MASTER THESIS

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Democratic Backsliding and Political Polarization in Poland: Explaining the Erosion of Judicial and Media Freedoms

verfasst von / submitted by

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1. Introduction

The erosion of democratic checks and balances in Poland serves as a warning to EU partners as well as global onlookers. The seemingly unchecked power that the Polish government wields today demonstrates that insufficient focus on creating and maintaining a nation's democratic norms and institutions can create a political landscape in which the backsliding of democracy can easily occur under certain leadership. This thesis seeks to identify and analyze the primary factors that have contributed to the erosion, or 'backsliding', of democracy in Poland.

It is evident that EU and NATO member states as a whole now suffer from internal disunity and mutual disappointment. What remains unclear is whether this current predicament represents a temporary phase or the new normal. Poland represents an ideal case study for evaluating democratic backsliding because even where government influence on the judiciary and media in Poland could aptly be described as executive power grabbing, the erosion of democracy in Poland continues to occur gradually. This gradual type of democracy erosion remains understudied; however, this thesis will rely on the work of a few key scholars who have addressed this phenomenon and, additionally, will draw on existing literature from political scientists, historians, and democracy studies experts in order to identify and analyze the factors that have contributed to Poland's backsliding. For the majority of these scholars, the current governing party's control of Poland's foundational democratic institutions is no longer a matter of speculation. Since 2015, Poland has been the target of widespread backlash from international institutions and watchdog organizations, in particular due to its government's policies toward the judiciary and media. One of the harshest critics of Polish policy since the Law and Justice party or Prawo i Sprawiedliwość (PiS) regained power in 2015 has been the European Union. Nevertheless, the Polish people remain in favor of the EU while continuing to cast votes domestically for a party that consistently deploys populist, nationalist, and anti-EU rhetoric, including during Poland's 2020 presidential elections. Tensions between Poland and its European partners in Brussels remain. Meanwhile, PiS continues to enact policies that threaten the foundations of Polish democracy, in part by eliminating checks and balances for its executive actors. Furthermore, this trend toward democratic backsliding shows little signs of abating. The Polish people re-elected the PiS-backed presidential candidate this July, with a significantly higher voter turnout than in 2015.

This thesis investigates why and how democracy in Poland has been gradually eroding under Law and Justice leadership since 2015. The central question that this project aims to answer is *'what factors have contributed to democratic backsliding in Poland since 2015?'* In order to begin

developing an answer to this question, Section 2 will offer a brief history of Poland's journey to democracy, including the key events and relationships that have affected Poland's democratic process. Then, this thesis will analyze literature that directly addresses democratic backsliding and its causes by outlining the indicators of democracy and democratic consolidation in Section 3. In addition to providing an overview of the most recent theoretical work that has emerged on this still-new topic of democratic backsliding, Section 3 will also offer a quantitative approach to measuring democracy in Poland by drawing on existing indexes for assessing democratic development. Section 4 will analyze the two areas in which democratic backsliding is most severe in Poland, the judiciary and media, by outlining the actions taken by the Polish government that have been most impactful in eroding democracy. Section 5 will apply the theoretical framework defined in Section 3 to the Polish context, with a special focus on the role of polarization in Poland's democratic erosion. Finally, after identifying and analyzing the primary factors that have contributed to Poland's backsliding, this thesis will build on its discussion of polarization from Sections 3 and 5 and provide predictions regarding Poland's trajectory in its concluding section.

2. A Brief Political History of Poland

At the turn of the 21st century Poland was a free country for the first time in sixty years, and a qualified member of the Western community. Having achieved NATO member status, Poland was now being considered as a candidate in the next EU accession phase. Although some scholars, such as Sheri Berman of Columbia University, still wonder if Poland fully functioned as a liberal democracy[1] at this stage, Poland was certainly a well-functioning electoral democracy[2] and also boasted a promising market economy.[3] The Republic of Poland also enjoyed a "new climate of peace and cooperation" with its neighbors during this early accession period.[4] Poland's initial goals as a young democracy appear fundamentally at odds with the ethos of its current leaders from the Law and Justice party (PiS). In analyzing PiS's actions and other factors that have contributed to democratic backsliding in Poland, it is necessary to begin by elaborating on the origins and foundations of Polish democracy.

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[1] Liberal democracy is defined by the Oxford English Dictionary as *"a democratic system of government in which individual rights and freedoms are officially recognized and protected, and the exercise of political power is limited by the rule of law."* – OED Online. *Oxford University Press*, September 2020.

[2] Electoral democracy is defined by the John Bouvier's Legal Dictionary as *"a form of government where the powers of the sovereignty are delegated to a body of [persons], elected from time to time, who exercise them for the benefit of the whole nation."* – Bouvier, John. A Law Dictionary [adapted to the Constitution and Laws of the United States], published 1856.

[3] Berman, Sheri. *Democracy and Dictatorship in Europe*. Oxford University Press, 2019.

[4] Davies, Norman. *Heart of Europe: The Past in Poland's Present.* Oxford University Press 2001, page 407.

Democratic consolidation took place across two distinct phases in Poland, with the first lasting until 1997. This first phase was characterized by "an interim institutional framework" which, despite its limitations, provided the backdrop for competition between the Solidarity party (AWS) and the former communist SLD party or Democratic Left Alliance.[5] The initial framework passed the test of alteration although not the stability of governments.[6] The approval of the Constitution of Poland in 1997 opened the second phase of consolidation, and the new constitution solved previous problems of inefficiency and instability. However, the collapse of AWS and SLD tested Poland's new institutions with regard to reconfiguring the party system as well as the "questioning of legitimation of the constitutional framework" on the part of PiS and other non-Solidarity parties.[7]

Many saw the 2007 elections in Poland, in which the pro-Europeanization, centre-right Civic Platform party soundly defeated PiS, as proof that lingering concerns over Poland's legitimacy had "finally ended" and the county had reached the "true conclusion" of the process of democratic consolidation.[8] However, whether those tracking the events of 2007 believed that Poland's supposedly finalized democratic consolidation is capable of being undone or undermined – for example, by an opposing political party such as PiS – remains unclear.

PiS regained prominence just 8 years later, in 2015, after being politically marginalized during the initial stages of EU integration. The party won on a platform that mixed "calls for higher wages [including more state intervention in the economy] with appeals to traditional Catholic values."[9] Not only did PiS win, but it did so with an absolute majority, something no other party had accomplished since Poland gained independence.[10] Furthermore, none of the country's left-wing or social democratic parties qualified for seats in parliament, which enabled PiS to implement their

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[5] Tomini, Luca. *Democratizing Central and Eastern Europe: Successes and Failures of the European Union*. Routledge 2015, page 38.
[6] Ibidem
[7] Ibidem
[8] Ibid, page 35.
[9] Lyman, Rick. "Right-Wing Party Roars Back in Polish Elections." *The New York Times*, October 25, 2015. *https://www.nytimes.com/2015/10/26/world/europe/poland-parliamentary-elections.html*
[10] Under Poland's complex voting rules, *"a party can take control of the government without the need for a coalition partner"* even if it draws less than 40 percent of the vote (PiS won 37.6% of the votes in 2015). The role of a coalition partner or lack thereof depends on how many of the smaller parties cross the 5 percent threshold required to earn seats in the new Parliament. – Associated Press in Warsaw. "Rightwing Law and Justice Party Wins Overall Majority in Polish Election." *The Guardian*, October 27, 2015. *https://www.theguardian.com/world/2015/oct/27/poland-law-justice-party-wins-235-seats-can-govern-alone*

policies without significant opposition.[11]

Before 2015, Poland's electorate was considered to be "the beacon of stability both in the region and in Europe," but the Polish people "grew tired of the Civic Platform establishment" that President Bronisław Komorowski represented.[12] Looking back at the actions of Civic Platform (also known as Platforma Obywatelska, or PO) immediately preceding the election, Poles' decision to vote for change becomes less surprising. PO had been "under a cloud" in the year leading up to PiS-hardliner Andrzej Duda's first presidential victory.[13] Several of Civic Platform's officials had been caught "making profane and impolitic comments" on illegal wiretaps, and on top of that, Donald Tusk had resigned as prime minister in 2014 to become president of the European Council in Brussels, leaving a leadership vacuum.[14] Still, in 2015, Poland was "prosperous, safer and more outward looking" than it had been for the last 300 years.[15] Although it was still poorer than most EU member states at the time, Poland was the only country in the Western Hemisphere that had not suffered from a recession in over two decades.[16] Yet, in May of 2015, Poles voted out their president despite his high approval ratings and replaced him with a relatively young, conservative member of the European Parliament, Andrzej Duda.

In 2019, PiS successfully retained control of the Sejm, the 'lower house' of the Polish parliament and the country's most powerful legislative body.[17] It is noteworthy, however, that Civic Platform remains the largest opposition party in the parliament, and Law and Justice no longer benefits from a majority in the Senat (the senate or 'upper house').[18] While the new makeup of the legislature may hinder or delay further attempts by PiS to dismantle democratic safeguards, the overall voting trends of the past 5 years still highlight "how Poland [is] joining many regional neighbors in a shift to the right."[19] Furthermore, the parliamentary elections of 2019 and the presidential elections of

[11] Associated Press in Warsaw. "Rightwing Law and Justice Party Wins Overall Majority in Polish Election." *The Guardian*, October 27, 2015. *https://www.theguardian.com/world/2015/oct/27/poland-law-justice-party-wins-235-seats-can-govern-alone*
[12] Lyman, Rick. "Right-Wing Party Roars Back in Polish Elections." *The New York Times*, October 25, 2015. *https://www.nytimes.com/2015/10/26/world/europe/poland-parliamentary-elections.html*
[13] Ibid
[14] Ibid
[15] Ibid
[16] Zaborowski, Marcin. *Change in Poland*. Center for European Policy Analysis, June 1, 2015. *http://cepa.org/index/?id=6cf8912022f697ca81e17e33dc2993e6*
[17] Associated Press in Warsaw. "Rightwing Law and Justice Party Wins Overall Majority in Polish Election." *The Guardian*, October 27, 2015. *https://www.theguardian.com/world/2015/oct/27/poland-law-justice-party-wins-235-seats-can-govern-alone*
[18] Cienski, Jan and Zosia Wanat, "5 Takeaways from the Polish Election," *Politico*, October 14, 2019. *https://www.politico.eu/article/poland-pis-tougher-times-despite-winning-election/*
[19] Lyman, Rick. *Right-Wing Party Roars Back in Polish Elections*. The New York Times, October 25, 2015. *https://www.nytimes.com/2015/10/26/world/europe/poland-parliamentary-elections.*html

2020 (in which President Duda was re-elected) demonstrated some of the highest voter turnouts in Polish history (64.51% for the first round, 68.18% for the second).[20] These trends illustrate the potential for Law and Justice-style leadership – i.e., dismantling democratic institutions, limiting oversight of the executive office, enacting legislation in breach of Poland's Constitution, utilizing populist and nationalist sentiments to mobilize the Polish electorate – to become more than a temporary preference in Poland.

2.a. Poland in Europe

Political shifts in Poland cannot be sufficiently analyzed without considering the role of its largest, most influential partner, the European Union, especially considering the deepening of divisions that has occurred between the EU and Poland's current governing party during its tenure.

The collapse of the Soviet bloc in 1989-91 naturally led to a complete reorientation of Poland's agenda in all major policy realms. When former dissidents from the anti-communist Solidarity movement took power after 1989, the new government's foreign policy was based on the idea of 'returning to Europe,' underpinned by the belief that Poland "belonged, spiritually and culturally, to the West."[21] Returning to Europe represented a consistent theme in Polish politics, across party lines, following the end of communism. In political terms, Poland's aspiration to become fully European meant the development of liberal democracy; economically, this goal implied the emergence of a capitalist market economy – and Poland took crucial steps to ensure that its goals were met in both of these development areas, causing many onlookers to describe the country's progress as "remarkable."[22]

Polish foreign policy also went through a drastic transition following the collapse of the communist system. Along with developing friendly relations with its neighbors, integration with the West "became Poland's chief foreign policy goal."[23] Returning to Europe on the foreign policy front referred chiefly to integrating Poland into Western international political, economic, and military organizations, which also meant meeting its unique regional security needs. To the majority of Poles, Western integration and in particular gaining EU and NATO membership, seemed to be a

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[20] Sas, Adriana. "Electoral Turnout in Presidential Elections in Poland from 1990 to 2020." *Statista*, July 14, 2020. *https://www.statista.com/statistics/1129139/poland-electoral-turnout-in-presidential-elections/*
[21] Szczerbiak, Aleks. *Poland within the European Union: New and Awkward Partner or New Heart of Europe?* Routledge 2010, page 46.
[22] Lucas Edward. *The New Cold War: Putin's Russia and the Threat to the West*. St. Martin's Press 2014, page 190.
[23] Szczerbiak, Aleks. *Poland within the European Union: New and Awkward Partner or New Heart of Europe?* Routledge 2010, page 46.

"natural consequence of the transition process."[24] However, soon Poland would have to shift its foreign policy position in Europe from one of adapting to and accommodating Brussels to taking ownership of its future trajectory, including with partners outside of Europe such as the United States.[25] In doing so, Polish leaders often ruffled feathers while adapting to this new decision-maker role, causing Poland to be characterized as an uncompromising negotiating partner both during and after its accession to the EU.[26] For example, while the accession process was still underway, Poland took an unwavering stance during debates over the weighting of votes in the Council of Ministers.[27] Interestingly, Civic Platform leaders encouraged these tactics at the time. Then-parliamentary caucus leader, Jan Rokita, proclaimed in 2004 that blocking unfavorable deals in Brussels was the "only way to be taken seriously by the EU's traditional heavyweights."[28] These tactics were likely linked to Poland's "ambition to be taken seriously as a large and important member state."[29] However, this approach also made enemies. Well after its admittance to the Union, Poland was regularly described as the EU's "new awkward partner" by international media outlets.[30] Poland's reputation for being a "headline grabber" quickly made "a significant impact on the Union" and brought both positive and negative consequences.[31]

Poland has always exhibited a unique approach to the process of Westernization and has been a polarizing figure on issues regarding European integration. Even before becoming an EU member, Poland appeared to view European integration as proceeding along intergovernmental lines, which revealed Poland's perspective on the sacrosanct nature of national sovereignty.[32] This perspective naturally created tension with EU partners, and in fact, Poland's recent displays of Euroscepticism have roots dating back to the accession period. In terms of specific policy decisions, Poland's stances on security and defense have often created controversy, including before Poland became an EU member. For example, prior to ratifying its EU accession treaty, the Polish government

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[24] Ibid, page 40.
[25] Trzaskowski, Rafal. From Candidate to Membership State: Poland and the Future of the EU. The European Institute for Security Studies, n. 37. September 2002.
[26] Barcz, Jan and Arkadiusz Michoński. *Negotiations on Poland's Accession to the European Union: Selected Collection of Materials from the Conference*. Ministry of Foreign Affairs of the Republic of Poland, 2002.
[27] Mattila, Mikko. Roll Call Analysis of Voting in the European Union Council of Ministers After the 2004 Enlargement. European Journal of Political Research, Volume 48(6). September 2009.
[28] Traynor, Ian. "Rocking the Boat from Warsaw." *The Guardian*, April 19, 2004. *https://www.theguardian.com/world/2004/apr/19/eu.poland*
[29] Szczerbiak, Aleks. *Poland within the European Union: New and Awkward Partner or New Heart of Europe?* Routledge 2010, page 40.
[30] Ibid, page 47.
[31] Ibid, page 46.
[32] Ibidem

supported the US-led Iraq War, which to some signaled that Poland was a "zealous Atlanticist" and would become "the US's 'Trojan horse' once it was admitted to the EU."[33]

Poland's relationships with non-EU countries (especially the US) have highlighted clashes between Poland and its EU partners for many years. In addition to supporting the Iraq War, Poland also actively participated in the US-led War on Terror throughout its early post-communist period.[34] This "twin track" approach became a significant source of tension between Poland and other EU members and led many in Brussels to claim that Poland's actions represented opposition to the EU's development of a Common Foreign and Security Policy.[35] Poles, however, had a different perspective on their transatlantic interactions. Polish officials argued that, "far from undermining EU policy, Poland's close relations with the US "meant that it could act as a bridge" between Europe and the United States.[36] While it is possible that Poland's attachment to national sovereignty fueled suspicion regarding the development of a Common Foreign and Security Policy, multiple Polish administrations have expressed that they were "not opposed [to developing] a common EU foreign and security policy, or even a European defense identity," they were only concerned about forms of cooperation that would undermine the transatlantic alliance and especially NATO.[37] While "EU membership was widely seen as the best way of furthering Poland's economic and non-military security objectives" as well as restoring the country to its rightful place among the family of European nations, Poles saw the US as the "most credible guarantor" of Polish and, more generally, international 'hard' military security.[38] By Polish reasoning, the country was appropriately balancing relationships with its two most powerful partners.

Importantly, Poland has shown a true commitment to integration and collaboration on numerous occasions, including on security and defense policy. For example, from accession onward, Poland supported EU member states in "developing a more coordinated common [rather than bilateral] approach towards its relations with Russia."[39] Later, following the Russo-Georgian War of 2008,

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[33] The Economist. *Jacques Chirac's Samson Option*. February 2003.

[34] Szczerbiak, Aleks. *Poland within the European Union: New and Awkward Partner or New Heart of Europe?* Routledge 2010, page 41.

[35] Longhurst, Kerry and Marcin Zaborowski. *The New Atlanticist: Poland's Foreign and Security Policy Priorities.* Wiley, 2007.

[36] Szczerbiak, Aleks. *Poland within the European Union: New and Awkward Partner or New Heart of Europe?* Routledge 2010, page 46.

[37] Ibidem

[38] Ibidem

[39] Schmidt-Felzmann, Anke. *All for One? EU Member States and the Union's Common Policy Towards the Russian Federation*. Journal of Contemporary European Studies, Volume 16(2). Taylor & Francis, 2008.

Polish leaders "watched in horror" as "countries from 'old Europe' said bluntly that their relations with Russia mattered more" than the interests of their Eastern allies.[40] Similarly, Poland's relatively large size as well as its ideological Gaullism have tended to steer it towards supporting a stronger role for the Council of Ministers.[41]

Poland's original, vague goal of returning to Europe has influenced its support for unexpected initiatives in the EU, which at times inspired further integration and at others caused further disharmony between Poland and other EU members. However, despite ongoing tensions between Poland and its European partners, EU integration has always meant more to Poles than merely furthering their nation's economic and security objectives. Many Polish citizens are true Euro-enthusiasts and do not interpret differing values between Poland and the EU as a threat to Polish identity.[42] Under communism, more Western influence for Poles led to less belief in their own rulers' propaganda, and "the more they learned about the West, the more they liked it."[43] This process did not stop with the collapse of communism. Post-1989, the same 'soft' power consolidated the West's victory.[44] Having thrown off dictatorship, many Eastern European nations became keen to adopt 'Euroatlanticism,' which stood in part for the advantages offered by the American security umbrella of NATO membership and the "good government and economic advantages" associated with the path to EU membership.[45] However, Poland was attracted to EU membership for more than purely economic reasons or a desire to drastically depart from its dictatorial past. In addition to Poland's growing concern about regional security and power balancing, the strong belief that Poland belonged and should 'return' to Europe also shaped the Polish identity and influenced public opinion.

Euro-enthusiasm has fluctuated over the years, but even at the point of lowest support for EU integration in 2001, proponents of integration represented more than 50% of Poland's population while opposition to accession initiatives failed to reach 30%.[46] In fact, Poland's long-term favorable views of the EU have remained quite stable since 2007, and today, Poland displays

[40] Lucas Edward. *The New Cold War: Putin's Russia and the Threat to the West*. St. Martin's Press 2014, page 190.
[41] Ferry, Martin. *The EU and Recent Regional Reform in Poland.* Europe-Asia Studies, Volume 55(7). Taylor & Francis, 2003.
[42] Stone, Jon. *Support for EU Membership reaches Record High in Poland despite Showdown with Brussels*. The Independent, January 9, 2018. *https://www.independent.co.uk/news/world/europe/poland-eu-membership-support-for-membership-courts-rule-of-law-mateusz-morawiecki-juncker-a8149876.html*
[43] Lucas Edward. *The New Cold War: Putin's Russia and the Threat to the West*. St. Martin's Press 2014, page 170.
[44] Ibid, page 173.
[45] Ibid, 178.
[46] Kucharczyk, Jacek. Poland's Road to Europe in the Eyes of Public Opinion. Institute for Human Sciences (IWM), n. 20 (2001). *https://www.iwm.at/transit-online/polands-road-to-europe-in-the-eyes-of-public-opinion/*

similarly positive views of the EU as compared to 12 years ago.[47] Polling data from 2019 demonstrates that 14% of the Polish population views the EU unfavorably, and 84% view the EU favorably (with 2 out of 10 from this portion rating the EU as 'very favorable').[48]

Given the consistency of Polish support for the EU and the diverse reasons for which EU membership appeals to Poles, the election of the Eurosceptic Law and Justice party appears puzzling. One factor that might help explain this dissonance between an apparently Euro-enthusiastic public and a Eurosceptic political elite is the fact that "European issues" have typically had "very low salience" in Polish elections.[49] Historically, Polish parties tend to emphasize domestic policy concerns in their campaigns and voters have not considered the EU relationship to be the primary factor in determining their vote. Another possible reason for why Polish voters simultaneous display Euro-enthusiasm while electing Eurosceptic leaders may be related to Poles' interpretations of integration. While most Poles "were [and are] supportive of EU membership and European integration in principle," they may also have had a very "realistic" perception of how the EU functioned in practice.[50] Some scholars suggest that the Polish population saw EU integration as a zero-sum game, which not only meant that Poland must "secure the maximum possible benefits" but also implied that the competing interests and values of Poland and the EU would inevitably clash.[51]

Regarding national identity and values, remaining tension between Poland and the EU may be related to Poland's strong religious identity. PiS campaigners are known for appealing to traditionalist Poles by underscoring some of the fundamental differences between EU and Polish political-cultural-religious ideologies, and this approach has proven successful. PiS's emphasis of Poland's Catholic tradition could perhaps be seen as a rebuke of Europeanization or the EU establishment. Regardless of the reasoning behind PiS's rhetoric, it is true that, unlike most EU members states, civil society and the Church remained closely linked in Poland, and these links may have affected how Poles viewed the integration process. During Poland's accession phase, religiosity "seeped into the national discourse on European integration, particularly when it clashed with the secularism that was the norm in much of the rest of Europe."[52] Poland's high levels of

[47] Wike, Richard and Jacob Poushter, Laura Silver, Kat Devlin, Janell Fetterolf, Alexandra Castillo, and Christine Huang. "Global Attitudes and Trends: The European Union." Pew Research Center, October 14, 2019. *https://www.pewresearch.org/global/2019/10/14/the-european-union/*
[48] Ibid
[49] Lucas Edward. *The New Cold War: Putin's Russia and the Threat to the West*. St. Martin's Press 2014, page 173.
[50] Ibidem
[51] Ibid, page 178.
[52] Ibidem

church attendance and religiosity could partly explain the seemingly contradictory behavior of Polish voters. If voters prioritize the benefits of being an EU member over their desire to be fully aligned socially, culturally, or religiously with international partners, then supporting European integration while electing Eurosceptic leaders provides an opportunity to balance Poles' needs.

While data alone cannot explain the complex reasoning behind the Polish electorate's seemingly contradictory behavior, it is worth noting that EU support has soared at times under the current PiS-dominated government. In January 2018, for example, Polish support for the EU reached an all-time high. Polls illustrated that 92% of Poles wanted to stay in the EU, and just 3% were against.[53] Ironically, this data was collected shortly after the Polish government had staged a widely publicized "political showdown" with EU leadership in Brussels.[54]

Despite the Polish people's loyalty to the EU, there is no doubt that tensions between the EU and Poland have significantly increased since PiS took power in 2015. Just five years ago, Poland was "widely viewed as an exemplar of democratic transformation in Central and Eastern Europe."[55] Furthermore, it was a wildly successful example of the European Union 'experiment' since Poland had not only achieved great economic success but also served as a "prodemocracy force on the international stage."[56] In 2014, Donald Tusk's selection for the role of President of the European Council also signaled that Polish democracy was highly regarded. And yet, 4 years later, Poland became the first EU member to ever be threatened with sanctions under Article 7 of the Lisbon Treaty. Although concerns regarding the rule of law in Poland provoked this particular development, a series of actions taken by PiS continue to divide Poland and its European partners.

According to a comprehensive study published by Cambridge University titled *Varieties of Democracy: Measuring Two Centuries of Political Change*, the quality of democracy in Poland has fallen to levels not seen since the first years of post-Communism transition, during which time the country was described as "semi-democratic."[57] Furthermore, attempts by the EU to curtail these changes have been continuously rebuffed by Poland's leaders who have clearly demonstrated their

[53] Stone, Jon. *Support for EU Membership reaches Record High in Poland despite Showdown with Brussels*. The Independent, January 9, 2018. *https://www.independent.co.uk/news/world/europe/poland-eu-membership-support-for-membership-courts-rule-of-law-mateusz-morawiecki-juncker-a8149876.html*
[54] Ibid
[55] Przybylski, Wojciech. *Explaining Eastern Europe: Can Poland's Backsliding Be Stopped?* Journal of Democracy 29(3). Project Muse, 2018.
[56] Ibid
[57] Coppedge, M. and Gerring J., Glynn, A., Knusten, C. Lindberg, S., Pemstein, D., … Wang, Y. *Varieties of Democracy: Measuring Two Centuries of Political Change*. Cambridge University Press, 2020.

distaste for EU intervention.[58] For example, during a 2018 event commemorating 100 years of Polish independence, President Andrzej Duda likened the European Union to foreign powers (including Russia and Austria) that previously occupied Poland.[59] It is therefore unsurprising that tensions remain high between Poland and the EU. Meanwhile, domestically, PiS's legislative and institutional changes continue to evoke fears "that the accomplishments of Poland's decades of transition are in danger of being reversed."[60]

3. *Explaining Democratic Backsliding: Theoretical Considerations*
3.a. Defining and Measuring Democracy

While the fundamental principles that constitute democratic governance are largely agreed upon, exact definitions vary widely. Major differences between definitions of democracy are usually attributable to the degree of specificity employed. An even greater cause of inconsistency is the fact that there exists no agreed upon threshold for how many of the key principles that constitute democratic governance are necessary in order for a nation to be considered a legitimate, functioning democracy. This section will begin by discussing scholarly definitions and demonstrate ways in which democracy is being measured by different indexes.

On one side of the spectrum of democracy definitions are extremely general descriptions such as the one offered by Adam Przeworski, who contends that democracy is "a political system in which parties can lose elections."[61] On the other, more specific side, numerous definitions exist and often differ based on the academic focus of the author(s). A definition from the Political Theory journal gives a more detailed overview, stating that what distinguishes democracy from other systems is the "pursuit of equal liberty," which is defined as "the (direct or indirect) participation of all citizens in the process of making the laws they obey through their equal contribution to the establishment of the majority view."[62]

Some literature has sought to tackle the challenges of defining democracy by analyzing the paradigms that inform current scholarly work. For example, Maria Paula Saffon of Princeton University and Nadia Urbinati of Columbia University analyze four lenses for assessing

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[58] Stanley, Bill and Ben Stanley. Whose Poland Is It to Be? PiS and the Struggle Between Monism and Pluralism. East European Politics, Volume 36(3). Routledge, 2020.

[59] *Deutsche Welle*. 2018. "Polish President Duda Likens EU Membership to Past Occupations." March 15, 2018. *https://www.dw.com/en/polish-president-duda-likens-eu-membership-to-pastoccupations/a-42981160*

[60] Przybylski, Wojciech. *Explaining Eastern Europe: Can Poland's Backsliding Be Stopped?* Journal of Democracy 29(3). Project Muse, 2018.

[61] Przeworski, Adam. *Crises of Democracy*. Cambridge University Press, 2019.

[62] Saffon, Maria Paula and Nadia Urbinati. *Procedural Democracy, the Bulwark of Equal Liberty*. Political Theory, 41(3). SAGE Publications, 2013.

democracy. The most prevalent approaches in academia today are described as follows: the epistemic conception, which views democracy as a process of truth seeking; the populist defense of democracy that mobilizes politics that defy existing procedures; and the classical minimalist view of democracy as a competitive method for selecting leaders. Saffon and Urbinati favor a fourth lens, the political proceduralist approach, which defines democracy as "the very political process that it puts in motion" as democracy's normative value "resides in the process' unbeatable capacity to protect and promote equal political liberty."[63] These scholars claim that, in contrast to the other three methods for defining democracy, the procedural lens offers the most normatively adequate definition because it gives weight to the role of pluralism and disagreement in politics and notes that these are the conditions that "require democracy to fulfill liberty."[64]

Scholars by and large agree that the most fundamental characteristics of democracy include: government based on majority rule and the consent of the governed, the existence of free and fair elections, the protection of minority rights, and respect for basic human rights. However, many additional essential elements for ensuring democratic governance and criteria for measuring democracy are often cited by scholars across disiplines. The table below illustrates the standard-issue criteria, drawing primarily from the Oxford Handbook and the work of Luca Tomini and Ramona Coman from the Université libre de Bruxelles.[65]

Table 1: The Key Elements of Democracy

Freedom, civil liberties, and the rights of citizens Functioning institutions Development of and diversity in political parties, or political pluralism-participation Open electoral systems Freedom of the press Separation of government powers Freedom of education A flourishing civil society Freedom of religion Independent judiciary, including constitutional courts Judicial review and due process under the law Freedom of association, assembly Wealth and income distribution Intellectual freedom Government corruption safeguards	The right to life and personal security and autonomy Freedom of speech Functioning electoral systems and voting rights Trade union and labor freedoms Transparent political decision making Equality of civil rights, including for women and minority groups Meritocratic government institutions Private property ownership Fair and transparent elections, including campaign finance restrictions Freedom from slavery Susceptibility to international pressure, or accessibility of foreign government engagement Freedom of movement Open ecosystem for digital technology

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[63] Saffon, Maria Paula and Nadia Urbinati. *Procedural Democracy, the Bulwark of Equal Liberty*. Political Theory, 41(3). SAGE Publications, 2013.
[64] Ibid
[65] Coman, Ramona and Luca Tomini. *The State of Democracy in Central and Eastern Europe: A Comparative Perspective*. Routledge 2017, page 20.

While each individual cause or strengthening component of a democratic system remains vital, the elements listed above should not be assessed exclusively on their independent merits. Each item in the list is both interdependent and self-reinforcing, and each factor is made stronger by others. This concept, that individual elements of a democratic system affect one another and lead to more robust, sustainable democracy, is called 'anchoring'. Leonard Morlino, who coined the term anchoring, asserts that the process can also operate in the reverse.[66] In other words, the erosion of one or more of the factors listed above may lead to de-anchoring. When de-anchoring occurs, a handful of foundational democratic elements remain solid, yet the weak parts of a democratic system impair the progress of stronger pieces. Morlino's work on de-anchoring may also provide a basis for explaining and defining incremental backsliding, which will be discussed further in Section 3.b.

In addition to reviewing the key elements of democracy, examining how researchers currently measure democracy in Poland is crucial for understanding backsliding. Factors that currently affect Polish democracy most include the limitations to media freedom and Poland's changing judicial framework, both of which are made possible by the increased authority and autonomy of Poland's executive branch. Multiple indexes can offer insight into how changes in these two policy areas, the judiciary and media, have impacted Poland's overall democracy rating.

Indexes measuring democracy tend to rely on similar indicators, which are also listed in the table above, but apply more emphasis to certain indicators of democracy. For example, the Bertelsmann Transformation Index (BTI) stands out for its focus on the differences between appearance and reality in the political and governance realm. The BTI states that although formally there is "a clear separation of powers with mutual checks and balances" guaranteed by the Polish Constitution, in truth, the institutional accountability of the government is "limited."[67] It also notes the decreasing independence of Poland's judiciary and the intense "political pressure" being put on members of the judiciary by executive actors in Poland.[68]

The oft-cited Freedom House index as well as the Economist Intelligence Unit's (EIU) index elaborate on similar factors as the BTI but are notable for their recent change of tone in their assessments of Poland. The EIU recently ranked Poland at 6.62 on a 1-10 scale, with 10

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[66] Morlino, Leonard. *Democracy Between Consolidation and Crisis. Parties, Groups, and Citizens in Southern Europe*. Oxford University Press, 1998.
[67] Bertelsmann Stiftung (BTI) 2020 Country Report — Poland. Gütersloh: Bertelsmann Stiftung, 2020.
[68] Ibid

representing a perfectly functioning democracy.[69] This ranking from 2019 is the lowest Poland has received to-date and 2019 marked the first year that Poland fell below Hungary in the EIU's democracy rating. Interestingly, the EIU gave Poland high scores for its 'electoral process and pluralism' (9.17), and Poland's lowest score was for 'political culture' (4.3).[70] Poland's low numbers for political culture are, according to the EIU, a result of "disillusionment with traditional political parties" and a sharp decline in "the degree of societal consensus and cohesion necessary to support democracy."[71] The latter development will be further analyzed in Section 5's discussion of social and political polarization in Poland.

The Freedom House index illustrates a downward trend as well. Poland has been consistently downgraded in recent years (albeit usually by 1-2 points at a time) and in its most recent data from 2020, Freedom House graded Poland at 84 on a scale of 1-100.[72] This trend corresponds to PiS's rise to power since, although Poland received a high rating in 2015, it was placed on Freedom House's 'Countries to Watch' list the next year, signaling the expectation that Poland's score would soon decrease. This potentially coincidental connection to Poland's decreasing rating and its leadership is explicitly addressed by Freedom House itself. Not only has Poland's rating declined every year since 2015, but Freedom House noted in 2016 that "the initial actions of the Law and Justice government in 2015, including attempts to stack key institutions with partisan loyalists, raise serious concerns about Poland's trajectory."[73] The EIU's index again aligns with Freedom House's findings here and draws similar conclusions. The EIU stated in a 2020 analysis of its 2019 index that PiS has "continued its efforts to turn the country into an illiberal democracy, including by constraining the independence of the judiciary and consolidating media ownership."[74]

The World Bank's World Governance Indicators (WGI) index is notable for its unique methodology, which relies on expert surveys regarding governance strategies as well as public, private, and NGO sector experts worldwide.[75] Although the WGI is updated less frequently than other indexes identified in this thesis, its rating mirrors others: in 2018, the index gave Poland its

[69] Ibid

[70] Economist Intelligence Unit, *Metrics for Measuring Democracy*, The Economist, 2019.

[71] Ibid

[72] Freedom House. *Freedom in the World 2020: Poland Profile*.

[73] Ibid

[74] Economist Intelligence Unit. *Democracy Index 2019: A Year of Democratic Setbacks and Popular Protest*. The Economist, 2020.

[75] Kaufmann, Daniel, Aart Kraay, and Massimo Mastruzzi. The Worldwide Governance Indicators: Methodology and Analytical Issues. World Bank Policy Research Working Paper No. 5430, 2010.

lowest scores for media freedom (under 'Voice and Accountability,' 65.71 out of 100) and the rule of law (66.83).[76]

The International Institute for Democratic and Electoral Assistance (IDEA) takes a different approach with its rating by distinguishing between each level of government leadership when assessing a country's democratic status. According to the IDEA, Poland is in an especially concerning position because democratic backsliding is occurring at mid and high levels of government.[77] Furthermore, the index notes that backsliding has occurred in Poland from 2013-2018, whereas other indexes only voice alarm regarding the years following PiS's 2015 win.[78] Finally, the IDEA puts a special emphasis on the shrinking civic space in Poland, a concern that is also echoed in other indexes, in part because the IDEA does not collected new data for its measurements and is therefore exclusively reliant on existing sources. The IDEA is however the most comprehensive in terms of its list of indicators, as the data set offers four indices at the 'attribute level' and 16 indices at the 'sub-attribute level', based on 97 indicators. Each attribute covers 2-4 four sub-attributes, which are "operationalized" using indicators from existing data sets and the Varieties of Democracy (V-Dem) Database.[79]

The introduction of quantitative measurements to this thesis may imply that measuring democracy in dichotomous terms by employing numbers alone is possible or useful. It is true that these indexes have both drawn on empirical analysis and been used for empirical work themselves. However, the indexes discussed above demonstrate through quantitative analysis that many nations, including Poland, may exist on a spectrum between perfect democracy and full authoritarianism without fully embracing one side.

3.b. Towards Democratic Consolidation: Divergent Definitions, Contradictory Thresholds
If the threshold for achieving the title of a well-functioning democracy were to merely have a majority of the 28 elements listed in the table above existing in one's country, then Poland's rating would not be too different from that of fellow EU members France, Italy, or Austria. However, numbers or lists cannot alone produce a comprehensive picture of the current situation in Poland, in part because assessing its democratic status requires identifying and understanding subtle factors that gradually erode Polish democracy over time. Currently, the study of the incremental erosion

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[76] Ibid
[77] Skaaning, Svend-Erik, The Global State of Democracy Indices Methodology Conceptualization and Measurement Framework: Version 2, International Institute for Democracy and Electoral Assistance, 2018.
[78] IDEA, The Global State of Democracy 2019: Addressing the Ills, Reviving the Promise. November 19, 2019. *https://www.idea.int/publications/catalogue/global-state-of-democracy-2019*
[79] Ibid

of democracy remains underdeveloped, and emerging scholarship on the topic primarily relies on old, binary definitions of authoritarianism and democracy that fail to fully explain trends in Poland. Little academic work has been published on democratic backsliding occurring in democracies that still technically function as such. Furthermore, existing scholarly work on the topic reveals the challenging nature of explaining gradual democratic erosion, as experts tend to disagree on the definition of key indicators of democracy and thresholds for reaching democratic consolidation.

In his book, *Developing Democracy: Toward Consolidation*, political scientist Larry Diamond hinted at the complexity of defining democratic thresholds when he wrote that one can have "electoral democracy" absent achieving a "liberal democracy."[80] Fellow political scientist Sheri Berman offers insight on this conundrum. Berman cites scholars' conception of liberal democracy as one reason for misunderstanding recent developments in Europe.[81] In *Democracy and Dictatorship in Europe*, Berman argues that the notion of liberal democracy combines two concepts that are often at odds with each other.[82] With its "collective empowerment of citizens" through elections, democracy is "not the same" as liberalism – a concept that, according to Berman, is best understood as "respect for the rule of law and minorities' rights as well as a commitment to treat all members of the polity as equals."[83] Importantly, the author also reminds readers that liberal democracy is not only rare but also a relatively recent achievement in Europe. Achieving liberal democratic status is a "marathon," and the numerous obstacles along the way "are often a legacy of the past" since no nation building its democracy has ever begun with a blank slate.[84] For these reasons, Berman writes that the process of democratization does not imply anything about "the durability or health of democracy."[85] Furthermore, she notes that determining when a democracy has achieved consolidation is especially difficult because no qualitative or quantitative assessment of a country's democratic status can be complete without understanding the particular manner in

[80] Diamond, Larry, *Developing Democracy: Toward Consolidation*, Johns Hopkins University Press, 1999. [Also quoted in: Plattner, Marc F. *Liberalism & Democracy – Can't Have One Without the Other*. Foreign Affairs Magazine, March/April 1998. https://www.foreignaffairs.com/articles/1998-03-01/liberalism-and-democracy-cant-have-one-without-other]
[81] Muller, Jan-Werner. "One Damn Thing After Another: The Long Roots of Liberal Democracy's Crisis." The Nation, May 5, 2020. https://www.thenation.com/article/culture/sheri-berman-adam-przeworski-democracy-dictatorship-crisis-book-review/
[82] Berman, Sheri. *Democracy and Dictatorship in Europe*. Oxford University Press, 2019.
[83] Ibid
[84] Muller, Jan-Werner. "One Damn Thing After Another: The Long Roots of Liberal Democracy's Crisis." The Nation, May 5, 2020. https://www.thenation.com/article/culture/sheri-berman-adam-przeworski-democracy-dictatorship-crisis-book-review/
[85] Berman, Sheri. *Democracy and Dictatorship in Europe*. Oxford University Press, 2019.

which democratic arrangements became the norm in a given nation.[86] Although Berman herself acknowledges the current threats to democracy in Poland, her work also provides a nuanced, foundational understanding for analyzing PiS policy in the context of Poland's longer and, arguably, still-ongoing journey of democratic consolidation.

Rachel Vanderhill and Michael E. Aleprete Jr. write in *International Dimensions of Authoritarian Persistence: Lessons from Post-Soviet States* that Poland neither embraces democracy nor authoritarianism fully.[87] Indeed, Poles have supported popular government leaders who have moved to centralize executive power, and the current generation of PiS leaders has labored to break the constraints of checks and balances. As a result, a number of EU leaders and global analysts promote the belief today that authoritarianism not only persists aggressively in Poland, but the drivers behind the existence of authoritarianism go beyond Poland's "ability to resist international pressures" for democratization.[88] To decipher or make sense of these electoral-then-governance shifts in Poland necessitates distinguishing between the quality of democracy, the consolidation of democracy, and its transition processes.[89] Additionally, if Poland is in fact trending away from a democratic system of governance, then the opposing system, authoritarianism, must be understood as well, and will be further discussed in Section 5.

3.c. Understanding Democratic Backsliding

Having discussed the definitions of democracy, methods for measuring democracy, and contradictions existing within democracy-focused scholarly work, this thesis aims to propose a framework for explaining trends in Poland. This framework for explaining democratic backsliding in Poland revolves around the concept of polarization. Polarization is understood here to mean "the degree to which people on one side of the partisan divide dislike those on the other."[90] In Poland today, social and political polarization has reached an unprecedented level. The primary effects of these developments include fueling societal anger, undermining trust in public institutions, and damaging the quality of policy processes. Perhaps most importantly, extreme polarization in Poland also facilitates PiS power grabbing by encouraging the party to "reinvigorate

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[86] Berman, Sheri. "The Everyday Decisions that Undermine Democracy: Anne Applebaum Explores Why People are Drawn to Authoritarianism." *The Washington Post*, July 23, 2020.
[87] Vanderhill, Rachel and Michael E. Aleprete Jr. *International Dimensions of Authoritarian Persistence: Lessons from Post-Soviet States.* Lexington Books 2013, page 5.
[88] Ibid, page 4.
[89] Ibidem
[90] Fomina, Joanna. "Of 'Patriots' and Citizens: Asymmetric Populist Polarization in Poland", in Thomas Carothers and Andrew O'Donohue (eds), *Democracies Divided: The Global Challenge of Political Polarization*, Brookings Institution Press, September 2019, page 127.

old divisive narratives" that keep its electoral base both mobilized and divided from the opposing camp.[91] Polarization is the primary contributing factor that creates an environment in Poland that is conducive to democratic backsliding by allowing the governing party to circumvent or outright destroy democratic checks and balances while maintaining popular support.

In analyzing the key contributing factors to Poland's democratic backsliding, this thesis draws on theories outlined in David Waldner and Ellen Lust's article, *Unwelcome Change: Coming to Terms with Democratic Backsliding*. Waldner and Lust confirm that despite nearly infinite debates over what factors lead to democratic transition, breakdown, and consolidation as well as the resilience of authoritarianism, there exists a huge gap in academic understanding of democratic backsliding. Since academia follows global trends – in this case, the up-and-down nature of democratic transitions and consolidation occurring in 'waves' – the amount of rigorous literary reviews and data collection has followed suit and largely ignored "incremental" forms of backsliding, such as the ongoing developments in Poland. Interest in these incremental movements is recent and underdeveloped; therefore, "no crystallized, coherent literature" that evaluates "rival" hypotheses exists at this time.[92] Considering these discrepancies, *Unwelcome Change* relies on relevant pre-existing theories to explain backsliding.

Waldner and Lust use the most relevant pre-existing theories to investigate which current tools offer insight into the backsliding phenomenon. Their focus is on backsliding within democratically elected government structures, and the authors therefore rely on commonly understood descriptions of 'backsliding', i.e. the erosion of democracy or weakening of its foundations without its complete erasure occurring.[93] The theories they describe are organized into six 'families': 1) Agency-based theories, 2) Theories of political culture, 3) Political institutions, 4) Theories of political economy, 5) Theories of social structure and political coalitions, and 6) International factors. Importantly, a threshold is defined for when states fall into the 'backsliding' territory: "a case of backsliding requires degradation in at least two of these three dimensions of democratic

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[91] Ibid
[92] Waldner, David and Ellen Lust. *Unwelcome Change: Coming to Terms with Democratic Backsliding*. Annual Review of Political Science, January 2018.
[93] For example, an election that is less fair but technically still meets the criteria for a 'free and fair' democratic election process

governance: competition, participation, and accountability."[94] For Poland, accountability and competition are the most relevant dimensions in terms of what contributes to backsliding.

To start with the first theoretical approach discussed by Waldner and Lust, agency-based theories rely on the lack of structural constraints and offer too little empirical analysis. However, the "superpresidential hypothesis" in this family may hold some explanatory power for the Polish case. In this framework, the effect of executive-level developments is central to the weakening of democracy.

Secondly, theories of political culture are centered mainly on cultural foundations of democracy. These models cannot offer a significantly explanatory model for measuring backsliding in large part due to the fact that culture evolves and changes with time. In order for this family to sufficiently explain backsliding trends, a state's culture must explain its transition to democracy as well as the partial reversal of that transition.[95]

Thirdly, theories built on the role of political institutions have at least one key flaw, the problem of determining causal influence. As we have seen in Poland, institutions and outcomes can be directly affected or indirectly influenced by powerful government actors, thus complicating the explanation of the role and agency of institutions in democratic backsliding. Still, it can be said that backsliding or erosion of democracy is more likely to occur when institutions fail to hold political actors accountable or, in other words, fail to be fully effective in providing or enforcing checks and balances. This remains true even where citizens and government institutions "may share the executive's preference for less democratic accountability," which is true for Poland.[96]

Fourthly, theories of political economy offer an alternative to the outdated explanation of economic performance dictating states' ability to democratize. Bermeo and Yashar, for example, demonstrate that the level of domestic income does not in fact dictate or predict democratic transition, particularly not for so-called third wave democracies.[97] Numerous studies confirm that even where high levels of inequality exist, democratic transitions not only can but have taken place, including recently. However, it can be said that democracies with low levels of development or high levels of inequality remain especially vulnerable to backsliding. An analysis of the Polish

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[94] The authors are *"viewing backsliding as composed of clearly intended efforts to change some combination of competitiveness, participation, and accountability."* – Waldner, David and Ellen Lust. *Unwelcome Change: Coming to Terms with Democratic Backsliding*. Annual Review of Political Science, January 2018.
[95] Ibid
[96] Ibid
[97] Bermeo, Nancy and Yashar, Deborah J. *Parties, Movements and Democracy in the Developing World*. Cambridge University Press, 2016.

economy would be necessary in order to determine whether developments in Poland confirm the assertion that inequality can cause a state to be especially vulnerable to backsliding. Although exhaustive economic analysis is beyond the scope of this thesis, an analytical assessment of current developments in Poland will be provided in Section 5.

Fifthly, theories based on social structure and political coalitions may be most relevant to Poland in its early years of democratic institution building, and especially during the country's economic shift to embracing capitalist institutions.[98] However, the importance of coalitions and the balance of powers between groups, which is also listed under the 'social structure and political coalitions' umbrella, is highly relevant to Poland. Lust and Waldner identify this coalition framework as being perhaps the most fruitful approach for understanding the gradual erosion or weakening of democracies, although this family of theories, too, remains woefully understudied.

Finally, the set of theories referred to as the 'international factors' family dictates that an external actor must serve as the agent of change in causing backsliding. Therefore, this family has limited explanatory power for current developments in Poland. However, the Poland-EU relationship is relevant to this framework, especially when looking back at the early accession phase.

Waldner and Lust's coalition-centered theories may explain part of Poland's backsliding trend, but this framework also highlights an additional relevant issue: polarization. Thomas Carothers and Andrew O'Donohue's recent book, *Democracies Divided*, analyzes the increase of political polarization in Poland post-2015 and draws on the work of Joanna Fomina. In her chapter, Fomina asserts that the division between two rival camps of Poles accounts for the country's uniquely "asymmetric and populist" form of political polarization.[99] Not only does this work explain the origins and ideological underpinnings of the two 'camps' present in Polish political life, but it also describes how the cohesiveness of the PiS-linked camp continues to ensure its access to power.

In fact, of the theories that Waldner and Lust outline, all of the families that are most relevant to the Polish case also relate to the issue of polarization. For example, regarding executive power, the agency-based theory family explains how power-hungry leaders can initiate backsliding when institutions fail to regulate government actions. In the Polish case, executive actors are able to weaken democracy as a direct result of the divide between the too-strong executive leadership and

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[98] Rueschemeyer, Dietrich and Evelyne Huber and John D. Stephens. *Capitalist Development and Democracy*. Contemporary Sociology, Volume 72(3). Cambridge University Press, 1992.
[99] Fomina, Joanna. "Of 'Patriots' and Citizens: Asymmetric Populist Polarization in Poland", in Thomas Carothers and Andrew O'Donohue (eds), *Democracies Divided: The Global Challenge of Political Polarization*, Brookings Institution Press, September 2019, page 126.

the institutions that are unable to limit PiS steamrolling. The fact that the super-presidential hypothesis can be applied to Poland is a direct result of the effects of polarization, namely that executive actors can easily use existing partisan divides to their advantage.

Theories of political economy are also, at their core, linked to polarization when applied to Poland. As Bermeo and Yashar explain, democracies with high levels of inequality can be especially vulnerable to backsliding. In Poland, the division between the 'haves and have nots' in the economy directly correlates with Poland's two opposing political-cultural camps, one of which consistently supports PiS despite the party's contributions to eroding democracy. Section 5 will explain how intense division between Polish citizens has helped to create an environment that is conducive to democratic backsliding, after the following section details some of PiS's attempts to consolidate power and dismantle Poland's democratic institutions.

4. *Poland's Democratic Backsliding in Focus: Courts and the Media Endangered*

The Polish government received global backlash due to a series of policies that threaten Poland's ability to fully function as a democracy. International outrage over the expansion of powers gained by Poland's ruling party was provoked by a series of developments, including drastic changes to policies and legal frameworks that continue to affect Poland today. In some cases, policies enacted by PiS may have altered the nature and purpose of existing institutions enough to erode the very foundations of Polish democracy. In order to understand the motivation behind actions such as the European Commission's triggering of Article 7 procedures for the first time, the Polish government's policies must be reviewed objectively and in-context.

The following section focuses on those actions that have been most impactful in terms of causing democratic backsliding in Poland, namely PiS policies regarding the judiciary and media. However, it is also important to note that the Law and Justice party has made sweeping reforms that affect a wide range of Polish citizens and cultural-political issues. These changes include discrimination against members of the LGBTQ community, undermining civil liberties and the work of NGOs, altering voting systems and educational curricula, and politicization of the Polish armed forces and civil service. One example of the party's sweeping reforms is the establishment of 'LGBT free zones' in which citizens of participating regions are free to discriminate against members of the LGBTQ community. Although the gesture is largely symbolic, the regions that have declared themselves 'LGBT free' now include approximately one-third of Poland's territory. A second example is Poland's electoral code, which PiS attempted to alter just before the original

date scheduled for the 2020 presidential elections.[100] Notably, these attempts were halted after Poland's highest court ruled that this change would be a violation of the Constitution.[101]

Since PiS has come to power, the Polish government has been faulted for intolerance and failure to protect the rights of citizens, especially those belonging to minority groups, by the European Parliament, the European Court of Human Rights, Amnesty International, the United Nations (United Nations Human Rights Committee, etc.), and numerous other organizations.[102] This section outlines the most internationally controversial and domestically impactful changes made by the Law and Justice Party, paying special attention to the independence of the judiciary and media.

4.a. The Judiciary: Controversy in Poland's Highest Courts

Many of the events, from 2015 to the present day, in Poland that have raised concern about the country's democratic status are closely linked to the Polish judiciary and its various decision-making bodies. Along with increased control over the media, PiS's restructuring of the judiciary represents the most notable policy area in which the Polish government's actions have contributed to democratic backsliding.

Since PiS reclaimed power in 2015, the first and still most cited assault on the functioning of the judicial branch occurred when PiS reorganized the Constitutional Court. However, PiS policies have affected a wide range of legal institutions and actors in Poland. Concerns regarding the rule of law and separation of powers are not limited to the Constitutional Court or the National Council of the Judiciary, both of which are outlined in this section. These and other collective bodies, as well as individual lawyers, judges, and other actors who play important roles in Poland's judicial system have been affected by PiS's increased control.[103] Similar to PiS's policies for exerting its influence on the media, the party's policies for the judiciary have been justified in the name of increasing government accountability. In practice, however, PiS policy in both areas is used as an instrument of political control.[104]

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[100] Charlish, Alan. "Poland's PiS Change Electoral Rules Ahead of Presidential Vote", *Reuters*, March 28, 2020. *https://www.reuters.com/article/us-health-coronavirus-poland/polands-pis-change-electoral-rules-ahead-of-presidential-vote-idUSKBN21F0AA*

[101] Wanat, Zosia. "Polish Government Rams Through Electoral System Changes", *Politico*, April 6, 2020. *https://www.politico.eu/article/polish-pis-rams-through-electoral-system-changes/*

[102] O'Dwyer, Conor; Schwartz, Katrina Z. S., *Minority rights after EU enlargement: A comparison of antigay politics in Poland and Latvia*, Comparative European Politics; London Volume 8, Issue 2, (Jul 2010): 220-243.

[103] Zoll, Fryderyk and Wortham, Leah. *Judicial Independence and Accountability: Withstanding Political Stress in Poland*. Fordham International Law Journal 875, 2019.

[104] Ibid

The Constitutional Court crisis of 2015 marked the beginning of these trends and remains one of the most notable policy changes from PiS. The Constitutional Court (also called the Constitutional Tribunal or Trybunał Konstytucyjny) represents one of the three superior courts in Poland, the others being the Supreme Court and the High Administrative Court. According to Poland's constitution, the Constitutional Court's primary task is to safeguard the constitution, including ensuring conformity between statutes and other normative acts, and reviewing appeals from citizens whose constitutional rights or freedoms may have been infringed upon.[105] Additionally, the Court must hold the President and others accountable in the event of an infringement on the constitution or statutes.[106] Dr. Marcin Matczak, together with Oxford University's Foundation for Law, Justice and Society, has asserted that the reversal of the Constitutional Tribunal's role occurred in two stages: first, there was the "legislative offensive" against the court; second was the assault on the independence of the judiciary.[107]

The first notable event in the transformation of the court's role began on November 19, 2015, less than one month after PiS gained control of the Sejm. The new governing party dismissed 5 judges from the Tribunal, claiming that their appointment had been unlawful. PiS's claim was in fact justified since the previous government (led by Civic Platform) overstepped their rights by electing 5 judges, even though the Sejm is only constitutionally allowed to appoint 3 judges to the Tribunal. This "original sin" of tampering with the Court gave PiS a "convenient pretext to commence remedial action" regarding the legal status of the Tribunal."[108]

In October 2015, President Duda lawfully refused to swear in the 5 judges chosen by the previous parliament, which was controlled by PO. However, when newly emboldened PiS leaders chose 5 different judges to fill the same spots on the Court, Duda obliged and swore in all those chosen by PiS in a closed ceremony on December 2, 2015. Meanwhile, the remaining members of the Constitutional Court ruled on the appointment of the 5 judges by the previous ruling party and declared that 3 of the 5 appointments remained constitutional and therefore PiS could only legally dismiss two of the PO-chosen judges. However, since the President had already sworn in 5 different judges the night before, allowing three more judges onto the Court would have violated

[105] *The Constitution of the Republic of Poland.* April 1997. [Official translation] Available at: *https://www.refworld.org/docid/3ae6b5574.html*
[106] Ibid
[107] Matczak, Marcin. *Poland's Constitutional Crisis: Facts and Interpretations.* Foundation for Law, Justice and Society. Oxford University Press, 2018.
[108] Mazur, Dariusz and Waldemar Żurek. "So Called "Good Change" in the Polish System of the Administration of Justice." *Rule of Law in Poland by Foundation for Poland.* October 2017.

the maximum number of 15 judges allowed. Today, more than half of the Constitutional Court judges were nominated by PiS, and 3 of those judges were appointed in breach of the Constitution.[109]

PiS not only appointed judges in breach of Polish constitutional law and blocked the accession of the previous ruling party's appointees, but also the PiS-controlled Sejm altered the voting system for the Constitutional Court. As of December 2015, a two-thirds majority is required for decision-making in the Court. As a result of the same law passed by the Sejm in 2015, at least 13 judges must participate in rulings by the Court (the mandatory participation requirement was previously 9 out of the 15 total judges). The timeline in which cases are heard was also altered. The Tribunal now hears cases according to when they are received as opposed to enforcing a mandatory waiting period of 3-6 months.

Additional changes reveal a more substantial expansion of PiS power. For example, the nomination of PiS-loyal Julia Przyłębska for the President of the Tribunal. Przyłębska was nominated using legally dubious methods, including having only 6 judges rule on her nomination, 3 of whom were illegally appointed by PiS. One of Przyłębska's first actions as president was to send the deputy of Andrzej Rzepliński, the former President of the Court, on indefinite leave.[110] This dismissal mirrored the new Minister of Justice's actions to remove Rzepliński ahead of Przyłębska's appointment. Przyłębska has also blocked old members of the Tribunal from Court proceedings despite the fact that they were legally elected and allowed to participate.[111]

In addition to the President of the Tribunal, other members of Poland's judiciary have also gained increasing power as a direct result of PiS policy – for example, the Minister of Justice who now also serves as prosecutor general. Due to post 2015-elections restructuring, the Polish Minister of Justice now has "considerably expanded power" over both those who prosecute and those who hear the cases prosecuted.[112] This includes control over the selection of court presidents and multiple other aspects of judges' careers, such as judicial discipline. These changes to the functioning of the office of the Minister of Justice were made possible through drastic restructuring

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[109] Ibid

[110] Davies, Christian. "Hostile Takeover: How Law and Justice Captured Poland's Courts." *Freedom House*, 2018. *https://freedomhouse.org/report/analytical-brief/2018/hostile-takeover-how-law-and-justice-captured-polands-courts*

[111] Mazur, Dariusz and Waldemar Żurek. "So Called "Good Change" in the Polish System of the Administration of Justice." *Rule of Law in Poland by Foundation for Poland*. October 2017.

[112] Zoll, Fryderyk and Wortham, Leah. *Judicial Independence and Accountability: Withstanding Political Stress in Poland*. Fordham International Law Journal 875, 2019.

by PiS. In January 2016, the party began the process of merging the Office of the Public Prosecutor General with the Minister of Justice. As a result, the Minister now has "supervisory powers over the organization of prosecution" and the "authority to intervene" in particular prosecutions and "give orders to the inferior prosecutors regarding their action in prosecutions."[113] In other words, as a result of PiS legislative changes, the Minister of Justice can directly influence the outcome of cases.[114] After the new Minister, Zbigniew Ziobro, moved to dismiss the previous President of the Tribunal, another judge on the Tribunal resigned. So, PiS policy, and especially actions taken by Ziobro and Przyłębska allowed PiS-appointees – including the 'non-judges' who were illegally appointed but nevertheless allowed to participate – to gain a majority on the Tribunal.

Prominent members of the Polish judiciary who were not loyal to PiS but remained in positions of power unsurprisingly voiced concerns over the drastic restructuring of the judicial system. The governing party, however, was able to suppress this internal backlash. In March 2017, a judgement was made by the National Council of the Judiciary and, following this decision, three out of the four dissenting judges expressed harsh criticism of what they considered to be an unlawfully constituted panel.[115] These criticisms from the dissenting members of the panel were widely broadcasted, including video streams.[116] In order to mitigate the risk of similar problems occurring in the future, new "Internal Rules" for the functioning of the Tribunal were adopted in July 2017.[117] The new rules "seriously limit" the independence of Tribunal judges and give even more power to the President, Julia Przyłębska, who continues to act as an ally for PiS.[118]

The European Parliament has been one of the most vocal critics of PiS's changes to the Constitutional Tribunal. In the EP's Committee on Civil Liberties, Justice and Home Affairs' Draft Interim Report for 2019-2024, its members noted that Poland's rulings from December 2015 and July 2017 "seriously affected the Constitutional Tribunal's independence and legitimacy."[119] The

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[113] Mazur, Dariusz and Waldemar Żurek. "So Called "Good Change" in the Polish System of the Administration of Justice." *Rule of Law in Poland by Foundation for Poland*. October 2017.
[114] Ibid
[115] European Commission for Democracy through Law (Venice Commission). *Poland: The Constitutional Tribunal Act of 22 July 2016*. Journal of Laws of the Republic of Poland (1157), August 2016. Article 1(10) of the Statute of 22 December 2015 (found unconstitutional as a whole by the CT on 9 March 2016, K 47/15); Article 38 (3-6) of the statute on the CT of 22 July 2016 (found partly unconstitutional on 11 August 2016, K 39/16). *https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-REF(2016)052-e*
[116] Wojciech Sadurski, *Poland's Constitutional Breakdown*, Oxford University Press, July 2019.
[117] Zoll, Fryderyk and Wortham, Leah. *Judicial Independence and Accountability: Withstanding Political Stress in Poland*. Fordham International Law Journal 875, 2019.
[118] Mazur, Dariusz and Waldemar Żurek. "So Called "Good Change" in the Polish System of the Administration of Justice." *Rule of Law in Poland by Foundation for Poland*. October 2017.
[119] European Parliament Committee on Civil Liberties, Justice and Home Affairs, Draft Interim Report, 2019-2024: Motion for a European Parliament Resolution & Explanatory Statement, May 13, 2020.

Committee also invited the Commission to consider launching an infringement procedure in relation to the legislation on the Constitutional Tribunal, due to the lack of opportunity for independent and effective constitutional review in Poland.[120] Of particular concern to the Committee was government influence on Poland's National Council of the Judiciary (NCJ), whose members are responsible for ensuring the independence of courts and judges. The Committee's Interim Report notes that the judicial community in Poland lost the power to delegate representatives to the NCJ, following reforms enacted by PiS from 2017-2018.[121] PiS's influence in the election of judges to the NCJ has drastically changed as a result of recent reforms, in large part due to the fact that the Sejm is now responsible for NCJ appointments. Previously, the majority of NCJ appointees were chosen by their peers from the judicial community in Poland. Moreover, in 2018, PiS replaced all NCJ judges who were elected in accordance with the pre-2017 system. For these reasons, the functioning of the NCJ and PiS's influence on the body have been harshly criticized.

The Council of Europe has also expressed concern regarding judicial independence under PiS. The GRECO (Group of States Against Corruption), established in 1999 to monitor compliance with the Council's anti-corruption standards, produced a report in June 2018 outlining the PiS policies that have altered how fundamental Polish institutions function. The GRECO Report explicitly mentions the merging of the Office of the Prosecutor General with the Minister of Justice and describes this policy change as "a factor giving rise to particular concern in terms of its effects on the separation of powers and the independence of courts and judges."[122]

In some cases, PiS's attempt to control the judiciary has been successfully thwarted. For example, a crisis in 2017-2018 regarding Sejm's new mandatory retirement of Supreme Court judges was eventually repealed and those members who were forced out resumed their positions within the Court. However, in many instances, attempts to keep Poland's judiciary independent and in line

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[120] Venice Commission Opinion of 14-15 October 2016, para. 128; UN, Human Rights Committee, Concluding observations on the seventh periodic report of Poland, 31 October 2016, paras 7-8; Commission Recommendation (EU) 2017/1520.

[121] European Parliament Committee on Civil Liberties, Justice and Home Affairs, Draft Interim Report, 2019-2024: Motion for a European Parliament Resolution & Explanatory Statement, May 13, 2020.

[122] Council of Europe. *Group of States Against Corruption. Fourth Evaluation Round: Corruption Prevention in Respect of Members of Parliament, Judges and Prosecutors, Addendum to the Second Compliance Report: Poland.* 2018.

with the nation's democratic values have been quickly stifled by PiS's legislative maneuvers, as was the case with the limiting judges' ability to express dissenting opinions in 2017.[123]

These and other changes to the Polish judicial framework have already had far-reaching effects, especially domestically. Wojciech Sadurski points out some key findings regarding the effects of PiS's increased influenced in his recent book, *Poland's Constitutional Breakdown*: All new judges elected by a PiS parliamentary majority (with only one exception) have "behaved predictably and voted in lockstep" with PiS's decisions in every case considered by the Constitutional Court since 2015.[124] As of 20 December 2017, the crisis had, according to the European Commission, extended to include "13 laws affecting the entire structure of the justice system in Poland."[125]

4.b. The Media: Limiting Independence through Restructuring

Although public media in Poland has long been susceptible to political interference, under PiS, it has been transformed into "an outright instrument of propaganda."[126] The European Parliament's previously mentioned report from 2019-2024, not only addressed persistent concerns over the independence of the Polish judiciary, but also noted that the "dominance of the ruling party" in Poland's public media drastically increases PiS's advantage, especially with regard to election outcomes. Of particular concern to the EU and other international organizations have been the sweeping legislative changes passed in the Sejm that have enabled substantial government influence over Telewizja Polska (also known as TVP or Polish Television).[127]

Before 2016, chairpersons of the public media and members of its supervisory boards were chosen by the National Council of Broadcasting and Television, or Krajowa Rada Radiofonii i Telewizji (KRRiT).[128] The KRRiT is "a constitutional organ" charged with "safeguard[ing] the public interest regarding radio broadcasting and television."[129] Post PiS's rise to power in 2015, these duties were given to a new institution named the Council of National Media, which meant that a

[123] Zoll, Fryderyk and Wortham, Leah. *Judicial Independence and Accountability: Withstanding Political Stress in Poland.* Fordham International Law Journal 875, 2019.
[124] Wojciech Sadurski, *Poland's Constitutional Breakdown*, Oxford University Press, July 2019.
[125] *European Commission*, "Rule of Law: European Commission Acts to Defend Judicial Independence of Poland," December 20, 2017. *https://ec.europa.eu/commission/presscorner/detail/en/IP_17_5367*
[126] Stanley, Bill and Ben Stanley. *Whose Poland Is It to Be? PiS and the Struggle Between Monism and Pluralism.* East European Politics, Volume 36(3). Routledge, 2020.
[127] Surowiec, Paweł and Magdalena Kania-Lundholm and Małgorzata Winiarska-Brodowska. *Towards Illiberal Conditioning? New Politics of Media Regulations in Poland (2015–2018)*. East European Politics, Volume 36(1). Routledge, 2020.
[128] Stanley, Bill and Ben Stanley. *Whose Poland Is It to Be? PiS and the Struggle Between Monism and Pluralism.* East European Politics, Volume 36(3). Routledge, 2020.
[129] Ibid

body created by a statute now had "a more important role in regulating public media" than its constitutional equivalent.[130]

According to the Polish Constitution, the KRRiT is responsible for ensuring compliance to national regulations for broadcasting, including for the largest outlet, Telewizja Polska (TVP). Not only is the head of this decision-making body a PiS politician (which violates the Polish constitution), but in fact every member of the Council was chosen by Law and Justice leadership.[131] Recently, TVP has also been called into question for its unjustified firing of numerous anti-PiS journalists.[132] This issue regarding PiS influence on TVP is of particular importance for rural communities in Poland. A survey outlined in the New York Times, which is further backed up by data collected by Reporters Without Borders, estimates that 50% percent of residents living in non-urban regions of Poland receive news exclusively from TVP. [133]

These shifts were made possible primarily due to two bills introduced by PiS: the 'Big Media Act' of 2016 and the 'Small Media Act' of 2015, both of which aided the party in its quest to gain control over Poland's public media. The 'Small Media Act' marginalized the KRRiT's role, in part by triggering widespread staffing changes throughout Poland's media sector.[134] This 2015 bill gave the Minister of State Treasury authority over "all public media", including the ability to "hire and fire the management of public television and radio broadcasters," which were previously responsibilities held by the independent Public Broadcasting Council in Poland.[135] These changes were criticized by many prominent institutions – for example, the Council of Europe described these legislative changes "unacceptable in a genuine democracy."[136] The 'Big Media Act', or the National Media Council Act of 2016, was meant to fix the problems that arose from the previous legislation, including regulating the appointments of media executives. However, the 2016 bill still

[130] Ibid

[131] *The European Centre for Press & Media Freedom*. "Three Critical Reports Conclude Poland's Public Broadcaster is Biased." Mapping Media Freedom Project. August 9, 2019. *https://mappingmediafreedom.org/2019/08/06/three-critical-reports-conclude-polands-public-broadcaster-is-biased/*

[132] *Reporters Without Borders*. "Unjustified Firing of Journalists from Poland's State Broadcaster." Targeted News Service, February 4, 2020.

[133] Lyman, Rick. "Like Trump, Europe's Populists Win Big with Rural Voters", The New York Times, December 6, 2016. *https://www.nytimes.com/2016/12/06/world/europe/europe-poland-populism-rural-voters.html*

[134] Surowiec, Paweł and Magdalena Kania-Lundholm and Małgorzata Winiarska-Brodowska. *Towards Illiberal Conditioning? New Politics of Media Regulations in Poland (2015–2018)*. East European Politics, Volume 36(1). Routledge, 2020.

[135] Ibid

[136] Rankin, Jennifer. "Brussels Launches Unprecedented Inquiry into Rule of Law in Poland." *The Guardian*, January 2016. *https://www.theguardian.com/world/2016/jan/13/ec-to-investigate-polish-governments-controversial-new-laws*

served PiS interests by transforming the legal status of the National Media and its governing bodies, which brought Poland's public media "closer to the Polish state structures and party politics" and away from its regulator, the KRRiT.[137]

The European Parliament has expressed concern over PiS's control of TVP and other networks and in respect to the actual rhetoric broadcasted by Polish media outlets.[138] In the Interim Report for 2019-2024, the Committee noted not only PiS's "dominance" of media outlets, but also the "biased and intolerant" rhetoric broadcasted by TVP ahead of elections in 2019 and 2020.[139]

In their piece for the East European Politics Journal, Surowiec, Lundholm, and Winiarska-Brodowska assert that PiS's media policies are "symptomatic" of the party's overall governance style that was first revealed during the Constitutional Crisis of 2015.[140] According to these scholars, these events in Poland not only have implications for government control and corruption, but also have the power to "re-define state-citizens relations."[141] This could be in part why Sadurski and others have cautioned that "the cumulative effects of PiS policy" are greater than the sum of its parts.[142] When it comes to assessing the impact of PiS actions on the role of the media and judiciary, one must look at the "comprehensiveness and the cumulative effect" of these alterations in Poland as well as the individual elements.[143]

5. Explaining Democratic Backsliding in Poland: Political Polarization and Its Effects

In focusing on polarization, this thesis provides a robust understanding of the social, historical, economic, and political factors that have created an environment that is conducive to democratic backsliding in Poland. However, this framework based on polarization cannot fully explain why Poland has experienced democratic backsliding. Developments in Poland, including the effects of PiS legislation, are the result of a combination of factors, and no single theoretical framework can

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[137] Surowiec, Paweł and Magdalena Kania-Lundholm and Małgorzata Winiarska-Brodowska. *Towards Illiberal Conditioning? New Politics of Media Regulations in Poland (2015–2018)*. East European Politics, Volume 36(1). Routledge, 2020.

[138] European Parliament Committee on Civil Liberties, Justice and Home Affairs, Draft Interim Report, 2019-2024: Motion for a European Parliament Resolution & Explanatory Statement, May 13, 2020.

[139] OSCE/ODIHR, Limited Election Observation Mission Final Report on the parliamentary elections of 13 October 2019, Warsaw, 14 February 2020.

[140] Surowiec, Paweł and Magdalena Kania-Lundholm and Małgorzata Winiarska-Brodowska. *Towards Illiberal Conditioning? New Politics of Media Regulations in Poland (2015–2018)*. East European Politics, Volume 36(1). Routledge, 2020.

[141] Ibid

[142] Sadurski, Wojciech. *How Democracies Die (in Poland): A Case Study of Anti-Constitutional Populist Backsliding*. Sydney Law School Research Paper 18(01), 2018.

[143] Ibid

provide a perfect cause-and-effect explanation. However, using polarization to unpack developments in Poland offers an opportunity for investigating the primary factors that have made the Polish political landscape conducive to backsliding since 2015. This section aims to explain how the ruling party has been able to take actions that have caused democratic backsliding in Poland by applying the theoretical framework outlined in Section 3 to the Polish context.

Keeping the underlying theoretical framework of polarization in mind, this section will apply the theories explained by Waldner and Lust to the case study of Poland. Waldner and Lust are far from the only scholars who have written relevant material on this topic, however. Multiple political science theories suggest that high degrees of polarization lead to increased support for incumbents bent on undemocratic transformation, even by those voters who are committed to the general principle of democracy.[144] In the British Journal of Political Science, Milan Svolik explains why voters simultaneously profess democratic values while supporting candidates who seek to subvert democracy: when voters are highly partisan in their policy preferences, they are more willing to accept non-democratic practices and reforms by incumbents as long as they expect their partisan interests to be fulfilled.[145] Scholars McCoy and Somer describe the interplay between polarization and democratic erosion as the "gradual deterioration of the quality of democracy from within, such as the weakening of institutional checks and balances, electoral processes, and/or civil liberties."[146] Although not all systems experiencing polarization meet McCoy and Somer's threshold for 'pernicious polarization', the authors mention Poland as an example for explaining this extreme form. Opposing electorate groups in a perniciously polarized system, like Poland's, will fundamentally disagree on ongoing transformations in their country that advance or undermine democracy. In other words, polarization has created a system in which the opposing blocs have significantly different opinions regarding whether democracy is progressing or backsliding.[147]

5.a. Applying Existing Theories to the Polish Context

The first grouping of theories to be applied to the Polish context is the agency-based theories family. These theories contend that the role of executive actors is central to the weakening of democracy, which certainly has explanatory power for the Polish case. Of particular note is Anderson, Fish, Hanson, and Roader's work on power-hungry government executives and the

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[144] Svolik, Milan. *Which Democracies Will Last? Coups, Incumbent Takeovers, and the Dynamic of Democratic Consolidation* (2014) 45 *British Journal of Political Science* 715.
[145] Ibid
[146] Somer, Murat and Jennifer McCoy. *Transformations through Polarizations and Global Threats to Democracy*. ANNALS, APPSS (681), January 2019.
[147] Ibid

'superpresidential hypothesis.' Anderson and his colleagues assert that when institutions fail to inhibit a power-hungry leader, presidents are "free to initiate backsliding." [148] This cause-and-effect relationship is relevant to Poland and its current PiS leadership. Jarosław Kaczyński and other PiS leaders have not only benefited from weak institutions but worked to dismantle constraints to their party's power: For example, in exerting increased control of media outlets, in stifling dissenters who remain largely unprotected by weak civil society institutions and/or the lack of legal constraints on PiS power, and through their assault on Poland's judicial branch.

In describing theories of political culture, Lust and Waldner touch on the complicated nature of applying these theories by noting that, in order for a political culture theory to be sufficiently useful, the culture it's applied to must be neither too modern nor too traditional.[149] In Poland's case, its culture is not too traditional as to prohibit the formation of democracy. Rather, its traditional values are underscored by the ruling party in order to deepen partisan divides. These trends may be relevant to theories of political culture but cannot be sufficiently explained by this family alone. Nevertheless, the political culture group of theories could help to explain the inherent contradiction between Poles' consistent support for the EU and the concerns that PiS and its most passionate supporters express regarding European secular values threatening Polish sovereignty and identity.

Political institutions-based theories are especially applicable to Poland's party system. Studies conducted by Mainwaring and Powell illustrate how "party-system fractionalization, especially in interaction with presidential systems, undermines democratic stability."[150] Poland may represent what these authors refer to as a "dominant-party system", which according to LeBas and Riedl, are especially prone to non-competitiveness, further facilitating the executive's ability to erode democracy.[151] However, a more generous or accurate description for Poland could be an *unbalanced* party system. In this model, one party has a much greater capacity to mobilize voters than its rival(s), which is true of PiS. This division or power imbalance is further strengthened when political actors are divided along ideological lines, which is certainly the case for PiS and its

[148] Anderson, Richard D. Jr. and M. Steven Fish, Stephen E. Hanson, and Philip G. Roeder. *The Dynamics of Democratic Erosion: Postcommunism and the Theory of Democracy*. Princeton University Press, 2001.
[149] Waldner, David and Ellen Lust, *Unwelcome Change: Coming to Terms with Democratic Backsliding*, Annual Review of Political Science, January 2018.
[150] Powell, G. Bingham Jr. *Contemporary Democracies: Participation, Stability, and Violence*. Harvard University Press, 1982 & Mainwaring, Scott. *Rethinking Party Systems in the Third Wave of Democratization: The Case of Brazil*. Stanford University Press, 1999.
[151] LeBas, Adrienne. *From Protest to Parties: Party-Building and Democratization in Africa*. Oxford University Press, 2011 & Riedl, Rachel Betty. Authoritarian Origins of Democratic Party Systems in Africa. Cambridge University Press, 2014.

main opposition, Civic Platform – and this ideological divide continues to grow in Poland as political polarization is deepened under PiS leadership.

Another useful group of theories, especially which it comes to analyzing the effects of inequality, is the political economy family. This set of theories is especially germane to the Polish case. The boom that transformed Poland "into the economic engine of Central Europe" failed to uplift numerous Polish cities, especially the easternmost ones. The city of Zamosc is "one of the few" Polish cities where a PiS backed candidate was elected mayor during the last two election cycles. For its inhabitants, "the [Law and Justice] government [finally] delivered" on its promise to redistribute wealth to Eastern Poland, the region of the country in which the majority of citizens still felt neglected even after Poland had proven itself as an international economic powerhouse.[152]

Towns across Poland's Eastern flank suffered a brutal fate before PiS's 2015 victory. As Poland transitioned from communism to capitalism, investments poured into Western cities like Warsaw, Poznan and Gdansk while "factories here were shuttered overnight" in the East, causing Poles to flee "in droves to seek opportunity elsewhere."[153] For families like the ones that New York Times correspondent, Marc Santora, interviewed in 2019, "even as the economy grew" they did not feel it.[154] Despite the fact that unemployment systematically declined, real wages grew, economic inequality began to decline, and the differences in standards of living between Poland and Western Europe became smaller in the decade preceding PiS's 2015 win, the parties post-2015 policies have still been extremely effective in helping to secure and maintain electoral support. PiS's economic policies made "a measurable difference" in the lives of many Polish families.[155] Importantly, PiS economic reforms also brought visible and direct results on the individual and family level because rather than focusing on long-term investments, such as increasing funding for public schools or improving transportation infrastructure, PiS instead put its effort into programs that produced immediate benefits: For example, giving cash to every family with more than one child. Furthermore, criticism of these types of policies by the opposition, who deemed them "a massive bribe", only served to strengthen the perception that PiS alone "empathizes with, and helps ordinary people."[156] PiS economic policy, which explicitly targets lower and middle income families, has in fact been particularly influential on the voting habits of citizens who "wouldn't

[152] Santora, Marc. "In Poland, Nationalism with a Progressive Touch Wins Voters". *The New York Times*, October 2019. *https://www.nytimes.com/2019/10/10/world/europe/poland-election-law-and-justice-party.html*
[153] Ibid
[154] Ibid
[155] Ibid
[156] Sadurski, Wojciech. *Poland's Constitutional Breakdown*, Oxford University Press, 2019.

describe [them]selves as politically active."[157] These developments confirm Waldner and Lust's assertion in *Unwelcome Change* that inequality can cause a state to be especially vulnerable to backsliding.[158]

As stated in Section 3, theories based on social structure and political coalitions are highly useful for explaining developments in Poland, especially those occurring during its early years of democratic institution building and during the country's economic leap into capitalism.[159] However, the importance of coalitions and the balance of power between groups, which is also listed under the 'social structure and political coalitions' umbrella, is even more relevant to Poland. The number of Poles who support each main political coalition has indeed had a huge impact on backsliding in Poland. When the balance of power overwhelmingly favors a particular side or party – or in other words, when the system consistently and disproportionately favors the incumbent – the ruling party is encouraged to "shred" aspects of competitiveness, participation, and accountability. This is undoubtedly the case for Poland, as evidenced by the PiS party's 'Teflon-like' qualities, detailed in Section 6, which are further strengthened by increasing polarization in Poland's political environment.

The Poland-EU relationship is relevant to the set of 'international factors' theories, especially when assessing Poland's accession process. Poland's accession to the EU engendered fear among certain citizens, including regarding the potential negative effects of modernization and globalization. Some scholars have suggested that this era and the worries it stoked are in part responsible for creating the initial populist discourse that has come to dominate Polish politics under PiS. The origins of recent Euroscepticism in Poland can be linked to the accession period, when the lack of ideological unity between Poland and the EU was prominently highlighted – for example, the close linkage between civil society and the Church in Poland caused tension with future EU partners. However, international factors theories cannot explain Poland's current situation, nor its deepening political polarization.

5.b. The Effects of Polarization in Poland

It is important to note that any system, including a well-functioning democracy, can experience drastically different outcomes as a result of extreme social and political polarization. As Somer

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[157] Santora, Marc. "In Poland, Nationalism with a Progressive Touch Wins Voters". *The New York Times*, October 2019. *https://www.nytimes.com/2019/10/10/world/europe/poland-election-law-and-justice-party.html*

[158] Waldner, David and Ellen Lust, *Unwelcome Change: Coming to Terms with Democratic Backsliding*, Annual Review of Political Science, January 2018.

[159] Rueschemeyer, Dietrich and Evelyne Huber and John D. Stephens. *Capitalist Development and Democracy*. Contemporary Sociology, Volume 72(3). Cambridge University Press, 1992.

and McCoy explain, polarization, difference, and "a certain dose" of agonistic competition are "part of the democratic game" and can even have democratizing consequences at times, – for example, by "clarifying the choices facing citizens and helping political party systems to institutionalize" – however, this has not been the case for Poland.[160] Severe forms of polarization, like that seen in Poland today, are often a liability. What McCoy and Somer refer to as extreme or "pernicious" polarization tends to undermine the foundations of democracy and is most likely to negatively affect democratic systems in the following areas: conducting free and fair elections, ensuring independence of the judiciary, and maintaining checks and balances on government.[161] In the most hopeful cases the "transformative potential of polarization" can be tapped for democratization rather than democratic erosion.[162] However, in many cases, severe polarization brings significant consequences for democracy, including gridlock and paralysis, careening and instability, democratic erosion/backsliding, or even democratic collapse.[163]

As mentioned, Waldner and Lust's coalition theory, from the 'social structure and political coalitions' group, underlines the effects of political polarization on backsliding. Similarly, in *Democracies Divided*, Joanna Fomina describes how the division between two rival camps of Poles accounts for the country's uniquely "asymmetric and populist" form of political polarization.[164] Not only does her analysis explain the origins and ideological underpinnings of the two 'camps' present in Polish political life, but it also describes how the cohesiveness of the PiS-linked camp continues to ensure its access to power. The tight knit, ideologically cohesive, and easily motivated and mobilized camp of 'patriots' (the overwhelming majority of whom fervently support the Law and Justice Party), stands in opposition to the 'citizens' camp. The citizens camp, made up of mostly liberal and center-left voters, acts almost exclusively in reaction to the patriots, which further undermines the citizens' already weak effectiveness in the political sphere. Whereas the patriots' group benefits from a collective sense of identity built on shared religion and ethnicity as well as its support for PiS politicians, the citizens' represents a much wider spectrum of members. In fact, the only real unifying component to the citizens' group is their distaste for most

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[160] Somer, Murat and Jennifer McCoy. *Transformations through Polarizations and Global Threats to Democracy.* ANNALS, APPSS (681), January 2019.
[161] Ibid
[162] Ibid
[163] Ibid
[164] Fomina, Joanna. "Of 'Patriots' and Citizens: Asymmetric Populist Polarization in Poland", in Thomas Carothers and Andrew O'Donohue (eds), *Democracies Divided: The Global Challenge of Political Polarization*, Brookings Institution Press, September 2019, page 126.

PiS policy; other beliefs and loyalties within the citizen camp vary, including with regard to age, religion, identity, and attitude towards the EU.

These opposing camps have direct linkages to the most prominent political parties in Poland, PiS and Civic Platform (PO). The PiS-loyal side of the population mobilizes easier and more effectively in large part due to the rhetoric used by PiS, which is often nationalistic and ideological and draws on themes and emotions that are seen by many voters as being intrinsically linked to fundamental aspects of Polish identity, such as Catholicism. In order to retain power and motivate its base, PiS deploys narratives focused on how Polish patriots have suffered from democratic transformation, economic modernization, and cultural progression. The governing party has "skillfully deployed the symbols and slogans of mission, martyrdom, and sovereignty" in order to attract those who feel "betrayed and left behind by history."[165] In fact, as PiS's control of Polish institutions increases, the party has used increasingly hate-fueled rhetoric (i.e. not just nationalist, but out-right xenophobic words and actions). These actions correlate with a sharp rise in hate crimes in Poland; however, PiS remains largely unscathed by criticism since it continues to enjoy support from its large, cohesive, and loyal base of 'patriots'.[166] Thanks in part to the increasingly PiS-controlled Polish media, xenophobic and other hateful rhetoric has at times served to unite the party's base further around shared ideological beliefs. This increased use of nationalist and xenophobic rhetoric and policy also further alienates the 'citizens', who are already unlikely to engage in a political dialogue with members of the opposing camp, ensuring that the division between the two sides remains and deepens over time. In fact, PiS has enabled the gap between both sides to become so wide that political leaders can easily claim that criticism from 'citizens' or from PO is merely "the unjustified attacks of the biased and hostile opposition."[167] In sum, the divided cultural-political environment promotes further polarization, resulting in the following developments: less public debate, more corruption, less accountability for political leaders, less political involvement from the opposition, and the weakening of trust in institutions that do not align with one's political loyalties.[168]

Even before the party controlled major media outlets in Poland, journalists and other media professionals were unable to curb the effects of increased polarization since the ruling party can demonize the opposition without receiving backlash from supporters. This dynamic is also at play

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[165] Ibid

[166] OSCE, "Hate Crime Reporting: Poland", ODIHR Reports from 2014-2018. *https://hatecrime.osce.org/poland*

[167] Carothers, Thomas and Andrew O'Donohue, *Democracies Divided: The Global Challenge of Political Polarization*, Brookings Institution Press, September 2019.

[168] Ibid

with regard to widespread policy reforms in the domestic realm. As explained in *Democracies Divided*, polarization makes adopting profound reforms that would normally require wide social acceptance difficult. Therefore, in highly polarized contexts, governments may either "avoid such reforms and focus instead on a populist policy agenda" or "ram through sweeping reforms without the required political and public debate."[169] Carothers and O'Donohue cite recent educational reforms in Poland as an example of sweeping changes that will likely be reversed by PiS's predecessor if and when the political tide turns.[170] In contrast to this assessment, PiS's changes to the media and judiciary in Poland could prove more difficult to walk back, even if PO or another more liberal democratic party assumes power in the near future. If Poland is in fact nearing a point in its democratic erosion process that would render policy reversals under a new governing party especially difficult or ineffective, then it is crucial to understand the combination of authoritarian and democratic elements at work in Poland today.

5.c. Polarization, Authoritarianism, and Nationalism

Power centralization, questionable judicial reforms, extreme nationalist rhetoric, and other democratic contortions seem to point toward the emergence of authoritarian tendencies in Poland, leading observers (especially within the EU) to wonder if Poland is likely to reach a point of sustained authoritarianism that destroys its democratic foundations. To answer this question, a long-view perspective on Poland's path to democratic consolidation, including the current and possibly temporary bout of democratic backsliding, is necessary for understanding the "precise mix" of authoritarian and democratic elements at work in Poland because this 'mix' remains linked to the country's unique identity and political history.[171]

As political scientist and historian Benedict Anderson asserts, nationalism must be understood by "aligning it not with self-consciously held political ideologies," but with the "large cultural systems that preceded it."[172] In Poland's case, during its entry into the modern world (circa the late 19th century) what is widely considered an "appropriately modern" form of nationalism emerged – that is, one that allowed all Poles to identify with "their" nation.[173] As the vectors of power shifted, Poland became a "nation of the people" rather than being dominated by "nobility and the

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[169] Ibid

[170] Ibid

[171] Vanderhill, Rachel and Michael E. Aleprete Jr. *International Dimensions of Authoritarian Persistence: Lessons from Post-Soviet States.* Lexington Books, 2013. Page 12.

[172] Anderson, Benedict. *Imagined Communities: Reflections on the Origin and Spread of Nationalism.* Verso, 1983. Page 12.

[173] Porter, Brian. *When Nationalism Began to Hate: Imagining Modern Politics in Nineteenth-Century Poland.* Oxford University Press, 2000.

intelligentsia."[174] According to Andrzej Walicki from the Warsaw School at Notre Dame University, the modern Polish nation embraced all strata of the Polish-speaking population.[175] Yet, as with any nation, nationalism in Poland also compelled people to "imagine new and higher walls" between 'us' and 'them,' due to the representations of national belonging that often promise collective unity through "connective exclusions."[176] Indeed, even the most innocent forms of nationalism tend to "enforce cultural homogeneity and suppress difference."[177] However, certain types of nationalism can also be "a means to establish and reinforce collective identity," to designate what 'we' are like and how we differ from 'them,' and to "specify what political consequences should flow from these distinctions."[178] While it may appear that drawing lines around collective identities and defining relations of authority are "inherent and predictable" functions of nationalism, the Polish case demonstrates the complexity of this process.[179]

As Benedict Anderson contends, nationalism always carries within it a certain reactionary tendency, resulting from the wider context out of which or against which it comes into being.[180] Therefore, it is also possible for a country's brand of nationalism to change dramatically over time. Although Poland had long cultivated a highly idiosyncratic sense of nationhood that was at many points in history widely respected beyond its borders, the Polish nationalism of today no longer exhibits the same qualities as previous versions. In posing as the "defender" of Polish sovereignty, PiS has "abused and distorted Polish nationalism" since regaining power in 2015.[181]

Today in Poland, the primary driver of the nationalist sentiment is the feeling of being left behind by reforms brought on by EU membership, globalization, and liberalization or, more specifically, the sense that "Poland has been wronged" by previous domestic leaders as well as international partners. These sentiments are most prevalent amongst PiS supports who have failed to build a place for themselves in the post-1989 world, making the current conservative leadership and liberal economic policies especially attractive.[182] Even today, Polish nationalism is primarily about the defense of a set of values more than it is connected to territory or ethnicity. However, PO and PiS

[174] Ibid
[175] Ibid
[176] Ibid
[177] Ibid
[178] Ibid
[179] Ibid
[180] Anderson, Benedict. *Imagined Communities: Reflections on the Origin and Spread of Nationalism*. Verso, 1983. Page 12.
[181] Porter, Brian. *When Nationalism Began to Hate: Imagining Modern Politics in Nineteenth-Century Poland*. Oxford University Press, 2000.
[182] Ibid

promote different Polish nationalisms since the parties project opposing worldviews and promote divergent paths to procuring security, stability, wealth, etc. So far, PiS's utilization of symbols and slogans of "mission, martyrdom, and sovereignty" and its emphasis on defending traditional Catholic values, together with producing visible economic benefits (especially for those living in Eastern Poland) has indeed attracted many voters who feel betrayed and left behind by past leaders, westernization, or previous domestic reforms. Currently, there is no advantage for PiS in abandoning these tactics; therefore, the party will continue to utilize rhetoric inspired by national sovereignty and traditional values in order to maintain electoral momentum.[183] However, any government's claim to authentic Polish nationalism is tenuous. PiS itself has "little sense" of Poland's long history and "an impoverished notion" of its party's national mission.[184] Ironically, the key elements of the Law and Justice Party's political program (to control the life of the nation and to keep the outside world at arm's length) derive "less from the wellsprings of Polish nationhood than from the mindset of the postwar communist regime" that PiS claims it most despises.[185]

5.d. Polarization in Poland's Judiciary and Media

As Joanna Fomina confirmed, polarization in Poland has strengthened under PiS, making cooperation between the supporters of the two main political parties essentially impossible. Furthermore, according to Wojciech Sadurski, supporting a party has become more a matter of "essential identity" rather than policy preference.[186] As this thesis has explained, low levels of trust between political groups creates a favorable environment for backsliding. With regard to PiS policy, extreme polarization not only helped to make assaults on the judiciary and media achievable, but also the now-changed judicial branch and media framework in Poland contribute to increasing polarization. Although the Polish population was already highly polarized before PiS's 2015 win, the level of separation between camps has reached truly unprecedented levels in the last 5 years, and the media and judiciary are central to these developments. Attempts to restructure Poland's judiciary were aided by Poland's extreme polarization, and pre-existing divisions also have been further deepened as a result of so-called reforms in the media sector.

PiS's reorganization of the judicial branch was in large part made possible by the party's shrewd use of pre-existing divisions in Poland. Kaczyński and others generated radical changes in

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[183] Ibid
[184] Ibid
[185] Vanderhill, Rachel and Michael E. Aleprete Jr. *International Dimensions of Authoritarian Persistence: Lessons from Post-Soviet States.* Lexington Books 2013, page 13.
[186] Sadurski, Wojciech. *Poland's Constitutional Breakdown*, Oxford University Press, 2019.

Poland's highest courts under the guise of 'institutional self-defense' and 'ridding the system of the old vestiges of communism'. In the words of Rafal Matyja, the Polish judiciary now functions as a mechanism based solely on personal trust, and these changes were only possible due to the predisposition of Poles to distrust institutional rules.[187] The "logic of total distrust", as defined by Matyja, is prevalent in electorates with high levels of polarization where the targets of institutional reforms are typically viewed with skepticism and the results of such reforms – even if they directly affect checks and balances of a democratic system – seem like an abstract issue that does not affect most voters directly.

Deep political polarization allowed PiS to market its assault on the judiciary as democratic reform, and the media helped sell this narrative. When protestors took the streets to bring attention to the lack of independence of the Polish judiciary, they were depicted as "beneficiaries of the former ruling system, frustrated by the loss of undeserved advantages."[188] Propagandistic messaging in the PiS-restructured Polish media has become commonplace as its control over media outlets has expanded. However, even before the party was re-elected in 2015, Kaczyński and his supporters already helped to spread paranoia amongst Poles and sow doubts about PiS's opposition. The oldest example of this tactic dates back to 2010 and the 'Smolensk ritual', monthly rallies held by Kaczyński in Warsaw on the 10th of each month. The original purpose of these rallies was to commemorate the loss of Kaczyński's brother, then-president Lech Kaczyński, but the events were later used to spread conspiracy theories about the so-called political assassination incident. These rallies served as opportunities for PiS to infuse Polish public life with a "particularly toxic kind of paranoia", which proved to be an effective instrument for mobilizing supporters. The ritual ended in April of 2018; however, multiple news outlets still regularly return to the matter "with nearly the same enthusiasm as before."[189] Despite the ritual's termination, its messages still influence political discourse in Poland today and, according to legal scholar Wojciech Sadurski, this has likely been "the most polarizing issue in the deep ideological divisions of Polish society in and after 2010."[190] Well before regaining power in 2015, PiS had already begun to sow doubt and fear within the Polish electorate by using existing division to its advantage and increasing the distrust between 'patriots' and 'citizens' through propaganda.

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[187] Ibid
[188] Ibid
[189] Ibid
[190] Ibid

6. Conclusion

This thesis has demonstrated that developments in Poland serve as a warning to other democracies regarding the potential for gradual erosion to destroy the foundations of a democratic political system and even risk veering into authoritarian tendencies. Additionally, by utilizing the framework of polarization, Section 3 and 5 explained how pre-existing conditions, like Poland's severe social and political polarization, can create a landscape in which the backsliding of democracy can easily occur under certain leadership. In addition to analyzing underlying and pre-existing factors that contribute to the backsliding of democracy in Poland, this thesis identified key PiS policies that have helped to eliminate democratic checks and balances in Section 4. By providing a brief history of Poland's democratic development, defining the key elements of democracy, offering quantitative approaches to measuring democracy, analyzing the most relevant scholarly work on the still-new topic of backsliding, and by applying a theoretical framework based on polarization to specific developments in Poland, this thesis has answered the question of *what factors have contributed to democratic backsliding in Poland since 2015.*

6.a. Current State of Play in Poland

Poland's modern-day practice of illiberal democracy and prioritization of national values continues to garner support because PiS has simultaneously delivered on promises to constituents who felt left behind by EU-incentivized reforms while increasing division between its base and the opposition. PiS continues to successfully avoid accountability and criticism even where its policies are not met with enthusiastic support from a majority of Poles – a quality that has been described as "Teflon-like" and that more or less ensures its hold on power.[191]

PiS's ability to avoid substantial electoral consequences, even for policies that provoked domestic and global backlash such as the party's assault on the judiciary, is in part attributable to the media. The Law and Justice Party's unprecedented influence over content distributed by the Polish media makes it easy to discredit oppositional voices through widespread dispersal of propaganda. Rather than merely alienating the opposition, PiS propaganda helps to consolidate supporters and enhance their antagonism towards those who question Poland's leaders. More so than any one policy or institutional restructuring, though, polarization is the key to PiS maintaining loyal support. As long

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[191] Waldner, David and Ellen Lust. *Unwelcome Change: Coming to Terms with Democratic Backsliding*, Annual Review of Political Science, January 2018.

as PiS voters' distaste of the opposing party is stronger and more widespread than the dislike of PiS by its opponents, propaganda will continue to perform its function.[192]

Although the Polish media certainly plays a role now in securing votes for the Law and Justice Party, propaganda alone is not responsible for PiS's victories. Polarization is the answer to why Polish voters, the majority of whom are committed to democratic values, continue to elect leaders who consistently express a desire to subvert democracy in Poland. Extreme social and political polarization – the division between 'citizens' and 'patriots' – has created an environment in which a majority of voters choose to prioritize their partisan interests over ensuring the protection of democracy. Therefore, Poles will remain willing to accept questionable and even democracy-subverting policies, as long as they believe that their partisan interests are being fulfilled, which begs the question of whether or not PiS truly delivers on promises to its supporters.

On economic and social policy, the Law and Justice party continues to deliver what many of its supporters want. With regard to economic issues, whether one takes the more critical view – that PiS is merely pandering to underserved populations and has little interest in true social reform – or not, it's clear that the present-day ruling party is riding a wave of national uncertainty, and for many voters, PiS eases lingering cultural and identity-related economic woes. As it stands today, Poles appear to feel free despite their leaders' authoritarian proclivities because they remain content with their government's "unusual blend" of nationalist appeals and progressive policy.[193] As Poland's de-facto leader, Jarosław Kaczyński, opined: "a person whose pockets are empty is not really free," and his supporters seem to concur.[194] Law and Justice policymakers are indeed "trailblazers" in that they have successfully, for now, married a kind of right-wing populism with left-wing economic politics.[195] While critics have described the party's economic policy agenda as a typical instance of pork-barrel politics, there is no doubt that PiS maintains the upper hand in the economic policy realm for now.

PiS also makes good on promises to its supporters by simultaneously provoking fear (the judicial assault being marketed as a reform of communist-built court systems, xenophobic rhetoric regarding migration, labeling the EU as a liberal institution that aims to strip Poland of its religious identity, etc.) and enacting policies to mitigate the fear that the party itself spreads. Unresolved

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[192] Sadurski, Wojciech. *Poland's Constitutional Breakdown*, Oxford University Press, 2019.
[193] Ibid
[194] Santora, Marc. "In Poland, Nationalism with a Progressive Touch Wins Voters". *The New York Times*, October 2019. *https://www.nytimes.com/2019/10/10/world/europe/poland-election-law-and-justice-party.html*
[195] Ibid

tensions from pre-existing polarization in Poland have grown exponentially as the country struggles to define its future in Europe and in the world. Even though Polish voters still believe in democracy, PiS successfully caters to 'patriots' who work to safeguard national and religious values by tapping into Poles' anxieties associated with economic, social, and cultural changes. While these anxieties were first born out of Poland's integration into the EU, the party can now use the country's even more deeply divided electorate to convince its base that their opponents seek to undermine their values, aspirations, and institutions. Certainly, these developments would not have been possible in Poland without a substantial portion of its citizens being predisposed to view political (especially EU) elites as untrustworthy, place a high value on Polish sovereignty, and maintain some skepticism with regard to the functioning of democratic institutions. However, PiS's sweeping media and judicial reforms and popular economic policies aided by the drastic division between PiS supporters and 'citizens' helps to ensure that these predispositions remain especially relevant when casting one's ballot. Although polarization alone cannot account for democratic backsliding in Poland, it may ensure the continued erosion of democracy for the near future. As long as PiS delivers on partisan policies, it is likely to retain control of the key instruments of power; and as long as PiS retains control of the key instruments of political power in Poland, it will be very difficult to find common ground between the two camps that compose Polish political-cultural engagement.

Abstract *(English)*:

Questions loom over Poland regarding its democratic status. Not only is Polish democracy threatened under current leadership but, as a result, the country's future on the European stage is also uncertain as tensions with EU partners rise. This thesis analyzes the phenomenon of incremental democracy erosion by addressing the question *'what factors have contributed to democratic backsliding in Poland since 2015?'* This question is answered through providing a brief history of Poland's democratic development, defining the key elements of democracy, offering quantitative approaches to measuring democracy, analyzing the most relevant scholarly work on backsliding, and by applying a theoretical framework based on polarization to policy developments in Poland.

Abstract *(German)*:

Der Zustand der Demokratie in Polen wird zunehmend hinterfragt. Allerdings bedroht der aktuelle Kurs der Regierung nicht nur die Demokratie selbst, sondern damit auch die Zukunft des Landes, sowie seine Position innerhalb der EU und Europas. Diese Arbeit analysiert die fortschreitende Erosion der Demokratie in Polen mit dem Ziel, die vielschichtigen Faktoren, welche zu einer Rückentwicklung der Demokratie, dem sogenannten „backsliding" führen, zu identifizieren. Von besonderer Bedeutung hier ist der Zeitraum nach 2015, dem Jahr in dem Prawo i Sprawiedliwœœæ (PiS) wieder an die Macht kam. Zur Beantwortung der Forschungsfrage nach den Faktoren, welche zum sogenannten „democratic backsliding" führen können, baut diese Arbeit auf einer historischen Analyse der Entwicklung der Demokratie in Polen, gefolgt von einer Definition der Hauptmerkmale der Demokratie sowie deren quantitative Messbarkeit durch verschiedene Indizes. Später wird ein Überblick über die wichtigsten wissenschaftlichen Theorien zum Thema, sowie deren Anwendbarkeit auf das Fallbeispiel Polen gegeben. Durch diesen Diskurs entsteht ein klarer analytischer Rahmen, in dem das Phänomen des Demokratieverlusts in Polen verstanden werden kann. Dieser Rahmen basiert auf den Auswirkungen einer weitreichenden Polarisierung der polnischen Politik, sowie der Gesellschaft, welche die Entwicklung des Landes auf allen Ebenen nachhaltig verändert hat.

On my honor as a student of the Diplomatic Academy, I submit this work in good faith and pledge that I have neither given nor received unauthorized assistance on it.
–Cynthia Jordan Sweeney

Bibliography

1. Anderson, Benedict. *Imagined Communities: Reflections on the Origin and Spread of Nationalism*. Verso, 1983.
2. Anderson, Richard D. Jr. and M. Steven Fish, Stephen E. Hanson, and Philip G. Roeder. *The Dynamics of Democratic Erosion: Postcommunism and the Theory of Democracy*. Princeton University Press, 2001.
3. Barcz, Jan and Arkadiusz Michoński. *Negotiations on Poland's Accession to the European Union: Selected Collection of Materials from the Conference*. Ministry of Foreign Affairs of the Republic of Poland, 2002.
4. Berman, Sheri. *Democracy and Dictatorship in Europe*. Oxford University Press, 2019.
5. Berman, Sheri. "The Everyday Decisions that Undermine Democracy: Anne Applebaum Explores Why People are Drawn to Authoritarianism." *The Washington Post*, 2020.
6. Bermeo N. and Yashar, D. *Parties, Movements and Democracy in the Developing World*. Cambridge University Press, 2016.
7. Bertelsmann Stiftung (BTI) 2020 Country Report — Poland. Gütersloh: Bertelsmann Stiftung, 2020.
8. Bouvier, John. A Law Dictionary [adapted to the Constitution and Laws of the United States], published 1856.
9. Carothers, Thomas and Andrew O'Donohue. *Democracies Divided: The Global Challenge of Political Polarization*. Brookings Institution Press, 2019.
10. Charlish, Alan. "Poland's PiS Change Electoral Rules Ahead of Presidential Vote." *Reuters*, 2020.
11. Cienski, Jan and Zosia Wanat. "5 Takeaways from the Polish Election." *Politico*, 2019.
12. Coman, Ramona and Luca Tomini. *The State of Democracy in Central and Eastern Europe: A Comparative Perspective. Routledge, 2017.*
13. Council of Europe. *Group of States Against Corruption. Fourth Evaluation Round: Corruption Prevention in Respect of Members of Parliament, Judges and Prosecutors, Addendum to the Second Compliance Report: Poland*. 2018.
14. Davies, Christian. "Hostile Takeover: How Law and Justice Captured Poland's Courts." *Freedom House*, 2018.
15. Davies, Norman. *Heart of Europe: The Past in Poland's Present.* Oxford University Press, 2001.
16. Diamond, Larry. *Developing Democracy: Toward Consolidation*. Johns Hopkins University Press, 1999.
17. Economist Intelligence Unit. "Incorporated Country Report, Poland; Outlook for 2017-21: Political Stability." *The Economist*, 2017.
18. Economist Intelligence Unit. "Metrics for Measuring Democracy." *The Economist*, 2019.
19. *The Economist*. "Jacques Chirac's Samson Option. 2003.
20. The European Centre for Press & Media Freedom. *Mapping Media Freedom Project: Three Critical Reports Conclude Poland's Public Broadcaster is Biased.* 2019.
21. European Commission for Democracy through Law (Venice Commission). *Poland: The Constitutional Tribunal Act of 22 July 2016*. Journal of Laws of the Republic of Poland (1157), August 2016.
22. European Commission. *Rule of Law: European Commission Acts to Defend Judicial Independence of Poland.* 2017.
23. *Euro News*. "Polish Support for EU Booming Despite Clashes with Brussels." 2019.
24. European Parliament Committee on Civil Liberties, Justice and Home Affairs. *Draft Interim Report, 2019-2024: Motion for a European Parliament Resolution & Explanatory Statement*. 2020.
25. Ferry, Martin. *The EU and Recent Regional Reform in Poland.* Europe-Asia Studies, Volume 55(7). Taylor & Francis, 2003.
26. Freedom House. *Freedom in the World 2020: Poland Profile*. 2019.
27. *The Guardian*. "Polish President Signs Bill Putting State Media Under Government Control." 2017.

28. *The Guardian*. "Rightwing Law and Justice Party Wins Overall Majority in Polish Election." 2015.
29. Hackmann, Jörg. *Defending the 'Good Name' of the Polish Nation: Politics of History as a Battlefield in Poland*. Journal of Genocide Research. Volume 12(4). 2018.
30. IDEA, *The Global State of Democracy 2019: Addressing the Ills, Reviving the Promise*. 2019.
31. International Labor Organization. *The Constitution of the Republic of Poland*. No. 483 of 2 April 1997, as published in Dziennik Ustaw, No. 78. [official English translation]
32. Institute of National Remembrance. *The Act on the Institute of National Remembrance*. 1998 (updated: 2016).
33. Kaufmann, Daniel. *The Worldwide Governance Indicators: Methodology and Analytical Issues*. World Bank Policy Research Working Paper No. 5430. 2010.
34. Kelemen, Daniel R. *Europe's Other Democratic Deficit: National Authoritarianism in Europe's Democratic Union*. Government and Opposition Limited and Cambridge University Press, 2017.
35. LeBas, Adrienne. *From Protest to Parties: Party-Building and Democratization in Africa*. Oxford University Press, 2011.
36. Longhurst, Kerry and Marcin Zaborowski. *The New Atlanticist: Poland's Foreign and Security Policy Priorities.* Wiley, 2007.
37. Lyman, Rick. "Right-Wing Party Roars Back in Polish Elections." *The New York Times*, 2015.
38. Lyman, Rick. "Like Trump, Europe's Populists Win Big with Rural Voters." *The New York Times*, 2016.
39. Mainwaring, Scott. *Rethinking Party Systems in the Third Wave of Democratization: The Case of Brazil*. Stanford University Press, 1999.
40. Matczak, Marcin. *Poland's Constitutional Crisis: Facts and Interpretations*. Foundation for Law, Justice and Society. Oxford University Press, 2018.
41. Mattila, Mikko. *Roll Call Analysis of Voting in the European Union Council of Ministers After the 2004 Enlargement*. European Journal of Political Research, Volume 48(6). September 2009.
42. Mazur, Dariusz and Waldemar Żurek. "So Called "Good Change" in the Polish System of the Administration of Justice." *Rule of Law in Poland by Foundation for Poland*, 2017.
43. Morlino, Leonard. *Democracy Between Consolidation and Crisis. Parties, Groups, and Citizens in Southern Europe*. Oxford University Press, 1998.
44. Muller, Jan-Werner. "One Damn Thing After Another: The Long Roots of Liberal Democracy's Crisis." The Nation, May 5, 2020.
45. O'Dwyer, Conor, Schwartz, Katrina Z. S. *Minority Rights After EU enlargement: A comparison of Antigay Politics in Poland and Latvia*. Comparative European Politics; Volume 8, Issue 2. 2010.
46. Official Gazette of the Republic of Poland. *Constitutional Tribunal Internal Rules, Annex to the Resolution of the General Assembly of Judges of the Constitutional Tribunal of 27 July 2017*, Item 767.
47. Open Society Institute. *Television Across Europe: More Channels, Less Independence, Overview Country Reports: Poland*. Open Society Foundation, 2008.
48. OSCE ODIHR Reports. *Hate Crime Reporting: Poland*. 2014-2018.
49. OSCE ODIHR Reports. *Limited Election Observation Mission Final Report on the Parliamentary Elections of 13 October 2019*. 2020.
50. Oxford Analytica. *Poland/EU: Accession Negotiations*. OxResearch Daily Brief Service, Global Strategic Analysis, Volume 1. Oxford University Press, 1999.
51. Oxford English Dictionary. *Oxford University Press*, September 2020.
52. Powell, G. Bingham Jr. *Contemporary Democracies: Participation, Stability, and Violence*. Harvard University Press, 1982.
53. Przeworski, Adam. *Crises of Democracy*. Cambridge University Press, 2019.
54. Przybylski, Wojciech. *Explaining Eastern Europe: Can Poland's Backsliding Be Stopped?* Journal of Democracy 29(3), 2018.
55. Rankin, Jennifer. "Brussels Launches Unprecedented Inquiry into Rule of Law in Poland." *The Guardian*, 2016.

56. *Reporters Without Borders*. "Unjustified Firing of Journalists from Poland's State Broadcaster, Targeted News Service." 2020.
57. Riedl, Rachel Betty. Authoritarian Origins of Democratic Party Systems in Africa. Cambridge University Press, 2014.
58. Rueschemeyer, Dietrich and Evelyne Huber and John D. Stephens. *Capitalist Development and Democracy*. Contemporary Sociology, Volume 72(3). Cambridge University Press, 1992.
59. Sadurski, Wojciech. *Freedom of the Press in Post-communist Poland, Journal for East European Politics, Societies, and Cultures*. Volume 10(3). 1996.
60. Sadurski, Wojciech. *Poland's Constitutional Breakdown*, Oxford University Press, 2019.
61. Sadurski, Wojciech. *How Democracies Die (in Poland): A Case Study of Anti-Constitutional* Populist Backsliding. Sydney Law School Research Paper 18(01), 2018.
62. Saffon, Maria Paula and Nadia Urbinati. *Procedural Democracy, the Bulwark of Equal Liberty*. Political Theory, 41(3). SAGE Publications, 2013.
63. Santora, Marc. "In Poland, Nationalism with a Progressive Touch Wins Voters." The New York Times, 2019.
64. Sas, Adriana. "Electoral Turnout in Presidential Elections in Poland from 1990 to 2020." *Statista*, 2020.
65. Schmidt-Felzmann, Anke. *All for One? EU Member States and the Union's Common Policy Towards the Russian Federation*. Journal of Contemporary European Studies, Volume 16(2). Taylor & Francis, 2008.
66. Skaaning, Svend-Erik. *The Global State of Democracy Indices Methodology Conceptualization and Measurement Framework*. International Institute for Democracy and Electoral Assistance. 2018.
67. Somer, Murat and Jennifer McCoy. *Transformations through Polarizations and Global Threats to Democracy*. ANNALS, APPSS (681), January 2019.
68. Stone, Jon. "Support for EU Membership reaches Record High in Poland despite Showdown with Brussels." *The Independent*, 2018.
69. Surowiec, Paweł and Magdalena Kania-Lundholm and Małgorzata Winiarska-Brodowska. Towards Illiberal Conditioning? New Politics of Media Regulations in Poland (2015–2018). East European Politics, Volume 36(1). Routledge, 2020.
70. Svolik, Milan. *Which Democracies Will Last? Coups, Incumbent Takeovers, and the Dynamic of Democratic Consolidation* (2014) 45 *British Journal of Political Science* 715.
71. Szczerbiak, Aleks. *Poland within the European Union: New and Awkward Partner or New Heart of Europe?* Routledge, 2010.
72. Tesser, Lynn M. *East-Central Europe's New Security Concern: Foreign Land Ownership*. Communist and Post-Communist Studies, Volume 37. University of Chicago, 2004.
73. Tomini, Luca. *Democratizing Central and Eastern Europe: Successes and Failures of the European Union*. Routledge, 2015.
74. Vanderhill, Rachel and Michael E. Aleprete Jr. *International Dimensions of Authoritarian Persistence: Lessons from Post-Soviet States.* Lexington Books, 2013
75. Venice Commission and DGI of the Council of Europe. *Urgent Joint Opinion of 16 January 2020*. Council of Europe, 2020.
76. Venice Commission Opinion of 14-15 October 2016 and the United Nations, Human Rights Committee. *Concluding Observations on the Seventh Periodic Report of Poland.* European Commission, 2016-17.
77. Waldner, David and Ellen Lust. *Unwelcome Change: Coming to Terms with Democratic Backsliding*. Annual Review of Political Science, 2018.
78. Wanat, Zosia. "Polish Government Rams Through Electoral System Changes", *Politico*, 2020.
79. Zaborowski, Marcin. *Change in Poland*. Center for European Policy Analysis, 2015.
80. Zamoyski, Adam. "The Problem with Poland's New Nationalism." Foreign Policy, 2016.
81. Zoll, Fryderyk and Wortham, Leah. *Judicial Independence and Accountability: Withstanding Political Stress in Poland*. Fordham International Law Journal 875, 2019.