

Erosion of Democracy in Poland between 2015 and 2019

European Political Systems 2025 Long Essay

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Introduction

In October 2015, Poland's *Prawo i Sprawiedliwość (PiS)* Party, literally Law and Justice in English, gained an absolute majority in the Polish *Sejm*, the first time since the restoration of democracy in Poland that this happened (The Associated Press, 2015). *PiS* had previously been in government for a short stint between 2005 and 2007, however they needed a coalition for the majority during this time. This time however, as *PiS* had won the Presidential Election earlier in May and controlled the *Senat*, the party thus gained a full mandate to execute its right-wing electoral promises.

As *PiS* were elected on an anti-migration, anti-LGBT and soft Eurosceptic platform, there were fears of a curtailment of civil rights and freedoms (Duval Smith, 2015), changes in the quality of democracy which would manifest themselves during *PiS*' term, and which would attract the ire of the EU (European Commission, 2017).

These changes interfered in all three spheres defined by Morlino (2004): the procedural sphere, formal rules and institutions of democracy; the content sphere, through protection of civil and political rights; and the results sphere, how democracy reacts to citizens' needs.

In the procedural sphere, Polish democracy suffered through the undermining of judicial and media independence (BBC, 2018) (Agencies, 2016).

In the content sphere, the Polish state failed to completely uphold Civil Rights, through tight regulation of protests (Amnesty International, 2018), as well as failing to protect minorities (Santora & Berendt, 2019). Furthermore, the Government repressed pluralism and dissent in many aspects of life, including the arts (ArtDependence, 2022) (Chapman, 2017).

Finally, in the results sphere the Polish Government targeted programs specifically to benefit its voter base, while minorities and urban populations were ignored. An example of this is the 500+ benefit scheme targeting families (Kids in the City, 2023). The population also lost confidence in state institutions, notably the Constitutional Court, as Poland's standing in the EU declined (Notes from Poland, 2023).

In 2019, *PiS* lost its majority in the *Senat*, however *PiS* remained in Government until 2023 and hold the Presidency to this day (Walker, 2024). This loss of the upper house had a limited effect as the lower house is the more powerful of the two in the Polish system, and can force

through laws on the condition of an absolute majority of members (including those absent) (Senat Rzeczypospolitej Polskiej, n.d.).

Procedural Level Changes

The procedural perspective on quality of democracy is focused on the formal structures of the state, especially in terms of Rule of Law and Accountability.

Judicial Independence

Background

When *PiS* gained power in 2015, they initiated a series of reforms of the justice system which gave more power to the executive to control appointment of key positions. This democratic backsliding was executed on a mandate elected by only 37% of votes on a turnout of only 51%. Promising ‘Budapest in Warsaw’, these reforms followed in the footsteps of Hungary, who implemented similar changes in the years prior (Sadurski, 2019, pp. 1-3).

Reforms

The reforms that targeted judicial independence were threefold: firstly, by not recognising judges elected to the Constitutional Court just before the previous mandate expired; secondly, through political control over the National Council of the Judiciary and finally through the reduction of the forced retirement age for judges (Sadurski, 2019, pp. 3-4).

Recognition of Judges

As the Civic Coalition (*PO*) left office in October, the *Sejm* elected 5 new judges to the Constitutional Court, 3 of whom’s term was due to expire on November 6, prior to the November 12 formation of the new *Sejm*. However, the *PO* also elected 2 judges prior to their term expiration date in December, which was logically ruled to be invalid and anti-constitutional.

Upon *PiS* coming into office, the President Andrzej Duda refused to take the oath of office from any of the 5 justices, after which the government attempted to annul the previous nominations and elect a new set of 5 judges, which was ruled only constitutional with respect to the latter 2 judges. These judges, however, having been sworn in at midnight before the ruling declaring the first 3 non-constitutional, were immediately given offices in the tribunal

building, and put on the payroll, despite not being nominated to any judging panels until 2016 when the President of the Constitutional Court retired and was replaced by a *PiS* nominee.

2 years later, in October 2017, the Constitutional Court re-evaluated the ruling declaring the judges illegitimate, and “cleansed” the improperly elected judges’ (Sadurski, 2019, pp. 62-65).

Political Control over the National Council of the Judiciary

The National Council of the Judiciary (*KRS*) has the power to nominate all candidates for judicial positions in Poland for approval by the President according to Article 179 of the Polish Constitution. Until 2008 it was the *status quo* that the President accepted every nomination, until President Lech Kaczyński rejected the *KRS* nominations without legal basis and for political reasons.

According to the Constitution, the *KRS* consists of fifteen judges, the chief justices of the Supreme Court and Supreme Administrative Court, the Minister of Justice, a representative of the president, four MPs ‘elected by the Sejm’, and two senators ‘elected by the Senate’. Crucially, until 2017 it was a given that the judges on this Council were themselves elected by judges, a European norm and principle, however *PiS* rejected this principle and passed a law (that was initially vetoed by the President) deeming that the fifteen judges in the *KRS* would be elected by the Sejm by a three-fifths majority, and in failing to return a full list of fifteen, the remaining members would be elected by a simple majority. This gave the ruling party a decisive say in the composition of the *KRS*, and indirectly, in the nominations of judges (Sadurski, 2019).

Reduction of the Retirement Age

In 2018, a law was passed that reduced the retirement age for judges on the Supreme Court to 65, from 70 previously. This was binding on incumbent judges and could only be circumvented if a request was sent to the President by the judge to extend their term. This was designed to allow *PiS* to nominate its own judges to the court, and to have the direct ability to remove judges despite their constitutionally set term (Court of Justice of the European Union, 2019).

Consequences

As a result of these changes, the European Commission took several steps to counter Poland’s disrespect for Rule of Law. These were namely the triggering of Article 7 TEU and court cases in the Court of Justice of the EU.

Article 7 TEU

In 2017, the European Commission triggered Article 7 of the Treaty on European Union, which lays out sanctions for failing to comply with the values laid out in Article 2 (Boffey & Davies, 2017)(European Commission, 2017). The Council may then ‘decide to suspend certain of the rights deriving from the application of the Treaties to the Member State in question, including the voting rights of the representative of the government of that Member State in the Council’ (Treaty on European Union, 2012, Art. 2 & 7).

Court Cases

The Commission also opened 2 cases against Poland in the Court of Justice of the EU (CJEU), Case C-619/18 and Case C-791/19, the former concerning the lowering of the retirement age of Supreme Court judges and the latter concerning the changed disciplinary environment for judges in Poland (a judge had been disciplined for referring a case to the CJEU) (C-619/18, 2019) (C-791/19, 2021).

Both cases were won by the Commission, with the court finding that Poland violated Article 19(1) TEU which dictates that ‘Member States shall provide remedies sufficient to ensure effective legal protection in the fields covered by Union law’ (Treaty on European Union, 2012) in the first case and finding in the second case that Poland ‘failed to fulfil its obligations under the second and third paragraphs of Article 267 TFEU’, which declares that the CJEU shall have jurisdiction to give preliminary rulings (Treaty on the Functioning of the European Union, 2012, Art. 267).

As a result of the lost case, Poland was fined 1 million euros per day that they were in contravention of the CJEU’s ruling (Reuters, 2021).

Quantitative Change

One can see the effects of these measures targeting judicial independence through the World Justice Project Rule of Law Ranking. This ranking measures Rule of Law based on 8 factors, namely Constraints on Government Powers, Absence of Corruption, Open Government, Fundamental Rights, Order and Security, Regulatory Enforcement, Civil Justice and Criminal Justice.

During the time period studied (2015-2019), Poland declined from a score of 0.72 to 0.66 out of 1, and would continue to decline to 0.64 by 2021 (or from 22nd in the World in 2015 to 27th by 2019 and 36th by 2021) (World Justice Project, 2024).

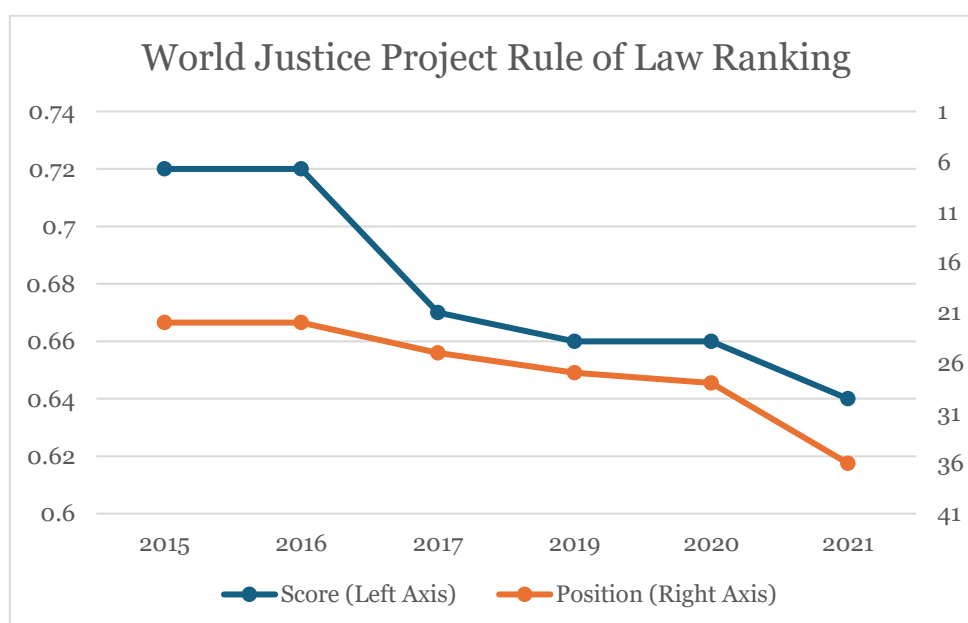


Figure 1: World Justice Rule of Law Ranking

Media Independence & Fairness

Between 2015 and 2019, *PiS* dismantled certain facets of media independence, namely in control of state media and limiting access to Parliament.

Changes to State Media

In 2016, a law was passed giving the treasury minister the power to nominate senior figures in public radio and TV, a decision criticised by the Council of Europe (Agencies, 2016). This was seen as a seizure of power by the Government which effectively turned state media into propaganda tools (Reporters without Borders, 2024).

Parliament Access

Later in 2016, the Government attempted to limit access to the Parliament for the press and media by not allowing coverage after debates or plenary sessions end, limiting the number of journalists per newsroom to two and moving media work to a new Media Centre 150 m away from the main *Sejm* building (Wikipedia, 2025a). As a result, there were widespread protests by both Opposition MPs as well as the general public (Pajączek, 2016).

Quantitative Change

These measures had an effect upon Poland's standing on the Reporters without Borders' World Press Freedom Index, which is based on 5 categories: political context, legal framework, economic context, sociocultural context and safety.

During the time period studied (2015-2019), Poland declined from a score of 87.29 to 71.11 out of 100, and would slightly improve to 71.16 by 2021 (or from 18th in the World in 2015 to 59th by 2019 and 64th by 2021) (Reporters without Borders, 2024).

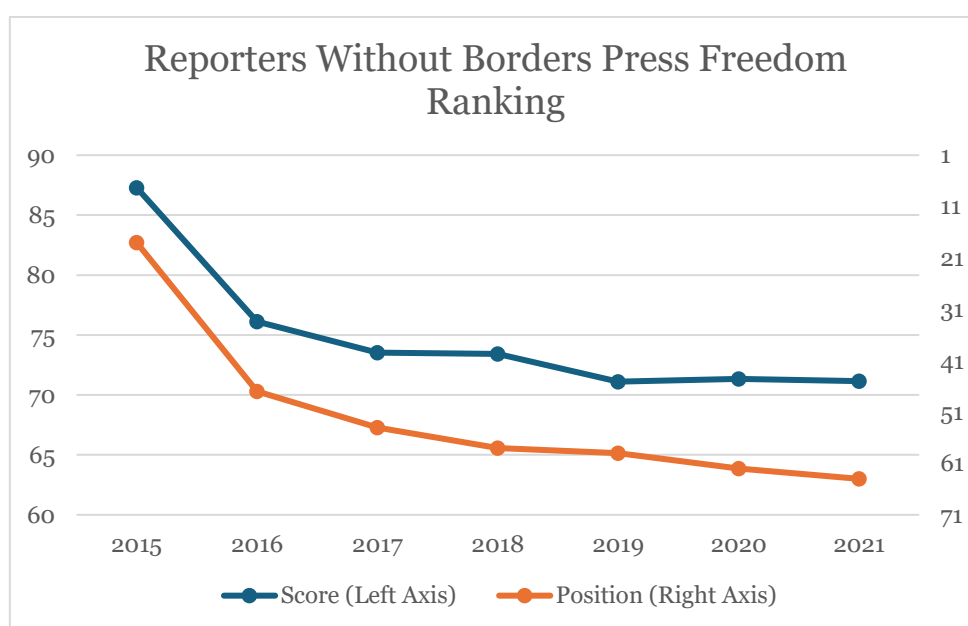


Figure 2: Reporters Without Borders Press Freedom Ranking

Content Level Changes

The content perspective on quality of democracy is focused on the rights and freedoms one holds when in a democracy.

Limitation of Civil Rights

Right to Assembly

In 2017, the Government passed an amendment to the Law on Assembly which was largely seen as curtailing Freedom of Assembly, a right enshrined in the (European Convention on Human Rights, 1950). As part of the law, a new concept of ‘cyclical’ assemblies was introduced, which are in essence assemblies that are repeated within a certain set of conditions. Alone, this would seem logical, however these ‘cyclical’ assemblies were given priority such that non-‘cyclical’ assemblies could be overridden should a ‘cyclical’ assembly be called in the same place and time (Polish Helsinki Foundation for Human Rights, 2017) (Citizens Observatory, 2016).

Furthermore, the law was planned to introduce priority for state and church sponsored assemblies, giving the state another method to repress spontaneous assembly, however this amendment was struck by the *Senat* (Polish Helsinki Foundation for Human Rights, 2017).

This amendment was adopted ‘very fast’ without public consultation (Polish Helsinki Foundation for Human Rights, 2017).

LGBTQ+ Rights

In March 2017, the *PO* Mayor of Warsaw, Rafal Trzaskowski, introduced a declaration promoting tolerance. *PiS* seized on this and turned their campaign focus towards attacking Gay people. This fuelled a culture of hate towards an already suffering LGBTQ+ community in Poland (Santora, 2019).

In July of the same year, an angry mob of thousands descended on a pride march in Białystok, a scathing failure of the state to protect its people expressing freedom of sexuality and expression (Santora & Berendt, 2019).

Quantitative Change

Freedom House has since 2017 published a Freedom in the World score, based on Political Rights and Civil Liberties.

During the time period studied (2017-2019), Poland declined from a score of 89 to 84 out of 100, and would further decline to 82 by 2021 (Freedom House, 2025).

Less reliable as an indicator¹, Equaldex' LGBTQ+ Equality Index measures LGBTQ+ rights based on both public opinion and legal rights.

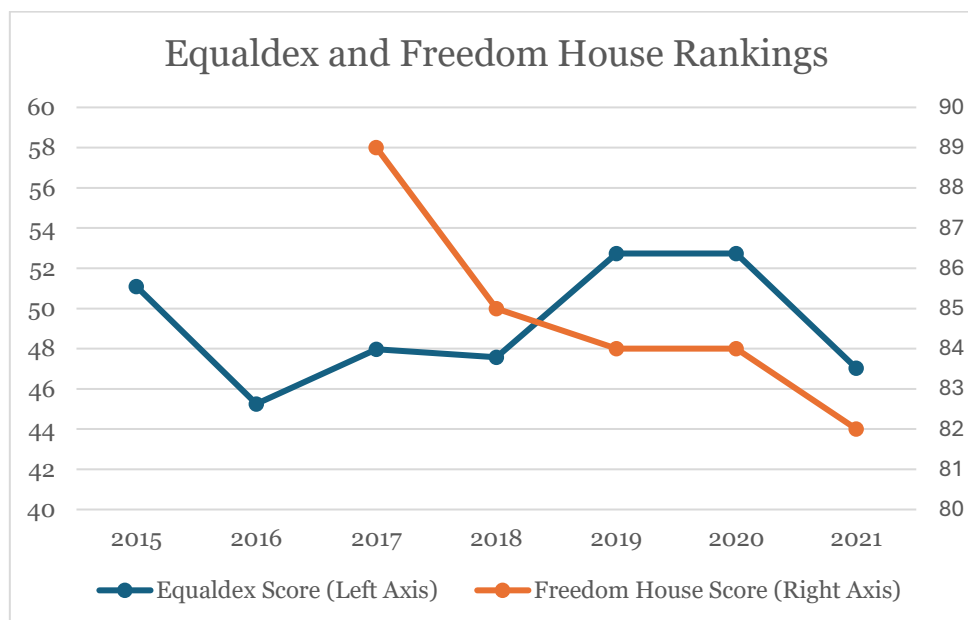


Figure 3: Equaldex and Freedom House Rankings

Repression of Dissent

Media

In 2017, Freedom House published a report entitled 'Pluralism Under Attack: The Assault on Press Freedom in Poland'. This scathing report detailed how, as previously mentioned, state media had become a mouthpiece for *PiS*, while other measures were taken against private media, such as diversion of advertising revenue to more right-wing papers and reduction of availability of liberal papers at state owned petrol stations (Chapman, 2017).

Arts

Although later in *PiS*' term, a report by Artistic Freedom Initiative alleged that *PiS* 'reshaped Poland's arts and cultural landscape in order to advance right-wing, nationalist narratives'. This was done through filling of important posts in museums, theatres, media outlets, and cultural

¹ This score was only in Beta throughout this time, and can only be accessed by trawling through old versions of the webpage.

institutes with party loyalists (ArtDependence, 2022), in a ploy straight out of an authoritarian leader’s handbook.

Quantitative Change

As part of its Democracy Index, the Economist produces a Pluralism and Electoral Process score, which for Poland took a dip from 9.58 to 9.17 in 2016, but then remained constant through 2021 (The Economist, 2015-21).

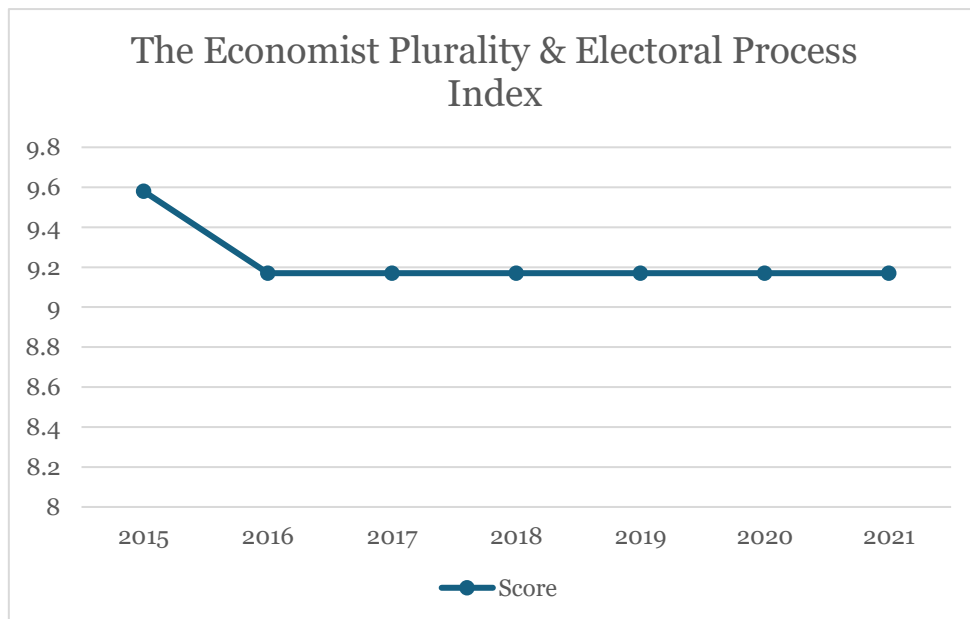


Figure 4: The Economist Plurality & Electoral Process Index

Results Level Changes

The results perspective on quality of democracy is focused on outcomes from policy and government.

Policy Responsiveness

While catering policy to benefit a party's electoral base is certainly not unique to *PiS*, there are certain examples that highlight the failure of the Government to effectively and fairly govern.

Economic

In April 2016, *PiS* introduced its flagship economic policy, the '500+' scheme, which offered 500PLN (116.25€ at the time) every month for every 2nd and subsequent child (and to the 1st subject to an income criteria) until they turn 18. In July 2019 this income criteria was removed. This policy is widely popular and targeted the Party's main voter base: families (Szczerbiak, 2019) (Polskie Radio 24, 2023).

Quantitative Change

We can see the effect of these targeted policies among the demographics most likely to benefit from them between the 2015 and 2019 Parliamentary Elections: age groups from 30-59 and Rural voters (Wikipedia, 2025b) (RMF24, 2015).

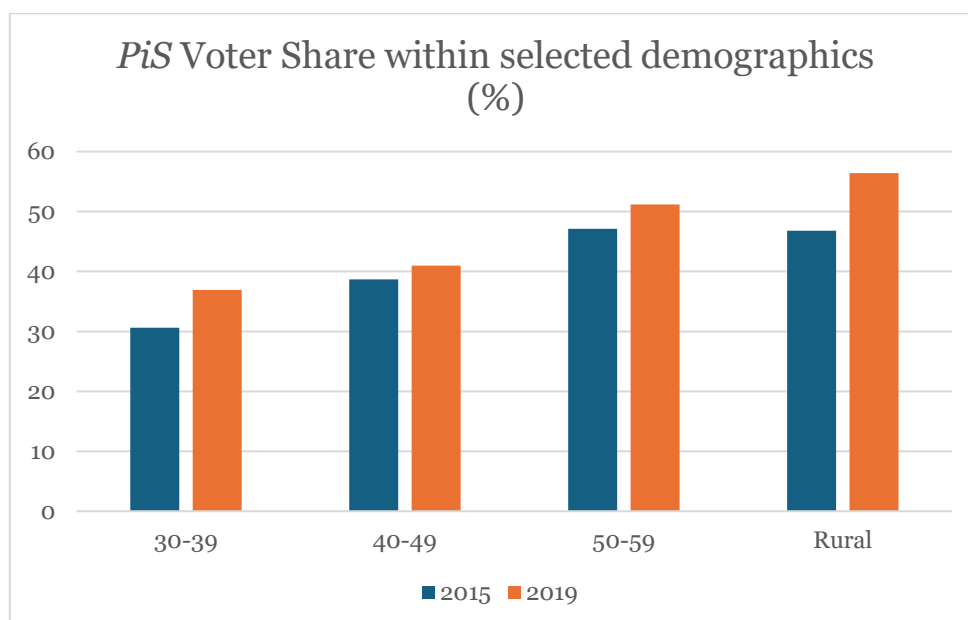


Figure 5: *PiS* Voter Share within selected demographics (%) (a)

National Identity

PiS' identity politics are also examples of targeted policy for their voter base which leans towards the less educated, with *PiS* winning every education category besides tertiary education in 2019, and winning every education category in 2015, though with the caveat that the *PO* and other further left parties had more combined votes in this category (Wikipedia, 2025b) (RMF24, 2015).

Quantitative Change

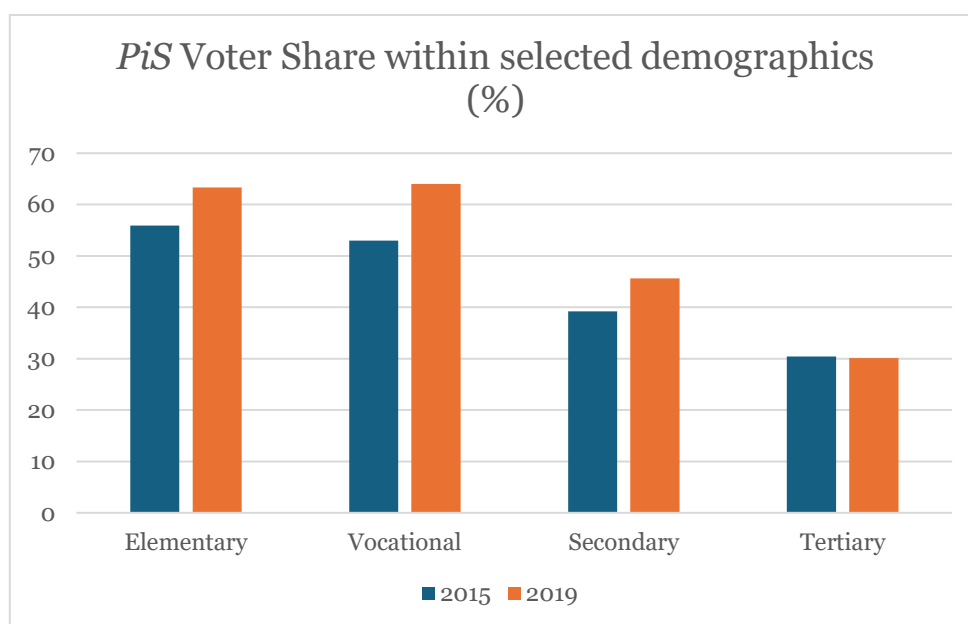


Figure 6: *PiS* Voter Share within selected demographics (%) (b)

Institutional Trust

As a result of *PiS*' policies, faith in the country's institutions declined, notably in the Constitutional Court.

Constitutional Court

As previously mentioned, upon gaining power, *PiS* sought to entrench their control over the judiciary under the guise of improving efficiency. This resulted in decreasing public confidence in the state's institutions, especially the Constitutional Court due to its perceived weakening by *PiS*, which was condemned by the EU (Notes from Poland, 2023).

Quantitative Change

According to a poll by IBRiS conducted for news website onet, public faith in the courts dropped heavily between 2016 and 2020 (Notes from Poland, 2023).

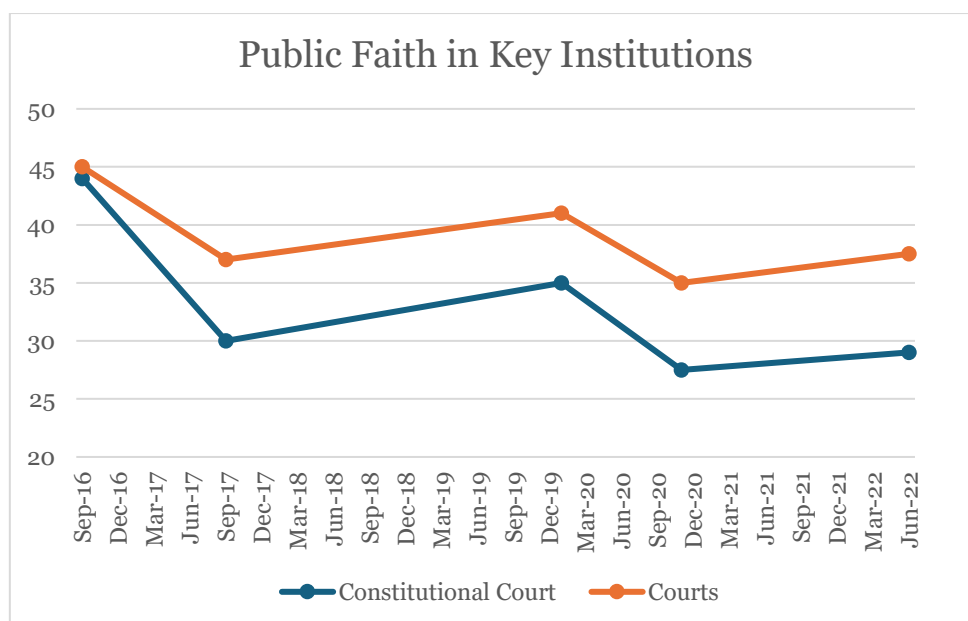


Figure 7: Public Faith in Key Institutions

Conclusion

In conclusion, between 2015, when *PiS* came to power for the second time, and 2019, when they lost control of the *Senat* (though they would continue to have control of the country until 2023 due to the upper house being the weaker of the two) they rapidly deteriorated the quality of Polish democracy, which had been lauded as one of the prime examples of recovery from Soviet authoritarianism.

These changes, as evidenced by the use of the EU's 'nuclear option', were primarily found in the procedural dimension, with rule of law and division of powers suffering greatly. While the changes in the other fora, such as weakening of civil rights, were also significant for Polish democracy, these did not reach the level of democratic failure caused by interference in the judiciary.

This is not to say that other failures, such as failing to protect its minorities (and actively rallying against them), suppressing the media and causing a nosedive in institutional trust are to be taken lightly, however I would argue that these are less clear cut.

Overall, the Polish case highlights the damage possible to a stable democracy when a right to far-right party is given complete control over the Government over a country, and the astounding changes they can make while mostly staying within the line of the law.

Annex 1 – Data and Graphs

Please find attached with this submission the data tables for all graphs used in this essay.

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Annex 2 – Excel File

Please find attached with this submission the Excel file used to generate the graphs in this essay.

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