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WOMEN'S RIGHTS AND PRO-LIFE MOVEMENT: OPPOSITION OR HARMONY?

Abstract

The aim of this article is to focus on women's rights and how these rights correlate with pro-life stance: Are those in opposition to one another or in harmony? In order to answer this question, an analysis of the notion of women's rights has been performed. Moreover, the categories of the rights of pregnant women and reproductive rights are also examined. The normative analysis of human rights provisions concerning the scope of the protection of the right to life in the pre-natal phase is made, alongside the examination of relevant judicial decisions, namely: the Court of Justice of the European Union in the *Grogan* case (1991), the Supreme Court of the United States judgments in *Roe v. Wade* (1973) and *Dobbs* case (2022), the European Court of Human Rights in *Bouton v. France* (2022) and the Polish Constitutional Tribunal judgment on prohibition of eugenic abortion (2020). In conclusion, the arguments concerning the mutual relationship between women's rights and the pro-life and pro-abortion movements are presented, with a final standpoint on the noble character of the pro-life stance, based on human rights protection due to solidarity, altruism and cosmopolitan values.

KEYWORDS

women's rights, rights of pregnant women, reproductive rights, termination of pregnancy

SŁOWA KLUCZOWE

prawa kobiet, prawa kobiet w ciąży, prawa reprodukcyjne, przerwanie ciąży

INTRODUCTION

The aim of this article is to focus on women's rights within the current debate on pro-life movements and judicial decisions on the medical termination of pregnancy. The analysis aims to elaborate on the relationship between women's rights and the pro-life standpoint – Are those in harmony or in conflict? Are women's rights better protected within legal arrangements protecting and supporting life in the pre-natal phase or is medical termination of pregnancy (abortion) a necessary and beneficial completion of women's rights?

In order to formulate an answer to this question, a few steps of legal analysis will be undertaken. Firstly, the meaning of the notion of 'women's rights' will be presented, based on the normative provisions of human rights law. Within this endeavor, the category of the rights of pregnant women and reproductive rights will also be elaborated on. Secondly, the content of the right to life will be examined in order to decide whether it encompasses the protection of life in the pre-natal phase. Supplementarily, a presentation of recent important, very interesting, highly debated (and also socially contested) judicial decisions will be made, with the aim of formulating the answer to the title question. The arguments for both sides of the public discourse, namely for the prospective opposition or accordance of those rights: women's rights and the right to life in the prenatal phase will be presented. The evaluation of the dual arguments will lead to the concluding statement, with a subsequent proposal of an answer to the research dilemma.

DEBATE ON WOMEN'S RIGHTS

The contemporary debate on women's rights is concentrated on two issues: the first element concerns women's empowerment, and the second factor deals with pregnancy issues. Within the first perspective, one may underline the stress put on equality and non-discrimination between men and women.[1] It is commonly stated that human rights are gender-neutral as those provisions are designed for all people, regardless of their gender. Hence, it is within the second perspective, the

[1] The reference to representatives of both sexes is made in alphabetical order.

sphere connected to pregnancy and maternity, that the essence of women's rights is situated.

One may state that the notion of 'women's rights' is connected, on the one hand, to women's rights alongside men's rights and, on the other hand, to the rights of pregnant women. As it is this second category of norms that is original and connected to women in a unique and unexceptional manner. Therefore, it seems that the norms on feminine pregnancy may be termed as being truly women's rights.

The detailed analysis of human rights provisions, based on the core document, namely the Universal Declaration of Human Rights (UDHR), leads to the conclusion that the norms are constructed in a truly universal and gender-neutral manner. Hence, one may differentiate various notions that are connected to every human person, without distinction as far as her/his gender is concerned. The documents use either singular ('everyone') or collective notions ('all'). In particular, the Universal Declaration of Human Rights contains the following notions:

- *All human beings*: Article 1 – stipulating the principle of freedom and equality in dignity and rights
- *All*: Article 7 – equality before the law, equal protection against any discrimination
- *Everyone*: Article 2 – entitlement to all the rights and freedoms stipulated in the Declaration, without any distinction; Article 3 – right to life, liberty and security; Article 6 – right to recognition as a person before the law; Article 8 – right to judicial protection (remedy); Article 10 – right to fair trial in criminal affairs; Article 11 § 1 – presumption of innocence; Article 12 – protection from an arbitrary interference; Article 13 – freedom of movement (internal and external); Article 14 – right to asylum; Article 15 § 1 – right to a nationality; Article 17 § 1 – property rights; Article 18 – freedom of thought, conscience and religion; Article 19 – freedom of opinion and expression; Article 20 § 1 – freedom of assembly and association; Article 21 – electoral rights; Article 22 – social security entitlements; Article 23 – labour law rights; Article 24 – leisure entitlements; Article 25 – social protection entitlements; Article 26 – education rights; Article 27 – cultural rights; Article 28 – entitlement to a proper social and international order; Article 29 – legitimate scope of limitations of rights and freedoms
- *No one*: Article 4 – prohibition of slavery; Article 5 – prohibition of torture; Article 9 – prohibition of arbitrary detention; Article 11 § 2 – no crime without an offence; Article 12 – prohibition of arbitrary interference; Article 15 § 2 – prohibition of an arbitrary deprivation of nationality; Article 17 § 2 – prohibition of an arbitrary deprivation of property; Article 20 § 2 – prohibition of forced membership in the association.

Within the Declaration, it is also possible to distinguish separate categories of subjects, like marriage and family, which is to be regarded as a fundamental

group unit of society (Article 16), parents (Article 26), norm dealing with motherhood and childhood (Article 25) or collective rights, dealing with a political community (Article 21).

Is this analysis relevant to the observance of women's rights? The answer is affirmative as the proper understanding of human rights provisions seems to be conducive to their proper application and observance. Within this perspective, women are entitled to the same rights and benefits as men; and the crucial aspect of the government policy is to ensure the equal enjoyment of those entitlements to everyone, men and women alike.

The fundamental principle of human rights is the principle of equality and non-discrimination; therefore women's rights are based on those norms. Thus, *Magna Charta* of women's rights, namely the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW),[2] is based on this very conviction that full enjoyment of women's rights depends on the creation and observance of an equal and non-discriminatory human rights environment.[3] Men and women enjoy identical entitlements, but still the practice of human rights observance pinpoints the far worse situation of women. Therefore the crucial aspect of women's rights is to guarantee the practice of equality and non-discrimination, within various aspects, different geographical, cultural, ethnic and religious *milieu*.[4] In other words, what is at stake is women's rights efficiency and their practical impact rather than theoretical description.

Within the context of practical enforcement of women's rights, one may mention the procedures contained in the CEDAW: the reporting procedure, the interstate procedure, the inquiry and the individual complaints procedure.[5] Still,

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[2] The Convention was adopted by the United Nations General Assembly on 18 December 1979, with an entry into force on 3 September 1981. There are 189 states which ratified the Convention, 2 signatories and 6 states with no legal action undertaken towards the Convention. The signatory states are: Palau and the United States of America, while states of no legal action are: Iran, Niue, Somalia, Sudan and Tonga. The Holy See may be regarded as a separate category, as an actor *sui generis* within public international law. Record as of 21 February 2023. The ratification data is available at: https://indicators.ohchr.org/ (accessed 19 May 2023).

[3] Cf. A. Hellum, H. A. Aasen (eds.), *Women's human rights: CEDAW in international, regional, and national law*, Cambridge-New York 2013; S. Zwingel, *Translating International Women's Rights: The CEDAW Convention in Context*, London 2016.

[4] One may think of a general review of structural environment (see the recent study of Caroline Criado Perez, *Invisible Women. Exposing Data Bias in a World Designed for Men*, London 2019), examinations of specific geographical regions (see A. F. Banks, *CEDAW, Compliance and Custom: Human Rights Enforcement in Sub-Saharan Africa*, "Fordham International Law Review" 2009, Vol. 32, pp. 781-845) or specialized recommendations, like local government proposal (M. Och, *More Than Just Moral Urbanism? The Incorporation of CEDAW Principles into Local Governance Structures in the United States*, "Journal of Human Rights Practice" 2022, Vol. 14, issue 3, pp. 1060-1081).

[5] Institutions developed within the CEDAW environment are the Committee and the Special Rapporteur on violence against women. The description of the enforcement procedures is contained in the CEDAW commentary: M. A. Freeman, C. Chinkin, B. Rudolf (eds.), *The UN Con-*

within human rights literature one may find a critique of the drawbacks of those procedures[6] and concerns about substantive deficiencies of the CEDAW system.[7] Moreover, there is a growing literature base stressing the advantages, also within the economic performance of a given country, of maintaining equality between men and women – thus the process of women's empowerment is regarded as conducive to good governance.[8]

RIGHTS OF PREGNANT WOMEN

The essential perspective of women's rights elaborates on a specific feminine aspect of human rights, namely the protection of pregnancy.[9] Within the Universal Declaration of Human Rights, reference to maternity is contained in Article 25 § 2 in the following manner:

> *Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.*

Women – when pregnant – are entitled *expressis verbis* to special care and assistance. Therefore, public authorities are under an obligation to provide it as a means of continuous engagement rather than a single action. Within the scope of pregnant women's rights provisions, the International Covenant on Economic, Social and Cultural Rights[10] directly refers to the UDHR, confirms the rights stipulated therein and provides a more precise understanding of entitlements stem-

vention on the Elimination of All Forms of Discrimination against Women: A Commentary, New York-Oxford 2012. An example of concrete recent application of CEDAW procedures presents S. L. Kjaergaard in: *Examining Gender Equality in Greenland in the Last Thirty Years: An Investigation through the Lens of the CEDAW Convention's Examinations*, "Sibirica: Interdisciplinary Journal of Siberian Studies" 2023, Vol. 22, issue 1, pp. 82-108.

[6] D. Cardona Díaz, *The CEDAW Convention: de jure and de facto dichotomy*, Barcelona 2019 https://ddd.uab.cat/pub/tfg/2018/194342/TFG_dcardonadiaz.pdf (accessed 15 May 2023).

[7] M. Campbell, *Women, Poverty, Equality: The Role of CEDAW*, Oxford 2018.

[8] Cf. M. C. Nussbaum, *Creating Capabilities. The Human Development Approach*, Cambridge-London 2011; L. Scott, *The Double X Economy. The Epic Potential of Women's Empowerment*, New York 2020; D. Bach-Golecka, *The Emerging Right to Good Governance*, "American Journal of International Law. Unbound" 2018, Vol. 112, pp. 89-93.

[9] The detailed analysis of the topic may be found in: D. Bach-Golecka, *Motherhood and law. Reflection on human rights provisions and selected judgments of the European courts*, "Studia Iuridica" 2021, Vol. 90, pp. 25-58.

[10] The Covenant was adopted by the United Nations General Assembly on 16 December 1966, with an entry into force on 3 January 1976. The number of ratifications is 171 states, 4 signatories and 22 states with no legal action undertaken towards the Covenant. The United States of America is only a signatory of the Covenant. Record as of 21 February 2023. The ratification data is available at: https://indicators.ohchr.org/ (accessed 19 May 2023).

ming from maternity. The relevant provision is Article 10 § 2 of the Covenant, namely:

Special protection should be accorded to mothers during a reasonable period before and after childbirth. During such period working mothers should be accorded paid leave or leave with adequate social security benefits.

Within those provisions, states' obligation to accord special protection to mothers is defined within detailed time limits: "during a reasonable period before and after childbirth". Hence, one may state that the obligation of special protection towards mothers is not a permanent obligation but refers directly to the crucial phase of pregnancy and childbirth. Other human rights provisions distinguish specialized norms dealing with pregnant women's protection in labour *milieu*, developed with the International Labour Organization (ILO).

It seems that CEDAW deals with maternity protection with a secondary, and not primary, importance. The main goal of the Convention is to ensure equality and non-discrimination between men and women – hence maternity aspect is being referred to rather occasionally. In the CEDAW preamble, one may find the following statement:

Bearing in mind the great contribution of women to the welfare of the family and to the development of society, so far not fully recognized, the social significance of maternity and the role of both parents in the family and in the upbringing of children, and aware that the role of women in procreation should not be a basis for discrimination but that the upbringing of children requires a sharing of responsibility between men and women and society as a whole (...)

The CEDAW Convention stipulates as a general rule that special provisions dealing with maternity assistance and protection should not be regarded as discriminatory treatment (Article 4 § 2) and encourages an appropriate understanding of maternity (Article 6 § b):

To ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children, it being understood that the interest of the children is the primordial consideration in all cases.

One may underline that pregnancy and maternity are recognized as an important activity of women, vital for the proper functioning of a family and society. Nevertheless, women should not be left alone while dealing with those activities. Firstly, they are entitled to special assistance and protection. Secondly, once children are brought into the world, their upbringing and development is a shared and common responsibility of both parents.

The particular entitlements of women within maternity protection are listed in Article 11 § 2 and 3 CEDAW:

2. In order to prevent discrimination against women on the grounds of marriage or maternity and to ensure their effective right to work, States Parties shall take appropriate measures:
(a) To prohibit, subject to the imposition of sanctions, dismissal on the grounds of pregnancy or of maternity leave and discrimination in dismissals on the basis of marital status;
(b) To introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances;
(c) To encourage the provision of the necessary supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life, in particular through promoting the establishment and development of a network of childcare facilities;
(d) To provide special protection to women during pregnancy in types of work proved to be harmful to them.
3. Protective legislation relating to matters covered in this article shall be reviewed periodically in the light of scientific and technological knowledge and shall be revised, repealed or extended as necessary.

The ultimate CEDAW provision dealing with pregnancy and maternity assistance is connected to health care and social policy. Article 12 CEDAW stipulates the following level of feminine protection:

1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.
2. Notwithstanding the provisions of paragraph 1 of this article, States Parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.

Commenting on those provisions aimed at maternity protection one may underline several issues. Firstly, the rights of pregnant women rights are temporal; they are not fixed on a permanent basis to a particular female person but they are rather aim-oriented, flexible and responsive provisions. Their goal is to alleviate the burdens of pregnancy and to assist in the hardships of child labour of a particular woman. Secondly, those rights are social entitlements in the sense that their proper implementation requires an active stance of the public authorities. Hence, the rights of pregnant women are not passive entitlements of tolerance but those that require a concrete form of assistance, provided with proper diligence and in due time. Thirdly, one may state that the rights of pregnant women are one of the least commented on and debated entitlements in human rights law. The enforcement mechanisms seem to be weak. The assistance that is publicly promoted as a means to help pregnant women in need is directed rather towards the encouragement of a medical termination of pregnancy rather than ensuring the full application of social entitlements connected to maternity.

Is it therefore proper to conclude that the category of women's rights is a redundant legal concept? In my opinion, the answer to this question should be a negative one. Even within the conception of gender-neutral human rights, namely the situation when women's rights should be interpreted as human rights of female human beings, with an identical set of entitlements of male human beings, there is still a need to use the relevant notion of 'women's rights'. Within the contemporary world, there persists a discrepancy between legal normative provisions (*law in books*) and situations of real life (*law in action*). Hence, there is a need to provide specific measures devoted to safeguarding equality for men and women in every society. Moreover, there are still regions in the world where human rights of women are barely respected. The problem of the geography of human rights is a vital challenge of governance; an issue that should be addressed to through numerous political actions, legal initiatives and a topic debated within a public discourse.

The precise legal notion of 'women's rights', namely the term that refers to entitlements connected to the state of pregnancy and early stages of maternity (post-labour phase of confinement), is likewise an important social recommendation. It seems, however, that the concept is barely present within the public debate; with more stress being placed on pre-natal phase (within the notion of reproductive rights) and post-natal phase – within the concept of children's rights and work-life balance regulations. This lack of interest of regulatory authorities and a relatively modest public debate results in the state of deterioration of pregnant women's entitlements as the female rights-holders seem to be unaware of their entitlements provided for the state of pregnancy. Hence, it seems that the time which should be spent in a peaceful atmosphere, enjoying the gradual development of a new human being in a female body and awaiting the birth of a child, is rather a period of fear, unrest and worries. Those feelings of discomfort should be diminished within an active social policy, oriented towards the promotion of 'special care and assistance' directed to pregnant women.

REPRODUCTIVE RIGHTS

One may state that the use of the notion of 'women's rights' within the gender-neutral category of human rights is of social importance. It may serve as an instrument for accelerating social change and aiming at the achievement of effective equality among men and women. The usage of the notion of 'women's rights' within the strict legal meaning, namely pregnant women's rights is also of a valuable policy impact. The prospective debate on the legal entitlement of 'special care and assistance' should serve as a means reinforcing mother's rights and ensuring their effective social protection during the time of pregnancy. It may

be conducive to the full enjoyment of women's rights, in particular, within the context of reproductive rights.

Reproductive rights are dependent on reproductive and sexual health. Within the goal of protection of reproductive abilities it is Article 11 of CEDAW that stipulates the following:

States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular:
(...)
(f) The right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction.

Moreover, within the context of reproductive rights, Article 16 of CEDAW stipulates the following:

States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and, in particular, shall ensure, on a basis of equality of men and women:
(...)
(d) The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; in all cases the interests of the children shall be paramount;
(e) The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights.

One may summarize the normative description of reproductive rights within their vital characteristics. Firstly, reproductive rights are based on the principle of equality and non-discrimination, thus those are inherent to the representatives of both sexes: female and male. Secondly, they are of high value as their function is to safeguard the ability to transfer life to future generations. Thirdly, the specific role of reproductive rights is to enable prospective parents to decide in a free and responsible manner on the number and spacing of their children. Fourth, the task of public authorities is to protect the reproductive capabilities of men and women as well as to inform, educate and provide means for the effective exercise of those rights.

The overall aim of reproductive rights is reproduction of life (procreation) hence one may positively evaluate those public policies that are in accordance with reproductive rights, namely those activities undertaken by public authorities with the aim of increasing the number of population (pro-natal policies, pro-family policies). Actions designed in order to diminish the number of new births (anti-natal policy) seem to be contrary to the very foundations of reproductive rights. In particular, one may state that medical termination of pregnancy (abortion) should be regarded as an activity outside the scope of reproductive rights.

The aim of abortion is to terminate the new life of a human being rather than to allow its outer appearance and to erase the memory of the baby's very existence in the world.[11]

RIGHT TO LIFE IN THE PRE-NATAL PHASE

One may state that the right to life is regulated within a two-fold perspective. On the one hand, the protection of life within the human rights law is regarded as a provision of primary importance, enshrined in numerous public law treaties. On the other hand, there are scarce international human rights norms directly providing for the protection of life in the pre-natal phase. Hence, one may wonder whether this legal arrangement should be understood as a lack of recognition of the right to life of the unborn children.

The doctrine of human rights law provides for differentiated answers to this question.[12] Many scholars underline the normative construction of the right to life, provided for in a direct, unconditional, albeit general manner. The Universal Declaration of Human Rights stipulates in Article 3 the following formulation of the norm:

Everyone has the right to life, liberty and security of person.

International Covenant on Civil and Political Rights[13] regulates the right to life in Article 6, within a broader context of capital punishment (death penalty) and the crime of genocide, namely:

1. Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.
2. In countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime and not contrary to the provisions of the present Covenant and to the Convention on the Prevention and Punishment of the Crime of Genocide. This penalty can only be carried out pursuant to a final judgment rendered by a competent court.

[11] Apart from the categories of reproductive health and reproductive rights, the notion of reproductive justice is being used; cf. K. K. Tella, *Abortion Rights, Reproductive Justice and the State: International Perspectives*, Abingdon 2023.

[12] For a review of a recent legal theory on the right to life in pre-natal phase see: T. Finegan, *International Human Rights Law and the "Unborn". Text and Traveaux Preparatoires*, "Tulane Journal of International and Comparative Law" 2016, Vol. 25, pp. 89-126; A. Stępkowski (ed.), *Protection of Human Life in Its Early Stage. Intellectual Foundations and Legal Means*, Frankfurt am Main 2014.

[13] The Covenant was adopted by United Nations General Assembly on 16 December 1966, with an entry into force on 23 March 1976.

3. When deprivation of life constitutes the crime of genocide, it is understood that nothing in this article shall authorize any State Party to the present Covenant to derogate in any way from any obligation assumed under the provisions of the Convention on the Prevention and Punishment of the Crime of Genocide.
4. Anyone sentenced to death shall have the right to seek pardon or commutation of the sentence. Amnesty, pardon or commutation of the sentence of death may be granted in all cases.
5. Sentence of death shall not be imposed for crimes committed by persons below eighteen years of age and shall not be carried out on pregnant women.
6. Nothing in this article shall be invoked to delay or to prevent the abolition of capital punishment by any State Party to the present Covenant.

The above formulation on the right to life is a long provision due to the analysis of the interrelationship of the death penalty and legal regulation of the crime of genocide with the right to life. Still, there is a statement of crucial importance, namely the norm that prohibits the execution of the death penalty on pregnant women. This provision proves the recognition of the right to life in the pre-natal phase. In a situation where the death penalty is ordered on a woman, it cannot be performed due to the protection of the right to life of a baby. It is a woman, and not her baby, that was sentenced to death. Therefore, capital punishment is understood as the penalty to be performed on the guilty perpetrator and not on an innocent human being.

One should not underestimate the importance of Article 6 § 5 of the International Covenant on Civil and Political Rights (ICCPR). Firstly, the Covenant is a major human rights treaty. As many as 173 states have ratified the treaty, the most notable state among them being the United States of America.[14] The number of states which have not ratified the ICCPR is relatively low: six signatories (China, Comoros, Cuba, Nauru, Palau, Saint Lucia) and 18 states that have taken no legal action towards the Covenant.[15] Secondly, it seems that the meaning of Article 6 § 5 ICCPR should be interpreted as a direct confirmation of the right to life in the pre-natal phase. The sanction performed towards one person may not infringe the entitlements of the other human being, especially such a fundamental right as the right to life.

The United Nations Human Rights Committee within the General Comment No. 36 on Article 6 ICCPR adopted in October 2018 seems to acknowledge this logic of reciprocity and equivalence while stipulating[16] that:

[14] Record as of 21 February 2023. The ratification data is available at: https://indicators.ohchr.org/ (accessed 19 May 2023).

[15] Bhutan, Brunei Darussalam, Cook Islands, Kiribati, Malaysia, Micronesia, Myanmar, Niue, Oman, Saint Kitts and Nevis, Saudi Arabia, Singapore, Solomon Islands, South Sudan, Tonga, Tuvalu, United Arab Emirates. The Holy See, as an actor *sui generis* within public international law, may be regarded as a separate category.

[16] *General Comment no. 36 (2018) on Article 6 of the International Covenant on Civil and Political Rights, on the Right to Life*, CCPR/C/GC/36, para. 7-8; text available at: https://docu-

States parties must respect the right to life. This entails the duty to refrain from engaging in conduct resulting in arbitrary deprivation of life. States parties must also ensure the right to life and exercise due diligence to protect the lives of individuals against deprivations caused by persons or entities whose conduct is not attributable to the State. The obligation of States parties to respect and ensure the right to life extends to reasonably foreseeable threats and life-threatening situations that can result in loss of life. States parties may be in violation of Article 6 even if such threats and situations do not result in loss of life. Although States parties may adopt measures designed to regulate voluntary termination of pregnancy, those measures must not result in violation of the right to life of a pregnant woman or girl, or her other rights under the Covenant.

Nevertheless, within the further statement of the General Comment, it is difficult to trace the overall willingness to recognize the right to life in the pre-natal phase within the international human rights law level.[17] It seems, therefore, that the right to life is regulated in an open and flexible manner. Such a method of regulation enables the states to implement their own domestic provisions dealing with the protection of life in the pre-natal phase.

The above statement seems to be confirmed within the analysis of the other human rights treaty, namely the Convention on the Rights of the Child.[18] The definition of the child is contained in Article 1 in the following manner:

(...) a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.

The drafters of the Convention did not reach an agreement as far as the minimum age for when childhood begins and eventually deliberately left the issue to be determined by the decision of States parties.[19]

The Convention stipulates in Article 6 the right to life, survival and development in the following manner:

1. States Parties recognize that every child has the inherent right to life.
2. States Parties shall ensure to the maximum extent possible the survival and development of the child.

ments-dds-ny.un.org/doc/UNDOC/GEN/G19/261/15/PDF/G1926115.pdf?OpenElement (accessed 19 May 2023).

[17] See more: S. Jones, *Extending the Right to Life Under the International Covenant on Civil and Political Rights: General Comment 36*, "Human Rights Law Review" 2019, Vol. 19, pp. 347-368.

[18] The Convention was adopted by the United Nations General Assembly on 20 November 1989, with an entry into force on 2 September 1990. The Convention has been ratified by 196 states (sic!) with only one state which has signed but not ratified the Convention, namely the USA. Record as of 21 February 2023. The ratification data is available at: https://indicators.ohchr.org/ (accessed 20 May 2023).

[19] N. Peleg, *International Children's Rights Law: General Principles*, (in:) U. Kilkelly, T. Liefaard (eds.), *International Human Rights of Children*, Springer 2019, p. 137.

The norm of the Convention stipulating the right to life vis-à-vis unborn children should be interpreted within the meaning of the Preamble to the Convention, whereas it provides for special positive action of the state:

> *(...) as indicated in the Declaration of the Rights of the Child, "the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth".*

One may thus wonder about the relevant scope of protection of unborn children – their right to birth, special safeguards and protection of health care conducive to their proper development within the pre-natal phase.[20] It should be stressed that the international treaty regulation dealing with children's rights is constructed in an open and unfinished manner, stipulating general principles rather than technical norms. Therefore, those international norms are to be completed with detailed provisions which should be adopted at the domestic level.

REGULATORY PRACTICE ON TERMINATION OF PREGNANCY

If the protection of the right to life in the pre-natal phase is not determined in an unequivocal, coherent and decisive manner on a level of universal international law of human rights, then it is for the domestic public authorities to regulate the issue.[21] One may wonder whether it is for the legislative, executive or judicial institutions to decide on the scope of protection of the right to life in the pre-natal phase.

The answer to this question may be provided for within a judgment delivered in October 1991 by the Court of Justice of the European Union in the case C-159/90 *The Society for the Protection of Unborn Children Ireland Ltd v. Stephen Grogan and others*.[22] First of all, the court determined that termination of pregnancy may be regarded as a service within the meaning of European law. It may be described as "(…) a medical activity which is normally provided for remuneration and may be carried out as part of a professional activity".[23] An important element of the Court's decision was reliance on domestic regulation – since medi-

[20] It is possible to distinguish various conceptions of the unborn children's rights; cf. N. Peleg, J. Tobin, *The Rights to Life, Survival, and Development*, (in:) J. Tobin (ed.), *The UN Convention on the Rights of the Child: A Commentary*, Oxford 2019, pp. 186-237.

[21] As for the most recent presentation of a wide variety of national contexts concerning termination of pregnancy cf. M. Ziegler, *Research Handbook on International Abortion Law*, Cheltenham 2023.

[22] ECLI:EU:C:1991:378.

[23] Para. 18 of the *Grogan* judgment.

cal termination of pregnancy must be performed in accordance with national law. The Court underlined that it is lawfully practiced in several member states.

The statement of the Court, which turned out to be of crucial procedural importance, may be found in the passages of the judgment cited below *in extenso* whereas the Court provides an answer to the arguments of the plaintiff, namely Society for the Protection of Unborn Children Ireland Ltd (SPUC), which focused on the malicious character of the medical termination of pregnancy:[24]

> *SPUC, however, maintains that the provision of abortion cannot be regarded as being a service, on the grounds that it is grossly immoral and involves the destruction of the life of a human being, namely the unborn child.*
>
> *Whatever the merits of those arguments on the moral plane, they cannot influence the answer to the national court's first question. It is not for the Court to substitute its assessment for that of the legislature in those Member States where the activities in question are practised legally.*
>
> *Consequently, the answer to the national court's first question must be that medical termination of pregnancy, performed in accordance with the law of the State in which it is carried out, constitutes a service within the meaning of Article 60 of the Treaty.*

Commenting on the judgment one should underline three issues. Firstly, recognition of medical termination of pregnancy as a service within the meaning of European Union law is dependent on a previous constitutive decision of the member state. Hence, without the relevant regulation of national authorities allowing for the execution of abortion, it is not a service within the scope of EU law. Secondly, following the autonomous competence of the member states to regulate the issue, one is faced with a pluralistic regulatory result. Since every member state is free to regulate the issue, one may find jurisdictions with pro-life regulations, jurisdictions with pro-abortion stance, and the subsequent mixture of those two regulatory approaches.

Thirdly, the Court of Justice of the European Union in the analysed *Grogan* case formulated an answer to the question concerning which domestic institution is competent to regulate the termination of pregnancy issue. In this context, the Court stipulated that: "(...) It is not for the Court to substitute its assessment for that of the legislature in those Member States where the activities in question are practised legally".[25] Therefore, it is the legislative branch of government that should decide on the scope of protection of the right to life in the pre-natal phase.

The fundamental statement of the Court – one which made the verdict of everlasting importance – concerned the adopted self-restraint of the judicial sphere of competence. The Court underlined that it is not for the judges to substitute the action of the parliament. Moreover, it is not the task of the European court

[24] Para. 19-21 of the *Grogan* judgment.
[25] Para. 20 of the *Grogan* judgment.

to decide on the matters which should be decided by parliaments of the member states.

The line of reasoning behind the judgment in the *Grogan* case is the following: people within a political community hold certain convictions and regard certain values and principles as important for social life. This unique set and combination of valid norms is also practiced by the representatives of the people, chosen to represent them within a democratic process. Representatives of the people are also part of the people, therefore the set of transmitted values is the same. It is within a democratic, parliamentary process that a decision concerning the regulation of certain morally controversial activities, like trade in pornography, gambling, prostitution, usage of aggressive materials, and trade of addictive substances is made.[26] Regulation on medical termination of pregnancy as well as euthanasia belong to this category of morally sensitive regulatory topics.

What would have happened if the Court had taken a different decision and presented a substantive decision, namely if it had ruled on the lawfulness or its lack in the case of the medical termination of pregnancy, irrespective of the relevant national regulations of Ireland and the United Kingdom? Such a judgment could have been described as an example of hyper-activism of the Court; an action that could have led to the emergence of hostile social feelings and unrest within the societies of the member states of the European Union.[27]

However, it seems that precisely this hyper-active stand was taken by the American Supreme Court in the case of *Roe v. Wade* in January 1973.[28] The Court decided that the interpretation of the Constitution of the United States leads to the conclusion that medical termination of pregnancy is legal. In other words, pregnant women are at liberty to perform abortion. Following the verdict, regulations of the federal states protecting life in the pre-natal phase were abolished. This judge-made decision turned out to be of crucial social importance within the American public discourse and legal debate, as it initiated the process of formulation of moral convictions, leading to social engagements and the rise of political movements.[29] It seems that the rise of pro-abortion and pro-life movements had

[26] A theoretical analysis of the peculiarities of the regulation of malicious actions, potentially harmful to the well-being of the society, presents J. Leitzel, *Regulating Vice. Misguided Prohibitions and Realistic Controls*, Cambridge 2008.

[27] Fortunately, the Court of Justice of the European Union seems to present a sensitive approach towards the vital public interests of particular countries. One may pinpoint to the judicially constructed doctrine of mandatory requirements of public interest, originally provided for the legitimate derogation from the free movement of goods; cf. O. Inanilir, *Derogation from the Free Movement of Goods in the EU: Article 30 and 'Cassis' Mandatory Requirements Doctrine*, "Ankara Bar Review" 2008, Vol. 2, pp. 106-113.

[28] *Jane Roe v. Henry Wade*, 410 U.S. 113; 93 S.Ct. 705; 35 L. Ed. 2nd 147; 1973 U.S. LEXIS 159.

[29] The impact of the American public debate on the development of pro-life movement is presented in: J.Holland, *Tiny You. A Western History of Anti-Abortion Movement*, Oakland 2020. See also M. Ziegler, *After Roe. The Lost History of the Abortion Debate*, Cambridge 2015.

their roots in the inability of people to modify the judicial verdict, which was fuelled by certain feelings of unrest and discomfort resulting from the lack of their agency. This situation contributed to the awakening of the personal conscience of many American citizens and led to the gradual development of deep convictions about the abortion issue within the society.

The malicious character of the judgment *Roe v. Wade* did not concern solely the substance of the verdict, but rather it was grounded in the procedural aspect of the decision. The main demand of the American movements was the urge to decide the issue by themselves: we, the people! It is not for the Court, even a Supreme Court, to determine the case and thus deprive the people of the power to shape the legal decision within a collective, democratically organized process. The judgment in *Roe v. Wade* is thus an example of an improper judicial hyper-activism. Moreover, it may be characterised as a decision undertaken by a body lacking direct democratic legitimacy when compared to the institution of the domestic legislature.

It seems that democracy may be at the roots of the pro-abortion and pro-life debate, pinpointing the legitimate proper method of determining socially contested topics, among them the issue of the scope of protection or lack of protection of the right to life in the pre-natal phase. This method requires collective reflection within a political community, public debate and parliamentary decision.

This statement was formulated in the analysed above judgment of the European Court in the *Grogan* case: "(...) *it is not for the Court to substitute its assessment for that of the legislature*". The assumption underlying this statement seems to be the obligation to respect democratic principles of governance and to find a proper institutional place for the judiciary.

The recent judgment of the United States Supreme Court passed in June 2022 in the case *Dobbs v. Jackson Women's Health Organization*[30] overruled the judicial decision of *Roe v. Wade*. The decision, however, was not a substantial amendment, in the sense of dealing with the legality or illegality of the medical termination of pregnancy. The Supreme Court held that the Constitution of the United States does not confer a right to abortion and hence, it is for particular states – members of the Union, to regulate the issue. The judgment is of crucial importance as it returns the power to the people and enables them to decide the vital topic of the scope of protection of the right to life in the pre-natal phase at the domestic level.[31]

Metaphorically, one may conclude that the American Court in 2022 followed the *meritum* of the judgment of the European Court, delivered in 1991.

[30] *Thomas Dobbs v. Jackson Women's Health Organization*, 597 U.S; 2022 WL 2276808; 2022 U.S. LEXIS 3057.

[31] The analysis of subsequent regulatory activities presents K. L. Macintosh, *Dobbs, Abortion Laws, and In Vitro Fertilization*, "Journal of Health Care Law and Policy" 2023, Vol. 26, pp. 1-48.

IMPORTANCE OF PUBLIC DEBATE ON ABORTION

As it is for the legislature at the domestic level to regulate the issue of medical termination of pregnancy and as parliamentary decisions are being discussed within a public debate, the conditions concerning the creation, maintenance and protection of the environment conducive to presentation as well as argumentation and dialogue in a free and peaceful manner seem to be of crucial importance.

The topic of appropriate conditions and legitimate constraints concerning the public debate on pro-life arguments has been recently underlined by the European Court of Human Rights in Strasbourg. In October 2022, the Court issued a judgment in the case *Bouton v. France*.[32] The facts of the case concerned Ms. Eloise Bouton (born in 1983), a French national and an activist of *Femen* – an international women's rights organization set up in 2008.[33] The organization was known for organizing provocative actions in support of feminist issues. On 20 December 2013, Ms. Bouton staged a performance in the *La Madeleine* Catholic church in Paris. While standing in front of the high altar inside the building of the church (but not during the liturgical celebrations of the Holy Mass), she exposed her breasts and presented pro-abortion slogans written down across her body. Then she pretended to perform an abortion, with the usage of two pieces of raw beef liver. The symbolic intention of this action was to symbolize the Holy Virgin Mary aborting baby Jesus and to 'cancel Christmas'. The performance was relatively brief and silent, and Ms. Bouton left the church when requested by religious authorities.

The French criminal court while examining the case in 2014, underlined that the acts of 'sexual exposure' (*exhibition sexuelle*) committed by Ms. Bouton in a church were prohibited under Article 222-32 of the Criminal Code. Moreover, the Court in Paris rejected the Applicant's argumentation that her actions were to be regarded as political in nature since those were directed against a pro-life standpoint of the Catholic church – and hence should fall within the scope of the freedom of expression. Therefore the verdict of the Court was to sentence Ms. Bouton on the charge of sexual exposure to a suspended term of one month's imprisonment and, on civil grounds, to oblige her to pay the parish representative 2,000 euros in respect of non-pecuniary damage and 1,500 euros to other party's costs. The Paris Court of Appeal upheld this judgment. Subsequently, the Court of Cassation confirmed the original verdict and dismissed the appeal of Ms. Bouton.

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[32] Judgment of 13 October 2022 (section V) in case of *Bouton v. France*, application number 22636/19.

[33] Eloise Bouton joined *Femen* in summer 2013 and left the organization already in February 2014; more info about her involvement in the activities of the organization on the personal website: https://eloisebouton.org/ (accessed 8 May 2023).

European Court of Human Rights examined the case within the chamber of seven judges.[34] The verdict of the Strasbourg Court was unanimous and opposed the above-presented uniform judgments of domestic criminal courts. European Court's approach was to accept the Applicant's reasoning on the primacy of the substantive content of her performance and stressed the importance of protection of the Applicant's freedom of expression. According to the Strasbourg Court, the suspended prison sentence imposed on Ms. Bouton did not meet the criterion of "necessity in a democratic society" (Article 10 § 2 of the European Convention on Human Rights) and was regarded by the Court as too 'harsh' in its nature. Hence, the European Court found a violation of freedom of expression within the case (Article 10 of the European Convention). Moreover, the Court decided that France was to pay the Applicant 2,000 euros in respect of non-pecuniary damage and 7,800 euros in costs and expenses.

While commenting on the judgment of the European Court of Human Rights, one may definitely confirm the opinion that the verdict represents an important judicial decision which should not be confined solely to the solution of the particular circumstances of the Bouton affair. The vital character of the judgment concerns the potential impact on other judicial decisions, both within European and domestic perspective. It may also be used as a subsequent guidance for legislative authorities and policy-makers in European countries. The judgment deals with a plethora of legal issues, concerning freedom of expression, freedom of religion and requirements of a democratic society. Moreover, the argumentation presented within the narrative part and justification of the judgment may serve as a tool legitimizing future performances and actions of people involved in non-governmental organizations and other civil society entities, active within the field of human rights protection.

Therefore, while commenting on the judgment in the *Bouton* case one may analyse numerous legal issues and reflect on their vital potential legal and social impact. Still, within the scope of the present article, it may be beneficial to focus on the selected three aspects of the judgment which may be regarded as crucial factors, conducive to the subsequent development of a legal debate. The first aspect concerns the vitality of pregnant women's rights; the second aspect deals with the act of 'performance' and its evaluation within the provisions of the freedom of expression; the third aspect concerns the mutual interrelationship between the freedom of expression and freedom of religion (respectively Article 10 and Article 9 of the European Convention).

Firstly, it must be stressed that the Court considers various aspects of women's rights, and the rights of pregnant women in particular – as norms of primary

[34] The judgment was given by a Chamber of seven judges, composed in the following manner: Síofra O'Leary (Ireland), President, Stéphanie Mourou-Vikström (Monaco), Lado Chanturia (Georgia), Ivana Jelić (Montenegro), Arnfinn Bårdsen (Norway), Mattias Guyomar (France), Kateřina Šimáčková (the Czech Republic). Judge Šimáčková expressed a concurring opinion.

importance. The genesis, intention and goal of Ms. Bouton's performance were directly connected to the dispute over abortion. This substantive aspect legitimized her actions, since it constituted within the opinion of the Court, "a message relating to a public and societal debate"; "a message related to a matter of public interest", an action undertaken to contribute "to the public debate on women's rights".

Therefore, according to the line of reasoning presented by the Strasbourg Court, an action inspired by women's rights surpasses other human rights concerns. In other words, compliance with freedom of expression is somehow 'reinforced' when the relevant subject matter deals with women's rights which are themselves of immense importance. In another formulation, women's rights should be regarded as a category of 'special' or 'super' rights, with a subsequent entitlement to infringe other human rights provisions stipulated in the Convention.

The performance of Ms. Bouton was arranged as a protest against the standpoint of the Catholic church opposing abortion. This theme has been regarded by the European Court as a substantive issue relevant to public debate and a matter of sufficient importance to justify the act of performance in the above-presented contextual environment.

If, however, one examines the logic of Ms. Bouton's argumentation in the case, one may arrive at unexpected conclusions. The performance was organized as a protest against the negative standpoint of the Catholic church towards abortion. In order to underline that this stance is a wrongful one, Ms. Bouton engaged in a most hideous and blasphemous activity, simulating the act of abortion of baby Jesus. This act was therefore absurd as its message was actually directed towards the reinforcement of disapproval of abortion and confirmation of the protection of life in the pre-natal phase. The functional goal of this performance was rather to make the audience oppose abortion as a bloody and violent activity.

Why did the Strasbourg Court fail to notice this inconsistency of Ms. Bouton's behaviour? Why did the Court decide to grant the absurd act such an immense level of recognition? One may try to understand the standpoint of the Strasbourg Court while granting public discussion concerning abortion immense importance and vital character.

Hence, the conviction of the Court should be interpreted in a pluralist manner, encompassing both pro-abortion and pro-life arguments. However, the procedural dilemma of whether public discourse should be understood in a narrow, one-sided manner (solely pro-abortion) or in an open, two-sided manner (including pro-life arguments) should be addressed. It seems that the first option, focused solely on abortion and excluding pro-life arguments from the public discourse, should be regarded as a wrong interpretation since it leads to a society based on preventive censorship, unlawfully excluding some arguments from the public debate. Thus, it is the second option, based on the legitimacy of both views: pro-abortion and pro-life argumentation, which represents a proper interpretation of the Court's

standpoint, leading to a free and open society, without substantive limitations as far as public debate is concerned.

Moreover, the feminist standpoint of the Court should itself be interpreted in accordance with the very freedom of expression, encapsulated in Article 10 § 1 of the Convention in the following manner:

> *Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.*

The meta-requirement of women's rights interpretation means that within the public debate, feminist issues should be discussed in a free and open manner, with a solid guarantee for every person participating in the discussion of her/his freedom to "hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers". In particular, women's rights should be understood in a free and open manner – and hence those entitlements should not obligatorily be restricted solely to pro-abortion stance but should rather include an equivalent possibility to take a pro-life stance. Therefore, the one-sided, pro-abortion vision of women's rights should not be coerced within public debate due to the very freedom of expression.

In this perspective, one may compare the pluralist vision of women's rights with the requirement of a pluralist political scene, resulting in different opinions as far as the conduct of public affairs is concerned. Another comparison may be undertaken within the public debate on the death penalty. The insistence of maintaining solely pro-abortion stance in a public discourse may substantially be connected to the situation when the public debate would be restricted, one-sidedly allowing only the articulation and promotion of arguments supporting the death penalty, with the exclusion of the capital punishment opponents.

One may elaborate in detail on the comparison between the death penalty and abortion, but still, suffice it to notice that the similarities of this hypothetical image are based on the central parallel characteristics of the death penalty and abortion. Both activities result in the killing of a human being; the outcome is the end of life, her or his existence. Contrary to them, both abolitionists of capital punishment and pro-life movement followers support life, with the goal of protecting the very existence of a human being.

The second aspect of the Court's judgment deals with the act of 'performance' and its evaluation within the provisions of the freedom of expression. In the circumstances of the present case, one may differentiate two aspects of the act of performance: firstly, the action itself, the composition of gestures, clothing (or nudity and lack of clothing), slogans, props and general behaviour of the person performing, as well as other factors linked to the duration of the action, potential audience, etc.; and secondly, the place (*in situ*) where performance takes place.

This division between the act of performance and the place of performance is relevant within the legal analysis of the present case. The external characteristics of performance would be examined within the scope of freedom of expression (Article 10 of the European Convention) while the significance of the action's place leads to the freedom of religion (Article 9 of the European Convention).

An act of performance may be differentiated from the ordinary written or oral declaration (expression) of opinion. There may be different means of expressing the same content: when substantial unity of a message encounters a formal difference of instruments of this message. The formal aspect of performance may be varied and hence it differs in an obvious manner from the ordinary written or oral forms of expression. It seems, however, that those characteristics of actions manifesting one's opinions and ideas should not influence the scope of application of the freedom of expression.

The legitimate scope of restrictions on the freedom of expression is presented in Article 10 § 2 of the Convention in the following manner:

> *The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.*

Should the European Court in Strasbourg thoroughly examine the above list of legitimate restrictions on the freedom of expression? Is it correct to demand a judicial differentiation between the acts of performance and 'ordinary' forms of expressing one's opinions, information and ideas, comprised of a written form of statements, collective actions and social engagements in non-governmental organizations, or participation within political parties in order to implement those ideas into regulatory normative legal schemes? Is an act of performance, as in the analysed case, an activity flawed with potential restrictions, with the aim of safeguarding vital interests of the democratic society – like protection of morals, prevention of disorder and protection of the rights of others? Has the Strasbourg Court engaged in a process of balancing rights? – not solely freedom of expression but freedom of religion, as stipulated in Article 9 of the European Convention, in the following manner:

> *1. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.*
> *2. Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the*

interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.

If one evaluates the judgment of the European Court of Human Rights in the Bouton case as founded on a proper interpretation of the European Convention, one has to accept and support the consequences of the verdict simultaneously. Therefore, an act of performance consisting of a simulation of an abortion of baby Jesus by his mother Mary (Catholic/Christian religion) – according to the Strasbourg Court – may be legitimately repeated with the pretended action of Sarah performing the abortion of Isaac, Rebecca aborting the twins: Esau and Jacob, Jochebed aborting Moses, Bathsheba performing abortion of king Salomon (Jewish religion) or Hagar aborting Ishmael, Aminah bint Wahb performing abortion of prophet Muhammad (Islam religion).

It is the principle of non-discrimination that justifies such conclusions, because acts of performance depicting abortion regarded as a good action within one (Christian) religious *milieu* may legitimately be repeated within other religious settings, for example, Jewish or Islamic. Moreover, the Court did not object to the act of the performance being made within a religious building (church). Hence, once again in accordance with the principle of non-discrimination, the acts performed in buildings of different religions: synagogues and mosques – are legitimate applications of the freedom of expression, according to the Strasbourg Court.

An act of performance comprising a simulation of the abortion of a religious leader: Jesus, Moses, or Muhammad, a person venerated within the community of believers, may be executed – within the judgment of the European Court of Human Rights – by a half-nude female person, acting on surprise, in public settings, with no measures undertaken as for the protection of minors.

Another consequence of the judgment of the Strasbourg Court is the legality of the performances structured in the above-presented manner: simulating the abortion of a definite person, with pieces of bloody meat, by a half-nude female, in public places such as universities, cinemas, buildings of local or central administration, parliaments, or the building of the court itself? Once again, the principle of non-discrimination serves as a basis for the legality of those actions in non-religious settings, too. The justification is the importance of the topic of public interest.

This line of reasoning that may be interpreted from the judgment of the European Court of Human Rights is shameful and outrageous. The verdict is a gravely flawed judgment as it fails to find a proper balance of rights, between the freedom of expression and other human rights, protected within the European Convention. Moreover, the judgment in the present form may serve as a justification for further scandalous performances simulating abortion.

Therefore, as an evaluation of the judgment of the European Court of Human Rights in the *Bouton* case, one should underline the following issues. Firstly, while the debate on medical termination of pregnancy and the scope of protection

of the right to life in the pre-natal phase is obviously a matter of great concern and importance for a political community, and is situated within the freedom of expression, still, the debate should be performed in a coherent and structured manner, within a respect for other human rights, and in accordance with the requirements of public order (prevention of disorder) as well as protection of morals.

Secondly, one should stress that it is precisely the protection of morals that should be respected within the present case. Is it moral to execute in a public place a performance simulating the action of abortion of a human person? Is it moral to execute it in such a hideous and repulsive manner, using bloody props, with the nudity of the person performing the activity? Is it moral to expose those actions to random pedestrians, and possibly to people with children? Is it moral to expose them to a psychological shock and trauma due to the unwilling observance of those actions?

Moreover, is it moral to publicly promote the abortion of a dear beloved person – which in the present case may be understood as a willingness and encouragement to kill, to annihilate a concrete person? If the Court recognizes the legitimacy of the public actions presenting the goodness of abortion, is it correct to state that the judgment itself contains approval for the use of violence?

Thirdly, one may wonder what rights of religious believers are recognized within the judgment of the Court. Unfortunately, the answer to this question may be that religious entitlements are roughly non-existent within the verdict – except for the sensitivity of the Court to one religious argument. The Court was willing to potentially recognize the legitimacy of the prohibition for the analysed horrible act of performance to be executed in the church during the Holy Mass. One should positively evaluate this single limitation of the freedom of expression undertaken by the judges and underline with satisfaction that within this particular stance the Strasbourg Court respected the vital significance of the Holy Eucharist, as enshrined in the Code of Canon Law:[35]

Canon 897 The most August sacrament is the Most Holy Eucharist in which Christ the Lord himself is contained, offered, and received and by which the Church continually lives and grows. The eucharistic sacrifice, the memorial of the death and resurrection of the Lord, in which the sacrifice of the cross is perpetuated through the ages is the summit and source of all worship and Christian life, which signifies and effects the unity of the People of God and brings about the building up of the body of Christ. Indeed, the other sacraments and all the ecclesiastical works of the apostolate are closely connected with the Most Holy Eucharist and ordered to it.

Canon 898 The Christian faithful are to hold the Most Holy Eucharist in highest honor, taking an active part in the celebration of the most august sacrifice, receiving this sacrament most devoutly and frequently, and worshiping it with the highest ado-

[35] Code of Canon Law had been promulgated by Pope John Paul II on 25 January 1983, with the entry into force on 27 November 1983.

ration. In explaining the doctrine about this sacrament, pastors of souls are to teach the faithful diligently about this obligation.

The protective impact of the judgment in the Bouton case on the freedom of religion is thus traceable. Nevertheless, it seems that the applied level of protection may be described as a necessary but not a sufficient one. Whereas the Court underlined that the performance of Ms. Bouton had been executed outside the liturgical celebrations of the Holy Mass, the judges did not mention the other ordinary requirements concerning legitimate behaviour inside the building of the church. Those requirements may be characterized as the autonomy of a person to engage in such actions that respect the entitlements of others, and allow everyone to manifest her or his religion "(...) in worship, teaching, practice and observance" (Article 9 § 1 of the European Convention).

Within the particular circumstances of the case, the required behaviour inside the Catholic churches is regulated by the Code of Canon Law in the following manner:

Canon 1214 By the term church is understood a sacred building designated for divine worship to which the faithful have the right of entry for the exercise, especially the public exercise, of divine worship.

Canon 1220 § 1 All those responsible are to take care that in churches such cleanliness and beauty are preserved as befit a house of God and that whatever is inappropriate to the holiness of the place is excluded.

§2. Ordinary care for preservation and fitting means of security are to be used to protect sacred and precious goods.

Canon 1221 Entry to a church is to be free and gratuitous during the time of sacred celebrations.

Canon 1210 Only those things which serve the exercise or promotion of worship, piety, or religion are permitted in a sacred place; anything not consonant with the holiness of the place is forbidden. In an individual case, however, the ordinary can permit other uses which are not contrary to the holiness of the place.

Canon 1211 Sacred places are violated by gravely injurious actions done in them with scandal to the faithful, actions which, in the judgment of the local ordinary, are so grave and contrary to the holiness of the place that it is not permitted to carry on worship in them until the damage is repaired by a penitential rite according to the norm of the liturgical books.

From the above passages of canon law provisions, comes an undoubtful and obvious conviction that the activity aiming at the simulation of abortion of baby Jesus, performed by a half-nude female person pretending to act as Holy Mary, must be regarded by the Catholic believers as a scandalous and blasphemous activity, which is contrary to the holiness of the church as a sacred building designated for divine worship. The silence of the Strasbourg Court on those considerations should be evaluated as a grave neglect, omission and a judicial error.

The Court did not engage in a process of balancing the rights between the holders of the freedom of expression and the holders of the freedom of religion. The Court presented the judgement based on a biased argumentation, favouring the arguments of one side only, namely Ms. Bouton as a person performing the act, and treating the other side, religious believers – people entitled to the protection of their religious freedom as non-existent subjects of law. Someone may ask allegorically in this context – Did the Court regard the Christian people as subjected *en masse* to involuntary abortion?

RELATIONAL HUMAN RIGHTS

The above evaluation of the judgment of the European Court of Human Rights in the *Bouton* case may be regarded as an exaggerated opinion. Nevertheless, the prospective legal consequences of the verdict, undertaken within the framework of the principle of non-discrimination, may prove to be disastrous and disruptive to the well-being and peaceful co-existence of various religious groups within a society. It seems, however, that it should not be for the judicial tribunal to incite such turmoil and conflict within a public discourse.

Hence what should be the conclusions of the presented analysis of the human rights provisions and judicial decisions? In the first place, one should stress the relational character of the provisions of human rights. This fundament of inter-human relations seems to be commonly neglected within a legal discourse. It is rather common to treat particular entitlements and freedoms enshrined in human rights law as single, isolated rights of single, isolated rights-holders. Therefore, if one treats women's rights as a separate category of clearly identified persons, in a similar manner one may regard the rights of pregnant women. Still, a different vision of those rights adds a social dimension to the single entitlement: a pregnant woman's right to 'special care and assistance' must be understood in a relational way, in the sense that it is important for the society she lives in to offer her and her child (children) help.

Relational vision of women's rights means that women are not left alone but rather that they must be treated with care and concern. Accordingly, the relational vision of human rights stresses the connections and interdependence of human beings, underlining at the same time that no one is capable of living on one's own. Dependency on receiving care starts at the very beginning of human existence (in a woman's womb – *in utero*) and while changing its extent, still it remains active throughout the life of a person. One may state that the life of a human person is composed alternately of periods of receiving care and providing care to others.[36]

[36] This relational perspective of women's rights had recently been stressed within the regulatory proposals of the European Union, developing social strategies to offer help and assistance to

Such a relational approach to the rights of pregnant women was also applied within the judgment of the Polish Constitutional Court on the prohibition of eugenic abortion, delivered in October 2020.[37] The Court underlined that the Polish state should be regarded as a common good of all citizens and that the state should provide means conducive to the development of persons and communities of persons, among them families. It is within this image of a state based on the principles of decentralization, subsidiarity and solidarity that the burdens involved in the process of upbringing handicapped children should be regulated. It is not solely for the mother and father to assist the child in those situations, as the obligation of assistance is placed on public authorities and society as a whole. The duty is to provide support for those in the most vulnerable situations.

The relational character of human rights within the context of regulatory provisions on the medical termination of pregnancy indicates the primary relation of the mother and her child in the pre-natal phase of development. This relation is formed alongside the values of feminine love, care, interest, joy, hope and expectations but also fear, uncertainty and the need of assistance and support. The child slowly develops inside the body of her or his mother, within a hidden biological union, completely dependent on her. The poetic vision of the gradual formation of a human being is presented in Psalm 139 in the following words:[38]

(...) For it was you who formed my inward parts;
you knit me together in my mother's womb.
I praise you, for I am fearfully and wonderfully made.
Wonderful are your works; that I know very well.
My frame was not hidden from you, when I was being made in secret,
intricately woven in the depths of the earth.

The poem underlines the biological and ecological connection of a human body with 'the earth'. The image of a child in her or his mother's womb may be compared to the passenger in a car or an airplane – travelling for a definite period of time, with the ultimate goal of separation from the vehicle once the journey is accomplished.

It is within the above statements that one may evaluate the improper character of the phrase: "my body, my choice" while referring to the relationship between

those in need. One may mention in this context a plethora of social strategies of the Union, namely: *Gender Equality Strategy (2020-2025)*; *EU Strategy on the Rights of the Child (2021-2024)*; *Strategy for the Rights of Persons with Disabilities (2021-2030)* and the most recent *European Care Strategy (2022).*

[37] Case sign. K 1/20. For the analysis of the judgment see: F. Ciepły, *Eugenic Abortion as Discrimination against Persons with Disabilities: Another Perspective on Current Constitutional Case in Poland*, "Forum Prawnicze" 2021, Vol. 68, issue 6, pp. 74-84.

[38] *Ps 139, 13-15*, *The Holy Bible (New Revised Standard Version)*, New York 1991.

a mother and her child.[39] Inside the mother's body is a different body of a child, placed there for custody for a definite period of time. Hence, decisions undertaken towards the body of a woman should not interfere with the body of a baby. The child is understood as a separate human being, with the same right to life as the woman and the same protection should be granted to the baby as to the mother.

One may repeat the provisions analyzed at the very beginning of this article, namely Article 25 § 2 of the Universal Declaration of Human Rights, which stipulates the duty to provide special care and assistance in case of motherhood and childhood. One may interpret this provision as referring to two categories of vulnerable subjects: mothers and their children. The required care and assistance shall be provided for by public authorities, still one should not neglect the obligations of the supportive stance of fathers.

According to the principle of equality and non-discrimination, both parents are responsible for the upbringing of their children. Still, one may differentiate different scope of responsibilities of parents within the pre-natal phase of a child's life. It is for the father to play a paramount assistance role for both: mother and child, as both of them need care within the time of pregnancy. Mother, on the other hand, is in a complex dual situation: being a person in need of assistance and care herself, and simultaneously, providing care and assistance to the baby inside her body.

It seems that situations of medical termination of pregnancy or other new types of malicious activities performed towards children in the pre-natal phase[40] are more likely to arise in the case of deficiencies of social support towards mothers. Therefore, lack of care and assistance is conducive to abortion. In other words, the reason to terminate pregnancy is often the lack of love.

Abortion may be regarded as an act of violence both towards the child and the mother. It results in the loss of life for the baby and causes psychological stress (trauma)[41] for the mother, due to the cruel interference with woman's body. From a biological perspective, the termination of pregnancy is contrary to the ecology of living, it is an artificially imposed wound on a woman. When one focuses

[39] Detailed presentation of the argument provides G. Nelu, *Between the Right to Life of the Unborn Child and the Right to Dispose of the Pregnant Woman's Own Body*, "EIRP Proceedings" 2022, Vol. 17, issue 1, pp. 312-319.

[40] Cf. Le Thuy H. *et al.*, *Fetus Trafficking in Viet Nam – The New Criminal Method of Human Trafficking*, "International Journal of Criminology and Sociology" 2021, Vol. 10, pp. 1594-1603. For the discussion on the ethical considerations of termination of pregnancy see: B. Alvarez Manninen, *Dialogues on the Ethics of Abortion*, London 2022; K. Greasley, *Arguments about Abortion. Personhood, Morality, and the Law*, Oxford 2017.

[41] There is an academic discussion concerning the negative psychological consequences of conducted abortion on the woman, within the concept of "post-abortion syndrome". Cf. R. L. Moran, *A Women's Health Issue?: Framing Post-Abortion Syndrome in the 1980s*, "Gender and History" 2021, Vol. 33, no. 3, p. 790-804; D. Edwards, *Post Abortion Syndrome is a Clinical Reality: A Critical and Methodological Reflection on the Politics, Biology and Phenomenology of Unwanted Pregnancy and Abortion*, "Journal of Psychology in Africa" 2009, Vol. 19, issue 3, pp. 429-437.

on abortion from the philosophical perspective of the action, one may conclude that, in a sense, abortion is virtually impossible – because having appeared in the mother's womb, in the pre-natal word, the baby is 'immortal'. Thus the child cannot cease to exist, even if only in memory of her or his parents.

What is the interrelationship between women's rights and pro-life movements then? One may point to the line of reasoning based on the principle of subsidiarity and solidarity (common good). Firstly, the first person responsible for taking care of the pregnant woman is the father of the child, then come the other closest relatives and dear ones, next is the local community (self-government, social organizations), and ultimately public authorities of the state. As for the child in the pre-natal phase, the line of responsibility is a slightly different one: the first persons responsible for taking care of the baby are her or his parents, then the other closest relatives and dear ones, and next comes the local community (self-government, social organizations), and then ultimately public authorities of the state. The first and last stage of the line of responsibility: father and public authorities (in case of a pregnant woman); parents and public authorities (in case of a child in the pre-natal phase) should be regarded as ordinary, obligatory levels of responsibility to afford 'special care and assistance'.

It seems that the lack of practice of the above support and lack of respect to perform this social duty of the public authorities and parents (and especially fathers) lies as the basis for a decision to terminate a pregnancy. There are situations when women are left alone – being pregnant and without support from the father of the child, within the ordinary schedule the emotionally closest person of the mother, and without institutional social help of state authorities.

Why is abortion promoted as a means of dealing with pregnancies? Is termination of pregnancy regarded as a financially beneficial method, a preferable alternative to the prospect of taking care of a child? One may observe that it is obviously cheaper to finance a single medical service resulting in the termination of pregnancy rather than engage in social support of the pregnant woman and providing assistance to the child, within pre-natal and post-natal care up to her or his maturity. Are the financial restraints and an attitude of avarice the real grounds for public authorities' lack of diligence, care and deficiency in promotion of the rights of pregnant women?

It is precisely within this moment of vulnerability that the middle, intermediary subjects providing "special care and assistance to motherhood and childhood" come to the forum. Their supplementary task is to provide the necessary support that pregnant women lack. Within this perspective, pro-life movements engage in activities aimed at ensuring the effective protection of the rights of pregnant women connected to maternity.[42] One may regard it as a kind of self-help or pri-

[42] Cf. K. Haugeberg, *Women Against Abortion: Inside the Largest Moral Reform Movement of the Twentieth Century*, Urbana 2017.

vate-public assistance, in the form of implementation of public duties by private actors.

The maternity experience is a vital, immensely positive fulfillment and enhancement of women's lives. Within the conditions of the contemporary world, it seems that the past-time hardships of single motherhood or difficulties in combining professional engagements and family life are gradually diminished, due to the regulatory action of public authorities, improvements in social support systems and the development of modern technologies. The innovation in science makes life in contemporary affluent societies more comfortable. Moreover, the rapid development of healthcare technologies and, in particular, prenatal medicine contributes to the performance of successful operations of babies *in utero* and further treatment while still in the pre-natal stage.

The engagement of women in pro-life movements may be regarded as an expression of true feminist solidarity. One may focus in this context on an example of Teresa Strzembosz (1930-1970). She was born in Warsaw as a triplet (with two brothers, Adam – a lawyer and President of the Supreme Court (1990-1998) and Tomasz (died in 2004) – a historian and scout activist). Teresa was a social activist in communist Poland, supporting the protection of life in the pre-natal phase. She organized pro-life courses for doctors and nurses, defended their right to freedom of conscience and refusal to perform abortions. Teresa Strzembosz was one of the founders of family counselling institutions in Poland and organized houses for single mothers, promoting the project within female institutions of consecrated life.[43]

Another example of a woman engaged in various charitable feminine pro-life projects may be Mary Ann Glendon (born 1938), emeritus professor at Harvard Law School and an official representative of the Holy See to the United Nations Conference on Women in Bejing in 1995.[44] She has been active in pro-life activities since the 1970s, nearly all of this work has been in the form of speeches in parishes, schools, and other venues around the U.S., *amicus curiae* briefs in court cases and writing op-eds as well as other short articles. In the 1980s, she was a co-founder with other women of a pro-life group called "Women Affirming Life". This group's motto is "Pro-Life, Pro-Woman, Pro-Child, Pro-Poor" and it focuses on assistance to women in crisis pregnancies and counselling for women who have had abortions.

It is the poverty issue that is of vital importance within women's rights and pro-life movements. There exists a vast literature on the subject of poverty and

[43] Cf. E. Sujak, *Charyzmat zaangażowania. Życie Teresy Strzembosz (The engagement charisma. The life of Teresa Strzembosz)*, Warszawa 1988.

[44] Among her relevant publications on the subject is: (ed.) *Fundamental Rights and Conflicts among Rights*, Washington 2020; *The Transformation of Family Law. State, Law, and Family in the United States and Western Europe*, Chicago 1989; *Abortion and Divorce in Western Law*, Cambridge 1987.

human rights.[45] Within the context of the present article, one may quote the statement concerning the proposed remedy to the situation of world poverty:[46]

> *(...) However huge in human terms, the world poverty problem is tiny economically. Just 1 percent of the national incomes of the high-income countries would suffice to end severe poverty worldwide. Yet, these countries, unwilling to bear an opportunity cost of this magnitude, continue to impose a grievously unjust global institutional order that foreseeably and avoidably perpetuates the catastrophe. Most citizens of affluent countries believe that we are doing nothing wrong.*

The above quotation urges for civic and political engagement in finding proposals to address the pressing issues of the contemporary world. The pro-life movement may be regarded as an example of such an activity.

Pro-life movements may be considered as social engagements motivated by willingness to protect human rights of human beings in the most vulnerable stage of life: deeply hidden in the mother's body, completely dependent, unable to survive without her constant intrinsic biological maintenance, incapable of speaking and protesting at the prospect of losing life. Those movements are inspired by feelings of compassion and express concern for other human beings because of human dignity. Pro-life engagements often comprise actions of solidarity, inspired by pure and altruistic intentions to show concern for fellow citizens in order to protect future generations. Simultaneously, pro-life movements express essential care and compassion towards women in the most vulnerable situation of solitary pregnancy - women so often left aside and left alone by their male partners when they prove to be cowardly unwilling to cope with the new situation of a forthcoming baby. Hence it is pro-lifers that undertake this noble responsiblity of protecting the new life when fathers fail to engage in their parental role.

Concluding, one should underline two aspects of mutual interrelationship between women's rights and pro-life attitude. Firstly, pro-life movements aim at the well-being of both: children and their mothers. Their goal is dual in its character: both to secure the life of babies and to protect happiness for their mothers, while commencing their lifetime journey of mutual relationship of love. And secondly, the vital importance of pro-life movements concerns their practical side, which is devoted to practicing help and assistance to pregnant women, and thus safeguarding their women's rigths.

[45] One may pinpoint the recent publications on the subject, like: M. Davis *et al.* (eds.), *Research Handbook on Human Rights and Poverty*, Cheltenham 2021; S. Egan, A. Chadwick (eds.), *Poverty and Human Rights: Multidisciplinary Perspective*, Cheltenham 2021.

[46] T. W. Pogge, *World Poverty and Human Rights*, Polity 2023.

REFERENCES

Alvarez Manninen B., *Dialogues on the Ethics of Abortion*, London 2022

Bach-Golecka D., *Motherhood and law. Reflection on human rights provisions and selected judgments of the European courts*, "Studia Iuridica" 2021, Vol. 90, pp. 25-58

Bach-Golecka D., *The Emerging Right to Good Governance,* "American Journal of International Law. Unbound" 2018, Vol. 112, pp. 89-93

Banks A. F., *CEDAW, Compliance and Custom: Human Rights Enforcement in Sub-Saharan Africa*, "Fordham International Law Review" 2009, Vol. 32, pp. 781-845

Campbell M., *Women, Poverty, Equality: The Role of CEDAW*, Oxford 2018

Cardona Díaz D., *The CEDAW Convention: de jure and de facto dichotomy*, Barcelona 2019 https://ddd.uab.cat/pub/tfg/2018/194342/TFG_dcardonadiaz.pdf (accessed 15 May 2023)

Ciepły F., *Eugenic Abortion as Discrimination against Persons with Disabilities: Another Perspective on Current Constitutional Case in Poland*, *Forum Prawnicze* 2021, Vol. 68, issue 6, pp. 74-84

Davis M. *et al*. (eds.), *Research Handbook on Human Rights and Poverty*, Cheltenham 2021

Edwards D., *Post Abortion Syndrome is a Clinical Reality: A Critical and Methodological Reflection on the Politics, Biology and Phenomenology of Unwanted Pregnancy and Abortion*, "Journal of Psychology in Africa" 2009, Vol. 19, issue 3, pp. 429-437

Egan S., Chadwick A. (eds.), *Poverty and Human Rights: Multidisciplinary Perspective,* Cheltenham 2021

Finegan T., *International Human Rights Law and the "Unborn". Text and Traveaux Preparatoires*, "Tulane Journal of International and Comparative Law" 2016, Vol. 25, pp. 89-126

Freeman M. A., Chinkin C., Rudolf B. (eds.), *The UN Convention on the Elimination of All Forms of Discrimination against Women: A Commentary*, New York-Oxford 2012

Glendon M. A. (ed.) *Fundamental Rights and Conflicts among Rights*, Washington 2020

Glendon M. A., *The Transformation of Family Law. State, Law, and Family in the United States and Western Europe*, Chicago 1989

Glendon M. A., *Abortion and Divorce in Western Law*, Cambridge 1987

Greasley K., *Arguments about Abortion. Personhood*, Morality, and the Law, Oxford 2017

Haugeberg K., *Women Against Abortion: Inside the Largest Moral Reform Movement of the Twentieth Century*, Urbana 2017

Hellum A., Aasen H. A. (eds.), *Women's human rights: CEDAW in international, regional, and national law*, Cambridge-New York 2013

Holland J., *Tiny You. A Western History of Anti-Abortion Movement,* Oakland 2020

Inanilir O., *Derogation from the Free Movement of Goods in the EU: Article 30 and 'Cassis' Mandatory Requirements Doctrine*, "Ankara Bar Review" 2008, Vol. 2, pp. 106-113

Jones S., *Extending the Right to Life Under the International Covenant on Civil and Political Rights: General Comment 36*, "Human Rights Law Review" 2019, Vol. 19, pp. 347-368

Kjaergaard S. L., *Examining Gender Equality in Greenland in the Last Thirty Years: An Investigation through the Lens of the CEDAW Convention's Examinations*, "Sibirica: Interdisciplinary Journal of Siberian Studies" 2023, Vol. 22, issue 1, pp. 82-108

Leitzel J., *Regulating Vice. Misguided Prohibitions and Realistic Controls*, Cambridge 2008

Le Thuy H. *et al*., *Fetus Trafficking in Viet Nam – The New Criminal Method of Human Trafficking*, "International Journal of Criminology and Sociology" 2021, Vol. 10, pp. 1594-1603

Macintosh K. L., Dobbs, *Abortion Laws, and In Vitro Fertilization*, "Journal of Health Care Law and Policy" 2023, Vol. 26, pp. 1-48

Moran R. L., *A Women's Health Issue?: Framing Post-Abortion Syndrome in the 1980s*, "Gender and History" 2021, Vol. 33, No. 3, pp. 790-804

Nelu G., *Between the Right to Life of the Unborn Child and the Right to Dispose of the Pregnant Woman's Own Body*, "EIRP Proceedings" 2022, Vol. 17, issue 1, pp. 312-319

Nussbaum M. C., *Creating Capabilities. The Human Development Approach*, Cambridge-London 2011

Och M., *More Than Just Moral Urbanism? The Incorporation of CEDAW Principles into Local Governance Structures in the United States*, "Journal of Human Rights Practice" 2022, Vol. 14, issue 3, pp. 1060-1081

Peleg N., *International Children's Rights Law: General Principles*, (in:) U. Kilkelly, T. Liefaard (eds.), *International Human Rights of Children*, Springer 2019, pp. 134-157

Peleg N., Tobin J., *The Rights to Life, Survival, and Development*, (in:) J. Tobin (ed.), *The UN Convention on the Rights of the Child: A Commentary*, Oxford 2019, pp. 186-237

Perez C. C., *Invisible Women. Exposing Data Bias in a World Designed for Men*, London 2019

Pogge T. W., *World Poverty and Human Rights*, Polity Press 2023

Scott L., *The Double X Economy. The Epic Potential of Women's Empowerment*, New York 2020

Stępkowski A. (ed.), *Protection of Human Life in Its Early Stage. Intellectual Foundations and Legal Means*, Frankfurt am Main 2014

Sujak E., *Charyzmat zaangażowania. Życie Teresy Strzembosz (The engagement charisma. The life of Teresa Strzembosz)*, Warszawa 1988

Tella K. K., *Abortion Rights, Reproductive Justice and the State: International Perspectives*, Abingdon 2023

The Holy Bible (New Revised Standard Version), New York 1991

Ziegler M., *After Roe. The Lost History of the Abortion Debate*, Cambridge 2015

Ziegler M., *Research Handbook on International Abortion Law*, Cheltenham 2023

Zwingel S., *Translating International Women's Rights: The CEDAW Convention in Context*, London 2016