

**A PERSPECTIVE ON THE WOMEN STATUS  
IN POLAND**

**Paper prepared for the conference  
"Obstacles to the Advancement of Women's Human Rights - A Regional  
Approach"**

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## Introduction

After the 1995 Beijing conference, the Polish government committed itself to preparation of the National Plan of Action. Preceded by consultations with non-governmental organisations, experts and opinion making bodies, the Plenipotentiary for Family and Women presented the *National Plan for Action for the Advancement of Women to the Year 2000*.

The *National Plan* has been divided into 10 problem areas, to which there has been specific tasks and goals presented. Among other areas, it included strategic plans for combating women's poverty, securing access to education, creating policies allowing for better access to medical care. It has been designed to give the basis for combating violence against women, improving the situation of women in industry and labour market, providing institutional mechanisms for the advancement of women, securing share of power and involvement of women in decision making process.

After 1997 general election, won by the right wing parties, the policy towards women changed completely. Most of the initiatives resulting from the *National Plan* have been suspended, the office of the Governmental Plenipotentiary for Family and Women has been dissolved and new office of the Governmental Plenipotentiary for Family has been established. The social policies have been reoriented towards families as a homogenous structure, with virtually no place for individual expectations.

While answering to the UN Questionnaire, developed for the UN Special Session of the General Assembly "Women 2000: Gender equality, Development and Peace for the Twenty-first Century", the government presented it's newly developed policies as securing non-discriminatory treatment of women and men:

*"Apart from the National Plan for Action (for women) the ruling coalition of Election Action Solidarity (AWS) and Union of Liberty (UW) takes steps aimed at improvement of women's situation that can be seen in its pro-family policy programme (...) The government's pro-family policy is aimed at, among others, increased independence of families -that means women - as well as decreased number of single mothers through family and marital counselling centres"*

The policies are highly religious oriented and supporting traditional roles of men and women within the society. As the government states in the UN Questionnaire:

*"(...) until very recently St.Mary's cult, transferred to general respect towards women, played an important role. In Poland, many discriminatory situations don't happen due to (...) very special belief in an exceptional role of a woman as mother and family supporter. Besides, egalitarian tendencies are very strong in Polish society and that's something women also enjoy."<sup>1</sup>*

This approach defines at the very moment all the actions taken by the currently ruling government in the areas lying in the interest of the following report.

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<sup>1</sup> The extracts from the responses to UN questionnaire are quoted after "Implementation of the Platform For Action by the Polish Government. Alternative report prepared for the 44<sup>th</sup> session of Commission on the Status of Women", Women's Association for Gender Equality - Beijing 1995; Warsaw, January 2000

## 1. Human Rights and Violence Against Women.

In 1997 new criminal legislation has been introduced in Poland (in force since 1.08.1998). New regulations appeared in: criminal code, code of criminal procedure and criminal executive code.

Most of the regulations within the framework of Polish criminal law, which could be used as a basis of criminal case in terms of violence against women, are written in the gender neutral manner. This concerns the violence against women within the family, as well as outside the family.

Relevant articles of the Polish Criminal Code<sup>2</sup>, which can be used in cases of physical and psychological abuse of women, are as follows:

### **Art. 156** (heavy damage of health)

*§1 Who causes the heavy damage of health resulting in:*

- a) deprivation of sight, hearing, ability to speak, loosing fertility,*
- b) other heavy physical disorder, serious incurable disease or long lasting disease, endangering ones life, permanent psychological disorder, permanent or significant inability to work or permanent, significant damage or deformation of ones body*

*may face from one year up to ten years of imprisonment.*

*§2 If the perpetrator acts unintentionally,*

*may face up to 3 years of imprisonment.*

*§3 If perpetrators actions described in §1 result in the death of a person, may face from 2 up to 12 years of imprisonment.*

### **Art. 157** (lighter damage)

*§1 Who causes the malfunction of body parts or damage on health, other then specified in art. 156§1,*

*may face from 3 months up to 5 years imprisonment.*

*§2 Who causes the malfunction of body parts or health damage lasting less than 7 days, may face the penalty of fine, limitation of freedom or up to 2 years imprisonment.*

*§3. If the perpetrator acts unwillingly, may face fine, limitation of freedom or up to 1 year imprisonment.*

### **Art. 190** (punishable threat)

*§1 Who threatens a person with a possibility of committing crime against that person or persons related or close, if it causes the fear of the threat being possible to become reality, may face the punishment of fine, limitation of liberty or up to 2 years of imprisonment.*

*§2 The initiation of criminal procedure must be requested by the victim.*

### **Art. 191** (threat to force certain behaviour)

*§1 Who uses physical violence against a person or threatens a person in order to force a person to perform certain behaviour, to stop a person from performing or to make a person to agree for certain behaviour, may face up to 3 years of imprisonment.*

### **Art. 197** (rape)

*§1. Who, using violence, threat or trick, makes a person to involve in a sexual intercourse,*

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<sup>2</sup> The Bill of 6.06.1997 - The Criminal Code (Official Journal of 2.08.1997, Nr 88, pos. 553)

*may face the penalty from 1 up to 10 years of imprisonment.*

*§2 If the perpetrator, using ways specified in §1, makes a person to subject to any other sexual activity or perform such activity,*

*may face the penalty from 3 months up to 5 years of imprisonment.*

*§3 If the perpetrator commits rape as described in §1 and §2, acting with particular cruelty or together with another person,*

*may face 2 up to 12 years of imprisonment.*

**Art. 199** (sexual harassment in power relations)

*Who, using the relation of dependence or critical situation of other person, forces this person to a sexual intercourse or to subject to any other form of sexual activity or makes a person or to perform such an activity,*

*may face up to 3 years of imprisonment.*

**Art. 201** (incest)

*Who performs a sexual intercourse with parents or grandparents, children or grandchildren, adopted or with a person who adopted, brother or sister,*

*may face from 3 months up to 5 years of imprisonment.*

**Art. 203** (forced prostitution)

*Who, using violence, threat, trick or making use of the relation of dependence or ones critical situation, makes the person to prostitute,*

*may face from 1 up to 10 years of imprisonment.*

**Art. 204** (pimping)

*§1 Who, wanting to achieve the financial benefit, forces other person to prostitution or makes it easier to perform,*

*may face up to 3 years imprisonment.*

*§2 The penalty stated in §1, may also be imposed on the person who makes financial benefits on prostitution performed by other person.*

*§3 If the person described in §1 or §2 is a minor, the perpetrator may face 1 up to 10 years of imprisonment.*

*§4 The penalty stated in §3 may be imposed on the person who trafficks or kidnaps a person in order to make her prostitute abroad.*

**Art. 207** (violence against family members and close persons)

*§1 Who performs physical or psychological violence towards close related person or other person staying permanently or temporarily in relation of dependence on perpetrator or performs such violence towards minors or persons physically or mentally disabled,*

*may be subjected to 3 months up to 5 years of imprisonment.*

*§2 If actions described in §1 are performed with specific cruelty, the perpetrator may be subjected to 1 up to 10 years of imprisonment.*

*§3 If, as the result of actions described in §1 or §2, the victim attempts suicide, the perpetrator may be subjected to 2 up to 12 years of imprisonment.*

**Art. 217** (physical integrity abuse)

*§1 Who beats a person or in any other way violates ones physical integrity,*

*may be subjected to fine, limitation of liberty or up to 1 year imprisonment.*

*§2 If the violation has been provoked by the victim's behaviour or if the victim returned the violation, the court may abandon imposing the punishment.*

*§3 The procedure is run on the basis of private prosecution.*

The Law on Family Planning, Protection of Human Foetus and Conditions for Abortion (1993), introduced changes to Criminal Code of 1969, kept in the new legislation, which deal specifically with the situation of pregnant women. The article refer to pregnancy and state as follows:

**Art. 153** (provoking the abortion)

*§ 1 Who, using violence or any other mean, forces a woman to terminate pregnancy or who, using violence, threat or trick, makes a woman to terminate pregnancy, may be subjected to 6 months up to 8 years of imprisonment.*

*§ Who performs actions described in §1, when the foetus is already able to live independently outside the woman's body, may be subjected to 1 up to 10 years of imprisonment.*

The regulations lack specific laws on marital rape, which, although being common, usually stays unrecorded (as it will be explained further in the report). The criminal law also covers the only one construction of regulations which can be used in sexual harassment cases - that is harassment resulting from relations of power. It is not possible to use this regulation in action against i.e. colleagues at work.

Half of the polish society claims that there are no specific human rights of women.<sup>3</sup> Nevertheless, almost one third of respondents gives an opinion that such rights exist and most likely enumerates rights connected with professional areas of life, followed by the general equality of women and men and social rights. This same percentage of surveyed thinks that women's rights are violated in Poland and points at unequal treatment at the labour market, followed by the right to be protected against domestic violence, right to abortion, equality in the family and outside the family, in social and political life. At the same time 50% of Poles say that women's rights are effectively protected.

The view represented by these who claim that there are no specific human rights concerning women is supported by governmental agencies while preparing programmes of social policies. The government in its recent social projects does not address violence against women, or any other violation of rights, as the specific human rights.

The office responsible for policies towards women and family has been established in 1986 in response to governmental commitments undertaken at Nairobi conference (1985). The Governmental Plenipotentiary for Women was an office created within the structure of the Ministry of Labour and Welfare and was a part of this structure in years 1986-1989. In April 1991 the office has been reactivated and transformed into the office of Governmental Plenipotentiary for Women and Family and moved to the administrative structure of the Board of Ministers office. It lasted in this form till February 1992 and was reactivated again in December 1994 and worked until May 1995.

The new office, renamed, started to work in May 1995. The Governmental Plenipotentiary for Family and Women worked until November 1997.

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<sup>3</sup> "Poles about human rights", November 1998. Research conducted by OBOP, on the request from Osrodek Informacji Ćrodowisk Kobietych OĖKA

Together with the parliamentary elections and the establishment of the right-wing government, the national mechanism securing equality of women and men stopped existing. The new governmental body, now existing as the office of Governmental Plenipotentiary for Family, has been established in November 1997.

From the point of structure of the state administration, the office is a part of Prime Minister's Chancellery and the Plenipotentiary's range is the Secretary of State. None of the Plenipotentiaries up to date have been members of the government, lacking the legislation initiative right, they also did not have any actual influence on creation of social policies.<sup>4</sup> The role is described as advisory body, although latest "achievements" of the office have been seriously considered during planning the long term strategy of social policies towards families.

In previous years, domestic violence has been addressed in governmental reports and programmes, specially in accordance to the Platform of Action and commitments created by this document for the government of Poland. In 1995, the Plenipotentiary for Family and Women prepared the report for the IV UN World Conference on Women, Beijing 1995, where it addressed the specifics of domestic violence, its causes and forms (including marital rape), as well as violence against women outside the family (including prostitution and trafficking). This report served as the basis for preparations of the *National Plan of Action for the Advancement of Women*, closed for publishing in 1997. As stated in the foreword of the *National Plan of Action*, this programme was suppose to be an answer to the problems diagnosed in the above mentioned report, as well as a part of fulfilment of the government's commitments, undertaken in accordance to the Platform of Action and The Beijing Declaration in September 1995.

The *National Plan of Action* has been one of the not so many documents, where the governmental body addresses women's rights as specific human rights. In this same foreword, the authors stated: "The programme hereby presented (...) is prepared according to understanding and promotion of women's rights as fully recognised human rights (...)" As part of this programme's concern is domestic and outside family violence, this declaration may certainly be recognised as addressing this problem as the violation of human rights.

The *National Plan of Action* has been divided into 10 problem groups, one of which was the problem of violence against women. The undertaking of complex actions to prevent and eliminate violence against women has been recognised as strategic task of social policy. The means of realisation have been, among others, specified as:

- preparation and delivery of the informational campaign concerning violence against women and promotion of "zero tolerance" policy for violence
- social education on problems connected with violence, including creation of educational programmes presenting peaceful conflicts solving, victim's rights
- education targeted towards professionals, who are appointed to fight violence, such as police staff, lawyers, teachers, social workers, etc.

As the follow up for the *National Plan of Action*, the governmental programme "Against Violence - Equalising Chances" has been prepared in the office of the Governmental Plenipotentiary for Family and Women (in the years 1996-97). The programme was planned to be implemented in years 1997-1999 and was suppose to be co-financed by Polish Government and UN Development Programme. While corresponding with the *National Plan of Action*, the project has been designed to create the basis for system of institutional help. In

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<sup>4</sup> "Institutional Mechanisms for the Advancement of Women in Poland 1995-1999. The Report prepared for the 43<sup>rd</sup> Session of the UN Commission on the Status of Women"; Women's Association for Gender Equality - Beijing 1995; Warsaw 1999

the period of three years, the government was suppose to help to establish at least 9 crisis centres, which will be well equipped, giving places for at least 180 women at one time (with at least 360 children). The idea of crisis centres was to provide victims of violence with: medical care, psychological assistance, economical and legal help. Recognising the financial dependence on the perpetrator as one of the main reasons for staying within the abusive relationships, the programme was also planned to create the system of financial support for victims, so they would be able to gain economical independence and start their lives outside the place where they lived with the perpetrator.

Crisis centres were designed to be run by the non-governmental organisations, chosen in the competition organised in 1997 and based on the co-operation with the local authorities.

The deal with the UNDP obliged both sides to assign 300.000 USD for the realisation of the project in three years. The money given by the UNDP was given in 3 parts - a 100.000 USD a year. If the money were not spend in each year, the Programme Council was allowed to move them to realisation of different projects. .

In 1997, the newly established government created the office of the Plenipotentiary for Family (in the place of Plenipotentiary for Family and Women) and suspended the realisation of "Against Violence - Equalising Chances" project. In its highly ideological statement made while putting a stop to the project, the office of the Plenipotentiary stated:

*"[the programme] offering help to women and children outside their family home contributes to a break up of that family"<sup>5</sup>*

In 1998 the programme has been redesigned to meet the policies of recently governing coalition - the whole help goes now towards "problem families" to reconcile them through mediation. The other effect of redefinition of the project's aims (despite of working under the same name) is that 'politically incorrect' organisations are being deprived of financial means, which would be otherwise provided by the government.

The governmental approach towards the problem of domestic violence can be well observed in official documents, produced by the office of the Plenipotentiary, specially in the 1998 *"Report on the Situation of Polish Families"* and the lately accepted by the government and Parliament - *"The Programme for Pro-family Policies"*.

The 1998 *Report* brings data about domestic violence in chapters about aggressive behaviours of children and youth and in the chapter of legal provisions designed to protect the families. In the chapter on children and youth, while explaining aggression through possible violent behaviour at homes, the Report quotes one regional research data, according to which 4% of children admits they face physical violence at home and 12% admits being abused "from time to time". In the context of 74% of children reporting that no violence takes place at home, the authors of this particular report then invoke police data, where it is clearly shown that the number of cases in the period between 1995 - 1997 risen from 920.988 cases to 1.163.160 cases of reported domestic violence. The data is commented in a following way:

*"The high rise of the cases reported in the last year may result from the exceptional sensitivity of police officers to cases of domestic violence, specially because of the "Blue Card"*

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<sup>5</sup> "Implementation of the Platform For Action by the Polish Government. Alternative report prepared for 44<sup>th</sup> session of Commission on the Status of Women"; Women's Association for Gender Equality - Beijing 1995; Warsaw, January 2000

*procedures. One cannot exclude though that the reason for that may be the upraise of the problem of domestic violence"*

Later, in this same report, in the chapter of legal guarantees of the safety of families, authors quote statistical data, which show that in the year 1996, the number of cases of crimes against family (widely defined - not only by the regulations of the article 184 (207) of Criminal Code) has risen by 62%<sup>6</sup>. When it comes to estimation of number of violence against the family members, the report sends back to the chapter about youth aggression.

When ways of combating violence are concerned (in very little interest), relatives, neighbours, teachers and social workers are being pointed out as these who are suppose to help in cases of violence.

The Report calls the empirical data to be collected to stop misinformation about violence and combat the attitude presented so far by different organisations and media:

*"It has to be very strongly stressed that irresponsible estimations of the scale of domestic violence as cases counted in hundreds of thousands or even millions (...) is absurdity (...)"*

Clearly the chapter on legal provisions negates findings presented in the chapter about abusive behaviours of youth. But in the understanding of the Plenipotentiary's office - it doesn't have to mean contradiction:

*"It has to be clearly defined in the discussion, what should be perceived as violence, and what should not be seen as it. Interesting point of view can be found in divagations i.e. of J. Bińczycka. In the author's opinion, '... excessive, unlimited freedom can easily turn into anarchy, hurting the child. Excessive compulsion not mitigated by freedom - turns into animal training, which is also hurting and limits the development of the individual. These types of pathological, overdosed freedom or compulsion - take the form of violence' "*

The idea of keeping families together, even in cases of such serious dysfunctions as domestic violence, is also mirrored in the "Programme for Pro-family policies". The project proposes changes in the system of care over dysfunctional families towards integrated institutional care, provided by different services - medical, psychological, financial, legal, job finding, etc.

The system would be working in a completely different manner that all the initiatives undertaken so far. It would change from individual help for these, who face "dysfunctions" in their families, towards complex help within the family and within homes. The project proposes redesigning of help centres into multifunction institutions, which would offer wide range of services. The system of places for individuals wanting to escape from domestic violence are being mentioned as supplementary to this system.

Independently on governmental initiatives, which are now being suspended or recreated towards family problems' resolution, there are social initiatives in place, out of which the one with highest range of activities is the Nation Wide Emergency For Victims of Domestic Violence "The Blue Line", which established the Nation Wide Co-operation of Persons, Organisations and Institutions "The Blue Line".

The initiative came out of the project of the State Agency for Resolving Alcohol Abuse Problems, which in 1994 has organised the conference "The Family Without Violence". The

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<sup>6</sup> The data include the following crimes defined by the Criminal Code: bigamy, violence against family member, provoking alcohol abuse of the youth, avoiding alimony payments, leaving the child and kidnapping the child.

project started in 1995, when the Nation Wide Emergency (a part of the Institute of the Psychology of Health), started its work with the national phone help line for victims.

In 1998, "The Blue Line" has involved in the national media campaign "Stop Domestic Violence". The main goal of this campaign was to promote the system of work created by the "Blue Line", but also to start talking out loud about the problem of violence within families and to give information to victims, where they can find help if they decide to act against the perpetrator. Newspapers, radio, television, billboards on the streets - all these means have been used to promote acting against violence and invoke social awareness on the issue. In the first part of the campaign (between November 1998 and December 1998), decisions have been taken regionally to open 113 new intervention services and help lines, 62 radio stations, 56 local and regional TV stations, 55 regional newspapers have been involved in the campaign. During the campaign, 2219 people have been trained to work with victims of domestic violence, among which there were pedagogues, psychologists, social workers, police officers, prosecutors, doctors.

As data gathered shows, between 1 March 1999 and 31 August 1999, the number of calls received by the "Blue Line" only was 4.309 (out of which 2.491 coming from people calling for the first time; 2.150 adults and 341 children)<sup>7</sup>

In 1996, the Nation Wide Co-operation has been established to enlarge the range of help provided to victims and is the informal group of places which give some sort of help to victims (psychological, medical, legal, etc.). The main idea behind that co-operation is to gather as much as possible information about persons and institutions, organisations, which can provide help to people seeking assistance. It is also the task to involve as many as possible representatives of state and local institutions - police officers, social workers, prosecutors, journalists, etc. Within this co-operation, hundreds of NGO's with different profiles and institutions involved in combating violence.

One of the results of this co-operation was the establishment of the police procedure of the so called "Blue Card", which is designed to improve documentation of police interventions in cases of domestic violence and prepare police officers to act properly towards victims, as well as towards perpetrators. The procedure involves training for police officers, giving them legal and psychological background for work with such cases. It is also stressed to teach police officers how to create and co-operate within the local system of social services, non-governmental organisations, hospitals, prosecutors' office.

The monitoring version of the programme has been conducted in Warsaw (in 1997) and has been assessed as highly improving the quality of intervention, undertaken by the police. The procedure of implementation of the Card in the whole country started in 1998. The problem is that the "Blue Card" and police actions do not secure the effectiveness of dealing with the perpetrator. First of all - the procedure is still merely known in the society (as the survey showed - only 2% of respondents knew about this procedure), second of all - even if the pre-trial procedures are perfectly run, the perpetrator is not taken out of home, usually does not serve time in prison or gains very low sentence, after which comes back and the violence starts again. There is no "restriction of access" order functioning within the legal system, the temporary arrest is rarely used in cases of domestic violence.

As data collected by the Women's Rights Centre shows, for the total number of 12563 convictions on the basis of Criminal Code regulations on violence against family member, only in 814 cases the prison sentence has been actually served.<sup>8</sup> 11484 sentences (91,4% of

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<sup>7</sup> Marcin Podawca, "Ogólnopolskie Pogotowie dla Ofiar Przemocy w Rodzinie (1 Marca - 31 Sierpnia 1999)", The "Blue Line" Bulletin, 5/99

<sup>8</sup> "Polish Women in the 90ties. The report by the Women's Rights Centre" Warsaw 2000

cases) have been suspended and involved probation, in 102 the perpetrator has been sentenced to limitation of freedom and in 163 - fined. In 75,65% of cases, the length of the jail sentence was not longer than 6 months up to 1 year.

To avoid this repeating violence, the system of working with perpetrators has to be created, as the way of dealing not only with these, who face attacks, but also to prevent these attacks. The prison system is the most expensive and ineffective system of therapeutic work with perpetrators. But other, competitive systems, are just being created and are used in a very limited scope.

Despite of loads of positive changes in perception of domestic violence as a serious problem, presented by the police and other state institutions (like social workers) and despite of recognition of existing lacks in the system of help, it is still not enough to talk about the institutionalised form of assistance, provided to victims of violence. One factor is the general attitude of the government towards the issue, which has been marginalized in the context of "healthy family" policies. The other is that domestic violence is still very often perceived as private matter and many victims do not report this to the authorities, local communities tolerate violence and police, even though trained and prepared, tend to neglect their responsibilities towards victims.

No matter of the fact that domestic violence is a publicly prosecuted crime, usually the procedure does not start without the official claim from the victim. When the procedure starts, the victim usually is expected to bring the well documented "case" - with medical documentation, statements or names of witnesses, etc. Police officers tend to withdraw if the victim refuses to testify out of fear of perpetrator's revenge.

The latest surveys on social perception of domestic violence has been conducted in November 1999 by the Centre for Public Opinion Research (Ocerodek Badania Opinii Publicznej - OBOP)<sup>9</sup>. The research, conducted on the request from the Nation Wide Emergency for Victims of Domestic Violence "The Blue Line", covered the perception of a problem in the society, the knowledge about institutional forms of help for victims, opinions about possibility of intervention in cases of occurring violence, level of tolerance for violence.

According to data collected, 46% of Poles think that the awareness of domestic violence improved in last two years, in terms of perception by individuals, specially these engaged in helping the victims. These respondents are sure that there is a lack of organised system of fighting domestic problems. The opinion of 15% of respondents is that nothing changed in this matter, 13% - that the problem of domestic violence was being recognised by the authorities and individuals and that the effective system of help has been worked out. 9% of people answering this question stated that the problem of domestic violence has not been recognised and it is not treated with interest and appropriate attention.

Indirectly, these results would suggest that 83% of Poles recognise the existence of domestic violence and perceive it as a social problem. Only 5% of these surveyed said the problem was artificially produced by the media. 12% did not know if anything happened in terms or didn't have precise opinion in that matter.

Almost 2/3 of respondents did not know about any forms of organised help for victims (63% of respondents). Mostly recognised form seems to be a telephone helpline (27% of respondents), followed by 12% pointing at social workers, 8% at local consulting centres and publications in local media, 7% pointing at shelters for victims, 6% confirming knowledge

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<sup>9</sup> "Poles on the domestic violence. The results of public opinion poll, November '99" Ocerodek Badania Opinii Publicznej Sp z o.o. Research conducted on the request from the Nation Wide Emergency for Victims of Domestic Violence "Blue Line"

about the "Blue Line" system, 5% at intervention centres. Only 2% of these surveyed knew about the police procedure, known as "The Blue Card".

One can observe the tendency to putting the responsibility for reaction on the violence to state authorities (mainly police) and members of the closest family. Around 50% of Poles claims being against personal intervention in cases of domestic violence (even though 87% says it is a moral obligation of every person to help the victims). This would correspond with the above mentioned opinion that in case of violence intervention should come from the police (76%) in the first place, then - other family members (69%).

The reasons for staying out of family affairs are mostly fear and doubt, if the reaction hasn't been provoked by the victim. 55% of respondents claim, that they are afraid of consequences for themselves and want to stay out of trouble, 50% have doubts who is right (if the quarrel appears), 46% of respondents are afraid of the consequences their intervention can have for the situation of the victim (they don't want to provoke any further violence towards victims). Comparing to similar survey conducted in 1997, the number of persons refusing right to intervention grows (from 9 to 15 percentage points). Most likely the personal intervention is rejected by elderly (60 years of age and more), inhabitants of rural areas, with basic education or vocational training, farmers and pensioners.

The supportive opinion for intervention appears when respondents are being asked about the particular actions taking place as part of family life. They definitely see the need for intervention in case of beating and humiliating an adult member of the family (85% of respondents) or in cases of maltreatment of children (88%).

The level of tolerance for domestic violence depends seriously on the understanding of particular behaviours as a symptom of the violence. In general 78% of Poles claim that nothing justifies violence in the family (35% - rather nothing, 43% - definitely nothing). 71% of these surveyed disagreed with the thesis that beaten women are co-responsible for the violence (35% - rather not, 36% - definitely not). This opinion is more likely to appear among persons with higher education, up to 30 years of age, 40 year olds, inhabitants of big cities and towns, with central-leftist political views.

At the same time Poles are likely to tolerate behaviours that they don't perceive as domestic violence, although agreeing with the opinion that most of these behaviours are inappropriate. Respondents were likely to tolerate behaviours occurring not more than one time (88% saying that slapping a son or daughter is acceptable, even if inappropriate and sometimes perceived as actual violence; 80% is likely to tolerate one time verbal assault on spouse). Poles tend to understand domestic violence as repeated assaults on family members, but even then almost half of respondents would justify slapping children (48%) and 45% of them would justify verbal assaults performed against the spouse.

Most of the times, the scope of the problem of domestic violence is being assessed by the public opinion research institutions and non-governmental organisations. The problem with estimating the number of victims comes also from the difficulties caused by the system of collecting data by the state authorities, where the gender of the victim is not mentioned, nor the age of the victim (to differentiate between violence against children, women and men). The definition of violence against family member embraces all cases of acting against children, spouses, brothers and sisters, parents, grandparents, life partners in informal relationships. It is very hard to estimate how many women (regardless of the relation with the perpetrator) face violence at home. The only data available considers number of men involved in crimes of domestic violence - as for example, the number of sentenced perpetrators in 1996

was 13288, out of which 13040 were men. As stated above, this number includes all cases of violent behaviour, performed within the family by men.

The scope of the problem is best assessed through gaining information from social surveys. As data collected by the Public Opinion Research Centre in 1996, 18% of women admitted directly, that they have been attacked by their husbands or partners (9% of these who face constant violence and 9% of these, who experience domestic violence sporadically). Indirect questions, constructed in the way of assessing "other women's situation (i.e. gaining answers to the question "have you ever knew any woman beaten by their husbands") show nevertheless, that they have admitted observing violence in 41% of these questioned (and 61% of divorced women admit that they have met with violent behaviours towards women in families)<sup>10</sup>

It is also hard to assess the number of cases of domestic violence and the scope of the problem, taking police and court statistics into consideration. One of the reasons is the above mentioned factor of not collecting data according to the gender and age of victims. Other factor is a lack of reporting (loads of cases go unrecorded by the police due to withdrawal of victim's claims, lack of knowledge about appropriate procedures, fear and reprisal, shame). Data presented by the police and court's statistics shows that in years 1990 - 1998, 84419 cases of domestic violence have been recorded. The example of the year 1996 shows that 20144 cases have been recorded. In the same year - 13288 persons have been convicted, out of whom 13040 were men. Of course this is not simply translatable data - the court case on domestic violence takes approximately two to three years, which would mean that cases finished with sentencing in 1996 had their beginning in 1993-1994.

Indirect data also comes from cases registered by the non-governmental organisations and coalitions, specially by the "Blue Line". Their registration of people seeking assistance shows that the number of these who look for help has grown in 1999 of 140%, comparing to previous year. 3/4 of these people report being victims of domestic violence. One should notice though that these data do not have to show the increasing number of crimes themselves, but may point at rising awareness about the issue.

In the year 1999, the police has recorded 2029 crimes of rape. In this number, 1460 crimes have been committed by single perpetrator, 104 by two perpetrators, 129 rapes - by 3 or more. The police has discovered 1306 suspects and started 1803 proceedings in cases of rape. According to Polish Code of Criminal Procedure<sup>11</sup>, the proceedings are being requested by the victim (the authorities can not proceed without written complaint from the victim), but then the procedure is run by the public prosecutors office, as the publicly prosecuted case.

The average length of the police procedure in cases of rape:

- a) 35,2% of cases - the procedure takes no longer than 1 month
- b) 20,9 % - up to two months
- c) 21,2% - up to three months.

Despite of the fact that this not constitute a long time, the proceedings became longer last year - comparing to 1998, when 39% of cases took up to one month, 21% - up to two months and 19,5% - up to three months. Perpetrators are being found in 83,7% of cases.<sup>12</sup>

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<sup>10</sup> "Women about conflicts and violence in the family", Centre for Public opinion Research, Warsaw, January 1997

<sup>11</sup> The Bill of 6.06.1997 - The Code of Criminal Procedure; Official Journal of 4.08.1997, nr 89, pos.555

<sup>12</sup> "Statistical information about the crime of rape in the year 1999"; Police Headquarters, Warsaw 2000

In 1998, the law on rape has changed. Comparing to the previously binding regulations, the crime of rape has been moved from the category of felonies, endangered by high sentences, to the category of misdemeanours with reduction of the responsibility. Legislation on that particular crime tends to be gender neutral and include rapes in homosexual relations, as well as in marriage and rapes committed on prostitutes. The Code has also changed in terms of the definition of the gang rape, where since 1998 this crime is being qualified like that when two or more perpetrators are involved (when before 1998, if there were two of them - they would be tried as separate cases, with no harshened responsibility). Also procedures have been changed, introducing the necessity of the request from the victim to start the criminal proceedings and the rule of "no return" after the motion is filed. After the motion is in place, the proceedings and further prosecution is being performed by police and public prosecutors. This construction has good and bad sides. On the one hand - the lack of possibility of withdrawing the motion ensures that a perpetrator will not have the possibility of influencing the victim's decision when the proceedings start. On the other hand - this also may cause a threat of victims not deciding to file the complaint when such a motion is definite. As presented below, this resolution is criticised by practitioners, specially by the police, who usually is the first instance where the victim reports the crime.

The situation of victims of rape is hardly defined by the law though. No matter of the literal sounding of criminal law and procedure, the practice goes far from ideal and shows that the system of support for victims, as well as the good practice hardly exists.

As reported by the Women's Rights Centre<sup>13</sup>, women-victims of rape are being mistreated by the police and in court proceedings, specially because the leading stereotypes about provocative behaviour of victims. It is also the result of misinterpretation of binding procedures, malpractice, as well as lack of professional training for police forces, judges and prosecutors. These programmes, which exist already, are not enough to change proceedings country wide.

Between August 1999 and January 2000, the monitoring study has been conducted within the project named "*Human Rights Advanced Leadership Training for Women*", organised by the Women, Law and Development.<sup>14</sup> The monitoring, conducted in 5 major polish cities and towns, covered issues like: existence of internal police regulations and programmes concerning dealing with cases of rape, accessibility of professional training, knowledge about procedures in such cases, introduced in other countries, possibilities of choice of persons questioning the victim, system of information provided by the police, procedures of medical check, accessibility of professional help for victims during police proceedings, etc.

The survey shown clearly that the attitude towards victims of rape, even if one could see positive changes, still needs serious improvement.

The information provided to the victim of rape is the same one given to victims of other crimes. It gives the basic information about the law, quoting regulations without a word of explanation. This form brings serious doubts about the possibility of understanding such an information by the victim, who is usually in shock and very often simply does not understand the pure legal info due to specific language. **There is no information** about the possibility of lodging the formal complaint on policemen behaviour or malpractice. There are also sings of

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<sup>13</sup> Urszula Nowakowska, Magdalena Jabłońska "Violence Against Women" [in:] "Polish Women in the 90ties. The report by the Women's Rights Centre"; Warsaw 2000

<sup>14</sup> "The observation of human rights in preliminary criminal proceedings in case of women - victims of rape" - preliminary report on the monitoring of police, August 1999 - January 2000

policemen discouraging victims through presenting the possible complications during criminal procedures:

*"Before a woman lodges a motion we talk to her about the level of determination she presents to get on with the case. Usually women are pragmatic and information about procedures makes her withdraw" (Answer of one of policemen interviewed in Cracow)<sup>15</sup>*

Police also very often stresses the fact that once the victim files a motion - there is no way it can be withdrawn. This evokes serious doubts if the information is not given as the way of discouraging victims to start proceedings in the first place.

The further the procedure goes, the more violations of victim's dignity can be observed. There are no formal restrictions about the number of preliminary hearings at the police station, as well as during the prosecutor's questioning. Despite of quite common understanding that multiple hearings may cause psychological harm to the victim, they are being usually questioned more than one time. Representatives of the police force usually point to two up to four hearings which involve the victim (this number includes hearings in prosecutor's office and the court room).

In cases of rape the police often uses confrontation and identification as the procedural means of settle the perpetrator. This happens despite of very common opinion about these procedures being humiliating for the victim. The additional problem is that identification is very often conducted "face to face", what means that there is no Venice (one-side) mirror between the victim and these men, who are involved in identification procedure. Such an identification is also performed despite having the mirror, because for some policemen "it is better proof than identification through the mirror".

There are orders existing since the beginning of 1999, issued by the Police Headquarters, that every woman-victim of rape should be questioned by the policewoman. In practice, as the monitoring shows, it is not possible (due to lack of women working with the police) or is being proceed only with the first hearing. Further questioning is run by men.

*"There is an order issued by the Headquarters which states that every proceeding in case of rape should be conducted by policewoman; we respect that "in half" - first hearing is being conducted by a woman, than I take over. This order does not make sense because my women colleagues want to be gentle and do not ask necessary questions, what causes the need for another questioning made by me anyway" (An answer from one policeman in one of the Warsaw's police stations)*

*"The victim is being heard by a woman, but first she has to report the crime to the officer on duty (who usually is a man)."(policewoman at one of the Warsaw's police stations)*

The most usual cause for interrogations conducted by men is lack of women officers available at the certain police station. In the year 1999, there have been 9227 women officers working in the police force country wide (comparing to almost 10 times more men in the force).<sup>16</sup> Interrogations are very often humiliating for victims also because of lack of well prepared, isolated rooms. Interrogations conducted in presence of other policemen is a very common practice.

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<sup>15</sup> All quotations come from the preliminary report on the monitoring; op.cit.

<sup>16</sup> "Police materials - women in police force"; Police Headquarters 2000

Even though admitting that the procedure is humiliating for the victim and constitutes nuisance for her, the monitoring shows that police officers are not free from stereotypes about rape and the role of the victim. They tend to differentiate "clear rape" (perpetrator not known to the victim, rape committed on the women not dressed provocative, no alcohol included, etc.) from "other rapes". The idea that a woman is co-responsible for rape if she drinks alcohol, is very common.

*"When it comes to reporting rape by adult women, 90% of reports tend to be pseudo-rapes (for example reports from women, who are involved in alcoholic parties in the company of men, who they don't know). Clear, training book, rapes constitute 3 - 5% of cases. Real rapes are almost not reported by juveniles. Lots of young girls are just sex toys" (Police officer answering questionnaire in Warsaw)*

*"If You give a mouse to the cat, whose fault it is if he eats her, cat's? Or the girl who seats in the bar at 2 o'clock in the morning and then lets the man who she was drinking with, to get her home...Is she looking for adventure or something? (The police officer answering the questionnaire in Warsaw)*

*"Very often the victim withdraws her statements being afraid, that her fault in provoking the perpetrator could be revealed" (Answer gained in Cracow)*

These prejudices and stereotypes lead to including questions about the previous sexual life of the victim and the life style in general. If classified to "other rapes" category, the interrogations become even more humiliating and the case is not treated seriously. Police officers lack the knowledge about consequences of rape for the victim, including the fact that sex life has nothing to do with the crime of rape.

*" It is important if this was the first victim's sexual intercourse. The situation is different when sex is like a piece of cake. We want to assess the psychological state the victim is in" (statement provided by one of the Warsaw's police officers)*

*"The victim's life style should be considered as it may be a circumstance which to some extent justifies the behaviour of the perpetrator" (police officer from Gdańsk)*

The above mentioned results constitute only a small part of monitoring findings. The knowledge about consequences of rape for the victim and tendencies to lead the humiliating proceedings are pretty clear. Even though police force is being trained by internal education services (specially in schools of police), as well as by representatives of NGO's in Poland, this education is still not enough. Most of the questioned officers admit they had some kind of training, but usually it concerns more the procedures which should be used in dealing with the perpetrator than a victim. Some of women-officers responded that even if there was a training organised, it usually has been targeted towards women in police force, which is unsatisfying considering the situation of lack of women officers and, because of that, limited possibilities of interrogations led only by women.

As reported by the Women's Rights Centre<sup>17</sup>, the stereotypes also tend to prevail court proceedings, where the sexual life of the victim prior to rape is being considered as the way of finding if woman's behaviour did not provoke the perpetrator's actions. It is also considered if

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<sup>17</sup> U.Nowakowska, M.Jabłońska, op.cit.

the victim knew the suspect and if she tried to negotiate with the attacker or if she was passive during the rape. In many cases, passiveness is being taken as consent. Due to this tendency, even if sentenced the perpetrator usually faces not more than 1-2 years of imprisonment (57,5% of cases in 1997).

The Polish criminal law does not differentiate marital rape from other cases of rape. Despite that, most of interviewed police officers were aware of the existence of such problem. Most of them, nevertheless, have ever investigated such case. As reasons for not reporting such cases, the surveyed police officers pointed: lack of knowledge that marital rape is in fact a crime, shame, fear of revenge. Most of marital rapes are being reported as a form of violence against the spouse and go reported under article 207 of the Criminal Code. This causes the possibility of many cases of rape actually avoiding being qualified as such.

Shame, long procedures, humiliation of interrogation, lack of support from professional psychologists, the need of facing the perpetrator during police and court proceedings, prejudice and stereotypes surrounding rape, especially in communities with high level of alcohol abuse - these are the most recognised causes of small number of cases even reported to the police or prosecutor's office. The estimates suggest ten times more cases than reported to representatives of criminal justice system.

## **2. Participation of Women in Decision Making Process.**

As the response to Platform of Action and Beijing Declaration, in 1996, the Governmental Plenipotentiary for Family and Women presented the *National Plan of Action*. In the area devoted to general actions towards improvement of situation in women's rights in Poland, one of the tasks has been described as building the legal guarantees for the gender equality and non-discriminatory practices. One of the specified goals in that area was the recommendation for starting intensive works on the bill on equal status of women and men.

In 1996, the Parliamentary Group Of Women, a body constituted of women - members of Parliament, presented the first project of the *Bill on Equal Status of Women and Men* to Sejm, the Lower House of Polish Parliament. The project presented, signed by 162 (out of 460) MP's, has been a result of a long term discussions and negotiations between the Group, non-governmental organisations, politicians, opinion making bodies. The bill concerned situation of women and man and included, among other issues, the definition of discrimination, proposition for establishment of the office of equal status ombudsman (or other special office which task would be the control of fulfilling the legal provisions and observing equal status policies and practices), procedure of mediation in cases of discrimination, simplification of procedures of complaint, introducing of the new rule of burden of proof in court cases about discrimination.<sup>18</sup> The most controversial issue was the introduction of so called "quota system", which would oblige the state to reinforce 40% of representation of each gender on positions in all representative bodies and in public administration.

After changes were made, due to opinions collected, the project has been re-introduced by 120 deputies in February 1997. In June 1997, the first reading of the project in Sejm took place. All the parliamentary parties supported the further works on the project, which has

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<sup>18</sup> In Poland, according to general rule of Civil Law (art. 6 of the Civil Code), the burden of proof during the court procedure lies on the these, who claim their rights have been violated. This also concerns cases where discrimination may be included, what in practice means that the person, who feels discriminated has to prove that she has been discriminated.

been moved for discussions in Parliamentary Commissions of: Justice and Human Rights, Social Policy and Legislation. The works did not see the positive result due to following general elections.

In September 1997, new general elections took place. Most of seats in Parliament have been won by the Election Action Solidarity (a coalition of centre and right wing political parties - AWS) and the Union of Liberty, representatives of which have constituted a new government.

The ruling coalition, which social policies towards women, created mainly by the representatives of the AWS, are strongly influenced by the position represented by the Catholic Church. The government is not interested in issues of equal status and does not support any actions towards creation of institutional mechanisms of ensuring equal treatment. Therefore, the final project of the equal status bill, introduced to the parliament in December 1998 (this time, due to personal changes in Sejm, supported only by the 71 MP's), has been negatively opinionated by the ruling government.

Among other biases, the governmental opinion called into question the need for introducing the special equality law, proofs for gender discrimination in the labour market (specially in the area of unequal pay), the necessity of introducing the quota system (with the comment made that none of the EU countries has introduced such a system), the necessity of elimination gender stereotypes from the school books.<sup>19</sup> Presenting this opinion, the government not only denied the practices existing in European Union (the quota system in different forms exists *inter alia* in Belgium, Denmark, Finland, France, Germany<sup>20</sup>), but also took position which contradicts the commitments undertaken according to Platform of Action by previous governments and the National Plan of Action. The government has also denied it's own findings, presented by the office of the Plenipotentiary for Family in it's 1998 "Report on the Situation of Polish Families", where it is clearly said that *"One can observe, that payment received by women are lower than these of man, performing this same kind of work. For years, the average salary of a woman in Poland has not acceded 66-80% of the salary of men working in similar post"*<sup>21</sup>.

With the parliamentary majority constituting of right wing parties, the project has been rejected on the 7<sup>th</sup> of March 1999 in parliamentary debate.

Another recent action of the Parliamentary Group of Women, was the project of establishing the parliamentary Committee for Equal Status of Women and Men, which was suppose to be introduced by making amendments to the Standing Orders of the Sejm. The Committee was planned to act within the space created by the constitutional rule of equality of rights, specially during the legislation process, focusing on labour law, insurance, culture, education, etc. One of the possible functions of the committee was to advice to the government in the equality issues. Unfortunately, also this initiative has been voted against - by one vote the decision was taken in favour of these opposing. There have been 202 deputies pro establishment of the commission (from the Democratic Left Alliance, Union of Liberty and Polish Peasants' Party) and equal number of 202 against (from Election Action "Solidarity", small right wing parties, part of the Union of Liberty and part of the Polish Peasants' Party). 17 deputies did not vote, 39 were not present.

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<sup>19</sup> "Krótka acz zawi³a historia ustawy równoœciowej" Ma³gorzata Fuszara, Eleonora Zieliñska; [W: "OËKa, pismo œrodka informacji œrodowisk kobiecych", 4(5) / 98

<sup>20</sup> C.Hosky "Integrating gender, women, law and politics in the European Union" 1996 (cited after M.Fuszara, E.Zieliñska, op.cit.)

<sup>21</sup> "Report on the Situation of Polish Families"; The Office of the Government Plenipotentiary for Family; 1998

Some of the reactions from members of Parliament were as follows:

*"The Constitution of the Republic of Poland guarantees the equality of rights and the right for equal treatments of all citizens, regardless of their gender, religion, race. Concerning this, introduction of the artificial problem into the public life is trying to discriminate one of genders. (...) This is acting against the Constitution" (Tomasz Wójcik, MP - The Election Action "Solidarity)*

*"This commission is planned to check and control, among other things, the execution of this particular constitutional rule (...) The fact that the Constitution guarantees something does not mean, that these guarantees are functioning in practice (...)" (Marek Borowski, MP - The Democratic Left Alliance)*

*"The problem lies not in agreeing if we are different or not, because we are different. The problem lies within the fact that women are fired earlier, have lower pensions, the fact that women - not these sitting in this room or these having great husbands - are very often left on their own. Despite of rights guaranteed by the Constitution, their start is harder, their (...) lives too" (Olga Krzyżanowska, MP - The Union of Liberty)*

*"The establishment of the commission is being demanded by the left side of this room. The right side, which has the bigger representation of women, is not claiming it is necessary. It would be worth analysing in what way you are harming your women that they have to demand establishing the commission" (Halina Nowina - Konopczyna, MP - Our Circle)*

*"(...) I would like to congratulate you the comfort that you have in your deputies' offices, because to my office men are coming, who are being deprived by their ex-wives all contacts with their children. This is also the equal status of women and men. Not only women are being discriminated in this country" (Barbara Blida, MP - The Democratic Left Alliance)*

As said earlier, the *National Plan of Action* is not being enforced by the currently ruling government. This also concerns mechanisms of supporting the empowerment of women in public life. Despite of agreement from previous, left wing, government, committing to ensuring equality policies in areas of filling managerial positions in public administration, government and judiciary structure and electing women to representative bodies, political parties and trade unions, the government holded fulfilling its obligations in this matter.

In the above mentioned report of the office of Government Plenipotentiary for Family (1998)<sup>22</sup>, authors devote 4 short paragraphs to the issue of participation of women in public life. It admits that despite that women are generally better educated (at all levels of education), it is much harder for them to gain a managerial or decisive post, including feminised professions. The report quotes data about 17% representation of women in political parties in Poland and also straightforwardly ads that women are strongly underrepresented in leading structures (decision making bodies). The report includes data on the number of women in the Parliament (13%), local authorities (13%) and in the decision making posts in state administration (less than 25%). This same report quotes results of the survey, conducted in 1997 by the Centre of Research of Public Opinion, which shows that:

- 40% of Poles say they see a need for actions which would guarantee larger involvement of women in public life (comparing to 11% who don't think such actions are necessary)
- 40% of Poles are against special mechanisms of promotion of women

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<sup>22</sup> "Report on the Situation of Polish Families", op.cit.

- 25% of respondents supported the idea for the equal status bill (with 65% against this kind of resolution thinking that constitutional guarantees are enough to secure equality)
- 71% of these surveyed thought that the reason for smaller representation of women results from their bigger burden of home responsibilities (only 7% said it was because women are less qualified). At the same time the report also evokes the opinion of "respondents" (the percentage has not been quoted) think that women should not constitute more than 25% of representatives in political bodies - the government, the Parliament and in top positions in political parties. At the same time, people surveyed claimed that women should be represented the most in local authorities, state administration and in the management of state owned banks.

The data chosen to be presented in the report seems to be chosen to prove the general thesis of the report, which is supporting the traditional roles of women in the society. Where sensitive data is presented, like the number of women perceiving their situation at work as discriminatory on gender base (23% of respondents), it is amended by the commentary: "(...)but it concerns more than 50% of these who earn very little. Younger, better educated and better off women tend to feel discriminated less likely". The commentary may be seen as suggesting that the discrimination of 23%, less educated women, is not of as much of importance or if they claimed discrimination just because they are generally less professional and therefore lower paid..

In other place, where the results on women's participation in public life is being quoted, the number of respondents who claim women should not constitute more than 25% of representatives in governing bodies, is not even evoked. Different study, made by Ma<sup>3</sup>gorzata Fuszara, may be seen as contrary to this opinion - according to this survey the opinion strongly differs when one asks women and men separately.<sup>23</sup> 47% of women think that their interests can be well represented only in case of enlarging the number of women in institutions of power.

The question of equal status bill is indirectly criticised, not only by evoking the survey data about 2/3 of the society being against such a regulation, but also by undermining the social initiatives, presenting them in pejorative manner as the idea of "*feminist organisations*". The report states:

*"Most of the feminist oriented organisations go beyond the guarantees of equal rights and equal chances for women, understanding differences in social situation of women and men as discrimination, when they result from other reasons than inequality of genders. These organisations are pushing the temporary measures for improving the position of women by positive discrimination. They mostly demand the legislation on equal status of women and men, which would regulate the so called parity rule in every public body; the share of one gender would not be less than 40%. It is so called quota system, which is recommended by the Council of Europe, but has been rejected by the European Union, although exists in Scandinavian countries."*

Although directly and indirectly admitting discrimination in public sector (as well as in private sector), the report does not mention any measures to be recommended to improve the situation. The follow up of the report, the governmental "*Programme for Pro-family Policy*", as presented by the Government in 1999 and voted by the Parliament in March 2000, does not refer at all to the need for establishment of mechanisms of women's empowerment, which of

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<sup>23</sup> Ma<sup>3</sup>gorzata Fuszara, "Rola kobiet w polityce w ich własnych opiniach i programach partii politycznych przed wyborami 1993r w: "Dawne i nowe role". Centrum Europejskie Uniwersytetu Warszawskiego, Warszawa 1994

course includes their share of power. This same position has been taken while responding to UN Questionnaire, answered by the government due to preparations for the UN Special Session of the General Assembly "Women 2000: Gender equality, development and peace for the twenty-first century". Even though admitted, the discrimination towards women in terms of involvement in power and decision making process has not been commented.<sup>24</sup> The government is quoting data though, based on public opinion poll (there is no reference to the year of conducting the research), showing that 62% does not differentiate between men and women and would like to see any gender in power positions, if nomination is based on competency and knowledge of the candidate. This may be perceived as the government's proof, that no action is needed to support special measures. Together with suspending actions foreseen in the *National Plan for Action*, this policy does not allow for any hope for improvement in this area, nor for the promoting public debates.

In Poland, the lists of candidates for parliamentary elections are being prepared within the parties, with no clear, homogenous system. Information about most of these systems is unavailable. The only official information given to the public, is the number of women candidates on the lists and those selected to take seats.

The analysis made by Ma<sup>3</sup>gorzata Fuszara on the latest elections in 1997, show the following results:<sup>25</sup>

In 1997, the number of women - candidates to Sejm (the Lower House of Polish Parliament) was 1058 out of 6615 persons running for the seat (16%). Among the candidates to Senat (the Upper House), women constituted 11% (56 person out of 521).

As for particular parties, the percentage of women candidates is shown in the table (in order of percentage of women included to party lists):

<b>The Party</b>	<b>The number of women</b>
1. The National Party of Pensioners	33%
2. The Labour Union	25%
3. The Social and Cultural Association of Germans	20%
4. The Polish Right Alliance	19%
5. The Union of Liberty	18,5%
6. The National Alliance of Pensioners of the Republic of Poland	17,5%
7. The lists of national minorities	16,67%
8. Self-defence	16,25%
9. The Bloc for Poland	15,36%
10. Polish National Union	15,46%
11. The Democratic Left Alliance	15,12%
12. The Polish Peasants' Party	13,82%
13. The Movement for the Reconstruction of Poland	12,69%

<sup>24</sup> Izabela Jaruga-Nowacka "Women in power and decision-making", in: "Implementation of the Platform For Action by the Polish Government. Alternative report", Women's Association for Gender Equality - Beijing 1995 (Warsaw, January 2000)

<sup>25</sup> Ma<sup>3</sup>gorzata Fuszara "Women's Share of Power" in: "Polish Women in the 90ties", The Report by the Women's Rights Center, Warsaw 2000

14. Election Action Solidarity	10,87%
15. The Union of Real Politics	9,31%

The factor that very strongly influences the chance of being elected to Parliament is the position on the national list or party's candidates. Even if voted at the regional level, the candidate may not have a chance to enter the seats due to priority given to the top candidates from national lists.

As M.Fuszara shows in her analysis, most of the major parties, with most possibilities to take seats in the parliament during last elections, did not include women in their "top candidates". Generally, the tendency to give high place to women on national lists reflects the trends in involving women in elections by each party.

The Election Action Solidarity, placed at number 14 (out of 15) in the above table, have included no women in the list of top thirty candidates. The Action listed 5 women out of first seventy places.

The Polish Peasants Party listed only 4 women candidates, but all of them outside the top ten places. Nevertheless, they all have been included into first fifty candidates.

The Labour Union, which is placed at number 2 in the above table, put the largest number of women candidates in their list (19), including two women among top ten candidates and the rest of them not further than in the seventh group of ten.<sup>26</sup> The Union of Liberty, positioned at number 5, listed 15 women, not lower than in the sixth group of ten.

The Democratic Left Alliance listed 3 women at the very top of party's list plus another one in the top ten. Other selected women candidates have been included to the list at very high positions. There were 11 of them listed in general.

The Union of Liberty and Election Action Solidarity now constitute the ruling coalition and the majority in the Parliament. The Democratic Left Alliance is the major opposition party. In total number of 460 of deputies to Sejm, there are now 60 women, what constitutes the 13% of the representatives. In Senat, women constitute 12% of deputies.

In the latest proposal for changes in the elections' procedures, the Union of Liberty included the rule of the quota system of at least 30% of women candidates, compulsory included in the regional lists of candidates. This proposal, as one could expect, divided the Parliament and parties' members. Basically, the support for this proposition comes from liberal parties and left wing parties.

*"I definitely agree with this proposition. There have to be all possible action undertaken to make the access to political carrier for women easier (...)" Krystyna Łybacka, MP - The Democratic Left Alliance - commenting for "Życie Warszawy" daily, 2-3.10.1999)*

*"This is about the promotion of women in politics. There is too little of them in the Parliament" (Andrzej Potocki, MP, speaker for the Union of Liberty - commenting for "Gazeta Wyborcza" daily, 1.10.1999)*

*"I think that there is no gender discrimination in Poland, so putting sztuczne boundaries for one or another group is a wrong idea. This is artificial differentiation, based on unclear criteria - why should we differentiate on gender? Maybe we should give priority to some other group, basing for example on age?(...) This proposition of the Union of Liberty is actually a discrimination of women. Women are clever enough, intelligent and great, that they are able*

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<sup>26</sup> M.Fuszara, op.cit.

*to gain not only 30, but even 80% of the votes. Why should we limit their presence in the Parliament to 1/3? (Stanisław Zajac, MP, deputy speaker of Sejm, - The Election Action "Solidarity", commenting for "Gazeta Warszawska" daily, 2-3.10.1999)*

Right after the proposition has been made by the Union of Liberty, the survey has been conducted on the request from one of the weekly newspapers, asking the respondents if they were supporting this kind of solution and if they agreed with the opinion, that the Parliament would work better if there was more women deputies. 77% of these surveyed responded, that the proposition for obligatory parity should be introduced. 17% gave the opposite opinion. 63% of respondents claimed that they think it would be better for parliamentary works of women had bigger representation in the legislative body. 23% claimed contrary.<sup>27</sup>

Generally, women's rights are presented in elections or parties' programmes, in two manners. Either they are ignored or mentioned in the context of traditional roles OR their specific problems are being included into these programmes. This division basically marks this between right wing and left wing of the political scene.

Two main left wing parties, in their programmes for 1997 general elections, included women's issues as specific, highly important goals of their policies. The Labour Union declared its devotion to introducing the principles of the UN's CEDAW, while in addition stressing on women's right to employment, the rights of the family to decide freely about the number of children. The programme also refers to protection of women and children in the family, regardless of marital status and family relations.<sup>28</sup> It states the right for safe abortion, including the termination of pregnancy because of economical reasons, should be granted. The Labour Union is now the major outside Parliament opposition party. The party was the first to introduce the 30% quota system to support involvement of women in party's structure in 1994.

The Democratic Left Alliance included women's right to equality and equal opportunities, access to employment, family planning and abortion to its major principles. The party also gives support to sexual education, counselling and contraception.<sup>29</sup> The party's programme refers to the right for safe abortion on all grounds, protection of women's rights and dignity, declares opposition to any attempts of diminishing women's rights, recalls the devotion to the right for decision about number and spacing of children. It also strongly supports inclusion of women into public life by stating that they have to be present in the public life in bigger numbers and that women's aspirations in this regard cannot be ignored or marginalized.<sup>30</sup>

The second group constitutes of, widely speaking, right wing groups and parties, which either ignore specific gender issues or present them in the context of family life, not really supporting women as such, but rather making them easier to fulfil their roles within family relations. This group would involve parties and coalitions like Elections Action "Solidarity", Bloc for Poland or Union of Real Politics. They claim the need for better construction of the job market so women could join their family and professional roles (Bloc for Poland), but not granting men with this same kind of privileges like 6 hours work day to devote the rest of time to the family. The Union of Real Politics directly evokes the "natural

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<sup>27</sup> Survey conducted on the 1 of October 1999 by PENTOR - The Institute for Research of Public Opinion and Market S.A.. Quoted after "Brunetki, blondynki" - the article by Bogusław Mazur ("Wprost", 10.10.1999)

<sup>28</sup> M.Fuszara, op.cit.

<sup>29</sup> M.Fuszara, op.cit.

<sup>30</sup> M.Fuszara, op.cit

division of family roles of men and women", while proposing lower taxes for all but with the reference to "free choice of mothers if they want to devote themselves to the family while men will be able to support families financially".<sup>31</sup>

The representation of women at the level of central government is also highly unsatisfactory. There are only 2 women running ministries - the Minister of Justice and the Minister of Health. Very few women also govern central institutions, like the National Bank of Poland, the National Labour Office, the Head Office of the National Archives, the National Office of Health Insurance Supervision. The Main Inspectorate for Personal Data Protection is also headed by a woman.

The local government shows not much better signs when it comes to representation of women. At the level of voivodships (the highest level of local government), women constitute 2 - 16% of representatives in decision making bodies. In city councils and councils of departments (gmina) the situation tends to be better, but even there women rarely constitute more than 30% of representatives.

Despite previous government's commitment shown while constructing the *National Plan of Action*, the rules and criteria for filling managerial positions at all levels of governing, in political parties, state administration, state enterprises, etc. have not been worked out.

As for programmes, supporting advancement of women in public life, two of them are specially worth mentioning - "The participation of women in local life" and "Participation of women in public life", both initiated by the Centre for Russian, central and East European Studies of Rutgers University, New Jersey, in co-operation with The centre for Information for Women's Initiatives, OCEKa and the Foundation for the Development of Local Democracy (FRDL). Both programmes have been designed to improve the knowledge and skills of representatives of polish non-governmental organisations on women's advocacy. The project embraced the education of more than 70 persons and lasted for a year (in between Spring 1997 and Spring 1998). The initiative provided trainings for women's leaders from small communities and included topics like: equality of men and women, women's rights, methods of local needs assessment, methods of encouraging women to take part in local life, representation of women in local and central authorities, methods of campaigning and increasing the representation of women in decision making process, contacts with media, etc. The project resulted in preparation of local campaigning strategies for general and local elections, establishment of local working groups, discussions with local authorities, potential sponsors for further works. The experiences of the first year of the project constituted the basis for editing the manual for women leaders - "How To Be Active in a Public Life", printed by OCEKa in 1998.<sup>32</sup> The manual is constantly promoted among the women's communities and activists.

### **3. Women and mass media**

The *National Plan of Action* has included the strategic goals of social policy and actions from decision making circles, targeted toward improvement of the participation of

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<sup>31</sup> M.Fuszara, op.cit.

<sup>32</sup> "Jak być aktywną w życiu publicznym. Przewodnik dla kobiet."; Praca zbiorowa pod redakcją Agaty Zakrzewskiej, Joanny Regulskiej oraz Ann Graham, OCEKa, Warsaw 1998

women in mass media. It was also targeted towards the change of the stereotypical views and images of women in national television, radio and in press. As stated above, the *National Plan of Action* is not being implemented in many area and participation of women as it comes to mass media, is certainly one of these neglected areas. There are no works undertaken to assure equal participation of women and men in managerial positions, not mentioning the codes of conduct or any other documents regulating the participation of both genders in decision making.

According to the data presented by the Women's Association for Gender Equality, the level of participation of women in decision making positions within the market of mass media, is highly limited.<sup>33</sup> There are no women in National Council of TV and Radio Broadcasting, in Supervisory Board and Management Board of Public TV, in Polish Radio Supervisory Council. Among the directors of public radio channels (at national and local level), women constitute 16%. 33% representation can be observed in Polish Radio Programming Council, and 21% of posts as presidents, directors, editors-in-chief and deputies editors of non-public radio channels are taken by women.

Women constitute 25% of all directors of public TV channels at national level (4 channels), but there are no women in charge in regional public TV stations.

None of the non-public, nation wide TV stations is being managed by a woman, although they do constitute 33% of managerial staff at the regional level.

14% of daily press titles (63 titles) are managed by women.

Despite of a particular goal of the *National Plan of Action*, talking about amendments in legal framework and procedures related to media, both as a division of power and the image of women presented by media, no work has been done in this respect. The tasks were to oblige mass media to promote equal status, ban the sexist language used by journalists, ban public financing of the communication means that would refer to stereotypical images of men and women, monitor the content of the programmes broadcasted. None of these tasks have been achieved.

As reported by the Women's Association for Gender Equality, there are also no signs of implementing particular plans towards education of journalists, which were suppose to improve the sensitivity about gender discrimination among students, young journalists. There was training planned for advertising agencies and specialists, which were planned to help recognising the issue of gender equality and need for elimination of stereotypes.

Despite of the fact that the *National Plan of Action* was suppose to be popularised through all media, there is nothing happening in this particular area. As stated above, the main reason for that is that most of the actions have been suspended by the Government. The information about what is being done in terms of implementation of the *National Plan* is also unavailable due to lack of information materials which were to be prepared by the office of Government Plenipotentiary for Family and Women (now: the Plenipotentiary for Family).

This approach is in order to the Plenipotentiary's Office opinion which would strongly influence such behaviour. In 1998 "Report on the Situation of Polish Families", the press has been strongly criticised as promoting life style, that cannot be accepted:

*"The life styles promoted by this part of press [women's magazines] in the market are hard, and sometimes even not possible, to be accepted according to Polish hierarchy of values. This kind of press does not reflect [as it should] the traditional views on morality and decent life, on the contrary, it helps in quick forgetting about them."*

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<sup>33</sup> "Implementation of the Platform ...", op.cit.

*"A woman presented there [by women's magazines] is a person focusing on her own pleasure, fulfilling her own needs, devoting loads of time and attention to her own image (...)Some of the media are promoting the model of individual carrier, not the model of the culture of family.*

*This model, although surely attractive because of many reasons, deeply frustrates women from polish families, whose beliefs and values are constantly challenged. Often they [women] can't reach for the ideal appearance (...) This certainly effects in higher level of stress, nervosa and in number of cases of mentally distressed, observed lately"*

This last quotation is better left without comment.

In the context of mass media and their role in raising social awareness about domestic violence, the way of presenting the issue has been also strongly criticised and has been recognised as "exaggerating"

*"Generally positive actions, like for example the action against domestic violence organised in 1997, sometimes turn into their own contradiction. In commercial TV stations the film has been shown where a priest is giving a blessing to marrying couple. (...) the man says 'I will beat and rape You, mistreat You (...)'. This type of approach can be seen as the way of discouraging to marry and warning against trusting another person (...) The image of polish man, is presented by some media, as the image of alcoholic, who mistreats his wife, primitive creature raping his life partner (...) Man's care is presented as 'domination' and his expectations towards women as 'oppression'. Cases which are very rare, pathological, are being described in details and treated as common in social life(...)"*

At this point, it is worth mentioning again that the report itself did not refer to violence against women specifically and the topic has been included into chapter describing violence against children in the family.

As the following governmental "Programme of Pro-family Policies" does not refer at any stage to elimination of stereotypes and gender discrimination in the media. Because of changing perspective (focusing on "healthy family" as a whole), the programme's tasks are formulated in the manner of promotion of family values. The new programme recognises the influence of media on creation of social attitudes, but uses this only for promotion of family values. This attitude does not allow for hope for any progress under the ruling government.

#### **4. Women's situation in Industry, Commerce and the Labour Market.**

The governmental commitments (undertaken by previous, left wing, government and which should oblige the continuation from currently ruling coalition), have been taken in the *National Plan of Action*, after recognising the need of implementing *Recommendations for the Action Plan for the Advancement of Women*, prepared by the Office of the Governmental Plenipotentiary for Family and Women in 1995. The *Recommendations* have been pointing two major tasks of fighting women's poverty - establishment of clear criteria of evaluation of work and mechanisms for enforcing equal pay for work of equal value, as well as creation of flexible retirement system, which would be focused on the right to choose the moment of

leaving the job after acquiring the pension rights, instead of creating system, which provoked people to be fired from jobs.

The *National Plan of Action* refers to the issue of fighting feminisation of poverty, introducing the following activities to be taken:

- systematic observations and monitoring should take place in communities of single mothers, elderly women, disabled women and these, who are unemployed,
- active counteraction to the poverty by reducing the rate of unemployment amongst women, modernisation of social benefits system and support for social initiatives, which would combat the poverty amongst women.

The goals included to the *National Plan of Action* are:

- generating opportunities for women - inhabitants of rural areas - by securing equal access to production resources and through control over resources, land, credit, capital and property,
- elimination of professional segregation,
- opening access to employment and access to education and professional training for disabled women,
- introduction of special programmes for disabled women, particularly these who live in rural areas,
- elimination of unequal social and retirement rights for women and men, on the grounds of caring for disabled children.

As estimated, the percentage of people living in poverty increased by 20% only in the period of first years of transformation (1988 - 1993)<sup>34</sup>. 57% of people facing poverty due to transformation of economical and political system are women. The factors that decide of disadvantages faced by women are mainly:

- high unemployment,
- professional segregation at the employment market,
- lower remuneration provided to women,
- earlier retirement age and, resulting from this, lower pensions for elderly women.

### **Unemployment.**

In the years 1990 to 1997, the percentage of unemployed women increased from 50,9% to 60,4% of all unemployed individuals. In February 1999, when the last yearly monitoring of the labour market has been conducted by the Central Statistical Office, the unemployment rate for men was 11,7%, when for women - 13,5%.

For the general number of 1831,4 thousands registered unemployed in 1998, 1071,3 thousands were women.<sup>35</sup> As the General Statistical Office reports, when registered as unemployed - the percentage of women in groups divided in terms of length of period of staying without a job, is:

<b>Time of being unemployed</b>	<b>Women (in %)</b>	<b>Men (in%)</b>
3 months and less	19,4	38,2

<sup>34</sup> "Implementation of the Platform For Action by the Polish Government. Alternative report prepared for 44<sup>th</sup> session of the UN Commission on the Status of Women"; The Women's Association for Equal Status - Beijing 1995; Warsaw, January 2000

<sup>35</sup> "Ma<sup>3</sup>y rocznik statystyczny 1999", op.cit.

3 - 6 months	14,9	16,9
6 - 12 months	15,8	17,8
12 - 24 months	18,9	14,4
24 months and more	31,0	12,7

- data as for the end of the year 1998

In the year 1998, within the number of unemployed women, the largest group consisted of these being 24 or less years of age (30,7%) and between 24-34 years (30,0%)

Data quoted by the Women's Rights Centre, coming from the report from research conducted by the Centre for Social Research in December 1996, show that the situation in the job market strongly influence the idea of women about their working possibilities and their approach to employment.<sup>36</sup> They tend to point out that they face a higher risks in losing their jobs, as well as they face more difficulties in finding new jobs. The question of why women face more dangers on the job market and stay unemployed for longer, has been answered as the biggest problem was to balance family responsibilities with professional life and to overcome stereotypical view of the employers, that a woman is less likely to devote her time to work than to family life.

#### **Professional segregation and lower wages.**

Despite of binding regulations, included in the Constitution and the Labour Law, women face constant discrimination in the labour market, both in finding and keeping the job and in terms of lower wages for this same kind of work (or the work of equal value).

The anti-discrimination laws are included into:

- a) The Constitution.

The Polish Constitution of 1997, in its article 33, guarantees the equality of men and women, also in the economical life. The regulation states:

*Article 33:*

- 1. Woman and man in the Republic of Poland, have equal rights in family, political, social and economical life.*
- 2. Woman and man have, in particular, equal right for education, employment and promotion, for equal pay for the work of equal value, to social security and also to hold offices, perform equal functions and to receive public honours and decorations.*

- b) The Labour Code, as amended in 1996.

In 1996 the legal provisions of equality in the labour market have been included to the labour law. The Code refers to equality of genders within its principle rules. Two articles provide anti-discrimination regulations, which are:

*Article 11<sup>2</sup>*

*All employees equally performing alike jobs, have equal rights; this concerns especially equal treatment of women and men.*

*Article 11<sup>3</sup>*

*Any discrimination in employment based on gender, age, state of disability, race, nationality, political, religious or any other beliefs or on participation in a trade union, is prohibited.*

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<sup>36</sup> "Polish Women in the 90ties...", op.cit.

The problem with both, Constitutional and Code regulations is that it is very hard to implement them in cases of discrimination, maybe not so because of their structure and role (like regulations in the Labour Code, which constitute the "major principles" and it is tough to lodge a complaint basing on these regulations), but mainly because of malpractice and reluctance of judges, who are suppose to implement these regulations, but very often refuse to do so. Despite the fact that since the new Constitution came into force in 1997, its regulations can be directly used as a basis of performing judgements, there are very few cases where Constitution has been directly evoked in a sentence. Usually, lack of tradition of judging directly on the basis on Constitution, as well as misinformation and lack of knowledge of appropriate procedures are being given as reasons for avoiding such a sentencing.

The similar problem is being seen when it comes to making judgements based on anti-discriminatory labour law regulations, although at this point it would be easier to state compensation based on civil procedure. There are two difficulties in proving discriminatory practices of the employer. One is connected with the fact that above mentioned regulations concern only the relationship between parties of the work contract - the work relationship. In cases of discrimination against women during the procedures of interviewing and seeking for the job, are not covered by this particular rules. In this case - the only regulations that can be evoked, are the ones from the Constitution and here - the circle closes.

Another bias is that the burden of proof is put on the alleged victim of discrimination, who has to produce the evidence that the release from work, decision of not accepting to work, lower wage, etc. was based on gender differentiation.

All this results in serious lack of the system of combating work related discrimination against women. Regardless of constitutional guarantees of equal pay, the lower remuneration of women persists in the job market. According to the data of Central Statistical Office (gathered in August 1998), the national average salary of a woman constituted 82% of the man's, performing this same kind of work. Data also show that out of these who earn less than the average salary, 75% are women. At the highest level of income, men constitute 80%.<sup>37</sup>

All that happens despite the fact that women in general are better educated than man (11.% of women have higher education, comparing to 9% of men with university degree). The employment rate for the above mentioned level of education is 80,4% for men and 77,3% of women. The biggest difference between the employment rate of women and men can be observed in the group of these, who have basic vocational education - in this group 17,5% more men have jobs.

As reported by the Women's Rights Centre<sup>38</sup>, stereotypical views on the role of women and men in the society strongly influence the position of women in the labour market, as well as create unequal employment policies, especially when it comes to private sector. Despite the fact that generally employment in private sector increased largely in last years (due to changes in ownership structure), women's employment increased in public sector (from 48,2% in 1994 to 50,6% in 1998), getting lower in the private sector. These tendencies are strongly connected with higher wages in private sector, when public sector, financed by the state budget, faces constant problems with raises and financing. Despite gaining generally higher education, women are overrepresented in low paid professions, such as administrative workers, social workers, employees of state medical care, teachers, judges, clerks. Even

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<sup>37</sup> "Mały rocznik statystyczny 1999" (The Small Statistical Yearbook 1999); Główny Urząd Statystyczny, Warszawa 1999

<sup>38</sup> "Polish Women in the 90ties...", op.cit.

despite the high employment of women in these occupations (these are the most feminised areas), women rarely occupy decision positions.

The gender discrimination in the field of employment takes its beginning in the attitude towards women, seen as the main family carers. The image of women as mothers and wives strongly influences their position in the job market, especially when employers see regulations protecting working relationship of pregnant women, their rights connected with breeding and raising children, as the bias against their serious involvement in the job, as well as the economical burden for the employer and the factor, which makes women less efficient at work. Although it is legally forbidden, employers ask women ("out of record", because they would never dare to include such questions in the employee's personal questionnaire) about their family status (marital status), number and age of children, plans for having children. Some of the employers reacquire a medical certificate stating that a woman is not pregnant at the moment of accessing the job, as well as sometimes they make women to undersign the written commitment that they will not become pregnant within the certain period of time.<sup>39</sup> These discriminatory practices often stay unrecorded, due to lack of knowledge that this is discriminatory practice, fear of not losing the opportunity for work, lack of means of lodging the complaint in court, as well as the difficulties in gathering proofs for court case or mediation.

The preferences of employers in hiring men come mostly from the fact, that protection regulations, included in the labour code, make them think of women as less flexible, less stable workers, with bigger burden connected to family life and caring for children especially. The very noble idea of protecting women's jobs due to pregnancy, breast feeding and childcare, became one of the biggest obstacles in finding and keeping the job.

### **Protection regulations .**

According to article 177 of the Labour Code, the employer cannot dismiss a pregnant woman or a mother who uses her maternity leave, during the whole period of this leave. The only possible situation when this regulation does not apply is the moment, when:

- a) there are conditions fulfilled for immediate dismissal, when a woman does not comply with terms of her contract,
- b) the employer declares bankruptcy or is being shut down.

All the above mentioned protections apply to all women on the contract for a period acceding one month. For women on fixed-term contract, the contract for finishing certain job, in trial period acceding one month - the work cannot be terminated if it was going to happen after third month of pregnancy. The latter contracts are being prolonged till the day of child delivery.

If a woman is to be immediately fired because she did not comply with terms of contract, the employer is oblige to consult the trade unions, representing certain person. The consultations with the trade unions are also obligatory in the situation of bankruptcy - the moment of resolving of the contact has to be agreed with the union. If there is no possibility of ensuring another job for the woman in the period of dismissal, she is entitled to temporary benefits and the period of staying without a job is added to her tenure.

The protection of pregnant women applies to dismissal during the pregnancy, but also to the situation when the notice has been given before the women found out that she was pregnant.

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<sup>39</sup> "Polish Women in the 90ties...", op.cit.

So, even if the notice period started to run, she is entitled to keep her job under above regulations.

Pregnant women cannot be hired in night working hours, cannot work overtime and it is not allowed to send a pregnant women for business trip or work outside the place of everyday work, if she does not agree for doing that. This same regulations are applying to women who are taking care of a child who is less than 4 years of age.

It is worth mentioning at this point, that the latter regulation, forbidding to delegate a woman outside her place of work if she has a young child to take care for or making her work over time or in the night, is now also applying to fathers, but under the condition that they are the only carers of young children. When the changes have been introduced in 1996 (the age of a child has been prolonged to 4<sup>th</sup> year of life and the entitlement has been given to men), two judges of the Supreme Court "supported" this change in following words:

*"The enlargement of the area of regulation is motivated by the creation of a system which would make the <sup>3</sup>zienie of professional and child care responsibilities easier for larger number of women-employees. At the same time, the regulation's binding has been enlarged to involve men-employees, who are the only child-carers. This regulation has been created to meet the needs of very small group of men-employees, who are raising their children as single parents, for example these divorced or when the mother died. It also meets the international recommendations resulting from the Convention nr 156 of the International Labour Organisation, which regulates the equal treatment of employees of both genders, who have family responsibilities (...)"<sup>40</sup>*

It is worrying that the Supreme Court judges do not see the equality in equal possibilities of choice (giving the possibility of choosing the father as the main carer if he wants to take this role), but refers only to situations when women, for any reasons, cannot use their "privileges" in the area of child caring.

The employer is obliged to transfer a pregnant women to another job (position), when she:

- a) performs work which is legally forbidden for pregnant women or
- b) presents the medical certificate that the state of pregnancy is excluding the possibility of working in the post she is in.

The article 179, which is regulating this issue, obliges the employer to provide women transferred to another jobs because of pregnancy, with the same remuneration she was receiving in her usual job. When the reason for transfer is no longer valid, a woman should be allowed to come back to the job she was performing before pregnancy or before the medical reasons appeared.

Before and after the delivery, a woman is entitled to maternity leave, which due to latest changes in the labour law have been prolonged to 20 weeks when she gives birth to one child (from 2001 it will be 22 weeks) and to 30 (and 39 starting from 2001) in case of multiple birth. The right to maternity leave is also granted to mothers who raise children whom they want to adopt and a woman filed petition for adoption (14 weeks). If a woman decides to give a child away for adoption or wants to leave it in an orphanage, she is then anyway entitled to 8 weeks of maternity leave.

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<sup>40</sup> Józef Iwulski, Walerian Sanetra "The Labour Code - Commentary", Warsaw, 1996

The maternity leave is created as the obligatory time off work for every woman delivering a baby. Even when she can choose if she uses possible four weeks before birth, she is then obliged to take the rest of the leave. The employer, who allows a woman to work during the maternity leave, may be fined for breaking the law.

The idea of prolonging the maternity leave (what happened in the end of 1999 and the regulations are binding since 1.01.2000) was connected to the wider idea of social policy towards family, presented by the ruling coalition in the "Programme for Pro-family Policy", as adopted in March 2000. The programme states that one of the main tasks of the social help for families in bad economical situation is to provide them with longer periods of entitlement to maternity benefits, as well as prolonging the time of maternity leaves. This corresponds with one of the main tasks presented, as it is the creation of the "tradition" of raising young children at home. The programme states:

*"The natural place to raise children is the family home. Nevertheless, the **necessity** of finding employment by both parents on the one hand and the educational needs of children on the other, point at the necessity of creation of institutional support for parents. As for youngest children - up to three years of age - there should be actions taken to create the possibilities of personal care for children by one of parents, propagating the system of childcare leaves for persons resigning from work to take care of their children (...)" [bolded by the author]*

In the context of latest survey, conducted by the Centre for Research of Public Opinion in February 2000 on the situation of polish families, presented policy does not seem to meet with social needs.<sup>41</sup> The survey, although researching mostly the procreation attitudes of Poles, includes information about attitudes to proposed solutions of tough family situations. In the context of the falling possibilities of having more children, respondents were asked to answer the question - what would they think should be done to stop tendencies towards having less and less children. Out of answers proposed, the more effective combating unemployment gained 47% of responses and creation of the system of institutional care - 45% support. At the same time, policies like prolonged maternity leaves gained 26%, enlarged possibilities for women to work part time gained 26% and payment for personal child care for women quitting their jobs - gained only 20% of answers.

These results show clearly that the social trend is more towards improving state care system than to agree for raising children in the family, quitting on jobs. Problems may also rise from prolonged maternity leaves, such as obstacles from employers to hire women, when they face a perspective of their 6 months absence from work

Women being on maternity leave are entitled to receive postnatal allowances and maternity benefits. The regulations included in the Act on social insurance benefits in case of illness and maternity (1974) allow women to be paid the allowances which are 100% of their salary for the period of maternity leave. This regulation also concerns not-working wives of fathers, who are insured due to performing work on the contract or on any other base.

Both parents are entitled to child-care leave (the appropriate change in the Labour Code has been introduced in 1996) if only have they worked in certain place for at least 6 months before filing the motion and want to take personal care of a child. The appropriate regulation (The Order of Council of Ministers on child care leaves, 28.05.1996)<sup>42</sup> concerns personal care on new born children, adopted children, children taken for the upbringing in the family, etc. The leave can embrace the period of 3 years, not longer than up to 4<sup>th</sup> year of

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<sup>41</sup> "The Situation of Polish Families - Notes and Postulates", Research Findings, CBOS 2000, not published

<sup>42</sup> Official Journal 96.60.277

child's life. Any employee on a leave has the right to social security, the period of the leave is included in the tenure, the employer cannot dissolve the contract (unless the dismissal was not provoked by the employee breaking the terms of the contract or the employer declared bankruptcy or closing).

Although theoretical equality, the legal construction of the right of both parents invokes serious doubts as to whether it has a chance to protect the right of a woman to choose her way. The practice shows that child care leave is very rarely taken by fathers and stereotypical views on social roles of mothers (unfortunately stressed by Labour Code regulations, establishing rights of each parent in separate paragraphs and at the same time showing less of importance by including these rights for men at the end of relevant chapters) are the basic cause for why women usually exercise these rights rather than men. Despite of the fact that in theory the contract cannot be dissolved and that a woman should be provided with the same kind of work after she comes back, this "protection" regulations often work against women, who are being fired right after the leave ends.<sup>43</sup> For employers, as well as for employees, the perspective of up to 3,5 years of absence calls into question the abilities of coming back employee to perform her or his work appropriately. This would correspond with quite common fear of losing the job when the baby is born. The above quoted research shows that one of the most common reasons for upholding with having a child is the fear women present of being dismissed from work - 52% pointed at this particular answer.

It is still only mother's right to extend the childcare leave to another three years if the child is chronically ill or is disabled (physically or mentally). The situation looks better when it comes to sick-child short leave (both men and women are entitled to request two days of a childcare a year for personal care over a child up to 14 years of age) and both parents are entitled to care benefits (as regulated by the Act on Social Security Pecuniary Performances in Cases of Illness and Maternity, of 25.06.1999)<sup>44</sup>. Both parents can also take care of a child when the kindergarten or school is closed and a child reacquires personal care. In this situation mother and a father can benefit from social security funds.

As for the breast feeding, a mother is entitled to two half-hour breaks during work to feed the baby. The one who has more than one child - the break lasts 45 minutes. On the request from a mother, these breaks can be provided as one long break during the day. These regulations do not concern women who work less than 4 hours a day, and breaks are limited to one a day for these, who work 6 hours a day.

These entitlements, for most cases, are totally illusory in the situation when women usually work far from their households and most employers do not secure child care facilities in the workplace.

In terms of protection regulations, one has to mention the rules set by the executive order of Council of Ministers of 19<sup>th</sup> of January 1979 (as amended in 1996 by the bill changing the Labour Code)<sup>45</sup> on the types of works forbidden to women. Before 1996, the order was forbidding access for women to over 90 occupations. After changes introduced in 1996, most of these occupations disappeared from the list, but nevertheless, restrictions still exist. The order calls jobs restricted for pregnant/breast feeding women and for all women. To give some example of what is forbidden for pregnant women, one may point working in micro-climates, area of changing pressures, working within any kind of electromagnetic

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<sup>43</sup> "Polish Women in the 90ties...", op.cit.

<sup>44</sup> Official Journal 99.60.638

<sup>45</sup> Official Journal 96.114.545

fields. As for works forbidden to all women, one can find on the list works reacquiring forced body position, working underground, in areas where they could be subjected to high noise levels.

For many years it has been called to exclude this restrictions from the legal system, as they are being seen as discriminatory and limiting possible choices for women. There is a will for agreement to restrictions concerning pregnant women, but the free choice should be left to any other women, who after recognising all threats connected with particular job, would have the possibility to make a decision weather to involve in certain type of work or not. The education in this matter would be much better that restrictions and could eliminate discrimination in access to certain professions and positions.

In the *National Plan of Action*, the government committed itself to guarantee women access to education at schools of all levels and types, taking into account the principles of equal status in school curriculum and promoting it within provided educational materials, providing social education regarding equal opportunities for women and men.

When answering to the above mentioned UN Questionnaire, the government stated that equal access to education in different schools is being secured and reported the fact, that girls are not interested in technical schools and science. No analysis of motivation in choosing educational paths has been done.<sup>46</sup> Up to date, no ministerial mechanisms have been implemented to secure wide school advisory services, continues education system, motivation systems.

As J.Wóycicka and A.Dominiczak write in their analysis of education of women<sup>47</sup>, the school system is still strongly gender biased, starting from primary schools up. The school curricula separate girls and boys during technical work classes, books and manuals upkeep the traditional distinction between women's and men's roles, girls are less often taught computer skills, smaller numbers of girls take part in sports activities.

The situation is constantly changing towards less gender-unfriendly fields in vocational training and secondary schools - more women are now choosing science curricula. This trend is not being seen when it comes to technical schools - still more men then women choose this profile of education. J.Wóycicka and A.Dominiczak point at the area of secondary vocational education as the one with most traditional division, where for example 355.162 men students attended technical secondary schools in comparison to 113.224 female students.

Graduation from basic vocational schools are more often the last level for education of men. Higher vocational and business colleges are most often attended by young women.

The larger number of young women deciding to continue their education is shown clear in numbers of women-students of universities, where they constitute 56% of all students. The prevailing tendency in the last years is to choose commerce and management, as the probable way of gaining skills better profiled for the changing labour market.

The above presented problems with gender biased policies constitute only the small part of areas, where some form of discrimination takes place. It was the task of the author to present current social policies, undertaken by the government of Poland. Further analysis will include the situation in education, reproductive rights, in-depth analysis of labour market trends, introduction of medical care system, etc.

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<sup>46</sup> "Implementation of the Platform for Action...", op.cit.

<sup>47</sup> "Polish women in the 90ties", op.cit.

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