

## FEMINIST ETHICS PERSPECTIVE ON CASES OF REFUSED ABORTION FOR IZABELA SAJDBOR IN POLAND AND MIRELA ČVAJDA IN CROATIA

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**Summary:** The article compares two cases of refused abortion, that of Izabela Šajdor from Poland and that of Mirela Čavajda from Croatia, from a feminist ethics perspective. Based on the theory of feminist ethics and the writings of feminist theoreticians like Simone de Beauvoir, Evelyn Reed, and Susan Sherwin, as well as media reporting on the two cases, the author argues that structural oppression causes complete neglect for the perspective of women in applied ethics for these two cases of abortion, and that can be based neither in false myths of biologically inherited differences between men or women, nor the ethics of pro-life arguments, as it neglects the life of the mother. The two extreme cases reflect circumstances in which the society, and at least in Poland legally supported by governing bodies, impose an abortion ban. The consequence of such a ban is that abortion is not treated as a medical procedure but as a means of oppressing women, as evident from the treatment of Izabela Šajdor and Mirela Čavajda. The article opens the question of the ethical treatment of women in cases of abortion bans. Debates on the ethics of abortion commonly focus on the life of the fetus itself and not that of the mother. Women, in this context, become objects of broader debate and collective decision-making of society and its dominant values. As an outcome, women lose access to healthcare and bodily autonomy. A feminist ethics and feminist contractarian perspective is necessary to argue in favor of practices and approaches that bridge the gap in circumstances where women's safety and individual decision-making is dependent on popular values.

**Keywords:** *feminist ethics, contractarianism, ethics, abortion, abortion ban, Poland, Croatia*

## INTRODUCTION

2021 in Poland was marked by protests for women's rights for legal and safe abortion. An unfortunate background to the female uprising, was the case of a woman who did not survive the complications of her pregnancy. In 2022, the story of a woman from Croatia in an open letter she wrote to her unborn child broke the news and caused public outrage throughout Croatia and the surrounding countries. What the two cases have in common is that both would probably reach the public eye – at least in the way they did – to an extent because of the controversy over the medical procedure they needed, which was abortion. Applied ethics, as one of the sub-disciplines in philosophical studies, considers questions of practicing ethical beliefs in different circumstances and in different fields, even outside of philosophy – such as business ethics. Unlike metaethics, as another sub-category of studying ethics, applied ethics accepts *a priori* existence of moral principles, and focuses on studies acceptability or permissibility of different practices from an ethical standpoint. As such, the question on abortion has been long discussed from the bioethics standpoint within applied ethics. However, this article argues that a perspective of presenting ethical consideration on certain practices – such as abortion – is incomplete without a feminist standpoint as it tends to focus on questions of fetus as a person, therefore subject to morality of terminating a life, instead of going back to the morality of imposing decisions on the wellbeing, freedom and ultimately – life of women (Dittmer, N/A). As evident from bans or impositions on practice of abortion, one can conclude that there is no universal stance on ethical action, or at least there are multiple perspectives on what is ethical. What happens when such occasions become entangled with structural oppression? The author in this article acknowledges that the theories of gender-based oppression are multifaceted, and that the definition of what causes oppression of women is in the very roots of different women's movements, feminist theories and feminist movements. Therefore, the article works with what can be considered a minimal definition of structural oppression of women, that states that a dominant group uses instruments of their will to cause and maintain the subordination of the other group, in this case women. Patterns of oppression have deeply permeated the society and its organization to maintain a power arrangement that oppresses women. In these particular cases, the instrument of

the dominants' will is legal regulation and societal permissibility of abortion. The only means to change legal regulation that causes oppression, is to advocate for ethical argumentation on protection of women when it comes to abortion that would be, in ideal circumstances, more widely accepted (Musingafi, Mafumbate, & Khumalo, 2021). This article argues that in at least two specific cases, that of Izabela Sajbor in Poland and Mirela Čavajda in Croatia, differences in opinions on the ethics of abortion – propped up by influential societal constructs that surround us – result in harm to women's health, safety, and freedom. The fact that such events are transpiring still reaffirms the need to offer specific insight that is related to applied ethics, in this instance, feminist ethics view on cases of abortion. While this paper draws from the theory of feminist ethics to analyze and compare the two unfortunately existing cases, it does not seek to open an argument on feminist ethics and its relation to other concepts, such as ethics of care or the different attitudes to this approach. The utilization of this perspective in this paper is necessary to draw attention to an approach to the debate on abortion that is deemed missing from the public discourse – outside of feminist, women, and human rights activist circles. The missing approach focuses on the ethics of withdrawing healthcare to women in need on the grounds of disagreeing with the medical procedure necessary to help them or save their lives. The article further argues that such disagreements are influenced by societal constructs that attribute values to women's bodies that are inherently oppressive because they limit the woman in question from reclaiming ownership over her choices regarding her health. To do that, the article draws on writings from feminist theory by Simone de Beauvoir (1956) and Evelyn Reed (1971), which dissect the ways in which societies prescribe values to women's bodies in a manner that is oppressive or creates otherwise disadvantages for them. However, the article itself is not an overview of feminist theory. It instead draws from the argumentation across generations of thinkers that point to the fact that social constructs are influencing the value and the view on women, which is neither a biological necessity nor ethical towards women. The choice of the two authors is based on the fact that both deal with social and political views on biological differences between men and women as the grounds for differences between the two. In contrast, acknowledging that the two authors belong to different generations and philosophical perspectives of feminist thought, the reference to their writing

points to the fact that several myths of biological necessity or inherent differences have already been debunked through their argumentation. The consequences of these myths are still influencing the very ethics of medical processes even today, according to the author's opinion. An unfortunate consequence is that social attitudes stemming from these myths influence the approach to life-saving medical procedures, which caused at least two women harm, or more grievously, death to one of them.

### **Aim and Methodology**

This article aims to offer a feminist ethics perspective on two cases of abortion: Izabela Sajbor in Poland (Vandoorne & Bell, 2022) and the case of Mirela Čavajda in Croatia (The Guardian, 2022). The reason why these two cases were chosen for this paper is the fact that, at the very least in Europe, both stories became highly publicized in the media and opened the debates not only on the two individual cases but on a more general level, what could be the future of women's rights to make choices concerning their health and is the society going backward in terms of advancing reproductive care and preventing reproductive violence and the two countries have been compared on abortion policies even before the case of Mirela Čavajda occurred (Bogdanović & Batsweiler, 2020). This article does not intend to offer conclusions on such a general level, however crucial that debate may be, but to instead offer arguments that could assist in advocating for more substantial attention to the existing problems by acknowledging the necessity of viewing certain aspects of reproductive health through a feminist ethics lens. To achieve this aim, the article offers theoretical insight into what feminist ethics is and how it is related to the question of abortion, with a focus on contractarian perspectives in feminist ethics, to be discussed later in this article. Furthermore, the article offers arguments from different feminist activists and thinkers that deal with the question of how the female body is prescribed socially constructed values. The reason why such argumentation is necessary for this article is because it complements the reasoning that ethical debates on the morality or immorality of abortion are, in fact, grounded in the structural oppression of women and that countering this requires an ethical approach that will bridge these cultural and structural factors (Sherwin, 1991). The article also draws on media reporting of the two abortion cases to present a comparative overview of the two. The purpose is

to not only present the two cases from a feminist ethics point of view but to offer argumentation as to why abortion cannot be separate from this perspective.

### **Theoretical background**

With the writings of Mary Wollstonecraft, and other early feminists, the idea of feminist ethics goes back as early as the 18<sup>th</sup> century; however, it became imperatively related to eliminating the oppression of women and other oppressed groups with Third Wave feminism of the 20<sup>th</sup> century. Alison Jaggar defines it as “gendered ethics” that focus on the oppression of women in particular and how to eliminate it (Mackay, N/A).

Feminist ethics explores the gender component in moral practices and values, with the aim of “understanding, criticizing and correcting” (Lindemann, 2005). The approach considers the marginalized perspectives based on gender and attempts to understand how the gender of the marginalized influenced their societal experiences. While there are several approaches to feminist ethics, from those that uphold the binary division of gender to those that focus specifically on the marginalized groups stuck “in-between” the binary division of gender, the commonality to all of the approaches is that feminist ethics assume that “access to power, privilege or limited access to social goods” influences the oppression of societal groups, primarily that of women (Norlock, 2019). Feminist ethics is also described as “a way of doing ethics” (Lindemann, 2005) and, therefore, in theory, deals with many approaches to ethics. The goal remains the same – to offer insights into improving ethical theory (Lindemann, 2005). Furthermore, feminist ethics covers different approaches within itself, from essentialism and separatism to transnational feminism, pragmatism, intersectionality and more. This article focuses on contractarianism in feminist ethics. Contractarianism argues that “moral agents are permitted to critically assess the values of any relationship, especially family relationships that may be oppressive on gendered dimensions” (Norlock, 2019). It dissects preferences that society was persuaded to adapt to in non-ideal circumstances, that are influenced by dominant perspectives. Therefore, moral agents can be persuaded, by societal arrangements to accept patterns of behavior and decision making that are not in favor of their own good (Norlock, 2019).

Why is feminist ethics important in the discussion on abortion? As Sally Markowitz writes, abortion features different types of discourse, including philosophy and ethical theory. Nevertheless, very little argumentation and analysis in the case of abortion relates to women directly. Most of the discussion focuses on the conception of life, at what point, and if at all, a fetus is considered a person. The degree of oppression women – who, by biological characteristics, are affected very directly by abortion – face depends on who answers this question (Markowitz, 1990). Going back to contractarianism, the reason why such a perspective is important to discuss abortion in these two cases is that it addresses changes in societies that previously had much more tolerability and accepted permissibility of abortion, that was legal both in USSR and in Socialist Federative Republic of Yugoslavia, that Poland (Kamman, 2020) and Croatia (Živić, 2018) were part of respectively. In these two circumstances, we have a regression in terms of the status of abortion that can only be accounted for by a change in social arrangements that influence decision-making. Of course, a completely new analysis would be required to assess the generational changes, political system changes, contemporary political cultures since gaining independence, Marxist feminist reading of changes from socialist and communist to neocapitalism in political systems. However, even without such a profound analysis of the two countries, it is evident that a regression in moral acceptability of abortion is evident at least within the governing structures. One could infer, in that case, that the societal attitudes towards abortion were influenced to change. There are many ways, even in feminist thought to approach this discussion. This article argues that the most dangerous combination of factors for women is, on the one hand, the notion that women's biology is used to oppress them and to build a relationship where the body of the woman is subject to the values that society prescribes it. On the other hand, the political and social circumstances in which oppression comes from those who have access to or are protected by government institutions – which is precisely what happened both in Poland and Croatia.

Before going into the concrete examples and trying to confirm or disprove the above statement, let us go back to why specific feminist arguments should be kept in mind for the remainder of the analysis. Due to the limitations of the scope of this paper, the perspective will focus on the definition of reproduction. Reproductive functions of cis-women are a biological imperative – in the sense that biology

dictates who bears what role in a reproductive cycle of a cis-woman and a cis-man, i.e., the men in women whose gender identity aligns with the culturally common definition of their sex assigned at birth as female and male, respectfully (Head, 2020). The reason biology is important, from the author's perspective, is the idea that biology is used as a pseudoscientific way to explain away the oppression of women – and is still relevant in debates today. It is important to go back to arguments proposed by other feminist thinkers that observe that society, in fact, is the one that prescribes values to men and women and, consequently, their bodies. There is almost no need to infer new argumentation on biologism in debates on abortion, considering that many feminist authors have already debated this question. It is however important to reemphasize these arguments, in the light of current cases to redirect the discourse in a manner which will challenge current obstacles to accessibility and ethics of abortion, instead of pseudo-biological myths. For example, in her book *The Second Sex*, Simone de Beauvoir writes on the fundamental human characteristic of contemplating the differences between the male and female. At the same time, in biological reality, those “facts” bear far less meaning than humans prescribe. She works with the notion that the perception of the body is a societal construct, making it subject to ideological perspectives – patriarchal and feminist alike. De Beauvoir writes that the reflection on aspects of biology is entirely a product of human thought. She also notes that “if the biological condition of women does constitute a handicap, it is because of her general situation.” Building on neo positivist manner, one is always reading their version of the truth from their surroundings, so one could deem entirely possible to read de Beauvoir's words as denoting that what constitutes the negative perceptions of biological facts in women is a product of a more comprehensive societal construct, and not of the biological fact itself (de Beauvoir, 1956.).

Furthermore, Evelyn Reed builds on Engels' *Origin of the Family, Private Property, and the State* in explaining how pseudoscientific claims about the biological predispositions of women have been used to oppress them, designating women as the “second sex.” She says that among the most dangerous of all the narratives created is the one that the biological characteristics of women that give them the functions of maternity make them dependent on men to provide for them and their offspring. Furthermore, these “explanations” about the fundamentals of male and

female relationships based on their biology make it even more difficult for women to seek their bodily autonomy and reclaim ownership and equality since nature is perceived as something immovable, unchangeable, therefore, the dynamic in which women because of their role as birth-givers are reliant on men (Reed, 1971). Since the 1980s, women across the globe – from North America, Europe, South Asia, Africa, and Latin America – have started using the language of “self-ownership” or control over one’s own body to redefine identities. In this rhetoric, the term “ownership” is meant to connote the legal definition of ownership – the right of use and obligation to care. By this, women are reemphasizing that they are the ones who have the right to make decisions about their bodies. This naturally has invoked criticism from radical feminists because it stirred commentary that women agree to self-objectification by relating their bodies to property. However, in essence, it is less about the idea of property itself, and more about reclaiming the rights to it. The notion of “reappropriation” of the body for women is key to countering patriarchal narratives that their bodies are somehow serving anyone but themselves and, therefore, could be subject to collective decision-making. It is not to say that men do not suffer the harm of societal pressure on their bodies; for example, amniocentesis – sex preselection – can affect both men and women. However, even such methods are usually used in favor of men-biased societies –cultures and societies have adopted practices of selective abortion of female fetuses (Petchesky, 1995.). The selection of arguments above points to the fact that not only is there oppression of women present in societies but that it is entirely dependent on the values within that society and not on something even as, arguably, immovable as biological preconditions. The reason why this framework is relevant is that it is impossible to discuss practicing moral beliefs as separate from the society in which we are functioning, i.e., applied ethics are dependent on legal codification (exceptionally relevant in the case of Croatia to be discussed later), influences of religious morality, and overall value system within one’s own surroundings. Why is this related to abortion and the two cases the article examines? Because both cases feature circumstances in which the ethics of abortion as a medical procedure are being questioned, disregarding the perspective of the oppressed – in this instance, the women in requirement of abortion - and the direct outcome of which are limitations to the procedure itself and consequently harm to women’s health.



## Abortion

Abortion is defined as “the expulsion of a fetus from the uterus before it has reached the stage of viability” (Britannica, 2022) and can occur as a miscarriage (spontaneous abortion) or as induced abortion. Induced abortion is a practice that has been subject to debates for centuries already – from perspectives of theology, philosophy, and law – taking into consideration the reasons for inducing abortion and the circumstances of the conception itself (Britannica, 2022). It has also been framed as a question of freedom, the freedom of will (pro-choice) vs. the freedom to live (pro-life). The pro-choice advocates emphasized women’s right to choose what they do with their bodies (reclaiming the ownership of one’s own choices). The pro-life advocates, however, usually equate abortion to infanticide, seeking it to be completely banned as a practice. Most religious organizations have allowed or allowed abortion to a certain degree, and even in some countries with a high percentage of individuals who identify as religious, abortion is a legal practice. Therefore, it is hard to claim that pro-life advocates root their arguments completely in religiosity, and it is not advisable to generalize the motivation of all pro-choice or pro-life advocates. In that instance, it would be advisable to deconstruct the view on abortion, not from the perspective of the act itself, but from the perspective of what either group perceives as having led up to the act itself. In many instances, pro-life advocates do not deem abortion acceptable, even in instances of rape, sexual assault by a family member, or terminal consequences of the pregnancy for the mother. The protection of decency of life, or life in general, is given in favor of an undeveloped future human being, as opposed to the living and breathing woman (Hasanbegović & Grabovac, 2015.). In “Abortion through a Feminist Ethics Lens,” Susan Sherwin writes that most arguments on induced abortion revolve around the morality or allowability of such a procedure. However, she claims that the only relevant decision-maker on the permissibility of abortion is the pregnant woman herself. All other debates exclude connections to other relevant societal practices oppressive toward women (Sherwin, 1991). While there are many instances in which women can seek induced abortion, and some feminist thinkers like Susan Sherwin consider that it should be available regardless of their reasoning behind it, institutionalized policies on abortion impose different limitations or completely ban the procedure altogether (Sherwin, 1991). The two following examples illustrate the possible consequences of such bans and impositions.

## The Case of Poland

While the Soviet Republic under the Bolsheviks in the 1920s was one of the first countries to legalize abortion under all circumstances, different limitations on abortion were reinstated in the countries that became independent since the USSR's dissolution (Kamman, 2020) – Poland included. As recently as last year, the abortion law in Poland has become even stricter. In 2021, the Constitutional Court ruling in Poland made abortion illegal in almost all circumstances, including cases with severe fetus disorders, making it one of the most restrictive laws on abortion in present-day Europe and sparking some of the biggest protests in post-communist Eastern Europe. This law's restriction makes it almost impossible for doctors to act even in those circumstances when the woman's life is in danger (Bennhold & Pronczuk, 2022). One of the cases since the imposition of the court ruling that sparked the protest was the case of Izabela Sajbor. Izabela Sajbor was pregnant, and the doctor found that the fetus she was carrying had severe abnormalities and that there was a high percentage of certainty that it would die in her womb. In the 22<sup>nd</sup> week of the pregnancy, she went into labor and was hospitalized; she was already suffering significant consequences (fever, convulsions, nausea, and vomiting), but the doctors could not react so long the fetus had a heartbeat – because the current anti-abortion law prevents the doctors from inducing labor or surgery as long as the heartbeats present. This severely increased her chances of infection or sepsis. Ultimately, Izabela Sajbor did not survive the complications of her pregnancy and the doctors' inability to react (Bennhold & Pronczuk, 2022). According to public opinion, only one out of 10 Poles favored the stricter ban. Even though cases like Izabela Sajbor are rare, the dangers for the life of women imposed by judges in a profoundly conservative governmental apparatus are clear. In Poland, the nuances in the legal approach to the topic of abortion – or the necessity for these nuances – are evident. The law permits termination of pregnancy when the health and, consequently, a woman's life is at significant risk.

Nevertheless, what constitutes this “great risk” is unclear – and the doctors remain unable to act on time because of fears of making an illegal move – meaning that unclear position prevents them from acting within, perhaps, the framework of what they would consider ethical. For many pro-choice advocates in Poland, the clarity of the legal provisions is only one part of the issue; the more significant

part is the perception of a consistent erosion of women's bodily autonomy that has been going on for almost three decades after the first limitations on abortions were introduced 29 years ago. The trend of increased control over women's health by a conservative government is worrisome. Magdalena Sroda, ethics professor for the New York Times article, states that such revival of conservative values institutionalized by court rulings "is a return to the discourse of traditional women's roles as wives and mothers," reaffirming the thesis of this article that indeed patriarchal values dictate that a woman's health is being collectively decided by the society, and taking us back to Evelyn Reed who writes on how biology is being used to limit women in achieving equality. The worst-case scenario is when such values have majority support in government – three-fourths of Poles questioned on the topic listed referendum as their preference in deciding on abortion laws rather than the Parliament (Bennhold & Pronczuk, 2022). Since January 2021, when the Constitutional Court of Poland ruled with an almost complete ban, more than 1000 women have sought their rights at the European Court of Human Rights, claiming "grave harm and violation of their rights to privacy and freedom from torture or other ill-treatment" (Human Rights Watch, 2022).

### **The Case of Croatia**

Abortion in Croatia is currently legal until the 10th week of pregnancy, and after that, only in particular circumstances, if the fetus has severe abnormalities or is threatening the mother's life. Church groups have contested the existing provisions for a long time, while gynecologists refused to provide the procedure – making the abortion procedure a contested and controversial topic. The tensions erupted in April and May 2022, with the case of Mirela Čavajda, who was six months pregnant then. The medical examinations proved that the unborn child had a severely dangerous brain tumor (France 24, 2022). Another case from May 2022 in Croatia sparked outrage precisely for showcasing that the process of abortion is not viewed as something impacting women's health – but as an avenue for utilizing the biological imperatives to impose control over women. Even though abortion is legal in Croatia in the circumstances such as this (where the mother or the fetus is in danger), several hospitals in Croatia's capital Zagreb refused to carry out the procedure for Mirela Čavajda. The public attention on the case caused a national and region-wide rage against the judgmental attitudes towards abortion

and protecting her own health, she submitted her case to a medical commission, and the condition of the fetus was further worsening, so she got approval for the procedure. Mirela Čavajda wrote a public letter in which she claimed that both the system and the doctors had prolonged what she called sadism – the option to choose between having her child die inside her womb or give birth to a severely sick child and watch him die (France 24, 2022).

We have previously addressed in this article that morality claims rarely go into the realm of actual philosophical debate – in which case the health of the mother would be certainly a relevant factor, whether it is morally just to let the fetus come to life or save the life of the mother – rather, they are given a moral perspective as a way to impose other values which clearly rank the life of the mother beneath the wants of the society (considering that in instances like Čavajda there is clear medical proof that even upon birth the child would not live a long and especially not healthy life). Many doctors (up to 60%) in Croatia raise the “appeal of conscience” when it comes to abortion procedures in Croatia, even though the procedure itself was legalized in the 1950s. Ultimately, her pregnancy was terminated in Slovenia, and the expenses were covered by the Croatian system (France 24, 2022). Ivana Živković, editor of the activist starter book “On the waves of feminism” (Na valovima feminizma), commented on the overall reproductive injustices in Croatia today. She stated that even codifying abortion will not resolve the challenges of care withdrawal based on “appeal of conscience,” which, in her opinion, is the biggest impediment to abortion access in the country. The appeal itself is regulated through several legal provisions; however, the actual usage of the principle is not monitored. Therefore, there are situations, like that of a state hospital in Zagreb, in which all gynecologists refuse to perform abortions under the “appeal of conscience” without having to justify their grounds or anyone questioning the legality of their actions (Grbac, 2022)

Considering the feminist ethics perspective on the case, it would be prudent to acknowledge the definition of “appeals to conscience,” which, although ambiguous in its meaning, is an unequivocally moral statement – therefore, a part of applied ethics. James F. Childress described the term as ambiguous because there is no apparent reference as to what one is appealing to another’s conscience to sway their actions, one’s own conscience in action, or withdrawal of one’s self from a debate on the justification of actions. The author argues that it is challenging to

distinguish the nuance of the meaning of the term; however, he takes the second meaning to invoke one's consciousness to justify specific actions, as the one that is subject to public policy (Childress, 1979). This particular meaning is essential considering that, as Živković points out, the ability to refuse action based on an appeal of conscience is legal for medical practitioners in Croatia (Grbac, 2022).

In the case of abortion in Croatia, specifically Mirela Čavajda, the feminist ethics perspective is necessary because the refusal to perform an abortion is, in fact, in one's own ethical proclamation encoded in the "appeal to conscience." Even in cases like Mirela Čavajda's, who was carrying a fetus whose chances for health were designated as slim by the doctors and who described the treatment she received as "sadistic," – is it ethical to refuse medical care that would offer the improvement of her health, both physically – but also psychologically? Furthermore, why is not even in such grave circumstances, abortion viewed as a medical procedure? The Guardian also wrote that conservatives and the Catholic Church in Croatia are trying to restrict or outright ban the right to abortion. Most of the Croatian population identifies as religious, and the Church is influential in society. However, the previously examined section on religious perspectives on abortion shows that the Roman Catholic church changed attitudes throughout history regarding the right to abortion. The question remains: are the opinions of believers influenced by the Church intended only for transcendental purity, or is it a means of securing more decisive influence in the society, which has historically been addressing women as inferior? The patriarchal value system works – otherwise, gender equality would be secure. However, a critical remark is that those whose beliefs prohibit them from undergoing a termination of pregnancy are by no means obliged to make this difficult choice. The purpose of securing the right to abortion, and a liberal one at that, is so that it can protect the physical and mental health of those women who are in need or decide to undertake this procedure. The illegality of abortion, as written previously, only makes this process less secure and less accessible – affecting further not only the health of women, but also exacerbate the socio-economic inequality they already may be enduring (The Guardian, 2022). Ultimately, it is bringing us back to the feminist contractarianism in the sense that a moral agent needs to be able to critically access and choose the course of action that will affect them, and in circumstances in which banning abortion is imposed, there are only two potential outcomes.

The first is two unconsciously adapt to the social arrangement that is prescribing immorality to abortion, and the other is two be aware that they are suffering consequences of such a social arrangement – which is limiting their ability to decide what is right for their lives.

### **Comparative overview of the Izabela Sajbor and Mirela Čavajda cases**

A critical note on the comparison of the two cases is that the article compares the individual cases of Izabela and Mirela and comments from the feminist ethics perspective on the imposed predicament in which they were. The comparison does not focus on the social and political contexts in which the two cases happened. Nevertheless, it seems important to note that there are certain similarities between Croatia and Poland, including but not limited to being part of a communist system, the post-communist rise in influence of right-wing political parties, and the influence of the Catholic Church. However, a detailed comparison between the two would be an entirely new research question. A common denominator of the cases is the refusal of medical procedure, i.e., abortion – Izabela was refused abortion due to the strict provisions on the permissibility of abortion in Poland. In contrast, Mirela was refused abortion based on the appeal to conscience invoked by the medical professionals. In both circumstances, the women's health was endangered by the refusal to allow them abortion – resulting in Izabela Sajbor's death. If we take into consideration that in both cases, as there is a polarization in society based on the pro-life argument of anti-abortionists – how can it be ethical to advocate anti-abortion stances on the grounds of saving unborn while at the same time endangering the lives of women, which are carrying a fetus remains a question. The ethical question at hand is how one can measure the value of one life over the life or well-being of another. Trying to answer this question from a feminist ethics perspective would be that the sheer fact disregarded the value of the well-being of Izabela and Mirela that they, as women are under structural oppression, and therefore their perspective was entirely omitted. Authors like Susan Sherwin (Sherwin, 1991) would argue that the reasoning of a woman for abortion is only secondary in the debate of whether abortion should be legal and safe, but rather the point of banning abortion is to maintain the structural oppression of women. Nevertheless, what we see from the two cases here is that on some unfortunate occasions, the question of allowing abortion is not as

straightforward even in situations where one would ethically expect them to be – in the sense of providing the women whose health was at stake with the necessary medical care. However, some would argue, like pro-life supporters in Croatia that were in favor of the stricter abortion regulations in Poland, that such actions of banning abortions are, from their perspective, morally justifiable (Bogdanović & Batsweiler, 2020), making a feminist perspective on the matter necessary as the starting point for the conversation, and not a dividing one.

## CONCLUSION

The current discourse on abortion is still being reduced to the ethics of one versus the ethics of others while disregarding the fact that while the debates are going on – women are being left without the necessary healthcare, endangering their lives and limiting their abilities to govern their own choices. Moreover, if we omit the gender component, what would society's opinion be if a headline would read “doctor refuses to perform a life-saving procedure on the patient” instead of “doctor refuses to perform an abortion on a pregnant woman”? One can only guess or hope for research that would maybe give an answer to that question. For now, what remains as a conclusion from the cases is that ethical beliefs in practice, like all social categories, are subject to politics and social constructs, which is why different philosophical disciplines and sub-fields open debates on them in the first place. What creates a problem is when opinions threaten the existence or well-being of others outside of the philosophical realm. Can such opinions, therefore, even be considered ethical? Apparently, when enough individuals turn a blind eye, they can, sometimes even codified by law as in the Croatian “appeal to conscience.” The unfortunate result of those opinions is still the burden of women, which is why highlighting the structural oppression based on gender is still as relevant as it was decades ago. Ultimately, we can even discuss the ethics of the outcome of feminist and non-feminist stances on abortion. The result of non-feminist approaches to abortion is collective bans that potentially harm all women in society. On the other hand, a feminist ethics approach allows those people who wish to have one can receive the medical procedure in a healthy and safe environment while at the same time not imposing any behavior on those whose beliefs do not align with the practice and are not obliged to have an abortion. To push the matter even further, procedures or matters related to an

individual's health should not be subject to the decision-making of the collective because the imposition of the majority's beliefs is bound to be the result of such decision-making and create adaptability to societal preference with reduced critical thinking. In the vastness of the internet, one can read many good or bad prompts for thought; sharing them, however, especially in scientific writing, does not go without trouble – because quoting and crediting the author who is not listed is virtually impossible. Nevertheless, an argument I have come across is too poignant not to at least paraphrase. The general notion of the argument is that there is no medical procedure that a person can receive: one cannot be forced to give blood or donate organs, and one can even refuse procedures with adequate legal preconditions. Even to save the life of the other, one cannot be forced to give a part of oneself because there is the right to bodily autonomy. However, through a complex and historically reinforced value system, women are denied rights over their bodies. Women, in that regard, have less bodily autonomy than a corpse of an organ donor. While the author cannot claim ownership of the originality of this argument, the authenticity of the unknown author's thoughts is an awakening reflection in a sea of pro-choice, pro-life, and where life begins arguments.



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## FEMINISTIČKA ETIČKA PERSPEKTIVA O SLUČAJEVIMA ODBIJENOG ABORTUSA ZA IZABELU SAJBOR U POLJSKOJ I MIRELU ČAVAJDU U HRVATSKOJ

**Sažetak:** U članku se iz perspektive feminističke etike uspoređuju dva slučaja u kojima je odbijeno izvršavanje abortusa, Izabele Šajdor iz Poljske i Mirele Čavajda iz Hrvatske. Na temelju teorije feminističke etike i tekstova feminističkih teoretičarki poput Simone de Beauvoir, Evelyn Reed i Susan Sherwin, kao i medijskih izvješća o ova dva slučaja, autorica tvrdi da strukturalna opresija uzrokuje potpuno zanemarivanje perspektive žena u primijenjenoj etici, u oba konkretna slučaja pobačaja, a koja se ne može temeljiti ni na lažnim mitovima o biološki naslijeđenim razlikama između muškaraca i žena, niti na etici pro-life argumenata, s obzirom na to da zanemaruje život majke. Dva ekstremna slučaja odražavaju okolnosti u kojima društvo, i barem u Poljskoj uz zakonsku potporu vladajućih tijela, nameće zabranu pobačaja. Posljedica takve zabrane je da se abortus ne tretira kao medicinski postupak, već kao sredstvo tlačenja žena, što je vidljivo iz tretmana Izabele Šajdor i Mirele Čavajda. U članku se otvara pitanje etičkog postupanja prema ženama u slučajevima zabrane pobačaja. Rasprave o etici pobačaja obično se fokusiraju na život samog fetusa, a ne na život majke. Žene, u tom kontekstu, postaju predmet šire rasprave i kolektivnog odlučivanja društva i njegovih dominantnih vrijednosti. Kao rezultat, žene gube pristup zdravstvenoj skrbi i tjelesnoj autonomiji. Perspektiva feminističke etike i feminističko poimanje kontraktarizma u etici nužni su za argumentiranje u korist praksi i pristupa koji premošćuju jaz u okolnostima u kojima sigurnost žena i njihovo donošenje odluka o sebi ovisi o popularnim vrijednostima.

**Ključne riječi:** *feministička etika, kontraktarizam, etika, pobačaj, zabrana pobačaja, Poljska, Hrvatska*