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Different positions in the European Parliament  
on abortion: the abortion debate in Poland in  
2016 and in 2020 as a case study

Magister (MA) Thesis

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## Abstract

From being illegal until 1932, to being legal during the Communist regime, to the compromise of 1993, the abortion law in Poland has been a hotly debated topic that arises ever so often. With the electoral win of PiS in 2015, a new chapter of this debate began, as this party acted to end the 1993's established abortion legislation. Challenges to the reproductive and women's rights were not the only facet of this new governing party, with attacks to the rule of law being reported and noticed nationally and internationally. In an atmosphere of turmoil over another right-wing populist party being elected to government, this dissertation centres on two different moments of the abortion debate in Poland: 2016 and 2020, both during PiS' rule. In 2016 a citizen's initiative entitled "Stop Abortion" ("*Stop Aborcji*") proposed a near-total abortion ban. This event would trigger large-scale grassroots contestation in the streets: especially Black Monday, the largest mobilisation since the Solidarity movement. This struggle eventually succeeded in maintaining the abortion law as it was. In 2020, already with one of the most restrictive abortion laws in Europe, Poland took another step back: the K 1/20 judgement, from the Constitutional Court. This ruling in October of 2020 considered unconstitutional to perform abortions when the foetus is severely malformed or at high risk of impairment – coinciding with the majority of cases of legally performed abortions in Poland. This move was also met with strong contestation on the streets: the *Strajk Kobiet* protests, with the mobilisation in October of 2020 being one of the largest to memory. The two events mentioned both sparked debates in the European sphere – with the European Parliament becoming the centre stage for activism and international solidarity, with MEPs siding with the protesters or the Polish government. Focusing on the European Parliament (EP) debates "Women's rights in Poland" (2016) and "Abortion rights in Poland" (2020), but also and many scientific articles, news reports, books, the main goal of this dissertation is to understand the factors behind the different positions on abortion in the EP: either East/West, authoritarian populism/liberal democracy, Poland/Europe, or any other.

## Abstract

Ustawa aborcyjna w Polsce coraz częściej jest tematem gorących dyskusji. Aborcja w Polsce była do 1932 roku nielegalna, następnie została zalegalizowana w czasach reżimu komunistycznego, aż do kompromisu z 1993 r., gdy ograniczono możliwość usuwania ciąży. Wraz ze zwycięstwem PiS w 2015 roku rozpoczął się nowy rozdział tej debaty, ponieważ partia ta podjęła działania na rzecz zmiany obowiązującej od 1993 roku ustawy aborcyjnej. Ograniczenie praw reprodukcyjnych i praw kobiet nie były jedynym krytykowanym działaniem nowej partii rządzącej, obawy budzą również ataki na praworządność, zgłaszane i zauważane na szczeblu krajowym i międzynarodowym. W kontekście zwycięstwa wyborczego prawicowej partii populistycznej, ta praca koncentruje się na dwóch różnych momentach debaty na temat aborcji w Polsce za rządów PiS: w 2016 i 2020 roku. W 2016 roku obywatelska inicjatywa „Stop Aborcji” zaproponowała niemal całkowity zakaz aborcji. To wydarzenie wywołało masową oddolną kontestację na ulicach: zwłaszcza Czarny Poniedziałek, uznawany za największą mobilizację społeczną od czasu ruchu Solidarności. Ta walka ostatecznie doprowadziła do utrzymania prawa aborcyjnego w dotychczasowym stanie. W 2020 roku, ustanawiając jeden z najbardziej restrykcyjnych przepisów dotyczących aborcji w Europie, Polska cofnęła się o kolejny krok, będący konsekwencją wyroku K 1/20 wydanego przez Trybunał Konstytucyjny. Orzeczenie z października 2020 r. uznawało za niezgodne z konstytucją wykonywanie aborcji, gdy płód jest poważnie wadliwy lub zagrożony upośledzeniem – co jest zbieżne z większością przypadków dokonywania legalnej aborcji w Polsce. To posunięcie spotkało się również z silną kontestacją społeczną: falą protestów w ramach Strajku Kobiet w październiku 2020 r.. Wspomniane dwa wydarzenia wywołały debaty w sferze europejskiej – Parlament Europejski stał się centrum aktywizmu i międzynarodowej solidarności, europosłowie opowiedzieli się po stronie protestujących lub po stronie polskiego rządu. Koncentrując się na debatach Parlamentu Europejskiego (PE) „Prawa kobiet w Polsce” (2016) i „Prawa do aborcji w Polsce” (2020), ale także i wiele artykułów naukowych, doniesień prasowych, książek, głównym celem tej rozprawy jest zrozumienie czynników stojących za różnymi stanowiskami w sprawie aborcji w PE: napięć na linii Wschód/Zachód, autorytarny populizm/liberalna demokracja, Polska/Europa lub innych.

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## I. Introduction

the intentional ending of a pregnancy:

She decided to have/get an abortion.

Abortion is illegal in some countries.

(Cambridge University Press, Abortion, n.d.)

Abortion is not just a medical act, but a moral question as well. In fact, the fight for women's rights and reproductive rights has been global and everlasting, with the right to abortion yet to be universal. As abortion legislation seemed to move in the way for more liberalisation, a new wave of authoritarian populist movements has greatly influenced women's rights policies. In Poland since 2015, the PiS' government has acted to overturn the established abortion compromise of 1993. A number of values emerging from the democratic formula in Poland have also been attacked, with the notable example of rule of law. Nonetheless, this did not go unnoticed to international observers. International media and supranational institutions such as the EU have been vocal against the attacks by Kaczyński's party. The question of abortion in Poland and its international impact (particularly in the EU) are key to this Dissertation.

This MA Dissertation is written under the title: "Different positions in the European Parliament on abortion: the abortion debate in Poland in 2016 and in 2020 as a case study." Accordingly, it consists of a contextualisation of women's rights in Poland since 1989, the analysis of an important event on the abortion movement in 2016 (Black Monday) and another in 2020 (*Strajk Kobiet*), in addition to the different positions on abortion in the European Parliament (EP) in 2016 and 2020. The main goal is to understand the factors behind the different positions on abortion in the EP being defined by East/West, authoritarian populism/liberal democracy, Poland/Europe, or any other categories. Following this direction, I used EP debates – "Women's rights in Poland" (2016) and "Abortion rights in Poland" (2020) – and many scientific articles, news reports, books to help guide such research. Naturally, this study has also been guided by a main research question, initially defined as: "using the abortion debate in Poland as a case study, what defines the different positions in the European Parliament in regards to the abortion topic?". From this, two additional questions were written down; chapter "2016" and the chapter "2020" follow the following research questions respectively: "what defines the different positions in the European

Parliament in regards to the 2016 abortion debate in Poland?” and “what defines the different positions in the European Parliament in regards to the 2020 abortion debate in Poland?”

The reasons behind the selection of this topic are various, yet they stem from an interest in studying Central and Eastern European (CEE) politics. Studying in Lublin (Poland) for one semester in 2018/2019 jumpstarted my interest in the region, that has been solidified with the selection of this MA course and the construction of this Dissertation. Thus, before the selection of the topic, I already nurtured an interest in the CEE region and populism studies. This MA course also gave me the opportunity to study once again in Poland, now in Krakow during the 2020/2021 academic year. Therefore, I had the chance of watching the *Strajk Kobiet* demonstrations in real life, which allowed me to become more interested and follow up close this event. Moreover, it is also clear that the fact of me being a woman makes it so that the topic at hand correlates to me, constituting a limitation to women’s rights in Europe. Lastly, as a European I also analyse this topic through a European lens, using the European Parliament and the international media as important elements to this Dissertation. It is also a reflection of how the abortion question has been portrayed in the European sphere. Thus, the contributions of many Polish scholars’ works have helped me understand some of the intricacies that can escape to an outsider observer.

The structure of this Dissertation was designed to encompass the main themes in a fixed configuration, so as to simplify the comparative analysis. The first chapter is entitled “Contextualisation”. It introduces the abortion question from a historical point of view and provides a theoretical contextualisation of the Dissertation. The central aspect to this chapter is the historical contextualisation of abortion in Poland since 1989 to today, divided into the following chronological items: “During the Socialist state”, “The democratic transition”, “From the transition to today”, “First clues from the historical contextualisation”. After this, the section “Theoretical contextualisation” gives the central theories, concepts, and methods to the construction of this MA Dissertation. Next, the following chapter is entitled “2016”. This chapter, as the name indicates, deals with the events related to the abortion question in 2016: in Poland and in the European Union. I start with a large section dedicated to Poland entitled “2016: Exploring the abortion question in Poland”. Here, I chose the Black Monday protest (October 3<sup>rd</sup>, 2016) as the main event related to abortion. More specifically, I use the following chronological organisation: “2015: PiS and the factors for its victory”, “Leading up to Black Monday”, “On the Black Monday protest and the wave of contestation” and “Lessons from Black Monday”. Then, I present the second largest section in this chapter: “2016: Exploring the abortion debate in the European Parliament”. Now, the debate on the

European Parliament (EP) titled “Women’s rights in Poland” (October 5<sup>th</sup>, 2016) is the main subject matter at hand. Having in mind the objectives established by the research question, the analysis of pro-life and pro-choice arguments in the EP is front and centre to this section of the chapter. Yet, this is not the only concern, as a needed contextualisation of the abortion question in the EU is of importance. Thus, this section is segmented into the following items: “The European Parliament and abortion” and “05/10/2016: On the EP debate entitled ‘Women’s rights in Poland’”. The chapter ends with the “Final remarks” section, that provides a summary of the chapter where I attempt at answering the proposed research question. Subsequently, “2020” is the following chapter that centres around emblematic events from 2020 on the abortion question: both in Poland and in the EU. Again, I start with one large section entitled: “2020: Exploring the abortion question in Poland”. In order to analyse this broad subject, I chose *Strajk Kobiet* (from October 22<sup>nd</sup>, 2020, to January 27<sup>th</sup>, 2021) as the main event. More specifically, and maintaining a similar structure than before, it follows: “After Black Monday”, “Leading up to *Strajk Kobiet*”, “*Strajk Kobiet*”, “Lessons from *Strajk Kobiet*”. Analogous to before, another large section that focuses on the EU follows, under the title: “2020: Exploring the abortion debate in the European Parliament”. Here, the EP debate at the core of this section is “Abortion rights in Poland” (November 25<sup>th</sup>, 2020). I start with “Abortion in Europe today”, to provide with a needed contextualisation, and after, “25/11/2020: On the EP debate entitled ‘Abortion rights in Poland’”. This chapter also ends with a concluding section (“Final remarks”), with a summarisation of this chapter and answering the research question cut out for this chapter. Lastly, the final chapter is “Conclusion”. Here, I go over all the key points arrived at by the end of each chapter. Taking into consideration the main research question, my goal is to answer what is behind the different positions in the EP regarding the abortion debate: is this a debate on geography (East/West, Poland/Europe), on ideology (authoritarian populism/liberal democracy), on nationality, on personal beliefs, or none of these variables? Overall, what patterns can be found? With this MA Dissertation I hope to have made a small contribution to the studies of the CEE region, the EU, the question of abortion, and its relation to the new wave of populism in Europe.

## II. Contextualisation

### *The evolution of women's rights in Poland – an outlook*

Women's rights and reproductive rights in Poland have changed throughout the centuries, with steps restricting and liberalising abortion. With the 1956's law, the Communist regime provided free and accessible abortion – an official stance maintained throughout the whole period. Thus, it was in the transition period that the abortion debate was once again ignited, and resulted in a more restrictive law than before: the abortion law of 1993. Noted by Andrzej Kulczyki, “the law was changed from one of Europe's most permissive to one of its most restrictive”, bringing to the front row one pressing issue that would generate fierce debate in Poland. (Kulczycki, 1995, p. 471)

The reasons for such a change in the abortion law largely lie in the renewed political power of the Catholic Church. After years of an authoritarian Communist regime, Poland rejoiced with its newfound independence and with the establishment of a democratic regime. Yet, the role of the Solidarity movement (*Solidarność*), its connection to the Catholic Church and the influence that the Church would have in Polish politics were quickly coming into play to Polish women's rights to this day.

In this chapter titled “Contextualisation” I will go over both historical and theoretical contextualisation, to precede the current discussion on abortion in Poland. Since 1989 marks a new era for Poland, this year serves as a compass in what time-period I will be looking at women's rights in Poland. Therefore, I have divided this chapter in six parts: “During the Socialist state”, where I look at the women's rights during this time period, which are defined as generous and stable (but without public discussion); “The democratic transition”, characterised by the transition to democracy, where the Solidarity movement and the Catholic Church had a large influence in restricting reproductive rights; “From the transition to today”, a period where further restrictions are attempted multiple times, where Poland seems to take a different path than the EU and the West; “First clues from the historical contextualisation”, where I conclude the historical contextualisation, providing some concluding arguments and points on the general evolution of abortion in Poland; “Theoretical contextualisation”, a brief summary of the main theories and concepts that are the foundation to this the MA Dissertation. These sections are meant to both contextualise and orientate the discussion further, which will then continue to explore the events in 2016 and in 2020 in Poland, and the debates in the European Parliament on abortion.

## *During the Socialist state*

In this first section, I will be generally looking at women's rights in Poland during the Communist regime. To do so, this section is going to focus on five different points: the Socialist Party in power (*Polska Zjednoczona Partia Robotnicza* or, in its acronym, PZPR), the Catholic Church, the women's rights at the time, abortion and the negative consequences to women's rights/reproductive rights during this time. This way, this section will serve both as a starting point and as a comparison to the way women's rights have evolved in Poland.

To begin with, during the Communist regime in Poland, women's rights were established but not fought for. As noted by Joanna Mishtal, women's rights in Poland were artificially established by the state ("state feminism", the gender equity campaign of the PZPR), which contrasts greatly to what had happened in the Western countries. (Mishtal, 2015) As the Polish women gained more rights (in areas such as employment, education, reproductive autonomy), there is already a lingering question of if such top-down solutions are preferable to the usual route: a struggle from the civil society.

Another important factor is the PZPR's relation to the Catholic Church. The opposition of these two entities, also reflected by the secular nature of the PZPR, made them to be natural opposition. The PZPR was aiming at secularisation of the Polish state, while allowing the functioning of the Catholic Church. (Mishtal, 2015) Therefore, the Church remained as an opposition force without political leverage.

When it comes to the Polish Catholic Church, it did have more space to act compared to other Communist countries. Alicia Czerwinski duly notes how the Catholic Church in Poland actually benefitted from the level of autonomy given by the PZPR. Actually, and working against the interests of the Socialist party, the Church was both responsible for the populations' dissatisfaction for the regime and for providing a space haven for forming resistance. (Czerwinski, 2003)

What is more, the Catholic Church positively benefited from the 1978 election of Karol Wojtyła, as Pope John Paul II. The Polish Pope was known for his statements for independence, becoming a figure also associated with the protests in the 1980s. Overall, as also mentioned by Dorota Szelewa, the trust for the Polish Catholic Church rose to 95% amongst the population. (Szelewa, 2016)

Even without political power, the Church did voice its concerns on the practice of legal abortion. While the reframing of the issue as infanticide would be a later strategy employed by the Church, the institution did not change its stance during the Communist regime. (Szelewa, 2016) Its opposition to the repressive regime did eventually bear fruit: the

alliance with the Solidarity movement would give the Church more leverage in the definition of reproductive rights' policies and its debate.

With respect to the women's rights in this period, the description provided by Joanna Mishtal is quite useful to paint a picture of these contradictory times. On the one hand, women were underrepresented in the ranks of the PZPR, and politics remained to be male dominated. On the other hand, many policies enacted by the state government followed "the Marxist egalitarian principles", and thus: education, healthcare, employment were expanded and significantly improved the lives of women. In addition, many other specificities were not forgotten, including social service policies (designed to make sure that women could enter the work force without having to balancing it with caretaking). "Households with basic appliances", "public childcare centres", "welfare benefits" (including "single mother's wages", "schoolbooks and supplies", "care of disabled children"), "Bar Mleczny (...) offering inexpensive home-style meals", were listed by Mishtal as examples of what the PZPR put into practice to ensure female employment. And as noted by the author, the party was successful, with 78% of Polish women working full-time. Nevertheless, it must be highlighted that the gender roles did not change much, with women still expected to do housework and maintaining their stereotypically caretaker function while at home. (Mishtal, 2015, pp. 25-26)

Specifically on abortion, this period is defined by a liberalisation of reproductive rights. From 1956 till the end of the regime, abortion was legal for medical and socioeconomic reasons (up to fourteen weeks of pregnancy), free of charge in public hospitals. (Mishtal, 2015) However, as methods of contraception were still scarce and of poor quality in Poland, abortion went from an emergency act to one contraceptive method. (Kulczycki, 1995) Therefore, reproductive health was still deeply flawed, as abortion is not the only side to sexual and reproductive autonomy.

Lastly, and as I hinted throughout this section, there were also negative consequences in women's rights coming from the Communist regime. Wanda Nowicka rightly points at the fact that abortion was not discussed during Communism and, therefore, was taken for granted and not publicly opposed. (Nowicka, 2008) This led to a disbelief that future changes would be possible in the transition, with the Polish population convinced that an abortion ban would be an impossible circumstance. In addition, Lisa Baldez draws attention to the fact that gender equality was not achieved during Communism and the quality of life did not improve. (Baldez, 2003) The PZPR, by trying to impose what it deemed equal, invalidated the feminist movement from the West, the one growing in Poland and deeply undercut the development of grassroots women movements, urgently needed during the transition.

## *The democratic transition*

In this section, the time-period in focus will be the transition from the Communist regime to a democracy in Poland. Going back to the main topic at hand, I will be specifically exploring the Solidarity movement (*Solidarność*), the Catholic Church, the abortion restrictions enacted and a chronological look into what bills on abortion preceded the 1993 compromise: in force until the ruling of October 2020.

First, the transition itself marks the beginning of a new era for Poland: 1989 to today. In fact, as the regime collapsed, people rejoiced and eagerly awaited the new political system. As Joanna Mishtal noted, the abortion ban was one of the first priorities coming from the Polish Parliament. This first effect of the Church influence in politics came as a surprise to the population, rather expecting solutions for the economic and political mayhem at the time. In short, Mishtal summarises with the expression: “in Poland ‘the red rule’ was replaced by ‘the black rule,’ referring to the black priestly cassocks,” (Mishtal, 2015, p. 186)

When it comes to the transition per se, it must be explored one of its main actors: the Solidarity movement. Born in 1980 as a trade union at the Lenin Shipyard in Gdańsk, the Solidarity movement (*Solidarność*) grew up to be one nation-wide movement opposing the Communist rule and responsible for its collapse. Nonetheless, Solidarity and Lech Wałęsa (its leader, that would later be President of the Polish Republic) represented more than just resistance against the Communist rule:

(...) symbolism in images of the pope, crucifixes on the gates of the Gdańsk shipyard, and Wałęsa’s ubiquitous Black Madonna lapel pin all signified a deep ideological connection between the growing anti-communist workers movement and the church. (Mishtal, 2015, p. 29)

What is more, Mishtal also underlines the fact that Solidarity was male-dominated and pushed aside many concerns coming from the women in the movement. Seen as “merely supportive”, women in Solidarity played only a secondary role and women-specific issues were largely underrepresented. (Mishtal, 2015)

This end up being a larger problem than appeared to be at first, as portrayed by Piotr Żuk & Paweł Żuk. The position of Solidarity as “fiercely against” abortion culminated in the resolution on “the legal protection of unborn child”, in 1990. Despite being heavily criticised by the Commission of Women (a section in the Solidarity movement), the resolution was adopted, and the Commission was made illegal. (Żuk & Żuk, 2017)

Another element worth noting is the Catholic Church in Poland, during this time. Wanda Nowicka lists the three key priorities of the Church at the time being: first, to promote and ratify the Concordat (an agreement with the Vatican, ending the Church-State separation); second, “introduce Catholic instruction in public schools”; third, “restrict legal abortion and other reproductive rights”. (Nowicka, 2008, p. 60)

As I previously mentioned, the position of the Church did not change. From the Communist regime to the transition period, the Church gained a direct say in politics and could be part of the abortion debate. Thus, when Mishtal brings up the new rhetoric of the Church in expressions such as “foetal rights” or “embryonic rights”, it stems from before, in expressions such as “women’s right to motherhood”. (Mishtal, 2015)

Nevertheless, the influence that the Church acquired was not only due to Solidarity’s sympathy for Catholic symbolism. In fact, Dorota Szelewa fittingly notes how the Church had an influential role of resistance against the Communist regime. Therefore, being Catholic also meant being against the authoritarian regime. And thus, being a true Pole and fighting for the independence of country meant being a Catholic. This is also reflected in the skyrocketing trust of the public in the Catholic Church at the time. The author concludes that the reservations that some might have against the Church’s influence in politics are seen “as the price that the government has to pay”. (Szelewa, 2016, p. 742)

Going over the criminalisation of abortion in this period, some factors must be noted upfront. First, it is not light-heartedly that the authors talk about a “priority” to ban or heavily-restrict abortion during the transition period. In fact, when the new Polish Parliament was formed in 1989, the administration (constituted by former Solidarity members) proposed the “protection of the unborn” as the second legislative change. (Mishtal, 2015) As abortion was becoming effectively contested, the voices against abortion became louder and there was a radicalisation of the language. Thus, abortion was compared with the “external occupying powers” (either/or the Nazi and the Communist regime) and with the “physical elimination of the Polish nation” (which was documented as a strategy by the Nazi regime). (Szelewa, 2016) Yet, as voices against abortion became louder, voices supporting liberalisation or maintenance of the status quo were also heard. The “protection of the unborn” proposal served as a trigger for the Polish women’s movement, with grassroots movements and associations mushrooming in Poland. (Baldez, 2003)

As the last portion of this section, I shall look specifically at the chronology of events related to the abortion law until the compromise of 1993.

First and foremost, as I previously stated, in 1989 there was a proposed bill to ban abortion. With the Church having direct contact with Polish politics, participating in the “Round-Table Talks”, the abortion law would later be influenced by the Church’s rhetoric and goals. Therefore, in 1989 the proposed legislative change was of a complete abortion ban, with three-year sentences for the offenders, redefining the rights of a foetus to be the same as of a living child. This bill, however, did not come through. In 1990, there was a second failed attempt: a bill that envisioned a two-year imprisonment for “whoever provoked the death of an unborn child”, with the only exception being when the woman’s life is at danger. In this same year, the “conscience clause” is also introduced. (Kulczycki, 1995)

The attempted restriction on abortion in 1990 was also influenced by Pope John Paul II. As his position radically against abortion was no secret, his visits to Poland were often times moments to voice his concerns on the topic. Thus, when he announced a visit to Poland in 1991, many MPs were pushing for the bill as an early “gift” to the Papal visit. (Nowicka, 2008)

In 1991 there were more unsuccessful attempts. The Christian National Union party pushed for a stricter bill, where both the doctor and pregnant women were liable for sentencing (with the only exception being when woman’s life is at risk). Another proposal called for a national referendum on abortion, but it was also rejected. (Szelewa, 2016) In 1992, there were yet more fruitless proposals. One very restrictive bill faced harsh opposition from the Women’s Parliamentary Caucus in the Sejm, presenting their own proposal. In the same year however, a new medical code of ethics was presented, and it read that performing abortions was only possible when there was “a criminal act or threatened the woman’s life or health”. (Kulczycki, 1995)

At last, in 1993 a new legislation was adopted and was in force until 2020. According to this law, abortion is legal in three situations: when the mothers’ life is at risk, when it results from crime (either incest or rape), when the foetus is severely malformed or at high risk of impairment. Socioeconomic reasons were no longer a possible condition, as was before 1989. As Andrzej Kulczyki observes, this law “satisfied almost no one because it was poorly written and did not fully meet the demands of any one group.” (Kulczycki, 1995, p. 485) Without a referendum, the “compromise” of 1993 was short of a compromise. The law “satisfied no one”, went against the public opinion (at the time, favourable of abortion as existed before 1989) and catered to the newly influential political actor: the Church.

## ***From the transition to today***

Since the legislation on abortion was adopted in 1993, there have been a number of developments leading up to the events in 2016 and beginning in 2020. Therefore, I will now look at the events from 1993 to just before 2016, as a final way of contextualising the evolution of women's rights in Poland. To do this, I will start by looking at relevant elements of this time-period, meaning: the Concordat, the conscience clause, the accession to the EU and the case of Alicja Tysiąc. After this, I will look specifically at some of the attempts to restrict and liberalise the abortion law in this period.

To begin with, the Concordat was an essential gain for the Church, concluding one of its priorities since the regime change. The international agreement was ratified in 1993 and, as Joanna Mishtal explains, this agreement means that the Church can influence the state (but not vice versa). An additional point by the same author is on the conscience clause, as another tool that implicates with the restriction of abortion. The issue with the conscience clause is that a conscientious objection for performing abortions is often declared by the directors of hospitals for the hospital (instead of a doctor-by-doctor approach). (Mishtal, 2015) This means that while the legislation in 1993 does not ban abortion, some women complying with the listed circumstances will have a difficult time finding a physician and establishment that allows abortion.

Next in order, the Polish accession to the EU must be addressed. When Poland was in the path of joining the EU, the national question of abortion was one of major concern. What ensued and guaranteed the support of the Church for accession was the "exclusion cause". This clause present in Poland's Accession Treaty means that the Polish Republic has sovereignty over the EU in national matters that fall under "public morality" (which includes reproduction and sexuality). In the treaty the expressions used were "questions of moral significance" and "those related to the protection of human life". (Mishtal, 2015)

Yet the accession to the EU and return to Europe also brought advantages to the groups advocating for reproductive rights. The fact that in Poland these groups faced a never-ending battle against the influence of Church and conservatism, the European space opens up as a bigger arena for advocacy and international solidarity. As observed by Mishtal, while Poland might have blocked the interference of the EU, there are other valuable avenues such as the European Court of Human Rights (ECHR). However, it is underlined that the verdicts are still of difficult enforcement in Poland. (Mishtal, 2015) And yet, the case of Alicja Tysiąc became widely known, causing waves in Poland.

Alicja Tysi c was a pregnant Polish woman seeking abortion after her physicians stating the high probability of becoming blind from childbirth. After failing to have the documentation from the physicians allowing an abortion, Tysi c was unable to have an abortion and birthed her child. However, and as predicted, she became legally blind and in need of special care. Her case was taken to the ECHR and the court ruled in her favour, finding that the European Convention on Human Rights was violated in regards to Article 8 (right to respect for private life). This ruling resulted in penalty for the damages to be paid by the Polish state to Tysi c.

On the case of Alicja Tysi c,  uk and  uk highlight how while the case became well-known in Poland, it did not effectively prompt change. Abortions that fall under the legal circumstances are still of difficult accessibility: the hospitals maintained their usual practice, facing a lot of pressure from both the Church and the right-wing media against performing abortions. ( uk &  uk, 2017)

When it comes to the legislation itself, there were several important moments preceding the events in 2016. First, in 1994 there was an attempt to bring back social grounds as another exemption from the abortion ban; however, the President at the time, Lech Wa sa, vetoed the bill. (Nowicka, 2008) It was in 1996 when an amendment defining “difficult life conditions or economic hardship” was added to the abortion law as a legal exception, similar to what was possible before 1993. However, this legislation did not last long: in 1996 was immediately challenged by the conservative party and in 1997 was deemed unconstitutional by the Constitutional Tribunal. Szelewa comments that this relates to the Papal visit scheduled in 1997, when there was high pressure to appease the Church and its stance on abortion. (Szelewa, 2016)

As a consequence of the 1996 amendment that included “difficult life conditions or economic hardships” as grounds for abortion, there was public contestation on the streets against abortion liberalisation. The conservative groups staged different protests and public prayers in front of abortion clinics, that would only stop in 1997 with the amendment being overruled. Moreover, this period was also marked by the increase of popularity of the radio station “Radio Maryja”. This conservative and religious radio station founded by Rev. Tadeusz Rydzik was vocal against abortion, comparing it to the Holocaust and to eugenics policies. (Szelewa, 2016)

With the movement for restricting abortion gaining full speed, in 2007 was yet another attempt to further restrict the legislation. The Catholic League of Polish Families, a political party member of the governing coalition at the time, proposed a full abortion ban with no

exceptions. While this was rejected, in 2008 there was yet another concerning proposal coming from the minister of health Ewa Kopacz. To Minister Kopacz, the proposed bill envisioned a national registry of women with a positive pregnancy test, with the aim of preventing abortions. After harsh criticism, Minister Ewa Kopacz decided to withdraw the proposal. (Mishtal, 2015)

It must also be noted that the 2007 attempt of restriction was not officially supported by the Church. Both the Church and the Kaczyński twins (President Lech Kaczyński and, his brother, Prime Minister Jarosław Kaczyński) supported the status quo and officially stated that further restrictions on abortion would divide the society. (Heinen & Portet, 2010)

At last, there was an attempt of excluding foetal abnormalities as grounds for abortion in 2013, but it was unsuccessful. This was followed by the 2015 campaign to ban therapeutic abortion allowances, sponsored by the Catholic Church. (Mishtal, 2015)

All in all, these events portray a telling story on the abortion debate in Poland. I would list three aspects that can help set the stage for the next section, “First clues from the historical contextualisation”. First, noted by Wanda Nowicka, “the anti-abortion law is much stricter de facto than it is de jure”. (Nowicka, 2008, p. 61) Whatever the legislation on abortion is in Poland, there is a greater problem with what is legal and what is possible: being the case of Alicja Tysiąc paradigmatic. Secondly, the true scale of abortion in Poland is hard to measure as a large percentage of terminations occur “underground” – but one thing is certain, the restrictions on abortion did not eliminate the phenomena. Thirdly, as mentioned by Mishtal, the abortion discussion in Poland is tainted, probably because of the number of times it has come up. A great majority of the population now sees the debates as two extremes: on the one hand, the Catholic Church; on the other hand, the feminist movement. At the same time, the 1993 legislation is portrayed as a “compromise”, when Poland has one of the strictest abortion laws in Europe. (Mishtal, 2015)

Summarily, Poland transformed from a society where abortion was accepted and easily accessible to one that has constant attempts of further restricting abortion. It seems to move opposite from the rest of the trends in the West, making the abortion question far from being resolved. The public acceptance is also becoming less substantial, as the memories from legal abortion become fainter.

### ***First clues from the historical contextualisation***

After looking at women's rights and the abortion legislation from the Communist regime to the time just before 2015, it is time to explore some conclusions that can be drawn from what was previously explored. In order to do this, I will look at the following items: the Church, the policymakers, illegal abortion in Poland and morality when discussing abortion. Next, I will conclude generally on the topic, ending the historical contextualisation portion of this MA Dissertation.

To begin with, Mishtal notes that the influence of the Church post-transition has greatly impacted on all spheres of life, including political, economic, social, and private. The fact that Church could influence language and the discourse on abortion had palpable consequences in policies (on health care, on education) but also in individual control of women with mechanisms of moral surveillance. This last point includes the religious rituals that helped indoctrination and control on women's sexual behaviours, such as "confessions", "Christmas home visits by the clergy" or even "mandatory premarital courses". (Mishtal, 2015, p. 111) In fact, as observed by Szelewa, the great victory that the Church got was on the reframing the language used for abortion: where legal expressions such as "foetus" were substituted for "conceived child". (Szelewa, 2016) Therefore, it is already noticeable how the Church's political influence goes further than pushing for specific policies. Having benefitted greatly from their position during the Communist regime, the Church gained an unquestioned status of moral authority and trustworthiness from the citizens. Thus, by changing the ways abortion is talked and thought about, they have influenced far more greatly than any state policy would be able to.

Another point worth noting is on the policymakers and their take on the abortion debate. As was seen throughout the chapter, the conservative policymakers were closely connected with the Church and pushed for restrictions on abortion as soon as they took power after 1989. Whether from agreeing with the Church, fear of backlash from the Church or fear of losing Catholic voters, the period from 1989 to 2015 was marked by numerous attempts of restricting abortion, and few for liberalising abortion. Yet another point brought forward by Mishtal is the narrative of "calling for more births" in Poland. This narrative is used by nationalist and neoliberal market agendas, therefore making it quite useful for providing an excuse for regulating women's bodies. As more people are needed for the economy ("good consumers") or because abortion is sinful ("good Catholics"), the Church and the state end up having congruent aims. (Mishtal, 2015, p. 139)

What is more, the new era of a restrictive abortion law has accentuated the discussion on illegal abortion in Poland. Mishtal brings up some important points that separate Poland from the usual discussion of illegal terminations. First, how in Poland the illegal abortion world is mainly constituted by trained and licensed gynaecologists. This means that while it is illegal, it is significantly safer than the “back alley” procedures that happen elsewhere. Secondly, it is understood that the ability to have an abortion that does not fall on the exceptions provided by the law is closely related to the financial situation of the woman in question. Thirdly, most of the times it is quicker and easier to have an illegal abortion even when it qualifies for a legal termination under the law. Therefore, there are a lot of women choosing to terminate their pregnancy illegally – quickly, safely, and discreetly. Lastly, physicians gain from performing abortions in their private clinics: earning more money and protecting themselves from condemnation from the Church. Therefore, there is real no incentive from the physicians to fight for legal abortion. (Mishtal, 2015)

Lastly, the abortion discussion viewed in terms of morality has brought great difficulties to arriving at a common ground. In fact, the discourse based on morality, a consequence of the reframing from the Church, meant that abortion became a heavy subject that cannot be questioned and debated about. This is in stark contrast with the practice during the Communist regime, where physicians performed abortions and were not constrained by conscience clauses enacted in the name of a whole hospital. Aiding to the argument of abortion being immoral, there is the nationalistic argument of low birth-rates as an excuse for restricting abortion. Yet, the concern for a low-birth rate does not accompany significant improvements and subsidies for women, such as guarantees job security in pregnancy or state aid in children’s care (childcare centres, social benefits, etc). (Mishtal, 2015) In addition, the problem of the framing abortion in terms of morality also implicates with the relation with the EU. The differences between Poland and EU’s narrative calls to question if both value systems can peacefully coexist: the liberal model of the EU and the conservative model of Poland. (Heinen & Portet, 2010)

All in all, having a restrictive law on abortion has nefarious consequences to Poland and its population. To start with, walking towards limiting abortion diminishes the rights of women in their bodily autonomy. This situation brings out the difference in treatment between women in men, when women’s bodies are first thought about to serve the national aims and fit into the Catholic morality. (Heinen & Portet, 2010) Secondly, a restrictive abortion law does not: eliminate the performance of abortions, increase the birth-rate, or prove Catholic devoutness of a population. In the case of Poland, neither was true: there is still a known

underground world of abortion, the birth-rate is still low, the numbers of Catholic affiliation have been decreasing. Therefore, as concluded by Mishtal, this law mainly affects the pursuit of abortion for poor women, unable to pay for the illegal practice. (Mishtal, 2015)

Throughout the years, as I went through in this chapter, the abortion debate has been more and more politicised: leading to an outcome that contradicts the expectations of the democratic process. Mishtal comments “The hallmark of Polish post socialist politics has been the disregard for women’s concerns, (...)” (Mishtal, 2015, p. 197); Kulczycki agrees, “One observer wryly noted: ‘It is amazing to see how our rights have grown as humans but shrunk as women.’”. (Kulczycki, 1995, p. 490) The loss of rights such as equal pay for equal work, childcare, maternity benefits, worked against women and against the imposed progress prior to 1989. The role of women takes a toll, remaining the stereotypical function of mother and wife. (Czerwinski, 2003). Nonetheless, the mushrooming of women’s organisations, openness to the feminist thought from the West, the empowerment of female voices, gender equality legislation and the influence of the EU have had an impact in what used to be a monolithic Communistic approach. Thus, when entering the discussion of the events in 2016 and 2020, history takes a huge explanatory role. How the Church was able to regain trust and being a motivator for change, transforming into an influential political actor. How the abortion debate was reframed and how many attempts were there at restriction. From the inexistent women’s movement and the backpedalling on women’s rights. The accession to the EU, and the never-ending tensions between two different value models. This is explained starting with 1989 and, in the next chapter, will continue with the events in 2016. Before that, there is a final need to theoretically contextualise this MA Dissertation, explaining what theories and concepts will aid its construction.

## ***Theoretical contextualisation***

In this MA Dissertation, as I previously stated, I will be specifically exploring the different positions in the European Parliament on abortion (2016 and 2020). With this chapter as a starting point, it is quite clear how gender studies, gender politics, women's rights, reproductive and sexual rights will be central. Considering that abortion is a key concept on this dissertation, it is also important to note that I will be looking at it from the angle of political science, international relations, populism studies. This is why the topic of abortion was already explored in this section from the point of view of the law, the attempts to change policies, and the political actors behind the changes. The moral question or the health aspect to the abortion debate are not the focus of this dissertation; rather, it is understanding the different stances of the various political groups in the European Parliament in relation to abortion.

In regards to methodology, this MA Dissertation will take use of both: qualitative analysis and literature review. The main method will be qualitative analysis, where Chapters 2 and 3 will be constructed from the European Parliament debates on the abortion question in Poland: in 2016 and 2020. Be that as it may, literature review will also aid this dissertation by providing historical and theoretical contextualisation. For this reason, in this first chapter I focused deeply on the book by Joanna Mishtal, *The Politics of Morality: The Church, the State, and Reproductive Rights in Post socialist Poland*. This book provides an in-depth analysis of the women's rights, where the author had the possibility of conducting field work for many years in Poland. That said, this chapter was also aided by many other scientific articles by different scholars. As previously stated, the next two chapters (on the 2016 and on the 2020 events, respectively), will use different materials as basis: the transcripts of the debates on the European Parliament on the abortion debate (in 2016 and in 2020, respectively). Using literature review of different scientific articles and books by many scholars will also be helpful for contextualising these chapters. After these, there will be a concluding chapter, where it is my goal to understand if the abortion debate is dividing either: East/West, authoritarian populism/liberal democracy, or Poland/Europe – all within the framework of the European Parliament.

### III. 2016

#### *An introduction to the abortion debate*

After a historical struggle with abortion in Poland, in 2016 the debate is once again fired up. Everywhere across the country, people came to the streets protesting against yet another proposal to restrict abortion even further. The term Black Protest (*Czarny Protest*) defined these protests, that occurred between September 2016 and 2018. On October 3<sup>rd</sup>, 2016, Black Monday (*Czarny Poniedziałek*) quickly became symbolic not only for Poland, but also internationally. (Hall, 2019)

The problem with these new attempts to restrict abortion (or to outright ban it) in Poland is that it is not merely an internal issue. As Elżbieta Korolczuk points out, this has been a trend in Europe since 2010, where anti-gender campaigns have successfully targeted policies in the areas of gender equality and reproductive rights. (Korolczuk, 2020) Networks and organisations such as Agenda Europe and Ordo Iuris have had both an effect in Poland and in influencing other European countries through a conservative agenda that rejects the liberal progressive path that the EU members have been following.

This chapter and the next are central to this MA Dissertation. Both consist of the two main events of the abortion debate that I chose to highlight. This decision is explained by two different factors: first, they are the more relevant to the topic at hand (in terms of both sizeable internal contestation, international attention, and, therefore, discussion in the European Parliament); secondly, they both took place during a continuously PiS-led government (as it is since 2015 to the present day).

In this chapter entitled “2016”, I will focus on the events that happened in 2016: in Poland and in the European Union. More specifically, and continuing to look through the lens of the abortion debate, I will look at two main events occurring in 2016: the Black Monday protest in Poland (October 3<sup>rd</sup>) and the debate that took place in the European Parliament, “Women’s rights in Poland”, on October 5<sup>th</sup> of the same year. The main goal for this chapter will be to answer the following: “what defines the different positions in the European Parliament in regards to the 2016 abortion debate in Poland?” Thus, I have divided this chapter in three main sections: “2016: Exploring the abortion question in Poland”, where I will explore at large Black Monday – from the beginning factors such as the election of PiS, to the event itself and its aftermath; “2016: Exploring the abortion debate in the European Parliament”, where it will be analysed the debate on October 5<sup>th</sup> (2016) – at first, the abortion in the EP in general; after, going through statements by the different MEPs during the debate and analyse the different factors that might be explanatory into the pro-life and pro-choice

positions, by using the works of many scholars; “Final remarks”, where taking into account all that was collected and mentioned in the chapter, I summarise the chapter and attempt at answering to the research question guiding this chapter: “what defines the different positions in the European Parliament in regards to the 2016 abortion debate in Poland?”

## ***2016: Exploring the abortion question in Poland***

In this first part, I will examine Black Monday, starting with factors and events leading up to the protest and concluding with the aftermath and outcomes that this event has had in Poland. In order to do so, I have divided this section into four items: “2015: PiS and the factors for its victory”, going over the electoral win of PiS and the topic of abortion in PiS’ ideology; “Leading up to Black Monday”, where it is described the citizen’s initiatives that have led to Black Monday; “On the Black Monday protest and the wave of contestation”, a section that explores the beginning of civil organisation for Black Monday, the event itself, the short-term effects and the public reaction to it; “Lessons from Black Monday”, where I look over the long lasting impact of Black Monday, in Poland and to the international women’s movement at large.

### *2015: PiS and the factors for its victory*

PiS (Law and Justice Party, or in Polish, *Prawo i Sprawiedliwość*) is a Polish political party founded in 2001 and is currently the biggest party in the Polish Parliament. In fact, the success of the party created by the Kaczyński twins, was seen quickly after its inception. Lech Kaczyński became mayor of Warsaw in 2002 and in 2005 became the President. Following the victory of PiS in the parliamentary elections in the same year, his twin brother and leader of the party (Jarosław), was nominated by him as Prime Minister. As highlighted by Rafał Pankowski by using the words of Klaus Bachmann, Lech Kaczyński made use of populist rhetoric and was able to gather support by placing himself as an outsider fighting against crime and corruption. (Pankowski, 2010)

After being in power from 2005 to 2007, PiS could not guarantee a re-election until 2015. In that year, it won both the parliamentary and the presidential elections, with Beata Szydło becoming Poland’s Prime Minister and Andrzej Duda, the President. PiS won the parliamentary elections again in 2019, and Andrzej Duda was elected president for the second term in 2020, which solidified PiS’ dominant position on the Polish political scene.

One important aspect to consider is the fact that over time, the ideology of PiS has shifted and changed since its inception, straying away from its original centre-right typology. Pankowski notes that since 2005 PiS has undergone deep changes, where populism, nationalism and authoritarianism became more and more central to actions/thought of the party. The author defines PiS as “an anti-systemic force seeking radical change rather than maintaining democratic stability”. (Pankowski, 2010, p. 153)

One question arises: why did PiS suddenly win? After an 8-year hiatus from power, failing to secure enough votes and speculation dubbing the party “unelectable”, PiS won in 2015. Some scholars hint at possible reasons for this victory, but they start with a less than favourable scenario for victory. According to Joanna Fomina and Jacek Kucharczyk, Poland did not have the textbook-type conditions for the proliferation and public outcry for populist politicians. In fact, Poland was steadily growing economically, with one of the lowest figures of unemployment (since 1989), improving its rank on international corruption surveys and with a high public support for the EU and European integration. (Fomina & Kucharczyk, 2016)

Nevertheless, Czesław Kulesza and Gavin Rae pinpoint the power of emotions in the success of Jarosław Kaczyński. In 2010, Lech Kaczyński passed away after the tragic crash of an aircraft in which he and several politicians and elites positioned differently on the political spectrum were on. Dubbed the Smoleńsk tragedy, this proved to be a useful political tool to Jarosław Kaczyński. In fact, PiS and Jarosław Kaczyński used the tragedy to fuel conspiracy theories claiming the accident was politically motivated. By claiming it was a deliberate attack from Russia, PiS strongly espoused a narrative on historical revisionism. Moreover, his personal connection to the accident, allowed Jarosław Kaczyński to connect with the voters. (Kulesza & Rae, 2017) As described by Golonka-Czajkowska, this event had long-lasting consequences in the Polish political arena: through a monthly repetition of ceremonies on this tragic event, a new religious and political practice in remembrance of Smoleńsk emerged. While conducting field research on these gatherings, the author saw a plethora of national symbols laid together with “a huge banner with the photo of Donald Tusk and Vladimir Putin bearing the text: ‘The Crime – Treason’”. (Golonka-Czajkowska, 2017, p. 110) The impact of connecting religion, martyrdom, politics, and a conspiratorial plot, transformed this event into a powerful tool that could not be ignored by Polish politicians. Thus, when a new right-wing populist movement by Paweł Kukiz (Kukiz'15) was set up in 2015, all the usual tropes were present (fighting corruption, representation of Poland “in ruins”, foreign control by a “German–Russian condominium”). Yet, and similar to PiS’ new rhetoric, another element was present: claiming that Donald Tusk and the former President Bronisław Komorowski conspired to take down President Lech Kaczyński, by causing the Smoleńsk crash. (Markowski, 2016)

A substantial factor for PiS’ success lies on the refugee crisis in 2015. Akin to a number of authoritarian populist movements in Europe, Jarosław Kaczyński (leader of PiS) made use of the crisis so as to incite fear on the population. This worked especially well, and

PiS rose to success by focusing and growing on cultural fears. Secularisation, “gender ideology”, tradition, family and migration became key points on PiS’ rhetoric. (Fomina & Kucharczyk, 2016) In fact, these themes became explainers to a gap between Poland and the EU, as PiS fear-mongered about the liberal tendencies that were expanding in Europe. When it comes to “gender ideology”, Sydney Calkin and Monika Ewa Kaminska have showed how it masked anti-abortion values, that flourished in the Polish nationalist and populist movement. Using the opposition to abortion espoused by Pope John Paul II, the movement started to equate abortion and “gender ideology” as foreign and malignant for Poland. Thus, the Polish feminist movement is vilified, as the values advocated are said not to be true to traditional Poland. Working against them, Poland is said to be standing alone fighting for Christian morality and tradition, where “feminism, sex education, LGBT equality and multiculturalism” are part and parcel of an EU-based conspiracy against “Polishness” – against the culture and religion. (Calkin & Kaminska, 2020) Using the Catholic Church as an authority figure, this empowered conservative movement justifies its rejection to progressive values. Moreover, it pits the population against each other, where the Polish feminist movement is seen as imported, subversive and against Polish interest.

Furthermore, there are reasons for the Polish population being receptive to this type of rhetoric. According to Piotr Żuk and Paweł Żuk, there is an observable “cultural and political shift” that led to PiS victory, between 2011 and 2016. After analysing data from CBOS<sup>1</sup>, the authors list a number of contributing factors for the falling support of abortion liberalisation in Poland: “economic crisis”, “uncertainty in (...) capitalism”, “indoctrination (...) of the right-wing”, “authoritarian views”, “stronger agitation by the Church”, “weakness of the left-wing and liberal circles”, “poor state of women’s movements”. (Żuk & Żuk, 2017)

It is already clear that there exists a discrepancy between the actual reality and the perceived reality, in terms of public opinion. On the one hand, Fomina and Kucharczyk showed that Poland was on a steady path to improving itself and the people’s living conditions. On the other hand, the rise of cultural issues (and not economy) was a powerful motivator for voters, which made it easy for authoritarian populists to capitalise in perceived harm and loss of identity. In fact, Fomina and Kucharczyk mention Pippa Norris’ argument on cultural backlash and authoritarian populism, and comment on the fact that PiS “[plays] on economic grievances in order to gain support, but economics is not what drives them.” (Fomina & Kucharczyk, 2016, p. 58) This same argument is also developed in a different publication by Ronald Inglehart and Pippa Norris. Here, the authors took the same argument

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<sup>1</sup> The report by CBOS, *Opinie o dopuszczalności aborcji [Opinions about abortion]* (April, 2016).

and clarified that the economic inequality and the cultural backlash theories are not mutually exclusive: instead, social inequality and material inequality can lead to higher economic insecurity, creating grievances that can unveil as “a negative backlash among traditionalists towards cultural shifts.” (Inglehart & Norris, 2016, p. 3) Inglehart and Norris conclude by expanding their results on the American electorate to the Western societies at large. To them, it is worrisome that were the cultural backlash argument proven to be true, cultural cleavage in European politics would definitely increase, regardless of economic factors. (Inglehart & Norris, 2016)

What is more, it is not only a matter of inherent public perception that made it possible for the victory of PiS. Being a way to contextualise the abortion question discussed below, “gender ideology” is one important argument to the authoritarian populist PiS. Agnieszka Graff and Elżbieta Korolczuk draw attention to the international wave of right-wing movements coordinating with religious fundamentalism, which aided PiS. In Poland, this effort was twofold: first, “gender ideology” is defined as foreign and a form of colonial power, exercised on weaker countries; secondly, anti-gender rhetoric serves as common ground for the different conservative groups (exemplified by the authors, the Catholic Church, anti-choice groups, right-wing extremists – some, football fans). (Graff & Korolczuk, 2017)

Taking everything into consideration, there is a plethora of factors that might explain why PiS won. In a combination of citizen’s tiredness for PO (*Platforma Obywatelska*), a tragedy, a new wave of authoritarian populist movements in Europe, a coordinated international effort, and a cultural shift (where cultural issues take precedence over economy), PiS won. And by winning an absolute majority, the party was able to form a government without any coalition partners (a first, in Poland’s democratic history). However, as noted both in the works of Marcinkiewicz and Stegmaier and of Markowski, PO had won in 2011 with a larger voter share (without achieving an absolute majority). Therefore, the absolute majority attained by PiS was the result of a high percentage of votes that were cast on parties unable to pass the needed threshold. (Marcinkiewicz & Stegmaier, 2016; Markowski, 2016) At the same time, social unrest was brewing. Shortly after its victory, PiS was already taking concerning steps that attacked the liberal democratic model. Some examples of their questionable actions include: weakening and paralysing the Constitutional Court, assuming direct governmental control of the public media, repealing the principle of political neutrality of civil servants (thus, allowing for dismissal on mere suspicion of misconduct). (Marcinkiewicz & Stegmaier, 2016; Markowski, 2016) To these actions, civil society answered. On November 2015, KOD (Committee for the Defence of Democracy or, in its

original, *Komitet Obrony Demokracji*) started as a Facebook group. Soon enough, this group organised mass demonstrations against these attacks to Polish democracy. Furthermore, it would also be less than a year since its victory for steps to restrict abortion to start. Eventually, in 2016, Black Monday would be an emblematic event in the Polish abortion history, with sizeable international visibility. More than that, it would change the contemporary discussion on abortion in and outside of Poland.

### Leading up to Black Monday

The Black Protest movement, of which Black Monday is part of, had an incredible impact in Poland. The abortion discussion is now gaining a new impetus and organised movements from the civil society flourish. As previously mentioned, the trigger for the large-scale abortion contestation in Poland was another attempt to restrict abortion. Thus, it is important to start at the abortion restriction bill.

In early 2016, a civic initiative named “Stop Abortion” (“*Stop Aborcji*”) gathered enough signatures to be considered by the Polish Parliament. According to Polish law, it is possible for a group of citizens to have their initiative be considered in the Parliament if they can arrive at (at least) 100.000 signatures in three months. Graff also states how this initiative was successfully lobbied by the Ordo Iuris Institute, which is explored later in this chapter. (Graff, 2020) The success of extreme and fringe options in Poland is, once again, a reflection of the international efforts of ultraconservative organisations for pushing for restrictive legislation and a favourable political environment. PiS had also benefitted from the support of ultraconservative expressions of Catholic faith, such as Radio Maryja. Hence, the case of abortion in Poland was yet another area where the Church aligned with conservative and authoritarian forms of government.

When it comes to the initiative itself, “Stop Abortion” proposed a near-total ban. The legislation on abortion at the time was still based on the 1993 compromise; with this new proposal, abortion would be illegal in all situations, except when the woman’s life was at risk: this meant that crime – rape or incest – and foetus malformations could not be used as justifiers for abortion. Additionally, the initiative included the possibility of prison for both women and medical practitioners involved (up to five years). This is a harsh turn for the already restrictive abortion legislation in Poland. Thus, Korolczuk also highlights unwanted side effects from such proposed legislation. In fact, by criminalising abortion, this legislation creates a deterrent for prenatal testing. This is due to the fact that some invasive procedures

used for prenatal diagnostics carry the risk of miscarriage, which could be interpreted as abortion. (Korolczuk, 2016)

When it comes to restricting abortion in Poland, this is not the first nor the last attempt. However, this specific proposal raised a few eyebrows for its nature and political support. In fact, as mentioned by Graff and Korolczuk, the proposed legislation had public support from leading politicians: Beata Szydło (Prime Minister at the time) and Jarosław Kaczyński (leader of PiS) expressed that they would agree to an abortion ban. (Graff & Korolczuk, 2017)

Be that as it may, not everyone supported this new push for the restriction of abortion. Therefore, simultaneous to the “Stop Abortion” proposal, the “Save the Women!” (*“Ratujmy Kobiety!”*) initiative advocated for “a set of measures to ensure access to modern contraception, comprehensive sex education and abortion services up to 12 weeks of pregnancy”. (Korolczuk, 2016, p. 97) This proposal also gathered enough signatures to be considered for legislation; suddenly, two radically different civic initiatives, representing pro-life and pro-choice, were making their way to the Polish Parliament.

At this moment, it was brewing what would later explode in nation-wide contestation. Graff emphasises September 23<sup>rd</sup>, when the Polish people knew the destiny of both proposals: “Save the Women!” was rejected; “Stop Abortion” moved forward (to be worked on in specific committees). To Graff, it was the power of the Catholic Church that tipped the scales. (Graff, 2020) Korolczuk, in speaking about the same event, highlighted how this decision was the trigger event for the mass protests. (Korolczuk, 2016) These would eventually lead to one specific protest/strike – Black Monday –which I will now explore in more detail.

### *On the Black Monday protest and the wave of contestation*

As the “Stop Abortion” proposal gathered signatures, the Polish civil society did not stand idle to another attack to reproductive rights. Therefore, as described by Korolczuk, people started to organise online as early as March 28<sup>th</sup> (when the “Stop Abortion” network made it known that it was launching a civic initiative to restrict abortion). One hurdle that the civil society faced, though, was that it was not yet very agile and active in Poland. To the author, this was the beginning for organising real grassroots movements, that could have a decisive impact in the future of the country. (Korolczuk, 2016)

A series of events marked this period, showing how the civil society was building up to Black Monday. On April 3<sup>rd</sup>, some rallies took place in a number of Polish cities, in a

cooperation between *Razem* (left-wing political party, in Poland) and “Gals for Gals” (in its original “*Dziewuchy Dziewuchom*”, started as a Facebook group that quickly grew into an online network for the defence of women’s rights). Other forms of protest included recording staged walkouts during mass and sending coat-hangers to the Prime Minister’s office. On top of that, it is worth mentioning that in May 2016 it is created the coalition “Save the Women!”: this coalition would write the proposal to challenge “Stop Abortion”, as mentioned before. (Graff, 2020; Korolczuk, 2016)

Then, the 3<sup>rd</sup> of October of 2016 came. Thousands of Polish people took to the streets in black clothing, symbolising the mourning for women’s rights. Known as Black Monday (*Czarny Poniedziałek*), this nation-wide protest was an expression of the Polish people’s disagreement and shock. This protest functioned also as a strike, meaning that many excused themselves from work or school to join in the streets. In pouring rain, thousands marched in silence, in a sea of black umbrellas (as became emblematic from pictures taken of the protest in Warsaw). As noted by Agnieszka Król and Paula Pustułka, the accidental symbology of umbrellas and the fight for women’s rights, made many compare this protest to the Polish suffragette movement in 1918. As recounted by the authors, the suffragists used umbrellas to knock “on the window of the Head of State and demanded a decision on granting women the right to vote.” (Król & Pustułka, 2018, p. 11) In 2016, women were once again fighting for their rights.

Yet, the symbology in Black Monday did not end on umbrellas. Wearing black clothes as a sign of mourning for women’s rights is compared by Graff to another historic event. The author compares this action to the 1861 anti-Russian demonstrations, where women also protested by wearing black. (Graff, 2020) Another point worth noting is the usage of the coat-hanger. This symbol is also present in the protests, as it is a well-known imagery that represents unsafe abortions. This derives from being an instrument for inducing abortion, by insertion into one’s cervix. Black Monday was replete of symbols, plenty of them inspired by previous demonstrations. The Polish streets emanated shock, anger, and sadness, where protesters did not shy away from strong language and heavy emotions.

In the end, Black Monday was a success. More conventionally, a lot of indicators point to the immediate accomplishments of this event. To start with, it was the largest grassroots mobilisation in Poland since the Solidarity movement. Yet, this did not mean that only the big cities saw the effects of Black Monday. To many authors and in-field organisers, the true victory was seeing how people in small towns also participated in striking and gathering in the streets (in a much smaller scale). In addition, this demonstration brought

together a heterogenous crowd. To this point, Graff describes the Black Monday protest as “intersectional, inclusive and internally-diverse”. (Graff, 2020, p. 231) Before, the feminist movement was largely centred on NGOs, gender studies at universities and middle-class people. With Black Monday, the Polish feminist movement reinvented itself as grassroots, with a “radical political rhetoric” and not afraid of “hijacking national symbols” as their own. According to Graff, the self-perception of the group marching on the 3<sup>rd</sup> of October is also revealing, being described as “ordinary women.” This expression reflects the own composition of the group, being twofold: “the diversity of protesters in terms of age, education, class and region” and their distance “from seasoned activists or people involved in politics”. (Graff, 2020, p. 240)

Digitally, it was a success too. On the one hand, Black Monday was a reflection of the Polish civil society quickly evolving to a myriad of strong organisations that coordinated operations online. Facebook groups such as “Gals for Gals” or “All-Poland Women’s Strike” (“*Ogólnopolski Strajk Kobiet*”) eventually became important social movements defending pro-choice. On the other hand, it also jumpstarted a new way of protesting: online. According to Sydney Calkin and Monika Ewa Kaminska, these self-organised protests used memes and hashtags to reach an even larger audience. The importance of re-thinking and re-branding widely known national symbols and slogans was, to the authors, another crucial element of this new wave of Polish feminism. (Calkin & Kaminska, 2020) Korolczuk also references the versatility of the Black Protest movement (and Black Monday). By making use of the hashtag “#blackprotest”, users could post a picture of themselves wearing black and, therefore, take part on it digitally. The “uncomplicated and gender-inclusive formula” proved to be another ingredient for success. (Korolczuk, 2016)

On top of everything, Black Monday overturned the “Stop Abortion” bill. In a way, the true measurement of success must also be the purpose of such action. The protest, that started as a response to the “Stop Abortion” proposal, shook the political environment in Poland. It was a clear demonstration of the strength against the government, as was seen in the 80s. Thus, politically, Black Monday also was a success.

Consequently, the question of transferring support from a social movement to a political movement was raised. From the beginning, the organisers behind Black Protest refused any type of strong political association. Keeping the protests “no-logo” was important to them, so that “the real people” would have a voice (and not the elites). However, and as was demonstrated by Korolczuk, this was not entirely true. The support of individual politicians and political parties was both visible and essential. Working with extra-

parliamentary left-parties (such as *Razem* and *Zieloni*), political groups such as *Inicjatywa Polska* and MPs from the oppositional party *Nowoczesna*, the protesters had a true connection to Polish politics. This alliance brought about many benefits for the activists behind Black Protest; the political parties helped in the organisation of the protests, gathering signatures for the initiative from “Save the Women!”, mobilisation, lobbying. Additionally, the close relation with MPs made it possible for the activists to get a closer look into relevant parliamentary procedures (by giving a chance for them to be present during the discussions of both proposals – “Stop Abortion” and “Save the Women!”, for example). (Korolczuk, 2016)

In this last part, I allude to what the reaction to Black Monday was and this new wave of public contestation against stricter abortion legislation. To Król and Pustułka, the reaction can be divided in two separate camps: pro-government and the opposition. On the one hand, the government and pro-government forces had a very negative reaction to the strike on October 3<sup>rd</sup>, 2016. In fact, many times this mobilisation was mocked by Polish politicians, with some comparing the contestation to children having a tantrum or playing dress-up. Therefore, the media that favoured pro-government rhetoric displayed a rather negative picture of the strike. (Król & Pustułka, 2018) On the other hand, there was significant support for the strike among many citizens. Using data from CBOS<sup>2</sup>, collected one month after Black Monday, both Korolczuk and Graff underline what appears to be the very telling impact of the strike. Korolczuk highlighted how at the time, “Among 25-year-olds and younger, 48% declared they took part in the protests, and in the age group of 25–34-year-olds 70% declared their support for this mobilization”. (Korolczuk, 2016, p. 99) To Graff:

90% of the population knew about the Strike; 64% of women and 52% men declared their interest and support; 17% of women and 6% of the men said they had dressed in black on 3 October to show their support; 4% of women said they had participated in demonstrations in person. (Graff, 2020, p. 235)

Thus, this data leads us to believe that the strike had both a powerful impact and gathered the public’s support. Nonetheless, the society was divided on the issue, and together with the contestation on the streets there was an equally numbered group of people that supported the government’s position. It is therefore through analysing the outcomes and lessons from the strike that the picture becomes clearer. Skimming through what internal and

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<sup>2</sup> Both authors used the same report by CBOS, *Polacy O Prawach Kobiet, ‘Czarnych Protestach’ I Prawie Aborcyjnym* (2016), in [https://www.cbos.pl/SPISKOM.POL/2016/K\\_165\\_16.PDF](https://www.cbos.pl/SPISKOM.POL/2016/K_165_16.PDF)

international response was, the failures and successes of the strike and what influence did it actually have, I attempt at understanding the lasting impact of Black Monday.

### Lessons from Black Monday

As the reasons for its success, I start by using some comments by Kasia Narkowicz. To the author, this protest coincided with an overall frustration with the ruling party antics. Thus, the accomplishments of Black Monday were also due to a growing number of people opposing any number of other PiS' policies. (Narkowicz, 2016) The discussion on abortion was not the only concern that the Polish citizens had when it comes to the rule of PiS. Rule of law, the Constitutional Tribunal, and the overall violations to the democratic values that PiS was partaking made for growing discontentment; the abortion debate was yet another opportunity to voice disagreement with PiS' choice for less liberal policies. Yet, it is clear that no singular factor can explain the success of a movement. Korolczuk justifies with a number of factors, such as: political opportunity; activism against PiS that reflected in vast mobilisation and the way it used legal and medical expertise; the disagreements inside the pro-life (or, to Korolczuk, "anti-choice") movement, especially regarding proposed penalties for abortion involving prison sentences; abortion not being a priority to PiS. (Korolczuk, 2020)

What is more, the mobilising capability of the new wave of activism had visible effects. Korolczuk, using comparative data from a social survey by OKO.Press in 2016 and 2018<sup>3</sup>, reports to the fact that there was an 9% increase in Polish citizens favouring liberalisation of the abortion law. Nevertheless, in 2018, there was still a significant percentage of people that were against it (32%) and without an opinion (22%). (Korolczuk, 2020) According to Bogumila Hall, Black Protest can be seen as a formative event that influenced the continuation and evolution of activism, well into 2018. (Hall, 2019) In fact, the women's rights and feminist movement in Poland gained in 2016 a new expression, that has transpired throughout the following years. With a new and energised civil society, Poland earned a new opportunity to push for progressive policies that can lead to the real improvement of women's rights legislation.

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<sup>3</sup> The mentioned survey is by OKO.Press, *Zdecydowana przewaga zwolenników dopuszczenia aborcji „na żądanie” nad przeciwnikami!* [Vast majority of Poles are for liberalization of abortion law] (2018), in <https://oko.press/zdecydowana-przewaga-zwolennikow-dopuszczenia-aborcji-na-zadanie-nad-przeciwnikami-sondaz>

Internationally, the events in 2016 also had an impact. With the media closely following and people expressing their solidarity for Polish women, the movement made waves throughout Europe and the world. The online sphere was also an important angle in the protest; ergo, it easily and quickly captivated foreigners to the Polish situation. But that is not the only facet of its international expression. According to Graff, the Polish Women's Strike (or Black Monday) in 2016 would later inspire the International Women's Strike. In turn, even Black Monday had been inspired by the 1975 Women's Strike in Iceland. Similar to a domino, the contestation of the Polish activists in 2016 would also serve as a model for demonstrations in Latin America under the slogan #NiUnaMenos. After a femicide that took place in Argentina in 2016, there was an eruption of demonstrations that expanded to Mexico, El Salvador, Chile, and Brazil. Those, as mentioned, were filled with slogans and images common to Black Protest, since the activists would exchange materials and information through Facebook and other digital platforms. (Graff, 2020)

When it comes to unintended consequences from the Black Protest mobilisation, the response from the government should be noted. Czesław Kulesza and Gavin Rae give emphasis to the aftermath of Black Monday, when the government subtly responded by advocating for its own conservative views. With the abortion restriction defeated, PiS proposed more financial benefits to women who have children born with disabilities. (Kulesza & Rae, 2017) This usage of financial incentives signals their stance on the topic when it has been reported the many deficiencies in sex education and availability of contraceptive methods, that could use similar investment. Król and Pustułka also agree with this take, pointing to the re-enforced relationship between Church and state after the strike. To the authors, the only reason that made MPs change their vote on the "Stop Abortion" proposed bill was the permission of the Catholic Church to do so. (Król & Pustułka, 2018) The Church truly remains as a strong oppositional force to the pro-choice agenda, maintaining true political influence.

Black Monday is considered to be a success, but there are shortcomings that must be taken into account. Considering that the movement is born out of rejection for the "Stop Abortion" bill, it did stop the bill from becoming law (either directly or indirectly). However, as reported by Thalia Beaty, PiS quickly recouped a substantial level of support only six months after the 3<sup>rd</sup> of October. (Beaty, 2017) Furthermore, Król and Pustułka maintain that the protest failed in defining a main aim. In reality, the women's rights movement was also very much fragmented. Many people that came to the streets to contest "Stop Abortion" had different visions of what the abortion legislation should be: some, wanted to push for abortion

liberalisation; others, wanted to maintain the status quo, based on the compromise of 1993. (Król & Pustułka, 2018)

At last, one relevant consequence of the strike was the mushrooming of oppositional political movements. Exemplifying, the left-wing party *Razem* had just recently appeared and was behind many of the efforts of the feminist movement. Another example is the civil society organisation KOD (Committee for the Defence of Democracy or, in its original, *Komitet Obrony Demokracji*), that focuses on denouncing the attacks from PiS to rule of law and the independence of the judiciary. They too played a role on the contestation, sharing the displeasure for PiS' policies and actions. Nonetheless, Beaty stresses that one must not be too optimistic since these movements do not have significant political power, without actual political representation. Using the words of the author, "The opposition has shown it can turn people out in the street. The question is whether the opposition political parties will attract those same protesters to the polls." (Beaty, 2017, p. 131) In reality, it would be soon possible to see further attempts at restricting abortion. After Black Monday the protests also continued, with the abortion debate on-going to this day. As mentioned by Lula Mecinska, Carolyne James and Kate Mukungu, the period between 2016 and 2018 was met with various proposals submitted to the Polish Parliament on restricting abortion in some capacity. (Mecinska, James, & Mukungu, 2020) In 2020, when a ruling by the Constitutional Court deemed foetal abnormalities as an unconstitutional condition in the abortion legislation, Poland would find itself in a similar situation as was 2016: sizeable nation-wide protests with international coverage.

## ***2016: Exploring the abortion debate in the European Parliament***

In the second part of this chapter, I will start by examining how the European Parliament (EP) has tackled abortion and reproductive health. Then, and as the central piece to this section, I will focus on the debate on the EP entitled: “Women’s rights in Poland”, that occurred on October 5<sup>th</sup>, 2016. This debate happens just two days after Black Monday, and is therefore illustrative of the climate and different perspectives around the time of the Polish strike. Thus, this section is divided into these two items: “The European Parliament and abortion” and “05/10/2016: On the EP debate entitled ‘Women’s rights in Poland’”. With this section, I finish defining the two terms that are central to the discussion in this chapter: the abortion debate in Poland and in the EP, both in 2016.

### *The European Parliament and abortion*

The European Parliament (EP) is one of the three branches that deal with EU legislation (together with the Council and the European Commission). The EP functions as an important avenue for transnational debate amongst its EU Members. According to its official website, the EP has gradually transformed throughout the years, gaining consistently more and more powers to exert inside the EU. The fact that it is the only directly elected body in the EU is an advantage, making it a closer representation of the European citizens’ interests. (European Parliament, 2021a)

As the years went by, the EU as a whole has changed. According to Emilie Mondo and Caroline Close, in the beginning the EU was designed as a “technocratic project”. Yet, since the 1990s, morality issues started to be part of the EU area of concerns. Thus, as noted by these scholars, “LGBT rights, abortion, prostitution, or gender equality” are now elements to the EU’s agenda, that are notoriously visible in the EP. (Mondo & Close, 2019, p. 2) This is a crucial factor to this Dissertation, where the usage of EP debates is a main element to explore the international/European positions to the abortion debate.

While it is no surprise that abortion has been largely discussed in the EP, it remains to be a contentious question. Many scholars draw attention to the limited capacity of the EU to enact abortion legislation for its Member States. Piotr Żuk and Paweł Żuk highlight how abortion is regulated in national terms, by following the terms on EU treaties. From this it follows that no EU institution has the right to legislate on abortion, including the European Commission (EC) or the EP. (Żuk & Żuk, 2017) Nonetheless, Lula Mecinska, Carolyne

James and Kate Mukungu make reference to Wanda Nowicka's article<sup>4</sup> to explain the existent tension between "internationally derived standards and nationally enforced laws", where tradition and religion might clash with the EU standard. (Mecinska, James, & Mukungu, 2020, p. 392) Therefore, as noted already in 2004 by Alicia Czerwinski, Poland faced a challenge against the EU: even considering that abortion policy from the EU can never be compulsory, the EU law is supreme over any Member State's law. (Czerwinski, 2003) The idea of primacy of EU law still posed (and poses) pressure to the Polish status quo on abortion. Recently, the primacy of EU law has been put into question by the Polish Constitutional Court. This emerged when the Polish Constitutional Court ruled parts of EU treaties as unconstitutional, after Prime Minister Mateusz Morawiecki asked the Court whether Poland could be stopped by the EU from reorganising its judiciary. The statement from Judge Bartłomiej Sochański put it simply, "The EU Treaty is subordinate to the constitution in the Polish legal system ... and, like any part of the Polish legal system, it must comply with the constitution." (Włodarczak-Semczuk, 2021) Subsequently, debate ensued in the EU that led to an adopted resolution where it is stated how the "Polish Constitutional Tribunal lacks legal validity and independence, and is unqualified to interpret the country's constitution." Harsh criticism erupted in the EU, where various MEPs and the President of the European Commission, Ursula von der Leyen, commented how the Polish judiciary currently serves as a tool to the party in power: PiS. Contrasting with the resolution from the Polish Constitutional Court, MEPs have stated that "according to Poland's constitution, the EU Treaties, are directly applicable in its legal order, and have precedence in the event of a conflict with domestic law". (European Parliament, 2021b)

As shown, the idea of abortion legislation in the EU is controversial by itself, as many scholars and politicians contest the authority for the EU to touch upon such sensitive topics. However, morality politics in the EU are becoming more and more commonplace, as the EU grows to be more than a mere technocratic organ. It is now an alliance on common values, where best practices are shared and applied to all. In fact, as Ursula von der Leyen's latest State of the Union address (2021), the importance of EU values is once again brought up. Recalling the values fought for as the Iron Curtain was torn down (naming a few, democracy, self-determination, rule of law, equality before the law, freedom of speech, independent media), von der Leyen states how "[These values] are part of our soul, part of what defines us today. These values are now enshrined in our European treaties. This is what we all signed up

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<sup>4</sup> The article mentioned: Nowicka, W. (2011). Sexual and reproductive rights and the human rights agenda: controversial and contested. *Reproductive Health Matters*, 19(38), 119-128.

to when we became part of this Union as free and sovereign countries.” (Leyen, 2021) What is more, and mentioned by Von der Leyen, is the fact that these European values have been codified,

Article 2: The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail. TEU (Treaty of European Union) art 2

Before the EP debate in 2016 (explored in the next item), there were two important EU reports that tackled abortion. Referred to as reports on sexual and reproductive health and rights (SRHR), these parliamentary reports became staples to the discussion on abortion throughout the years. I am referring to the Van Lancker report in 2002 and the Estrela report in 2013, both most commonly known by the surname of their rapporteur.

In July 2001, Anne E. M. Van Lancker is appointed by the Committee on Women’s Rights and Equal Opportunities as a rapporteur, to produce a report on SRHR. One year later, its adoption would be discussed and voted on the European Parliament. As part of the motion for the resolution, it was recommended “that, in order to safeguard women's reproductive health and rights, abortion should be made legal, safe and accessible to all;”. (Lancker, 2002, p. 9) But the question of legal abortion does not end on itself, and the report highlights further issues related to abortion in the Central and Eastern Europe: the fact that abortion is still used as a contraceptive method (due to a lack of proper education and availability of contraceptive methods), or the fact that abortion is “one of the leading causes in maternal morbidity” in the Central and Eastern Europe (CEE) region. (Lancker, 2002, p. 15)

Still, in 2002 the Big Bang Enlargement in the EU (2004) was yet to come. For this reason, Johanna Kantola and Lise Rolandsen-Agustín mention the fact that the adoption of the resolution in 2002 was a reflection of the EP’s progressive agenda – but the decision did not include the CEE countries (as they were not a part of the EU). Therefore, with the EU enlargement and now with the wave of right-wing populist, the EU’s take on SRHR becomes more and more contentious. (Kantola & Rolandsen-Agustín, 2016)

In 2013, a new report on SRHR is signed by the rapporteur Edite Estrela, appointed by the Committee on Women’s Rights and Gender Equality. It maintains the same spirit regarding abortion, recommending that it is made “legal, safe and accessible to all” in all

Member States. Immediately after this point, the report mentions a serious concern about abortion that is paradigmatic to Poland: the fact that even when abortion is legal, it can still be inaccessible or delayed. The idea of conscientious objection as a collective policy, and not letting it be defined in an individual basis, makes legal abortion sometimes effectively impossible. These hurdles should also be a concern to the EU, as legislation on itself is not sufficient for guaranteeing safe access to abortion. (Estrela, 2013) All in all, Kantola and Rolandsen-Agustín highlight how this report depicts SRHR as human rights, where structural discrimination is the basis for the lack of full rights to women. When the wave of conservative forces (“anti-choice opposition”) is gaining terrain in Europe, the report calls for the EP to take a strong and clear position as the true defender of human rights, where sexual and reproductive rights are plainly included. (Kantola & Rolandsen-Agustín, 2016)

Another point worth noting is a Minority Opinion that was added to the Estrela report. The statement by Slovak MEP Anna Záborská opposes the resolution proposed by the report. Simply put, Záborská sees it as legally problematic, with the right to abortion being a violating resolution that goes against the EU Treaty. To the MEP, “All EU institutions, bodies and agencies must remain neutral on the issue of abortion.” (Estrela, 2013, p. 27) Yet, as noted by Kantola and Rolandsen-Agustín, the usage of expressions such as “human right of conscientious objection” and equating the protection of fertilized ova to the protection of children/humans, denotes the bias of the deputy in this particular topic. (Kantola & Rolandsen-Agustín, 2016) The way I see it, it is difficult to call for sheer EU neutrality on this topic. To Záborská, the idea of moving for an abortion discussion and liberalisation is the EU taking a stance. However, the fact that it did not take a stance was, in fact, a stance on itself. While the deputy might not agree with the liberal path of the EU, the fact of the matter is that the EU without this debate on SRHR was condoning the countries with restrictive abortion policies. Simultaneously, the EU also has the problem of “abortion tourism” to tackle; it is not simply letting each Member State define legislation on abortion, it is also the fact that, by having freedom of movement, the rights of underprivileged women to abortion are narrowed (when in comparison to more affluent women, that can travel to Member States with liberal abortion laws).

When both reports were discussed in the EP, Mondo and Close noted how the political groups were divided on the issue:

All these resolutions were supported by a progressive centre-left coalition including the S&D, Greens/EFA, GUE-NGL, and ALDE; and opposed by a conservative centre-

right coalition including the EFDD, ECR, and some EPP MEPs. (Mondo & Close, 2019, p. 4)

Kantola and Rolandsen-Agustín agree, and explain how the debate was construed by the different sides. While the left-wing parties focused on women's right to bodily autonomy, the right underlined the right to conscientious objection, the rights of children as humans, and the right to each state to decide on abortion (instead of an emanation from EU law). (Kantola & Rolandsen-Agustín, 2016) In the end, both remain as a staple to abortion discussion in the EU to this day.

After this contextualisation to abortion in the EU, I will start the next item that is entirely focused on the EP debate on October 5th, 2016, "Women's rights in Poland". Going back to the main topic of this Dissertation, this debate is yet another look into abortion in the EU, now with a clear link to the situation in 2016's Poland.

### 05/10/2016: On the EP debate entitled "Women's rights in Poland"

In 2016, there were eight different political groups<sup>5</sup> in the European Parliament (EP). This important structural feature makes it so that the distribution of MEPs in the EP does not relate to nationality. Instead, the political groups are formed by different political parties from each Member State, where the political affiliation dictates the organisation into political groups. With at least 23 MEPs needed to form a political group, there is also the option of remaining non-attached (NI). The political groups are not static and have appeared, disappeared, and changed nomenclature throughout the years.

On October 5<sup>th</sup>, 2016, a debate on women's rights in Poland ensued in the EP. With Black Monday just two days before, Europe was once again discussing abortion while closely following the developments in Poland. In the EP, some were ready to show solidarity to this social cause; others, heavily criticised the discussion on itself. This debate, on such a sensitive topic, was filled with tension and high emotions from the start.

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<sup>5</sup> The political groups in the EP in 2016: **EPP** – The European People's Party (Christian Democrats); **ECR** – The European Conservatives and Reformists Group; **S&D** – The Progressive Alliance of Socialists and Democrats in the European Parliament; **ALDE** – The Alliance of Liberals and Democrats for Europe; **GUE/NGL** – European United Left/Nordic Green Left; **Greens/EFA** – The Greens/European Free Alliance; **EFDD** – Europe of Freedom and Direct Democracy; **ENF** – Europe of Nations and Freedom; **NI** – *Non-Inscrits*.

Before the debate had started, people in the audience were shouting phrases including expressions such as, “support Polish women!”. This could be heard in the recorded version of the debate, but it is also mentioned in the official transcript. After the audience settled, Věra Jourová, Member of the Commission, opened the debate with an initial statement. To the Commissioner, it is crucial that women’s rights and gender equality are part and parcel to the construction of the European project; yet it is stressed the lack of competency of the EU in legislating and interfering on Member States’ decisions on abortion law. Moreover, the electoral gender quota is one particular aspect praised, and Jourová hoped that more progress on gender equality would continue in Poland. (Jourová, 2016)

Subsequently, the debate among MEPs started in full force. Broadly, the positions taken by the different MEPs can be divided in two different groups: siding with pro-choice/solidarity with Black Protest, where generally women’s rights are defended, as is bodily autonomy, and abortion liberalisation; siding with pro-life or with the Polish government, where the main points are on the defence of human life/children’s life, supporting abortion restriction/ban, or the right for Poland to determine its abortion legislation (without EU’s interference).

From the group that supports pro-choice, MEP Barbara Kudrycka (EPP) starts the debate with a fervours support for the Black Monday protesters. Regarding the attempt at an abortion restriction, Kudrycka addresses the Polish rulers by stating “Macie serca z kamienia.” (“You have hearts of stone”<sup>6</sup>). (Kudrycka, 2016, p. 405) This sentiment is shared by many MEPs that stand with this side of the argument, where solidarity with Polish women is the great focus of the argumentation. Broadly, other mentioned arguments are, the fact that even if the abortion legislation does not change, Poland remains as one of the most punitive Member States on abortion or the fact that the EP has the competency to legislate on public health policy. More specifically, I will exemplify, using the many different angles that were expressed from numerous political groups: MEP Ernest Urtasun (Greens/EFA) puts it as impossible to negotiate on women’s rights (Urtasun, 2016); MEP Ivo Vajgl (ALDE) takes a moment to apologise on behalf of those who misused arguments during the debate and effectively insulted the dignity of women (Vajgl, 2016); MEP Anna Maria Corazza Bildt (EPP) mentions the problem of populism and demagoguery in Poland (Bildt, 2016); MEP Pier Antonio Panzeri (S&D) counterpoints the pro-life argument with the Polish government supporting Órban’s closed-borders policy (leading to the death of many migrants), questioning the validity of their position on the right to life (Panzeri, 2016); MEP Liliana

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<sup>6</sup> Unofficial translation.

Rodrigues (S&D) focuses on the unsafe abortions (done with needles and coat hangers) and the detriment to the women's life (Rodrigues, 2016); MEP Barbara Spinelli (GUE/NGL) underlines the dangerous relation of Church and state in Poland, and its clear effects in abortion legislation. (Spinelli, 2016) These are only some of the points presented, where it is possible to see the magnitude of the topic at hand. It is also worth to mention the fact that some deputies purposely chose to wear black in solidarity with Black Protest in Poland. As I tried to illustrate, a majority of MEPs from EPP, S&D, ALDE, GUE/NGL and Greens/EFA made statements that fit this group.

On the opposite side, there are MEPs siding with the pro-life arguments and/or with the Polish government. The interventions criticizing points made by Kudrycka start with MEP Bolesław G. Piecha (ECR), where the deputy mainly focuses on the lack of competency the EU has in legislating on abortion. To Piecha, the EP should not discuss morality issues. (Piecha, 2016) Thus, the argument here is more based on the independence and responsibility of the Member States to deal with such issues, and against the permeation of them into the EU. The arguments that contradict the pro-choice/solidarity with Black Protest can, therefore, come in different shapes. Other than the fact that the EP does not have the competency and authority to legislate on abortion, the fact that the abortion ban came in the form of a citizen's initiative was also a powerful argument. By respecting the will of the people, by considering Poland a democratic country, this group argues that Poland should be free to self-determine about its own sensitive issues. Particularly, many arguments were put forward by the different political groups, such as: MEP Michał Marusik (ENF) comments on the fact that the number of abortions in the West greatly surpass the casualties in WW2, defines it as a "collective western suicide civilisation" and claims that the West is now being populated by "Islamists" (Marusik, 2016); MEP Zdzisław Krasnodębski (ECR) equates abortion to a reflection of the former totalitarian regime, that goes against the majority of Polish people that are pro-life (Krasnodębski, 2016); MEP Ruža Tomašić (ECR) presents the argument on our freedom ending when someone else's begins, meaning that the freedom of the woman ends where the freedom of the foetus begins (Tomašić, 2016); MEP Michaela Šojdrová (EPP) states she is against abortion, there must be encouragement for women to give birth (that is reinforced through strong social measures) and, it is up to Poland to decide on these ethical issues (Šojdrová, 2016); MEP Janusz Korwin-Mikke (NI) argues that abortion should not be possible without the father's consent, as the child belongs both to the father and the mother. (Korwin-Mikke, 2016) These are merely some of the many arguments presented in the EP, where I gave preference to the bigger diversity of political groups' arguments. From what I

have gathered, a minority of MEPs from EPP, a single NI MEP, but a majority from ENF and ECR made statements that fit this group.

The debate concludes with another statement by Věra Jourová, Member of the Commission. While symbolically speaking in Czech, Jourová concludes that the proposed bill in Poland “it’s not a law about abortion, but that it’s a law against people,”<sup>7</sup> (“myslím, že to není zákon o potratech, ale že to je zákon proti lidem,”). For the bodily autonomy of women, Jourová does not forget the burden and pressure of women that are found in these difficult circumstances. To the Commissioner, it is clear that this must not be a right denied to women. (Jourová, 2016, p. 426) No MEP from EFDD made any statement during the debate.

After going through the debate, it is also important to consider and discuss the factors behind the different positions in the EP, concerning abortion. On the issue at hand, plenty of scholars have analysed factors that might explain the choices of MEPs. Once again, the main goal will be getting closer to answering the research question guiding this chapter: “what defines the different positions in the European Parliament in regards to the 2016 abortion debate in Poland?” The following paragraphs mainly focus on the various aspects that help define the pro-life and pro-choice positions in the EP, through MEPs’ voting behaviour on abortion: including, nationality, religion, political affiliation, individual beliefs, the new wave of right-wing populism.

Firstly, I will start by defining morality policies and how abortion fits into that category. As Eva-Maria Euchner explains, morality policies ignite debate since they revolve around the moral way of living. Therefore, these policies captivate everyone to the discussion, and it makes it trickier to arrive at consensus. The author divides them into four groups: “life and death”, “gender and sexuality”, “addictive behaviour” and “limitations on individual self-determination”; abortion fits into the “life and death” group. Moreover, Euchner uses the work by Budde, Heichel, et al.<sup>8</sup> to expand on what this means to the construction of different opinions in political parties. To the authors, what defines the opinion of the different members of a political party is much more than the typical left-right or secular-religious spectrums. Instead, it also includes their position on “materialism” to “post materialism”, “green-alternative-libertarian” to “traditional-authoritarian-nationalist” (GAL-TAN), and “integration” versus “demarcation”. (Euchner, 2019)

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<sup>7</sup> Unofficial translation.

<sup>8</sup> The article mentioned: Budde, E., Heichel, S., Hurka, S., & Knill, C. (2018). Partisan effects in morality policy making. *European Journal of Political Research*, 57(2), 427-449.

Secondly, there are two main argumentative standpoints when discussing abortion: pro-choice and pro-life. Succinctly, and using the definition proposed by Emilie Mondo and Caroline Close as basis, this means that pro-choice will defend the “women’s freedom of choice” concerning their own body, where the pro-life actors turn to “the sanctity of human life” starting at conception. These two opposing fields also correlate with the typical division in political ideologies, where pro-choice actors are progressives and pro-life actors are conservatives. The work produced by Mondo and Close is of much importance, as it consists of semi-structured interviews with former MEPs in 2016 and 2017, on abortion and stem cell research. By explaining their votes and their reasoning on these issues, adding to the fact that the interviews happened as the Black Protest movement was gaining force in Poland, the systematisation of the results is a window to MEPs different positions in the EP. Thus, I start by going over some factors that Mondo and Close arrived at, after analysing the answers by the former MEPs. (Mondo & Close, 2019)

According to the authors, nationality is the best predictor in the way that MEPs’ votes will turn out, regarding morality issues. In the case of Poland, it is listed by Mondo and Close as one example of the “most active conservative EPP national delegations”; in a different manner, Sweden, Belgium, and France represent the “dissenting progressive EPP delegations”. (Mondo & Close, 2019) Thus, Polish EPP MEPs will tend to vote most conservatively, meaning, will tend to stand with the pro-life group when discussing abortion.

Religion is a key factor in voting in the EP and in influencing ideology. In the findings of Mondo and Close, both the “strength of Christianity” where the conservative MEPs are originally from and generally the Central and Eastern European (CEE) countries are relevant factors. To the respondents, Christianity in the national country might explain the conservative votes on abortion and stem cell research; it is also noted that the CEE countries tend to more conservative stances, reflecting the strength of religion tradition in the region. (Mondo & Close, 2019) However, this is not the singular interpretation of the influence Church can have regarding abortion policies. Specifically in the case of Poland, Euchner draws attention to the evolution in the relation between state and Church, to explain the options in morality politics. (Euchner, 2019) Moreover, Roger Eatwell and Matthew Goodwin see how particularly Catholicism has greatly influenced PiS, where both actors walk towards a common goal: protecting their own religious and traditional beliefs, against secularism and liberal policies. (Eatwell & Goodwin, 2018) To Graff, the “church-inspired, conservative, anti-gender” and “anti-European” campaign worked in favour of the 2015’s electoral win of PiS and strengthened the Church-nationalist right relationship. (Graff, 2020) Lastly and most

notably, the proposal “Stop Abortion” (that jumpstarted Black Protest) has a connection with the Catholic Church. Behind it was the Polish foundation Ordo Iuris (OI), which is internationally connected to organisations such as Agenda Europe and Tradition, Family, Property. All these are ultra-conservative organisations that oppose abortion, with OI being the Polish division of Tradition, Family, Property. OI, as the main force behind the “Stop Abortion” initiative, is defined as an ultra-conservative Catholic organisation, influenced by the teachings of the Church. (Korolczuk, 2020)

Another factor to consider is political affiliation. According to Mondo and Close’s paper, political affiliation might be influenced by religion, with both factors depending on “the position of the party on the cultural/moral cleavage”. (Mondo & Close, 2019, p. 10) In the EU, the political affiliation is doubled: MEPs are simultaneously members to a national party and to a political group (at an EU level). In the case of PiS, it was one of the most cited examples by (progressive) respondents as a “national pro-life party”. Thus, the national parties can provide clear orientations on how to act in the EU – as is the case of PiS. To the authors, this can be explained by how strongly a national party stands in terms of the cultural/moral cleavage. Yet, most respondents underline how their mandate is individual and there is no obligation to go along the political group’s vote. As long as the dissidence is announced before voting, in the EP there is a great deal of flexibility for its MEPs voting according to their views. (Mondo & Close, 2019)

Consequently, individual beliefs is another possible explanation for the different positions of MEPs. Clearly, voting on morality issues, such as abortion, can be based on the MEPs’ personal experience or individual beliefs. While it is true that MEPs will tend to join political groups that fit their own convictions, their beliefs usually take precedence over those claimed by the political group. Thus, when in conflict, abstention is an option. In general, the respondents maintained that the EP gives enough leeway to make their personal values and convictions heard. (Mondo & Close, 2019)

Furthermore, the new wave of right-wing populism is yet another factor for the strengthening of pro-life positions. In the case of Poland, pro-life ideas could effectively be transformed into actual policies. With PiS heading the government, their main legislative counter to abortion legislation was based on pronatalist policies that focus on the traditional (meaning, heterosexual) family. Thus, with the normalisation of what used to be fringe ideas in terms of abortion policy, the freedoms of the Polish women (and of sexual minorities) are under attack. Generally speaking, the idea of liberal gender norms is being put into question. (Kourou, 2020) In Europe as a whole, Euchner notes how this new populist wave is fuelled by

the concerns on how modernisation and Europeanisation has occurred. On the one hand, there are political and economic concerns from the so-called “losers” of globalisation; on the other hand, there is an increasing group of individuals that focus on the loss of the traditional values in Europe. Topics such as marriage, family, abortion – generally, morality policies – seem contentious and controversial to a significant number of Europeans. To this issue, the author highlights the necessity of steering the European economic market to a fairer design and defining what the “fundamental European core values” are. (Euchner, 2019)

Additionally, the theories behind the new wave of right-wing populism are also of importance to the topic. According to Pippa Norris and Ronald Inglehart, the cultural backlash theory explains why in the West (Europe and the US) the right-wing populist movements have been gaining more and more votes. The theory is based on a combination of demand-side factors (“societal forces shaping the public’s values”), supply-side factors (appeals from parties and leaders to mobilise support) and governance (consequences when said parties win office). From the 1980s forward, there has been a sharp increase in cultural issues in politics (policy agenda, party competition, political manifestos), from the previous supremacy of economic issues. To the authors, the cultural and social aspect explains the turn for right-wing populist solutions, in the area of their research. (Norris & Inglehart, 2019) Nonetheless, Eatwell and Goodwin note that no factor can explain this new wave; but they do mention Norris and Inglehart’s cultural backlash theory and, opposite to it, the theory supported by John Judis – “economics and not culture”. (Eatwell & Goodwin, 2018, p. XXIV) Lastly, Rafał Pankowski sees the importance of economic issues, as a way to explain societal conflict. However, he adds: “Equally important, however, has been the existence and development of a culture which channelled the social anger towards nationalist populist discourses.” (Pankowski, 2010, p. 76)

## *Final remarks*

To conclude this chapter, I go back to the main research question: “what defines the different positions in the European Parliament in regards to the 2016 abortion debate in Poland?” Throughout this chapter, I went in depth with the abortion question in Poland, the EP’s response, and the discussion of possible factors related to different positions on abortion to attempt at answering the proposed question.

In “2016: Exploring the abortion question in Poland”, PiS and its ideology, Black Monday as an event, and the public’s perception of the party and of Black Monday are the main themes. The overall tiredness with the antics of PiS made for a wave of contestation in the Polish population. In an attempt at restricting abortion with the support of major figures of PiS, mass demonstrations finally erupted on October 3<sup>rd</sup>. These demonstrations also arise out of a majority of people that were satisfied with the status quo on abortion – that, on itself, is much more restrictive than in Europe at large. In this section, and related to the main research question, it can be seen two points of interest: first, the PiS’ pro-life ideology and connections with the right-wing populist surge, in terms of a national party and its ramifications into the EP; secondly, Black Monday itself, as a formative event in the abortion question in Poland.

In “2016: Exploring the abortion debate in the European Parliament”, I start by mentioning the fact that the EU has transformed throughout the years. In this section, I begin at how abortion and reproductive health have been brought up in the European Parliament. With the Van Lancker report (2002) and the Estrela report (2013) claiming abortion as a right, the EU has clearly far evolved from a mere technocratic project to a Union based on values. Afterwards, I focus on the debate on October 5<sup>th</sup>, 2016, entitled: “Women’s rights in Poland”. This debate shows the pro-life and pro-choice arguments, and the marked differences between the political groups. Yet, the debate was also stage to the discussion on the authority of the EP in discussing abortion. Generally, the connections between progressive left to pro-choice and conservative right to pro-life start to become clearer. More specifically, I also look at what scholars have claimed to be factors that can help predict MEPs’ voting patterns regarding abortion. By starting this analysis in defining morality policies and pro-life versus pro-choice general assertions, I set the stage to the list of factors that tend to reflect on MEPs’ pro-life/pro-choice tendencies, being: nationality, religion, political affiliation, individual beliefs, and the new wave of right-wing populism.

Considering the factors such mentioned, I find it interesting that they can also be specifically applied to Poland. The weight of the Catholic Church privately and as a political actor also is determinant in the positions in relation to abortion. It is also paradigmatic the fact

that the Catholic Church in Poland has joined politics by being connected to conservative right-wing movements, as is a common occurrence in Europe. Thus, religion (the Catholic Church) influences political affiliation (public), individual beliefs (private) and is connected to the new wave of right-wing populism in Poland. Consequently, the pro-life tendencies of PiS also have a connection to religion, with abortion being one of the taboo topics to the Catholic Church. By calling to a Catholic morality to explain conservative policies, PiS proceeds on overturning any liberal policies and making their laws more and more conservative – against a significant share of the Polish population.

The way I see it, the different positions on abortion in the EP in 2016 have been influenced by Black Monday. The event has had an impact in Europe and in the discussion of abortion. In fact, Poland being a Member State makes it that Polish issues are EU issues. From the October 5<sup>th</sup> debate, it could be seen that the mentioned factors (nationality, religion, political affiliation, individual beliefs) seem possible explanations for aligning with pro-life or pro-choice arguments. However, the new wave of right-wing populism is a new and powerful aspect that makes it so that PiS is considered and compared with a large number of analogous movements in Europe. Considering abortion, PiS is not alone, and hence, is following the path of many right-wing populist movements in their fight against liberal policies. The EU is now criticised by its liberal and progressive values, where in a blanket of Christian values, these new movements strive at transforming Europe into a traditional and conservative union. Abortion, as a morality policy, becomes more and more contentious: now with the pro-life movement being monopolised by right-wing populists, the discussion on abortion becomes a discussion on what the EU values are as well.

At last, Black Protest did not stop. On the 23<sup>rd</sup> of March 2018, there was yet another mass demonstration on the streets opposing another “Stop Abortion” bill. Now dubbed Black Friday, Polish citizens took the streets again wearing all black. (Hussein, Cottingham, Nowicka, & Kismodi, 2018) Thus, the abortion question in Poland is far from being solved after the 2016 Black Monday.

## IV. 2020

### *What happened in 2020?*

After the Black Protest movement, the events in Poland in 2020 seemed to mimic what had occurred in 2016. Once again in unprecedented numbers, Polish protesters made themselves heard all throughout the country; again, this was a reaction to yet another proposal to restrict abortion. The Women's Strike (*Strajk Kobiet*) were protests that occurred from October 22<sup>nd</sup>, 2020, to January 27<sup>th</sup>, 2021. The main movement behind them was OSK (*Ogólnopolski Strajk Kobiet*).

The abortion question in Poland has raised several issues that go beyond itself. In the world of the COVID-19 pandemic and the consequent strengthening of authoritarian right-wing ideologies in Europe, human rights, gender equality and democratic values are being constantly reframed. Yet, this is not a new concern. Rather, Steven Levitsky and Daniel Ziblatt had already warned us in 2018:

One of the great ironies of how democracies die is that the very defense of democracy is often used as a pretext for its subversion. Would-be autocrats often use economic crises, natural disasters, and especially security threats—wars, armed insurgencies, or terrorist attacks—to justify antidemocratic measures. (Levitsky & Ziblatt, 2018, pp. 92-93)

This chapter and the previous chapter are essential to this MA Dissertation. By closing the analysis of four main events on the abortion debate, this chapter concludes the 2016/2020 binomial proposed at the title of the Dissertation: “Different positions in the European Parliament on abortion: the abortion debate in Poland in 2016 and in 2020 as a case study.” With this chapter, my aim is to discuss two events in 2020 that, due to its nature, allow for comparing and contrasting with the events discussed in the previous chapter.

In this chapter entitled “2020”, the main subject at hand is the events in 2020: in Poland and in the European Union. Particularly, the two key events in 2020 that are at the centre of the discussion are: *Strajk Kobiet* in Poland and the European Parliament's debate entitled “Abortion rights in Poland”, on the 25<sup>th</sup> of November of the same year. Once again, I ask a similar question that guides the writing of this chapter: “what defines the different positions in the European Parliament in regards to the 2020 abortion debate in Poland?” In order to answer this, I have segmented this chapter into three main sections: “2020: Exploring the abortion question in Poland”, where I discuss events that led to *Strajk Kobiet*, the protest

itself, and its aftermath (looking both internally and internationally); “2020: Exploring the abortion debate in the European Parliament”, where I start with the abortion legislation in Europe today, focusing then on the debate on November 25<sup>th</sup> (2020) – going over different MEPs’ statements during the debate, and, lastly addressing what can explain the pro-life and pro-choice positionings of the political groups, using the clusters proposed by Ahrens, Gaweda and Kantola (2021); “Final remarks”, where I highlight the main points in this chapter and attempt to answer the research question proposed at the beginning: “what defines the different positions in the European Parliament in regards to the 2020 abortion debate in Poland?”

## ***2020: Exploring the abortion question in Poland***

In this first section, the main focus is the event entitled Women's Strike (*Strajk Kobiet*), in 2020. Once again, I will go over the events that led to this protest, the event itself, and the aftermath. I maintain a similar structure to the previous chapter, and therefore, this section is divided into four items: "After Black Monday", going over the main events and mobilisations related to the abortion debate that precede *Strajk Kobiet*; "Leading up to *Strajk Kobiet*", analysing the factors that have directly led to *Strajk Kobiet*: namely, the citizen's initiatives, COVID-19, the Presidential election, the K 1/20 judgement and the Constitutional Tribunal; "*Strajk Kobiet*", focused on the aspects related to this mobilisation itself, including the protesters, the language and symbology; "Lessons from *Strajk Kobiet*", looking at the long-term consequences and reactions to *Strajk Kobiet*, both internally and internationally.

### *After Black Monday*

After the events of 2016, the protesters won against the anti-abortion draft bill. Abortion in Poland remained dictated by the 1993 compromise, with further restrictions being momentarily rejected. Yet, it did not take long for the abortion question being raised again. From 2016 to 2020, a plethora of important events occurred in relation to the abortion debate, which would eventually lead to *Strajk Kobiet*.

Similar to what had happened in 2016, two opposing civic initiatives on abortion were created in 2017. Agnieszka Graff references both, starting by "Save the Women 2017" ("*Ratujmy Kobiety 2017*"), representing the pro-choice movement, and supporting abortion liberalisation, that collected about 500.000 signatures by October 23<sup>rd</sup>. By contrast, "*Zatrzymaj Aborcję*" was the pro-life proposal, where the focus was on banning abortion based on foetal abnormalities (rhetorically, using the idea of banning eugenics against babies with Down's syndrome). Furthermore, this initiative removed provisions that involved legal penalties for performing abortions (as were present in the 2016's proposal). Also noted by the author, this initiative was now using the Polish verb "*zatrzymać*", instead of the English verb "stop" – as it appeared in the 2016's civic initiative, "*Stop Aborcji*". "*Zatrzymaj Aborcję*" was able to top the number of signatures, with 830.000 by November. Thus, by arriving at (at least) 100.000 signatures in three months, both civic initiatives were able to be considered in the Polish Parliament. (Graff, 2020)

Once again, the fate of these initiatives mimicked what had happened in 2016. In January of 2018, as the Catholic Church voiced its support for the pro-life initiative, the bill

“*Zatrzymaj Aborcję*” goes forward, whereas the pro-choice bill (“*Ratujmy Kobiety 2017*”) is rejected by the Parliament. However, the pro-life proposal fails the second reading. However, a dormant move is made in November of 2017, from mostly PiS MPs. The Constitutional Tribunal was asked by these right-wing MPs to rule on the constitutionality “a high probability of severe and irreversible foetal impairment or an incurable life-threatening disease” as authorizable for abortion – as the new draft bill was being created to limit this exemption in the current abortion legislation. (Czarniawska, 2020, p. 2)

At the same time, small-scale protests start to spring throughout Poland, as the public’s contestation finally erupts on the 23<sup>rd</sup> of March of 2018: the Black Friday protest. According to Graff, this protest was much more centralised. Protesters gathered in Warsaw under the slogan “*Idziemy na Nowogrodzką*” (as translated and explained by the author, “Marching to take Nowogrodzka street” – a clear reference to the localisation of PiS’ headquarters). Other slogans included “We are not folding our umbrellas”, a reference to the symbology of black umbrellas from the Black Monday protest (2016). (Graff, 2020)

Black Friday ended up being another small but temporary success. It beat the numbers of 2016, being the largest mobilisation for the defence of women’s rights in Poland. Nonetheless, the proposal supported by Kaja Godek (well-known in the anti-choice movement in Poland) – “*Zatrzymaj Aborcję*” – was not discarded. As explained Selen Eşençay, the effect of these protests was the postponement of the discussion until the “end of the parliamentary term in 2019”. (Eşençay, 2020)

What is more, this protest also revived the usage of humour and satire to express dissent. Bogumila Hall relates the dissent against the Communist regime in Poland in the form of “the Orange Alternative” to the new form of protesting women’s rights: “Subverting, ‘trolling,’ and poking at the moralistic and self-righteous tone of the populist and far-right or the pro-life movement have been important aspects of the new wave of feminist mobilization.” Exemplifying, the author names the banners created by Gdańsk’s pro-choice activists, that resembled typical anti-abortion posters with bloody images of foetuses – yet, up close, the images displayed splashes of red jam. (Hall, 2019, p. 11)

In the end, the abortion debate did not stop in 2018. The victories of another mass mobilisation did not last for long, and soon enough people would again march on the streets for women’s rights. In the following item, I will explore a number of factors that led to the Women Strike protests (*Strajk Kobiet*) in 2020. With new restrictive bill, the questionable actions by the Constitutional Tribunal, and in the context of global pandemic, abortion in Poland becomes more and more divisive and further from the interest of the majority.

## Leading up to Strajk Kobiet

After Black Monday and Black Friday, the Women's Strike (or, in Polish, *Strajk Kobiet*) in 2020 is the largest mobilisation in Poland since the Solidarity movement. The main reason behind this protest is yet another attempt at restricting the abortion legislation. However, in 2020, the environment for the abortion debate has shifted and there are new factors at play, inexistant in 2016. For that reason, I begin looking at the abortion bill that triggered *Strajk Kobiet*.

As I previously mentioned, the “*Zatrzymaj aborcję*” (“Stop abortion”) initiative for the restriction of abortion had appeared in 2017, being considered by the Polish Parliament in March of 2018. Yet, 2019 was coming to an end and this bill was moving slowly: in fact, it did not move forward under the new composition of the Parliament, emanating from the recent legislative election (in November of 2019). (Human Rights Watch, 2020) As noted by Eşençay, the continuous delay of discussing the bill until after the results from the legislative elections was a response to the beginning of new contestation. However, this meant that the discussion around this bill would coincide with the global spread of COVID-19 and the declaration of the state of a global pandemic. (Eşençay, 2020)

With respect to the civic initiatives during this period, it is important to look at two. First, the aforementioned “*Zatrzymaj aborcję*” (“Stop abortion”) bill, meant that abortion would no longer be possible in the case of foetal abnormalities. This bill was stalled both by the public's mass contestation and a request for a ruling by the Constitutional Tribunal on foetal abnormalities as reason for abortion. Secondly, the “*Stop pedofili*” (“Stop paedophilia”) bill, envisioned criminalisation of people promoting/approving sexual activities to minors, where it could easily be interpreted to include any people or organisations that are involved with sex education in Poland. These two bills ended up having many similarities, many times being considered together in the reproductive rights' struggle: both are civic initiatives, both were stalled before the pandemic, and both were drafted and backed by right-wing organisations such as Ordo Iuris Institute. (Human Rights Watch, 2020)

In the first half of 2020, these two initiatives gathered some momentum in the Parliament. On April 16<sup>th</sup>, not only “*Zatrzymaj aborcję*” (“Stop abortion”), but also “*Stop pedofili*” (“Stop paedophilia”), are sent to committees for further work, neither rejecting nor officialising any of these citizen's initiatives. As a decision on their fate was again postponed, the real possibility for future introduction lingers. (Human Rights Watch, 2020) In fact, this fear did not linger for a long period of time, as the end of the year would bring new abortion legislation.

Another point worth noting is the COVID-19 pandemic and its political implication in Poland. Eşençay comments how “which extraordinary powers are an origin of temptation for politicians”, referencing to how some sanitary measures can far extent their public health purpose. In fact, via “country-wide lockdowns”, “curfews”, and “with extended powers of the executive”, many became concerned with the true intentions of the Polish rulers. Thus, using the pandemic as a way to curtail civil liberties has also been a concern by several authors. (Eşençay, 2020)

Having said that, the relation between the pandemic and the “*Zatrzymaj aborcję*” bill is also of importance. To this point, Przemysław Osiewicz underlines how COVID-19 made for the perfect opportunity for limiting the freedom of assembly. The “Act of 2 March 2020 on special solutions related to preventing, counteracting and combating COVID-19” passed in Parliament, established that all public gatherings could be forbidden as a sanitary measure. Therefore, the “*Zatrzymaj aborcję*” bill discussion coincides with a period where mass protests could not legally occur. Moreover, the opposition<sup>9</sup> harshly criticised the unconstitutionality of PiS’ actions in regards to limiting the freedom of assembly. The author explains that one possible solution would be to declare a state of emergency, instead of curbing freedoms by enacting limitations under the ordinary law. However, Osiewicz adds, this did not happen; under the state of emergency, the upcoming Presidential elections would have been postponed, and that was against PiS’ interests. (Osiewicz, 2020) For that reason, Eşençay comments how many activists became under the impression that this was not a coincidence; instead, the Polish government found an opening to circumvent any democratic discussion around the issue. Additionally, with the Presidential election scheduled for May 10<sup>th</sup> (later postponed for June 28<sup>th</sup>), PiS also had an incentive to attend to one of the political interests of the Catholic Church and its conservative voters: stopping abortion. (Eşençay, 2020)

Following this, the Presidential election is yet another element of the abortion discussion in 2020. All difficulties in arranging an election and campaigning during the pandemic aside, I will instead focus on what relates directly to the abortion debate via the two most popular candidates. On the one hand, the incumbent Andrzej Duda (PiS), conservative, that decided to campaign with minimal concern for the pandemic. He ran with the support of both the Catholic Church and the state media, and advocated for restricting abortion. On the other hand, PO first chose Małgorzata Kidawa-Błońska, that quickly lost momentum by

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<sup>9</sup> The author considers the following main parties as opposition: PO – *Platforma Obywatelska*, or Civic Coalition; PSL – *Polskie Stronnictwo Ludowe*, or Polish People’s Party; *Lewica*, or the Left. (Osiewicz, 2020)

choosing to suspend her campaign (as a public health measure). Rafał Trzaskowski, mayor of Warsaw, then took over as the liberal opponent to Duda. “A progressive, pro-European candidate”, Trzaskowski presented himself as a real alternative to the current party in power. (Kasia, 2020) In fact, his positions included “support for civil unions for same-sex couples, opposition to the tightening of abortion laws and the restoration of state support for in-vitro fertilisation (IVF).” (Hurst, 2020) In the end, Andrzej Duda won with a small margin of 51.2%. Katarzyna Kasia remarks how Duda has previously stated that were a restriction of the abortion law to be approved by the Parliament, he would comply and sign into law. Kasia comments,

I fear that Duda will continue his work as a strong supporter of the ruling nationalist coalition, obediently signing laws that will limit the power of the judiciary, freedom in academia and media, and the rights of minorities and women. (Kasia, 2020, p. 28)

At last, we arrive at the main event in 2020: the ruling by the Constitutional Tribunal, also referred to as K 1/20 judgement. As previously mentioned, this political move is not new. In 2017, a group of MPs from PiS and Kukiz’15 submitted a similar request, that ended up expiring. In 2019, MPs from PiS, *Konfederacja* (Confederation) and PSL-Kukiz’15, submitted another request for the constitutionality of abortion for reason of foetal abnormalities (in their words, “eugenic abortions”). (Prończuk, 2019) On October 22<sup>nd</sup>, 2020, the Constitutional Tribunal ruled that foetal abnormalities or risk of serious disease (even fatal disease) were not constitutionally protected as reasons for performing an abortion. As described by Lucía Berro Pizarossa and Lorena Sosa, the Constitutional Tribunal argued that allowing abortion on these grounds “is contrary to the dignity and life of the human being, guaranteed by the Polish Constitution”. (Pizarossa & Sosa, June, 2021, p. 594) This quickly jumpstarted mass protests and would directly lead to *Strajk Kobiet* in 2020.

It is crucial to understand what this decision actually means. Summarily, it results in the breaking of the 1993 compromise, that was still the legislation on abortion in force. Thus, it means that only two conditions would now apply: when the woman’s life or health is at risk or when it is the result of a crime (either incest or rape). Anna Nacher underlines, however, that the now excluded clause constitutes 96% of the abortions performed in Poland, which means that the change on the abortion legislation is actually a “near-complete ban on abortions”. (Nacher, 2021) Another pertinent issue is raised by Ewa Łętowska, as the new ruling also implies the criminalisation of abortion for reason of foetal abnormalities. Thus, it

will follow Article 152 of the Penal Code, involving prison sentences up to three years. Nonetheless, this does not apply to the woman who had her pregnancy terminated. (Łętowska, 2020)

Moreover, the difference between the request sent to the Constitutional Court and the ruling itself should be noted. According to Łętowska, the main goal by the group of MPs submitting the request was to ban abortion for foetuses with Down's syndrome. Despite this, the resulting judgement is much stricter and includes all embryopathologies (meaning, all foetal malformations, even fatal). The author explains, this is due to the radical interpretation of the Article 38 from the Polish Constitution. By using the right to life as an absolute, and considering that the Constitution does not specify when does life begin, the K 1/20 judgement is dealt in a much broader sense than provided by the Constitution's content. (Łętowska, 2020)

Therefore, it is no surprise that strong criticism quickly grew around this ruling. This was the case for judge Piotr Pszczółkowski and judge Leon Kieres, the two judges who submitted dissenting opinions on the K 1/20 judgement. As described by Soemi Piccinini, judge Piotr Pszczółkowski voiced two counterpoints: first, the fact that only the Parliament had the power to introduce penalisations; secondly, how the ruling superimposed the rights of a foetus against the rights of women, effectively taking away both their rights and bodily autonomy. (Piccinini, 2021) Additionally, many scholars also expressed their concerns. To Maciej Pichlak, "The CT [Constitutional Court] has exercised its power in an unrestrained way," demonstrating a total disregard for differing opinions. (Pichlak, 2020) According to Łętowska, "The K 1/20 judgment should not have appeared." Touching upon aspects relating to the legitimacy of the Constitutional Court and to the pandemic, the author criticises how this decision was made under questionable conditions. (Łętowska, 2020) In addition, Aleksandra Gliszczyńska-Grabias and Wojciech Sadurski note that this fundamentalist judgement linked abortion to "eugenics", indirectly claiming how abortions were a reflection of parents being unwilling to take care of children with special needs. The authors summarise their views on this ruling, defining it as: "a usurpation of legislative power by a Tribunal (improperly composed), in a radically activist way." (Gliszczyńska-Grabias & Sadurski, 2021, p. 149)

It is also worth noting a common criticism that is not only specific to this ruling: the legitimacy of the Constitutional Court. Regarding this judgement, criticism was raised against the President of the Tribunal, Julia Przyłębska. A lawfully elected judge of the Constitutional Tribunal, but unlawfully appointed to being President, Przyłębska chaired, participated, and

announced the K 1/20 judgement, ruling unconstitutional one of the exemptions of the abortion prohibition. (Gliszczyńska-Grabias & Sadurski, 2021) It is also claimed that Przyłębska is a close friend to Jarosław Kaczyński, leader of PiS and Poland's de facto leader. (Kość, 2020) However, this is not the crux of the matter; the Constitutional Tribunal has had its credibility questioned since 2015, when PiS first won the legislative elections. That year, PiS started a process of judicial reform, where three judges from the Constitutional Court were improperly replaced. As described by Gliszczyńska-Grabias and Sadurski, first, the election of three judges for the Constitutional Court, that occurred in the last weeks of the previous term, was invalidated. Then, the newly elected Parliament quickly replaced them by appointing three different judges. (Gliszczyńska-Grabias & Sadurski, 2021) Yet the issues do not end there, with questions being raised on the new “composition of the Constitutional Court”, “the non-publication of its judgements”, “its review of the law”, “its impact on the effectiveness of constitutional review of new legislation”. It is therefore not surprising that the European Union has been concerned with Poland's compliance with rule of law. (Pizarossa & Sosa, June, 2021) In fact, it would erupt in the end of 2017, with the triggering of Article 7, also known as “the nuclear option”. As a consequence of the judicial reform that PiS started after winning the elections, the European Commission decided to activate said article, meaning that Poland could lose its voting rights. However, this process has not been concluded yet (as of December 2021). (Baume & Herszenhorn, 2017) All in all, Łętowska briefly described what has happened to the Constitutional Tribunal with the following: “From an independent controller of the constitutionality of the law to a handyman of the ruling parliamentary majority for projects whose odium is not intended to fall on parliament.” (Łętowska, 2020)

Going back to the K 1/20 judgement, the issues related to the Constitutional Court also impact its legitimacy. The number of issues involving this ruling makes some scholars believe that it cannot be considered “a proper judgement of the Tribunal”: the fact that the three new judges improperly elected (also known as “double judges”) were part of the panel that decided on the ruling; the aforementioned issues with the President of the Tribunal, Julia Przyłębska; the delay between the judgement and its publication – the judgement dates back to October 22<sup>nd</sup>, 2020, and it was only published on January 27<sup>th</sup> 2021. (Gliszczyńska-Grabias & Sadurski, 2021) Lastly, the K 1/20 judgement was arrived at in the presence of Krystyna Pawłowicz, a Polish MP that has been outspoken against abortion and of the opinion that the law should be more restrictive. (Piccinini, 2021)

## Strajk Kobiet

As was touched upon in the previous item, in October of 2020 *Strajk Kobiet* (Women's Strike) was one of the largest citizen's mobilisations to memory. Again, the similarities between 2016 and 2020 were plenty, so there was space for optimism. Black Monday resulted in the maintenance of the status quo on abortion legislation; would another mobilisation of the same nature have the same result? To this question, Kasia answers in a negative light, separating these two events: "But four years ago, Andrzej Duda hadn't been re-elected as president – a decision that has given extra legitimacy to the right-wing agenda." (Kasia, 2020, p. 26) Before going over the main subject of this section – *Strajk Kobiet* – I will briefly go over a number of demonstrations that immediately preceded it.

In the item "After Black Monday", it was mentioned how 2018 marked another emblematic mobilisation for the women's rights movement; after it, the movement only gathered more momentum. Jumping to 2020, on the 14<sup>th</sup> of April there were already protests against the "*Zatrzymaj aborcję*" bill. In the middle of a global pandemic, the protesters found different ways to express their dissatisfaction at the minimum cost for public health. Some of the solutions found involved driving with posters and banners, standing on the streets with posters (respecting social distancing), queuing in front of grocery shops with posters, or putting posters/banners on windows/balconies in their own apartments. Additionally, holding up an umbrella, as a direct reference to the protest in 2016, was also another noted method. The concerns with avoiding repercussions by violating the sanitary regulations created these new forms of protest, even before October 2020. Nonetheless, these methods were not enough to avoid police intervention, with reports of protesters having their IDs checked, being fined, and referred to court. Some authors raised concerns about the action of the police, as they were acting contrary to the right to freedom of assembly. It must not be forgotten that the state of emergency had not been declared. (Osiewicz, 2020)

From the 22<sup>nd</sup> of October 2020 to the 27<sup>th</sup> of January 2021, a wave of protests relating to the K 1/20 judgement swept through Poland in what was called the Women's Strike (*Strajk Kobiet*). Some scholars note how these demonstrations quickly escalated from being merely on the Constitutional Tribunal's ruling to reflecting a general dissatisfaction for PiS (and the options chosen for Poland). (Czarniawska, 2020; Gliszczyńska-Grabias & Sadurski, 2021) Yet the fight for women's, sexual and reproductive rights was still the central subject. Therefore, immediately after the K 1/20 judgement, *Strajk Kobiet* started. In many Polish towns, thousands came to the streets condemning the Constitutional Tribunal's decision; simultaneously, protesters were dealing with a worsening of the COVID-19 pandemic. In

adversity, from the global pandemic and an atypical brutality of the police forces, these protesters fought once again for maintaining the 1993 abortion compromise. (Osiewicz, 2020) Data from the 30<sup>th</sup> of October is used by Nacher, “480,000 people took to the streets in 410 events held both in major Polish metropolises and in small towns (...) and 100,000 protesters gathered in Warsaw on that day alone,” which configures unprecedented numbers since the 1989. (Nacher, 2021, p. 10)

*Strajk Kobiet* was a collective, yet particular experience. Under the slogan of “*To jest wojna!*” (meaning, “This is war!”), the decentralised nature of the protest meant that different approaches to protesting were taken, such as “roadblocks, sit-ins in front of churches, protests in the streets, marches in front of the government’s buildings”. As a new element (and later explored), the protest was also much “angrier”, by using as expletives and rude gestures. (Piccinini, 2021, p. 102) Furthermore, one social movement clearly stood out and became almost synonymous to *Strajk Kobiet: Ogólnopolski Strajk Kobiet*, or OSK (that translates to, All-Poland Women’s Strike). This movement must not be strange to the reader, as it was already mentioned in the previous chapter – in the form of a newly created Facebook group, by the same name. As noted by Osiewicz, the nature of this group/movement implies that it has autonomous action in its different factions, sharing a connection by what the author describes as a “favourable minimum, namely a common name, slogan, and basis for visual identification as well as formal and material support.” In 2020, this movement started to be more and more active, in response to what they have claimed to be controversial political manoeuvres motivated by the limitations caused by COVID-19 pandemic. (Osiewicz, 2020, p. 197)

What is more, it should not be forgotten that the COVID-19 pandemic and the sanitary measures in place, have greatly affected the conditions for civic mobilisation in 2020. I would start with the point made by Czarniawska, aided by the work of Golec de Zavala, et al<sup>10</sup>. Starting from the relation between an outbreak of a disease and the way it creates a feeling of threat of a foreign enemy (then extrapolated to whatever fits the “others”, in PiS’ narrative), Czarniawska concludes how both the attacks on women’s rights and the police brutality against protesters can be explained: that is, by a created environment of fear of the unknown, exacerbated by the COVID-19 virus. (Czarniawska, 2020) Yet, the pandemic has also created tangible issues to activists. In the middle of lockdowns, the protests multiplied both on- and

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<sup>10</sup> Golec de Zavala, A., Bierwiazzonek, K., Baran, T., Keenan, O., & Hase, A. (2021). The COVID-19 pandemic, authoritarianism, and rejection of sexual dissenters in Poland. *Psychology of Sexual Orientation and Gender Diversity*, 8(2), 250.

offline: when in-person, the choice of using facemasks with slogans, social distancing (standing 2 meters apart) in street protesting, car rallies. (Nacher, 2021) Eşençay also adds other methods that inform the global experience that we currently are under, such as cyclists with facemasks and posters, posters put up in windows and balconies by people staying inside, and sharing pictures online in all-black and/or holding abortion pills, using hashtags such as, “#ProtestAtHome, #blackprotests, #womenshell, #CzarnyProtest (#BlackProtest), #StrajkKobiet (#WomenStrike), and #PiekłoKobiet (#HellForWomen)”. (Eşençay, 2020) These elements in protesting will definitely become emblematic of this time-period.

Apart from the difficulties, the pandemic did not deter the efforts for mobilisation. Kasia comments that the participation in the protests was quite diverse, noting the participation of “taxi drivers, coal miners, football fans and farmers (...)”. (Kasia, 2020, p. 26) This sentiment is shared by Piccinini, adding to the equation “LGBT+ rights organisations”, “public transport drivers”. (Piccinini, 2021, p. 102) Yet both authors agree on a new demographic – young people – with Kasia underlining its majoritarian numbers in the streets. According to Nacher, the fact that the main actors in this contestation were of the youngest demographic group (ranging between 16 to 25-year-olds) is noteworthy. (Nacher, 2021)

It is also noticeable the usage of different language and symbology than before. First, the red-lightning bolt became the central symbol of *Strajk Kobiet*. Present in OSK’s official logo, the graphic designer behind the lightning-bolt (Ola Jasionowska) clarified to Newsweek Polska: “It says: watch out, beware, we won’t accept that women are being deprived of their basic rights,”. (Wądołowska, 2020) Additionally, the influence of the young demographic meant that the slogans and banners created have sometimes correlated to memes, video games and pop culture in general, “often balancing on the verge of unintelligibility to those not familiar with the reference.” (Nacher, 2021, p. 11) Moreover, the language got “angrier”, with the usage of offensive language for the most popular slogans, such as: “*Jebać PiS*” or “\*\*\*\*\*” (that translate to “Fuck PiS”) and “*Wypierdalać!*” (that translated to “Get the Fuck Out!”). Kasja Urge also noted the usage of music and dancing in the protests. The song *Jebać PiS*, while causing internal discussion among the protesters, became a commonplace protesting method during *Strajk Kobiet*. (Urge, 2021) However, the usage of this type of language would cause a stir, with liberal politicians and celebrities harshly criticising it. To this point, Czarniawska uses the words by Olga Tokarczuk (Polish writer and activist,

recipient of the Literary Nobel Prize) from the New Yorker (2020)<sup>11</sup>, which I have partially selected:

The first time I saw a banner on the screen that read ‘Get the fuck out,’ I was shocked by the word, so clearly painted in red letters in public space, but I got used to it quickly and decided that this anger couldn’t be expressed any better. (...) It is a radical, instantaneous language that will change as things move to the next stage: negotiation, new order making, and new rules. (Czarniawska, 2020, pp. 4-5)

Another element worth emphasising is the influence of a young demographic in *Strajk Kobiet*. First, its digital facet was more than just a means for protesting, actually complementing and aiding the real-life organising of activists. As noted by Mateusz Kamionka, the Women’s Strike protests in 2020 were mainly organised through the Internet. The rise of “Facebook events” were a reflection of the new methods for organising. Secondly, as reported by OKO.press<sup>12</sup>, the expletives in the slogans were common: with a majority (80%) containing this language. Lastly, the fact that this young generation is on the verge of gaining full political rights, by reaching adulthood, concerns the established political powers on the potential for their longevity. (Kamionka, 2021)

Unquestionably, the subject of this protest far extends the notion of the right to abortion. To this point, Czarniawska refers to the survey conducted by OSK to their own protesters, where the movement lists thirteen points equally important in *Strajk Kobiet* including, “education, women’s reproductive rights, health care, climate change, and separation of state and church”. (Czarniawska, 2020, p. 4) This type of diversified priorities, together with the aforesaid dissatisfaction with PiS’ actions, explains both the language (focused specifically on criticising PiS) and the different people that have joined in protesting. *Strajk Kobiet* is much more than a movement only on reproductive rights, and instead it stands against the conservative, right-wing and fundamentalist ideology that has taken over Poland and constantly attacks the democratic values.

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<sup>11</sup> Gessen, M. (2020, November 17). *The Abortion Protests in Poland Are Starting to Feel Like a Revolution*. Retrieved from The New Yorker: <https://www.newyorker.com/news/our-columnists/the-abortion-protests-in-poland-are-starting-to-feel-like-a-revolution>

<sup>12</sup> Danielewski, M. (2020, October 25). *Nie cmokaj z niesmakiem na krzyk „Wypierdalać!”*. *Wulgarna jest tortura, nie gniew*. Retrieved from OKO.press: <https://oko.press/nie-cmokaj-z-niesmakiem-na-krzyk-wypierdalac-wulgarna-jest-tortura-nie-gniew/>

Considering the far-reaching ability of the protest to mobilise people in unprecedented numbers since the Solidarity movement, it is thus important to mention different reactions to *Strajk Kobiet*. Actually, there were positive reactions to the abortion restriction, in the form of a ruling from the Constitutional Tribunal. Jerzy Kwaśniewski, from the Ordo Iuris Institute (the ultra-conservative Catholic organisation that has campaigned for banning abortion), even described the day of the ruling as “a great day.” (Kość, 2020) Again, the connection between PiS and the Church on abortion remains as it was in 2016, with Catholic adjacent organisations publicly fighting for abortion restrictions in Poland. Nonetheless, and noted by Shaun Walker, an abortion ban is not popular among the PiS’ electorate – meaning that the proposal is generally unpopular and, thus, a difficult political move from PiS. (Walker, 2020)

From the lack of a true separation between Church and State in Poland and their agreement on a more restrictive abortion legislation, the Catholic Church becomes a point of contention in *Strajk Kobiet*. Consequently, the Women’s Strike protests also multiplied in churches and in front of bishops’ residences. (Kamionka, 2021) However, Czarniawska also adds that this spill-over effect to contestation to the Church has raised some eyebrows. In fact, public opinion did not see in good eyes slogans being written over the walls of churches. Nonetheless, the author also remarks that the sexual abuse, the paedophiliac allegations involving the Catholic Church and its promotion of hatred against the LGBTI+ people has enraged many young Polish citizens. (Czarniawska, 2020)

What is more, the inflammatory language used on the 27<sup>th</sup> of October by Jarosław Kaczyński has also energised *Strajk Kobiet*. In a communication from his Facebook page, Kaczyński encouraged PiS’ supporters to defend of churches and that their defence should come at any cost. (Czarniawska, 2020; Nacher, 2021) As Piccinini rightfully adds, this type of statement was interpreted as a call for violent counter-protest. Yet, Kaczyński did not stop there, as in the following month would also characterise the protesters as “criminals” (for the risk of contagion by gathering on the streets) and describing that the protesters as “anti-Polish”. (Piccinini, 2021) Another concerning government response came from Minister of Science and Education, that threatened to deny research grants to any university that supported the students’ participation on *Strajk Kobiet*, on October 28<sup>th</sup>. (Nacher, 2021)

Equally significant is the treatment of protesters and the instances of police brutality. As happened during the April 2020 protests, this real threat to protesters is yet another reported reaction, now in the form of the police force. In an environment of “particularly brutal” protests, it has been reported that the law enforcement authorities acted in disproportionate violence under the pretext of deterrence for reasons of public health. Yet, not

only did their actions victimised citizens, journalists, and MPs, with reports of unlawful arrests and pepper spray usage, but also they were unsuccessful on dispersing the crowd. (Czarniawska, 2020)

Meanwhile, *Strajk Kobiet* was supported by some Polish political figures. Wanda Nowicka, MP on the Polish Parliament, has publicly voiced her support for women's rights and the fight ensuing in Poland. Piccinini highlighted an interview to Nowicka to from the journal *Sexual and Reproductive Health Matters*, in 2020. Here, Nowicka states how the recent ruling results from the bias of PiS and not a truly independent Constitutional Tribunal acting according to the Constitution. To her, PiS behaved contrary to basic human rights, including those of the LGBTI+ community, women, and minorities. (Piccinini, 2021)

### Lessons from Strajk Kobiet

It is unclear if *Strajk Kobiet* failed, but the aftermath did not mimic what had happened four years prior. On November 3<sup>rd</sup>, 2020, the proposed abortion restriction was postponed. Michał Dworczyk, the Chief of the Chancellery, provided the connection between the mobilisation on the streets and the need for to postpone the bill. Yet, as Urge rightfully connects and as was previously mentioned, 2021 would bring the publication of abortion law that resulted from the K 1/20 judgement. (Urge, 2021) Therefore, the efforts to stop the proposal fell short and this time PiS went forward with its goal to restrict the abortion legislation.

Internally, *Strajk Kobiet* had an impact, both in the protesters and in the ones siding with the government/Constitutional Tribunal. First, Andrzej Duda, the President of the Republic, attempted to de-escalate the fiery debate surrounding abortion. By submitting his own proposal for a new abortion law, Duda tried to meet at a halfway point: allowing abortion when there is high probability of death at birth. Yet it was not clear whether it was an actual attempt at reaching an agreement or a political move, and, in the end, it did not bode well with neither of the interested parties. Secondly, the credibility on the Catholic Church was shaken, with many no longer identifying with it. Thirdly, the fact that this movement is more radical than before resulted in a loss of support by the more moderate crowd. The vulgar language, the writing on church walls and even some that decided to publish online the home addresses of some Constitutional Tribunal judges were factors contributing to it. (Piccinini, 2021)

On a different note, the question of the timing for jumpstarting the abortion debate has also been raised. Gliszczyńska-Grabias and Sadurski acknowledge this, inquiring why

Jarosław Kaczyński – as the de facto ruler and having control over the Constitutional Tribunal – chose this moment. The authors could not provide a definite answer to this political move, yet they provided with a few suggestions: as a diversion from the failures in handling the COVID-19 pandemic, as a concession – either to the Catholic electorate or to rural electorate, as the latter had voiced its anger against a recent bill (on animal protection) that could hurt the agricultural sector. Ultimately, the authors agree that while only Kaczyński himself can answer this question, this particular political move might turn out as the most significant ever in Kaczyński’s political career. (Gliszczyńska-Grabias & Sadurski, 2021)

Furthermore, *Strajk Kobiet* started a conversation in the international media. Czarniawska highlights how these protests were described in the media, with such expressions as “a fight for democracy”, from Al Jazeera (2020)<sup>13</sup>, and “a feminist revolution”, from the New Yorker (2020)<sup>14</sup>. Again, the international reporting also reveals how *Strajk Kobiet* in Poland is much more than just a discussion on the legality of abortion. (Czarniawska, 2020)

Yet the media was not the only facet of its international repercussions; indeed, *Strajk Kobiet* quickly reached both the Council of Europe and the European Union. On the day of the ruling by Constitutional Tribunal (the 22<sup>nd</sup> of October), the Council’s Commissioner of Human Rights, Dunja Mijatović, used Twitter to make her opinion heard on the topic: to the Commissioner, the ruling amounted to a violation of human rights, and she concludes stating that it was “A sad day for Women’s Rights”. (Kość, 2020) On the same day, a statement by Evelyn Regner (chair of the Committee on Women’s Rights) and by Juan Fernando López Aguilar (chair of the Committee on Civil Liberties) was released. Both of these MEPs shared their concern about the Polish ruling: Regner highlighted the trajectory to more illegal terminations (with considerable risks for women’s health), the steps taken by the Polish government against women and the LGBT+ community, calling the new policy inhumane and “backward-looking”; Aguilar underlined the overall “attacks on the rule of law, democracy and fundamental rights”, mentioned the questionable composition of the current Polish Constitutional Court, and finished by stating how the autonomy of women to decide over their bodies “should not be unconstitutional”. (Klosidis & Delaleu, 2020)

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<sup>13</sup> Al Jazeera. (2020, November 27). *Poland's abortion protests: A fight for democracy?* Retrieved from Al Jazeera: <https://www.aljazeera.com/program/upfront/2020/11/27/polands-abortion-protests-a-fight-for-democracy/>

<sup>14</sup> See footnote 11: (Gessen, 2020).

Lastly, it should be noted the conversation about the future of abortion and the mobilisation around it in Poland. To Gliszczyńska-Grabias and Sadurski, it is important to note that the current situation might not be solved by elections. Instead, the authors remain hesitant to say that a further liberalisation of the law is imminent and fear that what is commonplace to a majority of EU Member-States might be too far away in the future for Poland. (Gliszczyńska-Grabias & Sadurski, 2021) Secondly, Urge raises another issue related to the sustainability of the Women's Strike movement. The author draws attention to potential challenges to "long-term cooperation", and lists some relevant aspects: "ideological issues", "age", "strategies used for protesting". (Urge, 2021) The sheer heterogeneity of the movement makes it difficult for cooperation and agreement to the means and ends of the protest itself.

In the end, *Strajk Kobiet* became another emblematic moment in the history of abortion in Poland. Urge concludes, from the multiple conceptions provided by the interviewees, that the movement cannot be reduced to a "feminist" movement. Rather, the author proposes "popular" as a label. (Urge, 2021) This proposed definition summarises the impact and amplitude of what began as a fight against a near-total abortion ban. Thus, Gliszczyńska-Grabias and Sadurski ask a similar question than the one being made after Black Monday in 2016: if there will be tangible changes or if the movement is merely "an outbreak of civic outrage." However, the authors take one aspect for certain, being that "[the] public opinion realised that there is a direct, inseparable link between the capturing of the rule of law and violation of rights and freedoms of millions of Polish women." (Gliszczyńska-Grabias & Sadurski, 2021, p. 152) The way I see it, this aspect trumps any possible decrease of contestation and issues in cooperation. When people recognised this type of bad-faith antics from PiS, it helped the movement in establishing a common enemy. By the same token, I do not see this movement as a random "outbreak of outrage", but rather the sustained construction of a nation-wide movement that stands against the attacks on citizen's rights.

## ***2020: Exploring the abortion debate in the European Parliament***

Similar to the previous chapter, this second section has a major focus on the abortion debate in the European Parliament (EP). Starting by exploring how abortion in Europe is today, I then mention a recent EU report on sexual and reproductive health and rights (SRHR). This sets the stage for the analysis on the debate on the EP entitled: “Abortion rights in Poland”, that occurred on November 25<sup>th</sup>, 2020. At the time of the debate, *Strajk Kobiet* was still ongoing, yet the K 1/20 judgement would only be published in 2021. Again, I follow a similar structure to the previous chapter, diving this section into two items: “Abortion in Europe today” and “25/11/2020: On the EP debate entitled ‘Abortion rights in Poland’”. This section concludes the discussion of the two missing elements at hand in this Dissertation: the abortion debate in Poland and in the EP, now in 2020.

### *Abortion in Europe today*

The values enshrined in the European Union’s treaties have been put more and more to the test, in an ever-lasting fight between a “community of values” and the right to self-determination of each Member-State. Petra Ahrens, Barbara Gaweda and Johanna Kantola mention the activation of Article 7 procedures against both Hungary and Poland, as reinforcement of the idea of “community of values” and the fundamental nature of rule of law. (Ahrens, Gaweda, & Kantola, 2021) With the looming threat of limiting Polish and Hungarian voting rights in EU institutions, the EU acted against the violations of a core European value, happening in its Member-States. While it is true that the codification of these values can be found in second article in the Treaty of European Union (TEU), the true definition of such values as “human rights” allow for different interpretations. In the discussion of abortion and reproductive rights at large, many equate abortion as a woman’s right and, therefore, a human right. Thus, the lack of common binding legislation throughout the Member-States results in distinct laws that affect the European women differently.

Furthermore, this lack of standardised legislation on abortion in Europe is not coincidental. According to Lucía Berro Pizarossa and Lorena Sosa, the European Court of Human Rights (the ECtHR) has preferred to use the principle of subsidiarity, through a broad interpretation of “the doctrine of the margin of appreciation”, regarding abortion. With the states ultimately deciding on the circumstances where abortion is permissible, this organ of the Council of Europe has received harsh criticism for choosing this approach instead of following the European Convention of Human Rights. However, the authors also note that

this Court asked for “clear, accessible and foreseeable legislation”, when the decision of liberalising abortion is made. The need for “reliable and prompt information about access to abortion” and “sufficient involvement of women” in decision-making are also points touched upon, highlighting the Court’s concern of situations where abortion is legal, yet unattainable. (Pizzarossa & Sosa, June, 2021, p. 591)

Regarding the type of abortion regulations, it is important to consider the multitude of approaches in Europe. Pizzarossa and Sosa draw attention to the fact that Europe being home to liberal abortion legislation is just a deceiving appearance that obscures the multifaceted reality. First, there is a total ban on abortion in Andorra, Malta, San Marino, and the Vatican. Secondly, the right to conscientious objection is protected in 23 states that allow abortion. Lastly, the authors illustrate the diverse abortion legislation in Europe with the following:

Out of the 47 states in Europe, 31 allow for abortion when requested by an individual, 44 in most cases within a gestational limit ranging from 10 to 18 weeks, allowing for elective termination of pregnancy in the first trimester. (...) Other states in Europe allow for abortion on defined legal grounds. The most common grounds are fetal impairment (n 32/47) and risk to the health of the woman (n 26/47). (Pizzarossa & Sosa, June, 2021, p. 591)

Yet, another factor of abortion in Europe today worth considering is the COVID-19 pandemic. In fact, the effects of the global pandemic have also disturbed the normal functioning of this procedure in the different European countries. The particular answers given to performing abortions during a pandemic resulted in an aggravation of the discrepancy between European countries. In the case of Austria, Croatia, Germany, and Romania, abortion was excluded from the list of “essential services”, rendering it temporarily forbidden. By contrast, Finland and Denmark maintained the same policy as before the pandemic, with the availability of the procedure remaining unaffected. (Pizzarossa & Sosa, June, 2021)

Moreover, a concerning trend that did not lose speed during the pandemic, is the wave of proposals for restricting abortion. Pizzarossa and Sosa highlight a few, with “Lithuania and Norway in 2018, Slovakia in 2018, Spain in 2014 and, of course, Poland in 2016, 2018 and 2020.” Adding to the fact that there are Member States that have not ratified the Istanbul Conference, the anti-gender conservative movement has gained momentum and effectively deter the expansion of “reproductive rights”, “sexual education” and “gender-based violence

laws”. (Pizzarossa & Sosa, June, 2021, p. 593) Simultaneous with the right-wing extremist movement that has continuously grown, the fight against “gender ideology” greatly aids the authoritarian and traditional narrative portrayed by said movements. Thus, it is not surprising that as Europe is dealing with a wave of this kind of right-wing populism, abortion is put to question even in places with relatively liberal legislation. The steps backwards we have seen in the Polish legislation are not unique considering the many other proposals in Europe, as was the ones abovementioned. To conclude this point, the following quote by Pizzarossa and Sosa summarises one of the bigger issues in abortion legislation in Europe, “Furthermore, the traditional configuration of abortion regulation (as a crime unless certain requisites are met) has lend easily to platform retrogressive reforms.” (Pizzarossa & Sosa, June, 2021, p. 595)

Lastly, I end this item by mentioning a recent report on SRHR. In May of 2021, the rapporteur Predrag Fred Matić, appointed by the Committee on Women’s Rights and Gender Equality presented the report “on the situation of sexual and reproductive health and rights in the EU, in the frame of women’s health (2020/2215(INI))”. Stated in the beginning, one of the listed documents taken into account was the EP’s resolution on the 26<sup>th</sup> of November 2020, on the “de facto ban on the right to abortion in Poland”, resulting from the debate explored in the following item. (Matić, 2021)

In the same vein as Lancker and Estrela, this report also focused on the importance of abortion in SRHR (“(...) calls on the Member States to ensure universal access to safe and legal abortion”). (Matić, 2021, p. 18) Parallel to the previous reports, there is a concern of the misuse of the right to conscientious objection: where patients are refused service (without any referrals to a different practitioner) and the negative stimulus that the conscience clause can have on deterring prenatal testing. (Matić, 2021) Thus, the permanence of a same number of issues regarding abortion is visible throughout the years – where a number of proposals call on the same matter throughout the mentioned reports.

The Matić report highlights the question of abortion today, providing the relation with current socio-political context. To begin with, it recognises the moment we are living in, in terms of SRHR. Matić remarks the wave of regression of women’s rights in the EU, which directly contributed to both the deteriorating of acquired rights and putting women’s health at risk. To this point, the rapporteur also mentions the connection between the deterioration in women’s rights and the democratic backslide in the EU. Thus, women’s rights have been curbed in order to arrive at the so-called “demographic objectives”, which ultimately curtails citizen’s rights and affects the democratic standing of said country. Secondly, the COVID-19 pandemic is mentioned, as another paradigmatic aspect to SRHR in Europe. After many

months passed since the beginning of the pandemic, this report criticises the refusal of providing sexual and reproductive health (SRH) services by defining them as non-essential. Thus, it calls on the EU, institutions, and Member States to refrain from this type of policies, as the availability of these services is of utmost importance regardless of the existing global pandemic. (Matić, 2021) At last, the Matić report states that these violations of SRHR are antithetical to what the European values are, concluding:

[The report] It reaffirms that violations or denial of access to SRHR constitute breaches of human rights and gender-based violence and as such are a European challenge which must be addressed, not deviating from all those values and principles that the European Union is formed upon, as democracy, equality and non-violence. (Matić, 2021, p. 28)

Notwithstanding, it is worth adding some final notes on the Minority Opinion attached to the Matić report. In a joint statement by Spanish MEP Margarita de la Pisa Carrión and Polish MEP Jadwiga Wiśniewska, the report is criticised with some of the following claims: it “has no legal or formal rigour”; “it goes beyond its remit”, as it is the Member State’s competency to legislate and address “health, sexual education and reproduction” – where abortion is included and “it treats abortion as a purported human right”, with the MEPs Carrión and Wiśniewska disputing the validity of the argument in international law. Of note is the usage of the expression “the ideological gender agenda”, which evokes the well-known expression “gender ideology”. (Matić, 2021, p. 29) Having that said, on the 24<sup>th</sup> of June 2021 the Matić report was adopted. The resolution presented in the EP passed with 378 votes to 255, and 42 abstentions. (European Parliament, 2021)

Once again, the contextualisation provided of the recent past served as the starting point to tackle the EP debate on the 25<sup>th</sup> of November 2020, “Abortion rights in Poland”. Now, the link between the events in Poland in 2020 and in the EP can be formed, as the discussion ensuing is enlightening to the subject at hand: the positions in the EP in regards to the 2020 abortion debate in Poland.

## 25/11/2020: On the EP debate entitled “Abortion rights in Poland”

In 2020, the 9<sup>th</sup> European Parliament consisted of seven different political groups<sup>15</sup>. As mentioned in the previous chapter, the necessity of 23 MEPs to form a political group representing at least one-quarter of the Member States remains; equally, the possibility to remain non-attached (NI) still exists, which has increased from 20 to 37 NI MEPs, after the 2019 EP elections.

Contrary to what had happened in 2016, there was no debate immediately after the ruling by the Polish Constitutional Court and, consequently, the first *Strajk Kobiet* protests. Yet, on November 25<sup>th</sup>, 2020, an important debate entitled “Abortion rights in Poland” provided an opportunity to discuss abortion and the Polish situation once again in a European forum. In another high-tension debate, some arguments are familiar to what was presented in 2016, other are new and relate to particular factors of the 2020 abortion law restriction – such as COVID-19 or the state of the Polish judiciary.

In a session that included MEPs’ declarations via videoconference and facemasks for the ones present, these habitual symbols of the pandemic still on-going should not go unnoticed. Additionally, some MEPs chose to wear t-shirts related to the Polish women’s movement: many chose the OSK (*Ogólnopolski Strajk Kobiet*) official logo, the main movement behind the Women’s Strike protests in Poland; MEP Terry Reintke chose a t-shirt with from the *Ratujmy Kobiety* (in English, “Save the Women”) committee, responsible for the Polish civic initiative of the same name. These MEPs showed their solidarity and support for the movement even before starting to speak.

The session started with the initial statement by Helena Dalli, European Commissioner for Equality. To the Commissioner, abortion constitutes one of the many women’s rights that must be protected. Yet, Dalli does recognise the fact that legally the EU does not have the competency to legislate on abortion. Moreover, the Commissioner mentions the Article 7 procedure launched against Poland by the European Commission (EC) in 2017, that has remained unsolved to the date of the debate. Thus, the question on the legitimacy of the Polish Constitutional Tribunal has to be posed. Therefore, Helena Dalli hopes that the people demonstrating in Poland are being heard. Lastly, so as to jumpstart the debate and advocating

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<sup>15</sup> The political groups in the EP in 2020: **EPP** – The European People's Party (Christian Democrats); **S&D** – The Progressive Alliance of Socialists and Democrats in the European Parliament; **Renew** – Renew Europe (the successor of ALDE); **ID** – Identity and Democracy (the successor of ENF); **Greens/EFA** – The Greens/European Free Alliance; **ECR** – The European Conservatives and Reformists Group; **GUE/NGL** – The Left in the European Parliament; **NI** – *Non-Inscrits*.

for women's rights, Dalli leaves a general warning that relates to the Polish situation: "But progress is hard won and easily lost, and we see this in Europe and worldwide". (Dalli, 2020, p. 95)

Once again, the MEPs that participated in this debate can be sorted into one of two opposing groups, maintaining the same formula as was discussed in the previous chapter: the ones siding with pro-choice/solidarity with the *Strajk Kobiet*, defining abortion as a human right and denouncing the attacks by PiS and the Constitutional Court; the ones siding with pro-life or generally with the K 1/20 ruling and any of the actors involved (i.e., mainly the Polish government and the Constitutional Tribunal), that advocate for the right to life – justifying it by the Polish Constitution (art. 38) or moral/religious arguments.

Starting from the group that backs the pro-choice movement, MEP Frances Fitzgerald (EPP) is the first to make a statement. This MEP divides her argument in items: first, the attack commanded by PiS and its direct effect in the deterioration of both "rule of law" and "women's rights"; secondly, the importance of people demonstrating on the streets and, additionally, the inspiration provided by the past (both by the Solidarity movement and by historical female figures such as "Marie-Skłodowska Curie, Wisława Szymborska and Edith Stein"). Fitzgerald concludes alluding to one of the strike's slogans: "Poland: piekło kobiet – women's hell, no more!" (Fitzgerald, 2020, p. 95) In a wave of solidarity with the Polish women's struggle, the MEPs in this group generally argued for women's rights as human rights, supported *Strajk Kobiet* and denounced the attacks to citizen's rights by the party in power (PiS). In particular, I will provide some examples, favouring the diversity of both arguments and political groups: MEP Iratxe García Pérez (S&D) remarks how the Constitutional Tribunal in Poland is effectively controlled by Jarosław Kaczyński, adding her solidarity for the Polish women, by recounting the unity of the European women when Spain was at risk of having its own abortion law restricted – and stopped such attempt (Pérez, 2020); MEP Sylwia Spurek (Greens/EFA) highlights the attacks to the Polish people's freedoms and directly calls for health being one full competence of the EU (Spurek, 2020); MEP Lefteris Nikolaou-Alavanos (NI) mentions the nefarious practices in countries such as Poland and the US in regards to abortion and emphasises the lives saved by legal abortion, one notable socialist policy (Nikolaou-Alavanos, 2020); MEP Robert Biedroń (S&D) states "However, I have the impression that if men had abortion, we wouldn't have to talk about it here today, because it would probably be available in every kiosk<sup>16</sup>." (Biedroń, 2020, p. 99);

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<sup>16</sup> "Mam jednak wrażenie, że gdyby aborcję mieli faceci, nie musielibyśmy tutaj dzisiaj o tym rozmawiać, bo byłaby ona pewnie dostępna w każdym kiosku." (Unofficial translation)

MEP Malin Björk (GUE/NGL) speaks about the far-reaching conservative right-wing wave in Europe that uses women's and LGBTI persons' bodies "as a battleground", with one goal being the imposition of patriarchal values in society (Björk, 2020); MEP Chrysoula Zacharopoulou (Renew) comments on the fact that the debate is happening on November 25<sup>th</sup>, the International Day for the Elimination of Violence against Women (Zacharopoulou, 2020); MEP Andrzej Halicki (EPP) equates the women's movement symbol of the lightning bolt to energy and the energy of the youth, and ends by saying "Freedom always wins.<sup>17</sup>" (Halicki, 2020, p. 102) Thus, a majority of MEPs from EPP, S&D, Renew, Greens/EFA, GUE/NGL and one NI MEP (MEP Lefteris Nikolaou-Alavanos) have made points fitting the pro-choice positioning.

At the same time, from the group that advocates for pro-life positions MEP Joachim Kuhs (ID) is the first to speak. Kuhs starts by telling a personal anecdote where he refused prenatal testing (the amniotic fluid test) on one of his children, and he was born healthy. After also describing his experience in the March for Life in Berlin, Kuhs criticises the pro-choice movement for not acknowledging the happiness of people living with Down's syndrome. This MEP also underlines how Poland is protecting human life, respecting its Christian roots, and asks: who is the true protector of human rights – Poland or us, with "our selfish self-determination rights"? (Kuhs, 2020) Broadly, the arguments used by the members of this group involve the following: the lack of competency of the EU in legislating on abortion, the protesters being a danger for public safety (because of the spread of the COVID-19 virus), moral/religious arguments, an interpretation of Article 38 from the Polish Constitution. Particularly, I will exemplify, covering all pro-life MEPs that participated in this debate (which did not occur in the previous paragraph). This choice results from the fact of existing a total of five pro-life interventions, which shies away from the eighteen pro-choice ones. Additionally, there will not be a great variety of political groups, as all MEPs except Joachim Kuhs (ID) participating in this debate belong to the European Conservatives and Reformists Group (ECR). Some of the arguments included: MEP Jadwiga Wiśniewska (ECR) mentions both the fact that the EU has no competence on health and that the current Women's Strike protests are a public health hazard – directly connecting the protests with more COVID-19 cases and deaths (Wiśniewska, 2020); MEP Beata Mazurek (ECR) states how the right to life is a fundamental right (art. 38 of the Polish Constitution) and its protection constitutes a moral duty (Mazurek, 2020); MEP Elżbieta Kruk (ECR) condemns the resolution in discussion by comparing it to eugenics in both Bolshevik Russia and Nazi Germany: "The initiator of the

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<sup>17</sup> "Wolność zawsze zwycięża." (Unofficial translation)

resolution says that he is guided by hope and love, and in the name of this love he wants to kill children in the majesty of the law only on suspicion of illness or disability.<sup>18</sup>” (Kruk, 2020, p. 102); MEP Beata Kempa (ECR) argues that the Christian values were foundational to the EU and quotes Saint John Paul II, “A nation that kills its own children is a nation with no future.<sup>19</sup>” (Kempa, 2020, p. 103) As was shown, a majority of MEPs from ECR and one MEP from ID have used arguments that fit a pro-life positioning in the abortion discussion.

In order to conclude the debate, the Commissioner Helena Dalli gives a concluding statement. With a quick intervention, Dalli reinforces the importance of women’s rights, saying: “If I were to compress what the majority in this room said in five words, it’s: women’s rights are human rights. And we are certainly on the same page.” Moreover, the Commissioner evokes another historical female figure, Simone Veil, first woman president of the EP, to highlight the path ahead in the full recognition of women’s rights. (Dalli, 2020, p. 103) What is more, it should be noted that, contrary to 2016, all existent political groups participated in this debate. Lastly, the resolution concerning “the de facto ban on the right to abortion in Poland”, on discussion in this debate, was adopted in the following day: with 455 votes to 145, and 71 abstentions. It is also worth mentioning that the adopted text had been submitted by the EPP, S&D, Renew, Greens/EFA and GUE/NGL political groups. In this resolution it was condemned the inclusion of abortion to the criminal code; also, it urged the Polish Parliament and authorities to stop any further attempts at the of limitation of SRHR. (European Parliament, 2020) The EP reinforced its position on SRHR, while denouncing the attacks to the Polish women under way in Poland.

The last aspect that is crucial to this item is the discussion of the various factors that explain the different positions on abortion in the EP. The research question guiding this chapter is now remembered, with the goal of answering it by the end of the chapter: “what defines the different positions in the European Parliament in regards to the 2020 abortion debate in Poland?” In the following paragraphs, I will look at the proposal of Ahrens, Gaweda, & Kantola (2021), in diving the political groups into three clusters.

To start with, the broad question of populism is of note to the discussion ahead. Pippa Norris and Ronald Inglehart brought up a nuanced point to the positive and negative aspects of populism. Thus, on the one hand, it can potentially be positive if the populist sentiments

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<sup>18</sup> “Inicjator rezolucji mówi, że kieruje nim nadzieja i miłość, i w imię tej miłości chce zabijania dzieci w majestacie prawa tylko w związku z podejrzeniem o chorobę lub niepełnosprawność.” (Unofficial translation)

<sup>19</sup> Święty Jan Paweł II mówił „Naród, który zabija swoje dzieci, jest narodem bez przyszłości” (Unofficial translation)

generate more community organisation and the creation of grassroots movements, where new issues are tackled such as helping to: “reduce corruption”, “strengthen responsive governance”, “expand the issue agenda (...) and the electoral choices” and “reengage participation”. On the other hand, when this rhetoric is coupled with authoritarian tendencies, populism can have nefarious consequences, such as: “[challenging] the legitimate authority of institutions checking executive power, opening the door for rule by strongman leaders, social intolerance, and illiberal governance.” (Norris & Inglehart, 2019, p. 461) For this reason, the discussion of the populism espoused by PiS versus the populism in *Strajk Kobiet* cannot be confused, as the authoritarian or liberal ideologies substantially shift the implication of the actions taken by these actors.

Secondly, the article by Petra Ahrens, Barbara Gaweda and Johanna Kantola is vital for the discussion of the different positions regarding abortion in the EP. In this paper, the authors have compiled 130 interviews with MEPs for their study on “political groups gender equality practices and policies (2018–2020).” (Ahrens, Gaweda, & Kantola, 2021, p. 5) Thus, the interviews conducted by the authors have also occurred both close to and in the year of the debate abovementioned (2020), which is significant for a better understanding of the current underlying factors behind the MEPs’ positions.

One key issue to Ahrens, Gaweda and Kantola is the increasing opposition to gender and sexual equality rights in the world. As a result, “removing progressive language from UN documents” and the spread of anti-gender rhetoric in the EP have been concerning tendencies in the Western conception of human rights. Therefore, it is no surprise that the position of the EU has been of supporting women’s and LGBT+ people’s rights. Maintaining the previously mentioned idea of the EU as a “community of values”, both the EU and the EP play an important role in promoting the fundamental (European) rights. However, the authors alert to the fact that the ambiguous nature of these generates the constant re-framing by the different political actors in the EU. (Ahrens, Gaweda, & Kantola, 2021)

As was mentioned in the previous chapter, these authors also underline the significance of the positioning of parties in a GAL/TAN<sup>20</sup> dimension and the ability of morality politics to divide parties. On the GAL/TAN spectrum, the authors comment that the true impact of the politicians situated on the TAN dimension is mainly seen in the plenary, rather than being overt during policymaking. According to them and with their reference to

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<sup>20</sup> GAL (Green-Alternative-Libertarian)/TAN (Traditional-Authoritarian-Nationalist).

the works of Brack (2018)<sup>21</sup> and Kantola and Lombardo (2020)<sup>22</sup>, the justification for this situation relates to the essence of the plenary, “because the plenary offers a platform to express visibly their anti-gender equality and anti-human rights views to their electorates”. When it comes to morality politics, the authors mention again the article by Kantola and Lombardo (2020)<sup>23</sup> to express how gender equality and sexual health have been opposed in the EP using not only direct but also indirect strategies, which include: “Euroscepticism and subsidiarity debates”, “bending gender equality towards other issues such as migration”, “depoliticizing gender by recurring to biology”, and “self-victimizing and blaming game”. (Ahrens, Gaweda, & Kantola, 2021, p. 4) Thus, the arguments used by MEPs can be far from mentioning abortion, and express this same rejection of such subject. In fact, this aspect was present in the 2020 EP debate, where arguments related to the competencies of the EU and the dangers of protesting during a global pandemic obfuscate the essence of the debate at hand.

For their analysis, the authors divided the political groups into three different groups (i.e., “clusters”), according to how human rights and gender equality are framed: “the defenders”, “the reframers”, and “sitting on the fence”. (Ahrens, Gaweda, & Kantola, 2021) With the abortion question being common to both topics, their analysis is noteworthy to the topic at hand.

In the first cluster: “defenders”, generally all political groups that fit the GAL dimension also fit this cluster. Being the main advocates for the universality and indivisibility of human rights, MEPs from S&D, Greens/EFA, GUE/NGL and Renew have proven to fit the part, when taking into account the content of many resolutions submitted by them (including against the discrimination of LGBT+ people and against the criminalisation of sexual education in Poland). Some EPP MEPs also fit this cluster, as the “Intersex resolution” was joined by some of the EPP deputies. Moreover, the authors also comment on the fact that both the Greens/EFA and GUE/NGL keep a strong party line around human rights, gender equality and LGBT+ rights, as opposing views might be sanctioned inside the political group. By contrast, and from S&D and Renew MEPs’ speeches, it appears that these issues are less prominent to the political groups’ identity. (Ahrens, Gaweda, & Kantola, 2021)

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<sup>21</sup> Brack, N. (2018). *Opposing Europe in the European Parliament: Rebels and Radicals in the Chamber*. London: Palgrave Macmillan.

<sup>22</sup> Kantola, J., & Lombardo, E. (2020). Strategies of right populists in opposing gender equality in a polarized European Parliament. *International Political Science Review*, 42(5), 565-579.

<sup>23</sup> See footnote 22: (Kantola and Lombardo, 2020)

By championing for women's rights and LGBT+ rights as both human rights and EU values, the "defenders" also risk framing the issue into a Manichean view of "us", the good ones and "them", the bad ones. This particular issue was noted by the authors, with reference to Sloomaeckers, Touquet, and Vermeersch (2016)<sup>24</sup>. In fact, these scholars conclude that with one side being portrayed as the promoter of human rights (the EU/EP) against the "other", creates a situation which,

It not only promotes a fault line between political groups in the EP, but also a geopolitical division into friendly and homophobic/anti-gender countries, suggesting that the EU (or certain political groups) are unique in their open-mindedness and tolerance. (Ahrens, Gaweda, & Kantola, 2021, p. 8)

This issue is intensified when the "other" is "inside". Therefore, when Poland is considered the "other" (against human rights and European values), there is an increase of tension inside the EU: where the old/Western Members are "the teachers" and the new/Easter Members are "permanently in transition". (Ahrens, Gaweda, & Kantola, 2021)

Secondly, cluster number two: "reframers" mainly includes the political groups in the TAN dimension. Comprising of MEPs from ECR and ID, this cluster stands in complete opposition to the first cluster ("defenders"). Here, the usage of Euroscepticism and framing human rights on religious and "sovereignty" grounds is common in plenty of debates analysed by the authors. Some of the arguments used include: the usage of the principle of subsidiarity and sovereignty (when discussing the LGBT+ free zones in Poland, 2019), Christianity versus Islam (where the "Islamic others" support homophobic values, contrary to Europe), "the right to life since conception" (when discussing SRHR in the EU). (Ahrens, Gaweda, & Kantola, 2021)

The nature of some positions sometimes leads to what appears to being contradictory statements. To begin with, ID MEPs use the strategy of othering to various "others": "(...) a paradoxical framing of the 'ultimate other': be it Muslim, gay, or feminist." (Ahrens, Gaweda, & Kantola, 2021, p. 9) As the authors and Kantola and Lombardo (2020)<sup>25</sup> remark, the vocabulary of "self-victimisation" and "blaming others for double standards" used by the

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<sup>24</sup> Sloomaeckers, K., Touquet, H., & Vermeersch, P. (2016). Introduction: EU Enlargement and LGBT Rights—Beyond Symbolism?. In *The EU Enlargement and Gay Politics* (pp. 1-16). Palgrave Macmillan, London.

<sup>25</sup> See footnote 22: (Kantola and Lombardo, 2020)

“reframers” is, thus, justified by the focus on Islamophobic positions (even when it goes against their anti-choice ideology). Additionally, Eastern European MEPs from both ECR and ID were found to have similar positions: “political genderphobia” at the heart of their positions, debating for tradition, sovereignty and against EU interference; also, “anti-feminism” was mostly found in the words of Polish MEPs. In addition, Brexit introduced changes in the ECR: without the British Conservatives, the Polish PiS MEPs gained more influence and changed the nature of the political group. The authors highlight this new factor in their analysis,

Thus, ECR religious-based opposition to gender equality as a human rights issue becomes more visible, not only in plenary, as shown in our case analysis, but also in committee work and informal spaces. Resisting the ratification of the Istanbul Convention was important to the Polish delegation and has become a hot topic in the 9th legislature (Interview 6; see also Berthet 2021). (Ahrens, Gaweda, & Kantola, 2021, p. 11)

Thirdly, cluster number three: “sit on the fence” only encompasses MEPs from the EPP<sup>26</sup>. Broadly, these MEPs fit into a category where there was “neither push for an expansion of the definition of human rights to include more rights groups, nor reframe them actively using anti-gender statements and homophobia.” Falling between the first and second clusters, this cluster is defined by having an unclear positioning on the matter. Given to its great importance to the EP related to its size, it has a deciding impact in the discussion of said topics. (Ahrens, Gaweda, & Kantola, 2021, p. 11)

Having that said, the authors consider EPP fitting the TAN dimension, yet pro-EU. The non-cohesive positioning of this political group explains the coexistence of such definition with the aforementioned position by some MEPs in the “Intersex resolution”, and also their positions in the resolutions against “LGBT+ free zones” (2019) and in favour of sexual education in Poland (2019). The authors also underline the role of “women EPP MEPs from Western and Nordic Member States”, as they were vocal supporters of women’s rights. (Ahrens, Gaweda, & Kantola, 2021)

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<sup>26</sup> The authors have also included EFDD in the “sit on the fence” cluster. However, the political group EFDD dissolved in 2019 and did not participate in the 2019 European Parliament elections. Therefore, and as the discussion at hand is centred on a debate that occurred in the 9<sup>th</sup> legislature (2019-2024), I omit the mention of this party in said cluster.

Even so, Ahrens, Gaweda and Kantola emphasise the crucial difference between clusters one and three: the degree to which these questions constitute the political groups' identity. In fact, as the EPP is very heterogenous and these values do not constitute the "core identity" of the group, there is no party line voting when voting on SRHR. Consequently, the group is defined by "a lack of pattern and consistency", where the various MEPs can advocate for numerous positions without inherent predictability from their political group. (Ahrens, Gaweda, & Kantola, 2021)

Lastly, the authors mention some of the factors that can explain the deviation from the general TAN orientation of the EPP, regarding human rights and gender equality. It is concluded that religion is still one key factor, that explains the individual MEP's decision against topics such as abortion. Yet, the "national and geographical divisions" were dubbed as the main explanatory factor, as the size of the EPP and its national delegations vary in intrinsic values as well. (Ahrens, Gaweda, & Kantola, 2021) Confronting Western European MEPs and Eastern European MEPs remains crucial to understand the different positions regarding SRHR in the EU.

## *Final remarks*

Finally, I call back to the research question guiding this chapter: “what defines the different positions in the European Parliament in regards to the 2020 abortion debate in Poland?” In this chapter I have discussed the abortion question in Poland after 2016, the 2020 EP’s debate on abortion rights and underlying factors that define the different political groups’ positions, in the hopes of arriving at an answer to said question.

In “2020: Exploring the abortion question in Poland”, the mobilisations and events preceding *Strajk Kobiet*, the direct factors that led to *Strajk Kobiet* (such as, the two citizen’s initiatives, the COVID-19 implications, the Presidential election, the K 1/20 judgement, and the Constitutional Tribunal itself), *Strajk Kobiet* (including, the protest, the demographics, the language, the symbols, the reactions), and its aftermath (internally and internationally) are some of the main topics mentioned. Moreover, it should be mentioned that these protests for women’s rights and against abortion restrictions quickly developed into an all-encompassing critique of PiS’ actions. When relating this section to the research question at hand, it must be highlighted that: first, the effects of the young demographic in the leading role on *Strajk Kobiet* – which turned the language of protest more violent (with the usage of expletives) and the internet culture to the symbology (with internet memes and pop-culture references) – that consists of upcoming voters and political actors; secondly, the impact of the COVID-19 pandemic – especially to authoritarian right-wing political parties in power (as is in Poland) as a justification for limitation of rights and circumvent debating on bills.

In “2020: Exploring the abortion debate in the European Parliament”, I begin at exploring the abortion legislation today in Europe, with a brief mention of the effects of the COVID-19 pandemic to abortion services. After this, I also discuss the Matic report (2021), the recent EU report on sexual and reproductive health and rights (SRHR). These topics set the stage for presenting the main subject of this section: “Abortion rights in Poland”, the EP debate that occurred on November 25th, 2020. Going over statements by pro-choice and pro-life MEPs, similar arguments from 2016 come to the floor (such as, human rights, the right-wing conservatism influence on policies, EU’s competencies, morality/religion) and others are new to the table (such as, the rule of law and PiS attacks to disadvantaged groups, the risk of protesting caused by the COVID-19 pandemic). More specifically, this section also includes the thorough analysis by Ahrens, Gaweda and Kantola (2021). Using the clusters created by them (“the defenders”, “the reframers”, and “sitting on the fence”), pro-life and pro-choice assertions are inserted into a new definition that involves the political groups and their positions on abortion.

Furthermore, framing the debate on abortion in the EP with the terms provided by Ahrens, Gaweda and Kantola is helpful to comprehend the differences between the political groups, more than the individual MEPs. According to the authors, “the defenders” include S&D, Greens/EFA, GUE/NGL and Renew, and some MEPs from EPP, “the reframers” include ECR and ID, and the “sit on the fence” includes the EPP<sup>27</sup>. (Ahrens, Gaweda, & Kantola, 2021) Their conclusions can also be applied to the debate in discussion (“Abortion rights in Poland”). Thus, MEPs from S&D, Greens/EFA, GUE/NGL, Renew and EPP made statements in support of *Strajk Kobiet* and the women’s struggle against the PiS’ government; whereas MEPs from ECR and ID criticised the protesters for putting everyone in danger (in terms of public health) and upheld the decision by the Constitutional Tribunal (justified in moral and/or religious arguments). Yet, in the end, Ahrens, Gaweda and Kantola note that the role of national delegations supersedes political ideology or political groups. (Ahrens, Gaweda, & Kantola, 2021) Therefore, it is also remarkable to note that all ECR MEPs that defended a pro-life position in the debate are from Poland, with only one deputy (the ID MEP Joachim Kuhs) from a country other than Poland.

To sum up, *Strajk Kobiet* was yet another emblematic event that reflects the different positions on abortion in the EP in 2020. As was seen in Poland, in the EP the discussion on abortion can be, once again, summarised in the battle between pro-choice and pro-life arguments. It cannot be ignored that the factors listed in the previous chapter (nationality, religion, political affiliation, individual beliefs) also seem possible justifications for the MEPs’ positions. Yet, what 2020 brought up to the discussion is the implications of the COVID-19 pandemic and a harsher discussion on rule of law (after Article 7 – “the nuclear option” – was triggered against Poland in 2017). Thus, the discussion of the influence of right-wing populism in Europe is still of importance, as this wave has benefitted from the global pandemic. In short, it appears that the voices against the liberal policies from the EU are still loudly being heard, as the EU maintains its official position of supporting women’s rights as human rights. Nonetheless, the COVID-19 pandemic contributed to the backslide of women’s rights in Poland, where the limitations of protesting constituted an opportunity for restricting the abortion legislation without contestation. Therefore, and lastly, the crucial discussion on abortion and the right-wing populist movement that pushes for pro-life policies is now placed in an environment of a global pandemic, where the limitations of rights sit between a sanitary measure for public safety and an opportunity for authoritarian measures against dissent.

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<sup>27</sup> See footnote 26.

As a final note, it is worth mentioning that, once again, the abortion debate has not been resolved in Poland. One of the more recent events of importance has been the marches in November 2021 over the death of a woman – Izabela – who was denied abortion. According to the Izabela’s family, the denial of her life-saving abortion results from the newly imposed abortion legislation from the K 1/20 judgement. Also, as COVID-19 restrictions are still in place, Izabela could not be accompanied inside the hospital, where she would later die. (Strzyżyńska, 2021) Even more recently, Agnieszka T died on the 25<sup>th</sup> of January of 2022, after the heart of one of her twin foetuses stopped beating (on the 23<sup>rd</sup> of December) and Agnieszka was denied an abortion. This decision was also justified by the new abortion legislation. (Strzyżyńska, 2022) As this Dissertation comes to an end, the abortion debate in Poland is far from being resolved, with the questions that were being raised during the 1993 compromise becoming more of a distant past that now seems unattainable.

## V. Conclusion

Over the course of this MA Dissertation, several topics and key aspects were mentioned and analysed, regarding the abortion debate in Poland and in the EU. In the first chapter (“Contextualisation”), there was an important historical contextualisation – of the abortion question in Poland since 1989 – as well as a theoretical contextualisation. In the second chapter (“2016”), the focus of two main events from that year – Black Monday and the European Parliament (EP) debate: “Women’s rights in Poland”. Lastly, the third chapter (“2020”), concentrated on *Strajk Kobiet* and the EP debate entitled “Abortion rights in Poland” – both taking place in 2020. It is now time to close the discussion by going back to the main research question, and attempt at a comprehensive answer to: “using the abortion debate in Poland as a case study, what defines the different positions in the European Parliament (EP) in regards to the abortion topic?” By attempting to find patterns between the debates from 2016 and 2020, my goal is to understand what categories explain the different positions advocated in the EP. In the beginning, I speculated some possible categories - East/West, authoritarian populism/liberal democracy, or Poland/Europe. Now, after the writing of this Dissertation, it is time to confirm or deny these preliminary hypotheses. In the end, my goal is also to have made a small contribution to the research on women’s rights and populism, and their relation; these themes are also inserted in a framework of studies on Poland and Europe, specifically on the reactions in the European Union.

In order to establish all-encompassing categories that can explain the various attitudes to abortion in the EP, there is a pressing need to go over the previous two chapters. By briefly recalling some of the key events in Poland, the arguments used in the debates in the EP and the analysis provided by the different scholars, the scene is set for a final global analysis. There, I attempt at defining categories and patterns that can explain the reactions the abortion question, both in 2016 and in 2020.

Starting with chapter “2016”, the Black Monday demonstration was central to the discussion. What started as a protest for women’s rights and against restricting the abortion law, it quickly transformed to a show of dissatisfaction for PiS’ rule. In addition, it is crucial to underline how the majority was not fighting for abortion liberalisation; rather, a majority was finding for the maintenance of the already restrictive 1993 compromise.

In the European Parliament, the debate on the matter ensued. Under the title of “Women’s rights in Poland”, the MEPs favoured either pro-choice or the pro-life

positionings<sup>28</sup>. As a prelude to the later combined analysis of both debates, the main aspects of the debate are now highlighted, as follows. First, from the recorded version of the debate it could be seen that some MEPs decided to wear black in solidarity with the Black Protest movement. Secondly, the Commissioner present (Věra Jourová) underlined the importance of women's rights and abortion as one, but also added how the EU has a lack of competency to legislate on this area. (Jourová, 2016) Thirdly, the arguments used by the MEPs included: the defenders of pro-choice argued for solidarity with Polish women, against the already punitive status of the current abortion law in Poland, for the fact that the EP has competency to legislate on public health policy, for the defence of women's rights, of bodily autonomy and of abortion as a right; the defenders of pro-life maintained that the EP does not have competency to legislate on abortion legislation, the importance of respecting people's will in Poland and their right to self-determination – as the proposal came in the form of a citizen's initiative – as well as, the defence of human life (in moral and/or religious terms). In the end, it should be noted that: a majority of MEPs from EPP, S&D, ALDE, GUE/NGL and Greens/EFA supported pro-choice arguments; a majority of MEPs from ENF and ECR, a minority of MEPs from EPP and a single NI MEP supported pro-life arguments.

Regarding the analysis of this debate, I recall the main points from chapter “2016” so as to facilitate the comparison with the subsequent chapter. Firstly, the concepts of morality policies and GAL-TAN<sup>29</sup> serve as introductory tools for such assessment. Noted by Eva-Maria Euchner, abortion is considered to be a morality policy. This means that this discussion concerns what moral way of living is, making it difficult to arrive at a consensus. (Euchner, 2019) When it comes to the GAL-TAN spectrum, many scholars have preferred it to a simple left-right spectrum when analysing these topics. It provides a comprehensive understanding of the standing of the political organisation at hand, that could be lost by a simple left-to-right scale. Having said this, in the previous analysis of the 2016 EP debate the following categories were defined: nationality, religion, political affiliation, individual beliefs, the new wave of right-wing populism. In the end, Emilie Mondo and Caroline Close found nationality as the category that best influences voting behaviour of MEPs, when it comes to morality policies. More specifically, the authors explained how Polish EPP MEPs tend to be the most

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<sup>28</sup> It should be noted that this Dissertation uses the terms pro-choice and pro-life as defined by Emilie Mondo and Caroline Close: pro-choice relating to the “women's freedom of choice” over their own body, whereas pro-life defined by a defence of “the sanctity of human life” that starts at conception. (Mondo & Close, 2019, p. 4) This same definition and reference was mentioned in previous chapters.

<sup>29</sup> GAL (Green-Alternative-Libertarian)/TAN (Traditional-Authoritarian-Nationalist).

conservative on these issues, frequently supporting pro-life standpoints. The remaining categories come to play as influencing factors: religion – where the “strength of Christianity” is a good predictor of conservative votes, a frequent circumstance in the Central and Eastern European (CEE) region; political affiliation – both nationally and in the EP; individual beliefs – which can override the position of the political group/party one is member to; the new wave of right-wing populism – the common narrative that prescribes conservative views to morality policies, such as abortion. (Mondo & Close, 2019)

Looking at chapter “2020”, the core event in Poland is *Strajk Kobiet*. Similar to before, the protests were not merely on women’s rights and abortion liberalisation (or, at least, against restricting the abortion law); rather, they once more were a critique on the government’s actions. Now in the midst of the COVID-19 pandemic, the Polish Presidential election and the controversial K 1/20 ruling, the question of abortion is inserted into a protest that surrounds a true dissatisfaction for PiS and its attacks on citizens’ rights.

During the European Parliament’s session entitled “Abortion rights in Poland”, the MEPs made their voices once again heard. On the Polish abortion question and amid demonstrations in Poland (*Strajk Kobiet*), this debate shared similarities and differences to the previous one, that are worth exploring. To begin with, the fact that MEPs wore elements that showed their solidarity with *Strajk Kobiet* (with the OSK or the *Ratujmy Kobiecy* logo) mimics what had previously happened. Yet, I must mention the added presence of facemasks and the participation of some MEPs via videoconference: these aspects are characteristic of the on-going state of global pandemic. Moreover, the statements provided by the Commissioner (Helena Dalli) are of importance. While the Commissioner emphasised the fact that abortion is a woman’s right, and women’s rights are human rights, Dalli also mentions the lack of competency of the EU to legislate on this area. (Dalli, 2020) Furthermore, the arguments used by the MEPs in this debate involved: the defenders of pro-choice, that defined abortion as a woman’s right and women’s rights as human’s rights, criticised the attacks of PiS and of the Constitutional Court to their own citizens and supported the *Strajk Kobiet* movement; the defenders of pro-life, that focused on the lack of EU’s competency on abortion legislation, the hazard to public health caused by the massive *Strajk Kobiet* protests, moral/religious arguments and the interpretation of Polish Constitution’s Article 38 (“right to life”). Lastly, it should be underlined that: a majority of MEPs from EPP, S&D, Renew, Greens/EFA, GUE/NGL and one NI MEP (MEP Lefteris Nikolaou-Alavanos) used pro-choice arguments; a majority of MEPs from ECR and one MEP from ID (MEP Joachim Kuhs) used pro-life arguments.

With respect to the analysis of the EP's 2020 debate, I reiterate the main ideas from the discussion on chapter "2020". To start with, and similar to the previous chapter, the authors also underline the importance of analysing abortion from a morality policy perspective. In addition, the GAL-TAN spectrum remains a helpful tool in the categorisation of political groups/parties based on the topic of abortion. Considering this, the clusters proposed by Petra Ahrens, Barbara Gaweda and Johanna Kantola give a general framework, dividing the political groups by: "the defenders", "the reframers", and "sitting on the fence". Political groups that fit the GAL dimension and generally advocate for indivisible and universal human rights are part of the first cluster ("the defenders") – this includes, MEPs from S&D, Greens/EFA, GUE/NGL, Renew and some MEPs from EPP. On the opposite side of the spectrum, political groups that fit the TAN dimension and criticise the position of the first cluster using arguments based on Euroscepticism, religion and sovereignty are part of the second cluster ("the reframers") – this includes MEPs from ECR and ID. As a third way, there are MEPs that fall between these two positions, configuring an unclear political group positioning regarding human rights (and, specifically, abortion), defined as the third cluster ("sitting on the fence") – this includes some MEPs from the EPP (and MEPs from EFDD, that did not participate in the debate at hand). Ultimately, the authors agree that "national and geographical divisions" are the main explanatory factor behind the positions of MEPs on this matter. This also helps in explaining the heterogeneity of the EPP, where the difference between the EPP MEPs can be a reflection of the different national delegations they are part of. (Ahrens, Gaweda, & Kantola, 2021)

Lastly, I propose the following categories that I believe to be encompassing of both analysed periods: nationality, religion, personal beliefs, political beliefs, and the wave of right-wing populism.

To start with, the aspect of nationality is of much importance and, therefore, described in both analyses as the most relevant aspect to the MEPs' positions on abortion. First, by looking at the MEPs cited in chapter "2016", it is possible to see this pattern: while the pro-choice arguments were present in the statements of Italian, Polish, Portuguese, Slovenian, Spanish or Swedish MEPs, the support for pro-life arguments came from Croatian, Czech or Polish MEPs. Additionally, I recall that in this chapter I favoured the selection of a larger range of positions and of EP political groups, since there was a significant number of positions on both sides. Considering this selection, it is noticeable a tendency of Western European MEPs siding with the pro-choice movement, whereas the Central and Eastern European MEPs tend to align themselves more with pro-life. In the "2020" chapter, however,

there was a lack of statements by pro-life MEPs: only five MEPs spoke. Thus, it is proper to address all deputies from both sides that participated in this debate. Having said this, the advocacy for pro-choice standpoints stemmed from the statements of Austrian, Danish, Dutch, Finnish, French, German, Greek, Irish, Polish, Spanish and Swedish MEPs. Conversely, the pro-life positions were favoured by German and Polish MEPs. Once again, a similar pattern appears: the preponderance of the West in the aligning with pro-choice standpoints and a concentration of Central and Eastern European MEPs supporting pro-life stances. Yet, in both periods it must be noted the presence of Polish MEPs in both sides of the argument. Clearly, the centrality of the discussion of the topic at hand galvanises Polish MEPs that either support pro-choice or pro-life. Nevertheless, this also demonstrates how this issue cannot be simplified to a mere geographical question: in reality, neither the West nor the East can have a homogenous opinion on abortion, with each region and country permanently consisting of contrasting views.

What is more, religion also plays a part in the behaviour of MEPs regarding the abortion question. On the chapter entitled “2016” I concluded on the weight of the Catholic Church in Poland and its relation to the positions that support restricting or banning abortion all together. The presence of the Catholic Church as a powerful political actor that joined forces with right-wing movements is not limited to 2016, and the influence of the Church and of conservative Catholic organisations (such as Radio Maryja and Ordo Iuris) far extends Black Monday and is still present to this day. Looking back to the EP debates, the presence of religious arguments to justify an anti-abortion position can be noted in both periods. Exemplifying, in 2016, MEP Michał Marusik (ENF) based his claim on how abortion is harmful to the Latin civilisation, with its “replacement” by “Islamists”, with an appeal to a religious authority – “God told man: go, multiply and populate the earth, while we depopulate this earth.<sup>30</sup>” (Marusik, 2016, p. 411); in 2020, MEP Beata Kempa (ECR) quoted Saint John Paul II to explain the basis of the EU values – “A nation that kills its own children is a nation with no future.<sup>31</sup>” (Kempa, 2020, p. 103) Consequently, the question of religion (and more specifically to this case, Catholicism) in the abortion debate cannot be ignored. From the opposite side of the argument, some MEPs that advocate for pro-choice also draw attention to the impact of the Catholic Church in the discussion. As a matter of example: in 2016, Ángela

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<sup>30</sup> Pan Bóg powiedział człowiekowi: idźcie, rozmnażajcie się i zaludniajcie ziemię, tymczasem my tę ziemię wyludniamy. (Unofficial translation)

<sup>31</sup> Święty Jan Paweł II mówił „Naród, który zabija swoje dzieci, jest narodem bez przyszłości” (Unofficial translation)

Vallina (GUE / NGL) highlights the problem of “religious radicalism, in this case Catholic”<sup>32</sup> in the discussion of abortion and women’s rights (Vallina, 2016, p. 418); in 2020, MEP Eugenia Rodríguez Palop (GUE/NGL) contextualises the previous attempt at banning abortion in Poland by underlining the Church’s support of PiS’ government. (Palop, 2020) Thus, it is possible to observe a pattern: when one’s positions are justified by Catholic teachings, coupled with a higher rate of religiosity in the country of origin/oneself, there is a higher tendency to support pro-life standpoints. On the contrary, the discussion of abortion by pro-choice rarely focuses on appeals to a religious authority or religious teachings; here, the mention of the Catholic Church is usually on a criticising manner, by their overt backing of a total abortion ban. Correlated to “religion” as a possible category for the political groups’ positionings, an additional category centring the idea of personal beliefs can be drawn. This point can be used as an additional factor or, instead, serving a similar function for non-believers (or non-“overt”-believers). Thus, the idea of “women’s rights are human rights”, with the contextualisation of abortion as a human right, justifies the position by a sense of own morality and shared values. This idea of what is moral and of personal held beliefs can be seen in various statements, such as: MEP Barbara Kudrycka (EPP) claiming that the Polish rulers had “hearts of stone”<sup>33</sup> by attempting to enact such law (Kudrycka, 2016, p. 405), MEP Michaela Šojdrová (EPP) prefacing her statement by underlining how she is against abortion (Šojdrová, 2016) or MEP Beata Mazurek (ECR) using the expression “This is our moral duty!”<sup>34</sup> regarding the protection of life, literally referring to what she believes to be moral. (Mazurek, 2020) Therefore, this type of justifications for their positionings are very close to the previous category; yet here, there is no religious authority but a personal and communal sense of morality and values. Here, however, it is more difficult to find a specific pattern that extends further than the individual and stated beliefs’ influence on the positions taken in the topic of abortion.

Furthermore, political beliefs is yet another relevant aspect in the political groups’ stances in the EP. In general, the political beliefs of MEPs heavily relate to their belonging to a specific political group in the EP and political party in their Member State. Considering, once again, the question of abortion and the aforementioned conclusions in both chapter “2016” and “2020”, the definition of these political groups and parties by the GAL/TAN spectrum reveals an expected pattern: political groups/parties that lean to the GAL dimension

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<sup>32</sup> (...) el radicalismo religioso, en este caso católico ... (Unofficial translation)

<sup>33</sup> Macie serca z kamienia. (Unofficial translation)

<sup>34</sup> To nasz moralny obowiązek! (Unofficial translation)

tend to favour pro-choice arguments; conversely, political groups/parties that lean to the TAN dimension tend to side with pro-life stances. Tracing back to the topic at hand, in the two debates analysed it could be found a number of statements that relate to this category, such as: the definition of what EU's competencies should be – for example by MEP Sylwia Spurek (Greens/EFA), advocating that health should be a full EU competence (Spurek, 2020) or by MEP Bolesław G. Piecha (ECR), that criticises the abortion discussion by being a topic outside of the legitimate realm of the EU (Piecha, 2016); the criticism of the actions of the Polish government – for example by MEP Pier Antonio Panzeri (S&D), where he argues that the support for pro-life by the Polish government is even an antithetical to their support of closed-borders policies that heavily impact migrants' lives (Panzeri, 2016); abortion as ideological policy – while MEP Zdzisław Krasnodębski (ECR) sees legal abortion as an echo of the Polish totalitarian regime (Krasnodębski, 2016), MEP Lefteris Nikolaou-Alavanos (NI) positively assesses legal abortion policies as notable socialist policies that saved numerous lives. (Nikolaou-Alavanos, 2020) Having said this, the presence of specific ideological and party-related arguments is thorough in both debates. Yet, to establish a pattern that might predict behaviour it is useful to look back how broadly the political groups stood. As I previously concluded, generally: in 2016, EPP, S&D, ALDE, GUE/NGL and Greens/EFA aligned with pro-choice whereas ENF and ECR aligned with pro-life; in 2020, EPP, S&D, Renew, Greens/EFA, GUE/NGL aligned with pro-choice whereas ECR and ID (one MEP) aligned with pro-life. This pattern also fits the individual definition of the political groups by the GAL/TAN spectrum and, as expected, maintains that the political groups closer to Green-Alternative-Libertarian lean to pro-choice but the political groups closer to Traditional-Authoritarian-Nationalist lean to pro-life.

The final category correlates to “political beliefs” and helps contextualise the political beliefs in this specific time-period. In fact, I am referring to the wave of right-wing populism as the last and relevant factor that explains the different standpoints regarding abortion in the EP. Before delving into the specificities, I start by recalling what was previously mentioned on this phenomenon. As was seen in chapter “2016”, PiS' ascension and connection with the rest of the right-wing movements in Europe also explains their positions regarding abortion. Internally, PiS aligned with ultra-conservative Polish organisations that shared their distaste for a liberal abortion policy. Internationally, Ordo Iuris is much more than a local organisation and coordinates globally with its different branches or organisations alike. In chapter “2020”, I have reiterated that this fight against progressive/liberal values does not occur by right-wing parties acting alone and rather resulting from a coordinated effort. Adding to this point, the

effect of the COVID-19 pandemic in the justification for limiting rights and facilitate concentration of power is of much importance for this discussion. Centring now on the specifics, the question of a right-wing populist wave is actually already mentioned by the Estrela report (2013) on SRHR (sexual and reproductive health and rights). This mention is crucial to highlight how this has been a concern that directly affects the abortion question. When looking at some of the arguments used by the MEPs it is also noticeable the permeance of the right-wing populist wave to the abortion discussion: using the conservative rhetoric rampant in Poland, MEP Jadwiga Wiśniewska (ECR) remarks how the active protests were cause for a health concern in the spread of COVID-19 (Wiśniewska, 2020); on seeing this right-wing populist wave as cause for concern, MEP Anna Maria Corazza Bildt (EPP) already takes concern of populism and demagogy in Poland in 2016 (Bildt, 2016) and MEP Malin Björk (GUE/NGL) mentions how the abortion question in Poland is yet another example of the expansion of the conservative right-wing values by the new populist movements in Europe. (Björk, 2020) Again, the pattern is the same as I mentioned in the previous category: here, the right-wing populist movements align with the TAN dimension, which predicts their advocacy for pro-life positions.

Ultimately, in this MA Dissertation I attempted to arrive at possible categories that could define the different positions in the EP regarding abortion. Instead of finding one single answer, the categories I have listed seem to paint a fairer and complex picture of what tends to explain these various standpoints. By going through the topic of abortion with the boundaries of a Poland-EU location and defined timeframe, I arrived at a number of conclusions that do not contradict the previous work of many scholars in similar topics. Yet, with this MA Dissertation I hope to have shed a light regarding the abortion question in Poland and in the EU, in 2016 and 2020. In the end, this MA Dissertation is a small contribution to the studies on this area, in the hopes of adding more to the ever-lasting question of abortion.

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