

Illiberalism and Democracy in Poland: The Impact of the Law and Justice Party (PiS) on Political Trajectory

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1.0 Introduction

Roughly 35 years ago, modern democratic Poland stood at a crossroad in its history to become the blueprint for an Eastern Bloc country breaking free from communist rule. The world watched as it turned a new leaf into democratic consolidation in the post-soviet authoritarian era. A wide array of political and economic reforms changed the country's trajectory and fostered rapid growth. With a young and optimistic population that had grown up in a post communist era, the west was hopeful that Poland not only flourish into a modern, western oriented liberal democracy, but also inspire its neighbours in the east to do the same. In many ways Poland did just that. Widely considered a success story in the west's pursuit of post-communist democratization, especially when looking at it through a comparative lens with other eastern european countries. Poland experienced exponential economic growth, establishment of democratic institutions and a prosperous society. However, the transition from communism to liberal democracy was not all smooth sailing with the country running into a multitude of hurdles. Especially in recent years under the rule of the Law and Justice Party (PiS), Poland's liberal democracy has been threatened.

We currently live in an era that is characterized by the rise of right-wing populism through the growth of nationalist, anti-establishment rhetoric. This is seen in Italy under Giorgia Meloni, France under Marine Le Pen, Hungary under Victor Orbán and perhaps most evidently through Donald Trump in the United States. This trajectory is also visible in Poland as certain political movements challenge traditional norms. With the help of the theoretical concept of Illiberalism, this paper aims to investigate to what extent illiberalism under the Law and Justice Party (PiS) manifested in Poland's democracy, and

what this indicates about the country's future political trajectory?. The first section of this paper will outline all the necessary information about Poland's past and present political landscape as well as defining the concept of illiberalism. Once readers are equipped with the relevant background information, this case study will examine real cases which can be attributed to illiberalism as well as conceptual limitations of the term. Finally, this research paper will synthesise all these results and reach a conclusion about Poland's potential political future.

2.0 Background Section

2.1 Polish politics throughout history

The second world war hit Poland particularly hard. Located in central east Europe, bordering Germany, Czech Republic, Slovakia, Ukraine, Belarus, Lithuania, and the Baltic Sea to the north made Poland a prime location for expansionist regimes. While suffering a staggering 6 million fatalities throughout the entire war, Poland also fell victim to invasion by Nazi Germany and the USSR (Yarlykova and Yu 2022). Through a secret agreement between Germany and the Soviet Union on September 1 1939 named the Molotov-Ribbentrop Pact, Poland was essentially divided into two parts. Germany would receive the west and the USSR the east (Yarlykova and Yu 2022).

After world war two and the collapse of Nazi Germany, Soviet backed communists capitalised on the power vacuum and established the Polish People's Republic under stalinist rule. Poland's communist era was plagued by difficult economic times and political repression. This difficult period in Poland's history came to an end in 1989 through the Round Table Talks (negotiations between the communist government and the

opposition leaders) when Poland held free elections and Lech Wałęsa became the first democratic president. Since then, the country transitioned to a market economy and conducts free trade with partner nations (De Nevers 2004). It expanded into the international arena by joining NATO in 1999 and EU in 2004. Since this transition, Poland has been operating under a unitary parliamentary republic. The executive branch consists of the president, acting as head of state, and prime minister, as head of government. The legislative branch is bicameral and consists of a lower house called the “Sejm” and upper house Senate. The Judicial branch in Poland is an independent judiciary with a constitutional tribunal and supreme court. This clear separation of power is emblematic for a democratic country and aims to ensure checks and balances (Markowski 1989). Later, this paper will identify how some of these institutions have been challenged through illiberal practices.

2.2 *Definition of key concepts*

Throughout this paper there is ample use of theoretical concepts that describe a certain political ideology such as communism, liberal democracy and illiberalism. The latter will be explained in the following section however it is important to grasp the preceding concepts to understand the transition in Poland's history. Communism, and in the context of Poland, authoritarian communism, involved a one-party system led by the Polish United Workers' Party (PZPR), which controlled all aspects of life, including the economy, education, media, agriculture, and socio-economic welfare. Any political opposition was vehemently repressed and the state had a tight leash on all private industries. Economically, the PZPR set standards for prices, wages and means of

production. Private property was abolished and everything was nationalized (Wojśław 2023)..

As previously mentioned, communism sent Poland into ruin and paved the way for a new political ideology to sprout, liberal democracy. In contrast to communist Poland, a liberal democracy has a parliamentary democracy with competitive elections between different parties. In this ideology it is vital to allow free political expression as well as clear separation of powers between the three branches. This is to ensure that power is decentralised so that it can not be abused. This form of politics is intended to act as an instrument to the will of the people. It also considers the voices of people from marginalised communities to have a say in the decision making process (Rhoden 2013).

The final and core theoretical concept of this paper is Illiberalism. This ideology takes a step back from liberal democracy as it rejects the fundamental values of democracy. To help investigate if Poland presents illiberal practices, this paper has identified 6 key characteristics of an illiberal democracy (Kauth and King 2020).

2.3 *Characteristics of Illiberal democracy*

1. Eroding Rule of Law

The democratic institutions such as the judiciary are weakened in order to grant the ruling party more power.

2. False elections

Elections are not free and do not reflect the will of the people. Resources are used unfairly by the ruling party to give them a competitive edge.

3. Censorship

No freedom of press and independent journalism is repressed.

4. Suppression of civil rights

Any public opposition such as protests are restricted. Individual figures opposing the ruling party are harassed by the government.

5. Religious/ Nationalist Rhetoric

Often associated with religious institutions and spreading nationalist rhetoric. The state perceives opposition as “Anti-National”.

6. Opposition to IGOs

Aversion to international politics and critical of global organisations.

3.0 Illiberalism in Poland

3.1 *Party profile of the PiS*

The Law and Justice party first entered the government in 2001 when they entered the opposition party with 9.5%. Today they are one of the two biggest parties in modern Polish politics and share that stage with the PO. In 2005 they entered the government for the first time and held that position for only one term until 2007 (Pytlas 2021). In 2015 they made a comeback until the most recent election in 2023. The PiS is a conservative party that has a strong emphasis on cultural conservation and a Polish national identity (Pytlas 2021). They have long opposed the liberal democratic norms of the EU. The PiS has expressed their critique on involvement with foreign countries. It supports EU membership but does not align with much deeper involvement such as adoption of the euro. During their time in the Polish government, the EU-Polish relationship had friction leading to fines and withheld funds. In 2023, their 8 year run came to an end when they failed to form a majority in the Sejm. They are now the main opposition party as Donald Tusk became president.

3.2 *Cases of Illiberal practices in Poland*

In order to verify that the PiS does indeed portray illiberal tendencies, this paper will go through the 6 aforementioned key characteristics one by one to evaluate their applicability in Poland's context.

In 2017 and for the first time in the European Commission's history, article 7 of the Treaty of the EU which is designed to protect the EU's values was invoked on Poland after a series of changes to the country's judiciary sparked concerns for the Rule of Law. After the PiS had won the majority in parliament and the presidency, it sought to appoint

judges to the constitutional tribunal. The article 7 procedure was closed in May 2024 but elucidates the PiS's friction with the EU and clearly shows that illiberal policies were prevalent throughout their term in power (European Commission 2024).

The second characteristic is false elections. While there is no evidence of election interference, there have been claims that state media campaigns were biased in order to warp voters' perception to their advantage (Kazlauskaitė and Salmela 2021).

This transitions well into the censorship dimension of illiberal governments. Poland has implemented legislative reforms that disrupt media freedom. One such law is the "Small Media Law" which was enacted in December 2015 shortly after taking office. This law grants the government the authority to appoint or dismiss personnel in public television and radio broadcasts (Amnesty International 2016). Following the defeat of the PiS in 2023, the new government fired the heads of the public media administration in an attempt to depoliticize the government propaganda tool and ensure journalistic freedom (Koper and Florkiewicz 2023).

In terms of suppression of civic rights, the PiS has attacked individual judges through smear campaigns in order to discourage them from participating in public discourse. Furthermore, the 2017 law on Assemblies act banned counter demonstrations especially near pro government rallies. This targeted protests such as LGBTQIA+ rights, women's rights and abortion which the PiS deemed as "disrupting public order and safety" (Amnesty International 2018).

The PiS is very intertwined with the catholic church and promotes religious and nationalist rhetoric. Even the name of the party "Prawo i Sprawiedliwość" is derived from Psalm 33:5 and the leading politicians are adamant about preserving a Polish catholic

identity. Their nationalist rhetoric is also evident in their stance against immigration which would undermine national identity. This is also clear through their limited acceptance of refugees during the 2015 crisis in which they had a preference for christian refugees and reversed many policies allowing people to seek asylum in Poland (Klaus 2017).

Poland's engagement with international organisations has been very selective and many view their relationship as one-sided. While the PiS has stated that it supports membership in EU, NATO and UN, the country has shown skepticism and reluctance to cooperate on many issues as it primarily values national sovereignty.

4.0 Conceptual limitations

This case study uses a framework of illiberal characteristics to evaluate if a country like Poland is indeed illiberal, however, it is important to acknowledge that the term has limitations. In a 2014 speech, president of Hungary Victor Orban claimed his country to be an illiberal democracy. This in itself does not make any sense, as he emphasises a dichotomy between a liberal and illiberal democracy. This is not possible because a democratic state requires a liberal framework to even function. This oversimplification of the term also makes it easy to weaponize and justify sanctions when in reality politics is never that black and white. The term also lacks any sort of analytical framework in order to objectively categorise countries to be illiberal or not.

5.0 Conclusion

Throughout this case study, this paper explored Poland's political history from the collapse of communism, rise of liberal democracy and its slide into illiberalism. Moreover, a conceptual framework of illiberalism consisting of 6 key characteristics was outlined and used to evaluate Poland under the PiS. When reexamining the research question “To what extent has illiberalism under the Law and Justice Party (PiS) manifested in Poland’s democracy, and what does this indicate about the country’s future political trajectory?” We can see that Poland shows 5 out of the 6 illiberal characteristics. The only one that was inconclusive is the false elections. Nonetheless, the results clearly show that Poland under the PiS presents illiberal practices and shows a clear rise in right wing populism. Poland is by no means an outlier in this trend as multiple, especially European, countries are experiencing the same shifting tide in their political landscape. It is difficult to pinpoint one deciding factor that triggered this rise of right wing populism however many experts believe that politicians capitalize on the economic and social insecurities of the public. The high compatibility of right wing rhetoric and social media has also caused these parties to reach young voters and diversify their voter demographic. In conclusion, liberal democracies like Poland require reflection on the future of their nation and how to safeguard their principles from illiberal practices. Now more than ever, in these uncertain times, must we unite and defend the values that we have thrived on for so long.

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