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Women of the World:

Laws and Policies Affecting Their Reproductive Lives



East Central Europe



Edited by The Center for Reproductive Law and Policy

**WOMEN OF THE WORLD: LAWS AND POLICIES
AFFECTING THEIR REPRODUCTIVE LIVES**

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Foreword

I am extremely pleased to introduce *Women of the World: Laws and Policies Affecting Their Reproductive Lives, East Central Europe*.

This book is a unique review of laws and policies relating to reproductive health and rights in East Central Europe. The dramatic political and economic transitions in this region have resulted in numerous laws and policies that shape women's health and reproductive lives. With this publication, we seek to present a snapshot view of such relevant laws and policies in East Central Europe and to identify the arenas in which changes to promote women's reproductive rights and health need to be made. Although most chapters of this book present specific national-level information, the conclusion focuses attention on regional trends in the field of reproductive health and rights.

Like other publications in our *Women of the World* series, this volume is the result of approximately eighteen months of collaboration between a number of women's rights organizations. Given the diversity of regional languages, it was difficult and cost ineffective for CRLP to work with only one regional coordinator. Rather, we choose to work closely with each national-level NGO and to enhance dialogue, wherever possible, among groups within this region. CRLP's goal has always been to ensure that our global *Women of the World* series is authored by women's organizations. We continue to forge ahead to complete future reports on East and Southeast Asia, the Middle East and North Africa, and South Asia. We are also now in the process of updating some of the earlier reports — those covering Anglophone Africa and Latin America and the Caribbean — that were models for this body of work.

In undertaking legal and policy research, we seek to enhance knowledge regarding the range of formal laws and policies that affect the actions of billions of women and men around the globe. While there are many problems regarding the selective implementation of laws and policies, there is no doubt that laws and policies remain the primary means by which governments around the world express their values and priorities. By making information about laws widely available, we hope to promote worldwide legal and policy advocacy to advance reproductive health and the status of women. Our goal at CRLP is to secure women's reproductive rights as a step toward gender equality.

Anika Rahman
Director, International Program
The Center for Reproductive Law and Policy
August 2000

1. Introduction

Reproductive rights encompass a broad range of internationally recognized political, economic, social and cultural rights understood at both the individual and collective levels. They are critical to advancing women's human rights and for promoting national economic development. In recent years, nations have acknowledged and pledged to advance their citizens' reproductive rights to an unprecedented degree. Such governmental commitments — at major international conferences, such as the Fourth World Conference on Women (Beijing, 1995), the International Conference on Population and Development (Cairo, 1994), and the World Conference on Human Rights (Vienna, 1993) — have set the stage for moving from rhetoric to reality in the arena of women's rights. But for governments and non-governmental organizations to work toward reforming laws and policies and implementing the mandates of these international conferences, they must understand the current state of laws and policies affecting reproductive rights in their communities, counties and regions. The objective of this report is to ensure that women's concerns are reflected in future legal and policy efforts.

Laws are essential tools used to promote women's reproductive health, to facilitate their access to health services, and to protect their human rights as users of such services. Laws, however, also can keep women from achieving optimal reproductive health. For example, laws may limit access to an individual's choice of contraceptive methods, impose restrictions on accessing abortion services, and discriminate against specific groups, such as adolescents, by denying them full access to reproductive health services. Laws that discriminate against women, or serve to define or value them primarily in terms of their reproductive capacities, undermine the right to reproductive self-determination and serve to legitimize unequal relations between men and women.

The absence of laws or procedures to enforce existing laws may also have a negative effect on the reproductive lives of women and men. For example, the absence of laws and policies regarding violence against women makes it difficult to obtain reliable documentation and to assess its overall impact on women's health, including reproductive health. The lack of anti-discrimination laws affects marginalized women in particular as it undermines their ability to access reproductive health services. Furthermore, the dearth of reproductive health and family planning policies in some countries demonstrates the need for greater effort to ensure that governments live up to the commitments they assumed at the international conferences in Vienna, Cairo, and Beijing.

This report sets forth national laws and policies in key areas of reproductive health and women's empowerment in seven East Central European countries: Albania, Croatia, Hungary, Lithuania, Poland, Romania, and Russia. This legal analysis examines constitutional provisions, laws and regulations enacted by each country's legislative and executive branches. Government programs and activities examined include those that directly or indirectly involve reproductive health. In addition, this report describes the entities charged with implementing these policies and the mechanisms that enable people to participate in the monitoring of government reproductive programs and activities. This book also includes a description of the civil and socio-economic rights of women and the status of adolescents in each country. It concludes with an analysis of the regional trends in population, reproductive health, and family planning policies and a description of the existing legal standards in reproductive rights.

This introduction seeks to provide a general background to the East Central European region, the nations profiled in this report, and the information presented on each country. The following section provides an overview of the regional context of East Central Europe as well as a review of the characteristics shared by the seven countries profiled herein. A special emphasis is placed on the legal system and on the principal regional indicators of women's status and reproductive health. This description provides an overall perspective on the East

Central European region in terms of the key issues covered in this report. Finally, this chapter includes a description of the content of each of the national-level profiles presented in this report.

I. An Overview of the East Central European Region and Shared Characteristics

About 150 million women and 50 million girls live in the 27 countries in the region of East Central Europe and the former Soviet Union (hereinafter East Central Europe). As these countries are quite diverse, viewing them as a unified region is the legacy of World War II. With the end of the Cold War, the differences among these nations are again becoming prominent. Nonetheless, there is good reason to treat these countries together not only because of their geographical proximity but also because they have experienced similar historic, political, and economic transformations.

The seven countries analyzed in this report represent a large cross-section of the populations of East Central Europe and were selected because they reflect the features of the different sub-regions in which they are located. Their similarities and differences reflect their shared heritage as well as the diversity that characterizes the region. Russia is the largest and most populous country in the region, with 147.2 million inhabitants, while Albania and Lithuania are the least populated countries, with 3.4 million and 3.7 million people, respectively. Religious participation is not a major feature of most of these societies, except perhaps in Poland. Six of the seven East Central European countries profiled in this book are officially Christian; Croatia, Hungary, Lithuania, and Poland are predominately Roman Catholic; Russia and Romania are Orthodox. Albania's citizens are principally Muslim. In terms of their economic status, the World Bank has categorized all the nations described in this report as low- to middle-level income countries. Albania is the poorest country in Europe, with a 1995 per capita gross national product (GNP) of USD \$670. Hungary has the highest per capita annual income among the seven countries profiled in the report, at USD \$4,120 in 1995. The per capita GNP for Russia in 1995 was USD \$2,240.

All seven countries that are the subject of this report currently have democratically elected governments. Only the Russian Federation is politically and administratively divided into republics or regions with their own constitutions and select representatives for their own executive, legislative and judicial branches.

For the purposes of this report, the seven East Central European nations being discussed have three critical features in common: a shared legal tradition and recent history; similar reproductive health problems; and similar issues regarding the legal status of women.

A. SHARED LEGAL TRADITION

The legal systems in East Central Europe are of recent vintage. The earliest reforms date from 1989. The systems, however, share important historical antecedents under state socialist forms of governance, and before that as part of the Austro-Hungarian or Russian imperial state organizations. Most importantly, however, the legal systems of the seven countries profiled in this report share characteristics common to the civil legal system prevalent in Western Europe and Latin America. In this system, legislation is the principal source of law and judicial decisions establish legal norms only in the rare cases where legislative enactment or constitutional provisions so mandate. It is also important to note that in some remote parts of Albania, customary norms have legal authority, and in certain republics of the Russian Federation, Islamic law and custom is recognized.

B. REPRODUCTIVE HEALTH PROBLEMS: A COMMON AGENDA

Before 1989, the governments of East Central Europe spent relatively large proportions of their budgets on health care and social services. Health care was virtually universally accessible. The state supported an extensive array of childcare facilities. There was little evidence of gender discrimination between boys and girls. Women were employed full-time, and were represented in the political and governmental structures at all but the highest levels. It is well known, however, that under state socialism, gender equality was only an illusion.

The welfare state that had subsidized the appearance of equality collapsed along with the political regimes, particularly because one of the first reforms, promoted by multilateral financial institutions and donor governments, was the privatization of state services. These structural adjustment policies throughout East Central Europe had, and continue to have, a dramatic adverse impact on people's, especially women's, health and quality of life. Increasing poverty and growing ill-health has been the undeniable consequence of state privatization efforts.

An early consequence was a dramatic deterioration in life expectancy. In Russia, for example, life expectancy between 1989 and 1993 for men declined by 6.3 years, and for women by 3.2 years. In 1997, life expectancy continued to decline in many countries in the region. Lowered life expectancy rates

have contributed to decreasing population rates. In Hungary in 1997 the rate of natural population increase was -3.8; in Russia for 1997, -5.1, and in Poland, a small increase of 0.9. The only country among the seven profiled in this report in which the population is significantly increasing is Albania. In 1996, its population increased 15.6%. The countries in question have also generally experienced stagnating or declining birth rates. The combination of declining population and lower birth rates has fueled nationalist policies to encourage parenthood, particularly among ethnic majority populations. Croatia, Poland, Russia, Hungary, and the Federal Republic of Yugoslavia (not profiled in this report) all have nationalist political parties which have enjoyed some political successes and helped foster a hostile climate for the exercise of women's reproductive rights.

In the context of a decline in access to general health care throughout the region, the women of East Central Europe face similar problems in taking care of their reproductive health. Consider the case of maternal mortality. The World Health Organization has set a target for maternal deaths in Europe at 15 per 100,000 live births, but maternal mortality rates in Albania, Romania and Russia are well above this. In 1997, the maternal mortality rate in Russia was 50.2 per 100,000 live births; in Romania, 41.4 per 100,000 live births; and in Albania, in 1996, it was 278 per 100,000 live births. Even in a relatively wealthy country such as Hungary, the 1997 maternal mortality rate was surprisingly elevated at 20.9 per 100,000 live births.

Unsafe abortion is also a concern for East Central European women. Since 1956, abortion has been legal and available throughout the region of East Central Europe, except in Romania and Albania, where abortion and contraception were illegal. Since 1989, Albania and Romania have legalized abortion and contraception, and most countries in the region, with the exception of Poland, have preserved their previous liberal abortion laws. But while most abortions are legal and performed by trained health care professionals, abortion remains the leading cause of maternal death, accounting for up to 20% of maternal deaths in some countries.

Abortion is still an important procedure for women's reproductive control, despite the steady decline in absolute numbers. Only in Poland, which is the only country in the region where abortion is illegal, is the officially reported abortion rate below European Union averages. There is good reason to believe, however, that many Polish women obtain abortions outside the country and that these abortions are not reflected in official statistics. The abortion rate in Russia for 1997 was 198.3 per 100 live births, in Romania for the same year 146.4 per 100, and in Lithuania 60 per 100. Poland reported 0.8 abortions per 100 live births that year.

High rates of abortion reflect the lack of access to modern methods of family planning. During state socialism, modern methods of contraception were largely unavailable, and even when they were, they were viewed with suspicion. In the former Soviet Union, for instance, oral contraceptives were impossible to obtain, and the most popular modern method available was the IUD. However, it was found only in urban areas and was never used by more than 10% of women. Even though there have been significant changes in reproductive health policies to permit and distribute other forms of contraception, their lack of availability or their high costs put them beyond the reach of most women. In Russia, a package of spermicide can cost two-thirds the minimum monthly salary; oral contraceptive pills are similarly costly. Romania must import all of its modern contraception. High rates of pregnancy and abortion among adolescents in East Central Europe are also indications of impediments to reproductive health care information and services.

An important element underlying women's reproductive health status in the region is lack of sex education. In Romania, a country with one of the highest abortion rates in the region, there is no post-abortion counseling. In Croatia, portraits of the Pope hang in the offices of state-employed gynecologists who do not distribute information regarding modern contraception. In Poland, a physician does not need to inform a woman about methods of family planning unless she specifically requests them. Sex education in schools is altogether inadequate. Albania is one of the few countries that mandates sex education in schools but for only nine hours per school year, and lessons are to be devoted primarily to sexually transmissible infections (STIs).

Indicators relating to the increase of HIV/AIDS and STIs suggest that women, particularly young women and adolescents, are quite vulnerable. For the entire East Central European region, including countries not covered in this report, the number of recorded HIV cases is on the rise. In Russia, for example, in 1996 there were 1,525 newly registered cases of HIV/AIDS and 4,399 in 1997. These figures are only a pale indication of the severity of the problem, as the gathering of statistics is spotty, and laws do not protect anonymity or encourage reporting.

C. WOMEN'S LEGAL AND SOCIAL STATUS

A country's laws also play a critical role in how effectively women can exercise their reproductive rights. Based on an analysis of constitutional provisions and governmental commitment to implement international treaties relating to equality, the countries of East Central Europe appear to fully

embrace women's equality and full participation in society. All the newly minted constitutions of the region have non-discrimination and equality clauses; the overwhelming majority of nations have signed and ratified the Convention for the Elimination of All Forms of Discrimination Against Women. This commitment to formal equality follows seamlessly on the prior regimes' commitment to women's formal equality. But just as reality did not match theory historically, this current commitment has a hollow ring. While lifestyles in, for example, Albania, Romania, Poland and Russia differed substantially under state socialism, they shared state socialism's tendency to define women as mothers, as well as workers. The sacrificial heroine mother — the new socialist woman — was a stock character in the official representation of desirable gender roles for women. Women therefore bore a double burden of working outside of the home and inside of the home, and sometimes even a triple burden of waiting in endless lines to acquire foodstuffs and other necessities for the family.

When the state socialist regimes fell after 1989, the contradictions between official gender equality and underlying reality could no longer be suppressed. Ironically, women's continuing unequal status has some roots in the new constitutions that promote women's equality. The constitutions of all of the seven nations profiled in this report, and most of the countries of East Central Europe, provide for the protection of motherhood, or make the promotion of family life a national goal. A consequence of the special protection afforded motherhood are laws and policies which place women at a disadvantage in the newly capitalistic labor market.

Law and policy in the countries of the region of East Central Europe prohibit overt gender discrimination, but in many countries women are barred from employment in industries considered dangerous or unhealthy. Mandatory paid maternity leaves and job protection schemes, which for example in Russia require an employer to protect a woman's job for up to three years after she gives birth, leave women vulnerable to discriminatory hiring practices. The result is that while laws in the countries of this region forbid overt discrimination, women earn less than men. In Russia in 1996, women earned 69.5% of what men earned. In Hungary in 1997, women earned 78% of what men earned; in Poland in 1996, women earned 79% of what men earned. Studies which adjust for the fact that women tend to select jobs in the public sector — education, health, administration — that pay much less than the private sector, still find that women earn significantly less than men: in Russia in 1996, 24.2% less; in Poland in 1996, 16% less. While there are many factors which might contribute to the wage discrimination, the fact that women's participation in the workforce is viewed as unreliable and costly has been fre-

quently cited. Moreover, as the state shifts responsibility for the care of children, the ill, and the elderly out of the public sphere, women are the ones left to fill in the gap.

Other important indicators of women's social status are their educational levels and their participation in government. Women in the East Central European region have higher educational levels than in many other regions of the world. Enrollment of girls in primary school is above 90%. Secondary and tertiary enrollment in education is also quite high. In 1997, approximately 54% of all university students enrolled in Hungary and Croatia were women. Illiteracy rates are not significant; where there is illiteracy, women tend to have higher rates than men. Ethnic minority men and women face discrimination in educational institutions, particularly the Roma (gypsies) in Hungary and Romania.

In terms of women's participation in government, the legacy of state socialism has presented particular impediments for women. Quotas for women's formal representation in parliaments were common. But real power was never exercised there, and women were rarely, if ever, represented in the powerful party central committees. Once democratic multi-party systems of government were established, women's formal representation in parliaments dropped considerably — from 23% to 30% before 1989 in countries such as Hungary and Poland, to less than 10% after the transition. Women's participation in senior governmental positions is also not encouraging: in 1996, 5.6% of ministerial and 7.1% of sub-ministerial posts went to women; in Romania, no ministerial and 4.1% of sub-ministerial posts were occupied by women; and in Russia, 2.4% of ministerial and 2.2% of sub-ministerial posts were held by women. Women tend to be well represented in the judiciary in the countries of East Central Europe. However, they tend to be grouped in positions with little social prestige.

Violence against women is a serious, but ill-documented, problem in almost all the countries analyzed in this report. In the countries in which such information is available, the main forms of violence against women include sexual violence, domestic violence and other forms of physical and psychological violence. Similarly, the level at which violence against women is accepted in the region of East Central Europe is a serious threat to women's rights and health. The laws and policies of the nations of this region do not recognize domestic violence, nor do they take it seriously as a women's rights — or even public health — issue. State statistics on sexual and non-sexual assaults against women are unreliable and often non-existent. Yet the anecdotal evidence is worrisome: in one study in the Ukraine (a country not covered in this report) 50% of 1,500 adolescents surveyed reported unwanted sexual contact. In 1997 in Romania, 23% of all divorce cases filed in Bucharest

alleged physical abuse by the husband. And similarly in 1996 in Moscow 39% of 973 women surveyed reported being “man-handled” by their spouse.

Another aspect of women’s physical vulnerability with the opening of the region to the global economy has been the development of the sex industry. Prostitution and pornography, illegal under state socialism, were among the “enterprises” to participate in the new economy. The result is that some women, mainly the young, have been targeted by organized criminal rings that promise them economic opportunity and then coerce them into the sex trade, often beyond the borders of their own countries.

A final disturbing facet of East Central Europe’s problems with violence against women concerns the use of sexual violence in armed conflict situations: rape as a weapon of war, forced childbearing and sexual enslavement. Armed conflicts in the former Yugoslavia sent hundreds of thousands of refugees into Croatia in the early 1990s, and in 1999, refugees from Kosovo poured into Albania. Armed conflict, in addition, generally escalates the acceptable level of violence in society, and in the regional context of non-documentation of violence against women, suggests that women’s human rights are in danger.

II. National-Level Information Discussed

This report presents an overview of the content of the laws and policies that relate to specific reproductive health issues as well as to women’s rights more generally. It discusses each country separately, but organizes the information provided uniformly in four main sections to enable regional comparisons.

The first section of each chapter briefly lays out the basic legal and political structure of the country being analyzed and provides the critical framework within which to examine the laws and policies affecting its women’s reproductive rights. This background information seeks to explain how laws are enacted, by whom, and the manner in which they can be challenged, modified, or repealed.

The second part of each chapter details the laws and policies affecting specific reproductive health and rights issues. This section describes laws and policies regarding those major reproductive health issues that have been the concern of the international community. The report thus reviews governmental health and population policies, with an emphasis on general issues relating to women’s status. It also examines laws and policies regarding contraception, abortion, sterilization, HIV/AIDS, and other STIs.

The next section of each chapter provides general insights into women’s legal status in each country. The focus is on laws and policies regarding marriage, divorce, custody of children, property rights, labor rights, access and rules regarding credit, and access to education. In addition, the chapters look at women’s rights to physical integrity, including laws on rape, domestic violence, sexual harassment, and trafficking for the purposes of forced prostitution.

The final section of each chapter focuses on the reproductive health and rights of adolescents. Discrimination against women often begins at a very early age and leaves women less empowered than men to control their sexual and reproductive lives. Women’s unequal status in society may limit their abilities to protect themselves against unwanted or coercive sexual relations and thus from unwanted pregnancies as well as from HIV/AIDS and STIs. The segment on adolescents focuses on reproductive health, marriage, sexual crimes, and sex education.

This report is the product of a collaborative process involving the following institutions: the Center for Reproductive Law and Policy, based in New York, USA; the Albanian Family Planning Association, based in Tirana, Albania; B.a.B.e (Be Active, Be Emancipated), based in Zagreb, Croatia; NaNE! (Women’s Rights Association) based in Budapest, Hungary; the Lithuanian Family Planning and Sexual Education Association, based in Vilnius, Lithuania; the Federation of Women and Family Planning, based in Warsaw, Poland; AnA: Society for Feminist Analyses, based in Bucharest, Romania; and the Open Dialogue on Reproductive Rights, St. Petersburg and Moscow, Russia.