

ПОЛІТИЧНІ ІНСТИТУТИ ТА ПРОЦЕСИ

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THE RIGHT TO EXERCISE PROTEST UNDER THREAT? BETWEEN THE RISE OF AUTOCRACY AND DEMOCRATIC RESILIENCE IN CRISIS-DRIVEN POLAND

The extraordinary situation caused by the pandemic resulted in the unprecedented limitations of freedom of assembly in Poland. By analyzing relationships between the ruling camp and protesters during the first wave of the pandemic in Poland, this article aims to evaluate to what extent the former respected the right to exercise protests. The analysis draws upon the method of cross-media source analysis, which involves the techniques of content analysis and thematic analysis. The news included in the source corpus comes from both state-owned partisan media (TVP1, TVP2, and TVP Info) and commercial media (Onet.pl, TVN24, RMF FM, and Rzeczpospolita). Source triangulation is necessary to compare views distributed by various media and determine the essential features of exercising the right to protest and respecting this right.

This research contributes to the studies on the role of contentious politics during democratic backsliding (the drift from neo- to quasi-militant democracies) by shedding light on the protest activity of sectional and promotional interest groups as well as anti-government protests organized ad hoc. Such an approach reveals the nature of differentiation in repressing the opposition, regarding the right to protest depending on the type of opponent. Sectional groups are exclusive, and their membership is motivated by the self-interest of the section of society they represent. Promotional interest groups offer membership to all and are inspired by moral concerns affecting society (not only its section).

The main argument is that the right to exercise protest was considerably limited during the first wave of the pandemic in Poland. The ruling party took advantage of the crisis to block protests to ensure public safety. Various sectional and promotional interest groups held fewer protests than in previous years, and they did not pose a significant threat to the ruling camp. Besides the decrease in social mobilization, the government repressed activists opposing any unconstitutional changes to the presidential electoral law and the organization of such elections. The government threatened its opponents, most of all participants of protests held ad hoc, with harsh repercussions, including detention and high fines.

Keywords: *contentious politics, neo-militant democracy, Poland, pandemic-induced democratic backsliding, right to protest, protest, interest groups, crisis.*

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Introduction

The coronavirus crisis was a challenging test for all liberal-representative democracies. In Central and Eastern Europe, researchers observe the rise of autocracy and democratic resilience. Poland falls in the first pattern since the ruling Law and Justice (Prawo i Sprawiedliwość, PiS) took advantage of the crisis to increase

executive aggrandizement and undermine institutional safeguards [1, p. 56-57]. It contributed to the drift towards authoritarianism but did not dismantle democracy [2]. This article focuses on one aspect of this shift, the respect of the right to protest. How the rulers controlled the exercise of this right is significant because it shows the level of respect for political pluralism [3, 4]. Moreover, it allows researchers to diagnose the direction of regime change [5]. Protest is an essential means of protecting democracy as it enables citizens to realize their political subjectivity by controlling government actions. The right to object, demand change, initiate and conduct a political debate, allow the opposition and minorities to speak are limited along with preventing or repressing protests.

The role of contentious politics during democratic backsliding is reflected in the works of P. Guasti, M. Skrzypek, K. Rezmer-Płotka, and others. Those works contribute to our understanding of restriction-induced changes in political regimes. They also uncover how the opposition is repressed. However, they say little about the differentiation regarding the right to protest depending on the type of opponent.

This study fulfills this gap by covering the protest activity of sectional and promotional interest groups as well as anti-government protests held *ad hoc*. Sectional groups are exclusive, and their membership is motivated by the self-interest of the section of society they represent. Promotional interest groups offer membership to all and are inspired by moral concerns affecting society (not only its section). By analyzing relationships between the ruling camp and protesters during the first wave of the pandemic in Poland, this article aims to evaluate to what extent the former respected the right to exercise protests depending on the type of opponent.

Protests of sectional interest groups

Few protests organized by sectional interest groups were caused primarily by economic factors. They began with demonstrations at closed border crossings points between Poland and Germany as well as Poland and Czechia on 24.04.2020. The protesters were mainly Poles working across the border. In June and July, LOT Polish Airlines workers, bus companies, and travel agencies organized their own protests. Postal workers staged protests against salary cuts and the intention to use Polish Post during the all-postal presidential vote scheduled for 10.05.2020. Workers of the Agricultural Social Insurance Fund (KRUS) also held demonstrations. They stopped working during (sic!) breakfast breaks. Street protests were relatively small (from a dozen, up to 200 people). Protesters observed social distancing. They staged single demonstrations because the government usually met their economic demands. Yet, representatives of the government did not enter any direct talks with the protesters. Workers protesting at the border crossings points received the opposition political parties' support only twice when opposition politicians visited the protesters.

The protests were organized by these professional groups, which were either most vulnerable to bankruptcy or best organized. There were no protests of diversified hotel and restaurant industry or scattered cosmetics industry, although these sectors of the economy were most at risk of bankruptcy. These social groups, whose economic existence was threatened, organized sectional protests, but their level of prior organization or direct personal ties were more potent than lockdown restrictions and health concerns.

In all cases, the police protected protest sites, but they did not attempt to dissolve public assemblies or check protesters' IDs. The law enforcement officials did not react in an offensive manner, probably due to the small number of participants in these few protests. An important reason was the desire not to give too much publicity to these protests, and that would be the case if the police reaction were extremely repressive and combined with putting the protesters' health in jeopardy.

Protests of promotional groups

Protests organized by promotional groups were also relatively few. Their participants complied with lockdown restrictions. Several dozen women, representing an NGO Women's Strike, took part in a car demonstration in Warsaw on 14.04.2020. They stuck posters against a new draft law tightening the abortion to cars' windows. Protesters also stood in the streets or were silently queuing and holding posters in front of grocery shops. Such measures did not constitute violations of the sanitary regulations, although the police were of different opinions. Some feminists had umbrellas, an apparent reference to the mass protests of 2016 when more than 100 000 protesters protested against the abortion ban. Some participants put up posters in the windows of their apartments, on balconies, and behind cars' windows. The police checked the IDs of 24 protesters. Officers fined four activists and referred six cases to court. Moreover, they reported protesters to sanitary inspectors who could impose much higher fines for alleged violations. As the police officials argued, they fined protesters because they blocked traffic and broke the movement restrictions. Yet, the actions

undertaken by the police were unconstitutional and violated freedom of assembly because the government had not declared a state of emergency [6]. The ruling party intended to use the pandemic to carry out highly controversial legal changes.

School Strike for Climate took place online on 23 April. During the presidential campaign, opposition candidates supported young activists' claims. These young people could not count on the same treatment from supporters of President Andrzej Duda, who often insulted or even attacked them verbally. Finally, supporters of an extreme right newspaper, *Gazeta Warszawska*, held two protests (6.06.2020 and 10.07.2020). Just a few hundred coronavirus skeptics attended these events, and the police did not intervene.

Protests of promotional groups were few and focused on issues that were supposed to become the most important within social cleavages. The police repressed these promotional protests that made claims defined as "anti-government initiatives."

The different treatment of promotional groups resulted from their distinction between anti-government protests and those organized by the circles belonging to the ruling camp. In the first case, repressive measures were used, although the protesters adhered to all rules of physical distance and did not pose an epidemiological threat. The march of the opponents of vaccines who did not follow any rules was not repressed, as it was organized by the group supporting the ruling party.

Anti-government protests

The first politically motivated protest during lockdown took place on 26.03.2020. A few Citizens of Poland participants held a banner with thanks for health care workers. They observed social distancing and demanded the declaration of a state of emergency. The police had applied for their punishment to the court, but all protesters were acquitted.

Paweł Tanajno initiated the first Facebook group (Protest of Entrepreneurs), gathering citizens who criticized the government's actions during the pandemic. More than 200 000 users joined it. Social activists who had not been engaging in political activities created similar Facebook groups in April and May. However, these groups were relatively smaller than Tanajno's group. The activists limited their demands to the protection of entrepreneurs and jobs. Some of them also referred to vaccine hesitancy, denied the COVID-19 pandemic and G-5. All groups openly opposed the ruling party [7].

In May and June, a car protest on 15.04.2020 and five street demonstrations (organized by Protest of Entrepreneurs) did not result in any talks with the government's representatives. The first street protest took place on 9.05.2020. The police detained 62 protesters. During the second protest, on 17.05.2020, the police clashed with entrepreneurs who protested in Warsaw against economic limitations introduced during the pandemic [8]. They claimed that the financial assistance for business owners, offered by the government to overcome the epidemic's adverse effects, was insufficient. The police detained 380 persons, including senator Jacek Bury, a member of the main opposition political party – Civic Coalition [9]. The police officials claimed the protest was illegal because Warsaw's municipality did not register the public gathering, referring to the ban of assemblies during the pandemic. However, the Appeals Court in Warsaw clearly stated that the refusal of registration was not equal to a decision banning entrepreneurs' protest.

Despite those negative experiences, entrepreneurs organized the third protest on 23.05.2020 and clashed with the police once again. During the intervention, a minor presidential candidate Paweł Tanajno was detained. According to the police, Tanajno violated the immunity of a police officer. Although he was released two days later, the police referred his case to court [10]. It was the first arrest of a presidential candidate in post-communist Poland. The ambiguity of programs, no ties with strong interest groups, protest action spontaneity, and the repressive policy eventually brought about the movement's demobilization.

Other protests gathered much fewer participants. The first gathering took place on International Workers' Day. In turn, marginal Facebook groups organized two relatively small demonstrations in Warsaw and Poznań. On 3 May Constitution Day, a Polish national holiday, Committee for the Defence of Democracy (KOD) members took part in the so-called "constitutional strolls." They were walking with banners "Constitution" in the major Polish cities, once again protesting the Constitution's violation by the ruling party. Although walking and other outdoor activities were no longer forbidden, the police checked protesters' IDs and detained some of them. According to KOD, officers were unable to indicate the legal basis of their actions. In some cases, they pointed to violations of the sanitary regulations, but the organizers declared that all protesters observed social distancing [11].

Another protest of KOD took place on 12.05.2020. Although the Polish Senate, controlled by the opposition, managed to block the bill on the all-postal presidential ballot, the elections could not be formally canceled. For this reason, KOD organized happenings in the major cities on the original term of presidential

elections, which the movement referred to as “the electoral farce.” Its supporters were casting symbolic votes in public places, observing social distancing, and wearing face masks [12]. The police were present and again checked out some protesters’ IDs. Although officers did not use force, they aimed at exerting psychological pressure on participants.

In May 2020, the Citizens of Poland organized small protests in Wrocław, Łódź (four participants), and Toruń (one participant). The police applied for their punishment to the court without clear legal grounds. A larger protest gathered over 200 people in front of public radio headquarters on 22.05.2020. The radio station management canceled a weekly hit list because a song played by Kazik criticizing the PiS’s leader ranked number one on it. The protesters received support from a leftist presidential candidate Robert Biedroń. A few dozen protesters met again in Warsaw the following day. They played Kazik’s song from smartphones. Since this song concerned one event, it could not have become the opposition’s anthem. Nevertheless, due to its criticism of putting the ruling party leader above the law, it might have shaped a collective identity of people deprived of all rights.

On 29.05.2020, various socialist, anarchist, and syndicalist groups protested in front of Parliament. A few dozen people demanded state support for the unemployed and tenants. There were no police forces, and no government representative came to talk to protesters.

Two weeks later, on 8.06.2020, KOD prepared much bigger protests the day before the Disciplinary Chamber, controlled by judges appointed by the ruling party, was to examine the case of judge Igor Tuleya. Activists organized demonstrations according to 150x150 format. At the time, the maximum allowed number of protesters was 150 persons, and such gatherings were to take place in 150 cities. Ultimately, however, KOD informed about protests in 17 cities. 676 people participated in them, although this number could have been much more significant [13]. The stagnation phase in the activities of KOD became evident during the pandemic.

On 8.06.2020, the police arrested a Citizens of Poland activist who put up posters accusing the Minister of Health of corruption and other suspected fraud during the pandemic [14]. The activist placed the posters on advertising sites belonging to AMS, a leading Out-of-Home advertising company. The police falsely classified an offense as breaking into AMS’s properties. As a result, the activist was handcuffed, taken from home to the nearby police station, and had her flat searched without a warrant. The following day, the police arrested another activist. Moreover, the state-run media made the personal data of the detained persons public. The Citizens of Poland received support from other social movements, including KOD and Women’s Strike, and they organized a protest in the arrested activists’ defense on 10.06.2020 attended by 60 protesters. This time, the police used force to disperse participants. The mobilization potential of all anti-government organizations to hold civic protests during the pandemic was meager.

The characteristic features of protests were organizational fragmentation, high spontaneity, and no connection to the parliamentary opposition. The opposition political parties did not only organize such protests but even did not attempt to exploit their potential. The total number of demonstrations and the number of protesters were much lower than in previous years. Most of them were peaceful. The protests were gradually waning during the last phase of lockdown. At the time, the opposition presidential candidates began addressing the anti-government feelings. It was noticeable especially before the second round of elections, when opponents of PiS offered their support to the leading opposition candidate, Rafał Trzaskowski.

Conclusions

In some cases, the Ministry of Internal Affairs and Administration, referring to the need to protect public health, deployed police forces to put down the protests. Repression resulted directly from defining a demonstration as anti-government. Activists replicated organization methods and forms of social protests but also took into consideration additional sanitary rigors.

The use of force against protesters waned over time. Threats to public order and the ruling party decreased. Yet repressions against the Protest of Entrepreneurs were severe due to its relatively significant protest potential. At the same time, the police eliminated minor protests even if they were one-person demonstrations. The primary assumption was that the use of force would not result in any social reaction. The police mainly acted by drawing on government regulations or decisions of the minister of public health, which had no legal basis. As a result, officers punished many protesters for no apparent reason.

Although the ruling party has not managed to eliminate social protests, it significantly reduced their number. Only the most vital anti-government NGOs and interest groups succeeded in organizing demonstrations. However, the repression policy was only potentially dissuasive, and the police applied the approach of facilitation only to sectional interest groups.

The protest activities of promotional and sectional interest groups were sparse and limited to the best-organized communities and those with the most significant threat. The anti-government protest movements were civic without ties to the opposition parties. A very high level of non-cooperation of anti-government civic activities was an expression of the advantage of ideological self-identification over the pursuit of effective action. The protesters did not use physical violence during demonstrations organized by Protest of Entrepreneurs. In a few cases, protests took the form of disruptive activities, e.g., the anti-abortion protest, which, however, did not stop the policy of repression. The COVID-19 pandemic contributed to an increase in government prerogative and repressiveness against social protests.

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Рак Д., Бейкер Р., Осієвич П. Право на протест під загрозою? Між зростанням автократії та сталістю демократії в Польщі доби кризи

Надзвичайна ситуація, спричинена пандемією, призвела до безпрецедентних обмежень свободи зібрань у Польщі. Аналізуючи відносини між урядовими силами та протестувальниками під час першої хвилі пандемії в Польщі, ця стаття має на меті оцінити, наскільки перші поважали право на протести. Аналіз спирається на метод крос-медіа аналізу, який включає прийоми аналізу вмісту та тематичного аналізу. Новини, включені до корпусу джерел, надходять як із державних партійних ЗМІ (TVP1, TVP2 та TVP Info), так і з комерційних (Onet.pl, TVN24, RMF FM та Rzeczpospolita). Компаративний аналіз джерел є необхідним для порівняння поглядів, поширених різними засобами масової інформації, та визначення суттєвих особливостей реалізації права на протест та поваги цього права.

Це дослідження сприяє вивченню ролі змагальної політики під час демократичного відступу (перехід від нео- до квазі-войовничих демократій), проливаючи світло на протестну діяльність груп секційних та промоційних інтересів, а також антиурядові протести, організовані ad hoc. Такий підхід виявляє природу диференціації у придушенні опозиції щодо права на протест залежно

від типу опонента. Секційні групи є ексклюзивними, і їх членство мотивується особистими інтересами тієї частини суспільства, яку вони представляють. Групи за інтересами пропонують членство всім і надихаються моральними проблемами, що зачіпають усе суспільство, а не лише його частину.

Основна теза статті полягає в тому, що право на протест було значно обмежене під час першої хвилі пандемії в Польщі. Правляча партія скористалася кризою, щоб блокувати протести для забезпечення громадської безпеки. Різні секційні та промоційні групи провели менше протестів, ніж у попередні роки, і вони не становили суттєвої загрози для правлячих сил. Крім уповільнення соціальної мобілізації, уряд репресував активістів, які виступали проти будь-яких неконституційних змін до президентського виборчого законодавства та організації таких виборів. Уряд погрожував своїм опонентам, більшість із учасників протестів стикнулися із жорсткими наслідками, задіяними *ad hoc*. Вони включали затримання та високі штрафи.

Ключові слова: змагальна політика, нео-войовнича демократія, Польща, демократичний відступ, спричинений пандемією, право на протест, протест, групи інтересів, криза.