, 3% from the state budget.
137. PEŁNOMOCNIK RZĄDU DS. RODZINY I KOBIET [GOVERNMENTAL PLENIPOTENTIARY FOR FAMILY AND WOMEN], RAPORT NA IV ŚWIATOWĄ KONFERENCJĘ NARODÓW ZJEDNOCZONYCH W SPRAWACH KOBIET, PEKIN 1995 [REPORT PREPARED FOR THE FOURTH WORLD CONFERENCE ON WOMEN] 104 (1995).
138. KARAT COALITION FOR REGIONAL ACTION, *supra* note 107, at 11.
139. Ustawa z dnia 5 grudnia 1996 r. o zawodzie lekarza [Law of December 5, 1996 on the Medical Profession], Dz.U. No. 28/1997, Pos. 152.
140. KODEKS ETYKI LEKARSKIEJ [MEDICAL CODE OF ETHICS] (unified wording containing the amendments passed at the III National Convention of Physicians; Warsaw, December 12-14, 1993), Oficyna Wydawnicza Naczelnej Izby Lekarskiej [Publications Office of the Chamber of Physicians] (1994) (visited Jan. 20, 2000) <<http://www.nil.org.pl/prawo/bbab.htm>>.
141. Law on the Medical Profession, art. 36; Ustawa z dnia 30 sierpnia 1991 r. o zakładach opieki zdrowotnej [Law of August 30, 1991 on Public Medical Care], art. 9(4), Dz.U. No. 91/1991, Pos. 408; MEDICAL CODE OF ETHICS arts. 1(2), 12(1).
142. Law on the Medical Profession, arts. 5-20.
143. Ustawa z dnia 17 maja 1989 r. o izbach lekarskich [Law on the Chamber of Physicians], Dz.U. No. 30/1989, Pos. 158 (visited Jan. 21, 2000) <<http://www.nil.org.pl/prawo/bbcb.htm>>.
144. *Id.*
145. *Id.* art. 4(1).
146. See *Przybysz*, *supra* note 48.
147. Ustawa z dnia 5 lipca 1996 r. o zawodach pielęgniarki i położnej [Law of July 5, 1996 on the Profession of Nurse and Midwife], Dz.U. No. 91/1996, Pos. 410.
148. The previous curriculum was of two years duration and did not meet the health care needs of an increasingly elderly population. THE BRITISH COUNCIL HEALTH NEWS (visited Jan. 20, 2000) <<http://www.britcoun.org/health/news.htm>>.
149. *Id.*
150. Ustawa o Izbach Aptekarskich z dnia 19 kwietnia 1991 r. [Law of April 19, 1991 on the Chamber of Pharmacists], Dz. U. No.41/1991, Pos. 179.
151. See KODEKS ETYKI APTEKARZA RZECZYPOSPOLITEJ POLSKIEJ [CODE OF ETHICS OF PHARMACISTS] (visited Jan. 21, 2000) <<http://www.nia.org.pl>>.
152. Ustawa z dnia 5 grudnia 1996 r. o zawodzie lekarza [Law of December 5, 1996 on the Medical Profession], art. 4, Dz.U. No. 28/1997, Pos. 152.
153. *Id.* art. 31.

154. *Id.*
155. *Id.* art. 34(1), (2).
156. *Id.* art. 35.
157. *Id.* art. 36(1).
158. *Id.* art. 36.
159. *Id.* art. 40.
160. *Id.* art. 15.
161. Ustawa z dnia 23 kwietnia 1964 r. - Kodeks cywilny [Law of April 23, 1964 - Civil Code] [K.C.], arts. 415, 416, 448, Dz.U. No. 16/1964, Pos. 93.
162. See *State Treasury to Pay Compensation in Medical Malpractice Case*, POLISH NEWS BULLETIN, Nov. 10, 1999, available in LEXIS, Poland Country Files. On 27 October 1999, the Krakow District Court awarded a 5-year-old boy zl 80,000 plus a monthly zl 500 annuity for losing his sight as a result of the negligence of the Gabriel Narutowicz Memorial Hospital staff in Krakow. The child was admitted to the hospital in January 1995 and was not diagnosed with an advanced eye disease until several months later. A prosecutor filed criminal charges against the director of the ward and two doctors for not ordering the proper eye examination. The criminal court found two of the defendants guilty, but the verdict was overturned on appeal on a procedural technicality. An appeal to the Supreme Court by the prosecutor is pending. Since the event took place before the health care reform carried out in 1999, the State Treasury, must pay the judgement in the civil case.
163. Ustawa z dnia 6 czerwca 1997 r. - Kodeks karny [Law of June 6, 1997 - Criminal Code] [K.K.], art. 192(1), Dz.U. No. 88/1997, Pos. 553, translated in INTERNATIONAL DIGEST OF HEALTH LEGISLATION, Vol. 49, No. 4, 607-608 (1998).
164. *Id.* art. 156(1).
165. CODE OF MEDICAL ETHICS art. 5.
166. Ustawa z dnia 17 maja 1989 r. o izbach lekarskich [Law of May 17, 1989 on the Chamber of Physicians], art. 41, Dz.U. No. 30/1989, Pos. 158. Members of medical courts are independent regarding adjudication in professional responsibility cases and subject only to legal acts and binding principles of professional ethics (art. 54). The Minister of Health and Social Welfare, together with the Minister of Justice and the Head Physicians' Council define by means of decree specific regulations on the organization and makeup of medical courts, conduct of professional responsibility proceedings, rights and obligations of parties and witnesses, procedure of executing punishments and the costs of proceedings (art. 57(2)).
167. *Id.* art. 42(1).
168. *Id.* art. 48.
169. *Id.* art. 53.
170. Patients' right to information is also provided by art. 13 of the CODE OF MEDICAL ETHICS. Also relevant are other provisions of the Code. Under art. 23, the duty of confidentiality does not end with the death of the patient. Art. 25 states cases when a physician may be released from the duty of confidentiality: if the patient expresses his or her consent, if the maintenance of confidentiality constitutes a threat to health or life of the patient or other persons, or if this is a duty in law. There is no violation of confidentiality to agencies with statutory authority (art. 26). Physicians have the right to reveal any human rights violations which are a threat to health or life and which come to their notice (art. 27). Physician and persons who collaborate with them have the duty to ensure confidentiality of information contained and stored in DNA samples taken from patients and their families (art. 29).
171. FEDERACJA NA RZECZ KOBIET I PLANOWANIA RODZINY [FEDERATION FOR WOMEN AND FAMILY PLANNING], ZDROWIE REPRODUKCYJNE KOBIET W POLSCE [REPRODUCTIVE HEALTH OF WOMEN IN POLAND] (1997) (visited Jan. 21, 2000) <<http://www.waw.pdi.net/~polfedwo/pl.htm>>.
172. See Romuald Krajewski, *Obowiązki i prawa w praktyce lekarskiej* [Rights and Obligations in Medical Practice], GAZETA LEKARSKA No. 4, 1999 at 38.
173. REPRODUCTIVE HEALTH OF WOMEN IN POLAND, *supra* note 171, at 9-10.
174. *Id.* at 14.
175. *Id.*
176. FUNDACJA OŚKa, WOMEN'S HUMAN RIGHTS 18 (1998).
177. THE BUREAU OF INFORMATION OF THE NATIONAL AGENCY OF STATISTICS, PODSTAWOWE INFORMACJE O ROZWOJU DEMOGRAFICZNYM POLSKI W 1998 ROKU [THE BASIC INFORMATION OF DEMOGRAPHIC DEVELOPMENT IN POLAND IN 1998, at 2 (1999)].
178. CORE DOCUMENT, *supra* note 49, ¶¶ 9-10.
179. *Questionnaire on the Implementation of the Beijing Platform of Action by the Government of the Republic of Poland*, U.N. Division for the Advancement of Women, at 4 (visited Mar. 7, 2000) <<http://www.un.org/womenwatch/daw/followup/poland.pdf>> (Nov. 8, 1999) [hereinafter *Implementation of the Beijing Platform of Action*].
180. DEMOGRAPHIC DEVELOPMENT IN POLAND, *supra* note 177, at 1.
181. KONST. art. 18.
182. *Polish Coalition Agrees on Pro-Family Tax Relief*, RFE/RL NEWSLINE, Nov. 8, 1999 <<http://www.rferl.org/newsline/1999/11/081199.html>>.
183. *Church and State Assail Reproductive Rights*, *supra* note 106, at 165.
184. See WOMEN'S HUMAN RIGHTS, *supra* note 176, at 34.
185. *Concluding Observations of the Human Rights Committee - Poland, Consideration of Reports Submitted by States Parties under Article 40 of the Covenant*, U.N. Human Rights Committee, 66th Sess., CCPR/C/79/Add.110, July 29, 1999.
186. *Implementation of the Beijing Platform of Action*, *supra* note 179, at 14.
187. *Id.* at 14-15.
188. The Centers are IPPF affiliates, see <<http://www.ippf.org/regions/countries/pol/index.htm>> (visited Jan. 25, 2000).
189. TOWARZYSTWO ROZWOJU RODZINY [ASSOCIATION FOR FAMILY DEVELOPMENT], 1998 ANNUAL REPORT (1999) (on file with The Center for Reproductive Law & Policy).
190. GŁÓWNY URZĄD STATYSTYCZNY [CENTRAL STATISTICAL OFFICE], STAN ZDROWIA LUDNOŚCI [THE STATE OF HEALTH OF THE POPULATION] 196 (1996).
191. THE FEDERATION FOR WOMEN AND FAMILY PLANNING, ANTYKONCEPCJA: PRAWO, WYBÓR, JAKOŚĆ ŻYCIA [CONTRACEPTION: THE RIGHT, THE CHOICE, THE QUALITY OF LIFE] (visited Jan. 25, 2000) <www.waw.pdi.net/~polfedwo/pl.htm>.
192. *Id.*
193. INTERNATIONAL CENTER FOR RESEARCH ON WOMEN & THE CENTRE FOR DEVELOPMENT AND POPULATION ACTIVITIES, ADVOCACY FOR WOMEN'S REPRODUCTIVE RIGHTS: DEVELOPING A GRASSROOTS STRATEGY IN POLAND (1999) (visited Jan. 25, 2000) <<http://www.icrw.org>>.
194. Sprawozdanie Rady Ministrów z realizacji w roku 1997 Ustawy z dnia 7 stycznia 1993 o planowaniu rodziny, rodzi, ochronie płodu ludzkiego i warunkach dopuszczalności przerywania ciąży [The Report of the Council of Ministers on the Realization of the Antiabortion Law] No. 592 (1998).
195. *Id.*; see *Kobiety OnLine-Internet Media* (visited Jan. 25, 2000) <<http://www.kobiety.com/antyh1.htm>> (listing the types of pills women can buy in pharmacies: Antevoin, Cilest, Diane 35, Femoden, Gravistat, Gestigen, Lynomin (subsidized), Loveston, Lyndiol, Marvelon, Mercilon, Microgynon, Minisiston, Minulet, Noclogynon (subsidized), Postinor, Restovar, Rigevidon (subsidized), Stediril, Trinovum, Trisiston, Triquilar, Trionordiol, Tri-Regol).
196. Rozporządzenie Ministra Zdrowia i Opieki Społecznej z dnia 26 lutego 1998 r. w sprawie wykazu leków podstawowych, uzupełniających i środków antykoncepcyjnych [Decree of the Ministry of Health and Social Welfare of February 26, 1998 on Basic Medicines and Contraceptives], Dz.U. No. 31/1998, Pos. 166.
197. INDEPENDENT REPORT, *supra* note 109.
198. *Church and State Assail Reproductive Rights*, *supra* note 106, at 165.
199. Ustawa z dnia 10 października 1991 r. o środkach farmaceutycznych, materiałach medycznych, aptekach, hurtowniach i nadzorze farmaceutycznym [Law of October 10, 1991 on Pharmaceutical Products, Medical Articles, Pharmacies, Wholesale Pharmaceutical Establishments, and Pharmaceutical Inspection], Dz.U. No. 105/1991, Pos. 452, summarized in INTERNATIONAL DIGEST OF HEALTH LEGISLATION, Vol. 45, No. 4, at 516-518 (1994).
200. *Id.*
201. INDEPENDENT REPORT, *supra* note 109.
202. *Id.*
203. CONTRACEPTION: THE RIGHT, THE CHOICE, THE QUALITY OF LIFE, *supra* note 191.
204. The majority of doctors follow the instructions of the Doctors' Council to offer contraceptives only on women's request, see THE FEDERATION FOR WOMEN AND FAMILY PLANNING, THE EFFECTS OF THE ANTI-ABORTION LAW 8 (1996) (visited Jan. 25, 2000) <<http://www.waw.pdi.net/~polfedwo/english/english1.htm>>.
205. *Id.* at 4.
206. Report of the Council of Ministers on the Realization of the Abortion Law, *supra* note 194.
207. *Id.*
208. Urszula Nowakowska & Maja Korzeniewska, *Women's Reproductive Rights*, in POLISH WOMEN IN THE 90S, at 228 (Urszula Nowakowska, Women's Rights Center eds., 2000) [hereinafter *Women's Reproductive Rights*].
209. Ustawa z dnia 27 kwietnia 1956 r. o warunkach dopuszczalności przerywania ciąży [Law of April 27, 1956 on the Termination of Pregnancy], Dz.U. No. 12/1956, Pos. 61.

210. See CHILDBIRTH BY CHOICE TRUST, ABORTION IN LAW, HISTORY & RELIGION 24 (visited Jan. 25, 2000) <<http://www.cbctrust.com/abortion.html#top>>.
211. THE CODE OF MEDICAL ETHICS, KENNEDY INSTITUTE OF ETHICS JOURNAL, Vol. 2, No. 4, art. 37 (1992).
212. Ustawa z dnia 7 stycznia 1993 r. o planowaniu rodziny, ochronie płodu ludzkiego i warunkach dopuszczalności przerywania ciąży [Law of January 7, 1993 on Family Planning, Human Embryo Protection and Conditions of Legal Termination of Pregnancy], art.7(2)§3, Dz.U. No. 17/1993, Pos. 78; see Wanda Nowicka, *Poland: Case Study on Legal Instability Concerning Abortion* (WHO, 1997) (visited Jan. 26, 2000) <<http://www.waw.pdi.net/~polfedwo/english/english1.htm>>.
213. Ustawa z dnia 30 sierpnia 1996 r. o zmianie ustawy o planowaniu rodziny, ochronie płodu ludzkiego i warunkach dopuszczalności przerywania ciąży oraz o zmianie niektórych innych ustaw [Law of August 30, 1996 Amending the Law on Family Planning, Human Embryo Protection and Conditions of Legal Pregnancy Termination], Dz.U. No. 139/1996, Pos. 646.
214. *Id.* art. 4a.1.
215. Orzeczenie Trybunału Konstytucyjnego z dnia 28 maja 1997 r. (Sygn.akt K.26/96),/78 [Decision of the Constitutional Tribunal from May 28, 1997]. At the time of the decision, there were in force the "Little Constitution" from Oct. 17, 1992 (visited Jan. 26, 2000) <http://www.uni-wuerzburg.de/law/pl02000_.html> and selected provisions from the 1952 Constitution (visited Jan. 26, 2000) <http://www.uni-wuerzburg.de/law/pl01000_.html>. The Tribunal argued that, even though the Constitution contained no provisions relating directly to the protection of life, the constitutional protection of life could be deduced from art.1, that stated that Poland was a democratic state ruled by law. The Tribunal concluded that in a democratic state of law, life at every stage of its development, must be protected by the Constitution.
216. *Id.*
217. Law of 1993 on Abortion, art. 4a.
218. *Id.* art. 4a.2.
219. *Id.* art. 4a.4.
220. *Id.*
221. *Id.* art. 4a.1, 4a.3.
222. *Id.* art. 4b.
223. *Id.* art. 4a.8. Private clinics have to meet certain standards with regard to professional and sanitary conditions, medical documentation and management.
224. *Id.* art. 4a.9.
225. See THE EFFECTS OF THE ANTI-ABORTION LAW, *supra* note 204, at 6.
226. *Id.*
227. *Id.* Often, women are sent from hospital to hospital while the twelve-week period when abortion is legal elapses. *Women's Reproductive Rights*, *supra* note 208, at 226, 228.
228. Law of 1993 on Abortion, art. 2(1), 2(2a).
229. *Id.* art. 7(2).
230. Ustawa z dnia 8 lipca 1999 r. o zmianie ustawy - Kodeks karny oraz ustawy o zawodzie lekarza [Law of July 8, 1999 Amending the Criminal Code and the Law on Medical Profession], Dz.U. No. 64/1999, Pos. 729; see *Constitution Watch - Poland Update*, E. EUR. CONST. REV., Vol. 8, No. 4, Fall 1999, at 35.
231. Ustawa z dnia 7 stycznia 1993 r. o planowaniu rodziny, ochronie płodu ludzkiego i warunkach dopuszczalności przerywania ciąży [Law of January 7, 1993 on Family Planning, Human Embryo Protection and Conditions of Legal Termination of Pregnancy], art.4b, Dz.U. No. 17/1993, Pos. 78.
232. EFFECTS OF THE ANTI-ABORTION LAW, *supra* note 204, at 3.
233. In January 2000, police raided two doctors' private offices and arrested them as they finished performing an abortion. It is the first time the police arrested doctors while performing an illegal abortion. See *Poland Abortion Doctors Office Raided*, ASSOCIATED PRESS, Jan. 26, 2000.
234. K.K. art. 152.
235. *Id.*
236. *Id.* art. 154.
237. *Id.* art. 152(3).
238. *Id.* art. 153(1).
239. *Id.* art. 153(2).
240. *Id.* art. 154(2).
241. *Id.* art. 157a(3).
242. *Id.* art. 149. The sentence is three months to five years imprisonment.
243. *Id.* art. 156(1).
244. *Id.* art. 157a(1).
245. *Id.* art. 157a(2).
246. EFFECTS OF THE ANTI-ABORTION LAW, *supra* note 204, at 3.
247. See Ann Snitow, *Poland's Abortion Law - The Church Wins, Women Lose*, THE NATION, Apr. 26, 1993, at 556-559.
248. See Nowicka, *supra* note 212, at 2.
249. *Women's Reproductive Rights*, *supra* note 208, at 225.
250. K.K. art. 156.
251. *Women's Reproductive Rights*, *supra* note 208, at 237.
252. EUROPEAN CENTRE FOR THE EPIDEMIOLOGICAL MONITORING OF AIDS, HIV/AIDS SURVEILLANCE IN EUROPE: REPORT NO. 61, June 30, 1999, at 37.
253. EUROPEAN CENTRE FOR THE EPIDEMIOLOGICAL MONITORING OF AIDS, COUNTRY PROFILE: POLAND (source: National Institute of Hygiene, Warsaw) (visited Jan. 27, 2000) <<http://www.ceses.org/eurosurv>>.
254. ZBIGNIEW IZDEBSKI, ZACHOWANIA PROZDROWOTNE I SEKSUALNE W ASPEKTCIE HIV/AIDS W POLSCE [PROHEALTH BEHAVIOR AND SEXUAL ACTIVITY REGARDING HIV/AIDS IN POLAND] 6 (1997).
255. T. NIEMIEC, NATIONAL AGENCY FOR COORDINATION OF ACTIONS FOR PREVENTION OF HIV/AIDS, ZAKA_ENIE HIV/AIDS U KOBIET W OKRESIE PROKREACJI. PORADNIK DLA LEKARZA PRAKTYKA [HIV/AIDS INFECTIONS FACED BY WOMEN IN PROCREATION STATE] 3 (1996).
256. HIV/AIDS SURVEILLANCE IN EUROPE, *supra* note 252, at 32.
257. Ministerstwo Zdrowia i Opieki Społecznej [Ministry of Health and Social Welfare], Zachorowania na choroby weneryczne [Situation of STIs] (visited Jan. 27, 2000) <<http://www.mzios.gov.pl>>; GŁÓWNY URZĄD STATYSTYCZNY [CENTRAL STATISTICAL OFFICE], ROCZNIK STATYSTYCZNY 1997 [STATISTICAL YEAR-BOOK] 259 (1997).
258. *Id.*
259. K.K. art. 161.
260. *Id.* art. 161(1).
261. *Id.* art. 161(2).
262. MINISTERSTWO ZDROWIA I OPIEKI SPOŁECZNEJ [MINISTRY OF HEALTH AND SOCIAL WELFARE], KRAJOWY PROGRAM ZAPOBIEGANIA ZAKAŻENIOM HIV I OPIEKI NAD ŻYJĄCYMI Z HIV I CHORYMI NA AIDS [THE NATIONAL PROGRAMME FOR PREVENTION OF HIV INFECTIONS AND THE CARE OF PERSONS LIVING WITH OR SUFFERING FROM HIV/AIDS] 12 (1996).
263. *Id.*
264. *Id.*
265. Ustawa z dnia 5 grudnia 1996 r. o zawodzie lekarza [Law of December 5, 1996 on the Medical Profession], art. 31, Dz.U. No. 28/1997, Pos. 152.
266. NATIONAL PROGRAM FOR PREVENTION OF HIV INFECTIONS AND THE CARE OF PERSONS LIVING WITH OR SUFFERING FROM HIV/AIDS, *supra* note 262, at 5.
267. Ministerstwo Zdrowia i Opieki Społecznej [Ministry of Health and Social Welfare], Centrum Diagnostyki i Terapii AIDS [Order of 30 April, 1996 Establishing the AIDS Council], Dziennik Urzędowy Ministerstwa Zdrowia i Opieki Społecznej No. 6/May 29, 1996, Issue No. 16, at 65-66, translated in INTERNATIONAL DIGEST OF HEALTH LEGISLATION Vol. 48, No. 1, 14 (1997).
268. INDEPENDENT REPORT, *supra* note 109.
269. KONST. art. 18.
270. Ustawa z dnia 25 lutego 1964 r. Kodeks rodzinny i opiekuńczy [Law of February 25, 1964 Family and Custody Code] [K.R.], Dz.U. No. 9/1964, Pos. 59.
271. *Id.* art. 10(1).
272. *Id.*
273. *Id.* arts. 11-15.
274. *Id.* art. 12(1).
275. K.K. art. 206.
276. Ustawa z dnia 17 maja 1989 r. o stosunku Państwa do Kościoła Katolickiego w Polskiej Rzeczypospolitej Ludowej [Law of May 17, 1989 on the Relations between the State and the Catholic Church], Dz.U. No. 29/1989, Pos. 154.
277. KONST. art. 33(1); K.R. art. 23.
278. See THE WOMEN'S RIGHTS CENTER, POSITION OF WOMEN IN THE FAMILY: LAW AND PRACTICE (visited Jan. 28, 2000) <<http://free.ngo.pl/temida/rapfam.htm>>.
279. K.R. art. 36(1).
280. According to a Supreme Court ruling establishing a legal obligation for a married couple to cohabit (including sexual relations), any agreement to exclude cohabitation is illegal.

- Urszula Nowakowska & Emilia Pivnik, *Women in the Family*, in POLISH WOMEN IN THE 90S, at 117 (Urszula Nowakowska, Women's Rights Center eds., 2000) [hereinafter *Women in the Family*].
281. K.R. art. 23.
282. *Id.* art. 27.
283. *Id.* arts. 93(1), 97.
284. *Id.* art. 25.
285. *Id.* art. 88.
286. *Id.* arts. 89(6), 89(2), 89(3).
287. POSITION OF WOMEN IN THE FAMILY: LAW AND PRACTICE, *supra* note 278, at 15. The Supreme Court has issued an advisory opinion stating that lower courts should not hear these types of cases and should not consider them the same way they consider property cases among married couples. Courts usually apply the Civil Code provisions on "close friends" in these cases, or arts. 860-875 on division of property between small business partners.
288. Ustawa z dnia 2 lipca 1994 r. o najmie lokali mieszkalnych i dodatkach mieszkaniowych [Law of July 2, 1994 on Housing], art. 8, Dz.U. No. 105/1994, Pos. 509.
289. Additionally, each parent has an equal right to custody and an equal obligation to support the children. POSITION OF WOMEN IN THE FAMILY: LAW AND PRACTICE, *supra* note 278, at 16.
290. If one partner dies or is terminally ill, the other partner is entitled to support or maintenance if the court agrees that the surviving partner is a "close friend." Under art. 923(1) of the Civil Code, a close friend who lived with the deceased is entitled to remain in the shared apartment for a period of three months. *Id.* at 15.
291. A marriage can also be annulled if one of the spouses, for whatever reason, was unable to consciously declare his or her true will, or due to an error of identity of the other person, or under threat that unless the marriage was concluded, serious personal injury might come to one of the spouses or another person. K.R. art. 151(1).
292. *Id.* art. 21.
293. *Id.* art. 56(1).
294. *Id.*
295. JAN WINIARZ, PRAWO RODZINNE [FAMILY LAW] 129-130 (1994).
296. K.R. art. 56(3).
297. *Id.* The most common reason in divorces based on mutual consent is the incompatibility of spouses' personalities. In fault based divorces, the most common reasons are domestic violence, alcoholism, and adultery. POSITION OF WOMEN IN THE FAMILY: LAW AND PRACTICE, *supra* note 278, at 9.
298. *Id.* at 10.
299. K.R. art. 56(2).
300. WINIARZ, *supra* note 295, at 131.
301. *Id.* at 135.
302. POSITION OF WOMEN IN THE FAMILY: LAW AND PRACTICE, *supra* note 278, at 10. This is rare in practice. See *Women in the Family*, *supra* note 280, at 123.
303. POSITION OF WOMEN IN THE FAMILY: LAW AND PRACTICE, *supra* note 278, at 10-11.
304. *Id.* at 11.
305. KONST. art. 48(2). The constitutional regulation of termination of parental rights is a rare occurrence. In practice, it is very difficult to terminate parental rights. Usually some kind of joint custodial or visitation scheme is approved. Very rarely, in the most extreme cases of negligence or abuse, the court can grant sole custody to only one parent. POSITION OF WOMEN IN THE FAMILY: LAW AND PRACTICE, *supra* note 278, at 11-12.
306. K.R. art. 133; POSITION OF WOMEN IN THE FAMILY: LAW AND PRACTICE, *supra* note 278, at 13.
307. POSITION OF WOMEN IN THE FAMILY: LAW AND PRACTICE, *supra* note 278, at 13. According to an advisory opinion of the Supreme Court, both parents are obliged to use their income to support their children, regardless of how much they earn. A parent may not be relieved of this obligation unless he or she is incapacitated and not earning money at all.
308. K.R. art. 60.
309. *Id.*; POSITION OF WOMEN IN THE FAMILY: LAW AND PRACTICE, *supra* note 278, at 14.
310. K.R. art. 59.
311. *Id.* arts. 611 - 616.
312. *Id.* art. 614(2).
313. *Id.* art. 611(2).
314. *Women in the Family*, *supra* note 280, at 122.
315. KONST. art. 21(1).
316. K.C. art. 140. See generally *Razem, ale osobno* [Together, but Separately], _YCIE, April 24, 1999.
317. KONST. art. 33(2).
318. *Id.* art. 65(1).
319. *Id.* art. 71(1).
320. *Id.* art. 71(2).
321. Ustawa z dnia 26 czerwca 1974 r. Kodeks pracy [Law of June 26, 1974 Labor Code] [K.P.], Dz.U. No. 24/1974, Pos. 141.
322. *Id.* art. 112.
323. *Id.* art. 113.
324. THE WOMEN'S RIGHTS CENTER, WOMEN ON THE LABOR MARKET (visited Jan. 31, 2000) <<http://free.ngo.pl/temida/jobreport.htm>>. There has been a recent amendment introducing a ban on sex specific advertisements. Also, claims of gender discrimination can be addressed in Labor Courts. *Implementation of the Beijing Platform of Action*, *supra* note 179, at 13.
325. K.P. art. 176.
326. Rozporządzenie Rady Ministrów z dnia 10 września 1996 r. w sprawie wykazu prac wzbronionych kobietom [Order of 10 Sept. 1996 of the Council of Ministers Concerning Occupations Prohibited for Women], Dz.U. No. 114/1996, Pos. 545; see *Poland - Women* (visited Jan. 31, 2000) <<http://natlex.ilo.org>>.
327. WOMEN ON THE LABOR MARKET, *supra* note 324 (observing that these provisions are inconsistent with EU standards).
328. K.P. art. 177(1).
329. *Id.* art. 177(4). In this case, the employer has to agree with the trade union on the date of the dissolution of the contract with the pregnant woman. If there is no possibility of providing another job for a woman she is entitled to temporary benefits and the time without employment is included in her tenure.
330. *Id.* art. 178(1).
331. *Id.* art. 179(1).
332. In this case, the woman is entitled to compensatory allowance if the transfer to another job results in lower remuneration (art. 179(2)).
333. *Id.* art. 180(1).
334. *Id.* art. 180(2).
335. *Id.* art. 183(1).
336. Urszula Nowakowska & Anna Swędrowska, *Women in the Labor Market*, in POLISH WOMEN IN THE 90S, at 47 - 48 (Urszula Nowakowska, Women's Rights Center eds., 2000).
337. K.P. art. 180(3).
338. *Id.* art. 187(1).
339. *Id.* art. 184.
340. WOMEN ON THE LABOR MARKET, *supra* note 324.
341. *Id.*
342. Rozporządzenie Rady Ministrów z dnia 28 maja 1996 r. w sprawie urlopów i zasiłków wychowawczych [Order of May 28, 1996 of the Council of Ministers Concerning Parental Leave and Family Benefit], Dz.U. No. 60/1996, Pos. 277; see *Poland - Maternity Protection* (visited Jan. 31, 2000) <<http://natlex.ilo.org>>.
343. K.P. art. 178(2).
344. Order of May 28, 1996 of the Council of Ministers on Parental Leave and Family Benefit.
345. The qualification requirement is that the family income per person should not exceed 25% of the average monthly income in the past year. The assessment of the benefit is based on the average remuneration from the year before the leave. The period for which the benefit is granted varies, and amounts to: 24 months in the case of a one child under parental care, 36 months if there is more than one child born at the same time, and for single parents. Payment of the benefit can be extended for up to 72 months if a child, under care, suffers from a chronic disease or mental deficiency. The child care benefit cannot be granted if income per person in the family exceeds 25% of an average salary from the previous year. WOMEN ON THE LABOR MARKET, *supra* note 324.
346. K.P. art. 188. Until 1996 men were entitled to this right only if they were the sole guardians of children. WOMEN ON THE LABOR MARKET, *supra* note 324.
347. WOMEN ON THE LABOR MARKET, *supra* note 324. For many years, however, fathers were entitled to this benefit only in exceptional situations: when the mother was absent or if she was not able to care for the child because of sickness or birth.
348. *Id.*
349. *Id.*
350. Nowakowska & Sw_drowska, *supra* note 336, at 60.
351. WOMEN ON THE LABOR MARKET, *supra* note 324.
352. Between 1992 and 1996, the overall unemployment rate ranged from a minimum of

- 13.6% in 1996 to a maximum of 16.4% in 1993. Since the beginning of 1997, the overall unemployment rate has been approximately 13%. *Id.*
353. *Id.*
354. Maria Anna Knothe, *Social and Economic Rights of Women in Poland in Light of the Universal Declaration of Human Rights*, WOMEN'S HUMAN RIGHTS (O_KA) Vol. 4, No. 5 (1998), at 19.
355. WOMEN ON THE LABOR MARKET, *supra* note 324.
356. However, women are starting their own business at increasing rates. The number of women entrepreneurs has increased from 3.7% of the total female workforce in 1989 to about 11% in 1993, and of those the number who owned their business were 27% in 1989, 33% in 1991 and approximately 39% in 1993. *Id.*
357. *Written Statement Submitted by the Federation for Women and Family Planning and the International Planned Parenthood Federation*, 14/04/98. E/C.12/1998/NGO/2. (Info from Non-governmental Sources), U.N. Committee on Economic, Social and Cultural Rights, 18th Sess. (27 April - 15 May 1998), ¶ 7 (visited Jan. 20, 2000) <<http://www.unhchr.ch>>, also available at <<http://www.waw.pdi.net/~polfedwo/english/english1.htm>> [hereinafter FEDERATION REPORT].
358. Ustawa z dnia 17 grudnia 1998 r. o emeryturach i rentach z Funduszu Ubezpieczeń Społecznych [Law of December 17, 1998 on Retirement Age and Retirement Pension], art. 27, Dz.U. No. 162/1998, Pos. 1118.
359. *Implementation of the Beijing Platform of Action*, *supra* note 179, at 4. This direction has been confirmed by decisions of the Constitutional Court.
360. Ustawa z dnia 29 sierpnia 1997 r. - Prawo bankowe [Law of August 29, 1997 - Banking Law], Dz.U. No. 140/1997, Pos. 939.
361. *Id.* arts. 69, 70.
362. KONST. arts. 33(2), 70(1), 70(4).
363. *Id.* art. 70(1).
364. *Id.* art. 70(2).
365. *Id.* art. 70(3), (4).
366. FEDERATION REPORT, *supra* note 357, ¶ 5. Among employed persons, women with higher education represented 10%, while men nine 9%. Five percent of women have post-college education as opposed to 1% of men. Twenty-four percent of women graduated a vocational college, with only 21% of men in the same situation. Eleven percent of women have general college education, while only 3% of men are in the same position. WOMEN ON THE LABOR MARKET, *supra* note 324.
367. *Implementation of the Beijing Platform of Action*, *supra* note 179, at 3.
368. FEDERATION REPORT, *supra* note 357, ¶ 22.
369. Joanna Wóycicka & Andrzej Dominiczak, *Education of Women*, in POLISH WOMEN IN THE 90S, at 91 (Urszula Nowakowska, Women's Rights Center eds., 2000).
370. *Id.* at 92.
371. FEDERATION REPORT, *supra* note 357, ¶ 23.
372. Urszula Nowakowska, *Government Mechanism for the Advancement of Women*, in POLISH WOMEN IN THE 90S, at 12 (Urszula Nowakowska, Women's Rights Center eds., 2000).
373. Rozporządzenie Rady Ministrów z dnia 7 listopada 1997 r. w sprawie zniesienia urzędu Pełnomocnika Rządu do Spraw Rodziny i Kobiet [Decree of the Council of Ministers for the Establishment of the Plenipotentiary for Family and Women], Dz.U. No. 138/1997, Pos. 928; see KARAT COALITION FOR REGIONAL ACTION, *supra* note 107, at 6.
374. Nowakowska, *supra* note 372, at 13.
375. *Id.* at 16.
376. *Id.* at 20.
377. *Implementation of the Beijing Platform of Action*, *supra* note 179, at 15-16.
378. K.K. art. 197(1); see WOMEN'S RIGHTS CENTER, VIOLENCE AGAINST WOMEN - RAPE (visited Feb. 1, 2000) <<http://free.ngo.pl/temida/violrape.htm>>.
379. K.K. art. 197(1). The *Sejm* has just passed an amendment to the Criminal Code raising the penalty for rape to two to twelve years in prison.
380. *Id.* art. 197(2).
381. *Id.* art. 197(3). The Criminal Code does not explain the term "unnecessary cruelty", but based on the guidelines of the Supreme Court, this term means behavior that is not essential to overcome the resistance of the victim, or a kind of behavior intended to humiliate the victim, or to make her feel physical or moral pain or suffering, or to cause serious injuries or disfigurement to the victim. VIOLENCE AGAINST WOMEN - RAPE, *supra* note 378.
382. K.K. art. 148(2).
383. *Id.* art. 198.
384. *Id.* art. 201.
385. Urszula Nowakowska & Magdalena Jabłońska, *Violence against Women*, in POLISH WOMEN IN THE 90S, at 163 (Urszula Nowakowska, Women's Rights Center eds., 2000).
386. VIOLENCE AGAINST WOMEN - RAPE, *supra* note 378.
387. *Id.*
388. Nowakowska & Jabłońska, *Violence against Women*, *supra* note 385, at 164.
389. VIOLENCE AGAINST WOMEN - RAPE, *supra* note 378.
390. Ustawa z dnia 6 czerwca 1997 r. - Kodeks postępowania karnego [Law of June 6, 1997 - Code of Criminal Procedure], art. 12(3), Dz.U. No. 89/1997, Pos. 555.
391. Nowakowska & Jabłońska, *Violence against Women*, *supra* note 385, at 167.
392. *Id.* at 164.
393. *Id.* at 165 - 167.
394. *Id.*
395. WOMEN'S RIGHTS CENTER, VIOLENCE AGAINST WOMEN - DOMESTIC VIOLENCE (visited Feb. 1, 2000) <<http://free.ngo.pl/temida/violodom.htm>>.
396. K.K. art. 207(1).
397. *Id.* art. 207(2).
398. *Id.* art. 207(3).
399. VIOLENCE AGAINST WOMEN - DOMESTIC VIOLENCE, *supra* note 395.
400. *Id.*
401. *Id.*
402. *Id.*; see Jane Perlez, *Dark Underside of Polish Family Life: Violence*, N.Y. TIMES, May 8, 1998, at A1; see also STATE DEPT REPORT, *supra* note 43.
403. FEDERATION REPORT, *supra* note 357, ¶ 19.
404. Nowakowska & Jabłońska, *Violence against Women*, *supra* note 385, at 161.
405. *Implementation of the Beijing Platform of Action*, *supra* note 179, at 16.
406. WOMEN'S RIGHTS CENTER, VIOLENCE AGAINST WOMEN - SEXUAL HARASSMENT (visited Feb. 1, 2000) <<http://free.ngo.pl/temida/violsex.htm>>.
407. K.K. art. 199.
408. *Id.*
409. Nowakowska & Śwędrowska, *supra* note 336, at 53.
410. VIOLENCE AGAINST WOMEN - SEXUAL HARASSMENT, *supra* note 406.
411. K.P. arts. 111, 15, 94(4); see also Nowakowska & Śwędrowska, *supra* note 336, at 53.
412. Nowakowska & Śwędrowska, *supra* note 336, at 53.
413. *Id.* at 54.
414. FEDERATION REPORT, *supra* note 357, ¶ 20.
415. K.K. arts. 203, 204.
416. *Id.* art. 203.
417. *Id.* art. 204(1).
418. *Id.* art. 204(4).
419. *Id.* art. 253.
420. WOMEN'S RIGHTS CENTER, VIOLENCE AGAINST WOMEN - TRAFFICKING IN WOMEN (visited Feb. 2, 2000) <<http://free.ngo.pl/temida/violtraf.htm>>.
421. Nowakowska & Jabłońska, *Violence against Women*, *supra* note 385, at 172. La Strada cooperates with Interpol and other similar organizations abroad to combat trafficking in women. It runs a hotline, monitors investigations and helps individual women. The organization is also trying to educate the public, especially young women. The problem of trafficking especially concerns regions in poorer parts of Poland and near the border with Germany.
422. K.K. art. 203.
423. WORLD FACTBOOK, *supra* note 1.
424. KONST. art. 72(1).
425. *Id.*
426. *Id.* art. 65(3).
427. *Id.* art. 72(4).
428. Ustawa z dnia 6 stycznia 2000 r. o Rzeczniku Praw Dziecka [Law of Jan. 6, 2000 on the Commissioner for Children's Rights], Dz.U. No. 6/2000, Pos. 69.
429. KONST. art. 68(3).
430. PEŁNOMOCNIK RZĄDU DO SPRAW RODZINY [GOVERNMENTAL PLENIPOTENTIARY FOR FAMILY], RAPORT O SYTUACJI POLSKICH RODZIN [THE REPORT ON THE SITUATION OF POLISH FAMILIES] 117 (1998).
431. *Id.* at 151.
432. FEDERATION REPORT, *supra* note 357, at <<http://www.waw.pdi.net/~polfedwo/english/english1.htm>>.
433. K.K. art. 149.
434. K.R. art. 10(1).
435. *Id.* art. 10.
436. *Id.* art. 10(2).
437. *Id.* art. 10(4).
438. K.K. art. 200(1).

439. *Id.* art. 200(2).
440. *Polish Parliament Bans All Pornography*, RFE/RL NEWSLINE Vol. 4, No. 46, Part II, March 6, 2000. The bill was adopted 210 to 197 votes, with 19 abstentions. It was promoted by pro-Catholic legislators from the ruling Solidarity Electoral Action (AWS), and was opposed by the leftist Democratic Left Alliance and the liberal Freedom Union, the AWS's coalition. *Polish President Vetoes Ban on All Pornography*, RFE/RL NEWSLINE Vol. 4, No. 62, Part II, March 28, 2000. The president's aide said the president decided to veto the draft law because he believed its provisions were so far-reaching that it would have been ignored, thereby damaging the prestige of the state and the law. A recent poll showed that 48 % of Poles disapproved of the ban on pornography, while 42 % supported it.
441. K.K. art. 202 (2).
442. *Id.* art. 204 (3).
443. *Id.* art. 207 (1).
444. *Initial reports of States parties due in 1993 : Poland. 31/01/94. CRC/C/8/Add.11. (State Party Report)*, U.N. Committee on the Rights of the Child, ¶ 205 (visited Feb. 1, 2000) <<http://www.unhchr.ch>>.
445. *Id.* ¶ 207.
446. *Implementation of the Beijing Platform of Action*, *supra* note 179, at 10.
447. Ustawa z dnia 7 stycznia 1993 r. o planowaniu rodziny, ochronie płodu ludzkiego i warunkach dopuszczalności przerywania ciąży [Law of January 7, 1993 on Family Planning, Human Embryo Protection and Conditions of Legal Termination of Pregnancy], art. 2(3), Dz.U. No. 17/1993, Pos. 78.
448. FEDERATION REPORT, *supra* note 357, ¶ 22.
449. Law of 1993 on Abortion, art. 4.
450. Rozporządzenie Ministra Edukacji Narodowej z dnia 21 kwietnia 1998 r. w sprawie wprowadzenia do nauczania szkolnego przedmiotu "Wiedza o życiu seksualnym człowieka" oraz zakresu jego treści programowych [Decree of the Ministry of Education of April 21, 1998 on the Introduction of the Program on Human Sexual Life in the Curriculum], Dz.U. No. 58/1998, Pos. 369.
451. Ustawa z dnia 16 grudnia 1998 r. o zmianie ustawy o planowaniu rodziny, ochronie płodu ludzkiego i warunkach dopuszczalności przerywania ciąży [Law of December 16, 1998 Amending the Law on Family Planning, Human Embryo and Legal Termination of Pregnancy], Dz.U. No. 5/1999, Pos. 32.
452. See *Women's Reproductive Rights*, *supra* note 208, at 238 -241.
453. FEDERATION REPORT, *supra* note 357, ¶ 24.
454. IZDEBSKI, *supra* note 254, at 98.
455. K.K. art. 204(3).
456. *Id.* art. 204(4).
457. *Concluding Observations of the Human Rights Committee - Poland*, *supra* note 185.