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Reproductive Justice Advocates are Making Major Changes, Even During a Global Pandemic

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* *By: Katherine Fustich*



Over the course of the last year, the devastating toll of the COVID-19 pandemic has been the world’s foremost health issue. Yet, the gaps in social safety nets exposed by the pandemic have also given way to a host of international action and dialogue around another health issue: abortion access. During the last 12 months, governments around the world have made numerous major decisions on the issue, some majorly restricting access while others granting access to their citizens for the first time.

In Northern Ireland, for example, abortion was legalized in the nation for the first time as a direct result of the COVID-19 pandemic and subsequent quarantine measures.[1] Prior to April 2020, Northern Ireland residents who wished to have an abortion were required to travel to England. Despite being a member state of the United Kingdom, Northern Ireland had long held to restrictions dubbed “draconian”

in nature.[2] In April 2020, not long after COVID-19 began exploding internationally, with the U.K. particularly hard hit, lockdown restrictions meant that the only way to travel between Northern Ireland and England was an eight-hour ferry between Belfast and Liverpool. Once in England, the patient would be required to take an abortion pill in the presence of a doctor before returning to Northern Ireland and risking a miscarriage on the ferry ride home.[3] Though many had been advocating for Northern Ireland to lift restrictions on the procedure for years, the forced travel and possible health complications became the key to arguments necessary for U.K. officials to begin allowing abortions in Northern Ireland.

Such has not been the case in Poland, where the country's constitutional tribunal voted in October 2020 to ban abortions due to congenital fetal defects.[4] Following weeks of protests and public outcry, the ruling suddenly went into effect in late January of 2020, sparking even more fervent protests that the New York Times dubbed the "largest demonstrations" in the country since the revolutionary wave of 1989.[5] Critics of Poland's new ruling have called it a "near-total ban" on the abortion, which is now legal in Poland solely in cases of rape, incest, or threats to maternal health. These motivations represent just 26 of the 1,100 abortions performed in the country last year, or just two percent. Meanwhile, demonstrators continue to take to Poland's streets, criticizing the government's decision to restrict healthcare access in an already harrowing time for global public health. Poland in particular has had some of the highest COVID-19 positivity rates in Europe, which some blame on government inaction.[6]

In Argentina, a longstanding fight for abortion access came to a zenith in the midst of the pandemic, when the country's government voted to legalize abortion in December of 2020. Following an "often dramatic" debate in the Argentinian Senate, the procedure was legalized by a vote of 38-29, with one abstention.[7] When the vote was announced, thousands of activists cheered in the streets, many of them wearing green bandanas that have come to be emblematic of the Argentinian feminist movement. Still, not all rejoiced. The legalization was met with sharp criticism by the Roman Catholic Church, which has long held influence over both the people and government of Argentina. Despite any pushback, President Alberto Fernández said he will sign the bill into law, making it officially legal to end pregnancies up to 14 weeks, after which exceptions will be made in cases of rape or risks to maternal health.[8] Argentina is now the largest country in Latin America to have legalized abortion, and neighboring populations wonder if the change could mean anything for their own country's policies.[9]

Finally, in the United States, reproductive justice advocates are looking to the incoming administration to overturn the policies and attitudes of the Trump era. While not a centerpiece of his administration, Trump appointed a total of 226 federal judges, many of whom have demonstrated a commitment to overturning *Roe*. [10] President Biden, however, did not shy away from a pro-choice message while on the campaign trail as he seems intent on living up to that commitment. In late January of 2020, shortly after taking office, President Biden signed an executive order overturning former President Trump's enforcement of the Mexico City Policy and the Kemp-Kasten Amendment.[11] Both policies, first developed in the Reagan era, were used by the Trump administration to restrict all American aid to organizations that offer abortions or abortion counseling services. Trump expanded upon these policies to restrict aid to groups that also provided services related to HIV and tuberculosis.[12] While Biden may have brought a pro-choice spirit back into the White House, many of the United States' biggest battles have yet to be fought and won in the court system — an arena where politics of the Trump administration may still prove to be a threat.

As the threat of COVID-19 continues to loom, large international governmental policy is changing on an almost daily basis. While the pandemic remains the foremost health issue, it is also shining a harsh light on existing issues within our health systems. The right to an

abortion and the concept of reproductive justice may be controversial in the eyes of many political leaders, but in the eyes of activists around the world, these remain key issues worth fighting for — even in the middle of a pandemic.

****Katherine Fustich is a 2L at Cardozo Law School and holds a B.A. in English from New York University. Katherine is interested in public interest law with a focus on civil rights and women's rights.***

[1] Ceylan Yeginsu, *Legal Abortions Begin in Northern Ireland*, N.Y. Times (Apr. 10, 2020), <https://www.nytimes.com/2020/04/10/world/europe/northern-ireland-abortion-uk.html>.

[2] Ceylan Yeginsu, *Climate of Fear: When Part of a Country Bans Abortion*, N.Y. Times (Aug. 10, 2019), <https://www.nytimes.com/2019/08/10/world/europe/abortion-northern-ireland-roe.html>.

[3] Yeginsu, *supra* note 1.

[4] Staff, *Poland rules abortion due to foetal defects unconstitutional*, The Guardian (Oct. 22, 2020), <https://www.theguardian.com/world/2020/oct/22/poland-rules-abortion-due-to-foetal-defects-unconstitutional>.

[5] Isabella Kwai, Monika Pronczuk & Anatol Magdziarz, *Near-Total Abortion Ban Takes Effect in Poland, and Thousands Protest*, N.Y. Times (Jan. 27, 2021), <https://www.nytimes.com/2021/01/27/world/europe/poland-abortion-law.html>.

[6] Poland COVID-19 Statistics, World Health Organization, <https://covid19.who.int/region/euro/country/pl> (last visited Feb. 4, 2021).

[7] Daniel Politi & Ernesto Londoño, *Argentine Legalizes Abortion, a Milestone in a Conservative Region*, N.Y. Times (Dec. 30, 2020), <https://www.nytimes.com/2020/12/30/world/americas/argentina-legalizes-abortion.html>.

[8] *Id.*

[9] *Id.*

[10] John Gramlich, *How Trump compares with other recent presidents in appointing federal judges*, Pew Research Center (Jan. 13, 2021), <https://www.pewresearch.org/fact-tank/2021/01/13/how-trump-compares-with-other-recent-presidents-in-appointing-federal-judges/>.

[11] Memorandum on Protecting Women's Health at Home and Abroad, Fed. Reg. (Jan. 28, 2021), <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/28/memorandum-on-protecting-womens-health-at-home-and-abroad/>.

[12] Bhadra Sharma et. al., *Health Providers Worldwide Welcome Biden Reversal of Anti-Abortion Rule*, N.Y. Times (Jan. 29, 2021), <https://www.nytimes.com/2021/01/29/world/asia/gag-rule-abortion.html>.