



HUMAN
RIGHTS
WATCH

“The Breath of the Government on My Back”

Attacks on Women’s Rights in Poland



“The Breath of the Government on My Back”

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Summary

On October 3, 2016, thousands of demonstrators filled streets across Poland to protest the ruling Law and Justice (Prawo i Sprawiedliwość, PiS) party's attempt to enact a complete abortion ban. #CzarnyProtest (Black Protest) and #StrajkKobiet (Women's Strike) became rallying cries for women's reproductive freedom at marches broadcast worldwide. When parliament rejected the ban on October 6, it felt like a triumph for women's rights and popular protest.

More than two years later, women's rights activists and organizations in Poland remain under attack. Since coming to power in 2015, the PiS government has targeted women's rights groups through raids and denial of funding, often with little warning and no clear rationale. PiS leaders, politicians, and church-backed groups have publicly smeared women's rights organizations, mischaracterizing their work as dangerous to families and traditional values. Government agencies have dragged state employees who support women's rights protests or collaborate with women's rights groups before disciplinary hearings and threatened their jobs. High-level PiS leaders and civil servants have championed retrogressive laws and policies, sought to reinforce traditional gender roles, disparaged feminism, and publicly discouraged efforts to combat violence against women.

Polish women have long faced highly restrictive abortion laws, limited access to sexual and reproductive health information and care, inadequate services and support in the face of violence, and perpetuation of traditional and prescribed gender roles. But activists told Human Rights Watch the situation has regressed considerably under the PiS government.

The government and the Catholic Church in Poland have been outspoken in censuring the concepts of "gender" and "genderism" and labeling promotion of equality as "gender ideology," which they demonize as driving hypersexuality, homosexuality, feminism, transgenderism, and an assault on traditional ideas of marriage and family. The anti-gender rhetoric serves two purposes: it unites people around a concept of 'traditional values' in opposition to a perceived foreign threat and it demonizes women's rights activists and individuals who do not conform to sexual and gender norms. Under the PiS government, the anti-gender crusade has gained traction, with right-wing activists and conservative politicians using it to galvanize support for measures that curb reproductive

rights, undermine initiatives to address violence against women, hinder sexual and reproductive health education, and smear women's rights and lesbian, gay, bisexual, and transgender (LGBT) rights activists. In speeches and in the media, government leaders, politicians, and "anti-gender" activists propagate extremist misinformation vilifying women's rights groups and associating them with a deterioration in "morality."

Such rhetoric creates public distrust and emboldens right-wing attacks on women's rights activists and organizations. The government's open disdain of women's rights and failure to counter misinformation campaigns fosters a climate of fear for women human rights defenders. Activists said it also deters women and girls from seeking help, including survivors of violence. Sexual and reproductive health education and information and specialized services for women and girl survivors of violence remain woefully inadequate in Poland, and well below international and regional standards.

Against a backdrop of historic reluctance to grant women and girls full reproductive rights, and one of the most restrictive abortion laws in Europe, the PiS government has worked to further curb reproductive freedom, including through retrogressive action on emergency contraception and support of bills that would virtually ban abortion. The government has also blocked provision of comprehensive sexual and reproductive health education. Recent revisions of national sexuality education guidelines and curriculum exacerbate discriminatory attitudes, reinforce gender stereotypes, and spread misinformation that deters use of contraception and reproductive choice.

Government leaders have minimized the problem of violence against women in Poland, and mischaracterized domestic and other gender-based violence by, for example, stating it does not happen in "normal," loving families. Threats to withdraw from the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention), a regional treaty to fight violence against women, sent strong signals that this is not a priority issue for Poland's government.

PiS has also introduced worrying changes to national government funding for civil society initiatives. Women's rights groups have faced drastic funding reductions—or elimination altogether—typically after years of financial support and without clear explanation. Inaccessibility of government funding has led organizations to cut staff, diminish geographic coverage, and reduce essential services for survivors of domestic and other

forms of violence against women, including shelter, legal, and psychosocial support. Virtually every activist Human Rights Watch interviewed said government defunding of well-known and longstanding women's rights organizations serves as both a deterrent to seeking government funds and a source of fear and intimidation. At the same time, many women's rights defenders who previously conducted advocacy or participated in policy development say that, since PiS came to power, ministries and other government bodies exclude them from opportunities to shape dialogue and policy.

Government raids on women's rights organizations' offices following demonstrations in October 2017 marking the Black Protest's one-year anniversary have contributed to public distrust of women's rights groups and increased fear and unease amongst activists, their staff and volunteers, and the public. Even activists at organizations not subject to raids said they feel a heightened sense of risk for themselves and their clients.

Organizations conducting information and education activities related to sexual and reproductive health, anti-violence, and non-discrimination face additional barriers including targeted campaigns demonizing their work and pressure on public sector workers, such as teachers and headmasters, not to collaborate.

Some interviewees experienced intimidation or retaliation due to their support for women's rights, including participation in peaceful women's rights protests or cooperation with groups working on women's rights issues. In several cases, school employees said this occurred after they permitted nongovernmental organizations to conduct workshops on sexuality and health, relationships, non-violence, or non-discrimination in schools. In other cases, women said they faced retaliation after participating in or organizing Black Protest activities. Five women said their public employment came under threat, including three teachers and one school headmistress who were subjected to disciplinary proceedings, though no grounds for disciplinary action were found. Leaders of two groups said they lost office space because of their work on women's rights issues.

Polish authorities should support rather than attack women's rights and women human rights defenders. The Polish government's failure to protect and defend women's rights organizations and activists, provide or support adequate services for survivors of violence, and ensure access to sexual and reproductive health and rights, including sexuality education, violates its international and regional human rights obligations.

Methodology

This report is based on research conducted in Poland in July and August 2018, as well as telephone and video interviews conducted between September and November 2018. In-person interviews were conducted in Warsaw, Kraków, Łódź, Zielona Góra in western Poland, and towns outside of Kraków and in southern Poland whose exact locations are not identified to protect the security and privacy of some interviewees.

Human Rights Watch interviewed 30 activists, participants in or supporters of women's rights issues or protests, attorneys, and representatives of nongovernmental organizations (NGOs) working on women's rights issues including violence against women and sexual and reproductive health and rights. These included representatives of two organizations that fund women's rights groups in Poland. Researchers identified interviewees from longstanding and well-known women's rights organizations in Poland, as well as smaller and lesser-known women's rights groups and organizations and activists that have been targeted by the government since the 2015 elections.

Some of these individuals self-identify as feminists, women's rights activists, lesbian, gay, bisexual, and transgender (LGBT) rights activists, sexuality educators, and/or disability rights activists, while others identify as participants in or supporters of social movements related to women's rights or provision of services to women. All of them are women human rights defenders, defined by the United Nations Office of the High Commissioner for Human Rights as "human rights defenders who engage in promotion and protection of women's rights and gender equality as well as all women working on any issue related to human rights and fundamental freedoms individually and in association with others in any region of the world."

Human Rights Watch also met with representatives of the Ministry of Family, Labor and Social Policy, Ministry of Interior and Administration, and Office of the Ombudsman for Human Rights during research in Poland. We received no reply to written requests for meetings with the Ministry of Justice, Ministry of Health, and Ministry of Education at that time. We also wrote to the Ministry of Justice, Ministry of Family, Labor and Social Policy, Ministry of Health, Ministry of Education, and Office of the Plenipotentiary for Civil Society and Equal Treatment with our key findings and requests for information and comment. We

received responses from the Ministry of Health, Ministry of Education, and Office of the Plenipotentiary for Civil Society and Equal Treatment, which have been integrated into this report.

Some names and identifying details of interviewees have been changed at their request to protect their privacy and due to fear of retaliation. Researchers explained the research and purpose of the interview to all interviewees, as well as how the information would be used, and offered them the option of anonymity in any written materials. Where names and identifying details are used, the individuals gave informed consent for Human Rights Watch to do so. Researchers also explained that interviews were optional and that interviewees could pause or stop the interview at any time or elect not to respond to specific questions. All interviewees gave verbal consent to participate in interviews.

Researchers conducted interviews in Polish with interpretation into English, and a few directly in English. Most interviews were conducted individually. In a few cases, interviews were conducted jointly with more than one representative of a group or organization; in some of these cases, researchers also conducted one-on-one follow-up interviews with some or all participants. Researchers conducted interviews in Poland primarily in organizations' offices, and some in public spaces, such as cafés, selected by interviewees.

Human Rights Watch acknowledges that the issues documented in this report impact other civil society actors in Poland, particularly lesbian, gay, bisexual and transgender (LGBT) and migrants' rights activists. We recognize the intersectional nature of the violations, but for the purposes of this report, research focused on the specific impact on women's rights activists and organizations of attacks on civil society, including legal and policy changes.

Recommendations

To the Government of Poland

- Publicly condemn misinformation and smear campaigns on women's rights activists and organizations, and investigate and condemn abusive tactics used against them, including intimidation, harassment, and threats.
- Implement the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention), including by ensuring adequate support for and provision of specialist services for women survivors of violence and adopting standalone domestic violence legislation with criminal penalties.
- Cease all retrogressive measures on women's rights, including by:
 - Refraining from repealing any existing legal grounds for abortion, withdrawing the Stop Abortion bill, and working toward fully decriminalizing abortion;
 - Reinstating the law permitting over-the-counter access to emergency contraception;
 - Reinstating regulations obliging health care providers who invoke the "conscience clause" to refer women elsewhere for access to safe abortion;
 - Ensuring access to information about sexual and reproductive health and rights, including for women with disabilities and through implementation of World Health Organization Standards for Comprehensive Sexuality Education in Europe.
- Amend relevant laws to ensure women with disabilities can access reproductive health care services, including abortion, based on their free and informed consent, not that of their guardians.
- Ensure adequate support to the Office of the Ombudsman for Human Rights to fulfill its obligations, including with regards to equality and women's rights.
- Hold the Plenipotentiary for Civil Society and Equal Treatment accountable for taking meaningful action to fulfill its mandate to oversee and implement equality measures.

- Repeal the September 2017 law establishing the National Institute of Freedom-Center for the Development of Civil Society and re-establish the decentralized role of ministries to distribute specialized public funds to civil society in a fair, non-discriminatory, impartial, and transparent manner, without political interference.
- Include women’s rights activists and organizations in expert consultations on law and policy pertaining to women’s rights. Ensure that experts appointed to consult on women’s rights concerns have demonstrated expertise in the relevant issue area, rely on evidence-based information, and have not been shown to perpetuate intolerance, discriminatory attitudes, or traditional gender roles and stereotypes.

To the Ministry of Family, Labor, and Social Policy

- Ensure adequate support for both general and specialized services for women survivors of violence, including shelter, psychosocial, and legal services, in line with Council of Europe and international standards. Acknowledge and support the role of specialist nongovernmental organizations (NGOs) with demonstrated expertise in providing these services.
- Develop and implement a transparent process for determining allocation of funds for all civil society organizations, including those working on violence against women. Ensure this includes a means for applicant organizations to access information about and appeal funding decisions.
- Ensure that services for women survivors of violence are non-discriminatory, inclusive, survivor-centered, and accessible to women with disabilities and do not perpetuate gender stereotypes, traditional gender roles, or intolerance.
- Ensure that any new or revised domestic violence legislation is in line with international standards as per the United Nations Handbook on Legislation on Violence against Women.

To the Ministry of Justice

- Ensure adequate support for both general and specialized services for women survivors of violence, including shelter, psychosocial, and legal services, in line with Council of Europe and international standards. Acknowledge and support

the role of specialist NGOs with demonstrated expertise in providing these services.

- Ensure that ministry funding for women's rights and work on violence against women supports organizations whose activities and services are non-discriminatory, inclusive, survivor-centered, and do not perpetuate gender stereotypes, traditional gender roles, or intolerance.
- Develop and implement a transparent process for determining allocation of funds for all civil society organizations, including those working on violence against women. Ensure that this includes a means for applicant organizations to access information about and appeal funding decisions.
- Ensure that monitoring of organizations receiving ministry funding conforms with reasonable guidelines and expectations as per funding agreements.
- Ensure adequate judicial response in cases of violence against women, in line with Council of Europe and international standards.

To the Ministry of Education

- With the Ministry of Health, ensure implementation of a sexual and reproductive health education curriculum that complies with international standards, and that:
 - Is mandatory, age-appropriate, and scientifically accurate, and includes comprehensive information on sexual and reproductive health and rights, contraception, sexually transmitted infections, and healthy relationships;
 - Does not perpetuate discriminatory attitudes or traditional gender roles or reinforce stereotypes and is accessible to students with disabilities.
- Ensure teachers receive adequate training and support to teach the sexual and reproductive health education curriculum.
- Reinstate obligation of schools to provide anti-discrimination education, including workshops that may be conducted by NGOs with demonstrated expertise.
- Investigate reported incidents of harassment or discrimination against government employees, including teachers and headmasters, for exercising their rights to freedom of expression or participation in peaceful protests or for permitting workshops on sexuality and reproductive health or tolerance in the

- classroom. Appropriately punish those responsible for such harassment or discrimination and ensure measures to protect complainants from retaliation.
- Support schools in permitting specialist NGOs to conduct age-appropriate, inclusive, fact-based workshops on sexual and reproductive health and rights, relationships, and non-discrimination and tolerance. Instruct employees not to obstruct workshops due to personal beliefs.

To the Plenipotentiary for Civil Society and Equal Treatment

- Prioritize oversight of measures advancing equal treatment, non-discrimination, and gender equality and demonstrate commitment to ensuring implementation of related policies and programs.
- Include women human rights defenders with demonstrated expertise in all consultations related to gender equality and equal treatment. Make sure that women with disabilities are included.
- Develop, in consultation with women human rights defenders and including a clear timeline for implementation, a new National Action Plan on Gender Equality that is non-discriminatory, inclusive, and grounded in a human rights framework.

To the Ombudsman for Human Rights

- Report on and continue to publicly condemn attacks on women's rights activists and organizations and express support for women human rights defenders.
- Call for all government agencies to include women human rights defenders in relevant legal and policy consultations.

To the Council of Europe

- Publicly condemn attacks on women's rights activists and organizations in Poland, as well as government support for or failure to denounce such attacks, and continue to speak out against retrogressive measures on women's rights and gender equality.

- Conduct urgent monitoring on Poland's implementation of the Istanbul Convention and present findings publicly.

To the European Parliament

- Publicly condemn attacks on women's rights activists and organizations in Poland and government support for or failure to denounce such attacks and continue to speak out against retrogressive measures on women's rights and gender equality.
- Organize a follow-up visit to Poland to assess the impact of government policies on women human rights and on women human rights defenders.
- Press the European Commission to hold Poland's government accountable for ensuring that dispersal of funds does not discriminate against specialist women's rights organizations and service providers, and to explore ways to provide direct support to women's human rights organizations affected by the government's funding strategy.

To the European Commission and EU Member States

- Publicly condemn attacks on women's rights defenders and retrogressive measures impacting women's rights.
- Assess ways to provide direct support to women's human rights organizations and activists to insure uninterrupted and expanded activities, including services for survivors of violence and access to reproductive health and rights.
- Conduct oversight of funding to ensure the Polish government's dispersal of funds respects rights to non-discrimination, freedom of expression, and freedom of peaceful assembly, and that grantees respect these rights.
- Press the Polish government to support women's rights activists and organizations and to uphold its international human rights obligations.
- Make use of European Commission legal infringement proceedings to address Poland's failure to properly implement EU policy on equality, women's rights, and violence against women, including the EU Victims' Rights Directive.
- Make the best possible use of the scope of the Article 7 procedure to address the implications of the government's policies on civil society, on women's human rights, and on women human rights defenders.

To the UN Special Procedures of the UN Human Rights Council

- The Special Rapporteur on Human Rights Defenders and the Special Rapporteur on Violence against Women should request to visit Poland with a view to investigating targeting of women human rights defenders, and release findings publicly. The Special Rapporteur on the Rights to Peaceful Assembly and Association should visit Poland urgently upon acceptance of his visit request.
- The Working Group on Discrimination against Women in Law and Practice should press for comprehensive implementation of its recommendations with the government of Poland and express its willingness to conduct a follow-up visit in the country.

I. Undermining Women's Rights in Law and Policy

Since coming to power in October 2015, Poland's ruling conservative Law and Justice party (Prawo i Sprawiedliwość, PiS) has taken repeated steps to consolidate power and undermine human rights. Alongside measures to hamper independence of the judiciary, efforts to limit media freedom, and the adoption of overbroad counterterrorism laws, the government has introduced legal and policy measures to target and stifle civil society.¹ These measures include curtailing the right to freedom of assembly, restricting freedom of expression, and centralizing funding of nongovernmental organizations (NGOs).² In December 2017, the European Commission triggered Article 7 of the European Union treaty over the risk of breach to the rule of law and EU values in Poland, following the adoption of 13 laws that undermined the country's entire judiciary.³

Within this shrinking space for activists and NGOs, some groups—and the rights they promote—are under concerted attack.⁴ Since PiS gained power, the government has targeted women's rights activists and organizations through raids, denial of funding, and disciplinary action against public employees.⁵ High-level PiS leaders and politicians have taken no action to counter smear campaigns vilifying women's rights groups and activists.

Previous Polish governments hardly championed women's rights. Activists have long fought an uphill battle to expand reproductive freedom and combat violence against

¹ "Rule of Law: European Commission acts to defend judicial independence in Poland," European Commission press release, Brussels, December 20, 2017, http://europa.eu/rapid/press-release_IP-17-5367_en.htm (accessed January 23, 2019).

² Human Rights Watch, *Eroding Checks and Balances: Rule of Law and Human Rights Under Attack in Poland*, October 2017, <https://www.hrw.org/report/2017/10/24/eroding-checks-and-balances/rule-law-and-human-rights-under-attack-poland#f15913>; Helsinki Foundation for Human Rights Poland (HFHR), "New risks emerge to threaten media freedom in Poland," April 26, 2018, <http://www.hfhr.pl/en/new-risks-emerge-to-threaten-freedom-of-press-in-poland/> (accessed January 23, 2019); Amnesty International, *The Power of 'the Street': Protecting the Right to Peaceful Protest in Poland*, 2018, https://www.amnesty-international.be/sites/default/files/bijlagen/poland_report_final.pdf (accessed January 23, 2019).

³ Lydia Gall, "European Commission Takes Poland to Court Over Judicial Power Grab," Human Rights Watch Dispatch, September 25, 2018, <https://www.hrw.org/news/2018/09/25/european-commission-takes-poland-court-over-judicial-power-grab>.

⁴ European Parliament, Draft motion for a resolution, João Pimenta Lopes (PE625.363v01-00), "Experiencing Backlash in Women's Rights and Gender Equality in the EU" (2018/2684(RSP)), October 9, 2018, <http://www.europarl.europa.eu/sides/getDoc.do?type=COMPART&reference=PE-628.567&format=PDF&language=EN&secondRef=01> (accessed January 23, 2019).

⁵ "Fundamentalism and populism pose deepening threat to women defending rights, UN experts warn," United Nations Office of the High Commissioner for Human Rights (UNOHCHR), news release, November 25, 2016, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20938&LangID=E> (accessed January 23, 2019).

women. But the anti-women's rights agenda of the PiS government represents a new level of regression.⁶ One activist echoed many when she described obstacles to working on women's rights issues since PiS came to power: "Before it was hard. Now it is ridiculous."⁷

Campaign against So-Called "Gender Ideology"

Alongside the rise of right-wing populism, Europe has seen growing hostility towards the concepts of "gender" and "genderism," labelling it so-called "gender ideology." The European Union Agency for Fundamental Rights has said that, in direct opposition to gender equality, "gender ideology discourse" argues that women and men have different gender roles based on inherent biological differences. Such discourse "aims to limit or deny women's reproductive rights, gender equality and sexual education, same sex marriages, and other aspects of gender progressive politics."⁸ Under the banner of countering "gender ideology," populist parties have portrayed efforts to combat violence against women, realize reproductive rights, end discrimination, and advance equality as assaults on families, children, heterosexuality, and social mores.⁹ Catholic Church leaders have repeatedly pointed to education on sexuality and social constructs of gender as a form of "gender ideology" that poses a threat to Catholic values.¹⁰

Anti-gender rhetoric serves two purposes: it unites people around a concept of "traditional values" in opposition to a perceived foreign threat and it demonizes women's rights activists and individuals who do not conform to sexual and gender norms.¹¹ Such rhetoric has taken hold in other countries across the region, but, as one journalist wrote, "in Poland it is remarkable both for its prominence and its zeal, a result of the Church's

⁶ Alex Cocotas, "Memory Keepers," *Baffler*, Pulitzer Center, January 26, 2018, <https://pulitzercenter.org/reporting/memory-keepers> (accessed January 23, 2019).

⁷ Human Rights Watch interview with Aleksandra Józefowska, coordinator, Ponton, Warsaw, August 8, 2018.

⁸ European Union Agency for Fundamental Rights (FRA), *Challenges to Women's Human Rights in the EU: Gender discrimination, sexist hate speech and gender-based violence against women and girls*, Contribution to the third Annual Colloquium on Fundamental Rights, FRA: Vienna, Austria, November 2017, <https://fra.europa.eu/en/publication/2017/colloq-womens-rights> (accessed January 15, 2018), p. 21.

⁹ *Ibid.*, pp. 21-22.

¹⁰ "Address of his Holiness Pope Francis: Meeting with the Polish Bishops," Pope Francis, Kraków, July 27, 2016. http://w2.vatican.va/content/francesco/en/speeches/2016/july/documents/papa-francesco_20160727_polonia-vescovi.html (accessed January 23, 2019).

¹¹ "List pasterski na Niedzielę Świętej Rodziny 2013 roku" ("Pastoral Letter for Holy Family Sunday 2013"), Konferencja Episkopatu Polski (Polish Bishops' Conference), December 29, 2013, <https://episkopat.pl/list-pasterski-na-niedziele-swietej-rodziny-2013-roku/> (accessed January 23, 2019); Agnieszka Graff and Elżbieta Korolczuk, "'Worse than Communism and Nazism put together': War on gender in Poland," in: Roman Kuhar and David Paternotte, eds., *Anti-Gender Campaigns in Europe* (London and New York: Rowman & Littlefield International, 2017), p. 175.

political power.”¹² The Pastoral Letter of the Bishops’ Conference of Poland, read in Catholic churches across the country on December 29, 2013, reflected both the strength of the Church’s “anti-gender” stance and its commitment to spreading this message.¹³ Government-linked entities have also adopted and propagated the argument. In 2014, for example, a parliamentary group called “Stop Gender Ideology!” formed with the aim of “protecting natural gender identity and ... defending the rights of the traditional family and supporting pro-family policy.”¹⁴ In 2014, the UN Committee overseeing implementation of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW Committee) raised concerns about the Polish government’s failure to promote women’s equal rights and counter campaigns against “gender ideology” and called on the government to combat efforts made by any actors “to downplay or degrade the pursuit of gender equality by labeling such measures as ‘ideology.’”¹⁵

The anti-“gender ideology” campaign has gained traction under PiS, with conservative activists and politicians using it to galvanize support for measures to curb sexual and reproductive health and rights, undermine initiatives to address violence against women, and smear women’s and LGBT rights activists. PiS identified “gender ideology” as a threat in its 2014 party platform.¹⁶ Conservative groups widely invoked anti-gender rhetoric in calls for Poland not to ratify and, following ratification, to withdraw from a regional treaty to combat violence against women (see “Pushback on Anti-Violence Treaty and Violence against Women Protections”).¹⁷

¹² Alex Cocotas, “Memory Keepers,” *Baffler*.

¹³ “List pasterski na Niedzielę Świętej Rodziny 2013 roku” (“Pastoral Letter for Holy Family Sunday 2013”), December 29, 2013.

¹⁴ Sejm, “Parlamentarny Zespół ‘Stop ideologii gender!’ Regulamin (‘Parliamentary Group ‘Stop gender ideology!’ group regulations”), January 8, 2014, <http://www.sejm.gov.pl/sejm7.nsf/agent.xsp?symbol=ZESPOL&Zesp=270> (accessed January 23, 2019).

¹⁵ United Nations Committee on the Elimination of Discrimination against Women (CEDAW Committee), Concluding observations on the combined seventh and eighth periodic reports of Poland, CEDAW/C/POL/CO/7-8, https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/POL/CO/7-8&Lang=En (accessed January 23, 2019), para. 22.

¹⁶ Eszter Kováts and Maari Põim, eds., *Gender as Symbolic Glue: The Position and Role of Conservative and Far-Right Parties in the Anti-gender Mobilizations in Europe*, Foundation for European Progressive Studies, 2015, https://www.genderportal.eu/sites/default/files/resource_pool/gender%20as%20symbolic%20glue.pdf (accessed January 23, 2019), p. 87.

¹⁷ “Stanowisko Parlamentarnego Zespołu ‘Stop Ideologii Gender!’ podjęte na posiedzeniu w dniu 28 sierpnia 2014 r.” (“Position of the Parliamentary Group ‘Stop Gender Ideology!’ agreed at the meeting on August 28, 2014”), Beata Kempa, chairperson of the parliamentary group, August 28, 2014, [http://orka.sejm.gov.pl/opinie7.nsf/nazwa/270_20140828/\\$file/270_20140828.pdf](http://orka.sejm.gov.pl/opinie7.nsf/nazwa/270_20140828/$file/270_20140828.pdf) (accessed January 23, 2019); “Apel o odstąpienie od ratyfikacji konwencji CAHVIO – list otwarty” (“An appeal to withdraw from the ratification of the CAHVIO Convention - an open letter”), Obywatelska Inicjatywa Rodzin (Citizens’ Family Initiative (OIR) and the Citizens’ Coalition for

Erosion of Institutions and Policies on Human Rights and Equality

Poland's Constitution guarantees men and women equal rights and prohibits discrimination.¹⁸ Yet Poland's government has taken steps that erode the capacity and authority of institutions meant to protect human rights and equality.

In 2016, the PiS government cut the budget of the Office of the Ombudsman for Human Rights, the central government body addressing human rights concerns, by about 3 million złoty (about US\$795,000) to 35.6 million złoty (\$9.4 million), the level of its 2011 budget. For 2017, it received 37.2 million złoty (about \$9.9 million)—less than the allocated annual budgets for 2012 through 2015.¹⁹ Ombudsman Adam Bodnar said the cuts hinder fulfillment of the office's role.²⁰ In 2016, PiS parliamentarians questioned Bodnar's selection of Deputy Ombudsperson Sylwia Spurek, a university lecturer in gender studies, and funding of gender issues, saying, "You appoint a deputy for gender issues and expect the Sejm [lower house of parliament] to pay for it?"²¹ Between 2015 and 2017, the office's budget for equality issues dropped by almost 3 million złoty (about \$795,000) from 5.2 million złoty (about \$1.4 million) to 2.3 million złoty (about \$609,000).²²

Between 2008 and 2016, responsibility for equality issues fell under the Office of the Government Plenipotentiary for Equal Treatment within the Chancellery of the Prime Minister. The PiS government closed this standalone office in January 2016, establishing a joint Government Plenipotentiary for Civil Society and Equal Treatment under a newly-

Family), February 3, 2015, [http://orka.sejm.gov.pl/opinie7.nsf/nazwa/270_20150205/\\$file/270_20150205.pdf](http://orka.sejm.gov.pl/opinie7.nsf/nazwa/270_20150205/$file/270_20150205.pdf) (accessed January 23, 2019).

¹⁸ Constitution of the Republic of Poland of 2 April 1997, published in Journal of Laws of the Republic of Poland (JoL No. 78, Item 483 with further amendments), <https://www.sejm.gov.pl/prawo/konst/angielski/kon1.htm> (accessed January 23, 2019), arts. 32, 33.

¹⁹ Human Rights Watch email correspondence with Office of the Ombudsman, Warsaw, January 4, 2019; "Biuletyn Informacji Publicznej Rzecznika Praw Obywatelskich" ("Public Information Bulletin of the Office of the Ombudsman"), <http://www.bip.brpo.gov.pl/pl/category/budzet> (accessed January 23, 2019).

²⁰ "Informacja dotycząca projektu budżetu RPO na 2018 rok," ("Information on the draft budget of the ROP for 2018"), October 24, 2017, <https://www.rpo.gov.pl/pl/content/informacja-dotyczaca-projektu-budzetu-rpo-na-2018-rok> (accessed January 23, 2019).

²¹ "Pełny zapis przebiegu posiedzenia Komisji Sprawiedliwości i Praw Człowieka (nr 4) z dnia 5 stycznia 2016 r.," ("Full record of the meeting of the Justice and Human Rights Committee (No. 4) of January 5, 2016"), January 5, 2016, <http://orka.sejm.gov.pl/Sejm8.nsf/biuletyn.xsp?documentId=D290734131E08C41C1257F45004D7040> (accessed January 23, 2019); Human Rights First, *Poland's New Front: A Government's War Against Civil Society*, August 2017, <https://www.humanrightsfirst.org/sites/default/files/Poland-Report-August-2017.pdf> (accessed January 29, 2019), p. 12.

²² Human Rights Watch email correspondence with Office of the Ombudsman, January 4, 2019.

formed Civil Society Department of the Chancellery.²³ The Plenipotentiary is responsible for overseeing development and implementation of national plans for both civil society support and for equality, including non-discrimination on grounds of sex, sexual orientation, belief, disability, and other characteristics.²⁴ Official references to the newly combined position emphasize responsibility for overseeing efforts on civil society development but make no mention of responsibility for initiatives on equal treatment.²⁵

Poland's Office of the Ombudsman for Human Rights and the UN CEDAW Committee raised alarms that the shifts had downgraded the Plenipotentiary for Equal Treatment and "weakened its role considerably."²⁶ This was a total rejection of the CEDAW Committee's 2014 recommendation to "strengthen the mandate and authority" of the Plenipotentiary for Equal Treatment.²⁷ According to Polish NGOs, the Plenipotentiary for Civil Society and

²³ Chancellery of the Prime Minister of Poland, "Zmiany w obszarze wsparcia społeczeństwa obywatelskiego: nowy Pełnomocnik Rządu min. Adam Lipiński i nowy Departament Społeczeństwa Obywatelskiego w KPRM" ("Changes in the area of civil society support: the new Government Plenipotentiary, Minister Adam Lipiński and the new Department of Civil Society in the Chancellery of the Prime Minister"), press release, October 13, 2016, <https://pozytek.gov.pl/zmiany-w-obszarze-wsparcia-spoleczenstwa-obywatelskiego-nowy-pelnomocnik-rzadu-min-adam-lipinski-i-nowy-departament-spoleczenstwa-obywatelskiego-w-kprm/> (accessed January 23, 2019); Chancellery of the Prime Minister of Poland, "Wojciech Kaczmarczyk Pełnomocnikiem Rządu do spraw społeczeństwa obywatelskiego i Równego Traktowania" ("Wojciech Kaczmarczyk Government Plenipotentiary for civil society and Equal Treatment"), press release, January 11, 2016, <https://www.spoloczenstwoobywatelskie.gov.pl/aktualnosci/wojciech-kaczmarczyk-pelnomocnikiem-rzadu-do-spraw-spoloczenstwa-obywatelskiego-i> (accessed January 23, 2019).

²⁴ Chancellery of the Prime Minister of Poland, "Rozporządzenie Rady Ministrów z dnia 8 stycznia 2016 r. w sprawie ustanowienia Pełnomocnika Rządu do spraw społeczeństwa obywatelskiego" ("Competencies for Government Plenipotentiary for Civil Society"), January 8, 2016, <https://pozytek.gov.pl/wp-content/uploads/2018/08/rozporzadzenie.pdf> (accessed January 23, 2019); Anna Dobrowolska, "PiS likwiduje Biuro Pełnomocnika ds. Równego Traktowania," *Polityka*, January 8, 2016, <https://www.polityka.pl/tygodnikpolityka/kraj/1646606,1,pis-likwiduje-biuro-pelnomocnika-ds-rownego-traktowania.read> (accessed January 23, 2019); Chancellery of the Prime Minister of Poland, "Rozporządzenie Rady Ministrów z dnia 9 czerwca 2010 r. zmieniające rozporządzenie w sprawie Pełnomocnika Rządu do spraw Równego Traktowania" ("Regulation of the Council of Ministers of 9 June 2010 amending the ordinance on the Government Plenipotentiary for Equal Treatment"), Biuletyn Informacji Publicznej Rady Ministrów, <https://bip.kprm.gov.pl/kpr/bip-rady-ministrow/organy-pomocnicze/pelnomocnicy-rzadu-i-pr/90,Pelnomocnik-Rzadu-do-spraw-Rownego-Traktowania.html> (accessed January 23, 2019).

²⁵ Chancellery of the Prime Minister of Poland, "Wojciech Kaczmarczyk Pełnomocnikiem Rządu do spraw społeczeństwa obywatelskiego i Równego Traktowania."

²⁶ Office of the Ombudsman for Human Rights of the Republic of Poland, "Information provided by the Commissioner for Human Rights of the Republic of Poland on the steps undertaken by the Republic of Poland to implement the recommendations indicated in Concluding Observations on the combined seventh and eighth periodic reports of the Republic of Poland, at the Committee's fifty-ninth session, held in October 2014 (CEDAW/C/POL/CO/7-8)," October 12, 2017, https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/POL/INT_CEDAW_NGS_POL_29303_E.pdf (accessed January 23, 2019), paras. 17.1-17.2; CEDAW Committee, Letter from Hilary Gbedemah, Rapporteur on Follow-Up, CEDAW Committee, to His Excellency Mr. Zbigniew Czech, Permanent Representative of the Republic of Poland to the United Nations Office at Geneva, April 13, 2018, https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/POL/INT_CEDAW_FUL_POL_30901_E.pdf (accessed January 23, 2019).

²⁷ CEDAW Committee, Letter from Hilary Gbedemah.

Equal Treatment has failed to either condemn attacks on civil society organizations or prioritize and engage in activities to advance gender equality.²⁸

In a written response to a request for information from Human Rights Watch, Plenipotentiary for Civil Society and Equal Treatment Adam Lipiński said the office “undertakes activities that support policies and programs intended to implement the principle of equal treatment and non-discrimination.”²⁹ Beginning in 2018, the letter states, this includes a project to “create a uniform monitoring system for equality among women and men” and develop a model to implement gender equality policy at regional and national levels of government.³⁰

The government’s most recent National Action Plan for Equal Treatment covered the years 2013 to 2016, and no follow-on plan has been released. In his response to Human Rights Watch, the Plenipotentiary stated that an evaluation of this National Action Plan was completed in 2018, which will feed into a new plan for which “preparatory work is currently underway.”³¹ According to the Plenipotentiary, the National Action Plan will include “a comprehensive definition of state tasks in the field of equal treatment and non-discrimination on any grounds.”³² The letter does not provide a timeline for development of the plan or clarify the timeframe it will cover or specific measures it is expected to entail.³³

High-level politicians have publicly reinforced gender stereotypes and traditional gender roles and promoted “the family” above the interests of women. In a speech at the 2016 UN Commission on the Status of Women, then-Plenipotentiary for Civil Society and Equal Treatment Wojciech Kaczmarczyk—now Director of the National Institute of Freedom—

²⁸ Citizens for Democracy, “List do premier Beaty Szydło z prośbą o podjęcie działań na rzecz przeciwstawienia się fali nienawiści” (“Letter to the Prime Minister Beata Szydło with a Request to Take Action to Counter the Wave of Hatred”), March 4, 2016, <http://www.ngofund.org.pl/apel-do-premier-beaty-szydlo-o-podjecie-dzialan-w-sprawie-atakow-na-organizacje-pozarzadowe/> (accessed January 23, 2019); CEDAW Coalition of Polish NGOs, “Alternative follow-up information on the steps taken to implement the recommendations indicated in Concluding Observations on the combined 7th and 8th periodic reports of Poland submitted to the UN Committee on Elimination of Discrimination against Women by KARAT Coalition in Consultative Status with the ECOSOC on behalf of CEDAW Coalition of Polish NGOs,” https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/POL/INT_CEDAW_NGS_POL_26254_E.pdf (accessed January 28, 2019), para. 2.

²⁹ Letter from Government Plenipotentiary for Equal Treatment Adam Lipiński, Office of the President of the Council of Ministers, to Human Rights Watch, January 9, 2019, translated for Human Rights Watch, on file with Human Rights Watch.

³⁰ Ibid.

³¹ Ibid.

³² Ibid.

³³ Ibid.

called for women's equal opportunity but also said Poland would promote "family mainstreaming" rather than "gender mainstreaming" to ensure "legal and economic advancement of the family."³⁴ He stressed women's reproductive role, saying, "Economic and social coercion is often forcing women to resign from being mother [sic] or to limit the number of children they want."³⁵ In a 2017 thematic report on the backlash against gender and women's rights, the United Nations Working Group on the Issue of Discrimination against Women in Law and Practice warned, "[p]rotection of the family cannot be used as a justification for laws, policies or practices that would deny women and girls their full and equal human rights."³⁶

Also undermining equality, the PiS government reintroduced gender-based retirement ages (65 for men, 60 for women) in 2017. EU officials denounced the law's discriminatory nature, saying it contradicts EU values and regulations on gender equality.³⁷ Prime Minister Mateusz Morawiecki, who was Deputy Prime Minister at the time, said it reflects men's and women's different roles and responsibilities, specifying that women's responsibilities include raising children.³⁸ In proceedings against Poland's Law on Ordinary Courts, the European Commission cited gender-based retirement ages as a "key legal concern."³⁹

Violence against Women and Girls

Though Poland's 2005 Counteracting Domestic Violence Act defines domestic violence and requires a national plan of action, it does not include criminal penalties and there is no standalone domestic violence law.⁴⁰ Domestic abuse can be prosecuted through criminal

³⁴ "Minister Wojciech Kaczmarczyk speaks at the general debate of the Commission on the Status of Women," Permanent Mission of the Republic of Poland to the United Nations in New York, March 15, 2016, https://nowyjorkonz.msz.gov.pl/en/poland_in_the_un/speeches_and_documents/minister_wojciech_kaczmarczyk_speaks_at_the_general_debate_of_the_commission_on_the_status_of_women?channel=www (accessed January 23, 2019).

³⁵ Ibid.

³⁶ Human Rights Council, Report of the Working Group on the issue of discrimination against women in law and practice, U.N. Doc. A/HRC/38/46, May 14, 2018, <http://undocs.org/en/A/HRC/38/46> (accessed January 23, 2019), para. 28.

³⁷ "EU expresses worry over Poland reviving different retirement age for men and women," Reuters, August 7, 2017, <https://www.reuters.com/article/us-eu-poland-pensions/eu-expresses-worry-over-poland-reviving-different-retirement-age-for-men-and-women-idUSKBN1AN1PV> (accessed January 23, 2019).

³⁸ Ibid.

³⁹ "European Commission launches infringement against Poland over measures affecting the judiciary," European Commission press release, Brussels, July 29, 2017, http://europa.eu/rapid/press-release_IP-17-2205_en.htm (accessed January 23, 2019).

⁴⁰ Ustawa z dnia 29 lipca 2005 r. o przeciwdziałaniu przemocy w rodzinie (Domestic violence prevention act from 29 of July 2005), Sejm, July 29, 2005, Dz.U. 2005 Nr 180 poz. 1493 as amended, <http://prawo.sejm.gov.pl/isap.nsf/download.xsp/WDU20051801493/U/D20051493Lj.pdf> (accessed January 28, 2019).

code articles, such as those on mental or physical mistreatment.⁴¹ The government adopted a 2014-2020 National Program on Counteracting Domestic Violence.⁴²

The Ministry of Family, Labor and Social Affairs (Ministerstwo Rodziny, Pracy i Polityki Społecznej, MRPiPS) is drafting an amended domestic violence bill. Representatives of the Ombudsman for Human Rights raised concerns that MRPiPS intends to increase protections for families versus individual victims, in line with PiS' emphasis on reinforcing traditional family units.⁴³ In August 2018, MRPiPS representatives told Human Rights Watch they were conducting inter-ministerial consultations and it was “hard to say” what the new bill will include. They said they aim to evaluate and improve the law's effectiveness.⁴⁴ On December 31, 2018, the MRPiPS published a proposed amendment that would have redefined domestic violence to exclude the first instance of abuse by a spouse. Amid outcry from rights groups and the public, Prime Minister Morawiecki returned the bill to the ministry for revision.⁴⁵ The MRPiPS reportedly alleged that the text had been “published too soon in the Public Information Bulletin” and that survivors of single incidents of domestic violence should be considered victims.⁴⁶

Police data shows 92,529 reported cases of family violence in 2017, in which women constituted nearly 73 percent of victims and men almost 92 percent of perpetrators.⁴⁷ In a 2014 Ministry of Labor and Public Policy (MPiPS)—now the Ministry of Labor, Family, and

⁴¹ Kodeks karny (Penal Code), *Sejm*, June 6, 1997, Dz. U. 1997 Nr 88 poz. 553, <http://prawo.sejm.gov.pl/isap.nsf/download.xsp/WDU19970880553/U/D19970553Lj.pdf> (accessed January 24, 2019), art. 207; “Combating violence against women: Poland,” European Institute for Gender Equality, November 24, 2016, <https://eige.europa.eu/rdc/eige-publications/combating-violence-against-women-poland> (accessed January 24, 2019).

⁴² Resolution no. 76 of the Council of Ministers of 29 April 2014 on the establishment of the National Programme for the Prevention of Domestic Violence for 2014-2020, Warsaw, June 9, 2014, Item 445, https://www.malopolska.uw.gov.pl/doc/National_Programme_For_The_Prevention_2014_2020.docx (accessed January 24, 2019); Andrea Krizsan and Eniko Pap, *Implementing a Comprehensive and Co-ordinated Approach: An assessment of Poland's response to prevent and combat gender-based violence*, Council of Europe, April 2016, <https://rm.coe.int/168064ecd8> (accessed January 24, 2019), p. 39.

⁴³ Human Rights Watch interview with Sylwia Spurek, Deputy Ombudsperson for Human Rights, Warsaw, August 9, 2018.

⁴⁴ Human Rights Watch interview with Ministry of Family, Labor and Social Policy (MRPiPS), Warsaw, August 10, 2018.

⁴⁵ James Rothwell, “Poland Drops Plan to legalise ‘one-off’ domestic violence cases,” *Telegraph*, January 2, 2019, <https://www.telegraph.co.uk/news/2019/01/02/poland-drops-plan-legalise-one-off-cases-domestic-violence/> (accessed January 23, 2019).

⁴⁶ “PM Morawiecki sends law on domestic violence back to lawmakers,” *tvn24*, January 2, 2019, <https://www.tvn24.pl/tvn24-news-in-english,157,m/polish-pm-returns-law-on-domestic-violence-for-corrections,896918.html> (accessed January 23, 2019).

⁴⁷ Policja, “Przemoc w rodzinie: Dane za rok 2017” (“Domestic violence: Data for 2017”), <http://statystyka.policja.pl/st/wybrane-statystyki/przemoc-w-rodzinie/50863,Przemoc-w-rodzinie.html> (accessed January 24, 2019).

Public Policy (MRPiPS) —study on family violence, over half of respondents who experienced violence said it was by a partner or spouse, around 76 percent of whom were men.⁴⁸ Around three-quarters of domestic violence survivors did not seek help.⁴⁹

A 2016 report by the Supreme Audit Office called services for survivors of violence “insufficient,” and noted scarcity of shelter spaces for domestic violence survivors.⁵⁰ A 2017 European Parliament review of Poland’s application of the EU Victims’ Rights Directive also reported lack of comprehensive and coordinated services for survivors of violence.⁵¹ In all of Poland there are 35 government-funded specialized support centers for domestic violence, often run by NGOs.⁵² In 2017, all of Poland had just one dedicated 26-bed shelter for women and children survivors of domestic violence.⁵³ In describing municipal shelters housing domestic violence survivors, service providers have written that many are “simply unfit for this purpose” due to remote locations, short limits on length of stay, and lack of specialized services, such as medical care. They also note that women leaving home to escape domestic abuse are often sent to shelters for homeless women.⁵⁴ European standards call for specialist services for women survivors of violence,

⁴⁸ The MRPiPS was formerly called the Ministry of Labor and Social Policy (Ministerstwo Pracy i Polityki Społecznej, MPiPS). The study also includes cases of abuse against children by family members. Monika Miedzik and Justyna Godlewska-Szurkowska with support from Jakub Rutkowski, “Raport Częstkowy. Zadanie Nr 1: Badania porównawcze oraz diagnoza skali występowania przemocy w rodzinie wśród osób dorosłych i dzieci, z podziałem na poszczególne formy przemocy wraz z opisem charakterystyki ofiar przemocy i sprawców” (“Partial report. Task No. 1: Comparative research and diagnosis of the scale of the occurrence of domestic violence among adults and children, broken down into individual forms of violence along with a description of the characteristics of victims of violence and perpetrators”), Ministry of Labor and Social Policy (MPiPS), Warsaw, 2014, https://archiwum.mpips.gov.pl/gfx/mpips/userfiles/_public/1_NOWA%20STRONA/Pomoc%20spoleczna/przemoc%20w%20rodzinie/RC1-3.pdf (accessed January 23, 2019), pp. 19, 21.

⁴⁹ Ibid.

⁵⁰ Najwyższa Izba Kontroli (Supreme Audit Office), “Informacja o wynikach kontroli. Pomoc osobom dotkniętym przemocą domową” (“Information about the results of the audit. Aid for people affected by domestic violence”), <https://www.nik.gov.pl/plik/id,10943,vp,13290.pdf> (accessed January 23, 2019), p. 10.

⁵¹ European Parliamentary Research Service, “The Victims’ Rights Directive 2012/29/EU, European Implementation Assessment,” European Union, December 2017, [http://www.europarl.europa.eu/RegData/etudes/STUD/2017/611022/EPRS_STU\(2017\)611022_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2017/611022/EPRS_STU(2017)611022_EN.pdf) (accessed January 24, 2019), p.66.

⁵² “Baza teleadresowa Specjalistycznych Ośrodków Wsparcia dla Ofiar Przemocy w Rodzinie” (“Address database of Specialist Support Centers for Victims of Domestic Violence”), MRPiPS, <https://archiwum.mpips.gov.pl/przeciwdzialanie-przemocy-w-rodzinie-nowa/osoby-dotkniete-przemoca-w-rodzinie/baza-teleadresowa/> (accessed January 28, 2019).

⁵³ Women Against Violence Europe (WAVE), *WAVE Country Report 2017: the Situation of Women’s Specialist Support Services in Europe*, WAVE: Vienna, March 2018, http://files.wave-network.org/researchreports/WAVE_CR_2017.pdf (accessed January 24, 2019), p. 16.

⁵⁴ Anna Głogowska-Balcerzak and Anna Szalkiewicz, “‘My house is my castle’ – the protection of victims of domestic violence under Polish law,” *Fempower: Women’s access to support services in Europe and existing gaps*, WAVE, Issue 1/2016, No. 27, https://wave-network.org/wp-content/uploads/Fempower_2016.pdf (accessed January 23, 2019), p. 4.

including at least one space in a specialized women's shelter per 10,000 people, or approximately 177 places for Warsaw (approximate population 1.77 million) and 3,848 spaces for Poland (approximate population 38.47 million).⁵⁵

Sexual and Reproductive Health and Rights

Against a backdrop of historic reluctance to grant women full reproductive rights and one of the most restrictive abortion laws in Europe, PiS has worked to further curb reproductive freedom, including through bills that would ban abortion.⁵⁶ The government has also failed to ensure comprehensive sexual and reproductive health education in schools.

Restrictions on Reproductive Rights

Poland's current law does not provide for women's autonomous decision-making on termination or continuation of an unplanned or unwanted pregnancy. The Act on Family Planning, the Protection of the Human Fetus, and the Conditions of Admissibility of Abortion of 1993 (1993 Family Planning Act) permits abortion only in cases of severe anomaly that threatens the fetus's life, threat to the life or health of the pregnant woman, or pregnancy as a result of illegal acts such as rape or incest.⁵⁷ In the first two instances, a physician other than the one to perform the abortion must certify the circumstances unless the pregnancy "entails a direct threat" to the life of the woman.⁵⁸ In cases of rape or incest,

⁵⁵ Council of Europe, "Explanatory Report to the Council of Europe Convention on preventing and combating violence against women and domestic violence," Istanbul, May 11, 2011, <https://rm.coe.int/16800d383a> (accessed January 24, 2019), paras. 115, 125, 131-3, 135; Directorate General of Human Rights and Legal Affairs, Council of Europe, *Combating violence against women: minimum standards for support services*, Council of Europe, Strasbourg: 2008, [https://www.coe.int/t/dg2/equality/domesticviolencecampaign/Source/EG-VAW-CONF\(2007\)Study%20rev.en.pdf](https://www.coe.int/t/dg2/equality/domesticviolencecampaign/Source/EG-VAW-CONF(2007)Study%20rev.en.pdf) (accessed January 24, 2019), pp. 34, 36, 38. Population statistics are based on data from 2017 (Poland) and 2018 (Warsaw), "World Factbook, Poland," CIA, <https://www.cia.gov/library/publications/the-world-factbook/geos/pl.html> (accessed January 24, 2019).

⁵⁶ "Poland: Reject Blanket Ban on Abortion," Human Rights Watch news release, August 30, 2011, <https://www.hrw.org/news/2011/08/30/poland-reject-blanket-ban-abortion>; Alex Cocotas, "How Poland's far-right government is pushing abortion underground," *Guardian*, November 30, 2017, <https://www.theguardian.com/news/2017/nov/30/how-polands-far-right-government-is-pushing-abortion-underground> (accessed January 23, 2019).

⁵⁷ The Family Planning, Human Embryo Protection and Conditions of Permissibility of Abortion Act of 7 January 1993 (Family Planning Act of 1993), (OJ 1 March 1993 No 17 item 78, OJ 95 No 66 item 334, OJ 1996 No 139 item 646, OJ 1997 No 141 item 943, OJ 1999 No 5 item 32, OJ 2001 No 154 item 1791), translated by Center for Reproductive Rights, <https://www.reproductiverights.org/sites/crr.civicactions.net/files/documents/Polish%20abortion%20act-English%20translation.pdf> (accessed January 23, 2019), art. 4a.1; Ustawa z dnia 7 stycznia 1993 r. o planowaniu rodziny, ochronie płodu ludzkiego i warunkach dopuszczalności przerywania ciąży, January 7, 1993, <http://prawo.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU19930170078> (accessed January 24, 2019).

⁵⁸ Family Planning Act of 1993, art. 4a.5

abortion is only legal until the twelfth week of pregnancy and a public prosecutor must confirm the circumstances of the pregnancy.⁵⁹ The law criminalizes anyone assisting to procure or perform an abortion outside the designated circumstances, with a penalty of up to three years' imprisonment, or up to eight years if the fetus's gestational age is deemed to be past a vaguely defined point of viability.⁶⁰ The 1993 Family Planning Act states that life is protected from conception, and required an amendment to the Civil Code specifying that "a conceived child" shall have legal capacity; this amendment was adopted, then repealed under an August 1996 act.⁶¹ A 1997 Constitutional Tribunal judgment interprets Poland's constitution as protecting life from conception.⁶² The law establishing the ombudsman for children also defines a child as "every person from the moment of conception."⁶³

For women with disabilities, the Family Planning Act of 1993 provides that those deprived of full legal capacity and under guardianship require the consent of their guardians—in addition to their own—to obtain an abortion. If a woman under guardianship is deemed by a court to be "unable to consent because of her mental state," she can be given an abortion on the basis of her guardian's consent alone.⁶⁴

Approximately 1,000 legal abortions are performed in Poland annually.⁶⁵ In 2011, a man pleaded guilty in Poland to urging his girlfriend to have an abortion and, due to his guilty plea and lack of criminal record, received a suspended six-month prison sentence.⁶⁶ In May 2018, a judge issued a mother a suspended sentence of one year's imprisonment, to

⁵⁹ Family Planning Act of 1993, art. 4a.1.4)2, 4a.1.4)5.

⁶⁰ Kodeks Karny, art. 152.

⁶¹ Family Planning Act of 1993, arts. 1, 6; Act of 30 August 1996 amending the act on family planning, protection of the human fetus and conditions for the admission of pregnancy and about certain other acts, entered into force January 4, 1997, <http://prawo.sejm.gov.pl/isap.nsf/download.xsp/WDU19961390646/O/D19960646.pdf> (accessed January 24, 2019).

⁶² Constitutional Tribunal, "Decision dated May 28 May 1997 (K 26/96)," https://www.law.utoronto.ca/utfl_file/count/documents/reprohealth/poland_1997_decision_english.pdf (accessed January 23, 2019), p. 3.

⁶³ The Act of 6th January 2000 on the Ombudsman for Children, Journal of Laws Dz U.2017 no 6 item 922, June 7, 2017, <http://prawo.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU2000060069> (accessed January 23, 2019), art. 2.1.

⁶⁴ Family Planning Act of 1993, art. 4a.4)4.

⁶⁵ "Legally Induced Abortions by Mother's Age," Eurostat, http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=demo_fabort&lang=en (accessed January 23, 2019).

⁶⁶ "Skazany za namawianie dziewczyny do aborcji," *nto.pl*, July 25, 2011, <https://nto.pl/skazany-za-namawianie-dziewczyny-do-aborcji/ar/4442227> (accessed January 23, 2019).

be served on probation, after she pleaded guilty to procuring a medical abortion for her 16-year-old daughter.⁶⁷

Even in circumstances where abortion is legal it remains largely unavailable. Lack of guidance on legal circumstances for abortion, combined with threat of prosecution, limits doctors' willingness to provide it.⁶⁸ Under Poland's Act of 5 December 1996, on the professions of doctor and dentist (Doctor and Dentist Professions Act), medical professionals can invoke a "conscience clause," or so-called conscientious objection, refusing to perform abortion on grounds that it conflicts with personal values or beliefs.⁶⁹ Broad use of the conscience clause often renders abortion inaccessible, especially in rural areas or for those unable to travel abroad to procure an abortion.⁷⁰ In a written response to a request for information from Human Rights Watch, the Ministry of Health states that "doctors' use of the so-called 'conscience clause' is regulated in a manner that ensures, on the one hand, the doctors' right to refrain from performing a service inconsistent with his or her conscience and, on the other hand, enables patients to obtain the service to which they are entitled."⁷¹ The ministry points to regulations on services guaranteed in hospitals, including access to abortion, and the requirement that doctors inform the medical facility of any refusal to perform a procedure because of the conscience clause.⁷² However, in October 2015 a Polish Constitutional Tribunal's decision further diminished abortion access by eliminating the obligation of health providers, should they invoke the

⁶⁷ Mateusz Majnusz, "Pomogła 16-letniej córce w aborcji. Sąd dał jej drugą szansę," *Gazeta Wyborcza*, May 15, 2018, <http://opole.wyborcza.pl/opole/7,35086,23399054,pomogla-16-letniej-corce-w-aborcji-sad-dal-jej-druga-szanse.html> (accessed January 23, 2019).

⁶⁸ Federation for Women and Family Planning and Sexual Rights Initiative, Submission for Universal Periodic Review of Poland, 27th Session, April-May 2017, http://obserwatoriumdemokracji.pl/wp-content/uploads/2016/03/UPR_POLAND_2016-1.pdf (accessed January 23, 2019), p. 3.

⁶⁹ Ustawa z dnia 5 grudnia 1996 r. o zawodach lekarza i lekarza dentystry (Act of 5 December 1996, on the professions of doctor and dentist (Doctor and Dentist Professions Act)), December 5, 1996, <http://prawo.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=wdu19970280152> (accessed January 24, 2019), art. 39.

⁷⁰ International Covenant on Civil and Political Rights (ICCPR), Concluding Observations on the seventh periodic report of Poland, U.N. Doc. CCPR/C/POL/CO/7, November 23, 2016, https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR/C/POL/CO/7&Lang=En (accessed January 24, 2019), paras. 23-24; Hillary Margolis, "Dispatches: Abortion and the Conscience Clause in Poland," Human Rights Watch Dispatch, October 22, 2014, <https://www.hrw.org/news/2014/10/22/dispatches-abortion-and-conscience-clause-poland>.

⁷¹ Letter to Human Rights Watch from Zbigniew Król, Undersecretary of State, with consent of the Minister of Health, Doc. No. MDR.o83.2.2018.AB(3), Warsaw, January 10, 2019, translated for Human Rights Watch, on file with Human Rights Watch.

⁷² Ibid.; Rozporządzenie Ministra Zdrowia z dnia 22 listopada 2013 r. w sprawie świadczeń gwarantowanych z zakresu leczenia szpitalnego (Annex 1 to the Regulation of the Minister of 22 November 2013 on services guaranteed in the field of hospital treatment), <http://prawo.sejm.gov.pl/isap.nsf/download.xsp/WDU20130001520/O/D20131520.pdf> (accessed January 31, 2019), p. 160.

conscience clause, to refer women elsewhere for safe abortion care.⁷³ Reproductive rights activists said the judgment has reinforced doctors' unwillingness to refer women elsewhere for abortion-related services.⁷⁴

Far from moving toward full decriminalization and respect for women's autonomous decision-making about abortion—as UN human rights bodies and experts recommend⁷⁵—the PiS government has backed greater restrictions. In 2016, the conservative, anti-abortion group Ordo Iuris Institute for Legal Culture wrote a bill that would have permitted abortion only in cases of direct risk to the woman's life, resulting in a near-total ban, and increased the penalty for performing or aiding an illegal abortion.⁷⁶ After gathering over 450,000 signatures, Ordo Iuris and the Stop Abortion committee presented the bill as a “popular initiative,” which requires 100,000 signatures for parliamentary consideration.⁷⁷ PiS initially supported the bill, but reversed its stance following extensive protests on October 3, 2016—which became the Black Protest (Czarny Protest) and Women's Strike (Strajk Kobiet) movements—and Parliament rejected the bill.⁷⁸

In January 2018, the Sejm voted to send a new anti-abortion bill to parliamentary committee for review. The so-called “Stop Abortion” bill, drafted by a right-wing group and

⁷³ Constitutional Tribunal, “Prawo do odmowy wykonania świadczenia zdrowotnego niezgodnego z sumieniem, Wyrok w Imieniu Rzeczypospolitej Polskiej” (“The right to refuse to perform a health service inconsistent with the conscience, a judgment in the name of the Republic of Poland”), Sygn. akt K 12/14, Warsaw, October 7, 2015, <http://trybunal.gov.pl/postepowanie-i-orzeczenia/wyroki/art/8602-prawo-do-odmowy-wykonania-swadczenia-zdrowotnego-niezgodnego-z-sumieniem/> (accessed January 24, 2019); UN Committee on Economic, Social and Cultural Rights (CESCR), Concluding observations on the sixth periodic report of Poland, UN Doc. E/C.12/POL/CO/6, October 26, 2016, https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=E/C.12/POL/CO/6&Lang=En (accessed January 24, 2019), para. 46.

⁷⁴ Human Rights Watch email correspondence with Krystyna Kacpura, Director, Federation for Women and Family Planning (FEDERA), Warsaw, January 15, 2019.

⁷⁵ Office of the United Nations High Commissioner for Human Rights (UNOHCHR), “Information Series on Sexual and Reproductive Health and Rights: Abortion,” https://www.ohchr.org/Documents/Issues/Women/WRGS/SexualHealth/INFO_Abortion_WEB.pdf (accessed January 24, 2019).

⁷⁶ Ustawa z dnia xx 2016 r. (undated draft) o zmianie ustawy z dnia 7 stycznia 1993 r. o planowaniu rodziny, ochronie płodu ludzkiego i warunkach dopuszczalności przerywania ciąży oraz ustawy z dnia 6 czerwca 1997 r. Kodeks karny (The Act on amending the Family Planning, Human Embryo Protection and Conditions of Permissibility of Abortion Act of 7 January 1993 and the Act of June 6, 1997, Penal Code, undated draft), https://stopaborcji.pl/wp-content/uploads/2016/03/projekt_2016.pdf (accessed January 24, 2019).

⁷⁷ Lidia Kurasinska, “This ultra-conservative institute has infiltrated the Polish state, on a relentless quest to ban abortion,” *Open Democracy*, July 30, 2018, <https://www.opendemocracy.net/5050/lidia-kurasinska/ultra-conservative-institute-has-infiltrated-polish-state-to-ban-abortion> (accessed January 23, 2019).

⁷⁸ Pawel Sobczak and Marcin Goettig, “Polish parliament rejects near-total abortion ban after protests,” Reuters, October 6, 2016, <https://www.reuters.com/article/us-poland-abortion/polish-parliament-rejects-near-total-abortion-ban-after-protests-idUSKCN126oQo> (accessed January 23, 2019).

backed strongly by the Catholic Church, would eliminate the existing legal right to abortion in cases of severe fetal anomaly that threatens the fetus's life, rendering abortion virtually inaccessible.⁷⁹ High-level PiS politicians, including the Minister of Science and the Deputy Minister of Justice, have reportedly backed the Stop Abortion campaign, and the Bishops' Conference of Poland published a letter calling on parishioners to support the campaign.⁸⁰

Conservative MPs requested a Constitutional Tribunal ruling on the legality of permitting abortion in cases of severe anomaly that threatens a fetus's life.⁸¹ At time of writing, the Tribunal had not issued a ruling. In the meantime, approval of the "Stop Abortion" bill by a parliamentary committee led to further mass protests in March 2018.⁸² At time of writing, the draft bill is still pending for consideration in Parliament.

The United Nations Special Rapporteur on the right to health, United Nations Special Rapporteur on violence against women, and United Nations Working Group on Discrimination against Women in Law and Practice all condemned the "Stop Abortion" bill.⁸³ The Council of Europe commissioner for Human Rights said it endangers women's right to freedom from ill-treatment and violates the principle of "non-retrogression," which prohibits measures that weaken existing rights.⁸⁴ In its September 2018 review of Poland, the UN Committee on the Rights of Persons with Disabilities (CRPD Committee)

⁷⁹ "Polish Parliament Must Protect Women's Health and Rights," Joint statement, March 22, 2018, <https://www.hrw.org/news/2018/03/22/polish-parliament-must-protect-womens-health-and-rights>.

⁸⁰ "President says abortion laws are abused in Poland," Radio Poland, November 7, 2017, <http://www.thenews.pl/1/9/Artykul/333989,President-says-abortion-laws-are-abused-in-Poland> (accessed January 15, 2019); Dorothy Cummings McClean, "Polish bishops back campaign for to ban abortion: 'no justification for killing children,'" *Lifesite News*, November 10, 2017, <https://www.lifesitenews.com/news/polish-bishops-back-campaign-to-ban-abortion-no-justification-for-killing-c> (accessed January 24, 2019).

⁸¹ Federation for Women and Family Planning, "Attempts to Use the Non-Sovereign Constitutional Tribunal in Order to Restrict Women's Rights to Legal Abortion," Warsaw, <http://en.federa.org.pl/attempts-to-use-the-non-sovereign-constitutional-tribunal-in-order-to-restrict-womens-rights-to-legal-abortion/> (accessed January 24, 2019).

⁸² Anna Koper and Marcin Goettig, "Thousands join 'Black Friday' marches against Polish abortion restrictions," Reuters, March 23, 2018, <https://www.reuters.com/article/us-poland-abortion/thousands-join-black-friday-marches-against-polish-abortion-restrictions-idUSKBN1GZ2LP> (accessed January 24, 2019).

⁸³ "Mandates of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Special Rapporteur on violence against women, its causes and consequences and the Working Group on the issue of discrimination against women in law and in practice," Joint communication OL POL 1/2018, January 30, 2018, <https://www.ohchr.org/Documents/Issues/Women/WG/Communications/OL-POL-1-2018.pdf> (accessed January 24, 2019).

⁸⁴ "Commissioner Urges Poland's Parliament to reject bill which restricts access to abortion care," Council of Europe Commissioner for Human Rights statement, Strasbourg, March 23, 2018, <https://www.coe.int/en/web/commissioner/-/commissioner-urges-poland-s-parliament-to-reject-bill-which-restricts-access-to-abortion-care> (accessed January 24, 2019).

emphasized support for women's access to and autonomous decision-making about abortion, including for women with disabilities.⁸⁵

In an additional retrogressive move on reproductive rights in June 2017, President Andrzej Duda signed into law a bill limiting availability of emergency contraception, which had been available for purchase in Polish pharmacies by women and girls over age 15.⁸⁶ The so-called “morning-after-pill” can prevent pregnancy after unprotected sex, including in cases of rape.⁸⁷ Counter to the European Medicines Agency and World Health Organization (WHO) recommendations, the new law requires a doctor's visit and prescription, which may cause risky and unnecessary delays.⁸⁸ Though emergency contraception prevents or delays ovulation or prevents fertilization, PiS politicians including the health minister have wrongly likened it to having an abortion.⁸⁹

Backtracking on Sexual and Reproductive Health Education

The World Health Organization (WHO), United Nations Educational, Scientific, and Cultural Organization (UNESCO), and Council of Europe Commissioner for Human Rights have all called for universal comprehensive sexuality education (CSE) in schools. They call for CSE in line with international standards requiring a comprehensive, scientific, fact-based curriculum grounded in gender equality and human rights and taught by trained

⁸⁵ Committee on the Rights of Persons with Disabilities (CRPD) concluding observations on the initial report of Poland, CRPD/C/POL/CO/1 (September 2018), https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD/C/POL/CO/1&Lang=En (accessed January 24, 2019), paras. 10 and 42.

⁸⁶ Ustawa z dnia 25 maja 2017 r. o zmianie ustawy o świadczeniach opieki zdrowotnej finansowanych ze środków publicznych oraz niektórych innych ustaw (Act of 25 May 2017 amending the act on health care services financed from public funds and some other acts), May 25, 2017, <http://prawo.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU20170001200> (accessed January 24, 2019).

⁸⁷ Hillary Margolis, “In Poland, Being a Woman can be Bad for Your Health,” Human Rights Watch Dispatch, June 6, 2017, <https://www.hrw.org/news/2017/06/06/poland-being-woman-can-be-bad-your-health>.

⁸⁸ “EMA recommends availability of ellaOne emergency contraceptive without prescription,” European Medicines Agency press release, November 21, 2014, <https://www.ema.europa.eu/news/ema-recommends-availability-ellaone-emergency-contraceptive-without-prescription> (accessed January 24, 2019); “Commission Implementing Decision of January 7, 2015, amending the marketing authorisation granted by Decision C(2009)4049 for “ellaOne – ulipristal acetate,” a medicinal product for human use,” (C2015)51, European Commission, Brussels, January 7, 2015, http://ec.europa.eu/health/documents/community-register/2015/20150107130448/dec_130448_en.pdf (accessed January 24, 2019); “Emergency contraception,” World Health Organization (WHO), February 2018, <http://www.who.int/en/news-room/fact-sheets/detail/emergency-contraception> (accessed January 24, 2019).

⁸⁹ Wojciech Kościć, “Polish Parliament Votes to Limit Access to Morning After Pill,” *Politico*, May 25, 2017, <https://www.politico.eu/article/polish-parliament-votes-to-limit-access-to-emergency-contraception/> (accessed January 24, 2019); “Emergency contraception,” WHO.

educators.⁹⁰ The Committee of Ministers of the Council of Europe has also called on states to provide children with “objective information with respect to sexual orientation and gender identity, for instance in school curricula and educational materials.”⁹¹ Structured CSE improves sexual and reproductive health attitudes and outcomes, such as decreased risk of sexually transmitted infections and unwanted pregnancies.⁹²

In 2016, PiS announced extensive education reforms including changes to sexuality education, which in Poland occurs primarily in a module called “Preparation for Family Life” taught for 14 hours per school year beginning in fifth grade.⁹³ Under the WHO rubric, Poland’s “Preparation for Family Life” course constitutes “abstinence-only” education, meaning its primary or exclusive purpose is preventing pre-marital sexual intercourse.⁹⁴ Students can decline to participate, or their parents can withdraw them from the course.⁹⁵ To advise on curriculum changes, the PiS government appointed a theology professor from the Catholic University of Lublin, Urszula Dudziak, who has claimed that contraception can lead to “hedonism, sex addiction and a tendency to betray.”⁹⁶

⁹⁰ United Nations Educational, Scientific, and Cultural Organization (UNESCO), *International Technical Guidance on Sexuality Education: An Evidence-Informed Approach*, UNESCO: Paris, 2018; WHO Regional Office for Europe and BZgA, *Standards for Sexuality Education in Europe: A Framework for Policy Makers, Educational and Health Authorities, and Specialists*, Federal Center for Health Education (BZgA): Cologne, 2010; Council of Europe Commissioner for Human Rights, Women’s sexual and reproductive health and rights in Europe, Issue Paper, France: December 2017, <https://rm.coe.int/women-s-sexual-and-reproductive-health-and-rights-in-europe-issue-pape/168076dead> (accessed January 24, 2019), p. 28-29; “Progress needed to ensure women’s sexual and reproductive health and rights in Europe,” Council of Europe news release, Strasbourg, December 4, 2017, <https://www.coe.int/en/web/commissioner/-/progress-needed-to-ensure-women-s-sexual-and-reproductive-health-and-rights-in-europe?desktop=true> (accessed January 23, 2019).

⁹¹ “Recommendation CM/Rec(2010)5 of the Committee of Ministers to member states on measures to combat discrimination on grounds of sexual orientation or gender identity,” adopted March 31, 2010, Committee of Ministers of the Council of Europe, <https://www.coe.int/en/web/sogi/rec-2010-5> (accessed January 23, 2019), para. 32.

⁹² UNESCO, *International Technical Guidance on Sexuality Education*, p. 28.

⁹³ European Commission, “Poland,” *Education and Training Monitor 2017: Country Analysis*, European Union: Luxembourg, 2017, http://www.ressources-de-la-formation.fr/doc_num.php?explnum_id=19761 (accessed January 24, 2019), pp. 225-236.

⁹⁴ WHO Regional Office for Europe and BZgA, 2010, p. 15.

⁹⁵ Ministry of National Education, Ośrodek Rozwoju Edukacji, “Podstawa programowa kształcenia ogólnego z komentarzem. Szkoła podstawowa: Wychowanie do życia w rodzinie” (“Core curriculum for general education with a commentary. Primary school: Preparation for family life”), <https://www.ore.edu.pl/wp-content/uploads/2017/05/wychowanie-do-zycia-w-rodzinie.-pp-z-komentarzem.-szkola-podstawowa-1.pdf> (accessed January 24, 2019), pp. 16-17; Council of Europe Commissioner for Human Rights, 2017, p. 28.

⁹⁶ Matthew Day, “Adviser to Polish government claims contraception causes ‘sex addiction,’” *Telegraph*, November 3, 2016, <https://www.telegraph.co.uk/news/2016/11/03/adviser-to-polish-government-claims-contraception-causes-sex-add/> (accessed January 24, 2019); “Uważa, że antykoncepcja prowadzi do wyuzdania. Teraz będzie decydować, czego uczyć nasze dzieci,” *Gazeta.pl*, November 1, 2016, <http://wiadomosci.gazeta.pl/wiadomosci/7,114884,20917665,cel-antykoncepcji-jest-niegodziwy-prof-dudziak-zdecyduje.html> (accessed January 24, 2019).

Ministry of Education guidance on the revised curriculum advocates abstinence, discourages contraceptive use, and spreads misinformation. It states, for example, that teachers should discuss the advantages of “pre-marital sexual restraint” and risks associated with masturbation, such as “addiction to pornography, addiction to sex.”⁹⁷ On emergency contraception, it erroneously states: “Morning-after pills are early pregnancy termination drugs because conception occurs in the fallopian tube and not in the uterus.”⁹⁸ The guidance note also states that restrictive abortion law forms the basis for the curriculum’s implementation, and emphasizes primacy of the family, which activists say undermines women’s individual rights.⁹⁹

In its response to a written request for information from Human Rights Watch, the Ministry of National Education (MNE) states that education on reproductive health is “embedded in the core curriculum,” not only in the “Preparation for Family Life” course but also in subjects such as biology, nature, and physical education in both primary and secondary schools, and that “therefore it is compulsory.”¹⁰⁰ Curriculums for “nature” and biology courses include broad topics such as the reproductive system and its functions, the phases of a woman’s menstrual cycle, pregnancy and “the effect of various factors on the development of the embryo and fetus,” and “prevention of sexually transmitted diseases.”¹⁰¹ Activists and school employees told Human Rights Watch that, although written curriculums may seem to adhere to international and regional requirements for

⁹⁷ Ministry of National Education, Ośrodek Rozwoju Edukacji, “Podstawa programowa kształcenia ogólnego z komentarzem. Szkoła podstawowa: Wychowanie do życia w rodzinie,” p. 24.

⁹⁸ Ibid., p. 23.

⁹⁹ Ibid., pp. 10-14, 16, 23.

¹⁰⁰ Letter to Human Rights Watch from Rafał Lew-Starowicz, Deputy Director, Department of Textbooks, Programs and Innovations, Ministry of National Education, January 10, 2019, on file with Human Rights Watch.

¹⁰¹ Ministry of National Education, Ośrodek Rozwoju Edukacji, “Podstawa programowa kształcenia ogólnego z komentarzem. Szkoła podstawowa: Biologia” (“Core curriculum for general education with a commentary. Primary school: Biology”), <https://www.ore.edu.pl/wp-content/uploads/2017/05/biologia.-pp-z-komentarzem.-szkola-podstawowa.pdf> (accessed January 24, 2019), p. 19; “Podstawa programowa kształcenia ogólnego z komentarzem. Szkoła podstawowa: Przyroda” (“Core curriculum for general education with a commentary. Primary school: Nature”), <https://www.ore.edu.pl/wp-content/uploads/2017/05/przyroda.-pp-z-komentarzem.-szkola-podstawowa.pdf> (accessed January 24, 2019); Rozporządzenie Ministra Edukacji Narodowej z dnia 30 stycznia 2018 r. w sprawie podstawy programowej kształcenia ogólnego dla liceum ogólnokształcącego, technikum oraz branżowej szkoły II stopnia (Regulation of the Minister of National Education of 30 January 2018 on the core curriculum of general education for secondary school, technical secondary school and industry school of the second degree), January 30, 2018, <http://prawo.sejm.gov.pl/isap.nsf/download.xsp/WDU20180000467/O/D20180467.pdf> (accessed January 24, 2019).

sexuality education, classroom teaching frequently does not reflect these standards, and teachers or headmasters instead impart their own ideological views.¹⁰²

The government's National Health Program for 2016-2020 does include a target of improving reproductive health figures, also by way of education programs. However, vaguely-defined activities such as "development and dissemination of educational materials concerning various aspects of reproductive health" do not specify topics to be covered or whether materials will be based on scientific fact. Activities also include a campaign to promote fertility.¹⁰³

Centralization of Funding for Civil Society

The PiS government has introduced worrying revisions to national mechanisms for funding civil society. In September 2017, Poland's Council of Ministers adopted a law introducing a centralized agency, the National Institute of Freedom-Center for the Development of Civil Society (Narodowy Instytut Wolności-Centrum Rozwoju Społeczeństwa Obywatelskiego, NIW) to oversee disbursement of government funding to civil society groups.¹⁰⁴ Previously, each ministry decided on allocation of public funds relevant to its mandate for civil society organizations.

The government selects NIW leadership, including its Director and Council members. The NIW's first appointed Director, Wojciech Kaczmarczyk, has publicly criticized liberal and feminist organizations. In his previous post as Government Plenipotentiary for Civil Society and Equal Rights, for example, he said the government has "had enough of militant atheists and enthusiasts of sexual revolution appropriating the principle of equality."¹⁰⁵

¹⁰² Human Rights Watch interviews with Hanna H. (name withheld), Kraków, August 2, 2018, and Aleksandra Józefowska, coordinator, Ponton, Warsaw, August 8, 2018.

¹⁰³ Narodowy Program Zdrowia na lata 2016–2020 Załącznik do rozporządzenia Rady Ministrów z dnia 4 sierpnia 2016 r., (National Health Program for 2016-2020 Annex to the Regulation of the Council of Ministers of August 4, 2016), Ch. X, August 4, 2016, <http://prawo.sejm.gov.pl/isap.nsf/download.xsp/WDU20160001492/O/D20161492.pdf> (accessed January 24, 2019).

¹⁰⁴ Ustawa z dnia 15 września 2017 r. o Narodowym Instytucie Wolności – Centrum Rozwoju Społeczeństwa Obywatelskiego (Act of 15 September 2017 on the National Institute of Freedom - Center for the Development of Civil Society), Opracowano na podstawie: Dz. U. z 2017 r. poz. 1909, z 2017 r. poz. 2371, September 15, 2017, <https://niw.gov.pl/wp-content/uploads/2018/07/niw-crs.pdf> (accessed January 24, 2019); "O nas" ("About Us"), Narodowy Instytut Wolności – Centrum Rozwoju Społeczeństwa Obywatelskiego (NIW), <https://www.niw.gov.pl/o-nas/> (accessed January 24, 2019).

¹⁰⁵ Christian Davies, "Polish PM angers human rights campaigners with plans to shake up NGOs," *Guardian*, November 28, 2016, <https://www.theguardian.com/world/2016/nov/28/polish-pm-beata-szydlo-angers-human-rights-campaigners-ngos> (accessed January 24, 2019).

Civil society has limited representation in the NIW: five of the NIW Council's eleven members are to represent NGOs. Initial members included Tymoteusz Zych, a board member of Ordo Iuris, which has launched campaigns to discredit and demonize women's and LGBT rights organizations.¹⁰⁶ International bodies and NGOs have criticized the law for granting the NIW director excessive power and barring the Council or other bodies from having meaningful influence on funding decisions.¹⁰⁷ Commenting on the then-draft act, the Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation (OSCE/ODIHR) recommended decentralized distribution of public funds, free from government influence, and urged lawmakers to include safeguards limiting potential government interference.¹⁰⁸

The NIW now oversees the Citizen's Initiatives Fund (Fundusz Inicjatyw Obywatelskich, FIO), which, under oversight of the MRPiS's Department of Social Economy and Public Benefit, gave 60 million złoty (around \$16 million) annually in grants to NGOs, church entities, and religious organizations conducting activities to benefit the public.¹⁰⁹

¹⁰⁶ HFHR, "The Situation of Civil Society Organizations in Poland," September 2017, http://www.hfhr.pl/wp-content/uploads/2017/09/HFHR_situation_ngos_in_Poland_brief.pdf (accessed January 24, 2019), p. 3.

¹⁰⁷ Ogólnopolska Federacja Organizacji Pozarządowych (National Federation of Non-Governmental Organizations, OFOP), "List otwarty OFOP do pani premier w sprawie Narodowego Centrum" ("Open letter to the prime minister regarding the National Center"), June 26, 2017, <http://ofop.eu/aktualnosci/list-otwarty-ofop-do-pani-premier-w-sprawie-narodowego-centrum> (accessed January 31, 2019); HFHR, "The Situation of Civil Society Organizations in Poland," p. 3.

¹⁰⁸ Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation (OSCE/ODIHR), Opinion on the Draft Act of Poland on the National Freedom Institute – Center for the Development of Civil Society, August 22, 2017, <http://www.osce.org/odihr/336546> (accessed January 24, 2019).

¹⁰⁹ Uchwała Nr 209/2013 Rady Ministrów z dnia 27 listopada 2013 r. w sprawie przyjęcia Programu Fundusz Inicjatyw Obywatelskich na lata 2014–2020, RM-111-207-13 (Resolution No. 209/2013 of the Council of Ministers of November 27, 2013 regarding the adoption of the Citizen's Initiatives Fund Program for 2014-2020), November 27, 2013, https://niw.gov.pl/wp-content/uploads/2018/07/Uchwa%C5%82a-209_2013.pdf (accessed January 24, 2019); "FIO," Narodowy Instytut Wolności, <https://www.niw.gov.pl/nasze-programy/fio/> (accessed January 24, 2019); Department of Social Economy and Public Benefit, "FIO," <http://www.ekonomiaspoleczna.gov.pl/FIO,536.html> (accessed January 24, 2019).

II. Targeting Women's Rights Activists and Organizations

Political Rhetoric and Public Attacks

The PiS government's open disdain of women's rights and failure to counter misinformation campaigns has fostered a climate of fear for women's rights defenders. At the same time, activists report that the government has stopped consulting women's rights experts, instead privileging the views and opinions of individuals aligned with PiS.

Pushback on Anti-Violence Treaty and Violence against Women Protections

In November 2016, PiS politicians moved to withdraw from the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention), which calls for specific measures to strengthen prevention, response, and accountability for all forms of violence against women.¹¹⁰ The government—spurred on by right-wing movements—sought withdrawal on grounds that the Convention endangers the family and traditional values and promotes “gender ideology.”¹¹¹ The European Parliament condemned the move, which sent strong signals that addressing violence against women is not a priority for Poland's government.¹¹²

¹¹⁰ Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention), Council of Europe, May 11, 2011, <https://www.coe.int/fr/web/conventions/full-list/-/conventions/rms/090000168008482e> (accessed January 23, 2019).

¹¹¹ Odpowiedź Pełnomocnika Rządu do spraw Społeczeństwa Obywatelskiego i Równego Traktowania ws. Konwencji stambulskiej (Letter from Government Plenipotentiary for Equal Treatment Adam Lipiński to Ombudsman for Human Rights Adam Bodnar), December 23, 2016, <https://www.rpo.gov.pl/sites/default/files/Odpowied%C5%BA%20%20Pe%C5%82nomocnika%20Rz%C4%85du%20do%20spraw%20Spo%C5%82ecze%C5%84stwa%20Obywatelskiego%20i%20R%C3%B3wnego%20Traktowania%20ws.%20Konwencji%20stambulskiej.pdf> (accessed January 24, 2019); Office of the Ombudsman for Human Rights, “Informacja Pełnomocnika Rządu do spraw Społeczeństwa Obywatelskiego i Równego Traktowania o rządowym projekcie wniosku o wypowiedzenie Konwencji Rady Europy o zapobieganiu i zwalczaniu przemocy wobec kobiet i przemocy domowej” (“Information of the Government Plenipotentiary for Civil Society and Equal Treatment on the government draft of the request to denounce the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence”), January 10, 2017, <https://www.rpo.gov.pl/pl/content/informacja-pe%C5%82nomocnika-rz%C4%85du-do-spraw-spo%C5%82ecze%C5%84stwa-obywatelskiego-i-r%C3%B3wnego-traktowania-o-rz%C4%85dowym> (accessed January 24, 2019).

¹¹² “Call on the Polish government to reconsider its intention to withdraw from the Istanbul Convention,” European Parliament press release, December 14, 2016, <http://www.europarl.europa.eu/news/en/press-room/20161214IPR56095/istanbul-convention-polish-government-asked-to-reconsider-intention-to-withdraw> (accessed January 24, 2019).

Though ultimately the government opted not to pursue withdrawal, top authorities have dismissed the need for the Istanbul Convention and discouraged its application. In February 2017, President Andrzej Duda criticized the Convention on national television and instructed people “first of all, not to implement it.”¹¹³ Regarding national laws on violence against women, he said “those already in place in Poland are working ... [and] are being enforced,” claiming there was no need for additional measures.¹¹⁴

Activists said the president’s snub of the Convention discourages strong state response to domestic and other forms of violence against women.¹¹⁵ As Sylwia Spurek, deputy ombudsperson for human rights, said, “If the President of the Republic of Poland says the Istanbul Convention should not be implemented, it is a clear message to, for example, law enforcement.”¹¹⁶

High-level PiS leaders have downplayed violence against women and disparaged feminist groups. Ilona Motyka of BABA, which assists survivors of violence in Zielona Góra in western Poland, explained: “Since right after the [2015] elections, the approach to feminism and feminist organizations became very hostile. The whole existence of domestic violence has been denied.”¹¹⁷

Renata Durda, director of Niebieska Linia (Blue Line), which assists survivors of violence in Warsaw, said, “Over the past several years, officials have said the problem of violence against women is created by feminists, that it is just a cover for setting in motion ‘gender ideology.’”¹¹⁸

In June 2018, former Prime Minister Beata Szydło reportedly applauded a southern municipality’s refusal to establish a multi-agency team for combatting domestic violence,

¹¹³ “Wywiad Prezydenta RP Andrzeja Dudy dla programu ‘Warto Rozmawiać,’” video clip, February 2, 2017, YouTube, <https://www.youtube.com/watch?v=7So1OCjhSCE> (accessed January 24, 2019).

¹¹⁴ Ibid.; Wojciech Gąsior, “V4: Protecting Women or Values,” *MamPrawoWiedziec.pl*, November 27, 2017, <http://serwis.mamprawowiedziec.pl/2017/11/protecting-women-or-values.html> (accessed January 24, 2019).

¹¹⁵ Human Rights Watch interviews with Joanna Piotrowska, executive director, Feminoteka, Warsaw, July 31, 2018, Alina Kula, co-founder, Fundacja Pozytywnych Zmian, Bielsko-Biała, August 3, 2018, Ilona Motyka, vice-president, BABA, Zielona Góra, August 6, 2018, Anna Głogowska-Balcerzak, coordinator, Women’s Rights Center, Łódź, August 7, 2018.

¹¹⁶ Human Rights Watch interview with Sylwia Spurek, August 9, 2018.

¹¹⁷ Human Rights Watch interview with Ilona Motyka, August 6, 2018.

¹¹⁸ Human Rights Watch interview with Renata Durda, director, Niebieska Linia (Blue Line), Warsaw, August 10, 2018.

as required per the national domestic violence act.¹¹⁹ In January 2018, Prime Minister Mateusz Morawiecki mischaracterized domestic violence, saying it occurs primarily outside of marriage and in “abnormal” families: “Violence does not occur where there is concern for family ties, in a normal home where love prevails. Violence occurs more often in informal relationships, and not those that are legally sanctioned.”¹²⁰ In contrast, the 2015 Ministry of Labor and Social Policy (MPiPS) study found “high susceptibility of so-called ‘average’ families to events of violence.”¹²¹

As Spurek said, “[The Prime Minister’s comments] leave all domestic violence victims in marriages without support.”¹²² Durda pointed out how such statements affect survivors of violence who are questioning whether to seek help. “The dominant voice is saying, ‘No, in good Catholic families, *you’re* the problem,’” she said.¹²³ Officials’ targeting of women’s rights groups can also create disincentives for survivors of violence who need assistance. Durda explained how such messaging may be off-putting for those seeking help. “You come [to us] because you are in trouble, and then you come to an organization that’s also in trouble,” she said.¹²⁴

Activists who previously accessed government bodies to conduct advocacy or participate in policy reform also said the PiS government excludes them from opportunities to inform dialogue and policy. Durda said parliamentary commissions or ministry expert groups no longer invite her to consultations. She pointed to quarterly meetings of Ministry of Justice-funded organizations under the previous government. “Since the new government, there is no meeting,” she said. “I know such meetings happen, but only for certain organizations.”¹²⁵ Even if Blue Line requests a ministry meeting, she said, staff are told “there is no need,” and to simply speak with a lower-level supervisor.¹²⁶

¹¹⁹ “Zakopane walczy z ustawą o przeciwdziałaniu przemocy w rodzinie. A z przemocą?” *tvn24*, June 5, 2018, <https://fakty.tvn24.pl/ogladaj-online,60/zakopane-walczy-z-ustawa-o-przeciwdzialaniu-przemocy-w-rodzinie,842783.html> (accessed January 24, 2019).

¹²⁰ Joanna Gierak-Onoszko, “Panie premierze, skąd te dane o przemocy w nieformalnych związkach?,” *Polityka*, January 6, 2018, <https://www.polityka.pl/tygodnikpolityka/spoleczenstwo/1733478,1,panie-premierze-skad-te-dane-o-przemocy-w-nieformalnych-zwiazkach.read> (accessed January 24, 2019).

¹²¹ Monika Miedzik and Justyna Godlewska-Szurkova with support from Jakub Rutkowski, “Raport częściowy,” p. 11.

¹²² Human Rights Watch interview with Sylwia Spurek, August 9, 2018.

¹²³ Human Rights Watch interview with Renata Durda, August 10, 2018.

¹²⁴ *Ibid.*

¹²⁵ *Ibid.*

¹²⁶ *Ibid.*

Pushback on Actors Providing Sexuality Education

In its 2018-2020 Program of Cooperation with NGOs and other entities, the Ministry of National Education (MNE) states that “nongovernmental organizations have an extremely important function ... in the implementation of the state’s education policy.”¹²⁷ The Program further states that the ministry shall cooperate with NGOs including on “education, teaching, upbringing and physical culture of children and youth.”¹²⁸

However, PiS leadership has not countered increasing attacks on NGOs providing comprehensive sexuality education (CSE), and in some cases has appeared to support them.¹²⁹ Campaigns against teaching of sexuality education say it contravenes Poland’s constitutional protections for parents to determine their children’s upbringing in accordance with their own values.¹³⁰

Soon after PiS came to power, Minister of National Education and PiS party member Anna Zalewska warned against permitting groups such as Ponton, a sexual health education organization, to conduct workshops in schools. “The school should be careful when it comes to accepting people from outside,” Minister Zalewska said. She insisted that “the curriculum basics are sufficient” in schools and invoked images of inappropriate teaching by NGOs: “I cannot imagine small children discussing intimate matters publicly.”¹³¹

¹²⁷ Program Współpracy Ministra Edukacji Narodowej z Organizacjami Pozarządowymi Orz Podmiotami Wymienionymi w Art. 3 ust 3 Ustawy o Działalności Pożytku Publicznego i o Wolontariacie na lata 2018–2020, Załącznik do zarządzenia nr 2 Ministra Edukacji Narodowej z dnia 04.01.2018 r. (Cooperation Program of the Minister of National Education with Nongovernmental Organizations and Entities mentioned in Article 3 paragraph 3 of the Act on Public Benefit and Volunteer Work for 2018-2020), January 4, 2018, <https://bip.men.gov.pl/wp-content/uploads/sites/2/2018/04/program-wspolpracy-ministra-edukacji-narodowej-z-organizacjami-pozarzadowymi-oraz-podmiotami-wymienionymi-w-art.3-ust.3-ustawy-o-dzialalnosci-pozytku-p.pdf> (accessed January 24, 2019), Section 1, p. 3.

¹²⁸ Ibid., Section 4.1, p. 5.

¹²⁹ Agata Pyzik, “Poland is having a sexual revolution in reverse,” *Guardian*, February 11, 2014, <https://www.theguardian.com/commentisfree/2014/feb/11/poland-sexual-revolution-reverse-education-contraception> (accessed January 24, 2019).

¹³⁰ “Chrońmy nasze dziecko - pamiętajmy o złożeniu oświadczenia!,” Stop Seksualizacji Naszych Dzieci, September 5, 2018, <https://stop-seksualizacji.pl/index.php/o-nas/co-zrobilismy/wydarzenia-2018/item/353-chronmy-nasze-dziecko-pamietajmy-o-zlozeniu-oswiadczenia> (accessed January 24, 2019); “Chrońmy Dzieci! Podsumowanie kampanii,” Ordo Iuris Institute for Legal Culture, translated for Human Rights Watch, <https://drive.google.com/file/d/1pOduwswZclYoqH5WzMQAqPPQHVBVQ3VZn/view> (accessed January 24, 2019); “Chrońmy Dzieci! Podsumowanie kampanii,” Ordo Iuris Institute for Legal Culture, second edition, 2018, https://ordoiuris.pl/sites/default/files/inline-files/ChD_wyd_2.pdf, translated for Human Rights Watch (accessed January 24, 2019).

¹³¹ “Zalewska w TOK FM krytycznie o edukatorach seksualnych. Oni na to: ale dyrektorzy nas zapraszają,” TOK FM, March 17, 2016, <http://www.tokfm.pl/Tokfm/1,103454,19782956,nie-nagabujemy-nie-wpraszamy-sie-chetne-szkoly-same-sie-zglaszaja.html> (accessed January 24, 2019); Human Rights Watch interview with Aleksandra Józefowska, August 8, 2018.

A self-described defender of “protection of innocent human life at all stages of development” and “marriage as a union between a woman and a man,” the conservative, Catholic-influenced Ordo Iuris has led efforts to smear organizations teaching sexuality education, non-discrimination, and anti-violence workshops.¹³² In May 2017, Ordo Iuris launched the “Protect Children!” campaign to identify organizations it deemed to be conducting harmful work that it says promotes LGBT “subcultures” and “gender ideology” in schools.¹³³

In August 2017, the MNE withdrew 2015 regulations obliging schools to conduct anti-discrimination activities.¹³⁴ Ordo Iuris claimed this as a success for its campaign, saying such activities were a guise for “promoting gender ideology.”¹³⁵

In February 2018, Ordo Iuris published a report naming and shaming organizations including Autonomia, a women’s rights organization, and Ponton.¹³⁶ They falsely accused Ponton of “trying to implement a program in schools that has led to an increase in abortion among minors” and “encouraging girls under 16 to lie to doctors, [saying] that they have their parents’ consent to use hormonal contraception.”¹³⁷ Ordo Iuris claimed that “numerous abuses took place” during Autonomia’s 16 Days of Activism on Violence against Women activities in 2017, saying the organization urged workshop leaders to

¹³² J. Banasiuk and T. Zych, eds., *State of Democracy, Human Rights and the Rule of Law in Poland: Recent Developments*, Warsaw: Ordo Iuris Institute for Legal Culture, September 2016, <http://humanrights.ordoiuris.pl/en/> (accessed January 24, 2019).

¹³³ “Chrońmy Dzieci! Podsumowanie kampanii,” Ordo Iuris, second edition.

¹³⁴ Rozporządzenie Ministra Edukacji Narodowej z dnia 11 sierpnia 2017 r. w sprawie wymagań wobec szkół i placówek, Minister Edukacji Narodowej (Regulation of the Minister of National Education of August 11, 2017, on the requirements for schools and institutions), Warsaw, August 29, 2017, <http://dziennikustaw.gov.pl/du/2017/1611/1> (accessed January 24, 2019); List Zastępczyni Rzecznika Praw Obywatelskich ds. Równego Traktowania Sylwii Spurek to Ministra Edukacji Narodowej Anny Zalewskiej (Letter from the Acting Plenipotentiary for Equal Treatment Sylwia Spurek to Minister of National Education Anna Zalewska), July 12, 2017, <https://www.rpo.gov.pl/sites/default/files/Dzia%C5%82ania%20antydystryminacyjne.pdf> (accessed January 23, 2019).

¹³⁵ “Pierwszy sukces akcji ‘Chrońmy Dzieci’: MEN likwiduje obowiązek zajęć genderowych,” Ordo Iuris, July 5, 2017, <https://www.ordoiuris.pl/rodzina-i-malzenstwo/pierwszy-sukces-akcji-chronmy-dzieci-men-likwiduje-obowiazek-zajec-genderowych> (accessed January 24, 2019).

¹³⁶ “Chrońmy Dzieci! Podsumowanie kampanii,” Ordo Iuris; Paweł Kościński, Justyna Suchecka, “Organizacje współpracujące ze szkołami na indeksie Ordo Iuris,” *Gazeta Wyborcza*, February 28, 2018, <http://wyborcza.pl/7,75398,23078836,organizacje-wspolpracujace-ze-szkolami-na-indeksie-ordo-iuris.html> (accessed January 24, 2019).

¹³⁷ Quoted text is from the originally published report, which was later replaced by a revised version following some media attention and protest by organizations listed in the report. At time of writing, only the revised version remained on the Ordo Iuris website. “Chrońmy Dzieci! Podsumowanie kampanii,” Ordo Iuris, p. 15.

“undermine” and “question” ideas of masculinity and femininity.¹³⁸ In criticizing Autonomia, the report states that its leader, Agata Teutsch, has organized “feminist protests” and categorizes her as a “lesbian activist,” an apparent attempt to publicly denigrate her and reinforce the idea that feminists and LGBT people are dangerous to society.¹³⁹

In its report, Ordo Iuris also described NGO-led school workshops as “obligatory.”¹⁴⁰ However, all school employees and organizational representatives Human Rights Watch interviewed said NGO-led workshops on sexuality education, non-discrimination, and non-violence are not obligatory for students, and that they only visit schools to which they are invited.¹⁴¹

Ordo Iuris’ anti-abortion and anti-LGBT agenda appears well-received by the PiS government. In January 2018, the government appointed Tymoteusz Zych, an Ordo Iuris board member, as an NGO representative to the new National Institute of Freedom-Center for Civil Society (NIW).¹⁴² Ordo Iuris’s “Protect Children!” report gained traction when MNE officials met with Ordo Iuris members in March 2018.¹⁴³ The MNE signed cooperation agreements with 75 NGOs under its 2018-2020 plan, in response to calls for applications.¹⁴⁴ However, none appear to be for work on sexuality education.¹⁴⁵ Rather, at least one 2016 tender calls for implementation of activities including “counteracting the sexualization of children and adolescents.”¹⁴⁶

¹³⁸ Ibid., p. 13.

¹³⁹ Ibid.

¹⁴⁰ “Chrońmy Dzieci! Podsumowanie kampanii,” Ordo Iuris, second edition, p. 3.

¹⁴¹ Human Rights Watch interviews with Aleksandra Józefowska, August 8, 2018, Agata Teutsch, director, Autonomia Foundation, Kraków, August 2, 2018, Hanna H. (name withheld), Kraków, August 2, 2018.

¹⁴² Chancellery of the Prime Minister of Poland, “Wyniki naboru na członków Rady Narodowego Instytutu Wolności – Centrum Rozwoju Społeczeństwa Obywatelskiego” (Results of the recruitment for members of the Council of the National Institute of Freedom - Center for the Development of Civil Society), January 29, 2018, <https://pozytek.gov.pl/wyniki-naboru-na-czlonkow-rady-narodowego-instytutu-wolnosci-centrum-rozwoju-spoleczenstwa-obywatelskiego/> (accessed January 24, 2019).

¹⁴³ Justyna Suhecka and Paweł Kościński, “Ordo Iuris i MEN będą ‘chronić dzieci,’” *Gazeta Wyborcza*, March 15, 2018, <http://wyborcza.pl/7,75398,23143492,ordo-iuris-imen-beda-chronic-dzieci.html> (accessed January 24, 2019).

¹⁴⁴ Letter to Human Rights Watch from Rafał Lew-Starowicz, Deputy Director, Department of Textbooks, Programs and Innovations, Ministry of National Education, January 10, 2019, on file with Human Rights Watch.

¹⁴⁵ Ministry of National Education, “Wyniki konkursów na realizację zadania publicznego” (“Results of competitions for the implementation of a public task”), *Otwarte Dane*, https://dane.gov.pl/dataset/1135?page=1&per_page=50&sort=-created (accessed January 24, 2019).

¹⁴⁶ “Ogłoszenie konkursu ofert na realizację zadania na prowadzenie działań na rzecz upowszechniania wiedzy na temat zdrowia psychicznego i jego uwarunkowań, kształtowanie przekonań, postaw, zachowań i stylu życia wspierającego zdrowie psychiczne, rozwijanie umiejętności radzenia sobie w sytuacjach zagrażających zdrowiu psychicznemu, przeciwdziałanie

In its national program of cooperation with NGOs, the MNE states that such cooperation shall include consultation with NGO representatives and, specifically, their participation in “ad hoc working groups of an advisory nature” to provide opinions and expertise.¹⁴⁷ However, representatives of sexuality education groups told Human Rights Watch that, under PiS, the ministry has excluded them from opportunities to provide input.

Aleksandra Józefowska, coordinator of Ponton, said that prior to the 2015 elections and following years of advocacy, Ponton had developed a working relationship with the government. Under the previous minister of education, she said, “I was informed that we would be part of a group consulted on curriculum changes [on sexuality education]. That all stopped with PiS.”¹⁴⁸

Antonina Lewandowska, an educator with Ponton, also spoke about the group’s isolation by the government. “Right now, the ministry door is closed shut,” she said. “They consult Ordo Iuris rather than us. There is no way we could get in there.”¹⁴⁹

A separate “Stop Sexualization of Children and Youth” campaign, launched by parents in 2013 and citing the Ordo Iuris campaign, also targets sexuality education in schools. In a September 2018 letter to parents, the campaign cited organizations including Autonomia and Ponton as threatening children’s well-being and promoting “depravity under the guise of sex education.” It encouraged parents to withhold consent for children’s participation in such courses.¹⁵⁰ The campaign warned that abiding by WHO standards for Sexuality Education in Europe would instill “behaviors leading to sex addiction in adulthood,” promote masturbation and “confusion about gender identity,” and weaken children’s ability to build lasting relationships due to “breakdown of the family as the norm.”¹⁵¹

seksualizacji dzieci i młodzieży – w szczególności przez prowadzenie działań informacyjnych i edukacyjnych – konkurs nr DE-WZP.262.1.13.2016” (“Announcement of the tender competition for the implementation of the task for conducting activities about raising awareness about mental health and its conditions”), Ministry of National Education, November 18, 2016, <https://bip.men.gov.pl/pl/zadania-publiczne/page/2> (accessed January 24, 2019).

¹⁴⁷ Program Współpracy Ministra Edukacji Narodowej z Organizacjami Pozarządowymi Oraz Podmiotami Wymienionymi W Art. 3 ust 3 Ustawy o Działalności Pożytku Publicznego i o Wolontariacie Na Lata 2018–2020, Sections 5, 8, pp. 6, 7.

¹⁴⁸ Human Rights Watch interview with Aleksandra Józefowska, August 8, 2018.

¹⁴⁹ Human Rights Watch telephone interview with Antonina Lewandowska, volunteer educator, Ponton, August 21, 2018.

¹⁵⁰ “Chrońmy nasze dziecko - pamiętajmy o złożeniu oświadczenia!”

¹⁵¹ “Edukacja seksualna narzędziem seksualizowania dzieci i młodzieży,” Ordo Iuris, November 8, 2013, <http://www.stop-seksualizacji.pl/index.php/edukacja-typu-b/edukacja-seksualna-narzedziem-seksualizacji-dzieci-i-mlodziezy> (accessed January 24, 2019).

By failing to counter such campaigns—and sometimes seeming to embrace them—the government reinforces the notion that groups such as Ponton and Autonomia endanger children and families. This heightens risks for activists. Lewandowska said even friends now fear associating with her. “From the time of the change in government [in 2015], I have had several friends say it is getting risky to know me,” she said. “Several times I’ve met someone and told them I’m a sex educator and they turn cold, keeping me at a distance because they are afraid of being harmed by knowing me.”¹⁵²

Lewandowska said she censors herself on the telephone and social media and sometimes worries about her physical safety.¹⁵³

Defunding of Women’s Rights Organizations

All the activists and donor representatives interviewed for this report said the government has drastically reduced funding of women’s rights groups, with severe repercussions for organizations and the services they provide. Inaccessibility of government funding has led organizations to cut staff, diminish geographic coverage, and reduce essential activities including shelter, legal, and psychosocial support for survivors of violence. Groups have also decreased educational workshops on sexual and reproductive health, non-violence, and non-discrimination due to both funding cuts and political pressure that inhibits collaboration with schools and communities.

Withdrawal of Government Funding

Of the organizations with which Human Rights Watch spoke, all seven that previously received national government support said funding had been discontinued or significantly reduced under the current government.¹⁵⁴ This includes five groups that had received Ministry of Justice (MOJ) funding; two that had received Ministry of Family, Labor and Social Policy (MRPiPS) funding; and one that had received funding from the Ministry of National Education (MNE). Some lost funding from more than one ministry.

¹⁵² Human Rights Watch video interview with Antonina Lewandowska, August 21, 2018.

¹⁵³ Ibid.

¹⁵⁴ This includes Women’s Rights Center in Warsaw and Women’s Rights Center in Łódź, which applied for and received funding from government ministries separately.

Defunding has led to drastic reductions in staff, activities, and essential services for survivors of violence. Sylwia Spurek, deputy ombudsperson for human rights, stressed the consequences of defunding services for women outside major cities:

Women living in smaller towns and villages, who can't access contraceptives, who can't afford services or can't afford to leave home to get away from a perpetrator of domestic violence—the crucial impact will be on this part of female society. We leave this group of women behind, alone, without any support.¹⁵⁵

The national government had funded organizations for multiple years prior to withdrawing funding or rejecting proposals. In all but one case, the government did not provide clear explanations of why funding was discontinued. Organizations had been largely dependent on national government support due to a lack of funding opportunities, activists said, noting that EU funding is mostly bi-lateral and for large projects, and that because Poland is a middle-income country, Polish civil society is a lower priority for donor governments.¹⁵⁶

Groups said they now depend primarily on small-scale local government or mayoral office grants and individual contributions. Activists also said local funding is at risk. “PiS changed the [provincial] heads and now it has become political, so it is hard to get money,” said Joanna Piotrowska, of the women’s rights group Feminoteka in Warsaw.¹⁵⁷ The Ombudsman for Human Rights Adam Bodnar has said, “[S]ome of the work NGOs do cannot be done properly without the state’s help. You can’t properly work on domestic violence with funds coming just from people’s contributions.”¹⁵⁸

Many organizations offering support to women victims of violence had received funding through the MOJ under the Assistance to Victims of Crime and Post-Penitentiary Aid Fund, or the Justice Fund. The Justice Fund is designated to support victims of all forms of crime (as well as crime prevention and assistance to former prisoners) including via legal

¹⁵⁵ Human Rights Watch interview with Sylwia Spurek, August 9, 2018.

¹⁵⁶ Christina Wassholm, *Suffocating the Movement*, Kvinna till Kvinna, 2018, <https://kvinnaillkvinna.org/wp-content/uploads/2018/10/2-Suffocating-the-movement-ENG.pdf> (accessed January 24, 2019), p. 36.

¹⁵⁷ Human Rights Watch interview with Joanna Piotrowska, July 31, 2018.

¹⁵⁸ Claudia Ciobanu and Wojciech Kości, “Warsaw Grabs Purse Strings of Polish NGOs,” *Politico*, December 8, 2017, <https://www.politico.eu/article/pis-polish-ngos-fear-the-governments-embrace/> (accessed January 24, 2019).

assistance, psychological and emotional support, health care, shelter or temporary accommodation, and subsidized rent or purchase of material goods such as clothing, food, and hygiene products. It is intended to fulfill obligations under EU Directive 2012/29 on minimum standards with regards to the rights, support and protection of victims of crime (Victims' Rights Directive).¹⁵⁹ The Justice Fund was to distribute an estimated 25 million złoty (\$6.6 million) to non-profit organizations in 2018.¹⁶⁰ Though total Justice Fund grants have steadily increased from 15.6 million złoty (US \$4.1 million) in 2014, activists say funding of specialist women's rights groups and service providers is diminishing.¹⁶¹

Two organizations discussed below lost Fundusz Inicjatyw Obywatelskich (FIO) grants under the MRPiPS prior to March 2018. As of March 1, 2018, FIO grants are under responsibility of the new National Institute for Freedom-Center for Civil Society (NIW).¹⁶²

Even when there are government funding opportunities, activists believe the government will not support women's rights groups. "There's no way we are going to get it, because this is an organization helping women and the government doesn't believe in that," said Alina Kula, co-founder of Fundacja Pozytywnych Zmian, which provides services for women survivors of violence in southern Poland.¹⁶³

Activists said both the MOJ and MRPiPS now often fund church-affiliated organizations or ones considered pro-government rather than established specialist women's rights groups.¹⁶⁴ "They use the funds to finance their political supporters," said Anna Głogowska-Balcerzak, coordinator of the Women's Rights Center in Łódź. She said the MOJ now funds

¹⁵⁹ Odpowiedź Ministra Sprawiedliwości w sprawie finansowania organizacji przeciwdziałających przemocy wobec kobiet, (Letter from Minister of Justice Patryk Jaki to Adam Bodnar, Ombudsman for Human Rights), July 29, 2016, <https://www.rpo.gov.pl/sites/default/files/Odpowied%C5%BA%20MS%20w%20sprawie%20finansowania%20organizacji%20przeciwdzia%C5%82aj%C4%85cych%20przemocy%20wobec%20kobiet%2029.07.2016.pdf> (accessed January 24, 2019); Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA (Victims' Rights Directive), <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32012L0029> (accessed January 24, 2019).

¹⁶⁰ Secretary of State in the Ministry of Justice Michał Wójcik, Odpowiedź na interpelację nr 24245 w sprawie wsparcia dla kobiet dotkniętych przemocą domową czy seksualną (Response to interpellation No. 24245 on support for women affected by domestic or sexual violence), Sejm, Warsaw, August 17, 2018, <http://www.sejm.gov.pl/sejm8.nsf/InterpelacjaTresc.xsp?key=B3VHX8> (accessed January 24, 2019).

¹⁶¹ Ibid.

¹⁶² "FIO," Narodowy Instytut Wolności; confirmed in email from MRPiPS, October 25, 2018, on file with Human Rights Watch.

¹⁶³ Human Rights Watch interview with Alina Kula, director and co-founder, Fundacja Pozytywnych Zmian, Bielsko-Biała, August 3, 2018.

¹⁶⁴ See also, HFHR, "The Situation of Civil Society Organizations in Poland," p. 2.

Caritas, a Catholic charity, and church-affiliated Family Support Centers to provide services for survivors of violence. “[These organizations] are helping families, whereas we help members of families,” she said, noting that support of these groups also serves as a kind of smokescreen. “Many [such organizations] received funding, so the government can still say they are funding anti-violence.”¹⁶⁵

Based on an assessment of publicly available records, the number of religiously-affiliated or family-oriented organizations supported by the Justice Fund’s stream for victims of crime has steadily increased since PiS came to power; it jumped from at least 5 of 26 groups receiving approximately 23 percent of funds in 2015 to at least 9 of 26 groups receiving about 35 percent of funds in 2016, and at least 12 of 31 groups receiving about 39 percent of funds in 2017.¹⁶⁶ At least 12 of 42 organizations receiving Justice Fund assistance for crime victims in 2018 are openly affiliated with the Catholic Church, and at least four focus on the family; these 16 groups received about 37 percent of the annual Justice Fund allocation for victims of crime. Human Rights Watch was unable to determine the activities or potential affiliation of four additional organizations.¹⁶⁷ At time of writing, the Ministry of Justice has not responded to a written request for information concerning funding of organizations working on violence against women.

Women’s Rights Center, Warsaw and Łódź

After several years of financing, the Ministry of Justice (MOJ) discontinued funding to the Women’s Rights Center in 2016. A letter from Undersecretary of State for the Ministry of Justice Łukasz Piebiak attributed this to the fact that the center assists only female victims of domestic violence and its services are therefore discriminatory, violating Article 9 of the EU Victims’ Rights Directive, which calls for non-discriminatory treatment of victims.¹⁶⁸ This interpretation ignores the Directive’s recognition of unique risks for and needs of women victims of domestic and other gender-based violence, and its call for targeted and specialized services to assist them.¹⁶⁹

¹⁶⁵ Human Rights Watch interview with Anna Głogowska-Balcerzak, August 7, 2018.

¹⁶⁶ “Response to interpellation No. 24245 on support for women affected by domestic or sexual violence.”

¹⁶⁷ Ibid.

¹⁶⁸ Undersecretary of State in the Ministry of Justice Łukasz Piebiak, “Odpowiedź na interpelację nr 3556 w sprawie pozbawienia finansowania Centrum Praw Kobiet” (“Response to the interpellation No. 3556 on the defunding for the Women’s Rights Center”), June 29, 2016, <http://www.sejm.gov.pl/sejm8.nsf/InterpelacjaTresc.xsp?key=44072680> (accessed January 24, 2019).

¹⁶⁹ Victims’ Rights Directive, paras. 17, 18, 38; Arts. 9.3(b), 22.3.

When the MOJ again denied the Women’s Rights Center funding in 2017, “they had gotten smarter,” said Głogowska-Balcerzak, of the Women’s Rights Center in Łódź; they did not cite discrimination as the cause, but simply said the organization’s proposal had not received “enough points” in the selection process.¹⁷⁰ Under a public information act, the center requested documentation of other project proposals and their scoring. Although it pertains to use of public funds, the ministry initially refused and then sent only partial documentation, saying some groups had not agreed to information-sharing.¹⁷¹ Głogowska-Balcerzak noted there is no appeals procedure for decisions during the grantee selection process.¹⁷² The MOJ again refused to fund Women’s Rights Center for 2018 on grounds that its proposal had not garnered enough points.¹⁷³

Głogowska-Balcerzak said the center considered taking further legal action but that, due to limited capacity, they had to choose between working with clients or going to court.¹⁷⁴ “When we have women waiting in the corridors [of the center], we will work [there],” she said. “It [going to court] probably wouldn’t be useful anyhow.”¹⁷⁵

Głogowska-Balcerzak said the 2015 budget of the Women’s Rights Center in Łódź included 500,000 złoty (\$134,402) in MOJ funds compared to about 50,000 złoty (\$13,440) in municipal funds: “So [MOJ funding] was a lot, almost our whole budget.”¹⁷⁶ She said the center used to serve around 1,000 new women a year; in 2017, after the funding cuts, they had 470 new clients, or less than half as many as in previous years.¹⁷⁷

The center could no longer pay full-time salaries. Several psychologists and lawyers now work a maximum of 30 percent time “because they have to [work elsewhere] to earn a

¹⁷⁰ Human Rights Watch interview with Anna Głogowska-Balcerzak, August 7, 2018.

¹⁷¹ Ibid.; Human Rights Watch interview with Urszula Nowakowska, Women’s Rights Center, Warsaw, August 1, 2018.

¹⁷² Human Rights Watch interview with Anna Głogowska-Balcerzak, August 7, 2018. The Ministry of Justice also refused funding to the Empowering Children Foundation in 2016 on grounds that they do not provide services for all victims of crime. They received funding in 2017 but were rejected again in 2018 without explanation. Human Rights Watch interview with Maria Keller-Hamela, Empowering Children Foundation, Warsaw, August 8, 2018.

¹⁷³ Human Rights Watch interviews with Urszula Nowakowska, August 1, 2018, and Anna Głogowska-Balcerzak, August 7, 2018.

¹⁷⁴ Human Rights Watch interview with Anna Głogowska-Balcerzak, August 7, 2018.

¹⁷⁵ Ibid.

¹⁷⁶ Ibid.

¹⁷⁷ Ibid.

living.”¹⁷⁸ As a result, women who come to the center may no longer access the same level of service. For example, legal staff used to accompany domestic violence survivors throughout legal processes and closely monitor their court cases. Now, “some [women] come and maybe just get one or two legal sessions, just to help them draft a document,” Głogowska-Balcerzak said.¹⁷⁹ Likewise, the level of psychological support has changed; in the past most clients had individual sessions, but now they are combined in group sessions to make the best use of counsellors’ limited hours.¹⁸⁰

With MOJ funding, the center offered legal and psychological aid in small towns outside Łódź, but they have had to virtually cease work outside the city, severely limiting service availability for rural women. “We had clients from all over the region,” Głogowska-Balcerzak said. “Now we have only one support group in one small town.”¹⁸¹

Another critical gap is payment of rent and essentials for women in abusive relationships, which MOJ funds used to cover. The Łódź Women’s Rights Center consistently provided 50-70 women with financial aid via coupons for food and other essentials but can no longer offer this.¹⁸² Głogowska-Balcerzak spoke about the importance of such support given a lack of specialized and dedicated shelters for women survivors of violence, who may feel uncomfortable in shelters shared with men: “Some women stay with their abusive partners because they have nowhere else to go,” she said. “In Łódź, there is one shelter run by an NGO. It has about 20 places maybe ... but they also accept men.”¹⁸³

Women’s Rights Center in Warsaw also reduced paid staff due to discontinuation of MOJ funding. Urszula Nowakowska, president of Women’s Rights Center, said they previously had two offices in Warsaw employing over 20 lawyers, psychologists, case managers and other staff, many full-time. Without MOJ funding, Nowakowska said, the center employs 12 paid staff, most part-time, and relies on volunteers. The center has cut hours of service provision, since many volunteers can only work evenings.¹⁸⁴

¹⁷⁸ Ibid.

¹⁷⁹ Ibid.

¹⁸⁰ Ibid.

¹⁸¹ Ibid.

¹⁸² Ibid.

¹⁸³ Ibid.

¹⁸⁴ Human Rights Watch interview with Urszula Nowakowska, August 1, 2018.

The Warsaw Women’s Rights Center now provides direct services to about 1,000 women per year; with MOJ funding, they served around 3,000 women per year, or three times as many. They provide fewer counseling services and can no longer offer financial support for food, rent, or education.¹⁸⁵ According to Nowakowska, lengthy waits for services discourage some women from getting help: “A woman will call, and we’ll offer her an appointment to come in two weeks.... She’ll say, ‘But I have made the decision [to get help] today.’ Sometimes we lose them.”¹⁸⁶

The Women’s Rights Center in Warsaw received funding from the MRPiPS for several years through 2015. When they lost MRPiPS funding, the center had to forgo its second office. Nowakowska said they no longer apply for MRPiPS funding. “Now they give the funds to smaller organizations linked to the church,” she said.¹⁸⁷

At this writing, the MRPiPS had not responded to a written request for information concerning funding of violence against women organizations.

BABA Association for Women, Zielona Góra

The MOJ funded BABA, which supports survivors of violence and is based in Zielona Góra in western Poland, for seven years before refusing them funding in 2016.¹⁸⁸ “[The Ministry] never gave us any negative feedback, so we never thought a negative decision [about funding] would happen,” said Ilona Motyka, vice-president of BABA.¹⁸⁹

BABA did not receive any explanation for the discontinuation of funding. Because BABA’s services are open to all victims of violence—men account for approximately five percent of its clients, Motyka said—the ministry could not claim discrimination against certain victims of crime as grounds for denial of funding.¹⁹⁰

Between 2012 and 2016, MOJ granted BABA 600,000 złoty a year (about \$159,000), which Motyka said financed 80 percent of their organizational budget. “It basically covered our

¹⁸⁵ Ibid.

¹⁸⁶ Ibid.

¹⁸⁷ Ibid.

¹⁸⁸ Human Rights Watch interview with Ilona Motyka, BABA Association for Women, Zielona Góra, August 6, 2018.

¹⁸⁹ Ibid.

¹⁹⁰ Ibid.

activities,” she said.¹⁹¹ Since losing the funds, BABA has limited its activities to the city of Zielona Góra. Before, Motyka said, MOJ funding allowed BABA to offer weekly psychological and legal support to victims of violence at 13 points of contact in multiple municipalities, covering approximately half of the Lubuskie voivodeship, or province. “It was important because there were very few other services there,” she said.¹⁹²

BABA used MOJ funding to provide financial support for survivors of violence, including coupons for food and clothing, reimbursements for travel to or from BABA service points, and rent payments for domestic violence survivors who needed to leave home to escape perpetrators. “The lack of financial aid is very acutely felt,” said Motyka.¹⁹³

BABA also had to eliminate salaries for virtually all staff, including a psychologist and lawyer who now work as volunteers.¹⁹⁴

Niebieska Linia (Blue Line), Warsaw

Blue Line, which offers services to victims of violence, 95 percent of whom are women, is the only organization with which Human Rights Watch met that continues to receive any MOJ funds. However, Renata Durda, Blue Line’s executive director, said that shortly after the 2015 election, the ministry significantly reduced funding and ended support to their hotline, which provides telephone counseling and referrals. According to Durda, the ministry said help via telephone is ineffective. Without MOJ support, Durda said, they had to reduce the hotline’s hours of operation by half, from twelve hours a day to six.¹⁹⁵

Upon learning of the MOJ’s decision to defund the hotline and limit funds for other activities, Durda said she went to the press, after which she said she was “invited to the ministry as a ‘warning.’”¹⁹⁶ She said MOJ officials told her they were certain that her organization had something to hide—such as financial mismanagement—and that they would prove it. They conducted an audit that she said lasted almost three years when it should have taken months. “It shows an element of distrust of the NGOs,” Durda said.

¹⁹¹ Ibid.

¹⁹² Ibid.

¹⁹³ Ibid.

¹⁹⁴ Ibid.

¹⁹⁵ Human Rights Watch interview with Renata Durda, August 10, 2018.

¹⁹⁶ Ibid.

“The audits were always done, but now they are longer and there are more of them.”¹⁹⁷ Moreover, she said such audits are conducted under pressure from authorities and with the intent of proving culpability.¹⁹⁸

Autonomia Foundation, Kraków

The MRPiPS rescinded funding of Autonomia, a Kraków-based organization, mid-grant and demanded repayment of money already spent on project activities.

Autonomia, which conducts anti-violence and anti-discrimination education workshops as well as advocacy and empowerment activities, signed a two-year grant agreement with MRPiPS in April 2016 for the project, “Zero Violence—Commitment, Education, Advocacy against Gender Violence.” The grant covered 198,620 złoty (\$52,637) of the total project cost of 221,020 złoty (\$58,573), with Autonomia contributing the remainder.¹⁹⁹ Project activities included anti-violence and anti-discrimination workshops in schools and advocacy with government ministries on gender-based violence. This included workshops in conjunction with the international 16 Days Campaign of Action on Violence against Women, held annually between November 25 and December 10.²⁰⁰

On November 28, 2016, Robert Winnicki, a member of parliament then affiliated with the right-wing Kukiz ’15 movement (now an independent MP and a leader of the National Movement, a coalition of nationalist groups), denounced MRPiPS’ support of Autonomia in the Sejm.²⁰¹ He claimed public funds were being used to “popularize the idea of feminism and gender equality,” “promote the LGBT subculture and homosexual lifestyle,” and

¹⁹⁷ Ibid.

¹⁹⁸ Ibid.

¹⁹⁹ “Umowa nr 95_II/2016 o realizację zadania publicznego zleconego w ramach Programu Fundusz Inicjatyw Obywatelskich pod nazwą ZERo przemocy: Zaangażowanie, Edukacja, Rzecznictwo przeciwko przemocy ze względu na płeć zawartą w dniu 13 kwietnia 2016 w Warszawie” (Contract no 95_II/2016), https://www.autonomia.org.pl/doc/umowa_95_II_2016.pdf (accessed January 24, 2019).

²⁰⁰ Human Rights Watch interview with Agata Teutsch, President, Autonomia Foundation, Kraków, August 2, 2018; “Miało być zero przemocy – jest zero pieniędzy na przeciwdziałanie przemocy wobec kobiet i dziewczynek – historia dla ludzi o mocnych nerwach” (Timeline), Fundacja Autonomia, <https://www.autonomia.org.pl/index.php?id=pro&ajdi=42> (accessed January 23, 2019).

²⁰¹ Robert Winnicki, “Interpelacja nr 8185 do ministra rodziny, pracy i polityki społecznej w sprawie dotowania organizacji promujących dewiacje przez MRPiPS” (Interception No. 8185 to the minister of the family, work and social policy on subsidizing organizations promoting deviations by the Ministry of Labor and Social Policy), November 28, 2016, <http://www.sejm.gov.pl/Sejm8.nsf/InterpelacjaTresc.xsp?key=58E13630> (accessed January 23, 2019).

“attack traditional customs, family and culture.”²⁰² He referenced Agata Teutsch, director of Autonomia, by name and derided her feminist and LGBT activism.²⁰³

On November 30, PiS member of parliament Piotr Uściński reiterated concerns raised by Winnicki, calling Autonomia’s president a “lesbian activist” and the group’s activities “a manifestation of feminist and homosexual agitation.”²⁰⁴ He and Winnicki also derided other Polish women’s rights groups such as Ponton and Feminoteka.²⁰⁵ Uściński questioned whether the ministry was aware of Autonomia’s planned activities for the 16 Days of Activism and asked, “If so, how can this be reconciled with the simultaneous activities of the ministry supporting a strong position of the family and marriage?”²⁰⁶

The ministry confirmed having funded Autonomia’s Zero Violence project, though not 16 Days of Activism activities specifically.²⁰⁷ Further backlash arose in Catholic media.²⁰⁸ One week later, on December 7, Teutsch received a phone call and written request from the MRPiPS asking for information about school workshops Autonomia had organized during the 16 Days of Activism.²⁰⁹ Teutsch responded by e-mail the following day, December 8. The same day, a member of the MRPiPS Public Support Office telephoned and said MRPiPS staff were coming to Autonomia’s offices for a monitoring visit. “He said, ‘They will be in

²⁰² Ibid.; “Robert Winnicki: rząd Prawa i Sprawiedliwości podąża tęczową autostradą i nie widać nawet hamowania,” *Polonia Christiana*, November 30, 2016, <https://www.pch24.pl/robert-winnicki-rzad-prawa-i-sprawiedliwosci-podaza-teczowa-autostrada-i-nie-widac-nawet-hamowania,47749,i.html> (accessed January 23, 2019).

²⁰³ Robert Winnicki, Interpelacja nr 8185.

²⁰⁴ Piotr Uściński, Zapytanie nr 1354 do ministra rodziny, pracy i polityki społecznej w sprawie dofinansowania projektu Fundacji Autonomia (Request No. 1354 to the minister of the family, work and social policy on co-financing the project of the Autonomia Foundation), November 30, 2016, <http://www.sejm.gov.pl/Sejm8.nsf/InterpelacjaTresc.xsp?key=659BBE19&view=2> (accessed January 23, 2019).

²⁰⁵ Piotr Uściński, Zapytanie nr 1354.

²⁰⁶ Ibid.

²⁰⁷ Human Rights Watch interview with Agata Teutsch, August 2, 2018; MRPiPS, “Wyjaśnienie w związku z artykułem dotyczącym kampanii ‘16 dni przeciw przemocy ze względu na płeć,’ opublikowanym 27 listopada 2016 r. na portalu *Polonia Christiana*” (“Explanation regarding the article about the campaign ‘16 days against gender-based violence,’ published on 27 November 2016 on the ‘Polonia Christiana’ page”), November 28, 2016, <https://www.gov.pl/web/rodzina/wyjasnienie-w-zwiazku-z-artykulem-dotyczacym-kampanii-16-dni-przeciw-przemocy-ze-wzgledu-na-plec-opublikowanym-27-listopada-2016-r-na-portalu-polonia-christiana> (accessed January 23, 2019).

²⁰⁸ “Promocja idei LGBT a ministerialne wsparcie dla kampanii przeciwko przemocy,” *Polonia Christiana*, November 28, 2016, <https://www.pch24.pl/promocja-idei-lgbt-a-ministerialne-wsparcie-dla-kampanii-przeciwko-przemocy,47701,i.html> (accessed January 23, 2019).

²⁰⁹ Human Rights Watch interview with Agata Teutsch, August 2, 2018; Email correspondence from MRPiPS to Agata Teutsch, December 7, 2017, on file with Human Rights Watch.

your office in one hour,” Teutsch recalled.²¹⁰ She compared this visit to previous ones, saying, “Before, I was told ahead of time, it was prepared in advance.”²¹¹

Teutsch said within a few days she received a letter informing her that MRPiPS had withdrawn the funding agreement, asking Autonomia to stop project activities and demanding repayment of funds already spent, plus interest, within 15 days of the grant termination.²¹² The letter confirming termination of the contract is dated December 9, 2016—the day immediately following the monitoring visit.²¹³

MRPiPS terminated the contract on grounds that the organization had not conducted agreed-upon advocacy activities or led workshops in accordance with the grant agreement. Teutsch responded in writing, saying workshops were conducted as agreed and advocacy had become impossible because government ministries ignored their requests.²¹⁴ She also noted that, following the monitoring visit, Autonomia received no notice that the ministry had found any wrongdoing and that, according to the grant agreement, the organization should have been permitted time to correct any problems.²¹⁵

After a year of exchanging documents, reports, and information, the ministry agreed that Autonomia did not have to repay the funds already spent.²¹⁶ Teutsch noted that the

²¹⁰ Human Rights Watch interview with Agata Teutsch, August 2, 2018.

²¹¹ Ibid.

²¹² Ibid.

²¹³ “Rozwiązanie umowy ze skutkiem natychmiastowym” (“Termination of the contract with immediate effect”), MRPiPS, December 9, 2016, https://www.autonomia.org.pl/doc/rozwiązanie_umowy_9_12_2016.pdf (accessed January 24, 2019); Undersecretary of State in the Ministry of Family, Labor and Social Policy Krzysztof Michałkiewicz, “Odpowiedź na zapytanie nr 1354 w sprawie dofinansowania projektu Fundacji Autonomia” (Reply to question No. 1354 on funding the project of the Autonomia Foundation), January 5, 2017, <http://www.sejm.gov.pl/Sejm8.nsf/InterpelacjaTresc.xsp?key=523ED424&view=2> (accessed January 24, 2019).

²¹⁴ Human Rights Watch interview with Agata Teutsch, August 2, 2018; “Oświadczenie w sprawie rozwiązania przez MRPiPS umowy nr 95_II/2016 z dnia 13 kwietnia 2016 zawartej pomiędzy Ministrem Rodziny, Pracy i Polityki Społecznej a Fundacją Autonomia” (“Declaration on the termination of the agreement No. 95_II / 2016”), December 21, 2016, https://www.autonomia.org.pl/doc/odpowiedz_Autonomii_na_decyzje_o_rozwiazaniu_umowy_przez_MRPIPS.pdf (accessed January 24, 2019).

²¹⁵ Human Rights Watch interview with Agata Teutsch, August 2, 2018; Autonomia Foundation, “Oświadczenie w sprawie rozwiązania przez MRPiPS umowy nr 95_II/2016 z dnia 13 kwietnia 2016 zawartej pomiędzy Ministrem Rodziny, Pracy i Polityki Społecznej a Fundacją Autonomia”; Aleksandra Pawłowska, Krzysztof Zawiślak, MRPiPS, “Karta monitoringu” (“Monitoring card”), December 8, 2016, <https://www.autonomia.org.pl/doc/karta%20monitoringu%20Fundacja%20Autonomia.pdf> (accessed January 24, 2019).

²¹⁶ Human Rights Watch interview with Agata Teutsch, August 2, 2018; “Miało być zero przemocy – jest zero pieniędzy na przeciwdziałanie przemocy wobec kobiet i dziewczynek.”

ministry failed to engage in any administrative procedure to resolve disputes, as per the grant agreement and requested by Autonomia.²¹⁷

The funding withdrawal left Autonomia struggling. The organization had to reduce activities and give up its office space. They cut employee salaries drastically. Teutsch said she works full-time but is paid for only 16 hours a week. “We used all our energy and power just to keep going,” Teutsch said. “Our volunteers, the people who work with us—they can’t work under such financial conditions and stress. Many of them burned out.”²¹⁸

Teutsch said personal smears by politicians and in the press have put her and the work of Autonomia at risk. “There were articles that mentioned me by name, that said I’m a dangerous person for kids,” she said. “For some communities or some people, [now] I’m someone not to cooperate with, I’m not someone you can trust.”²¹⁹

Autonomia’s experience led others to shy away from government support. “We are worried about the potential consequences—like what happened to Autonomia,” said Piotrowska of Feminoteka. “If it happened to us, it would paralyze our activities because we have too few staff.”²²⁰

Government Raids

On October 3, 2017, activists and Polish citizens marked the first Black Protest anniversary with demonstrations against ongoing attempts to curb abortion.²²¹ On October 4, police raided NGO offices, including three offices of Women’s Rights Center and the office of BABA, all in different cities. Both organizations provide services to survivors of domestic and other gender-based violence.

²¹⁷ Ibid.

²¹⁸ Human Rights Watch interview with Agata Teutsch, August 2, 2018.

²¹⁹ Ibid.

²²⁰ Human Rights Watch interview with Joanna Piotrowska, July 31, 2018.

²²¹ Steven Hoffman, “On anniversary of abortion ban protests, women take to the streets: ‘We have not folded our umbrellas,’” *Krakow Post*, October 3, 2017, <http://www.krakowpost.com/18264/2017/10/abortion-ban-czarny-protest-anniversary> (accessed January 24, 2019).

Police told them the raids stemmed from an investigation into alleged misconduct by former Ministry of Justice (MOJ) staff and that the groups' MOJ funding was grounds for the raids, including seizure of documents and computers.²²²

Police arrived unannounced at the Women's Rights Center offices in Warsaw, Łódź, and Gdańsk simultaneously, and at BABA's office in Zielona Góra. Anna Głogowska-Balcerzak, in Łódź, and Urszula Nowakowska, in Warsaw, were speaking by phone and realized police were at each of their Women's Rights Center offices. "It was scary—it was a coordinated action," Głogowska-Balcerzak said. "You don't use these kinds of methods to deal with non-suspects."²²³

In Łódź, police permitted Głogowska-Balcerzak to provide digital copies (CD-ROMs) of documents, but in Warsaw, Gdańsk, and Zielona Góra they seized computer hard drives as well as paper documents. Interviewees from both organizations told Human Rights Watch that, as funding recipients, they had already submitted extensive documentation to the MOJ, rendering the searches and seizures unnecessary.²²⁴ "They already have all the documentation at the ministry, so [the raids] were also symbolic," said Głogowska-Balcerzak.²²⁵

The activists said police methods suggested the raids had an underlying purpose. "If you need documents, then write a petition, ask for them," said Głogowska-Balcerzak. "They had four police officers to get a few binders."²²⁶ Nowakowska said police did not simply request and collect materials—they conducted a search. "They didn't only ask me for documents, they looked in all possible places for documents," she said.²²⁷

²²² Human Rights Watch interviews with Urszula Nowakowska, August 1, 2018, Ilona Motyka, August 6, 2018, and Anna Głogowska-Balcerzak, August 7, 2018. See also "Police raid offices of women's groups in Poland after protests," *Guardian*, October 5, 2017, <https://www.theguardian.com/world/2017/oct/05/police-raid-offices-of-womens-groups-in-poland> (accessed January 24, 2019).

²²³ Human Rights Watch interview with Anna Głogowska-Balcerzak, August 7, 2018.

²²⁴ Human Rights Watch interviews with Urszula Nowakowska, August 1, 2018, Ilona Motyka, August 6, 2018, and Anna Głogowska-Balcerzak, August 7, 2018.

²²⁵ Human Rights Watch Interview with Anna Głogowska-Balcerzak, August 7, 2018.

²²⁶ Ibid.

²²⁷ Human rights Watch interview with Urszula Nowakowska, August 1, 2018.

Nowakowska said at least one policeman complained about Women’s Rights Center’s activism. “[A policeman] said it would be better if I stop giving interviews or making comments in the media,” she said. “Of course, I felt very insecure, intimidated.”²²⁸

The sense that the government was targeting women’s rights activism was compounded by the timing of the raids, immediately after the October 3 protests, which staff from all four raided offices had participated in or supported.²²⁹ Two of the activists said prosecutors had decided in July that they would conduct the raids, including one who said the search warrant police showed her was dated July. They felt officials delayed the raids to coincide with the October protests.²³⁰ “They used it very smartly to send a message of intimidation,” said Ilona Motyka, of BABA. “[By making you] see the police in your own doorway.”²³¹

Impact of Raids

Activists said the raids deterred survivors of violence from seeking services, contributed to public distrust of the organizations, and created fear and unease amongst the staff and volunteers.

Impact on Survivors of Violence Needing Help

All the raided offices stored sensitive and confidential information, including details about clients seeking help due to domestic or other violence. Activists voiced concern about police and other authorities accessing such information and, because the raids were widely reported in local and national media, the impact on people needing services. Such services are confidential, in line with international best practice standards for security and survivor-centered care.

Głogowska-Balcerzak, of the Łódź Women’s Rights Center, said she received an email about a month after the raids from a woman survivor of violence requesting legal

²²⁸ Ibid.

²²⁹ Human Rights Watch interviews with Urszula Nowakowska, August 1, 2018, Ilona Motyka, August 6, 2018, and Anna Głogowska-Balcerzak, August 7, 2018. See also, Anton Ambroziak, “Policja czekała 72 dni z wkroczeniem do biur organizacji kobiecych. Miała postanowienie już od 24 lipca, weszła dzień po czarnym proteście,” *OKO.Press*, October 5, 2017, <https://oko.press/news-oko-press-policja-czekala-72-dni-wkroczeniem-biur-organizacji-kobiecych-miala-postanowienie-juz-24-lipca-weszla-dzien-czarnym-proteście/> (accessed January 24, 2019).

²³⁰ Human Rights Watch interviews with Urszula Nowakowska, August 1, 2018, and Ilona Motyka, August 6, 2018.

²³¹ Human Rights Watch interview with Ilona Motyka, August 6, 2018.

assistance. “She said she wanted to come sooner, but she saw [the news] about the police raid and she was afraid,” Głogowska-Balcerzak said.²³²

At the Warsaw Women’s Rights Center, the police raid occurred in the presence of staff members and some survivors accessing services. “It was very frightening for clients,” Nowakowska said. “I think some clients think of us differently [since the raids].”²³³

Głogowska-Balcerzak noted particular concern about the deterrent effect for survivors if perpetrators have links to government agencies. “Some clients’ husbands or partners are police officers or officials,” Głogowska-Balcerzak said. “They are probably worried now because they feel what they say here may not be safe.”²³⁴

Impact on Organizations, Fear of Surveillance

The raids caused increased anxiety among organizations’ staff members as well. Several activists expressed fear of surveillance following the raids, including via computer equipment that was confiscated and returned. Nowakowska explained:

After they returned the [computer] disks, I was afraid. I was also afraid to use the telephone.... I feel paranoid. Sometimes I prefer to talk somewhere else [outside the office]. Sometimes I’m suspicious of volunteers or people who come—even one of our staff members who used to work at [a government] office.²³⁵

A January 2016 amendment to the Police Act broadened the government’s ability to conduct surveillance on citizens while failing to ensure safeguards protecting rights. Activists have been surveilled by police after participating in peaceful protests.²³⁶

Even activists at organizations that were not raided felt a heightened sense of danger for themselves and their clients. Joanna Piotrowska, of Feminoteka in Warsaw, said the raids compounded concerns about relationships with or even funding from the government, and

²³² Human Rights Watch interview with Anna Głogowska-Balcerzak, August 7, 2018.

²³³ Human Rights Watch interview with Urszula Nowakowska, August 1, 2018.

²³⁴ Ibid.

²³⁵ Ibid.

²³⁶ Amnesty International, *The Power of ‘the Street,’* pp. 23-24.

whether women would stop seeking help. “If there were random controls [of our activities], or different people have access to the database [of client information]—women might start doubting us and not come,” she said.²³⁷

She echoed virtually all the other activists interviewed when she said, “I think that what happened with BABA and Autonomia was to incite fear in other organizations. I am sure that was one of the goals.”²³⁸

In a January 2018 letter to Polish Prime Minister Mateusz Morawiecki, the Council of Europe’s then-Commissioner for Human Rights noted the potential “chilling effect” of the raids on both NGOs and the women they serve.²³⁹

Głogowska-Balcerzak said the raids continue to unsettle her staff. “It is still in the back of your mind,” she said. “There is a slight, constant fear, wondering what will be next.”²⁴⁰

Intimidation and Retaliation

Human Rights Watch interviewed eleven women who said they experienced intimidation or retaliation as a result of supporting women’s rights causes or cooperating with groups working on women’s rights issues. Five were public employees who said their jobs were threatened, including three teachers and one school headmistress subjected to investigations and disciplinary proceedings. Interviewees also told Human Rights Watch about at least seven other similar cases, though Human Rights Watch was unable to interview those directly involved to confirm events. Two activists said their NGOs lost office space because of their affiliation with women’s rights issues.

Retaliation for Participating in or Supporting Protests

Five women said government agencies threatened to terminate, and in one case did terminate, their employment due to support of or involvement in Black Protest activities.

²³⁷ Human Rights Watch interview with Joanna Piotrowska, July 31, 2018.

²³⁸ Ibid.

²³⁹ Letter from Council of Europe Commissioner for Human Rights Nils Muižnieks to Polish Prime Minister Mateusz Morawiecki, Comm. HR/NM/sf 001-2018, January 19, 2018, <https://rm.coe.int/letter-to-mr-mateusz-morawiecki-prime-minister-of-the-republic-of-pola/1680784182> (accessed January 24, 2019).

²⁴⁰ Human Rights Watch interview with Anna Głogowska-Balcerzak, August 7, 2018.

The Case of the Zabrze Teachers

In a widely-reported case, authorities from the provincial Ministry of Education, or the Kuratorium, undertook investigations and disciplinary proceedings against nine staff members and a headmistress at a public school for children with intellectual disabilities in Zabrze, Silesia province.²⁴¹

Authorities began investigating the staff members after a former colleague lodged a complaint regarding a photograph of them posing in black during a school recess on October 3, 2016, the day of the Black Protest.²⁴² He also re-posted the photo on Facebook with the hashtag #CzarnyProtest (Black Protest) and inflammatory, anti-abortion comments.²⁴³ “He was comparing us to the SS, to Hitler, to people wanting to kill people with disabilities,” said Ewa Wnorowska, a therapist at the school for 27 years.²⁴⁴

Kuratorium employees questioned school staff, focusing on whether teachers left children unattended to participate in the photo.²⁴⁵ The initial Kuratorium monitoring visit concluded that “no irregularities were found.”²⁴⁶ Yet the Kuratorium initiated explanatory proceedings, which follow an investigation if disciplinary measures may potentially be pursued. The proceedings were launched on grounds of violating responsibilities under Article 6 of the Teacher’s Code to “educate and bring up youth in the love of the Fatherland, in respect of the Constitution of the Republic of Poland, in an atmosphere of freedom of conscience and respect for every human being” and to “take care to shape moral and civic attitudes in students in accordance with the idea of democracy, peace and friendship between people

²⁴¹ Human Rights Watch telephone interview with Natalia Klima-Piotrowska, attorney, August 23, 2018.

²⁴² “Organ Kuratorium Oświaty w Kielcach oraz jego zadania i kompetencje” (“Kuratorium of Education in Kielce and its tasks and competences”), Kuratorium Oświaty w Kielcach, March 20, 2016, <https://kuratorium.kielce.pl/9321/organ-kuratorium-oswiaty-w-kielcach-oraz-jego-zadania-i-kompetencje/> (accessed January 24, 2019). According to interviewees, two administrative staff members also in the photograph are not regulated by the Teachers’ Code so were not investigated. Human Rights Watch telephone interview with Ewa Wnorowska, Katarzyna Gwóźdź, and Aleksandra Piotrowska, September 17, 2018.

²⁴³ Anna Malinowska, “Czarny protest w zabrzańskiej szkole. Nauczyciel kpi ze swoich koleżanek,” *Gazeta Wyborcza*, October 13, 2016, <http://katowice.wyborcza.pl/katowice/1,35063,20833369,czarny-protest-w-zabrzanskiej-szkole-nauczyciel-kpi-ze-swoich.html> (accessed January 23, 2019).

²⁴⁴ Human Rights Watch telephone interview with Ewa Wnorowska, Katarzyna Gwóźdź, and Aleksandra Piotrowska, September 17, 2018.

²⁴⁵ Ibid.

²⁴⁶ Ibid.; Kuratorium Oświaty w Katowicach, “Protokół kontroli doraźnej” (“Report from the ad hoc audit”), November 9, 2016, on file with Human Rights Watch.

of different nations, races and world views.”²⁴⁷ The Kuratorium launched disciplinary proceedings in January 2017 against the 10 employees, including the headmistress, on grounds of public manifestation of views which “violated the ethics and dignity of the teaching profession.”²⁴⁸

Katarzyna Gwóźdź, another teacher at the school for 27 years who was subjected to disciplinary proceedings, said one of the initial monitors told her the Kurator—the Kuratorium head—pressured them to conclude that there had been wrongdoing. “It was like [the results] had already been decided ahead of time,” Gwóźdź said.²⁴⁹

The teachers also noted the political context in which the accusations occurred; upon coming to power, PiS appointed new pro-government Kurators in many provinces (voivodeships). In Silesia, the new Kurator had been a PiS mayoral candidate in another town.²⁵⁰ “She is very close with PiS,” Wnorowska said, explaining that it would be embarrassing for a PiS politician to be perceived as overseeing a district where public school employees’ behavior does not align with the government. “It was unthinkable that these things were happening at a school under her [leadership].”²⁵¹

Teachers said local authorities made an example of them to deter others from supporting or participating in protests. “The goal was a chilling effect to scare people not to go into

²⁴⁷ Disciplinary Spokesperson for Teachers of the Silesian Voivode, List Rzecznika Dyscyplinarnego dla Nauczycieli przy Wojewodzie Śląskim do Ewy Wnorowskiej (Letter to Ewa Wnorowska from the Disciplinary Spokesperson for Teachers of the Silesian Voivode), November 30, 2016, on file with Human Rights Watch; Karta Nauczyciela (Dz. U. 1982 Nr 3 poz. 19) (Teachers’ Code), <http://prawo.sejm.gov.pl/isap.nsf/download.xsp/WDU19820030019/U/D19820019Lj.pdf> (accessed January 24, 2019), arts. 6.4 and 6.5.

²⁴⁸ The official charge was violation of the responsibilities under the Teacher’s Code due to public manifestation of views in the school area where [they are] employed during working hours on October 3, 2016, and further publicizing this on Facebook. “Wszczęcie postępowania wyjaśniającego” (“Initiation of explanatory proceedings”), Disciplinary Spokesperson for Teachers of the Silesian Voivode, November 30, 2016, on file with Human Rights Watch; “Wszczęcie postępowania dyscyplinarnego,” (Decision to initiate disciplinary proceeding), Deputy Disciplinary Spokesperson for Teachers of the Silesian Voivode, January 11, 2017, on file with Human Rights Watch.

²⁴⁹ Human Rights Watch telephone interviews with Ewa Wnorowska, Katarzyna Gwóźdź, and Aleksandra Piotrowska, September 17, 2018, and Katarzyna Gwóźdź, October 17, 2018.

²⁵⁰ Adrian Heluszka, “Urszula Bauer nowym Śląskim Kuratorem Oświaty. W czwartek rozpocznie swe urzędowanie” (“Urszula Bauer is the new Silesian Superintendent of Education”), *Dziennik Zachodni*, March 16, 2016, <https://dziennikzachodni.pl/urszula-bauer-nowym-slaskim-kuratorem-oswiaty-w-czwartek-rozpocznie-swe-urzedowanie/ar/9746580> (accessed January 24, 2019); Justyna Suchecka, “Szkoły pod kuratelą PiS. Kim są nowi kuratorzy?” (“Schools Under the Supervision of Law and Justice: Who are the New Kurators?”), *Gazeta Wyborcza*, April 12, 2016, <http://wyborcza.pl/1,75398,19903388,skoly-pod-kuratela-pis-kim-sa-nowi-kuratorzy.html> (accessed January 24, 2019).

²⁵¹ Human Rights Watch telephone interview with Ewa Wnorowska, October 5, 2018.

the streets, to stay home,” Wnorowska said. “We faced the possibility of public criticism or being fired or being dismissed from ever being able to teach again.”²⁵²

In March 2017, the Disciplinary Commission found that disciplinary action was not warranted. It ruled that given the lack of students in the vicinity when the photograph was taken and the brevity of the act, the employees could not be found culpable of imposing their views or failing to provide good learning conditions.²⁵³

However, the proceedings and ongoing ill-treatment by colleagues affected the teachers’ physical and mental health as well as their jobs. The teachers said the headmistress—herself facing disciplinary action for the photograph—publicly blamed them for harming the school’s reputation, questioned their skills and expertise, and turned other employees against them. “It seemed like her only goal was to get rid of us as soon as possible,” Wnorowska said.²⁵⁴

The teachers said that, trying to demonstrate loyalty to the headmistress and avoid punishment, other staff members followed the headmistress’s lead, avoiding eye contact and refusing to share important information about students. “They treated us like lepers,” Wnorowska said. “The atmosphere didn’t allow us to work normally.”²⁵⁵

Wnorowska and Gwóźdź took medical leave for the 2017-2018 school year (September 2017-June 2018) due to what they said were effects of long-term stress, including stomach problems, anxiety, difficulty sleeping, and symptoms of depression.²⁵⁶

The teachers said those who continued to work but did not back the headmistress faced career and financial repercussions, such as limited-term contracts and reduced teaching schedules, which translate to less income.²⁵⁷ “I feel I was punished,” said Aleksandra

²⁵² Human Rights Watch telephone interviews with Ewa Wnorowska, Katarzyna Gwóźdź, and Aleksandra Piotrowska, September 17, 2018, and Natalia Klima-Piotrowska, August 23, 2018. See also Teachers’ Code. Art. 76.

²⁵³ “Orzeczenie dyscyplinarne” (“Disciplinary Ruling”), Disciplinary Commission for Teachers of the Silesian Voivode, March 22, 2017, on file with Human Rights Watch.

²⁵⁴ Human Rights Watch telephone interview with Ewa Wnorowska, October 5, 2018.

²⁵⁵ Ibid.

²⁵⁶ Human Rights Watch telephone interviews with Ewa Wnorowska, Katarzyna Gwóźdź, and Aleksandra Piotrowska, September 17, 2018, Ewa Wnorowska, October 5, 2018, and Katarzyna Gwóźdź, October 17, 2018.

²⁵⁷ Ibid.; Human Rights Watch telephone interviews with Ewa Wnorowska, October 5, 2018, and Katarzyna Gwóźdź, October 17, 2018.

Piotrowska, who returned to work after the disciplinary proceedings. “I didn’t get the bonus at the end of the year like other years.”²⁵⁸

One teacher filed a civil court case against the former colleague who initially posted the photograph on Facebook with inflammatory comments; he was forced to apologize and pay a fine.²⁵⁹ Wnorowska said she and three other teachers filed a criminal case against him for defamation and propagating fascism, which was ongoing at this writing.²⁶⁰

Other Cases of Retaliation for Support of Women’s Rights

Roksana R. (name has been changed), a school teacher in southwest Poland, also said she felt punished for organizing Black Protest activities in 2016.²⁶¹

From the beginning of her involvement, Roksana R. said, she kept a low public profile because she worked in a state school. She said she “felt the breath of the government on my back” during Black Protest preparations. “The climate of our whole country is such that, if you do something against [those in] power, [those in] power will destroy you,” she said.²⁶²

At the Black Protest, people witnessed Roksana R.’s involvement. “I was terrified of what would happen if the school found out,” she said. “When I told people [where I worked], they said, ‘You’re crazy. You could lose your job just because you have something to say.’”²⁶³

Roksana went on maternity leave after the protest and said that, upon returning to work, administrators diminished her teaching hours, which she believed was due to her leadership of Black Protest activities. “When I first came back, my timetable had six free

²⁵⁸ Human Rights Watch telephone interview with Ewa Wnorowska, Katarzyna Gwóźdź, and Aleksandra Piotrowska, September 17, 2018.

²⁵⁹ According to Wnorowska, the teacher filed an appeal because she felt the amount of the fine was inadequate; at time of writing, the case was ongoing. Human Rights Watch telephone interview with Ewa Wnorowska, October 5, 2018.

²⁶⁰ Ibid.

²⁶¹ Human Rights Watch telephone interview with Roksana R., September 25, 2018 (name and location withheld).

²⁶² Ibid.

²⁶³ Ibid.

[teaching] periods instead of only three,” she said. “Then for the new academic year [in 2018], it had increased to twelve.”²⁶⁴

Zofia Z. (name has been changed), in southwest Poland, said she lost her job at a municipal center supporting victims of domestic violence after becoming active in the Black Protest movement. In September 2016, she began organizing Black Protest activities and local media identified her as a feminist activist. “I felt the atmosphere [at work] change,” she said.²⁶⁵ Her supervisor supported her previous activism, such as work to combat hate speech against women. “She was excited about my media presence, she told people about it,” Zofia Z. said. “But it was totally different with the Black Protest.”²⁶⁶

Zofia Z.’s employment contract was due to finish in December 2016, but her supervisor assured her it would be renewed; during summer 2016, her employers asked her to draft a proposal for a major new project, and then to lead it.²⁶⁷ In late December, however, the center’s director decided not to renew her employment, citing lack of funding. Zofia Z. believes this was due to her feminist activism, and said colleagues told her as much. “They said, ‘Surely, you don’t believe this is about funding?’” she said. “People said that [I’m] too outspoken, a bit of a threat, that I could go to the media and create too much of a storm.”²⁶⁸

Although her employers claimed her position was cut for budget reasons, they replaced her within three months, she said.²⁶⁹ Zofia Z. also felt frozen out of other local government positions. A former colleague suggested hiring her to cover an employee’s maternity leave in another municipal government department but, Zofia Z. said, “[Her boss] said, ‘No way. You have to find someone else.’”²⁷⁰ Zofia Z. applied for a position at the municipal Crisis Intervention Center—a different unit in the same building where she had worked—but was not granted an interview, despite her work experience.

²⁶⁴ Ibid.

²⁶⁵ Human Rights Watch interview with Zofia Z., Poland, August 5, 2018 (name and location withheld).

²⁶⁶ Ibid.

²⁶⁷ Ibid.

²⁶⁸ Ibid.

²⁶⁹ Ibid.

²⁷⁰ Ibid.

Maja M. (name has been changed) said she experienced retaliation at the private company where she was working in Warsaw in October 2016. She said her boss always approved her leave requests until she asked to take leave on Monday, October 3, the day of the Black Protest. “I was given an ultimatum,” Maja M. said. “[He said,] ‘You can come to work on Monday, or you can leave your phone and your keys [to the office] on the desk now.’”²⁷¹

Though her supervisor attributed his refusal to her heavy workload, Maja M. said she was “100 percent sure” it was because she planned to participate in the Black Protest. Maja M. said she turned in her keys at the end of the day and never returned, even though she was unemployed for several months. A few weeks later her former employer sent a written apology, which Human Rights Watch has seen, telling Maja M. that, in prioritizing the needs of the company, “I have violated your evident right to express your own views.” He said in hindsight he felt “very ashamed and sorry.”²⁷²

“If he had not done it for the wrong reasons, he wouldn’t have apologized,” Maja M. said.²⁷³ She said that several attorneys offered to help her file a complaint regarding her treatment, but she felt it would require enormous time and energy that she decided to instead devote to finding a new job.²⁷⁴

Punishment for and Fear of Engaging with Women’s Rights, Sexuality Education Groups

Some state employees told Human Rights Watch about threats or retaliation for collaborating with groups working on women’s rights issues and sexuality education. Some activists said fear on the part of teachers and headmasters has diminished their ability to conduct sexuality education, tolerance, and non-violence workshops in schools.

Hanna H. (name has been changed), headmistress at a middle school near Kraków, said the municipal Ministry of Education office, the Kuratorium, subjected her to an audit and disciplinary proceedings because she arranged Autonomia workshops at the school during the 16 Days of Activism to End Violence Against Women in December 2016. Hanna H. said Kuratorium staff told her the review stemmed from a complaint by a parent “worried about

²⁷¹ Human Rights Watch video interview with Maja M., November 1, 2018 (name withheld).

²⁷² Text of written apology on file with Human Rights Watch, dated October 24, 2016, Human Rights Watch email correspondence with Maja M., November 1, 2018.

²⁷³ Human Rights Watch video interview with Maja M., November 1, 2018.

²⁷⁴ Human Rights Watch email correspondence with Maja M., November 1, 2018.

the psychological safety of the children”; she later learned the “parental complaint” was lodged by a pro-life organization.²⁷⁵ She said the workshops, which covered topics such as “knowing how to say no, how to be assertive, [and] how to react to unwanted flirting,” were voluntary and students could leave at any point. She also said parents had given general permission for some activities at the beginning of the school year.²⁷⁶

Hanna H. said she knew allowing the workshops “was not a [good] political decision” and carried risks. “If the government says there is no problem with violence against women in this country, and openly says the Istanbul Convention shouldn’t be implemented, then obviously they won’t like workshops to do with these topics,” she said.²⁷⁷

In January 2017, the Kuratorium informed Hanna H. that it was initiating an explanatory procedure, the next step in Ministry of Education disciplinary proceedings. Hanna H. said the procedures were initiated on grounds related to the health and safety of children.²⁷⁸ Students’ parents sent a joint statement and letter of support stating that “there was no situation exposing our children to danger.”²⁷⁹

Hanna H. said the Kuratorium cleared her of the charges in March 2017, but the process shook her. “For me, it was an experience of how one can abuse power,” she said. “I feel like I experienced the soullessness of a government that just wants to do something to someone and will succeed.”²⁸⁰

Agata Teutsch, director of Autonomia, said other schools also face pressure not to allow the group’s workshops. Around the time that the MRPiPS withdrew Autonomia’s funding, she said, Kuratorium staff prohibited a meeting with parents, scheduled in a school to discuss Autonomia-led workshops for the 16 Days of Activism campaign. “[An organizer] went to the school, but [school staff] wouldn’t open the door,” Teutsch said. “They said they got a call from the Kuratorium [telling them] they couldn’t have the meeting.”²⁸¹

²⁷⁵ Human Rights Watch interview with Hanna H., Kraków, August 2, 2018 (name withheld).

²⁷⁶ Ibid.

²⁷⁷ Ibid.

²⁷⁸ Ibid.

²⁷⁹ Excerpt of letter from parents to Kuratorium, on file with Human Rights Watch; Human Rights Watch interview with Hanna H., Kraków, August 2, 2018.

²⁸⁰ Human Rights Watch interview with Hanna H., Kraków, August 2, 2018.

²⁸¹ Human Rights Watch interview with Agata Teutsch, Kraków, August 2, 2018; “List w sprawie ataków na inicjatywy i osoby podejmujące działania w ramach światowej kampanii 16 Dni Akcji Przeciwko Przemocy ze Względem na Płeć” (“Letter on attacks on initiatives and people undertaking activities in the framework of the global campaign 16 Days of Activism on

Staff at other organizations said schools or community institutions hesitate to collaborate or cancel planned activities. Joanna Piotrowska, director of Feminoteka, said government-appointed headmasters fear seeming in opposition to PiS. “Even if the teacher isn’t afraid, the mayor of the town appoints the headmaster, so he might be fired if he allows something that is not aligned [with the government],” she said.²⁸²

For the 2017-2018 school year, at least two middle schools withdrew from agreements for Feminoteka to lead workshops for girls ages 13 to 18 on self-defense and combating harassment. Teachers told Feminoteka their headmasters made the decision but did not explain why.²⁸³

Barbara B., a volunteer educator working with BABA, described a noticeable shift since 2015 in schools’ willingness to permit workshops on “sensitive” topics, which has led to self-censorship at the organization. “I can feel a certain fear and conviction that there are certain things that should not be discussed,” said Barbara B.²⁸⁴ She noted that “only the more liberal schools” invite BABA to conduct workshops, but they still shy away from particular subjects. “They are afraid,” she said, explaining that teachers ask to omit topics: “[Some] suggest, for example, that maybe sexual violence isn’t that important so maybe we should just skip it altogether.”²⁸⁵

Aleksandra Józefowska, coordinator of Ponton, also said school staff members have “started negotiating” what is or is not covered in sexuality education workshops. “One teacher said, ‘You can come, but do not mention abortion,’” Józefowska recalled. “I said, ‘What if the kids ask?’ She said, ‘You have to work around it.’ They also didn’t want to talk about LGBT [people or issues]. So, we didn’t go in the end.”²⁸⁶

Violence against Women”), Autonomia, December 9, 2016, <https://www.autonomia.org.pl/index.php?id=aktualnosci&ajdi=183> (accessed January 24, 2019); “Miało być zero przemocy – jest zero pieniędzy na przeciwdziałanie przemocy wobec kobiet i dziewczynek – historia dla ludzi o mocnych nerwach.”

²⁸² Human Rights Watch interview with Joanna Piotrowska, July 31, 2018.

²⁸³ Human Rights Watch interview with Jolanta Gawęda, vice-president and education coordinator, Feminoteka, Warsaw, July 31, 2018.

²⁸⁴ Human Rights Watch interview with Barbara B. (name withheld), BABA, Zielona Góra, August 6, 2018.

²⁸⁵ Ibid.

²⁸⁶ Human Rights Watch interview with Aleksandra Józefowska, August 8, 2018.

Antonina Lewandowska, a Ponton educator, described the difficulties conducting sexuality education under the current government: “It is like we are on a desert island. Schools are afraid to talk to us. Several principals have said they would love to, but it is too dangerous, or they don’t want to risk it.”²⁸⁷

Other Intimidation and Harassment

Activists also told Human Rights Watch about other forms of intimidation and harassment, including denial of space to conduct activities. They said reporting such acts feels futile because their complaints would yield no action and potentially lead to prolonged court proceedings or other arbitration that would drain both financial and human resources.

Two organizations said local authorities stopped providing them office space due to their work on or support of women’s rights issues. “The local government says there are no available spaces for organizations like [ours],” said Renata Durda, director of Blue Line, explaining that, after several years, the government abruptly stopped giving them space in 2018. “It isn’t that they don’t have it, but that they don’t really want to help us,” she said, noting that since PiS gained control, people fear doing anything the central government might consider “suspicious.” “Even local officials with whom we used to cooperate really well have started to distance themselves from us,” she said.²⁸⁸

Katarzyna Kamecka-Lach, who runs the Center of the East (Centrum na Wschodzie), which supports people with physical disabilities in Dziadkowice, said local officials rescinded an agreement granting the organization workspace in a school.²⁸⁹ She said they were about halfway into a three-year contract—signed by the school and approved by the municipal government—when staff and volunteers participated in a March 2017 International Women’s Day protest. Officials cancelled the contract right after the protest, Kamecka-Lach said, adding that no concerns had previously been raised. She said:

Even without being given any information, we understood the reason immediately: our actions related to the protests were not appreciated by

²⁸⁷ Human Rights Watch video interview with Antonina Lewandowska, August 21, 2018.

²⁸⁸ Human Rights Watch interview with Renata Durda, August 10, 2018.

²⁸⁹ Human Rights Watch telephone interview with Katarzyna Kamecka-Lach, Center for the East, August 17, 2018; “Zemsta za strajk kobiet?”, *eSiematyczne.pl*, March 26, 2017, <https://esiematyczne.pl/artukul/zemsta-za-strajk-kobiet/395983> (accessed January 29, 2019).

officials.... The same person who gave us the space took it away, and it was because we weren't "loyal." ²⁹⁰

Though authorities told her they annulled the contract due to urgent need for the space, Kamecka-Lach said it remained unoccupied: "It confirmed the feeling that it was repression because I kept checking and for the next year it stayed empty. They hadn't even taken down the nameplate of [our] organization." ²⁹¹

Kamecka-Lach and her colleagues felt it would be futile to protest cancellation of the contract "because we knew we wouldn't be given any concrete reasons or information." ²⁹²

Durda said fear and mistrust of women's rights groups also hinder rental of private office space. She described how proprietors in Warsaw recanted a verbal agreement for a lease after hearing the subject of the organization's work. "[When we told them] they said, 'Oh, no, we can't really work with you because now you're like a 'political suspect,'" she said. ²⁹³

²⁹⁰ Human Rights Watch telephone interview with Katarzyna Kamecka-Lach, August 17, 2018.

²⁹¹ Ibid.

²⁹² Ibid.

²⁹³ Human Rights Watch interview with Renata Durda, August 10, 2018.

III. Poland's Human Rights Obligations

The government of Poland is obligated to respect, protect, and fulfill rights guaranteed under the international and regional human rights treaties to which it is a party. At the international level, these include the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the Convention on the Rights of the Child (CRC), and the Convention on the Rights of Persons with Disabilities (CRPD); and at the regional level the European Convention on Human Rights (ECHR), the Charter of Fundamental Rights of the European Union, and the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention).²⁹⁴ Government actions that impede or set back prevention of and response to violence against women and access to sexual and reproductive rights, including safe abortion, contraception, and reproductive health information, violate its international human rights obligations, as do limitations on the work of women human rights defenders, including through restrictions on peaceful assembly and freedom of expression.

Women Human Rights Defenders

The United Nations Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, known as the Declaration on Human Rights Defenders, establishes the need for protections fundamental to rights defenders' work. Its guiding principle is that, whether individually or in groups, everyone has the right "to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels."²⁹⁵ It establishes that states must ensure the

²⁹⁴ Poland ratified the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) on March 2, 1967; the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) on May 29, 1980; the Convention on the Rights of the Child (CRC) on January 26, 1990; the Convention on the Rights of Persons with Disabilities (CRPD) on September 25, 2012; European Convention on Human Rights (ECHR) on January 19, 1993; Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention) on April 27, 2015. See also the Charter of Fundamental Rights of the European Union, Doc. 2012/C 326/02, Official Journal of the European Union, October 26, 2012, <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12012P/TXT&from=EN> (accessed January 24, 2019).

²⁹⁵ United Nations Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (UN Declaration on Human Rights Defenders),

necessary social, economic, political, and other conditions for the realization of this right, and must protect individuals and groups from “violence, threats, retaliation, de facto or *de jure* adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to” in the Declaration.²⁹⁶

Though not itself legally binding, the Declaration on Human Rights Defenders draws from legally binding international human rights instruments, such as the Universal Declaration of Human Rights (UDHR) and ICCPR, that enshrine rights such as freedom of assembly, freedom of opinion and expression, and freedom of association.²⁹⁷ Under the Declaration, restrictions on these rights must be in accordance with guidance on reasonable limitations as established in international human rights law, which demands that restrictions be necessary, proportionate, and for a legitimate purpose.²⁹⁸

The ECHR and the Charter of Fundamental Rights of the European Union uphold the rights to freedom of assembly, association, and expression.²⁹⁹ Poland’s Constitution also enshrines the right to freedom of peaceful assembly and participation in peaceful assemblies.³⁰⁰

In 2018, the UN Special Rapporteur on the rights to freedom of peaceful assembly and association noted increasing hostility against and stigmatization of civil society actors in countries around the world.³⁰¹ He included women among groups whose right to peaceful assembly and association may be particularly affected due to marginalization, discrimination, and unequal treatment.³⁰² During the 2017 universal periodic review of Poland, the governments of France, Canada, Finland, and Mexico called for the government to uphold the rights to freedom of assembly and expression, “including for civil society

General Assembly Res. 53/144, U.N. Doc. A/RES/53/144, March 8, 1999, <https://www.ohchr.org/Documents/Issues/Defenders/Declaration/declaration.pdf> (accessed January 24, 2019), art. 1.

²⁹⁶ UN Declaration on Human Rights Defenders, arts. 2.1, 12.2.

²⁹⁷ UN Declaration on Human Rights Defenders, arts. 5, 6, 7, 12; UNOHCHR, “Declaration on Human Rights Defenders: Legal character,” <https://www.ohchr.org/en/issues/srhrdefenders/pages/declaration.aspx> (accessed January 24, 2019); ICCPR, arts. 18, 19, 21, 22.

²⁹⁸ UN Declaration on Human Rights Defenders, art. 17; ICCPR, arts. 19(3), 21; UN Human Rights Committee, General Comment No. 34, Article 19, Freedoms of Opinion and Expression, CCPR/C/GC/34 (2011), para. 34.

²⁹⁹ ECHR, arts. 10, 11; Charter of Fundamental Rights of the EU, arts. 11, 12.

³⁰⁰ Constitution of the Republic of Poland of 2 April 1997, art. 57.

³⁰¹ UN Human Rights Council (UNHRC), Report of the Special Rapporteur on the rights to freedom of peaceful assembly and association, U.N. Doc. A/HRC/38/34, July 26, 2018, <http://undocs.org/A/HRC/38/34> (accessed January 24, 2019), para. 50.

³⁰² *Ibid.*, para. 58.

organizations.”³⁰³ In December 2018, UN human rights experts raised concerns that the Polish government prevented human rights defenders from exercising their rights to freedom of peaceful assembly and participation and freedom of expression and opinion at the 24th Conference of the Parties to the UN Framework Convention on Climate Change (COP24) in Katowice.³⁰⁴

The Declaration on Human Rights Defenders also affirms the critical role of individuals and NGOs in raising awareness of human rights, including through education and training.³⁰⁵ It reaffirms the right to provide and disseminate human rights-related information, and to request, receive, and use resources for the purpose of peaceful promotion and protection of human rights.³⁰⁶ The UN Special Rapporteur on the situation of human rights defenders explains this as a requirement for states to “adopt legislative, administrative or other measures to facilitate, or as a minimum not to hinder, the effective exercise of the right to access funding.”³⁰⁷ It notes that “the only appropriate legal framework” regulating access to state funding is one that abides by international human rights norms.³⁰⁸

The committee overseeing implementation of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW Committee) has noted that insufficient funding of women’s NGOs hinders adequate support of women’s rights. It has recommended that states ensure NGOs sufficient funding for activities fulfilling CEDAW’s requirements, including by developing “clear criteria for rendering and ensuring governmental financial support on the national and local level for the work of women’s

³⁰³ UNHRC, Report of the Working Group on the Universal Periodic Review, Poland, Thirty-sixth session, U.N. Doc. A/HRC/36/14, July 18, 2017, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/194/27/PDF/G1719427.pdf?OpenElement> (accessed January 24, 2019), paras. 120.108-110, 120.113.

³⁰⁴ Office of the United Nations High Commissioner for Human Rights (UNOHCHR), “Poland: UN experts condemn measures to stop human rights defenders join climate talks,” UN news release, Geneva, December 13, 2018, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24017&LangID=E> (accessed January 24, 2019).

³⁰⁵ UN Declaration on Human Rights Defenders, arts. 16, 18.

³⁰⁶ Ibid, arts. 13, 6(b).

³⁰⁷ UN Special Rapporteur on the situation of human rights defenders, *Commentary to the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (Commentary to the Declaration on Human Rights Defenders)*, July 2011, <https://www.ohchr.org/Documents/Issues/Defenders/CommentarytoDeclarationondefendersjuly2011.pdf> (accessed January 24, 2019), p. 96.

³⁰⁸ UN Special Rapporteur on the situation of human rights defenders, *Commentary to the Declaration on Human Rights Defenders*, p. 97.

nongovernmental organizations.”³⁰⁹ The Committee of Ministers of the Council of Europe adopted a recommendation on the status of NGOs specifying that NGOs should have access to funding, including public funding.³¹⁰

The Declaration on human rights defenders also protects the right to “effective access, on a non-discriminatory basis, to participation in government,” as well as to complaints mechanisms to report human rights violations, including violations against rights defenders, and to an effective remedy.³¹¹

The United Nations General Assembly and the UN Special Rapporteur on Human Rights Defenders have noted specific concerns for women human rights defenders (WHRDs), including heightened risk of gender-based violence, harassment and stigmatization, and the necessity for gender-specific prevention and response measures to address such risks.³¹² The Special Rapporteur has warned of the dearth of specific mechanisms to protect women human rights defenders and poor implementation of existing ones, and notes that states should make “targeted and deliberate efforts to make the environment in which [WHRDs] operate a safer, more enabling and supporting one.”³¹³ A 2014 UN General Assembly resolution called for states to publicly recognize women human rights defenders’ essential role, and denounce attacks and discrimination against them.³¹⁴

³⁰⁹ CEDAW Committee, Initial and second periodic reports: Lithuania, Part two: Report of the Committee on the Elimination of Discrimination against Women on its twenty-third session, U.N. Doc. A/55/38, 2000, <https://undocs.org/A/55/38> (accessed January 24, 2019), paras. 154-155. See also, CEDAW, Concluding Observations of the Committee on the Elimination of Discrimination against Women – Netherlands, U.N. Doc. CEDAW/C/NLD/CO/5, February 5, 2010, https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/NLD/CO/5&Lang=En (accessed January 31, 2019), para. 21.

³¹⁰ Recommendation CM/Rec(2007)14 of the Council of Europe Committee of Ministers to member states on the legal status of non-governmental organisations in Europe, September 30, 2008, HDIM.IO/59/08, <https://www.osce.org/odihr/33742?download=true> (accessed January 24, 2019), paras. 51, 57.

³¹¹ UN Declaration on Human Rights Defenders, arts. 8, 9.

³¹² UN General Assembly Resolution 68/181, Promotion of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms: protecting women human rights defenders, U.N. Doc. A/RES/68/181, adopted December 18, 2013, http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/68/181 (accessed January 24, 2019), pp. 2-3; UNHRC, Report of the Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya, U.N. Doc. A/HRC/16/44, December 20, 2010, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G10/178/70/PDF/G1017870.pdf?OpenElement> (accessed January 24, 2019), paras. 23-24, 27-28, 86.

³¹³ UNHRC, Report of the Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya, U.N. Doc. A/HRC/25/55, December 23, 2013, <https://www.ohchr.org/en/hrbodies/hrc/regularsessions/session25/pages/listreports.aspx> (accessed January 24, 2019), para. 100.

³¹⁴ United Nations General Assembly resolution 68/181 (2014), U.N. Doc. A/RES/68/181, January 30, 2014, http://www.un.org/ga/search/view_doc.asp?symbol=A/RES/68/181 (accessed January 24, 2019), para. 7.

Following a December 2018 visit to Poland, the UN Working Group on the Issue of Discrimination against Women in Law and Practice expressed concern that activists promoting gender equality in Poland are branded as “anti-family,” and that “the concept of ‘gender ideology’ is being used also to undermine and stigmatise women human rights defenders, whose space has been increasingly shrinking.” They call on Poland’s government to acknowledge and support women human rights defenders, including through “appropriate funding” and participation in policy development.³¹⁵

Sexual and Reproductive Health and Rights

The CEDAW Committee has repeatedly called for states to “decriminalize abortion in all cases,” and specifically to legalize it “in cases of threats to [a woman’s] health, pregnancies resulting from rape or incest, and cases of severe fetal impairment.”³¹⁶ In August 2018, the CEDAW Committee and the Committee on the Rights of Persons with Disabilities (CRPD Committee) issued a joint statement underscoring that access to safe and legal abortion, as well as other reproductive health services and information, are essential rights and calling for decriminalization of abortion.³¹⁷ They emphasized states’ obligation to ensure that all women, including those with disabilities, can exercise autonomous decision-making with regards to their sexual and reproductive health care, including abortion, and can access evidence-based, unbiased information as a basis for such decisions.³¹⁸

The UN Committee on Economic, Social and Cultural Rights (CESCR), which monitors compliance with the ICESCR, has noted that women’s access to comprehensive sexual and reproductive health is “essential to the realization of the full range of their human rights,”

³¹⁵ “UN Human Rights Council Independent expert group on the issue of discrimination against women in law and in practice,” UNOHCHR news release, Warsaw, December 13, 2018, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24014&LangID=E> (accessed January 24, 2019).

³¹⁶ See, for example, CEDAW Committee concluding observations on Chile, UN Doc. CEDAW/C/CHL/CO/7 (2018); Fiji, UN Doc. CEDAW/C/FJI/CO/5 (2018); Marshall Islands, UN Doc. CEDAW/C/MHL/CO/1-3 (2018); Republic of Korea, UN Doc. CEDAW/C/KOR/CO/8 (2018); Saudi Arabia, UN Doc. CEDAW/C/SAU/CO/3-4 (2018); Suriname, UN Doc. CEDAW/C/SUR/CO/4-6 (2018); Guatemala, U.N. Doc. CEDAW/C/GTM/CO/8-9 (2017); Paraguay, UN Doc. CEDAW/C/PRY/CO/7 (2017); Costa Rica, UN Doc. CEDAW/C/CRI/CO/7 (2017); El Salvador, UN Doc. CEDAW/C/SLV/CO/8-9 (2017).

³¹⁷ CEDAW Committee and CRPD Committee, Guaranteeing sexual and reproductive health and rights for all women, in particular women with disabilities, Joint statement, August 29, 2018, <https://www.ohchr.org/Documents/HRBodies/CRPD/Statements/GuaranteeingSexualReproductiveHealth.DOCX> (accessed January 24, 2019).

³¹⁸ Ibid.

and called on states to remove all barriers to access, including contraception, safe abortion and post-abortion care, information, and comprehensive sexuality education.³¹⁹ It specifically calls for liberalization of restrictive abortion laws.³²⁰ The CESCR, CEDAW Committee, Human Rights Committee (HRC), and Committee on the Rights of the Child, which oversees implementation on the Convention on the Rights of the Child, have noted the discriminatory nature of failure to ensure women access to the full spectrum of reproductive health care.³²¹

In its 2016 review of Poland, the HRC specifically called on the government to “refrain from adopting any legislative reform that would amount to a retrogression of already restrictive legislation on women’s access to safe legal abortion.”³²² In 2018, the CRPD Committee called on Poland to take measures to ensure that women’s rights in relation to reproductive health are secured, and that access to safe abortion is provided. The Committee also urged Poland to ensure that the autonomy and decisions of women with disabilities are respected, and that they are protected from forced abortion.³²³

In joint statements, the UN Special Rapporteur on the Right to Health, UN Special Rapporteur on Violence against Women, and UN Committee on Discrimination against Women in Law and Practice have noted that further restrictions on abortion in Poland would violate a number of rights, including the rights to autonomy, dignity, bodily integrity,

³¹⁹ UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 22 (2016) on the right to sexual and reproductive health (article 12 of the International Covenant on Economic, Social and Cultural Rights), U.N. Doc. E/C.12/GC/22, May 2, 2016, <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=4slQ6QSmIBEDzFEovLCuW1aoSzabooXTdlmnsJZZVQfQejF41Tob4CvljeTiAP6sGFQktiae1vlbbOAekmaOwDOWsUe7N8Tlm%2BP3HJPzxjHySkUoHMavD%2Fpyfcp3YlZg> (accessed January 24, 2019), paras. 25, 28. The CESCR has also called on states to amend restrictive abortion laws and increase access to legal abortion. See, for example, concluding observations of the Committee on Economic, Social and Cultural Rights (CESCR) on the Republic of Korea, U.N. Doc. E/C.12/KOR/CO/4 (2017); The Philippines, U.N. Doc. E/C.12/PHL/CO/5-6 (2016); Kenya, U.N. Doc. E/C.12/KEN/CO/2-5 (2016); and Pakistan, U.N. Doc. E/C.12/PAK/CO/1 (2017).

³²⁰ *Ibid.*, para. 28.

³²¹ *Ibid.*, paras. 26-27, 34; CEDAW Committee, “Statement of the Committee on the Elimination of Discrimination against Women on sexual and reproductive health and rights: Beyond 2014 ICPD review” (February 2014). See also, for example, HRC concluding observations on the Philippines, U.N. Doc. CCPR/C/PHL/CO/4 (2012); Paraguay, U.N. Doc. CCPR/C/PRY/CO/3 (2013); Peru, U.N. Doc. CCPR/C/PER/CO/5 (2013); and Ireland, U.N. Doc. CCPR/C/IRL/CO/4 (2014). See also *L.M.R. v. Argentina*, U.N. Doc. CCPR/C/101/D/1608/2007 (2011). See, for example, CRC concluding observation on Namibia, U.N. Doc. CRC/C/NAM/CO/2-3 (2012).

³²² Human Rights Committee (HRC), Concluding observations on the seventh periodic report of Poland, CCPR/C/POL/CO/7, November 23, 2016, https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR/C/POL/CO/7&Lang=En (accessed November 20, 2018), para. 24(b).

³²³ CRPD Committee, Concluding observations on the initial report of Poland, CRPD/C/POL/CO/1 (September 2018), paras. 10(c), 42(b), 42(e).

non-discrimination, the highest attainable standard of health, and freedom from torture and cruel, inhuman, and degrading treatment.³²⁴ They note that “equality in reproductive health includes access, without discrimination, to affordable, quality contraception, including emergency contraception.”³²⁵

The CEDAW Committee has also noted concerns about limited access to contraception and to reproductive health services and information in Poland and called for revision of the abortion law to make it less restrictive.³²⁶ The CRPD has made similar recommendations, calling for the Polish government to ensure women’s rights to reproductive health and access to safe abortion, and to support decision-making of women with disabilities on matters related to their sexual and reproductive health, including contraception.³²⁷

The CRC Committee has noted particular difficulties for adolescents in accessing sexual and reproductive health care in Poland, including contraception and legal abortion, and called for unimpeded access.³²⁸ The CESCR and CEDAW Committees have raised similar concerns and recommended improved access to sexual and reproductive health information and contraception for adolescents.³²⁹

Both the HRC and the CEDAW Committee have noted concern about ongoing, extensive, and inappropriate use of the conscience clause, or conscientious objection, by health providers in Poland and lack of timely appeals processes for women who are denied abortions.³³⁰ The HRC has also raised concerns about the 2015 elimination of measures to

³²⁴ UNOCHR, “Poland must not further restrict sexual and reproductive health and rights, say UN experts,” UNOCHR news release, Geneva, March 22, 2018, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22882&LangID=E> (accessed January 24, 2019).

³²⁵ Mandates of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Special Rapporteur on violence against women, its causes and consequences and the Working Group on the issue of discrimination against women in law and in practice.

³²⁶ CEDAW, Concluding Observations 2014, paras. 36, 37(a).

³²⁷ CRPD, Concluding observations on the initial report of Poland, CRPD/C/POL/CO/1 (September 2018), paras. 10 and 42.

³²⁸ UN Committee on the Rights of the Child (CRC Committee), Concluding observations on the combined third and fourth periodic reports of Poland, U.N. Doc. CRC/C/POL/CO/3-4, October 30, 2015, paras. 38-39.

³²⁹ CESCR, Concluding Observations 2016, paras. 48-49; CEDAW, Concluding Observations 2014, paras. 31(c), 36, 37(d)-(e).

³³⁰ Human Rights Committee, Concluding observations on the seventh periodic report of Poland, CCPR/C/POL/CO/7, November 23, 2016, https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR/C/POL/CO/7&Lang=En (accessed January 24, 2019), para. 23; CEDAW, Concluding observations on the combined seventh and eighth periodic reports of Poland, CEDAW/C/POL/CO/7-8, November 14, 2014, https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/POL/CO/7-8&Lang=En (accessed January 24, 2019), para. 36.

ensure referrals for safe abortion by medical personnel invoking the conscience clause, and called on Poland's government to address this gap.³³¹

The European Court of Human Rights has ruled that the government of Poland has failed to uphold the rights to freedom from inhuman and degrading treatment and to respect for private life, finding significant obstacles to legal abortion even in cases of rape.³³² NGOs have criticized Poland's government for failing to comply with the rulings, which mandate removal of barriers to legal abortion.³³³

Sexual and Reproductive Health Education and Information

The right to health includes the right to access information concerning health. The CESCR has stated that “the realization of women's right to health requires the removal of all barriers interfering with access to health services, education and information.”³³⁴ It has specified that comprehensive sexual and reproductive health should be based on scientific and human rights standards.³³⁵

The CESCR and the CRC Committee have also confirmed that the right to education also includes the right to sexuality education.³³⁶ The UN Special Rapporteur on the right to education specified that this is both a right unto itself and a necessary means of realizing

³³¹ HRC, Concluding observations on the seventh periodic report of Poland, CCPR/C/POL/CO/7, November 23, 2016, https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR/C/POL/CO/7&Lang=en (accessed January 24, 2019), para. 24(a).

³³² *Tysi c v. Poland*, Application no. 5410/03, Council of Europe: European Court of Human Rights, Judgment, March 20, 2007; *RR v. Poland*, Application No. 27617/04, Judgment, May 26, 2011; *P & S v Poland*, Application No. 57375/08, Judgment, October 30, 2012.

³³³ Communication from the Helsinki Foundation for Human Rights (04/09/2017) in the cases of R.R., P. and S. and *Tysi c v. Poland* (Applications No. 27617/04, 57375/08, 5410/03) and reply from the authorities (15/09/2017), Council of Europe Committee of Ministers Doc. DH-DD(2017)991-rev, September 15, 2017, <https://rm.coe.int/16807438d7> (accessed January 24, 2019); HFHR, “Poland yet to comply with ECHR judgments on access to abortion,” August 22, 2018, <http://www.hfhr.pl/en/poland-yet-to-comply-with-echr-judgments-on-access-to-abortion/> (accessed January 24, 2019); European Implementation Network, “Access to Legal Abortion in Poland – reforms and action needed,” March 28, 2018, <http://www.einnetwork.org/ein-voices/2018/3/22/access-to-legal-abortion-in-poland-reforms-and-action-needed> (accessed January 24, 2019).

³³⁴ CESCR, “General Comment 14, The right to the highest attainable standard of health,” U.N. Doc. E/C.12/2000/4 (2000), para. 12(b).

³³⁵ *Ibid.*, para. 61.

³³⁶ CESCR, General Comment No. 22 on the Right to Sexual and Reproductive Health, U.N. Doc. E/C.12/GC/22 (May 2, 2016), para. 9; CRC Committee, General Comment No. 15 on the Right of the Child to the Enjoyment of the Highest Attainable Standard of Health, U.N. Doc. CRC/C/GC/15 (April 17, 2013), para. 59; CRC Committee, General Comment No. 20, paras. 59-61; CRC Committee, General Comment No. 4, para. 17.

sexual and reproductive rights and the rights to health and information.³³⁷ The Special Rapporteur warned against curriculums that foster harmful attitudes towards LGBT individuals: “by denying the existence of the lesbian, gay, transsexual, transgender and bisexual population, they expose these groups to risky and discriminatory practices.”³³⁸ The CRC Committee has recommended that states adopt age-appropriate, comprehensive, and inclusive sexual and reproductive health education in compulsory school curriculums. It has noted that Poland’s curriculum “does not provide comprehensive, age-appropriate education on sexual and reproductive health” and urged the government to make necessary revisions, as well as to include information on topics such as contraception and family planning.³³⁹ The CESCR and the CEDAW Committee have made similar recommendations.³⁴⁰ The CEDAW Committee also noted concern about perpetuation of gender stereotypes, including in textbooks.³⁴¹ The CRPD Committee called on Poland to remove barriers to sexual and reproductive rights for women with disabilities, including related education, and to ensure provision of information on their sexual and reproductive health and rights in accessible formats.³⁴²

The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention), to which Poland is a party, calls for inclusion of age-appropriate education on topics such as equality between men and women, non-violent conflict resolution in interpersonal relationships, and gender-based violence in formal curricula at all levels of schooling.³⁴³ It also calls for promotion of these concepts and principles in non-formal educational settings.³⁴⁴

Gender-Based Violence

³³⁷ UN General Assembly, Report of the United Nations Special Rapporteur on the right to education, U.N. Doc. A/65/162 (July 23, 2010), para. 19.

³³⁸ *Ibid.*

³³⁹ CRC Committee, paras. 38(a), 39(a).

³⁴⁰ CEDAW Committee, Concluding Observations 2014, paras. 30, 31(c); CESCR, Concluding Observations 2016, para. 49.

³⁴¹ CEDAW Committee, Concluding Observations 2014, para. 22.

³⁴² CRPD Committee, Concluding observations on the initial report of Poland, CRPD/C/POL/CO/1 (September 2018), paras. 10(c), 42(b).

³⁴³ Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence (Istanbul Convention), art. 14(1). See also, “Explanatory Report to the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence,” Council of Europe Treaty Series No. 210, May 11, 2011, <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016800d383a> (accessed January 24, 2019), para. 95.

³⁴⁴ *Ibid.*, art. 14(2). See also Explanatory Report, para. 96.

The CEDAW Committee has clarified that violence against women constitutes a form of discrimination and that states have a due diligence obligation to prevent, investigate, prosecute, and punish acts of gender-based violence.³⁴⁵

The Istanbul Convention, which Poland ratified in 2015, requires that states “recognise, encourage, and support” and coordinate with NGOs and civil society groups working to combat violence against women.³⁴⁶ It also specifies states’ obligation to “allocate appropriate financial and human resources” for implementation of policies and programs to prevent and address violence against women, “including those carried out by non-governmental organizations and civil society.”³⁴⁷

The Istanbul Convention requires provision of both general and specialist support services for women victims of violence, including short-, medium- and long-term shelter, legal assistance, medical and psychosocial care, and housing.³⁴⁸ The Explanatory Report to the Convention states that specialist services should meet the particular needs of women survivors of violence, and that most such services are provided by women’s organizations and NGOs.³⁴⁹ The CEDAW Committee and the CESCR have both called on states to establish or support services for survivors of domestic violence, including in rural areas.³⁵⁰

The CEDAW Committee has noted inadequate efforts to combat violence against women in Poland and called on the government to ensure access to shelters, legal aid, and other services for women victims of violence throughout the country.³⁵¹ In its 2016 review of Poland, the CESCR raised concerns about insufficient protections and assistance for

³⁴⁵ CEDAW Committee, General Recommendation no. 35, on gender-based violence against women, updated General recommendation No. 19, U.N. Doc. CEDAW/C/GC/35 (2017), https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/GC/35&Lang=en (accessed January 24, 2019), paras. 21-23, 24.2, 26.

³⁴⁶ Istanbul Convention, art. 9.

³⁴⁷ Ibid., art. 8.

³⁴⁸ Ibid., arts. 22-25, 57.

³⁴⁹ Explanatory Report to the Istanbul Convention, paras. 125, 132.

³⁵⁰ CEDAW Committee, General Recommendation No. 35, paras. 11, 12, 20, 22, 24, 31; CESCR, General Comment No. 16 (2005), *Substantive Issues Arising in the Implementation of the International Covenant on Economic, Social, and Cultural Rights: The equal right of men and women to the enjoyment of all economic, social, and cultural rights (art. 3 of the International Covenant on Economic, Social, and Cultural Rights)*, U.N. Doc. E/C.12/2005/4 (August 11, 2005), para. 27.

³⁵¹ CEDAW, Concluding Observations on the Combined Seventh and Eighth Periodic Reports of Poland, U.N. Doc. CEDAW/C/POL/CO/7-8, 2014, paras. 24, 25(f).

domestic violence survivors and called on the government to increase services and centers for protection and support of victims of violence.³⁵²

EU Directive 2012/29 establishing minimum standards on the rights, support and protection of victims (Victims' Rights Directive) lays out clear rights to protection, services, and justice for victims of all forms of crime, including gender-based violence.³⁵³ It calls for specialist support services in addition to or integrated into general support services for survivors of violence, and recognizes the need for targeted services to meet specific needs of victims of sexual and gender-based violence.³⁵⁴ A 2017 European Parliament assessment of the application of the EU Victims' Rights Directive in Poland noted lack of comprehensive and coordinated services for survivors of violence, failure to systematically implement coordination of victim support services, and lack of national funding for such services.³⁵⁵

³⁵² CESCR, Concluding Observations 2016, paras. 30, 31(c).

³⁵³ Victims' Rights Directive, Ch. 2, Ch. 3, Ch. 4.

³⁵⁴ Victims' Rights Directive, arts. 8.3, 9.3.

³⁵⁵ European Parliamentary Research Service, *The Victims' Rights Directive 2012/29/EU, European Implementation Assessment*, European Union, December 2017, [http://www.europarl.europa.eu/RegData/etudes/STUD/2017/611022/EPRS_STU\(2017\)611022_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2017/611022/EPRS_STU(2017)611022_EN.pdf) (accessed January 24, 2019), p.66.

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“The Breath of the Government on My Back”

Attacks on Women’s Rights in Poland

On October 3, 2016, demonstrators across Poland participated in “Black Protests” against the ruling Law and Justice (PiS) party’s attempt to enact a complete abortion ban. When parliament rejected the ban, it felt like a triumph for women’s rights and popular protest.

More than two years later, however, women’s rights in Poland are under attack. *“The Breath of the Government on My Back”* documents how, since coming to power in 2015, the PiS government has targeted women’s rights activists and organizations through raids, denial of funding, political rhetoric, and disciplinary action, as well as retrogressive laws and policies. Government defunding has forced women’s rights organizations to cut staff, diminish geographical coverage, and reduce activities including critical service provision for survivors of violence and sexual and reproductive health education.

Based on interviews with women’s rights activists, teachers, lawyers, donors, and government officials, this report shows how the government has fostered a climate of fear for women’s rights defenders. Activists and others have faced intimidation or retaliation for participation in peaceful women’s rights protests or cooperation with women’s rights groups. Government actions have also deterred some survivors of violence from seeking help.

Polish authorities should end their attack on women’s rights. The government should stop targeting rights defenders, halt and condemn misinformation campaigns, and investigate abusive tactics against women’s rights activists. It should cease backsliding on women’s rights law and policy, ensure access to sexual and reproductive health care and information, and support and provide specialized services for survivors of gender-based violence as required under its international and regional human rights obligations.



Women’s rights supporters at a demonstration for International Women’s Day in Krakow, Poland, on March 8, 2018. The center sign uses the slogan “No Woman, No Country.”

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