



Statement condemning Poland's constitutional tribunal's ruling to reject abortion due to fetal defects

by the Safe Abortion Advocacy Initiative Global South Engagement (SAIGE)

The Safe Abortion Advocacy Initiative Global South Engagement (SAIGE) condemns the ruling by Poland's constitutional tribunal that proclaimed that abortion due to fetal defects is unconstitutional and rejected one of the most common of the few legal grounds for pregnancy termination in Poland. This decision imposes further restrictions on abortion law. Poland is one of the countries in Europe with the strictest abortion laws and since 1993, Poland has only allowed abortions in case of rape or incest, a threat to mother's life or fetal malformation.¹

On 22nd October 2020, a constitutional tribunal in Poland imposed a near-total ban on legal abortions. The top court ruled that abortions for fetal abnormalities was incompatible with the country's Constitution.² When this ruling is enforced, legal abortion will only be permissible in Poland in the case of rape, incest, or a threat to the mother's health and life. This verdict is final and cannot be appealed.

The Council of Europe's Commissioner for Human Rights, Dunja Mijatovic, said that "Removing the basis for almost all legal abortions in Poland amounts to a ban and violates human rights. Today's ruling of the Constitutional Court means underground/abroad abortions for those who can afford and even greater ordeal for all others."² Most legal abortions in Poland are performed on the grounds of fetal defects,³ therefore, this decision effectively bans abortion. The ability of a pregnant person to have autonomy over her own body is fundamental to human rights. The ruling by the constitutional tribunal is an attack on women's bodily integrity and autonomy and intends to curtail women's fundamental rights.

We stand in support with the women of Poland and affirm that women and all people who can become pregnant have the right to decide whether to become pregnant and whether to continue a pregnancy, and must have the right to all scientific, evidence-based and unbiased information available to make their decisions, regardless of what that decision may be. Individual choices about one's own pregnancy are not eugenics, and nobody exercises discrimination when making choices about their own pregnancies.⁴ In a review by the UN Committee on the Rights of Persons with Disabilities (CRPD), they called for support for women's access to and autonomous decision-making about abortion.⁵ UN human rights bodies, including disability rights and women's rights, have repeatedly urged Poland to liberalise its abortion laws.

Unintended and unwanted pregnancies can lead to unsafe abortion. We advocate for international human rights that recognise the right to safe abortion as a human right without restriction as to reason and that promote the accessibility of abortion. We call upon the international community to strongly condemn this move and take immediate action to reform their law to restore and protect sexual and reproductive rights.

¹ <https://www.aljazeera.com/news/2020/10/22/polish-court-allows-stricter-abortion-law-sparking-outcry>

² <https://www.bbc.com/news/world-europe-54642108>

³ <https://www.statista.com/statistics/1111281/poland-legal-abortion-number-by-reason/>

⁴ <https://nairobiprinciples.creaworld.org/principles/>

⁵ https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRPD/C/POL/CO/1&Lang=En