The Demonization of Women's Health and the Criminalization of Abortion: A Health Security Threat and Violation of Human Rights.

A Comparative Case Study of the United States and Poland

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List of abbreviations

AMA	American Medical Association
EU	European Union
FEMM	Committee on Women's Rights and Gender Equality
GDPR	General Data Protection Regulation
U.S.	United States of America
WHO	World Health Organization

1 Introduction

This chapter provides an overview of the scope of this thesis, explaining the objectives of the research, the questions addressed and their academic relevance, and the outline of the thesis.

1.1 An Overview of Abortion Bans

Abortion is a polarising argument both in politics and public opinion, and despite the success of feminist movements in the 1970s, reproductive freedom and reproductive justice are not only threatened but are subjected to a process of repression that started right after liberalization and started to be enforced in the 1990s.

In the past few years, the most remarkable cases in terms of abortion restrictions in the Western world are in Poland and the United States. Starting in October 2020, Poland severely restricted access to abortion in the country as a result of the increasingly autocratic drift of the government led by the right-wing populist and nationalist political party Law and Justice (Magdziarz & Santora, 2020). Despite the women's strikes and protests in the capital, the most participated since the revolutionary movements in the 1980s, the ban became effective starting January 27, 2021 (Magdziarz & Santora, 2020). A year later, in the U.S., on the 49th anniversary of *Roe v. Wade*, the legal case that legalized abortion in the country, the Supreme Court was rumoured to be considering the overturning of the 1973 decision, revoking the protection of the right to abortion at federal level (Tolentino, 2022; Rovner, 2022). The official overturning of the *Roe v. Wade* sentence became a reality on June 24, 2022, removing the constitutional right to abortion in the United States (Totenberg & McCammon, 2022). As a result, each state can legislate independently on the matter, resulting in at least half of them restricting abortion as an immediate effect, in order to align with the views of the local ruling party (Totenberg & McCammon, 2022).

These repressive developments are framed in the anti-abortion, pro-life movement, which is mostly based on religious ideology, the independence and the rights of the foetus, and traditional patriarchal remarks about womanhood (Żuk & Żuk, 2017; Palmer, 2009; Bourgeois, 2014). This is resulting in the erosion of women's basic human rights and, as reported by the World Health Organization (WHO), it is representing a severe threat to women's health as "almost all deaths and morbidity from unsafe abortion occur in countries where abortion is severely restricted in law and/or in practice" (2012: 1). Furthermore, worldwide data shows that the number of abortions is not affected by its legality (WHO, 2012; Guttmacher Institute, 2020). Evidence shows that, on the contrary, lifting bans and restrictions on safe and legal abortion "results in a reduction of maternal mortality" and "a reduction in the overall level of maternal mortality" (WHO, 2012: 2).

The direct consequence of the restrictions on abortion practices is the criminalization process, either of the women undergoing an abortion, the providers and facilitators, or both, thus creating an environment of fear and mistrust around reproductive health and pregnancy (Cox, 2022). This leads to a series of risks for pregnant individuals, even if they have not had an abortion. For instance, the possibility that a woman considering undergoing an abortion may miscarry before since the incidence of miscarriage is comparatively high in the first five weeks of pregnancy or might change her mind about terminating a pregnancy but suffer complications that lead to the death of the foetus (Conti-Cook, 2020). These are examples where the pregnant person may be subjected to the double trauma of suffering a miscarriage and being investigated for it (Holt, 2022).

1.2 Research Question and Research Objectives

The research better explores the effects of the criminalization of abortion on women's health security and human rights, examining how the anti-abortion movements led to the restrictions and bans on abortion rights. The main research question is: *What are the security risks for women related to the restriction of*

abortion? What are the security consequences of the criminalization of abortion, the violations of reproductive rights and the right to privacy related to digital data and surveillance practices for prosecution purposes?

To answer this question, the dissertation focuses on assessing the counterproductive impact of abortion bans on the protection of the unborn and women. More specifically, three research objectives are set.

The first research objective is to examine how abortion bans can have direct consequences on women's health security. Investigating the impact of restricted abortion access on maternal health, this objective focuses on understanding the effects of abortion restrictions on maternal mortality rates, morbidity, abortion, and birth rates (WHO, 2012).

The second research objective is to analyse the consequences of abortion criminalization, in terms of how the prosecution methods implemented by governments and law enforcement agencies, are affecting not only pregnant women's security but also their communities, marginalizing pregnant individuals and provoking a generalized fear of pregnancy (Cox, 2022).

The third research objective is to analyse the consequences of abortion criminalization on women's health choices and accessibility, exploring how the mistrust and fear of medical providers, health apps, and prenatal testing, contribute to shaping women's decisions and behaviours surrounding reproductive healthcare (Allyse & Michie, 2022).

1.3 Academic Relevance

The wave of repression of abortion in the Western context started right after the liberalizations of the 1950s and 1970s, managing to impose the first restrictions in the early 1990s and then in the 2020s, making the topic and the focus on feminist security of extreme relevance and importance. Moreover, anti-abortion legislation spreading internationally represents a security issue for women across the globe, demanding to be addressed in terms of gender security (Thomson & Pierson, 2018). A feminist perspective on the issue allows women

to contextualize and "articulate their perceptions of insecurity and re-imaginings of security," which could result in future changes and improvements on the matter (Thomson & Pierson, 2018: 353). Furthermore, the focus of the research reinforces "the inextricable link between women's health and human rights and the need for laws and policies that promote and protect both," (WHO, 2012) while expanding on the downfalls of digital data in the prosecution of abortion and the impacts on women's security and rights (Conti-Cook, 2020).

Finally, as the underlying scope of the dissertation is to support safe and legal abortion, it also encourages a positive conceptualization of abortion in terms of "women's strength and resourcefulness," reshaping the participation of women in the social and community context (Boyle, 1997 in Macleod et al., 2017: 6).

1.4 Thesis Outline

The thesis is structured in the following way. The second chapter reviews in detail the available research and literature on abortion. It starts with an overview of the core theories at the basis of abortion rights, then its integration into the reproductive rights movement. In particular, the lack of discussion of abortion rights in traditional security study literature and the consequent necessity to introduce feminist security study literature. Moreover, the critiques of the reproductive rights movement are addressed, and the reproductive justice framework is introduced. The second part of the literature review delves into the anti-abortion debate, touching upon the ideological and religious approach and the role attributed to the foetus. Finally, the third part of the second chapter focuses on the effects of criminalization and prosecution on pregnant individuals and their communities, expanding on the role of digital data and technology.

The third chapter discusses the chosen methodology for the dissertation. First, it introduces the applied epistemological approach, which consists of using a critical feminist lens in an effort to research and write *for* women and not *on* women. The chosen method is a comparative case study between the United

States and Poland because they both experienced a tidal pattern of liberalization and repression of abortion access, but due to their social and political differences, these had different effects on maternal mortality at first but is expected to have similar impacts on women's security. Particular attention is given to the need for an intersectional perspective in the research and analysis method in order to provide as inclusive an outcome as possible. Finally, the criteria for the case selection are presented, followed by an overview of the data and sources employed and the limitations.

The fourth chapter delves into the case studies under analysis, providing a timeline and an overview of the history of abortion in the United States and Poland, starting to identify the similarities and differences in the tidal process of liberalization and repression and the consequences on maternal health. Namely, how the anti-abortion movements were motivated by the liberalization of the practice and advocated for restrictions that were partially introduced in the early 1990s. Furthermore, it delves into the latest developments in terms of restrictions with the Polish Constitutional Court ruling which made illegal the most common reason for access to abortion on October 22, 2020, and, in the U.S., the overturn of *Roe v. Wade* on June 24, 2022. Finally, it introduces how, as a result, abortion is criminalized and the methods of digital surveillance implemented for prosecution purposes, such as the role of trackable digital data and Femtech in the U.S., and the pregnancy registry in Poland.

The fifth chapter delves into the findings of the research and the analysis. In the first part, the different foundations of the liberalization of abortion access and how these had different repercussions on women's health security in terms of maternal mortality. In particular, the correlation between the number of abortions and the continuity of restrictions with the maternal mortality rate is identified and analysed. In the second part, the consequences of the criminalization of abortion on pregnant individuals' privacy and health security are explored. Namely, how the prosecution methods exploiting trackable digital data in the U.S. and the pregnancy registry in Poland are affecting access to

healthcare, severely impacting pregnant individuals' health and the health of the pregnancy, resulting in a generalized fear of pregnancy in every woman, including those that want one.

2 Literature Review

2.1 Introduction

The literature on abortion is divided between the pro-life and the pro-choice debate. Some authors explore the debate from the body autonomy perspective and the relative weight of a person's right to life (Thomson, 1976). Others focused on the battle for reproductive rights, which include the right to abortion, to be integrated into the security studies literature as a fundamental human right (Thomson and Pierson, 2018). Moreover, critics expanded the reproductive rights debate pointing out its limitations in terms of social, class, and racial intersections that are neglected in the feminist discourse on abortion rights (Macleod et al., 2017).

On the other hand, the pro-life debate focuses on the status of the foetus as a human being starting from conception, consequently granting it rights over the pregnant woman that no other person could have (Thomson, 1976). Other authors concentrate on the responsibility of the pregnant woman towards the foetus and herself, assuming that the fulfilment of womanhood coincides with motherhood (Bourgeois, 2014).

This chapter explores the core theories of the abortion debate, then evolves into the reproductive rights movement, its developments, and implications. Finally, the anti-abortion movement and the criminalization of abortion by exploiting digital data and surveillance are explored.

2.2 Core Theories

The literature on abortion rights has its foundations in Judith Thomson's "A Defense of Abortion" from 1976, where she introduces the ethical clash between the concept of body autonomy and the right to life. In order to draw the

complexity and the paradoxical nature of the clash, Thomson provides the example of the violinist: a person is kidnapped, and their circulatory system is plugged into the one of a famous violinist whose life is in danger. The person is chosen because of blood compatibility and unplugging would result in the death of the violinist; thus, the person is burdened with full responsibility for the musician's life, with complete disregard for their own (Thomson, 1976). The metaphor aims to prove the irrationality of forcing someone to give up their body integrity for an unspecified amount of time because "granted you have a right to decide what happens in and to your body, but a person's right to life outweighs your right to decide what happens in and to your body" (Thomson, 1976: 49). This argument displays the flaws of the anti-abortion debate in forcing women to bring pregnancies to term against their will. On this matter, there is a gap in abortion rights academic research analysing the discrepancies in the value of consent in bioethics, for instance, genuine consent is considered enough for organ donations and dismissing the consent or forcing someone to donate their organs is not legal. On the contrary, in cases of abortion, assisted suicide and euthanasia, genuine consent is not valued and overweighted by imposed pro-life principles.

Moreover, this anti-abortion argument fails to acknowledge that the responsibility of a mother is not limited to pregnancy, but is extended and demanding after birth as well, thus the woman's bodily integrity is violated when the foetus is granted greater rights than she does (Bourgeois, 2014). Contrary to the common pro-life debate, it is impossible to identify the exact moment human life is conceived from a scientific and medical point of view (Bourgeois, 2014). Consequently, this argument should not provide the authority to dictate a woman's decisions about their bodies (Bourgeois, 2014). Safe and legal access to abortion is crucial for women's equality and human rights (Bourgeois, 2014).

"Safe abortion" is defined by the WHO as: "abortion is safe when it is performed by a trained provider under sanitary conditions in the case of surgical abortion,

or when a person has access to high-quality medication, information and support to undergo a medical abortion" (2012). The available evidence shows that maternal mortality rates are directly affected by the removal of restrictions on abortion, specifically, the rate of maternal mortality from unsafe abortions decreases overall (WHO, 2012).

The realist definition of 'security' prioritises states as international actors that, through international relations, constantly strive for power and security in a pseudo-anarchic context, completely separating the domestic and the international domains (Griffiths, 1992). This definition has been disputed as limited in its attempt at being universal and disregarding the variety of actors that should be the subject of security (McDonald, 2011). The concept has been later expanded to 'human security' which includes the repercussions of instability and destruction that are not necessarily caused by war (Persaud, 2015). Moreover, some authors claim that human security should promote internal policies that focus on human rights (Vankovska, 2007).

The inclusion of gender in Security Studies research is essential for understanding and promoting positive change in the field of security (Sjoberg, 2011). Feminist Security Studies reshape traditional approaches and address the role of women and gender in the field, raising problems more than trying to solve them. Feminist Security Studies are the result of the debates and discussions they raise, the aim is not a unique solution, but the narrative achieved through compromises, disputes, and differences (Sjoberg, 2011).

In summary, the literature on abortion rights is based on Judith Thomson's (1976) influential work, which highlights the ethical clash between body autonomy and the right to life. Thomson's (1976) metaphor of the violinist illustrates the irrationality of forcing someone to sacrifice their bodily integrity for the life of another. This flaw in the anti-abortion debate disregards women's right to choose and places greater value on the foetus than on the woman carrying it (Bourgeois, 2014). This highlights the fact that the concept of genuine consent

is overlooked in the abortion rights debate, where it is essential in other bioethical contexts such as organ donation. Moreover, the WHO (2012) defines "safe abortion" and emphasizes that the removal of restrictions on abortion contributes to reducing maternal mortality rates from unsafe abortions and access to safe and legal abortion is crucial for women's equality and human rights. Additionally, the concept of security has evolved from a realist state-centric definition to a broader understanding of human security, encompassing various actors and human rights concerns (Griffiths, 1992; McDonald, 2011; Persaud, 2015). Ultimately, the inclusion of gender and feminist perspectives in the realm of Security Studies is crucial for understanding and positively transforming security dynamics (Sjoberg, 2011).

2.3 Reproductive Rights

This section examines the significance of reproductive rights with a focus on abortion, highlighting gendered injustices at social and bodily integrity levels. It discusses the absence of reproductive rights in security studies literature, contrasting it with the feminist security framework. Finally, criticisms regarding the limitations of promoting reproductive rights without addressing socioeconomic requirements and the marginalization of racial and class intersections are examined introducing the concept of reproductive justice.

Thomson and Pierson (2018) assert that “reproductive rights, especially abortion, are a fundamental component of women’s human rights” and “concern bodily integrity and physical security and have health and economic effects” (:350-1). Moreover, the reproductive rights discussion on abortion restrictions and unwanted pregnancies can be conceptualized in terms of gendered injustices on two levels (Macleod et al., 2017). First, on the level of those social components that make unwanted pregnancies unsupportable, such as gender, economic, and racial inequality regarding childcare, medical care, and work environment (Macleod et al., 2017). Second, on the level of bodily integrity, which is violated and represents an injustice when a woman is denied social and material support regarding her decision to terminate a pregnancy (Macleod et

al., 2017). Therefore, "abortion rights should not be seen as individual rights […] but rather as social rights, requiring a cultural revolution in our understanding of sexuality and reproductive freedom" (Mottier, 2013: 226). Women's reproductive freedom refers not only to the ability to decide when, how, and with whom to become a parent, thus implying the legality of this option, but also the feasibility of this choice in terms of economic and social conditions (Bourgeois, 2014). Accordingly, such an approach takes into consideration the right to have children as well as not to have children (Luna & Luker, 2013). However, safe abortion is turning into a luxury for the wealthy in nations where it is illegal or restricted, leaving not wealthy women with little alternative than to turn to dangerous practitioners (WHO, 2012).

Thomson and Pierson (2018) point out that traditional security studies literature mostly fails to include reproductive rights and women's security discourses, or it deliberately avoids controversial discussions about abortion. However, in the feminist security framework, "reproductive rights (and more recently "reproductive justice") is also deployed by feminist activists and scholars to highlight the ways in which the full spectrum of sexual and reproductive needs (amongst which abortion is central, alongside contraception, maternal care, etc.) are interconnected, interdependent and linked to broader issues of equality, social justice and health" (Thomson & Pierson, 2018: 352). Furthermore, the pro-choice movement tends to focus solely on abortion rights, but a more comprehensive approach has also been proposed by Ross (2020) rescaling the fight and focusing on "*reproductive oppression*—the control and exploitation of women, girls and individuals through our bodies, sexuality, labour and reproduction" (:14). Ross's approach identifies three aspects of the pro-choice movement should focus on: "reproductive health, which deals with service delivery; reproductive rights, which addresses legal issues, and reproductive justice, which focuses on movement building" (Ross, 2020: 14). In addition, the debate lacks to discuss the contribution that reproductive rights can make to women's physical safety, mental wellbeing, and the defence of their human

rights (Thomson & Pierson, 2018). As a result, women can be regarded "as the victims of sexual crime, but not the owners of sexual rights" (Thomson & Pierson, 2018: 360).

Social stigma is recognised to be one of the main aspects contributing to the sense of guilt and the impact of abortion on the mental and emotional state of women, when referred to as "unnatural, not normal, and unfeminine," the overall resulting connotation is perceived as shameful (Bourgeois, 2014: 30). On the other hand, the mental, emotional, and social impacts caused by a pregnancy completed under pressure are completely disregarded (Bourgeois, 2014). Women continue to undergo abortions even when the practice is banned, but the procedure, which is normally safe when "performed under regulated conditions," is instead performed under unsanitary and unsafe conditions (Bourgeois, 2014: 30).

Promoting reproductive rights has drawn criticism for being pointless without a number of socioeconomic requirements being addressed (Mottier, 2013). As mentioned, only those with sufficient financial resources can access procedures like legal and safe abortion, but also contraceptives, while coercive methods, gender-based violence, and racial discrimination prevent women from accessing these rights (Mottier, 2013; Macleod et al., 2017). Ultimately, this approach pointed out how racial and class intersections are marginalized in feminist discussions about abortion rights (Macleod et al., 2017).

The term 'reproductive justice' mentioned above, which was coined by the American Black Women's Caucus in 1994, emerged as a result of these critical discussions and challenges, facing the disconnect between legal rights and their actual exercise, establishing a link between social justice and reproductive rights (Mottier, 2013). As a result, the emphasis is shifted towards collective mechanisms that suppress reproductive freedom instead of an individualistic perspective based on reproductive rights (Mottier, 2013). Therefore, with regard to the unique injustices of unplanned or unsupported pregnancy, it is important

to specifically explore how various legislative and social conditions can support or hinder reproductive justice (Macleod et al., 2017).

In conclusion, low-income women and women of colour are the most dangerously affected by the criminalization of abortion, further motivating the cruciality of the reproductive justice movement acknowledging and protecting "those who are already enduring the effects of systemic racism, sexism and oppression, which are deeply embedded in racist policies" (Campanella, 2022: 12).

2.4 Anti-abortion Discourse

This section delves into the arguments and premises of the anti-abortion discourse. First, it challenges the classification of the foetus as a human being from the moment of its conceiving and argues for the independence of the foetus and its rights against the mother (Thomson, 1976; Palmer, 2009). Then the assumption that women naturally desire motherhood and the societal pressure on women to embrace it regardless of circumstances is discussed, reflecting limited perspectives on the perceptions and misconceptions of women in society (Bourgeois, 2014). In conclusion, a reflection on the common ideological nature of the anti-abortion debate in the two case studies is briefly mentioned (Żuk & Żuk, 2017; Koralewska & Zielińska, 2022).

The premise of most discourses that oppose abortion refers to the attribution to the foetus of the status of a human being from the moment of its conception instead of the moment of birth (Thomson, 1976). Indeed, the determination of the moment a foetus might become a human being is arbitrary only to a certain extent, as Judith Thomson (1976) argues, this moment can be identified well before birth but most certainly not right after conception, when the foetus practically consists of a "clump of cells" (: 48). According to Thomson's argument (1976), the main issue with anti-abortion discourse does not rely on the classification of the foetus as a human being, but in the lack of a logical and critical connection of this argument to the right of abortion. Indeed, this

argument also completely refuses “to grant to the mother that very status of person which is so firmly insisted on for the fetus” (Thomson, 1976: 52) and her right to a body that is hers: “if a human being has any just, prior claim to anything at all, he has a just, prior claim to his own body” (Thomson, 1976: 54). Moreover, it is often disregarded that both the mother and the foetus are innocent beings, even though one represents a threat to the other while one is threatened, and the fact that this is not because of any fault on any side (Thomson, 1976).

Another argument of the anti-abortion discourse is drawn upon the independence of the foetus to affirm its right to life, granting it rights against the mother, from whom it completely depends, that no other individual deemed as independent possesses (Thomson, 1976). The independence of the foetus has been accentuated by the evolution of ultrasound imagery. As highlighted by Palmer (2009) the arbitrary and complete separation of the foetus from the pregnant person’s body reinforces the perception of its individuality and autonomy, prompting the opposition between women and foetuses’ rights. This visualization of pregnancy has also isolated the debate from social, political, and economic issues related to it, while also providing a medicalized lens to the religious and ideological debate on the prohibition of legal abortion (Palmer, 2009).

Meanwhile, such a level of responsibility is usually attributed to the mother whose pregnancy is a result of a voluntary act, discriminating from the right to life and the right to use the mother’s body for those foetuses that were conceived as a consequence of rape, thus not considering their abortion unjust killing (Thomson, 1976). In addition, as highlighted by Bourgeois (2014), pro-life discourse focuses on foetal rights recognizing them as equal to the rights of women disregarding the “distinction between pre- or post-natal life” (: 24).

The anti-abortion discourse is also based on the assumption that women naturally desire to be mothers and provide for their offspring, whose right to life

is opposed to the portrayal of women as lacking agency (Bourgeois, 2014; Macleod et al., 2017). Therefore, abortion is considered the wrong choice because motherhood is assumed to be the natural fulfilment of womanhood and women should embrace it regardless of the circumstances (Bourgeois, 2014). This narrow and two-dimensional position on "femininity, sexuality, and the role of women in society" reflects the limited heteronormative and monogamous perspective on marriage and the 'true family' which aims at maintaining "women's traditional roles in femininity, sexuality, and marriage," creating a rift between what is considered normal and abnormal for a family structure (Bourgeois, 2014: 29). Moreover, this structure fails to mention "the male role within reproduction, pregnancy, or abortion. This absence of male responsibility places the onus of guilt, shame, and decision-making about abortion on women" (Bourgeois, 2014: 29).

The two countries under analysis, the United States and Poland, mostly share the root causes of the anti-abortion discourse, the main one being ideological pressure which centres "on 'defending the unborn', 'protecting women', and 'preserving culture and nation'" (Żuk & Żuk, 2017; Koralewska & Zielińska, 2022: 673). The instrumentalization of children in political debates has proved to be an effective tactic in political debates, and the protection of foetuses has managed to shift the attention from the end goal, which is that "anti-abortion activism maintains its roots in denying individuals with uteruses full control over their bodies and reproduction" (Ewulonu, 2022: 155). For this reason, Roberti (2021) argues that the anti-abortion movement has evolved its debate into a "pro-woman" perspective and focuses on the danger that abortion represents for women who consequently need to be 'educated' and protected from such practices. Moreover, in the case of Poland, it is argued that the practice of abortion is structured as a national threat to Polish culture (Koralewska & Zielińska, 2022).

2.5 Criminalization and Prosecution

This section focuses on the criminalization of pregnant individuals and the implications of technology in the context of abortion. It begins by defining criminalization and emphasizing that restricting access to abortion only leads to unsafe practices and increased morbidity and mortality rates (Conti-Cook, 2020; WHO, 2012). Then the security threat posed by the criminalization of abortion is explored, as well as the consequences for women's health and safety, highlighting the reliance of women on the internet for medical advice and information, creating a digital trail that can be used by law enforcement agencies as evidence in investigations of suspected self-induced abortion (Conti-Cook, 2020). In particular, the increased control, surveillance, suspicion, and stigma faced by pregnant individuals and healthcare providers (Allyse & Michie, 2022).

'Criminalization' describes "the process through which multiple legal, political, and social manoeuvres—including some that are assisted by technology—are leveraged to punish people" (Conti-Cook, 2020: 11). Technology is not to be demonized per se because of the downfalls of its exploitation for the criminalization of pregnant individuals, it still represents a crucial and useful tool that grants access to information and abortion medications (Conti-Cook, 2020: 12).

It is crucial to consider that "miscarriages naturally terminate up to 21% of pregnancies after week five and as many as 75% of pregnancies before week five; thus, it is not uncommon for a woman contemplating an abortion to coincidentally suffer a miscarriage" (Conti-Cook, 2020: 51). Moreover, independently from the legality of abortion, statistically a woman will resort to abortion either way, the number of abortions nor birth rates are affected by the legal restrictions on abortion practices (WHO, 2012). What is directly affected by the ban on abortions is the morbidity and mortality rate as a result of unsafe abortion practices, according to the WHO: "the accumulated evidence shows that the removal of restrictions on abortion results in a reduction of maternal

mortality from unsafe abortion and, thus, a reduction in the overall level of maternal mortality" (2012: 2).

The process of politicization and criminalization of abortion is only part of the multi-layered institutionalized assaults that women have to deal with at the expense of their rights and well-being (McMillan, 2022). For one thing, in countries where abortion is permitted in cases of rape, the legal and forensic requirements for evidence purposes can be demanding and overwhelming for the victim, causing them to resort to clandestine abortions (WHO, 2012). Therefore, the consequences of criminalization of abortion represent a security threat for women and their health, as the FEMM mission of the European Parliament to Poland found, "from a social perspective, abortion is dangerous when it is portrayed as something shameful - safety decreases with secrecy" (European Parliament, 2022). In fact, limiting and removing the right to abortion is not stopping abortion practices altogether, but promoting unsafe ones, mostly self-administered, that could lead to fatal complications for the women resulting in around 8-11% maternal death cases each year in countries that ban abortion (Lancet Regional Health – Europe, 2021).

Because of this institutional demonization of women's health, women are increasingly relying on the Internet for medical advice and essential information on their options, eventually bypassing abortion bans (Conti-Cook, 2020). The research shows that these methods leave a considerable digital trail such as browser history, location tracking data, home automation devices, data in apps, and social media activity, that can then be used by law enforcement agencies as relevant evidence to charge women investigated for self-induced abortion (Conti-Cook, 2020).

However, women who undergo an abortion are not the only target of criminalization, criminal penalties also include clinicians who can face imprisonment charges for performing abortions (Allyse & Michie, 2022). In addition, citizens are allowed to report those they suspect of having had an

abortion, contributing to the wrong convictions of women who suffered a miscarriage (Allyse & Michie, 2022: 1). “If these more extreme measures are permitted to move forward, pregnant individuals, their families, and their healthcare providers will be forced to navigate an increasingly complex patchwork of legal risks” (Allyse & Michie, 2022: 1). More specifically, “anti-abortion prosecutors and police can now circumvent the medical staff they previously relied on for reports of suspected terminations” (Conti-Cook, 2020: 56). Based on this threat, the literature identifies a consequential threat: Femtech apps and privacy standards of the data.

2.5.1 Femtech and Personal Data

‘Femtech’ “is a term ‘applied to a category of software, diagnostics, products, and services that use technology to focus on women’s health,’” such as menstrual tracking apps, which “is yet to be robustly interrogated from a legal and regulatory perspective” (McMillan, 2022: 411). Femtech generates from the need to merge the realm of technology with moral values and norms, and in response to the specific feminist issue relative to the ignorance of the field on women’s health (McMillan, 2022: 413). Specifically, health data has historically been male-centred, systematically excluding women from medical research and decision-making on the assumption that male bodies are representative of the human body in general (Mishra & Suresh, 2021). This reflection originates from liberal feminism in opposition to the patriarchal values society is based on, methodically marginalizing women’s bodies and issues (Mishra & Suresh, 2021).

The challenge for Femtech arises from the potential misuse and commodification of intimate personal data at the hands of private actors, corporations, and government surveillance (Mishra & Suresh, 2021). This provokes the opposite effect to the mission statement of Femtech, resulting in the disempowerment of women through the exploitation of their user-generated data, putting them in extremely vulnerable positions and putting their privacy and security at risk (Mishra & Suresh, 2021). Moreover, this happens in the

context of a lack of better alternatives for most women in terms of managing their reproductive health (Mishra & Suresh, 2021).

"Criminalising abortion has paved the way for the use of digital data by US authorities to identify women online who are seeking to terminate a pregnancy" (Vidal & Merchant, 2022: 3). A mobilization on the internet warned women to stop using menstrual tracking apps and uninstall them completely because results from studies in the US of the privacy settings of the apps showed that, following the overturning of abortion rights, women's data is at risk (Vidal & Merchant, 2022). In fact, "the US Cloud Act can compel digital companies to pass on their data to the authorities, particularly as part of police and/or criminal inquiries, with the risk that personal data will be used to punish women for having an abortion as well as those who helped them." (Vidal & Merchant, 2022: 9). In addition, Scatterday (2022) found that the privacy policies of Femtech apps not only failed to protect users' data from security threats but also misled users and sold their data to third parties.

In fact, the data collected by menstrual cycle tracking apps can be exploited by law enforcement agencies to identify women who are pregnant and might be considering getting an abortion or have already proceeded (Vidal & Merchant, 2022). Ultimately, these apps that were conceived for the amelioration of women's reproductive health, risk aiding its criminalization where abortion laws are or are becoming stricter, providing 'valuable' evidence for criminal investigations when an abortion is suspected, also in cases of miscarriage (McMillan, 2022; Fowler & Morain, 2020; Campanella, 2022).

The inadequate regulation of Femtech apps does not grant the same protection of private and intimate health data that patients are granted in their relationship with a doctor or practitioner (Fowler & Morain, 2020). This constitutes a privacy and security threat that should be tackled by tightly regulating user-generated data from Femtech apps (Cox, 2022). Without access to this data, prosecutors could only rely on circumstantial evidence, in the absence of direct

confessions and proof, to demonstrate the intention behind a pregnancy termination (Conti-Cook, 2020).

Hence, women can be criminalized with Femtech data in conjunction with other tracking of digital data, such as the purchase of a pregnancy test or abortion pills and geolocation (Vidal & Merchant, 2022). 'Digital data' is referred to as "information and data of value to an investigation that is stored on, received, or transmitted by an electronic device. It can include online browsing history, unencrypted communications, location history, purchasing history, social media activity, and health data generated by apps or added manually, for example, menstrual cycle trackers" (Conti-Cook, 2020: 13). Therefore, ethical questions are raised concerning these practices over the control of women's bodies and limitation of their freedom (Vidal & Merchant, 2022), especially in those states and countries "where women's bodies are under surveillance due to the political environment" (Shipp & Blasco, 2020: 491). "All these systems generate digital trails that could potentially be used as evidence against pregnant individuals and providers in prosecutions related to the terminations of their pregnancies" (Conti-Cook, 2020: 13).

It is argued that the downfall of this exploitation of digital data can result in fear of seeking medical care because of the possibility of being prosecuted, resulting in people not obtaining the care they require, which affects their health security (Cox, 2022). In the U.S. the issue is intensified by the overturn of *Roe v. Wade*, but it sparks a chain effect validating surveillance methods in other countries such as Poland (Cox, 2022). The situation in Poland, as part of the European Union, is different in terms of privacy policy because of the General Data Protection Regulation (GDPR), which "protects citizens from the collection and use of personal data by third parties, public and private" (Vidal & Merchant, 2022: 8). However, GDPR is not a foolproof guarantee for the protection of personal data, as apps could potentially circumvent it by not being transparent nor clear about their place of registration (Vidal & Merchant, 2022). Nevertheless, in Poland, the risk of violation of privacy is of a different nature

because, on June 6, 2022, the Minister of Health established a 'pregnancy registry' so that institutions do not have to circumvent medical staff for incriminating evidence, mandating them instead to register into a national database, the Medical Information System, every pregnancy (Kocemba, 2022; Cox, 2022).

This registry enhances the surveillance capabilities of Polish institutions, leading towards a public health crisis in a context where "the number of doctors providing abortion services is declining, the teaching of abortion techniques in medical schools is marginal, and a mandatory consultation before an abortion (in some regions done by religious organizations) and a so-called cooling- off period add barriers to access" (Miani & Razum, 2021: 485). Most likely, the registry will allow prosecutors to investigate those who are suspected of providing or facilitating access to abortion, including practitioners and family members, creating a generalized fear and distrust in the healthcare system (Cox, 2022). Hence, this affects any medical practice related to pregnancy, including early prenatal care and testing which are usually encouraged to promote the wellbeing of the foetus and the mother, but that would leave an easily detectable trail in case the pregnancy is not carried to term (Allyse & Michie, 2022). In this surveilling context, any digital or paper trail about pregnancy would raise suspicions in case of abortion or miscarriage, discouraging women hesitant about their pregnancy from testing, and endangering their health and their pregnancy (Allyse & Michie, 2022).

Furthermore, this criminalization trend could aggravate and blur the limits of what is considered endangering behaviour for a pregnant woman towards her pregnancy, expanding the control over actions and habits that are technically legal (Conti-Cook, 2020). For instance, the perception of what is considered dangerous for a foetus would depend on the prosecutors' preferences: "to self-medicate, to not medicate, to seek substance abuse treatment, to drink alcohol or smoke cigarettes—are all decisions that could be criminalized and potentially surveilled digitally" (Conti-Cook, 2020: 6-7).

The consequences of criminalization of pregnant individuals have knock-on consequences on multiple other aspects of their lives, but also on their families, and the communities around them (Conti-Cook, 2020). They "may lose custody over other family members because of a prosecution, lose work, medical care, careers, educational opportunities, stable housing, vehicles, confiscated digital devices, and many other survival tools as a result of a prosecution" (Conti-Cook, 2020: 9). Therefore, this further isolates and marginalizes pregnant individuals (Conti-Cook, 2020), even those who want to carry their pregnancy to term and their healthcare providers, they face the pressure and stigma of being under increased control, surveillance, and suspicion (Allyse & Michie, 2022).

3 Methodology

This chapter will showcase an overview of the methodology chosen to address the research objectives of this dissertation, discussing the core theories of comparative case study, the case selection process, the methods of analysis and the limitations of the method.

3.1 Epistemology

The research is approached from a feminist perspective, committing to writing *for* women rather than *on* women and attempting to implement the issues of traditional research from the lens of critical feminist epistemology (Doucet & Mauthner, 2012). This means to include as much as possible women's narratives and experiences, integrating diversity and intersectionality, and addressing the complexity of women's perspectives and the harms of generalization (Doucet & Mauthner, 2012). This approach makes it possible to analyse women's experiences and in particular the impact of socio-political structures on their bodies and security.

Feminist research first addressed the lack of consideration of gender from traditional research approaches but also deemed its mere inclusion as a variable inadequate and not sufficient, arguing that a comprehensive approach had to embrace women's viewpoint (Rayaprol, 2016). The theory of the feminist

standpoint integrates into the research "the struggles of women to provide a less biased, less defensive, less perverse and, most of all, a more equal understanding of human relations" (Rayaprol, 2016: 371). However, as already addressed in relation to the reproductive rights movement, the feminist standpoint theory faced criticisms as it is vulnerable to generating further discrimination "based on race, caste, class, sexuality and religious/ethnic identity" (Rayaprol, 2016: 373). In response to this issue, postmodern feminists challenge the universalism professed by standpoint feminists, approaching the intersectional perspective, which not only contextualises the research to its social location but also promotes the conscious move to the centre of those that are traditionally left at the margins, defying their invisibility from traditional methods (Rayaprol, 2016).

To sum up, the feminist perspective promotes a diverse approach to the research for this dissertation, implementing the scope of Feminist Security Studies of raising discussions and debates on topics acknowledging their complexity and without the presumption of finding solutions (Vankovska, 2007).

3.2 Case Study Research

For the purpose of this dissertation, a case study method has been chosen. A case study has been defined by Yin (2009) as "an empirical inquiry which investigates a phenomenon in its real-life context" (cited in Priya, 2021: 95). More specifically, this thesis has been developed with an *explanatory* purpose, with the goal to showcase the 'why' and 'how' certain situations of the phenomenon examined take place or not (Priya, 2021).

This methodology is deemed to be the most appropriate to answer the research question with in-depth research on a real-world issue analysing how different approaches to the repression and criminalization of abortion are similarly affecting the health security of women. Based on the purpose of this dissertation, a comparative case study approach has been selected and is further explored in the next section.

3.2.1 Comparative Case Study

The comparative case study approach is a method based on real-world experience and aimed at explaining what the process is that connects two situations and what role one has in influencing and causing the other (Bartlett & Vavrus, 2017). In addition, according to Barlett and Vavrus (2017), the comparative approach also entails the principles of critical theory, including feminism and critical race theory, which reflect the purpose of this dissertation studying "structures, processes, and practices of power, exploitation, and agency" (Bartlett & Vavrus, 2017: 11). Moreover, it allows a deeper and detailed understanding of the cases through the use of a variety of research tools on a limited number of subject studies.

First, it allows to investigate the complex issue of women's security related to abortion with real-world examples and the flexibility of the case study method allows to tailor the research to the context of the research question. This has to be unpacked on multiple levels, examining not only how the abortion bans have a direct effect on women's health and security, but how the criminalization and prosecution process has a larger impact on the entire community.

Second, the research benefits from comparing two countries with distinct political, legal, and judicial systems as it is better suited to address the research question. By examining the similarities and differences in restrictions on abortion in different contexts that result in comparable impacts on women's security, the study can reveal broader patterns and underlying factors that transcend individual legal frameworks. This comparative approach allows for a comprehensive understanding of the effects of abortion restrictions on women's safety and well-being, despite the varying socio-political contexts, providing valuable insights to guide policy and advocacy efforts.

Third, the method allows the implementation of the feminist epistemology of exploring and narrating the multi-faceted experiences of women in the context

of a patriarchal society, exploring how the impact of abortion bans does not apply to all women in the same manner and degree.

In summary, the dissertation employs a comparative case study method to examine how different approaches to the criminalization of abortion impact women's health security. This aims to explain the differences and similarities between the two situations by comparing the United States and Poland. The research seeks to analyse the effects of abortion bans on women's health and security on multiple levels while considering diverse perspectives and implementing feminist epistemology.

3.3 Case Selection

For the purpose of this dissertation, the United States and Poland have been selected as the case studies to be compared. The choice has been made based on their similarities as well as their differences in the topic under research for a series of reasons.

First, both countries have a tidal process of liberalization and repression of abortion and have recently experienced a stronger wave of restrictions, Poland first at the end of 2020 (Magdziarz & Santora, 2020), and the U.S. followed 20 months later, in June of 2021 (Tolentino, 2022; Rovner, 2022). Comparing them shows the effect of the policy diffusion theory mentioned above and how the two countries are criminalizing abortion in different ways but with the same goal.

Second, both countries share the ideological pressure which bases most of the abortion debate on the religious debate. The comparison explores the different impacts they had on the repression of abortion and the effects on women's security.

Third, the two countries do not share the same political or legal system. The comparison explores the different effects of the federal system and the role and authority of the Supreme Court compared to the authority of the Polish Constitutional Court. Moreover, the comparison also sheds light on how the two

different legal frameworks have different outcomes on the prosecution methods allowed. The privacy breach levels permitted in the U.S. are not possible in the EU because of strict privacy regulations such as GDPR (Vidal & Merchant, 2022). However, it is relevant to the research to analyse how different persecutory methods lead to similar impacts on women's security. In particular, both countries under study are implementing the use of digital data and technology for prosecuting abortion providers and facilitators and, in the case of the U.S., also women who terminated their pregnancies.

In summary, this dissertation conducts a comparative case study between the United States and Poland to examine the impact of recent abortion bans. The choice is based on their similar wave of liberalization and repression and the shared ideological pressure surrounding the religious debate on abortion. Despite their different systems, comparing their approaches reveals comparable effects on women's security. Additionally, both countries are using digital data and technology in prosecuting abortion cases, warranting exploration of the generalizable effects.

3.4 Data and Sources

This dissertation employs some primary sources, such as court rulings, governmental and institutional reports, and a majority of secondary sources with the goal of providing an analysis through academic literature, think-tank reports, data from NGOs and reproductive rights organizations, and news articles. These sources have been selected based on their relevance to the research and their reliability, in order to offer an accurate and effective representation of the research subject and provide it with valuable perspectives on the consequences of the criminalization of abortion on women's health and security.

3.5 Limitations

This dissertation has limitations in its analysis due to the ongoing status of the subject of research, the polarizing nature of the abortion debate, and the social context of the author. Thus, the following points have to be made.

First, the data on maternal mortality refers only to a limited time frame, as part of the analysis is either too old or too recent for data to be available. As a result, the conclusions have to be drawn upon predictions based on trends observed in older data or data from different geographical contexts.

Second, the debate on abortion is polarized both in the sphere of public opinion and in the political sphere because of its constant juxtaposition with the political, ideological and religious debate. This polarization can have repercussions on the analysis because it can produce biased interpretations, impact the objectivity of the research, and affect a critical constructive debate by limiting the diversity and inclusivity of perspectives.

Third, the case study and the comparative case study methods are limited in their generalisability to other situations as, especially in this case, it delves deep into two specific contexts producing detailed knowledge that can only be applied as a guideline for other circumstances.

Finally, the social context of the author must be taken into account when proceeding with the dissertation. In this case, the author's social status as a white woman can be perceived as a potential limitation that requires careful consideration. The author is aware of these considerations and aims diligently to overcome any biases or assumptions that may arise due to her background.

4 Case Studies

4.1 Introduction

Chapter four introduces the case studies, namely the security impact of the patterns of abortion liberalization and restriction in the United States and Poland. The decision to focus the research on these two countries originates from the analysis of the history of abortion in the two countries and how the process of criminalization is resurging and threatening women’s health and security. This section provides an overview of the history of abortion in both countries and the latest developments towards its restriction. First, for each state a background is

presented, showcasing the driving forces towards the first liberalization movement between the 1950s for Poland and the 1970s for the United States. This provides an overview of how very different approaches to liberalization did not manage to establish the right to abortion once and for all, but on the contrary, it became a partisan debate and sparked stronger motivation in reactionary movements to fight for abortion restrictions and bans (Baker, 2022; Nowicka, 2007). Then, the chapter presents an outline of how this politicization and polarization led to the overturning processes in both countries since 2020. Moreover, it concludes on the risks associated with the persecutors' methods of criminalizing abortion, in particular the weaponization of digital data and digital surveillance (Vidal & Merchant, 2022; Fox Cahn & Manis, 2022; Holt, 2022). The comparison of the two case studies shows that both experienced a wave of liberalisation and repression as a tidal effect, which, especially in the U.S., resulted in cyclical trends through the years as visualised in Figure 1 and Figure 2.

4.2 The United States

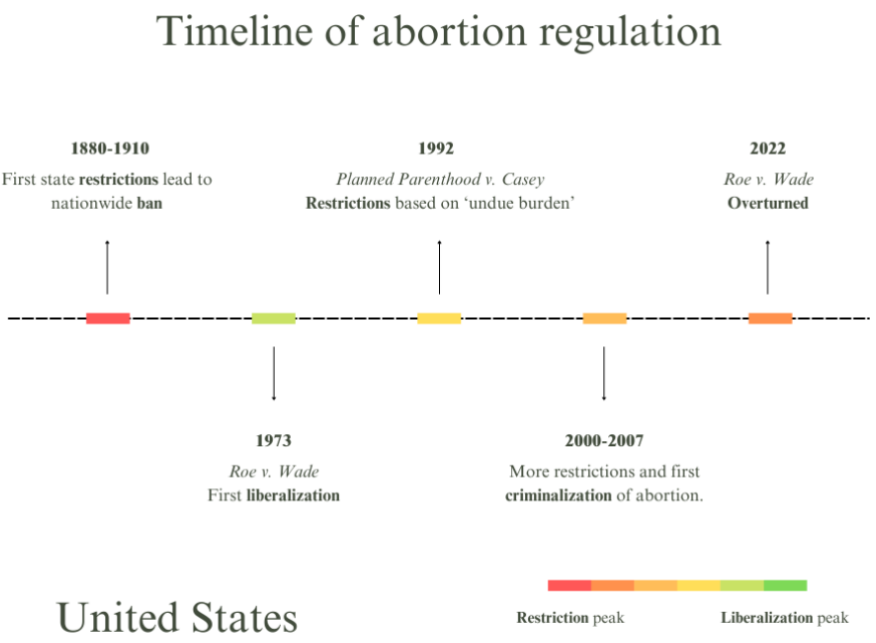

Figure 1 Timeline of abortion regulation in the United States (author's own visualization)

4.2.1 The History of Abortion in the United States

The first instances of abortion regulations in the United States date back to the British colonial period and they were based on racial discrimination (Baker, 2022). White women were allowed to perform an abortion until the so-called 'quickening', that is, until the foetal movements were detectable, and the rule around the 1820s mainly consisted of prohibiting the sale of the mix of chemicals used to induce abortion (Baker, 2022). On the other hand, Black women and other women of colour were slaves subjected to the rule of their owners, who benefited from the birth of as many children as possible (Baker, 2022). However, for the most part, surgical abortion was rare and abortion-inducing methods were the most common procedure historically reported (plannedparenthoodaction.org). Most importantly, those who dealt with women's reproductive care were women themselves, namely midwives and

nurses, who were trusted and skilled medical practitioners essential for women's healthcare (Winny, 2022; plannedparenthoodaction.org; Conti-Cook, 2020).

This situation changed in 1847 with the creation of the American Medical Association (AMA) for the regulation of reproductive health which started a campaign for the criminalization of abortion (Conti-Cook, 2020; Winny, 2022; plannedparenthoodaction.org). As a result, by 1880 all states restricted abortion with rare exceptions when the mother's life was considered in danger by a doctor, resulting in nationwide bans in 1910 (Baker, 2022; plannedparenthoodaction.org). This is the first instance of repression and, at this point in time, abortion was illegal independently from the stage of the pregnancy and with rare exceptions to save the mother's life, but the decision could only be taken by doctors (plannedparenthoodaction.org). However, doctors, as well as the AMA, were mainly white men who gained more power over women's bodies by removing them from the field of reproductive care and moving it to the realm of male doctors, also because of the eugenic movement of the time (Conti-Cook, 2020; Baker, 2022; plannedparenthoodaction.org). This movement reflected the white supremacist goal, fuelled by xenophobia and misogyny, of preserving the privilege of the white male by attempting to force white women from the upper class to procreate more in response to the immigration influx the United States experienced in the early 1900s (Conti-Cook, 2020; Baker, 2022; plannedparenthoodaction.org).

As a result, maternal mortality due to unsafe abortion practices increased nationwide, and brutal and desperate methods began to be practised (Baker, 2022). To this day it is impossible to quantify the actual consequences of the ban in terms of death, permanent damage, infertility, and chronic illness (Winny, 2022; Baker, 2022; www.plannedparenthoodaction.org). In response, in the following years, clandestine organizations started to provide underground abortion, such as the clandestine feminist abortion service known as *Jane*, which provided eleven thousand abortions, both in the first and second trimester, with a level of safety comparable to today's legal abortion standards (Baker, 2022).

The first reconsideration of more lenient abortion laws happened because of the Thalidomide case in 1962, a drug causing severe birth defects, and the rubella outbreak, between 1963 and 1965, which had severe consequences on pregnancies and births (Winny, 2022; plannedparenthoodaction.org). However, the prerogative of accessing safe therapeutic abortion, even in these cases, remained a privilege for a small group of women, mainly white and wealthy (Winny, 2022). Nevertheless, the commitment of women who challenged the system in court to gain access to legal abortions in hospitals, together with those who got an abortion approved based on the threat to their physical or mental health, built the foundations for the reforms that led to *Roe v. Wade* (Winny, 2022).

First, in 1964, activists fighting for the liberalization of abortion funded the Association for the Study of Abortion (ASA), the first national group of sorts, which strategically opted to campaign for abortion necessary for medical reasons, with the long-term goal of gradually expanding full access to abortion (plannedparenthoodaction.org). In 1966, the tide started to move towards liberalization when the state of California revised the abortion ban as a result of the nationwide support for the nine doctors who were sued for carrying out abortions on women who were exposed to rubella, an illness known to cause foetal damage (plannedparenthoodaction.org). Then, in 1969, the National Association for the Repeal of Abortion Laws (NARAL) was established; the first of its kind, the only goal of NARAL was to advocate for the legalization of abortion (plannedparenthoodaction.org). These efforts led to nationwide achievements between the late 1960s and the early 1970s towards abortion reforms, with 14 states rectifying their abortion legislation and starting to include cases of incest and rape (Baker, 2022). In cases such as in the state of New York, the first to permit abortion on demand until the second trimester, clinics saw an influx of patients from other states amounting to two-thirds, marking the deepening issue of accessibility based on affordability (Baker, 2022; plannedparenthoodaction.org). Feminist organizations tried to tackle the

financial obstacle to minimize the resort to unsafe abortion practices by providing support and lobbying for lower prices, but with limited avail (Baker, 2022).

4.2.2 Roe v. Wade

The milestone that changed abortion regulation in the United States was the Supreme Court decision in the landmark case of *Roe v. Wade* (Baker, 2022). On January 22, 1973, the 7-2 "Court's opinion decides that a State may impose virtually no restriction on the performance of abortions during the first trimester of pregnancy" (U.S. Supreme Court, 1973). Thus, the ruling introduced the so-called 'trimester system' shown in Table 1: the state can only partially regulate abortion in the second trimester for cases related to the well-being of the mother, while in the third trimester, the foetus should be protected by banning abortion because of its state of development, but exceptions can still be evaluated in extreme circumstances (oyez.org).

First trimester	No restrictions on abortion.
Second trimester	Reasonable regulations related to the maternal health.
Third trimester	General prohibition of abortion with exceptions for extreme circumstances.

Table 1 Roe v. Wade 'trimester system,' author's own table based on data from reproductiverights.org and oyez.org.

The decision tore down the Texas criminal abortion law that sparked the *Roe* case, which allowed abortion only if a doctor considered it necessary to save the pregnant woman's life (oyez.org). In addition, the Supreme Court's ruling changed the regulation on abortion on the federal level changing the lives of the majority of North American women and marking the peak of the tide of liberalization in the U.S. (reproductiverights.org). In essence, the *Roe* case was based on the right to privacy, helping to define it in terms of protecting citizens from unjustified interferences from the state on personal affairs matters

(reproductiverights.org). The decision was based on the Due Process Clause of the Fourteenth Amendment protecting the right to privacy and consequently, the right to choose and prompting the recognition of the right to body autonomy of women, especially regarding their reproductive choices (oyez.org; plannedparenthoodaction.org). The ruling balances these rights with the state's duty and interest in safeguarding women's health and the 'potential of life' (oyez.org).

The *Roe v. Wade* ruling, although it represented a big step forward, transformed the debate around abortion into a partisan issue, with the Democratic party supporting legalization and the Republican party supporting the criminalization of abortion (Baker, 2022). This has generated a split in the country based on ideology with white evangelical Christians as the main supporters of the criminalization of abortion who have therefore ended up overwhelmingly supporting the Republican Party (Baker, 2022). Hence, from 1973 to 1992, the tide began to turn, and the decision was constantly threatened by newly mobilized anti-abortion groups, restrictions were enforced across the country and the Supreme Court rejected to process most of the cases (Baker, 2022; Winny, 2022). In particular, access to legal abortion continued to be restricted mainly affecting underprivileged citizens based on social, racial and economic status (Baker, 2022; Conti-Cook, 2020; plannedparenthoodaction.org). For instance, the Hyde Amendment was passed by Congress in 1976 and suspended the use of federal Medicaid funds to cover abortions, systematically discriminating against low-income women, affecting disproportionately women of colour and the LGBTQ+ communities (Conti-Cook, 2020; Baker, 2022; plannedparenthoodaction.org). The Hyde Amendment remained effective until 2021, when as a result of the advocacy work of organizations dedicated to reproductive justice the Biden-Harris administration excluded it from the presidential budget (plannedparenthoodaction.org).

In 1992, *Planned Parenthood v. Casey* was the next major ruling from the Supreme Court on abortion access, representing the biggest challenge since *Roe*

v. Wade (Baker, 2022; Winny, 2022; Conti-Cook, 2020). The decision was related to a Pennsylvania law requiring "a 24-hour waiting period, spousal notification, parental consent, a mandate that doctors give biased counselling to people seeking abortion health care, and burdensome reporting requirements," heavily restricting access to abortion (Baker, 2022). The ruling of the Supreme Court confirmed the constitutional protection of the right to abortion but discarded the trimester system illustrated in Table 1, and created a legal test based on an 'undue burden' framework which blurred the lines of the criteria for access to abortion (Baker, 2022; Conti-Cook, 2020; plannedparenthoodaction.org). The 'undue burden' "is present if the purpose is to impose obstacles that prevent a woman from obtaining an abortion before the foetus is viable," enforcing the concept of viability as a parameter for access to abortion, gradually starting to erode reproductive rights (Seward, 2009). As a result, the decision validated the restrictions proposed by the state of Pennsylvania with the exception of the clause about notification to the spouse, allowing other states to elaborate restrictions based on the 'undue burden' framework (Baker, 2022).

4.2.3 The Road to Overturn *Roe v. Wade*

As mentioned above, the realm of politics became more and more involved in the discussion about abortion, imposing anti-abortion views on the practice of medicine disregarding medical science itself and the wellbeing and health of pregnant women (Baker, 2022). Similarly, the gradual politicization of the Supreme Court also had a major impact on reproductive rights, as evidenced by the *Stenberg v. Carhart* case in 2000 and *Gonzales v. Carhart* in 2007 (Baker, 2022). In the first case, the Court ruled against a statute proposed by the state of Nebraska that would ban doctors from performing a specific procedure that can be used for second-trimester abortions (Baker, 2022). This procedure was called by anti-abortion activists 'partial-birth abortion,' a sensational name to insinuate a negative connotation and confuse public opinion on the debate (Baker, 2022). A law with the same name was indeed approved by Congress during the George

W. Bush administration in 2003, the Partial-Birth Abortion (PBA) Ban Act, highlighting the intrusion of politics into the medical field with complete disregard for scientific facts and the health and well-being of women for the sake of ideology (Baker, 2022). Pro-choice activists tried to challenge the ban but because of the appointment of two more conservative judges in the Supreme Court, Justice John Roberts, and Justice Samuel Alito, in 2007 the case *Gonzales v. Carhart* turned the situation around, resulting in the first instance of criminalization of abortion at the federal level (Baker, 2022; plannedparenthoodaction.org). This decision overruled a critical element of *Roe v. Wade*, namely the main focus on the health of the pregnant person as a parameter for any restriction on abortion access (plannedparenthoodaction.org). Specifically, with *Gonzales v. Carhart*, the Supreme Court allowed the ban of specific procedures that are medically considered to be the safest during the second trimester to protect the pregnant person's health (plannedparenthoodaction.org).

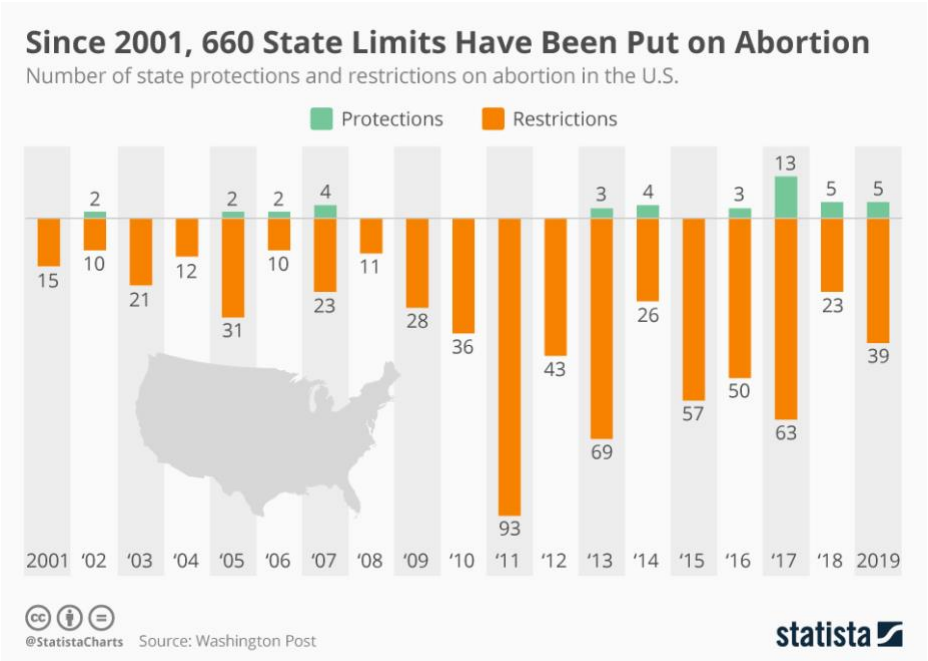

Figure 2 Overview of the protections and restrictions on abortion from 2001 to 2019 in U.S. states (Feldman, 2019)

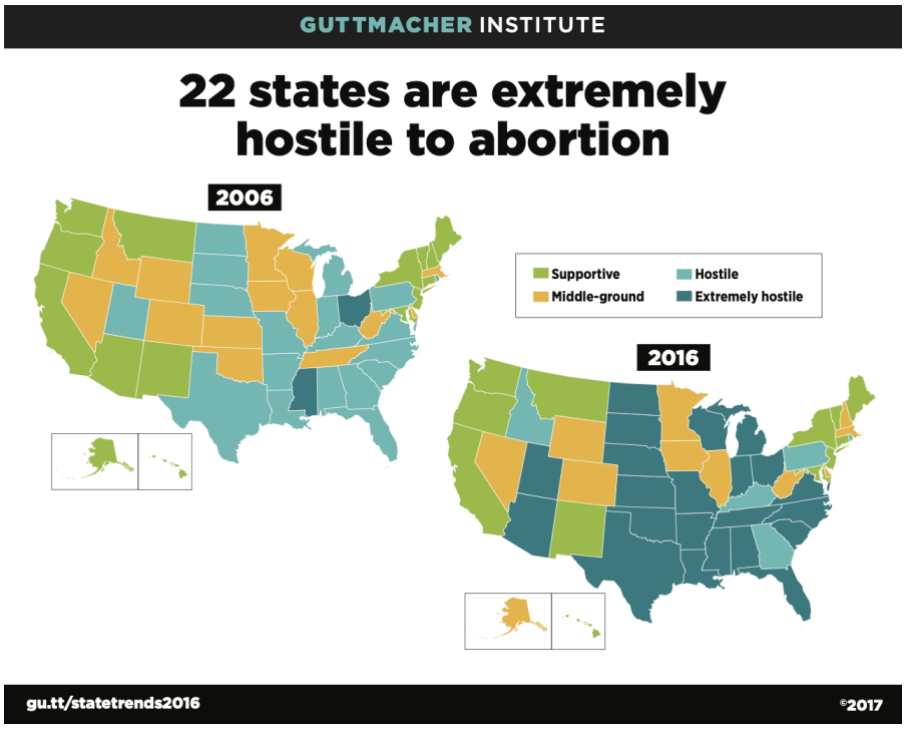

Figure 3 Map of the increasing number of states hostile to abortion between 2006 and 2016 (Guttmacher Institute, 2016)

As partially shown by Figure 2 and Figure 3, from the ruling of *Roe v. Wade* to 2021, more than 1300 restrictions on abortion were approved by several states (Baker, 2022):

"After a particular gestational age or based on sex, race, or genetic anomaly, ban specific abortion methods, impose biased counselling and waiting periods, require unnecessary ultrasounds, restrict access to medication abortions, limit who can provide abortion health care, and impose targeted regulation of abortion providers, or TRAP, regulations."

The restriction tide at the state level increasingly escalated, as shown in Figure 2 and Figure 3 by 2019 at least twenty-two states enforced a disproportionate number of restrictions, some of them even outlawing abortion and criminalizing pregnant individuals, providers, and facilitators (Conti-Cook, 2020). The peak of the tide of repression was in the Texas six-week abortion ban on September 1, 2021, and with the presentation to the Supreme Court of the *Dobbs v. Jackson Women's Health Organization* case on December 1, 2021 (Baker, 2022;

plannedparenthoodaction.org). The latter concerned a case from the state of Mississippi that not only pre-empted a central aspect of *Roe v. Wade*, requiring abortion to be prevented before the viability of the foetus, but the complete overrule of *Roe v. Wade* (plannedparenthoodaction.org). The decision of the Supreme Court on the matter was issued on June 24, 2022, completely overturning *Roe v. Wade* and removing the constitutional protection of the right to abortion, ultimately delegating the responsibility of regulating abortion to individual states, marking a major step back on abortion rights (plannedparenthoodaction.org). As a result, up to 26 states are predicted to ban abortion at early gestational stages as visualized in Figure 4, eleven and six of which do not have exception clauses for rape or incest and the health of the pregnant person respectively (Baker, 2022).

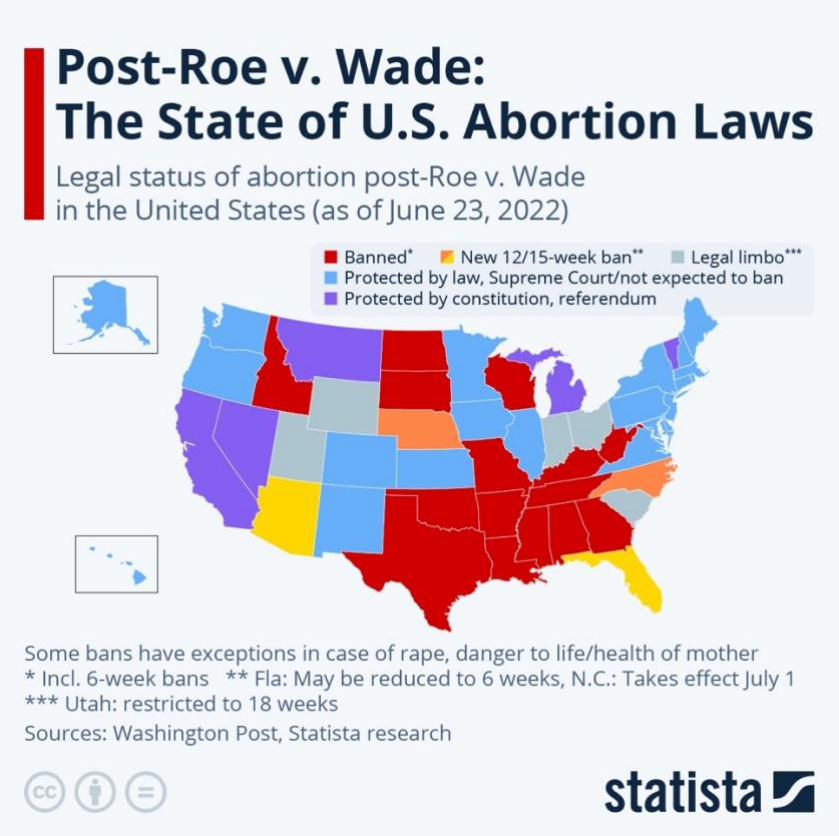

Figure 4 Overview of U.S. Abortion Laws after the overturn of Roe v. Wade updated to June 23, 2023 (Buchholz, 2023)

Projects on nationwide bans on abortion by anti-abortion advocates, lawmakers, and the Supreme Court itself are already being discussed, with the *Dobbs* ruling referring to foetuses as 'unborn humans' setting the ground for criminalization, prosecution and increasing digital surveillance of women and abortion providers (Baker, 2022).

4.2.4 Digital Surveillance

The overturn of *Roe v. Wade* limits access to medical support and accurate information about abortion to the Internet and other digital tools (Fox Cahn & Manis, 2022). In fact, the internet gained more and more of a primary role in the field of reproductive rights, granting access to medical care remotely, including abortion, in response to pro-life decision-makers obstructing abortion access in clinics and hospitals (Fox Cahn & Manis, 2022). Notably, the availability on the internet of medical abortion pills, such as mifepristone (RU486), allowed women to terminate their pregnancies independently (Fox Cahn & Manis, 2022). This creates the possibility for law enforcement agencies to exploit existing methods of digital surveillance to pursue pregnant women and prosecute them for obtaining an abortion (Fox Cahn & Manis, 2022). In fact, the use of apparently innocuous digital data to target women seeking abortions has already been implemented, for instance, by tracking their location in the proximity of a clinic for family planning, travelling across state lines to an abortion clinic, obtaining access to private messages, but also their searching and purchasing history for the abortion pills (Vidal & Merchant, 2022). In August 2022, this situation already became a reality in the state of Nebraska, where prosecutors from Madison County obtained from Meta private messages between a teenager, 17, and her mother which discussed getting an abortion for the daughter in another state (Cox, 2022). This was the first instance of weaponizing private digital data from a private tech company in the U.S. since the overturn of *Roe v. Wade*, allowing law enforcement to circumvent the strict privacy laws protecting the relationship between doctors and patients (Cox, 2022). Furthermore, the current situation eases private disputes against abortion

providers and facilitators, mainly because the evidentiary burden for civil cases is much less than the one required for a criminal case, making it easier to prosecute (Fox Cahn & Manis, 2022).

In summary, the history of abortion rights in the United States is characterized by cyclical movements of liberalization and repression. Starting with the first restrictions from the AMA to the ruling of *Roe v. Wade* in 1973, which protected the abortion right at the constitutional level (Baker, 2022; Winny, 2022; plannedparenthoodaction.org). This caused a resurge in anti-abortion advocacy which led to the first severe attacks on the *Roe* decision starting with the Hyde Amendment in 1976, *Casey* in 1992, and *Gonzales v. Carhart* in 2007 (Baker, 2022; Winny, 2022; plannedparenthoodaction.org). The repressive tide reached its peak in 2022 with the complete overturn of *Roe v. Wade* as a result of the Supreme Court decision on the *Dobbs* case, removing the constitutional protection of abortion rights (Baker, 2022; plannedparenthoodaction.org). This opened the possibility for prosecution through the weaponization of digital data, and enforcing surveillance of pregnant individuals, abortion providers and facilitators (Cox, 2022; Fox Cahn & Manis, 2022).

4.3 Poland

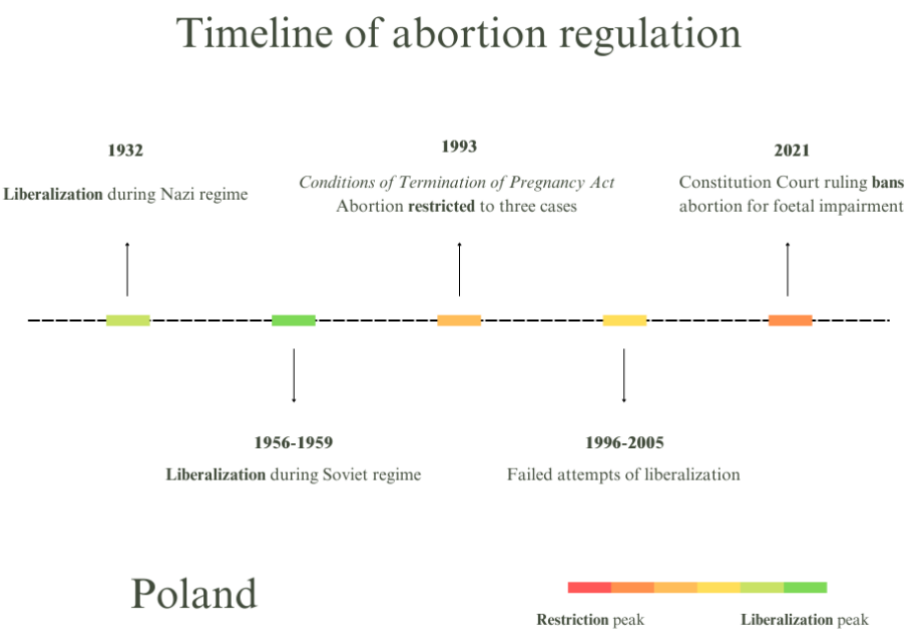

Figure 5 Timeline of abortion regulation in Poland (author's own visualization)

4.3.1 Abortion History in Poland

The first discussions about abortion in Poland started before the Second World War, when in 1932 there was a reform of the Criminal Code which allowed abortion in cases of health and life risks for the pregnant woman or if the pregnancy was the result of a crime (Nowicka, 2007). During the Second World War, the Nazi regime occupied Poland and introduced the first law that liberalized abortion with the explicit intent of limiting the fertility rate of the country and its population (Szelewa, 2016). The regulation changed in 1956, during the communist regime as a result of the Soviet influence in Poland (Szelewa, 2016). The 'Act on the Conditions for the Termination of Pregnancy' did not recognize women the right to abortion, it decriminalized the procedure on social grounds but the requirements to access abortion were still an obstacle since the permission of at least two doctors was required (Bucholc, 2022; Nowicka, 2007). However, this issue was tackled in 1959 by the Minister of

Health with a regulation that permitted abortion on request, becoming one of the most permissive abortion legislations in Europe (Nowicka, 2007; Zolkos, 2006). Nevertheless, abortion was still not a woman's right but granted on materialistic and atheist grounds as a necessity, and the social stigma was still quite pervasive in Polish society (Heinen & Portet, 2010; Zolkos, 2006). This approach made it easier for anti-abortion advocates and Catholic fundamentalists to challenge it, exploiting the socio-political changes of the late 1980s to their advantage and infiltrating the political debate (Heinen & Portet, 2010). The first attempts at contesting the 1956 law happened between 1988 and 1991, with 11 law drafts proposing the criminalization of abortion on the grounds of protecting the unborn (Nowicka, 2007). The anti-abortion debate in the newly parliamentary phase saw the alliance of the anti-communist opposition, supported not only by the Catholic Church but by the Pope himself, John Paul II, also of Polish origin (Nowicka, 2007). Finally, in January 1993, the 'Family Planning, Protection of Human Embryo and Conditions of Termination of Pregnancy Act' was passed in the Polish parliament, facing close to no opposition, and almost entirely banned abortion in the country (Heinen & Portet, 2010). The Act not only banned abortions requested because of poor and difficult socio-economic conditions but made access to abortion requested for therapeutic reasons and for pregnancies as a result of a crime almost completely impossible (Nowicka, 2007). These heavy restrictions were also possible because of the support and gatekeeping of abortion of numerous anti-choice doctors the years prior, who succeeded in having approved a Code of Medical Ethics in 1991 which conflicted with the law of the time (Nowicka, 2007; Girard & Nowicka, 2002).

4.3.2 The Ideological Framing of the Abortion Debate

In the following years, further attempts at liberalizing abortion were made but, even when mildly successful, they were reverted almost immediately after (Bucholc, 2022). The abortion debate was framed on the threat to the Polish national identity also in biological terms, referring to its use during the Nazi and

the Soviet regimes, thus associating it with foreign invading powers trying to subjugate and eliminate the country's national identity and its people (Bucholc, 2022; Szelewa, 2016). Therefore, the Church and the anti-communist opposition presented themselves as the saviours and protectors of the Polish nation against the external enemy (Szelewa, 2016).

In August 1996, President Kwaśniewski passed a bill in the Lower House to liberalize abortion, which was rejected by the more conservative Upper House but overruled and signed by the president anyway in November of 1996 (Zolkos, 2006). However, shortly after, in 1997, the Polish Constitutional Tribunal challenged the provisions on the grounds of protecting human rights, deeming the "permission of economic and social grounds for abortion, such as difficult life conditions or personal situations, too vague to justify the sacrifice of prenatal life" (Cook and Dickens, 1997: 27, cited in Zolkos, 2006: 7), allowing abortion only in cases of threat to the woman's life (Zolkos, 2006).

The next attempt at liberalizing abortion was led by a left-wing coalition between 2003 and 2004 strongly guided by the left-wing Women's Parliamentary Group, but the parliament ultimately decided not to discuss the draft in 2005 (Nowicka, 2007). As a result, Poland was convicted by the European Court of Human Rights on March 20, 2007, for violating the right to privacy for personal life expressed in Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (Heinen & Portet, 2010; Council of Europe, 1950). This had the sole outcome of protecting access to abortion in cases of threat to the woman's life, but no steps have been taken to ease the restrictions already in place (Heinen & Portet, 2010).

Until this moment, women who resorted to clandestine abortion were not criminalized, only the practitioners were prosecuted for the illegal termination of pregnancy, with the punishment depending on the gestational moment at which the procedure was performed (Girard & Nowicka, 2002). However, a significant change happened starting in 2016, when the conservative majority

in the government led by United Right, proposed the 'Stop Abortion' bill, which would completely prohibit abortion and, for the first time, criminalize women who would terminate the pregnancy (Koralewska & Zielińska, 2022). In consequence, mass protests, Black Protests or Women's Strike, took place to challenge the bill in October 2016 and March 2017, forcing the government to withhold its support (Koralewska & Zielińska, 2022). The mass mobilisation of women to protect their rights shifted the wider sentiment of the public towards the liberalisation of abortion, registering higher support in polls for abortion access on social and economic grounds (Koralewska & Zielińska, 2022). Despite the positive impact of the Women's Strike however, 40% of the Polish population was still anti-abortion as of 2019, leading towards the controversial Constitutional Court decisions of October 2020 (Koralewska & Zielińska, 2022).

4.3.3 The 2020 Constitutional Court Decision

On October 22, 2020, the Constitutional Court of Poland ruled unconstitutional Art. 4a Sec. 1, 2) of the Act on Family Planning, ruling one of the three cases in which abortion was legal, namely the so-called embryo pathological exception in which "*prenatal tests or other medical premises indicate a high probability of a serious and irreversible impairment of the fetus or an incurable life-threatening illness of the fetus*" (Bucholc, 2022; Łętowska, 2020: 1, italic in the original). Abortion for foetal impairment was by far, as of 2019, the most common case for legal termination of pregnancy in Poland, constituting 96% of the total (Bucholc, 2022). Consequently, legal abortion is now only permitted in cases of fatal risks for the pregnant woman or cases of rape and incest, further restricting already limited access to the procedure (Bucholc, 2022). In response to the ruling, unprecedented mass protests took place across the country, despite the COVID-19 regulations in effect, and, surprisingly, escalating not only in the capital and bigger cities but also in more traditional small towns (Bucholc, 2022). Women's rights advocates and organizations reacted fiercely, signalling a cultural war of sorts that gave voice to the most extremist sides, both pro-life and pro-choice, intensifying the nationalist approach to abortion and the anti-

church sentiment respectively (Bucholc, 2022). Despite the wave of protests and legal challenges moved by activists, the ruling became effective on January 27, 2021 (Bucholc, 2022).

At the end of 2021, a new bill was presented to the Polish parliament introducing "an Institute of Demographics and Family whose president will have access to individuals' medical and police records, the right to intervene in family civil cases and stop divorces, and the legal powers of a state prosecutor" (Dyer, 2021: 1). In practice, the bill approved on June 3, 2021, by the Health Minister Adam Niedzielski, mandates doctors to report every pregnancy on a national registry in addition to supplementary data on blood type and allergies for instance, centralising the medical information system (Holt, 2022). The potential of this digitalization must be monitored as it could identify those who did not give birth and provide crucial and potentially incriminating information on the women who did not bring their pregnancy to term (Holt, 2022).

In summary, the history of abortion rights in Poland is characterized by early liberalisation during the Nazi occupation in order to decrease the fertility of the Polish population, and the materialistic and atheist approach during the Soviet occupation (Szelewa, 2016). As a result, especially after the political transition in 1989, the anti-abortion debate has been centred around the opposition to occupying forces and the preservation of the Polish national identity, in conjunction with a strong catholic sentiment (Bucholc, 2022; Szelewa, 2016). Ultimately, in 1993, Poland restricted abortion access to three cases, threat to the woman's life, criminal act, and foetal impairment; however, in 2020, the Constitutional Court ruled the latter unconstitutional, making 96% of instances of legal abortion in Poland, as of 2019, illegal (Heinen & Portet, 2010; Bucholc, 2022). Finally, in 2021, the Ministry of Health established a centralised medical registry that will mandate reports of every pregnancy, generating concern over surveillance and prosecution practices (Dyer, 2021; Holt, 2022).

5 Findings and Analysis

This chapter analyses the similarities and differences between the case studies, the United States and Poland, and how these affect women's health and security. The first section compares the social and political context of the two countries and how it influenced the cyclical process, the tidal effect, of liberalisation and restriction mentioned in the previous chapter. In the second section, data on maternal mortality rates from the two case studies are compared and analysed, exploring the repercussions of the different processes of restricting access to abortion in terms of health security. Finally, the third section analyses how the criminalization of abortion triggers a level of surveillance that results not only in the violation of the right to privacy but also in how it generates additional health security risks, ultimately isolating and marginalising pregnant women and their community.

5.1 The Road to Liberalization and its Consequences

This section explores the similarities and differences in the political and social context of the two case studies, starting from the different liberalization processes, the impact of anti-abortion advocates, and the type and weight of the restrictions.

The main difference between the two case studies is the political and social context that led to the liberalization of abortion in the first place. As mentioned above, in Poland this happened in a situation of occupation, from the Nazi regime first and the Soviet one after (Szelewa, 2016). As a result, the foundations of the liberalization of abortion were not the recognition of abortion as a right, nor of women's right to self-determination and body autonomy (Nowicka, 2007). On the contrary, this was the result of discriminatory and repressive measures during the Nazi regime, with the scope of reducing the fertility and prosperity of the Polish population, and of materialistic and atheistic considerations during the Soviet regime (Bucholc, 2022; Nowicka, 2007). Because of this, the regulation passed in 1959 which remained effective until

1993, permitted abortion upon request, becoming the most liberal legislation on abortion in Europe (Nowicka, 2007; Zolkos, 2006).

On the other hand, the foundations for the liberalization of abortion in the U.S. have their roots in the fights of the feminist movements and organizations, which were not only providing safe underground abortions upon request but were also helping women to legally challenge the restrictions (Baker, 2022; Winny, 2022). This led to the liberalization of abortion on the base of the right to abortion, specifically balancing the interest of the state in interfering in personal affairs and the right to privacy of women when deciding upon their bodies (reproductiverights.org).

However, the main consequence of the liberalization of abortion common to both case studies is the politicization of the debate and the mobilization of religious anti-abortion movements (Baker, 2022; Bucholc, 2022; Heinen & Portet, 2010). Both the United States and Poland experienced relentless attacks on abortion access since liberalization and both faced heavier restrictions almost at the same time, in 1992 and 1993 respectively (Baker, 2022; Winny, 2022; Heinen & Portet, 2010). Nonetheless, the different nature of the liberalization process in the two countries generated two different pathways towards the restrictions.

Notably, the lack of debate on abortion in Poland did not tackle the stigma associated with it, and the impact of the socio-political context of the country, particularly permeated by Catholic values, tended to frame termination of pregnancy as unsafe and harmful for both women's physical and mental health as well as the foetus' (Koralewska & Zielińska, 2022). Furthermore, the topic remained taboo, affecting abortion access in rural areas and small towns, but also forcing women to rely on private clinics because of the better guarantee of privacy in order not to be stigmatized by the community (Heinen & Portet, 2010). All these components made it easier for Catholic anti-abortion extremist groups to challenge abortion access, as they were not contesting a right resulting

from a feminist fight, but a top-down policy (Heinen & Portet, 2010). Ultimately, this resulted in the strict 'Family Planning, Protection of Human Embryo and Conditions of Termination of Pregnancy Act' which allowed abortion only in three cases (Heinen & Portet, 2010):

a. If the life or health of the pregnant person is considered at risk because of the pregnancy.
b. Because of a certified irreversible foetal impairment.
c. If the pregnancy is the result of a crime, such as incest or rape.

This restricted access to abortion, but despite attempts at liberalisation, opposition to abortion was so strong that it remained in force until 2020, resulting in thirty years of legislative continuity with defined and specific criteria (Heinen & Portet, 2010).

On the other hand, in the U.S., the case *Planned Parenthood v. Casey* of 1992 changed the criteria for abortion access introducing the 'undue burden' framework, leaving open discretion on how strictly to interpret and apply the concept of viability (Baker, 2022; plannedparenthoodaction.org; Seward, 2009). This decision confirmed the constitutional protection of the right to abortion and did not result in specific nationwide abortion regulations, however, it led to a thirty-year-long process of state restrictions, as well as protections in some cases, in an environment of constant legislative changes (Baker, 2022; plannedparenthoodaction.org; Feldman, 2019). Similarly, the overturn of *Roe v. Wade* in June 2022 removed the constitutional protection of the right to abortion but did not impose a nationwide ban, while the October 2020 decision of the Constitutional Court of Poland sentenced illegal and unconstitutional one the most common cases of abortion, foetal impairment (Bucholc, 2022). To compare, the Polish Court *de facto* imposed a ban despite it violating the European Convention for the Protection of Human Rights and Fundamental Freedoms, and condemnations from the European Parliament and the European Court of Human Rights (European Parliament, 2021; Heinen & Portet, 2010).

This is a symptom of the limited power and control the EU can exert over its members, which together with the failure to recognise abortion as a reproductive right with respect for the autonomy of women's bodies and the role of the Catholic Church, leaves little support and little hope for the feminist movement and advocates of reproductive rights in Poland (Heinen & Portet, 2010).

In summary, the different political and social contexts of Poland and the U.S. affected the different liberalization processes and how they motivated anti-abortion advocates. Moreover, the social stigma in Poland remained strong enough to still affect abortion access in the most permissive situation in Europe, and the top-down nature of the abortion liberalization made it easier for the anti-abortion movements to challenge it and have restrictions enforced in 1993 (Heinen & Portet, 2010). On the other hand, liberalization in the U.S. was the result of the fight of the feminist movement to establish the right to abortion, restrictions were gradually and increasingly enforced starting from 1992 (Baker, 2022; Winny, 2022).

5.2 The Health Security Risks for Women

This section analyses the repercussions of the different processes of restrictions on abortion access in terms of health security in the two case studies.

The baseline for the following discussion is that, as found by the WHO (2012), abortion rates are not affected by its legality. As shown in Figure 6, globally the rate of abortion is the same when it is ‘broadly legal’ and ‘prohibited altogether’, and it only decreases slightly in cases of restrictions. What the graph shows is that what has an observable increase in the rate of unintended pregnancies, with a difference of 22 points between the two extremes.

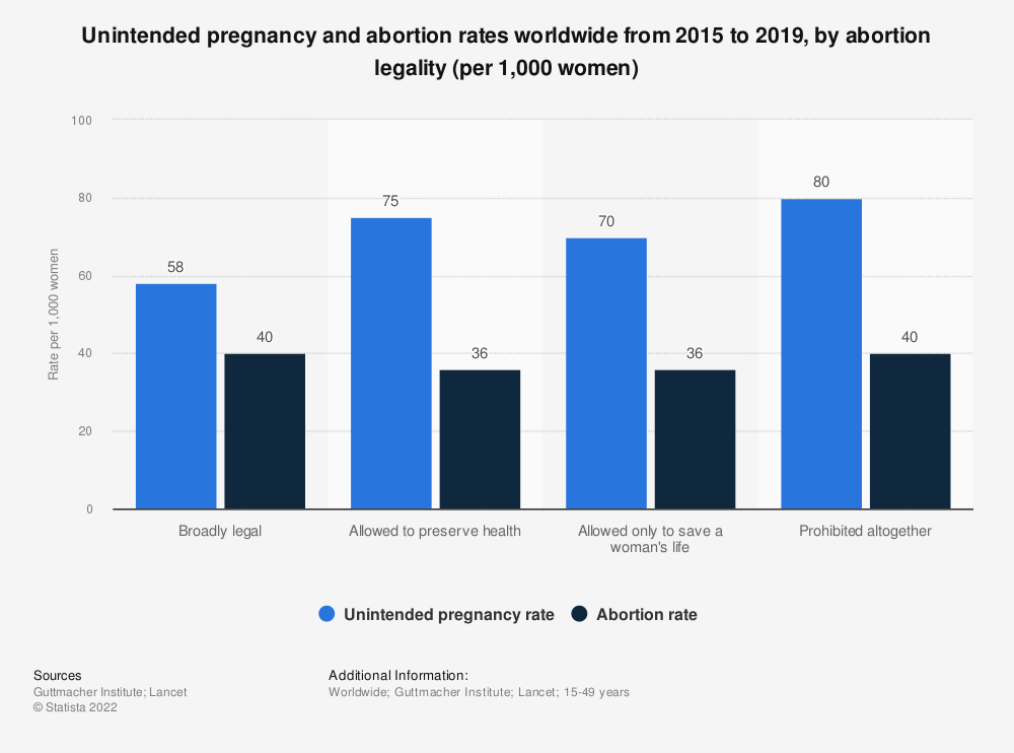

Figure 2 Unintended pregnancy and abortion rates worldwide from 2015 to 2019, by abortion legality (per 1,000 women) (Guttmacher Institute, 2020)

The following subchapters analyse the data available on maternal mortality, updated to 2020, comparing it to abortion rates and abortion-related deaths, in an effort to contextualise it with the previous section on the processes of liberalization and restriction.

5.2.1 Compared Maternal Mortality Rates

According to the WHO maternal mortality includes death due to: "severe bleeding, infections, high blood pressure during pregnancy, complications from delivery, and unsafe abortion" (WHO, 2023), more specifically, 4.7–13.2% are due to unsafe abortions (WHO, 2021). The research conducted by the organization uncovered that, while Poland has a steady and significant decrease

as shown in Figures 7 and 8, the U.S. registered an anomalous ascending trend in maternal mortality rates as shown in Figures 9 and 10 (WHO, 2023)[1].

Year	MMR[a*†]	PM[b*†]	HIV-related indirect deaths[†]	Live births[c] (Thousands)	Maternal deaths[†]
2000	8 [6, 9]	0 [0, 0]	0	380	30
2005	5 [4, 6]	0 [0, 0]	0	369	18
2010	3 [2, 3]	0 [0, 0]	0	423	11
2015	2 [2, 3]	0 [0, 0]	0	379	8
2020	2 [1, 3]	0 [0, 0]	0	373	7

[a] Maternal mortality ratio (MMR) defined as maternal deaths per 100,000 live births for women of reproductive age (15-49 years).
[b] Proportion maternal (PM) defined as the proportion of all-cause deaths for women of reproductive age (15-49 years) that are due to maternal causes.
[c] UN Population Division, Department of Economic and Social Affairs. World Population Prospects. New York; 2022.
[*] The uncertainty intervals (UI) for all estimates refer to the 80% uncertainty intervals (10th and 90th percentiles of the posterior distributions). This was chosen as opposed to the more standard 95% intervals because of the substantial uncertainty inherent in maternal mortality outcomes.
[†] Figures presented in the table are estimates based on national data, such as surveys or administrative records, or other sources, produced by the international agency when country data for some year(s) is not available, when multiple sources exist, or when there are data quality issues.

Figure 3 Maternal Mortality Poland 2000-2020 (WHO, 2023)

Period	Annual rate reduction[*]	Percent change in MMR[*]
2000, 2020	6.89 [4.89, 8.98]	74.81 [62.42, 83.41]
2010, 2020	2.54 [-0.93, 6.27]	22.43 [-9.7, 46.59]

[*] Figures presented in the table are estimates based on national data, such as surveys or administrative records, or other sources, produced by the international agency when country data for some year(s) is not available, when multiple sources exist, or when there are data quality issues.

Figure 4 Overview of annual rate reduction and percentage change of maternal mortality in Poland 2000-2020 (WHO, 2023)

[1] The numerical values differ significantly between the two case studies due to geographical and demographic differences. In particular, what is comparable and under analysis is the reduction in the annual rate.

Year	MMR[a*†]	PM[b*†]	HIV-related indirect deaths[†]	Live births[c] (Thousands)	Maternal deaths[†]
2000	12 [11, 12]	0.01 [0.01, 0.01]	0	4075	482
2005	13 [13, 14]	0.01 [0.01, 0.01]	0	4166	553
2010	14 [14, 15]	0.01 [0.01, 0.01]	0	4037	568
2015	17 [16, 19]	0.01 [0.01, 0.01]	0	3996	694
2020	21 [16, 27]	0.01 [0.01, 0.01]	0	3670	774

[a] Maternal mortality ratio (MMR) defined as maternal deaths per 100,000 live births for women of reproductive age (15-49 years).
[b] Proportion maternal (PM) defined as the proportion of all-cause deaths for women of reproductive age (15-49 years) that are due to maternal causes.
[c] UN Population Division, Department of Economic and Social Affairs. World Population Prospects. New York; 2022.
[*] The uncertainty intervals (UI) for all estimates refer to the 80% uncertainty intervals (10th and 90th percentiles of the posterior distributions). This was chosen as opposed to the more standard 95% intervals because of the substantial uncertainty inherent in maternal mortality outcomes.
[†] Figures presented in the table are estimates based on national data, such as surveys or administrative records, or other sources, produced by the international agency when country data for some year(s) is not available, when multiple sources exist, or when there are data quality issues.

Figure 5 Maternal Mortality United States of America 2000-2020 (WHO, 2023)

Period	Annual rate reduction[*]	Percent change in MMR[*]
2000, 2020	-2.88 [-4.19, -1.58]	-77.93 [-131.07, -37.18]
2010, 2020	-4.04 [-6.62, -1.41]	-49.71 [-93.92, -15.18]

[*] Figures presented in the table are estimates based on national data, such as surveys or administrative records, or other sources, produced by the international agency when country data for some year(s) is not available, when multiple sources exist, or when there are data quality issues.

Figure 6 Overview of annual rate reduction and percentage change of maternal mortality in the USA 2000-2020 (WHO, 2023)

The U.S. represents an outlier compared with other countries with similar high-income countries, which usually positively correlates with a lower rate of maternal mortality, especially due to medical advancement (Roper, 2020). An initial analysis referring to the WHO identifies the main reasons for high maternal mortality rates as follows (WHO, 2023):

a. "Health system failures that translate to (i) poor quality of care, including disrespect, mistreatment and abuse, (ii); insufficient numbers of and inadequately trained health workers, (iii); shortages of essential medical supplies; and (iv) the poor accountability of health systems;"

b. "Social determinants, including income, access to education, race and ethnicity, that put some sub-populations at greater risk;"

c. "Harmful gender norms and/or inequalities that result in a low prioritization of the rights of women and girls, including their right to safe, quality and affordable sexual and reproductive health services; and"

d. “External factors contributing to instability and health system fragility, such as climate and humanitarian crises.”

Points a, b, and c can explain the dramatic increase when considering the rise in abortion restrictions and bans in the same time frame, as visualized in Figure 2 and Figure 3. More specifically, point c could be identified as the originating issue based on the one in analysis, a direct attack on women’s reproductive rights heavily restricting abortion access. This has a cascade effect, worsening or in conjunction with points a and b, impacting the healthcare system which primarily affects vulnerable, lower-income and discriminated communities (Campanella, 2022). The difference between the two case studies also shows that a constant change of regulation has an impact on healthcare quality and health security because patients, doctors, and medical facilities constantly have to adapt to new restrictions (Allyse & Michie, 2022). On the other hand, in the case of Poland, the continuity of legislation, despite being more repressive, allowed doctors, medical facilities and pregnant people to adapt (European Parliament, 2022). Moreover, reproductive rights organisations had time to establish themselves and provide relevant information, medical and legal support and clandestine or out-of-state abortions when necessary (Holt, 2022; European Parliament, 2022).

In summary, legislation discontinuity in restrictions on abortion access and reproductive care already had a severe impact on maternal mortality rates in the U.S., a trend that has not been observed in Poland in the time between 2000 and 2020 because there were no major changes to abortion legislation, as analysed further below.

5.2.2 United States

Analysing the maternal mortality rates in the U.S., the annual rate reduction is negative, with -2.88 from 2000 to 2020, but with an even lower one, -4.04, if considering the time from 2010 to 2020 (WHO, 2023). This is because the country had a significant increase in maternal mortality rate more accentuated

in the second decade under analysis. Further data from NCHS and CDC (2023)[2] shows a worsening increase between 2020 and 2021, Figure 11, however, this seems to be in contradiction with the data from reported legal and illegal abortion-related deaths in Figure 12, which shows a steady and significant decrease from 1973 to 2019. This could be explained by considering three factors. First of all, the decrease in abortion-related deaths can be partially attributed to medical and technological progress, also resulting in safer legal abortion practices (Roper, 2020). Secondly, the progressive decrease in the number of abortions in general due to the restrictions, proportionally affects the number of abortion-related deaths, as statistically with fewer abortions performed as shown in Figure 13, the incidence of death also decreases. Lastly and most importantly, what the comparison of the data shows is that unsafe abortion is not the only consequence of the restrictions on abortion. In fact, limiting and obstructing abortion access can have a significant impact on maternal mortality because of complications related to the pregnancy itself. Specifically, it does take into account those situations when an abortion could have saved the pregnant person's life but restrictions, poor health care, denial of care, information and access, resulted in the death of the pregnant individual (Campanella, 2022). Moreover, it also does not account for the deaths as a consequence of the toll that unintended pregnancy or complications may have on mental health which leads to the suicide of the pregnant person (Campanella, 2022). As a result, even if the number of reported abortions decreases, both legal and illegal, the maternal death rate significantly increases.

[2] Data from NCHS and CDC (2023) from 2018 to 2020 differs from the data from WHO (2022), the reason can be traced to differing methods of data collection and analysis, however for the purpose of this dissertation this discrepancy is not of particular relevance as the analysis focuses on ascending and descending trends of maternal mortality which are consistent in both datasets.

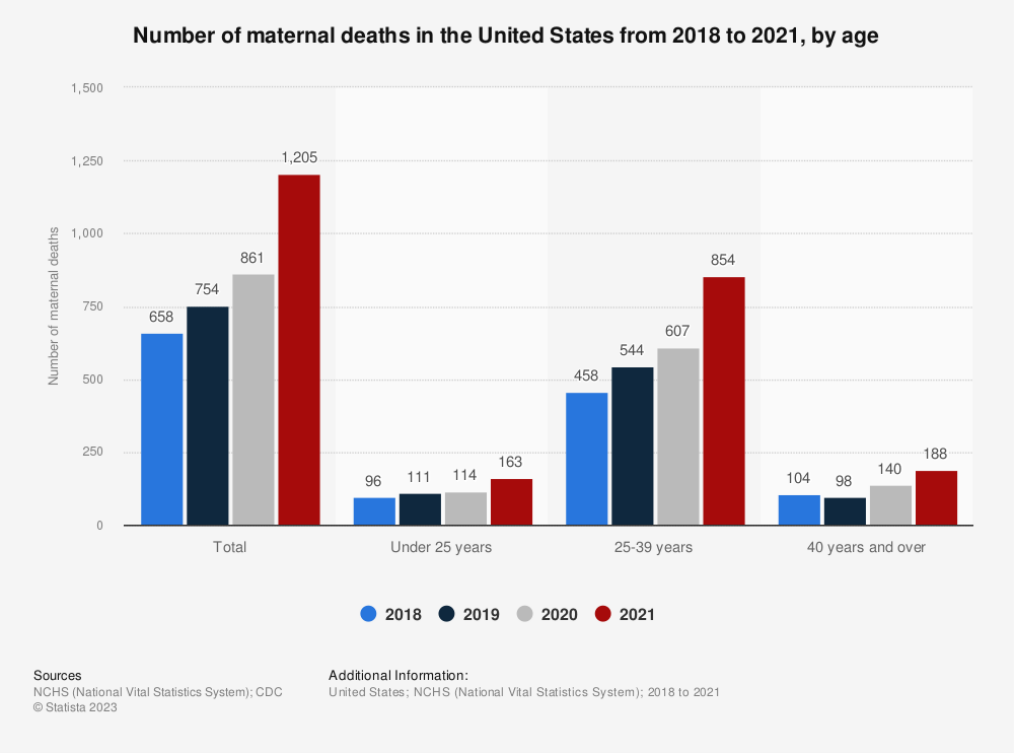

Figure 7 Number of maternal deaths in the United States from 2018 to 2021, by age (NCHS & CDC, 2023)

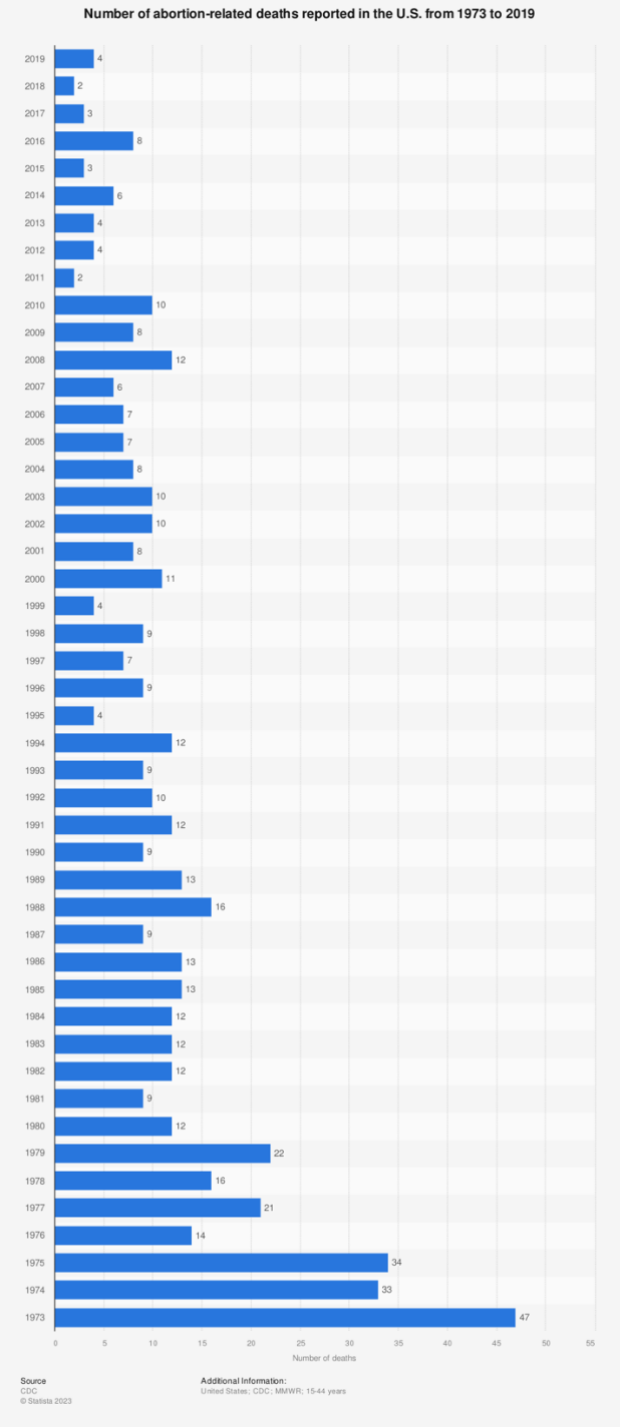

Figure 8 Number of abortion-related deaths reported in the U.S. from 1973 to 2019 (CDC, 2022a)

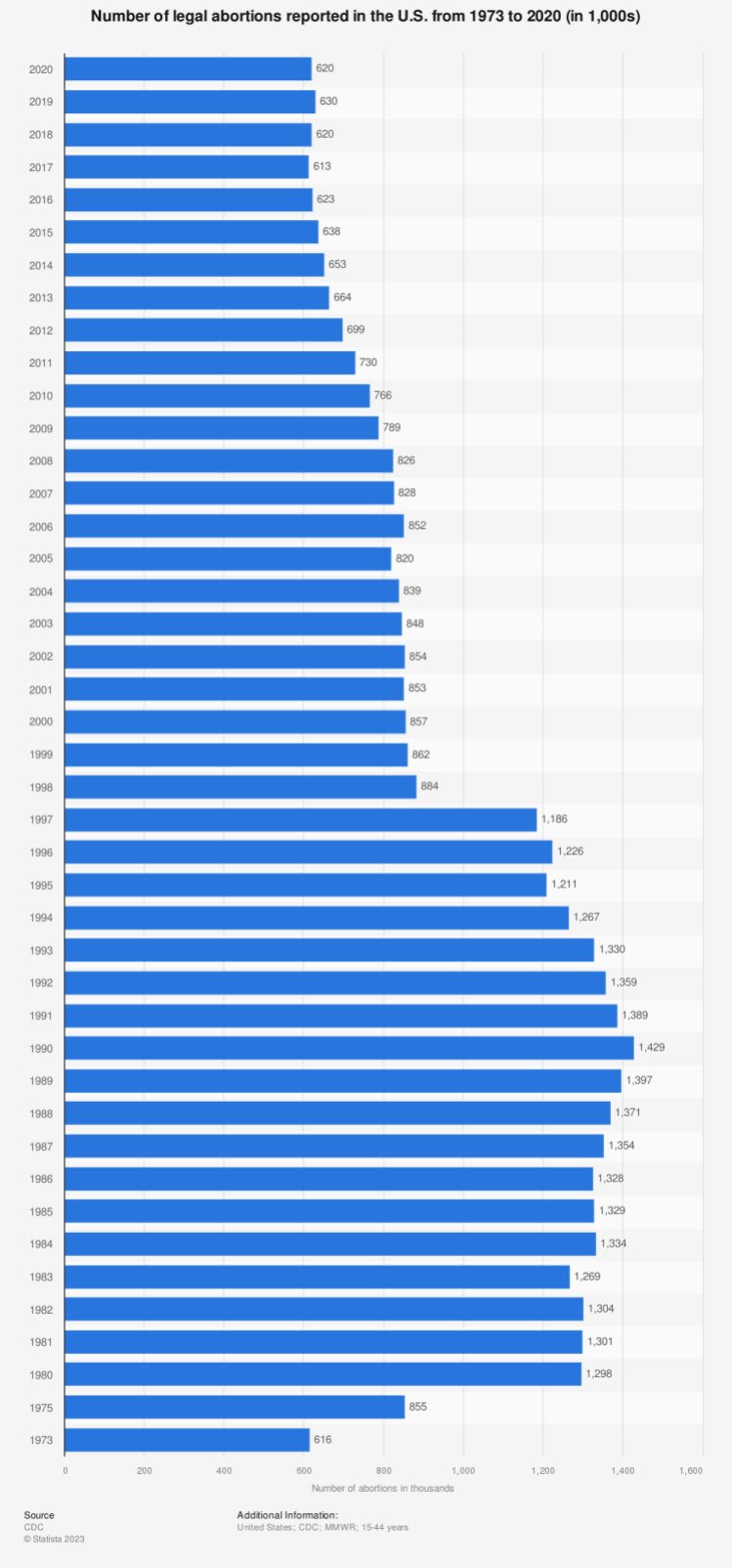

Figure 9 Number of legal abortions reported in the U.S. from 1973 to 2020 (in 1,000s) (CDC, 2022b)

The context analysed so far does not include the impact of the overturning of *Roe v. Wade* because of the lack of data. However, the phenomenon can already be analysed from the comparison of the data visualised in Figure 14 and Figure 15. Figure 14 reports the number of legal abortions in the United States in 2020 by state and shows how already in 2020, the number of abortions was higher in states with fewer restrictions. This can be a symptom not only of the easier access to abortion but also of the trend of 'abortion tourism' already observed before *Roe*, that is the influx of pregnant women seeking abortion across state lines as illustrated by Figure 15 (Baker, 2022). Figure 16 shows how after the overturning of *Roe v. Wade*, this process realistically intensified, (Society of Family Planning, 2022):

- 10 states registered a decrease in legal abortions of 100% because of a complete ban,
- 8 states registered a significant decrease between 27% and 83% either because of bans or heavy restrictions on abortion access,
- 12 states registered between 15% and 27% increase in the abortion rate.

In fact, these numbers almost overlap with the map in Figure 4 showing the legal status of abortion in the same time frame, with some exceptions such as Texas and North Carolina (Society of Family Planning, 2022; Buchholz, 2023). Taking into consideration the repercussions of the restrictions in the thirty years of restrictions since the ruling of *Casey* in 1992, it is worrisome to forecast the consequences of removing the constitutional protection of the right to abortion.

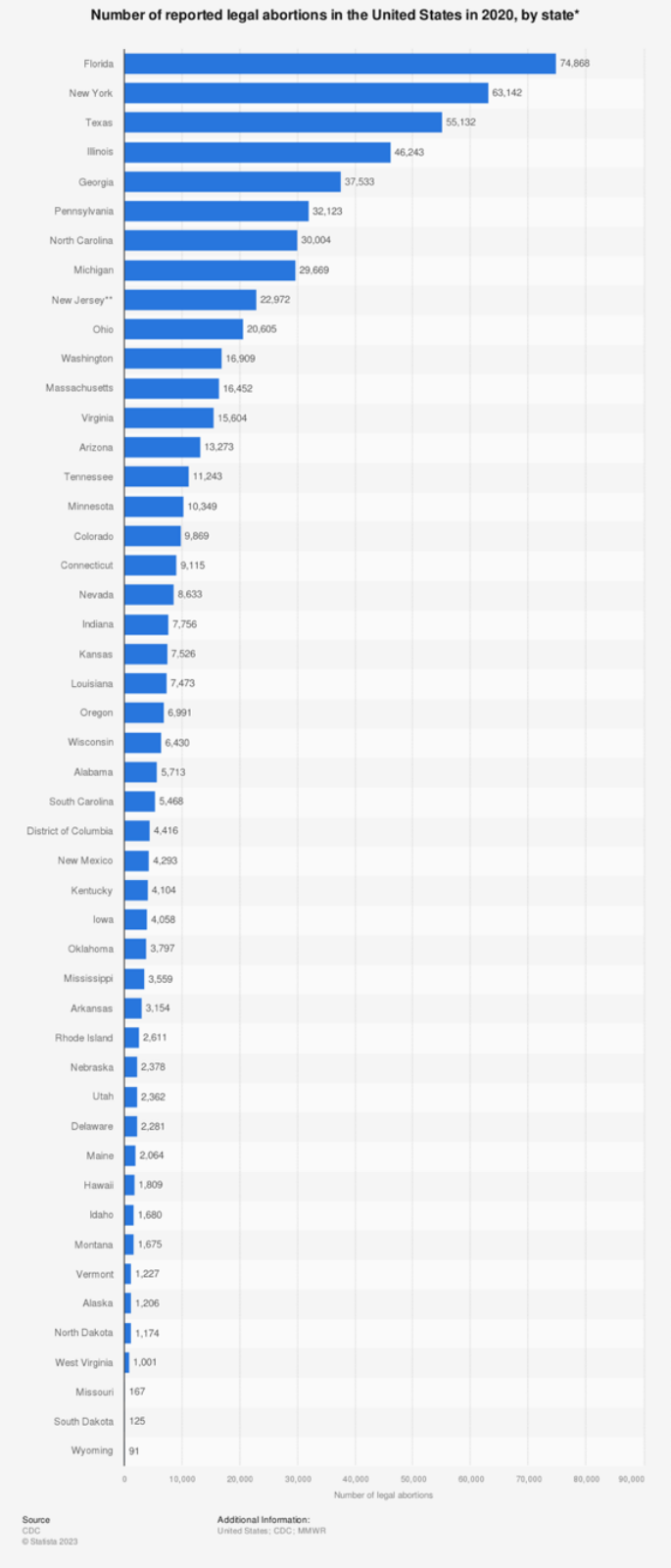

Figure 10 Number of reported legal abortions in the United States in 2020, by state (CDC, 2022c)

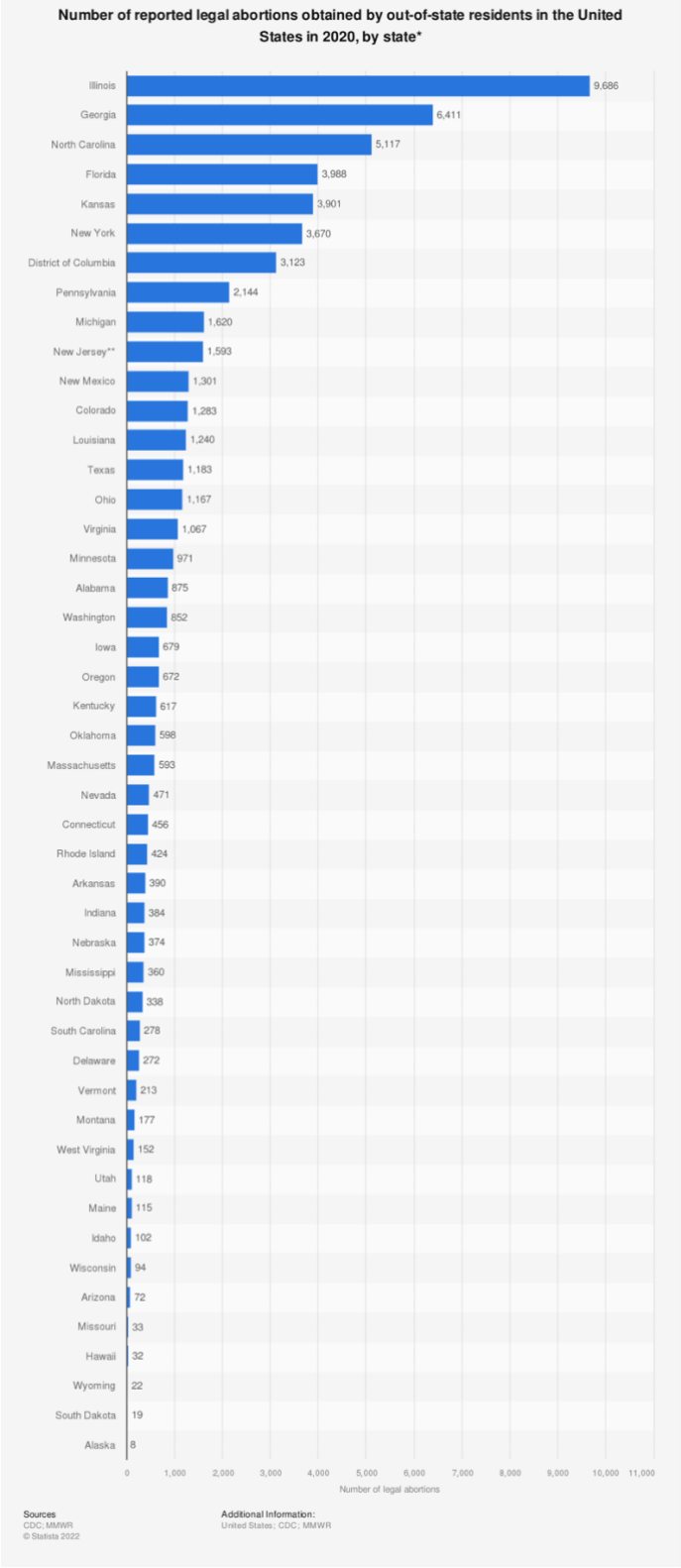

Figure 11 Number of reported legal abortions obtained by out-of-state residents in the United States in 2020, by state (CDC, 2022d)

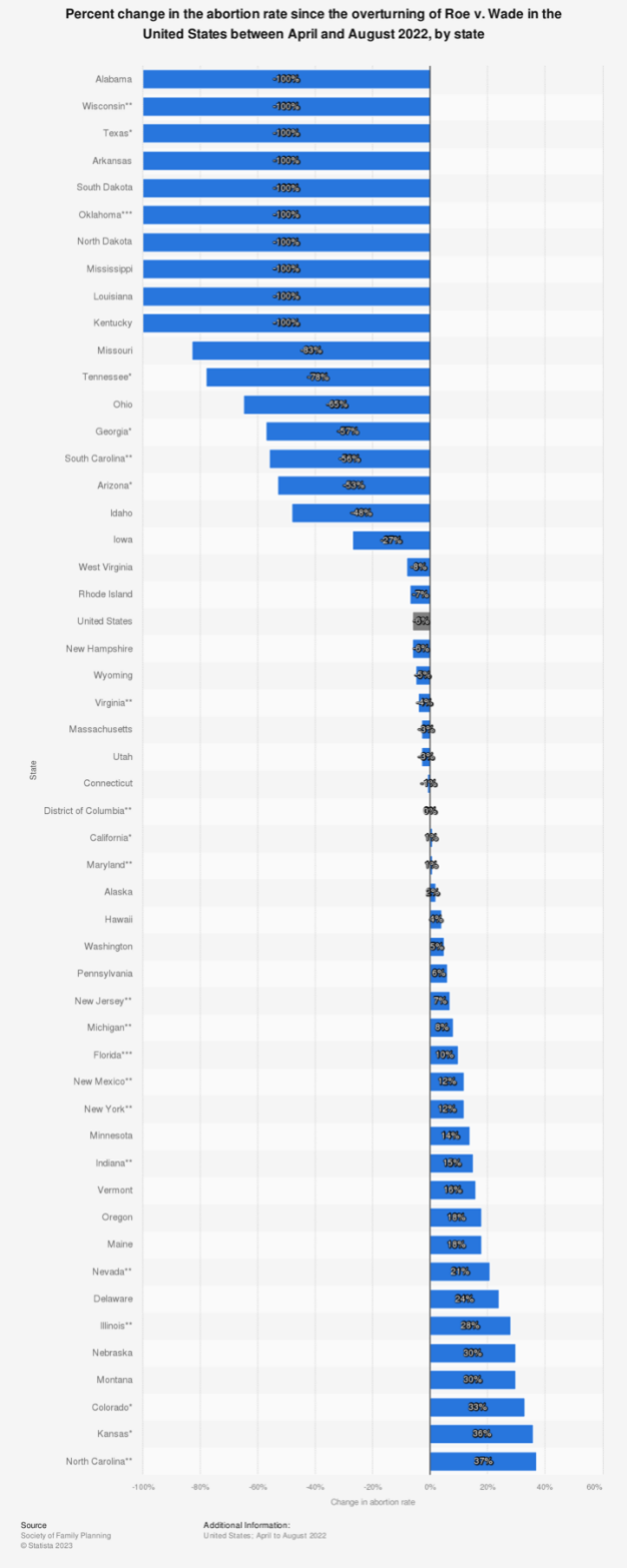

Figure 12 Percent change in the abortion rate since the overturning of Roe v. Wade in the U.S. between April and August 2022, by state (Society of Family Planning, 2022)

5.2.3 Poland

For the case of Poland, as mentioned, Figure 7 and Figure 8 show a significant decrease in maternal mortality with an annual rate of 6.89 from 2000 to 2020. This is reflected by a steadily increasing trend in the number of legal abortions performed in the same time frame as shown in Figure 17.

Figure 13 Total number of abortions reported in Poland from 1994 to 2021 (Medycyny et al., 2022b)

Furthermore, Figure 18, shows that the reasons for abortion changed significantly since the Conditions of Termination of Pregnancy Act of 1993. Specifically, from 1994 to 2000, the majority of abortions were granted because of a threat to the mother's life or health, while starting from 2000 to 2020, the increasing majority of abortions were granted because of prenatal test results. As in the case of the United States, the shifting trend of these two reasons for abortion can be explained by medical and technological progress, especially for prenatal tests (Roper, 2020).

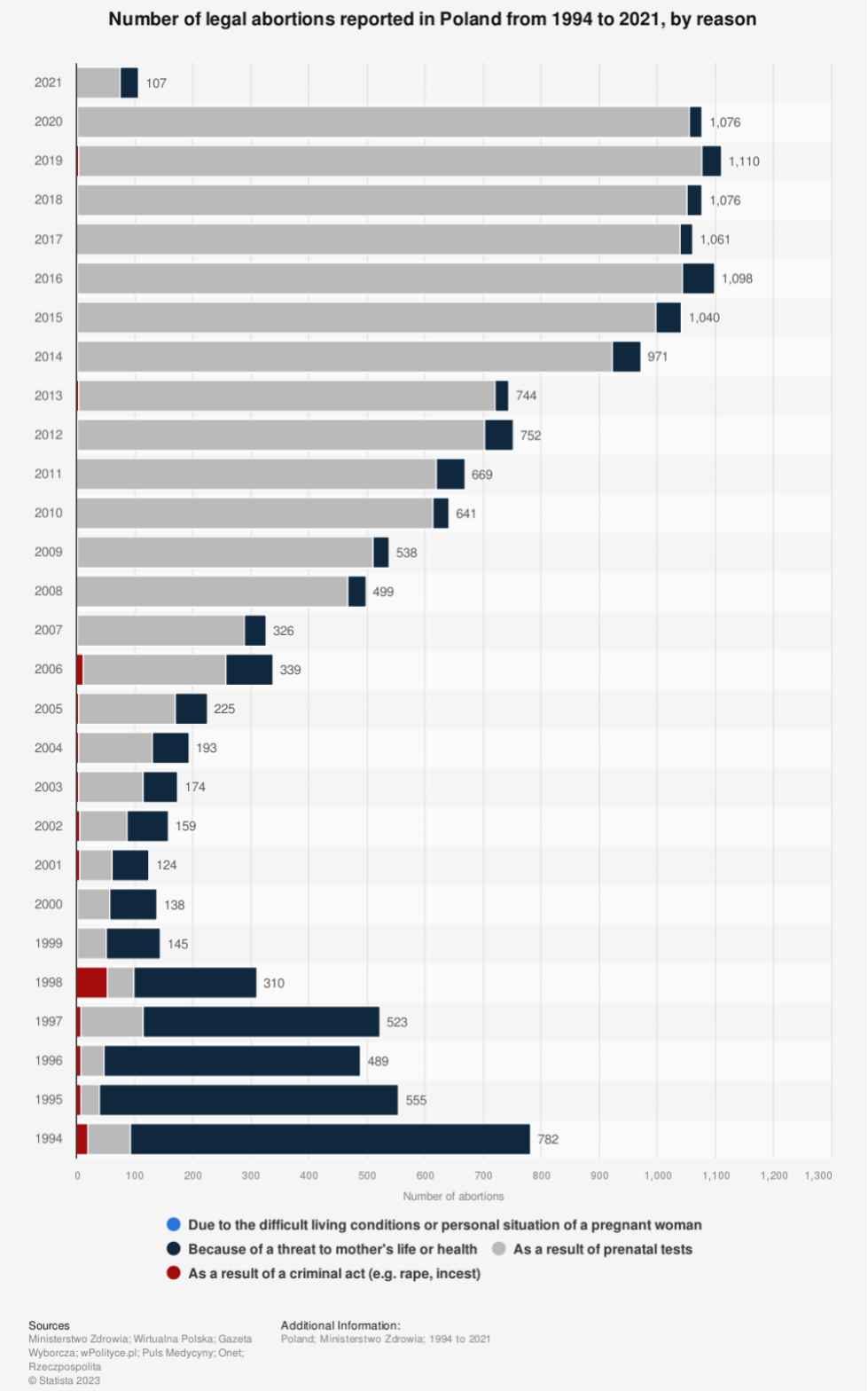

Figure 14 Number of legal abortions reported in Poland from 1994 to 2021, by reason (Medycyny et al., 2022a)

As for abortion as the result of a criminal act, rape and incest, it has hardly ever occurred, except for 1998 which is an outlier with 53 cases. This is explained by the fact that it has never been guaranteed in practice because of bureaucratic obstacles and the limit of 12 weeks to get an abortion (European Parliament, 2022).

The graph in Figure 18 confirms that most abortions in Poland were performed because of foetal impairment, the very condition the Constitutional Court ruled unconstitutional in October 2020. As a result, both Figure 17 and Figure 18 show a significant drop in legal abortions in 2021 due to the Court's decision. The consequences of the restriction cannot be quantified yet because of the lack of data, however, the first repercussions are already detectable.

In November 2022, a delegation of the Committee on Women's Rights and Gender Equality (FEMM) of the European Parliament went on a mission to Warsaw, Poland "to hold meetings on women's rights as well as sexual and reproductive health and rights" with local NGOs active in the field, the representative of the Ministry of Health, and members of the Polish parliament and senate among others (European Parliament, 2022: 2).

Local NGO representatives from FEDERA and Abortion Dream Team expressed their concerns regarding the risks to women's security because with abortion heavily restricted, doctors fear prosecution and avoid performing abortions as much as possible (European Parliament, 2022). In fact, historically doctors were rarely prosecuted and incarcerated for providing abortions because of the burden of evidence in proving whether the termination was due to an induced abortion or a miscarriage (Krajewska, 2022). However, after the Court's ruling the scrutiny from prosecutors intensified, which caused the so-called 'chilling effect' of doctors waiting too long or not performing abortions at all when needed and allowed by law (Krajewska, 2022; European Parliament, 2022). This led to "at least six documented cases when women died due to pregnancy complications, which could and should have been avoided by

abortion" from 2021 to 2022 (European Parliament, 2022: 3) and at least one in 2023 (Strzyżyńska, 2023). The new approach observed in hospitals, "let nature solve the problem," is dangerous and non-scientific, it ignores the issues women are experiencing and provides them with no or false information (European Parliament, 2022: 3). The latest case to record is the death of Dorota Lalik on May 24, 2023, in the John Paul II hospital in Nowy Targ (Strzyżyńska, 2023; Hajdari, 2023). The thirty-three-year-old woman was admitted to the hospital on May 20 because her water broke prematurely, causing the amniotic liquid to drain at twenty weeks of pregnancy (Strzyżyńska, 2023; Hajdari, 2023). Ms Lalik and her husband were under the impression that the worst-case scenario would have been a premature birth, and no one informed them that the foetus had low to no chances of survival and, when anhidrosis occurred, the best solution would have been to induce miscarriage to avoid further complications and save the mother's life (Strzyżyńska, 2023; Hajdari, 2023). Instead, medical staff prescribed paracetamol to the woman who reported an increasing headache, a first sign of infection, and recommended her "to sit still and "keep her legs up", ostensibly as a means to return the amniotic fluid into her womb" (Hajdari, 2023). Only on May 24, a few hours before she died of septic shock, doctors informed Ms Lalik that the foetus had died and that she had developed sepsis (Hajdari, 2023). This case, the latest of a series in the past two years, sparked renewed protests in Poland and her death is being investigated by the ombudsman since the hospital violated her right to an abortion to save her life and withheld crucial information about her health status and her options (Strzyżyńska, 2023).

The problematic consequence of the 'chilling effect' is that women will be increasingly more scared of going to a hospital if they are pregnant especially in case of complications because there is an increasingly concrete chance of not being treated properly and not surviving (Strzyżyńska, 2023; European Parliament, 2022). Thus, this fear does not only affect women who are seeking

abortion illegally but also those who do not want to terminate the pregnancy, causing a generalized fear of pregnancy (European Parliament, 2022).

In summary, in the United States, abortion-related deaths have decreased due to medical progress, safer practices and fewer abortions due to the restrictions. However, maternal mortality has risen potentially due to pregnancy complications caused by limited abortion access. The overturning of *Roe v. Wade* will most likely exacerbate these concerns, leading to an increase in illegal abortions, and 'abortion tourism', trends observed before *Roe* already.

In Poland, maternal mortality has significantly decreased due to safer practices, and medical and technological progress. Legal abortion rates have risen, with reasons shifting from threats to maternal health to foetal impairment, while rape or incest-related abortions were already rare due to bureaucratic obstacles. The 2020 Court ruling banning pregnancy termination for foetal impairment led to a drop in legal abortions in 2021, causing new risks to women's security. Doctors' fear of prosecution has created a 'chilling effect,' resulting in the preventable deaths of pregnant individuals being denied necessary care. This fear also affects women with pregnancy complications, impacting overall maternal health security.

5.3 The Risks Related to the Prosecution Methods

This section explores how the demonization and criminalization of abortion lead to the implementation of surveillance of pregnant women, not only in violation of their right to privacy but also instilling fear and isolating them and their community, which generates further health security risks related to pregnancy.

5.3.1 Data Security, Data Privacy, and Surveillance in the United States

Because of the restrictions to abortion access, but also of the lack of education and reliable information on reproductive health, women tend to increasingly rely on the internet (Fox Cahn & Manis, 2022; Conti-Cook, 2020). Even before the criminalization of abortion, low-income women and women of colour could rely on readily available digital tools when access to the health care system,

particularly for gynaecological examinations, was not guaranteed or economically prohibitive (Campanella, 2022). Moreover, the online environment gives its users a false sense of privacy, but especially for low-income, black communities this is far from reality as they are systematically disproportionally surveilled by multiple state agencies and authorities compared to white communities (Conti-Cook, 2020; Campanella, 2022). Furthermore, the current state of restrictions leads to the possibility of criminal prosecution which prompts law enforcement agencies and judicial systems to demonstrate whether an abortion took place (Conti-Cook, 2020). This requires proving that it is a case of abortion and not of miscarriage, namely, to find evidence of 'intent' in inducing it, which before digital data, without a direct confession or without finding traces of abortion pills or surgery on the woman, it was based on circumstantial evidence (Conti-Cook, 2020; Krajewska, 2022).

One of the first cases that used digital data to prove 'intent' in inducing abortion in the United States happened in 2017 in Mississippi, already the most hostile state to abortion with Ohio in 2006 (Conti-Cook, 2020; Guttmacher Institute, 2016). Latice Fisher, a Black woman who went to the hospital with her stillborn foetus, was reported to the police by medical staff and, in order to prove that she self-induced abortion, law enforcement presented to a Grand Jury her web search history (Conti-Cook, 2020). This showed that she researched how to induce an abortion and bought misoprostol, which convinced the Grand Jury of her 'intent' and convicted her of second-degree murder (Conti-Cook, 2020). Ms. Fisher left a digital trail that the prosecutors were allowed to exploit and use as evidence in the case against her, creating a precedent that would allow it in the future as well (Conti-Cook, 2020). The problem at that point is determining not only where is the limit of what is allowed to be monitored and used as evidence, but also what constitutes criminal behaviour (Conti-Cook, 2020; Campanella, 2022). Habits and behaviours that are normally legal, could be considered criminal during a pregnancy, such as smoking, drinking alcohol, taking or refusing to take certain medications to name a few (Conti-Cook, 2020).

Moreover, when trying to prove 'intent' through internet searches and purchase history, it is impossible for prosecutors to be certain that the pregnant person did not change her mind and that a miscarriage eventually and coincidentally occurred (Conti-Cook, 2020). The type of digital data that can be tracked varies, the most common ones are "search browsing history, unencrypted communications, location history, purchasing history, databases for state police, welfare, and child protective services, social media activity, smart home devices, wearable devices, and menstrual tracking apps" (Conti-Cook, 2020: 48). They concern a considerable number of daily activities and uses, making their surveillance pervasive (Conti-Cook, 2020).

Through these methods, U.S. law enforcement agencies do not need to rely on medical staff to report women suspected of having self-induced abortions like in the Mississippi case of Ms. Fisher, but they can directly access the information digitally, sometimes not even requiring a warrant because privacy legislations in the U.S. do not protect these digital trails (Conti-Cook, 2020). Moreover, the exploitation of data from menstrual tracking apps, known as Femtech, further violates women's right to privacy defeating their purpose of improving women's reproductive health: Femtech apps "can look and act like health care, they are regulated as though they are not. Put simply, users of these personal health technologies generally do not receive the same protections as patients" (Vidal & Merchant, 2022; McMillan, 2022; Fowler & Morain, 2020: 209). In fact, agencies like the Food and Drug Administration (FDA) only protect digital data that can "diagnose, cure, mitigate, or prevent disease or other conditions," and regulations such as the Health Insurance Portability and Accountability Act (HIPAA) are very limited and do not apply to health data collected by Femtech (Fowler & Morain, 2020: 210; Campanella, 2022; Vidal & Merchant, 2022). As a result, North American women who are considering an abortion cannot rely anymore on the internet and health care tools and apps such as Femtech but have to implement precautions in order not to leave a digital

trail of their pregnancy and avoid prosecution, further isolating and marginalising them (Fowler & Morain, 2020; Conti-Cook, 2020).

5.3.2 The Pregnancy Registry in Poland

The case of Poland is different because as a member of the EU, is subjected to GDPR which does not allow such a level of exploitation of digital data (Vidal & Merchant, 2022; Campanella, 2022). Furthermore, thanks to the Women's Strike in 2016, women undergoing abortion are not criminalized differently from the U.S., those being prosecuted according to Polish law are providers and facilitators (Koralewska & Zielińska, 2022). Yet, the parliament is under constant pressure from the anti-abortion citizens' group to completely ban abortion and prosecute women who seek one (Dyer, 2021).

However, the centralized registry established by the Minister of Health in 2021 sparked concerns about the digital surveillance of pregnant women. Women's rights advocates who met with the FEMM delegation of the European Parliament expressed their concerns regarding the database, namely about the risks related to the possibility of the information being exploited by law enforcement, the government, and even medical staff (European Parliament, 2022). This would result in the extreme case of miscarriages being investigated and criminalized, inflicting a double trauma on women (Holt, 2022). The same fears have been shared with the FEMM delegation by members of the Human Rights Committee of the Polish Senate (European Parliament, 2022). The official version of the Ministry on the function of the database is to update the health care system in accordance with EU provisions for digitization and would collect all sorts of medical information of the patients, not only pregnancies (European Parliament, 2022). A representative of the Ministry also stated that access to the data in the registry would be protected by data protection laws and that the government does not have any interest in monitoring pregnancies (European Parliament, 2022).

However, there are still concerns that women would be discouraged from visiting medical facilities altogether for fear of being registered (European Parliament, 2022). This is also caused by the fact that despite the reassurances from state officials, the information is still being collected, creating the potential for its weaponization. The discriminant is that in a democratic context, citizens would have the perception of their data being protected, but the fact that Poland has been experiencing an authoritarian derivative intensifies the source of concern (Holt, 2022).

5.3.3 Common Health Security Consequences

As a result of the criminalization of abortion and the surveillance methods implemented for prosecution, in the U.S. and Poland a supplemental risk to the health security of women is introduced. In both countries, the fear of prosecution will have an impact on access to health care, from prenatal care, prenatal genetic screenings and going to any medical facility in general (Allyse & Michie, 2022). Those procedures that became routine both in the U.S. and in Poland, such as "ultrasound, serum screening, cell-free DNA screening, and diagnostic genetic tests for fetal conditions during pregnancy," are essential to a healthy pregnancy, a healthy foetus and safe birth (Allyse & Michie, 2022: 1). Before the restrictions, these tests were essential also for future parents to be able to make informed decisions about whether to continue or terminate the pregnancy (Allyse & Michie, 2022). Forcing a pregnant person to complete a pregnancy is problematic in itself, but if one is also aware of serious or life-threatening conditions it is even more problematic and can have serious consequences for the physical and mental health of the pregnant person (Allyse & Michie, 2022). Nevertheless, some extremist anti-abortion activists are pressuring to prohibit prenatal tests altogether arguing that in case of foetal impairment or anomaly, abortion would be considered the first option, even when banned (Allyse & Michie, 2022). Moreover, as already mentioned, cases of pregnancy loss could be automatically investigated, but if the pregnant person underwent prenatal genetic screenings that uncovered a foetal condition, their situation may be

aggravated as it could be considered a motive for self-induced abortion (Allyse & Michie, 2022). The consequence is that "individuals who harbor any uncertainties about continuing their pregnancy will almost certainly be reluctant to seek out early prenatal care, putting their health and the health of the pregnancy at risk" (Allyse & Michie, 2022: 2). A significant symptom of this concern is that in Poland women ask organisations that usually help them seek out of state abortions, to help them instead to go to a gynaecologist abroad in order not to be registered in the Polish health database and to avoid the authorities knowing about the pregnancy. (Holt, 2022).

Once again, the restrictions on abortion have a graver impact on those who already experience socioeconomic marginalization, namely lower-income women, and women of colour (Allyse & Michie, 2022).

In summary, demonizing and criminalizing abortion leads to increased surveillance of pregnant individuals, which violates their privacy, induces fear, and isolates them and their communities, resulting in additional health security risks related to pregnancy. In the United States, digital activities are monitored extensively, creating a potential for criminal prosecution related to abortion, such as in the case of Latice Fisher, which illustrates how digital data, like web searches and purchase history, was used as evidence of 'intent' to induce abortion (Conti-Cook, 2020). Moreover, menstrual tracking apps and other digital tools are also exploited by law enforcement, violating women's privacy, and isolating them (Fowler & Morain, 2020; Conti-Cook, 2020). On the other hand, in Poland, a centralized pregnancy registry raises concerns about surveillance and potential misuse of data, even with assurances of protection (European Parliament, 2022). In conclusion, both the U.S. and Poland experience health security risks due to abortion criminalization, impacting access to essential prenatal care, genetic screenings, and healthcare facilities, particularly affecting marginalized communities (Allyse & Michie, 2022). As a result, the increased surveillance of pregnant individuals negatively also affects those who are not trying to terminate the pregnancy, who grow scared of not

receiving the medical care they require or being investigated in case of miscarriage (Allyse & Michie, 2022).

5.4 Summary of the Analysis

The fifth chapter compared the two case studies of the United States and Poland to address the research question and showcase the security risks for women related to the restriction of abortion and the security consequences of its criminalization.

In the first part, the analysis started on the similarities and differences between the two case studies, the United States and Poland, with regard to their abortion restrictions and their impact on women's health and security. First, the social and political contexts of these two countries are compared showing how these contexts influenced the process of liberalization and subsequent restrictions on abortion. Notably, Poland's liberalization occurred under the Nazi and Soviet occupation, leading to a lack of recognition of abortion as a women's right but as a granted top-down necessity (Szelewa, 2016). On the other hand, the United States' liberalization emerged from feminist movements advocating for reproductive rights (Baker, 2022). These differences determined different outcomes in the anti-abortion regressive wave of the early 1990s, with Polish anti-abortion movements finding more fertile ground for heavier restrictions and the U.S. a stronger opposition which led to a more progressive deterioration of abortion access rights (Heinen & Portet, 2010; Baker, 2022; Winny, 2022).

The analysis then compared data on maternal mortality rates, showing that the U.S. experienced an alarming increase, while Poland witnessed a steady decrease (WHO, 2023). The impact of increasingly heavier restrictions on abortion access in the U.S. led to a negative cascade effect and a rise in unintended pregnancies and complications related to pregnancy itself, which contributed to higher maternal mortality rates (WHO, 2023). In contrast, Poland's restrictions did not lead to the same degree of negative impact on

maternal mortality due to a consistent level of access and an increasing number of legal abortions (Medycyny et al., 2022b).

In the second part, the analysis delved into the consequences of demonizing and criminalizing abortion, focusing on the implementation of surveillance methods for prosecuting abortion providers and facilitators in both countries and individuals undergoing abortions in the United States. Moreover, in the U.S., the tracking of digital data and surveillance have been weaponized to prove 'intent' in inducing abortions, creating a countereffect that discourages pregnant individuals from seeking medical care and necessary reproductive health resources online (Conti-Cook, 2020). This surveillance impinges on privacy, affecting daily habits and even the use of social media and menstrual tracking apps, Femtech, with the result of isolating and marginalising women (Fowler & Morain, 2020; Conti-Cook, 2020). On the other hand, in Poland, concerns emerged from the establishment of a centralized pregnancy registry, sparking fears of digital surveillance and misuse of personal information by law enforcement, the government, and medical staff (European Parliament, 2022). Despite assurances, worries remain about the registry's potential to deter pregnant individuals from seeking proper medical care due to the fear of their pregnancy being tracked (Allyse & Michie, 2022). The marginalized communities, particularly lower-income women and women of colour are disproportionately impacted by these surveillance methods and abortion restrictions (Allyse & Michie, 2022).

Both countries face common health security consequences due to these surveillance practices. Pregnant individuals are increasingly reluctant to seek prenatal care and necessary screenings, which are considered necessary to make informed decisions about the pregnancy and can adversely affect the health of both the individual and the pregnancy (Allyse & Michie, 2022). As a result, these practices have the spillover effect of impacting not only those individuals who are considering an abortion but also those who want to bring the pregnancy to term but fear not receiving the medical care they require and the possibility

of being investigated in case of miscarriage (Allyse & Michie, 2022; Holt, 2022). Ultimately, this creates a generalised fear of pregnancy in both countries under analysis.

6 Conclusion

This dissertation has discussed the process of demonization of women's health and the criminalization of abortion, and how these represent a health security threat and violation of human rights. In particular, the research has focused on the two case studies of the United States and Poland, comparing their tidal processes of abortion liberalization and repression over the past century and the impact they had on women's security.

The wave of liberalisation began in the 1950s in Poland and in the 1970s in the US, triggering anti-abortion movements and leading to the tide turning with the first restrictions in the early 1990s. The wave then reached a new low recently, with the Constitutional Court's ban on abortion in cases of foetal harm in Poland in 2020 and the Supreme Court's overturning of *Roe v. Wade* in the U.S. in 2022. The related analysis of maternal mortality rates showed the effects of repressive abortion regulations on women's health and safety, with ripple effects on all pregnant people, particularly those from vulnerable communities. The analysis emphasised the different social, political and legal systems of the case studies, highlighting the differences between the two systems and the effects these had internally.

Thus, the overall aim of the dissertation was to showcase what are the repercussions of the restrictions on abortion in terms of women's security, while also emphasising the security consequences of the criminalization of abortion through the exploitation of digital surveillance. The objectives of the research were, in the specific framework of the analysis, as follows: (1) to explore the impact of abortion restrictions on maternal health, analysing maternal mortality rates and abortion rates; (2) to show how the criminalization of abortion is having health security consequences on every pregnant individual, creating an

environment of generalized fear of abortion; (3) to analyse the repercussions of criminalization on women's choices and accessibility to reproductive healthcare and prenatal care.

This concluding chapter will revisit the research objectives, summarise the results and offer conclusions and suggestions for future research.

6.1 Addressing Research Objectives

The first research objective was to examine how abortion bans can have direct consequences on women's health security. Investigating the direct impact of restricted abortion access on maternal health, this objective focuses on understanding the direct effects of abortion bans on maternal mortality rates, morbidity, abortion, and birth rates (WHO, 2012). The analysis has shown that the two case studies experienced very different maternal mortality rates. Poland had a positive reduction rate of 6.89 from 2000 to 2020, while the United States had a negative reduction rate of -2.88 in the two decades and -4.04 from 2010 to 2020. The main reason for this difference between the two countries has been traced back to the different processes towards liberalization of abortion first and repression after. The top-down concession of abortion access in Poland led to the lack of recognition of the right to abortion of feminist roots, which allowed for a strongly motivated anti-abortion movement that heavily restricted legalization in 1993. On the contrary, in the United States, *Roe v. Wade* was the result of a feminist fight which made it more difficult for the anti-abortion movement to challenge it, with the 1992 ruling of *Planned Parenthood v. Casey* changing the framework for evaluating abortion access but still protecting the right to abortion at the constitutional level. At first glance, this might seem like a contradiction, but in reality, it means that Polish women have been dealing with the same legislation for almost thirty years, learning and adapting. In addition, reproductive rights organisations have been able to establish themselves and work as smoothly as *Jane*[3] did in the United States before *Roe*

[3] The clandestine organisation that provided eleven thousand clandestine abortions in the United States with safety levels comparable to current legal abortion standards (Baker, 2022).

but in a context of restriction and not outright illegality. Moreover, cases of Polish doctors being charged with illegal abortions were very rare and difficult to prosecute, not discouraging the practice. Furthermore, the healthcare system has not been negatively impacted by the abortion restrictions of the 1990s. On the other hand, constant legislation change depending on the state and the political alignment led to an environment of uncertainty which resulted in a cascade effect on the healthcare system. This is also evidenced by the rates of reported abortions in both countries, showing a significant decrease in the U.S. despite abortion being a constitutional right, and a steady increase in Poland, where abortion laws were technically more repressive.

Then, the second and third research objectives were to analyse the consequences of the criminalization of abortion on two correlated aspects. First, in terms of how pregnant individuals' security and their communities are affected by the prosecution methods implemented by governments and law enforcement agencies. Second, in terms of the effects of criminalization and prosecution on women's health choices and accessibility.

For the second research objective, the analysis has shown that due to restricted abortion access and inadequate reproductive health education, women increasingly turn to the Internet for information and support. However, the notion of online privacy is misleading, and in the U.S. abortion criminalization further exacerbates the situation, prompting law enforcement to seek evidence of 'intent' to induce abortion, blurring the line between legal behaviours and criminal acts. Digital data plays a pivotal role in the U.S., which raises concerns about privacy, especially as daily activities like internet searches, purchases, and Femtech app data can be monitored, bypassing the need for medical staff to report suspicions of self-induced abortion, impacting women's privacy and their right to healthcare. Notably, regulations fail to protect users of these apps, forcing individuals to take precautions to avoid leaving a digital trail of their pregnancies. In Poland, as an EU member subject to GDPR, the level of digital data exploitation differs from the U.S., but concerns arise due to a centralized

pregnancy registry established by the Ministry of Health. Women's rights advocates fear this data could be misused by law enforcement, government, and medical staff, potentially leading to investigations and criminalization of miscarriages. Despite reassurances, citizens might avoid medical facilities to prevent registration, driven by the context of authoritarian tendencies in the country.

For the third research objective, the analysis has shown that abortion criminalization and the surveillance measures adopted for prosecution introduce an additional layer of risk to women's health security in both the United States and Poland. The fear of legal consequences significantly impacts women's access to healthcare services, prenatal care, and medical facilities, including standard procedures such as ultrasounds, genetic tests, and genetic screenings. Cases of pregnancy loss may be automatically investigated, and having undergone prenatal genetic screenings could be misinterpreted as a motive for self-induced abortion. This situation leads individuals with uncertainties about continuing their pregnancies to avoid seeking medical care, jeopardizing their health and the well-being of their pregnancies. As a result, the increased surveillance not only affects those seeking to terminate pregnancies but also creates fear of inadequate medical care and investigations in cases of miscarriage.

6.2 Suggestions for Future Research

Future research has the potential to enrich the existing thesis by implementing a feminist perspective that could give more prominence to the voices of feminist activists and everyday women who are directly affected by the criminalization of abortion. This approach could provide insights into the subjective lived experiences and challenges faced by these women. Moreover, a deeper exploration of the intersectionality of the issue, integrating even more the lens of racial critical theory and queer perspective would contribute to a more comprehensive understanding of the consequences of the criminalization of

abortion on pregnant individuals' health choices, digital interactions, and broader social well-being.

Furthermore, in light of the analysis described in the previous chapter, it would be interesting to comprehensively explore the underlying transnational learning mechanisms by examining the formal and informal channels through which policy ideas regarding abortion rights may have spread between the two countries. In addition, exploring the role of key actors such as government officials, advocacy groups and international organisations, and studying patterns of policy diffusion over time would provide insights into the evolution of policy adoption and its potential feedback effects, to be placed alongside the examination of cultural, regulatory and external factors that may have influenced the reception of abortion rights policies.

6.3 Final Remarks

This dissertation has examined the effects of restricting and criminalizing abortion in the context of the United States and Poland, focusing on the health security consequences and the violation of women's human rights and right to privacy. The findings highlight that maternal mortality rates are negatively affected by repressive abortion legislation because of unsafe abortions, pregnancy complications, mental and physical health, reproductive and prenatal care accessibility, and the 'chilling effect' due to unclear regulations. This trend is exacerbated by persecutory methods that erode the right to privacy and provoke a generalised sense of fear and distrust in the health care system, with serious repercussions on the health of pregnant individuals and their pregnancies.

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