Society’s responsibility to provide a legal setting in abortion care

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www.fiapac.org
www.misoprostol.org

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Stockholm, Sweden
Abortion is the most frequently performed surgical procedure in Obstetrics and Gynaecology, regardless of whether it is illegal or legal.

The quality of care has therefore a huge impact on the whole society.
Society’s responsibility to provide a legal setting in abortion care

Transformation
Society’s responsibility to provide a legal setting in abortion care

Transformation

from

Past

to

Future

Challenges in abortion care, C. Fiala
Society’s responsibility to provide a legal setting in abortion care

Transformation

from Past dominating/manipulating to Future

Challenges in abortion care, C. Fiala
Society’s responsibility to provide a legal setting in abortion care

Transformation

from

Past

dominating/manipulating

to

Future

respecting
Society’s responsibility to provide a legal setting in abortion care

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Challenges in abortion care, C. Fiala
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Challenges in abortion care, C. Fiala
We need to know the past in order to understand the present and be able to shape the future.
Past
The origin of restrictions in access to contraception and abortion

Initially

military requirements/

‘cannon fodder’ -

neither based on

ethical considerations nor

“women centred”
The origin of restrictions in access to contraception and abortion

Letter from the Austrian Ministry of War to the Ministry of Interior, 1916:

“In view of the great losses of most valuable human material caused by the war, the military command has to strengthen all measures that will lead to a replacement of the loss and stop all activities impairing the replacement. Contraceptives and abortions are an important aspect in the latter case…” …”
“The state has to declare the child to the most valuable good of society. He is the highest protector of this most wonderful blessing.”
A strong ‘pro life’ quote

The state has to declare the child to the most valuable good of society. He is the highest protector of this most wonderful blessing.”

Adolf Hitler in the book “Mein Kampf”/My struggle, 1940

Der völkische Staat hat das Kind zum kostbarsten Gut eines Volkes zu erklären. Er muß sich als oberster Schirmherr dieses kostlichsten Segens fühlen.

Adolf Hitler, „Mein Kampf“

München-Berlin 1940
The origin of restrictions in access to contraception and abortion

Vienna spring 1945: Execution of a woman for performing illegal abortions. A few months before the end of the 2nd world war
Limited prevention of unwanted pregnancies

1968: „The Church condemns as always unlawful the use of means which directly prevent conception”
Past

“... in the whole human relation there is no slavery or torture so horrible as coerced, unwilling motherhood ...”

‘Married Love’ Marie Stopes, 1918, page 140
Limited prevention of unwanted pregnancies > high number of abortions

In one year ...

... in Europe alone

about 2 million women

had an abortion!

Film: Women’s misery - women’s happiness 1929
(Frauennot - Frauenglück) www.abortionfilms.org

Challenges in abortion care, C. Fiala
Why illegal abortion is dangerous

Vera Drake

Higginson’s syringe

Museum of Contraception and Abortion, Vienna, www.muvs.org
Why illegal abortion is dangerous

Induced rupture of membranes late in gestation, waiting for expulsion.
Why illegal abortion is dangerous

Gerri Santoro, 27, mother of two children, died from an unsafe abortion in a Connecticut motel room, 1964; see the film: “My sister Gerri”: www.abortionfilms.org
Illegal abortion and maternal mortality

"Women are not dying because of diseases we cannot treat. They are dying because societies have yet to make the decision that their lives are worth saving."

Professor M.F. Fathalla
Former President of the International Federation of Gynaecology and Obstetrics
Professor of Obstetrics and Gynaecology, Assiut University, Egypt
Death cases caused by abortion in England and Wales

Challenges in abortion care, C. Fiala

Making abortion illegal does not necessarily increase the birth rate

Birth rates Poland 1950-2001 (births/1 000 population)

E. Frątczak, Institute of Statistics and Demography, Warsaw School of Economics, Poland
Illegal abortion and society

**Daily newspaper Austria 1915**

“Ladies!! Effective, absolutely safe method against disturbances…”

**Daily newspaper Poland 2006**

“Pharmacologically, painless, bringing on menstruation, Tel. …”

“Gynaecologist consulting room modern methods, bringing on menstruation, IUDs, medical procedures, Ultrasound, tel. …”
Abortion tourism

1950 - 2000

Curtesy: Dr. Florian Willems, NL
Denying legal abortion is neglecting basic legal rights to women

Ireland 1992
X case leads to a referendum on:
Right to Travel and Information
Denying legal abortion is neglecting basic legal rights to women

Romania under Ceaucescu: routine gynaecological examinations in factories to detect pregnant women

2008: Poland plans to establish a database of all pregnancies in an effort to eliminate illegal abortions. Every pregnant woman will be registered by her physician. Her pregnancy will remain under state surveillance, so that she cannot terminate it.
What can we learn from history

There is no sensible alternative to unrestricted access to effective contraception and legal abortion.
Present
Legal abortion

- Performed early in gestation
- Safe, no woman dies anymore
  - Performed by qualified medical personnel
  - Technique ‘state of the art’
- Reduced costs (paid for by social security)
- Society can develop as a whole
- But remnants of medieval paternalistic restrictions are still in force against all medical evidence
Restrictions

- Diagnosis of the pregnancy by a doctor (out of tradition or legal requirement)
- Abortion has to take place in a hospital/clinic
- Obligatory counselling
- Counselling can not be in the same institution as the abortion
- Counselling has to be in the same institution as the abortion
- Woman has to hand in a written statement that she is in distress
- Obligatory consent by 2 doctors
- Blood group, other lab examinations as prerequisite
- Abortion is legal only on mental health grounds
## Obligatory waiting periods /“cooling off“

<table>
<thead>
<tr>
<th>Country</th>
<th>Waiting Period</th>
</tr>
</thead>
<tbody>
<tr>
<td>Germany</td>
<td>3 days</td>
</tr>
<tr>
<td>The Netherlands</td>
<td>5 days</td>
</tr>
<tr>
<td>Belgium</td>
<td>6 days</td>
</tr>
<tr>
<td>Italy, France</td>
<td>7 days</td>
</tr>
</tbody>
</table>

No waiting period:
- Austria
- Denmark
- Finland
- Norway
- Spain
- Sweden
- Switzerland
Restrictions in access to abortion

Basic misunderstandings:

• Pregnant women have to be protected from themselves so that they do not hastily decide against having a child.

• Women with an unwanted pregnancy would only enter into the actual decision-making process after counselling with someone they do not know.

• A stranger is in a better position to judge what is in the best interest of the women.

• Restrictions can reduce the number of abortions.
The legal framework and requirements for an abortion do not reflect the needs of the women with an unwanted pregnancy.
The legal framework and requirements for an abortion do not reflect the needs of the women with an unwanted pregnancy. They rather reflect the fantasies and projections of persons who are professionally inexperienced and personally not involved.
Who decides over fertility?
Can you find a single woman on this picture?

US-president Bush signing a law against one form of late abortions, 2003
Who decides on the access to safe abortion

- The parliament via legislation
- The social security system via funding
- The health authorities via approval
- The medical council via special requirements
- The anaesthetist
- The hospital administration
- Appointment availability for one method
- The doctor
- Media via biased reporting
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- The women herself
Future
The way forward -
The example of The Netherlands

Dutch born Women have:

• abortion on request
• Abortion free of charge
• the lowest abortion rate
• the lowest gestational age at abortion

What do we need to do to get there?
What is needed?

- ‘Liberal’ laws or rather who decides:
  The women involved or others who claim to be concerned?

- Reduce paternalism

- Give the power to decide and the autonomy to choose to those who are directly involved
Who decides on the access to safe abortion

• The women herself
  • The parliament via legislation
  • The social security system via funding
  • The health authorities via approval
  • The medical council via special requirements
  • The anaesthetist
  • The hospital administration
  • Appointment availability for one method
  • The doctor
  • Media via biased reporting

• The women herself
How can we guarantee a high standard in medical/abortion care?

• Not by regulating the procedure with legal means

• But by giving patients and health providers the freedom to apply evidence based medicine
What is more dangerous?

Which of these items are OTC and which are on prescription only?

Challenges in abortion care, C. Fiala
What is more dangerous?

Why are dangerous toys for boys freely available while safe and important drugs for women are restricted?

Challenges in abortion care, C. Fiala
Do we need a law on abortion?
The example of Canada of 20 years

There is no law on abortion in Canada.
In 1988 the Supreme Court ruled the abortion law of that time was of no force or effect because it was incompatible with the Charter of Rights and Freedoms:

"Forcing a woman by threat of criminal sanction to carry a foetus to term unless she meets certain criteria unrelated to her own priorities and aspirations, is a profound interference with a woman's body and this a violation of her security of the person."

Chief Justice, Brian Dickson
Who can take a responsible decision

The pregnant woman is best placed to take a responsible decision on her fertility, including for pregnancy she might be carrying.
## A vision?

<table>
<thead>
<tr>
<th>Prevention of accidents</th>
<th>Car driving</th>
<th>Sexuality</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Society engages with obligatory measures which are checked</td>
<td>Society engages with encouraging prevention, paying, checking</td>
</tr>
<tr>
<td>First aid after an accident</td>
<td>First aid box in every car, every doctor trained in first aid, ambulance on alert 24/7</td>
<td>Emergency contraception in every household, also distributed 24/7 free of charge</td>
</tr>
<tr>
<td>Backup after an accident</td>
<td>Every hospital equipped with traumatology unit and reconvalescent: Unrestricted access!!</td>
<td>Abortion provided by every hospital, gynaecologist and family planning Unrestricted access!!</td>
</tr>
</tbody>
</table>
Aspects for the UK: Deleting restrictions in access to contraception and abortion

• Requesting an adult to get approval by a stranger for a most intimate medical procedure is highly insulting and intimidating
  > delete the requirement for signature

• Medical abortion is very safe, effective and virtually identical to spontaneous abortion. The requirement to give the tablets in a hospital/clinic is against all medical evidence
  > allow home use of misoprostol in medical abortion

• Abortion has become a very safe procedure and easy to perform allowing to reduce the involvement of doctors
  > other health care professionals should have more duties in abortion care
Aspects for the UK: Deleting restrictions in access to contraception and abortion

• Abortion is legal in the UK on mental health grounds, declaring all women mentally ill if they decide for an abortion > delete this requirement

• Lower limits (12 or 14 weeks) lead to serious limitations in most EU countries and cause an ongoing abortion tourism > Keep a high gestational age limit for abortion on request or eliminate the abortion law > see Canada
Another gender aspect

As men, it is well known that we cannot get pregnant, let alone have an abortion ourselves. Maintaining the reproductive health of women, however, is also in our interests. We are directly affected by and dependent on it. We should therefore argue for conditions which permit women, who have after all become pregnant through our actions, to end an unwanted pregnancy in the best possible way and without unnecessary suffering.

Challenges in abortion care, C. Fiala
I dream of the day when all children are wanted, when men and women are equal and when sexuality is considered to be the expression of love, happiness and closeness.

Elise Ottesen Jensen
Sweden, 1896-1973
FIAPAC - International Association of Health Professionals working in the field of Abortion and Contraception

8th congress of FIAPAC

1st Announcement

"Reproductive Health and Responsibilities"

24-25 October 2008 Berlin, Germany
Success story of modern contraception

From infanticide to frequent use of modern contraception

Until 1900: Infanticide after birth

Until 70s in Europe (until today in other countries): Illegal abortion (4-5 month)

From the 1970s: Surgical abortion (mostly at 8 weeks)

From the 1990s: Medical abortion (mostly at 6 weeks)

Today: Frequent use of modern contraception

Museum of contraception and abortion, www.muvs.org

Challenges in abortion care, C. Fiala
A vision

"It would be one of the greatest triumphs of humanity ... if the act responsible for procreation could be raised to the level of a voluntary and intentional behaviour in order to separate it from the imperative to satisfy a natural urge"

Siegmund Freud, 1898
## Abortion a gender issue?

<table>
<thead>
<tr>
<th></th>
<th>Viagra®</th>
<th>Legal abortion</th>
</tr>
</thead>
<tbody>
<tr>
<td>Delay to approval</td>
<td>Several months</td>
<td>Several decades</td>
</tr>
<tr>
<td>Indication</td>
<td>Not medically important</td>
<td>Important life event</td>
</tr>
<tr>
<td>Side effects</td>
<td>Many deaths reported</td>
<td>Virtually no side-effects, saves women from the consequences of illegal ab</td>
</tr>
<tr>
<td>Available</td>
<td>Everywhere</td>
<td>Available in almost all developed countries</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Still not available in developing countries</td>
</tr>
<tr>
<td>International media</td>
<td>Report frequently; free publicity</td>
<td>Emotional reporting, “controversial abortion”</td>
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Challenges in abortion care, C. Fiala
Gynmed Clinic Vienna - Salzburg
Surgical abortion today

Abortion is done early, using a thin plastic canula after drug induced dilatation of the cervix (misoprostol)
Medical abortion at 4 1/2 weeks gestation

Day 1:
ß-hCG 269 mIU/ml

Day 9: ß-hCG 20

Challenges in abortion care, C. Fiala
Sharing the burden ...

But what about the distribution of rights?
Contraception in earlier times?

- Abstinence
- Coitus interruptus
- Vaginal douching
- Vaginal barriers
- Discovery of fertile days
- Condoms
- The “Pill”
- Safe “IUDs”

Infanticide
(“Angel maker”)
Abortion

Challenges in abortion care, C. Fiala
Marketing of mifepristone:

- 1988: France (49 days LMP)
- 1991: UK (63)
- 1992: Sweden (63)
- 1999 January: Austria (49)
- 1999/2000: most other European countries (49)
- 2000: US, Mifeprex® (49)
- Now available in 33 countries; >1.5 million women treated in EU
Fertility

“Natural”
12-15 pregnancies
10 live deliveries
7-8 surviving children
Breastfeeding 2 years
160 ovulations in a lifetime

Today
1-2 pregnancies
1-2 live deliveries
all children survive
Breastfeeding 0-4 months
450 ovulations in a lifetime
(Effective contraception needed for most)

Challenges in abortion care, C. Fiala
From a letter of the Imperial Ministry of War to the Ministry of Interior:

“The war results in a huge loss of “valuable human material”. The national command of the army must therefore strengthen all measures that will lead to a replacement of the loss and stop all activities impairing the replacement. Contraceptives and abortions are an important aspect in the latter case…”
Past

AMA successfully convinced lawmakers to include “therapeutic abortion” clauses in their legislation. These clauses granted licensed physicians the power to decide whether or not abortions should be performed, as well as the authority to perform them. Thus, the AMA was able to remove abortion from the hands of “untrained irregulars” (many of whom were women), and channel it into the realm of the male professional. The AMA’s campaign was so successful that by 1896, abortion was a crime in every state, as well as in the District of Columbia. Only a pregnancy that endangered the life or health of the mother could be legally, and therapeutically, terminated – by a licensed physician.

AMA was succeeding in criminalizing abortion and eliminating competing “irregular” practitioners.
Past

Van de Warker restated his opinion on the matter by quoting a Dr. Taylor: “These medicinal substances...rarely answer the intended purpose, and when the result is obtained, it is generally at the expense of the life of the mother.”

Van de Warker, The Detection of Criminal Abortion and a Study of Feticidal Drugs, 43 44.
Why illegal abortion is dangerous

Incomplete abortion

> Placental residua
The origin of restrictions in access to contraception and abortion

- Abortion laws in most developing countries are remnants of the former colonial laws.
- They are based on medieval European social concepts and medical knowledge.
- The European countries have long ago corrected this historical mistake.
- Legalising abortion has made countries a safe place for women and allowed unprecedented economic development.
Abortion tourism

Abortions in The Netherlands

[Graph showing abortion rates from 1980 to 2005 for women living in and not living in the Netherlands]

- Women living in the Netherlands
- Women not living in the Netherlands
Impact of laws making abortion illegal

performed at under 13 weeks gestation. In 2006, about 68% were at under 10 weeks and a further 22% at 10-12 weeks. The proportion at 13 weeks or more was 11% in 2006. The corresponding percentages for 2005 were 67%, 23% and 10% respectively showing a continuing increase in the proportion of abortions that were performed under 10 weeks (Table 3 iii and Figure 3).
Abortion: who decides over fertility?
## Abortion in illegal and legal settings

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<td>Contraception and abortion illegal but exceptions for AB performed by a doctor, for women from upper class and undesired groups</td>
<td>Increase population, replace losses caused by wars, use fertility control as instrument of power</td>
<td>Monarchies, dictatorships, war leading countries</td>
<td>High maternal mortality, morbidity, abortion rate and infanticide; variable success</td>
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<td>Evolving respect for women but persistent patronizing: ‘protecting them from themselves’, reduce the need for abortion by legal restrictions</td>
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Content of the “counselling”

“The outcome of the counselling is not predetermined and it is based on the responsibility of the woman”, but:

“The counselling aims to protect the unborn. The counselling should encourage the women to continue the pregnancy and prepare her for a life with a child. The counselling should help the women to take a responsible and careful decision. The woman has to realise that the unborn has a right to life at any stage of the pregnancy even when this limits her rights.“
### Abortion in illegal and legal settings

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Illegal abortion: self induced
Europe: 21st century

Maternal Death

CASE: An adolescent developed upper gastrointestinal bleeding after self-medication with misoprostol orally (12 mg) to cause abortion. She presented with multiorgan failure. After several episodes of cardiac arrest, and despite resuscitation efforts, the patient died.

OBSTETRICS & GYNECOLOGY FEBRUARY 2007

This woman took the right drug but 60 tabs instead of 4 tabs
Illegal abortion: self induced

- Women postpone the abortion or are delayed and therefore come late in gestation

- Methods:
  - Swallowing all kinds of substances > high risk of intoxication
  - Rupture of membrane (knitting needle, catheter, wooden stick etc) > high risk of perforation > bleeding / infection
  - Herbal abortifacients (parsley, pennyroyal etc)
Romania: another social experiment making abortion illegal

Challenges in abortion care, C. Fiala
Dictator Nicolae Ceausescu decided in the mid-1960s that Romania ought to have 25 million people. At the time the population was 19 million. In 1966 he decided the Decree 770 making abortion illegal.
Germany

“To be used only by the German Wehrmacht. To be destroyed immediately after use.”

US

1965: use of contraceptives by married couples legalised (Supreme Court: Griswold v. Connecticut)
1972: Use of contraceptives by unmarried couples legalised (Supreme Court Baird v. Eisenstadt)

Ireland

1990: IFPA convicted for the illegal sale of a contraceptive in the Virgin Record Store. A fine of £400 imposed.
Illegal abortion leading to abortion tourism

'to take the boat to England'

Every year about 7 000 Irish women travel to England and Wales for an abortion.

See the film „Like a ship in the night“


Abortion tourism has a negative impact on the physical and psychological health of women.

Challenges in abortion care, C. Fiala
Restrictions:
The abortion has to take place in the hospital

When does medical abortion take place?

Phase of psychological confrontation - Phase of coming to a decision

- Detachment of the gestational sac
- Bleeding may start
- Expulsion may take place
- Bleeding becomes heavy
- Expulsion takes place
- Beginning of a new cycle/fertility

Expulsion ≠ Abortion

Challenges in abortion care, C. Fiala
Internet and abortion

• Advantage
  – Access at any time, no need to go somewhere
  – No need to justify
  – No questions asked
  – Anonymous
  – Can choose between different sources
  – Can order the abortion pill: www.womenonweb.org

• Disadvantage:
  – Not all women have access
  – Sometimes wrong, misleading information
Safe access to medical abortion in countries where mifepristone is not available.
Medical abortion leads to abortions being performed earlier

Percentage of abortions <8 weeks in Bern county (CH)

Challenges in abortion care, C. Fiala
Impact of laws making abortion illegal

Gestational age at abortion in England and Wales

- 3-9 weeks
- 10-12 weeks
- 13-19 weeks
- 20 and over

Challenges in abortion care, C. Fiala
Restrictions in access to abortion

• Do not lead to a reduced frequency of unwanted pregnancies or abortions
• Do not lead to an improvement in the quality of care
• Do not lead to an increase in birth (of wanted children)
• Delay gestational age at abortion
• Increase the risk for the physical and psychological health
• Increase costs without benefit
Certifying doctors should not hold extreme views

the following views shall be considered incompatible

(a) That an abortion should not be performed in any circumstances:
(b) That the question of whether an abortion should or should not be performed in any case is entirely a matter for the woman and a doctor to decide.
Impact of laws making abortion illegal

- Limited prevention of unwanted pregnancies > high number of abortions
- No increase of the birth rate (of wanted children)
- Women come late in gestation
- Women are forced into:
  - Abortion tourism
  - Illegal abortion by doctors: safe but expensive
  - Illegal abortion self-induced: unsafe and dangerous
**Restrictions in access to abortion lead to late abortions**

<table>
<thead>
<tr>
<th>Country</th>
<th>Maximum Weeks</th>
<th>Percentage (Year)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Netherlands</td>
<td>&lt; 8 weeks</td>
<td>77% (2004)</td>
</tr>
<tr>
<td>Germany</td>
<td>&lt; 8 weeks</td>
<td>35% (2007)</td>
</tr>
<tr>
<td>Finland</td>
<td>&lt; 9 weeks</td>
<td>75% (2005)</td>
</tr>
<tr>
<td>Norway</td>
<td>&lt; 9 weeks</td>
<td>72% (2005)</td>
</tr>
<tr>
<td>Sweden</td>
<td>&lt; 9 weeks</td>
<td>75% (2007)</td>
</tr>
<tr>
<td>Demark</td>
<td>&lt; 9 weeks</td>
<td>65% (2005)</td>
</tr>
<tr>
<td>Iceland</td>
<td>&lt; 9 weeks</td>
<td>64% (2005)</td>
</tr>
<tr>
<td>US</td>
<td>&lt; 9 weeks</td>
<td>63% (2004)</td>
</tr>
<tr>
<td>England/Wales</td>
<td>&lt; 10 weeks</td>
<td>68% (2006)</td>
</tr>
<tr>
<td>NZ</td>
<td>&lt; 10 weeks</td>
<td>36% (2004)</td>
</tr>
</tbody>
</table>

Source: national abortion statistics
Fantasy and reality

„The silent scream“

Gestational sac at 6 weeks gestation

Challenges in abortion care, C. Fiala
Introduction of medical abortion does not increase abortion rate

Abortions per 1,000 women aged 15 to 45

Source: The Alan Guttmacher Institute New York

Challenges in abortion care, C. Fiala
Why illegal abortion is dangerous

Foreign bodies retrieved from the uterine cavity
## Impact of legalisation of abortion

**Table 1.** Grounds on which abortion is legally permitted in 193 countries, 2001

<table>
<thead>
<tr>
<th></th>
<th>To save the woman's life</th>
<th>To preserve physical health</th>
<th>To preserve mental health</th>
<th>Rape or incest</th>
<th>Fetal impairment</th>
<th>Economic or social reasons</th>
<th>On request</th>
</tr>
</thead>
<tbody>
<tr>
<td>Developed countries (n = 48)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Permitted</td>
<td>46</td>
<td>42</td>
<td>41</td>
<td>39</td>
<td>39</td>
<td>36</td>
<td>31</td>
</tr>
<tr>
<td>Not permitted</td>
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<td>6</td>
<td>7</td>
<td>9</td>
<td>9</td>
<td>12</td>
<td>17</td>
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<tr>
<td>Developing countries (n = 145)</td>
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<tr>
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<tr>
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<td>101</td>
<td>108</td>
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</tr>
</tbody>
</table>

*Source: United Nations*[^12]