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„I Am Not Going”: Determinants of Social Activity Before Poland’s Ghost Election¹

Abstract: The article analyses political opposition toward the date of presidential elections and conducting them in the correspondence form on May 10, 2020, in Poland. The study is embedded in the theories of quasi-militant democracy and the emergence of social movements. The method used in the study is the qualitative analysis of media messages of the main news websites in Poland. Mainly in terms of the activity and arguments of citizens against the elections in the form of correspondence. The presidential elections revealed the imperious relationship between the government and citizens in Poland’s becoming quasi-militant democracy. The emphasis was on the elements regarding the organisation of elections on May 10 that could impact a social movement’s emergence. The most significant role in stopping the May 10 elections was played by institutional opposition in the form of local self-governments’ civil disobedience and the Senate’s action, which efficiently blocked the party’s initiative. The article accounts for how election matters determined the social mobilisation and activity of the new social movement. This paper’s main finding is that institutional opposition may prevail over the social one in the pandemic.

Keywords: *presidential elections, Poland, quasi-militant democracy, social movements emergence, contentious politics*

Introduction

In Poland, presidential elections were scheduled for May 10, 2020, and a possible second round two weeks later. However, the disease spread unexpectedly on such a large scale that the coronavirus pandemic was announced in March. At the same time, questions about the organization of presidential elections in a problematic epidemiological situation arouse

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(Jarentowski, 2020; Florczak-Wątor, 2020; Kardas, 2020; Pecyna, 2020; Radziejewicz, 2019; Sroka, 2020; Szymanek & Szmulik 2020; Tuleja, 2020; Dobrzeniecki & Przywora, 2021). Conducting the election of the President of the Republic of Poland is one of the basic duties incumbent of public authorities (Marszałek-Kawa & Plecka, 2017). The main goal is that the state, in the face of the epidemic, can maintain the possibility of undisturbed functioning of its supreme organs for as long as possible to carry out its tasks, especially in health protection. The Constitution applies in the same way to times of war and peace. Therefore, it should be enforced strictly, and its principles remain the same, although the effect of their application in an emergency may differ from that which would have occurred in a normal situation (Dobrzeniecki, 2018, p. 189).

Initially, the elections were to be held in the traditional form but with extreme caution. Nevertheless, this solution has encountered resistance from presidential candidates and even some ruling party politicians. Therefore, the government decided to organise elections in correspondence form. The media called them Ghost Elections because the government allocated a considerable amount of money to it, and in the end, they did not take place. Furthermore, the government established quasi-militant democracy, the political and legal structure in which human rights and political freedoms are restricted to undermine democracy. The article accounts for how election matters determined the social mobilisation and activity of the new social movement in times of quasi-militant democracy before Poland's Ghost Election. The method used in the study is the qualitative analysis of media messages of the main news websites in Poland. Mainly in terms of the activity and arguments of citizens against the elections in the form of correspondence. Neo-militant democracy is a political regime in which parliament and the judiciary are equipped with and using legal means to restrict democratic freedoms to defend democracy against those considered its enemies (Loewenstein, 1937, p. 418; Molier & Rijpkema, 2018; Rak, 2020). Unlike neo-militant democracy, the quasi-militant democracy category uses legal means, a characteristic of neo-democracy not to protect democracy but to extend politicians' power competencies (Bäcker & Rak, 2022; Rezmer-Płotka, 2021, p. 25).

Opposition to May's Presidential Elections During the Coronavirus Pandemic

Despite the coronavirus pandemic, political campaigns in Poland continued, albeit in a different form. Primarily, candidates used online tools to talk to potential voters. Despite the epidemiological threat, the ruling party announced that the presidential elections would be held on a pre-planned date. It met with the first wave of criticism that voting would threaten voters' lives and health if the elections were to be held in their traditional form on that date. Even if special precautions, such as face masks, gloves, disinfectant liquids or a distance of two meters were taken, voting would be irresponsible in the face of a high incidence rate. Another proposal given by the ruling party was to hold postal elections for

people staying in quarantine or in isolation, seniors who turned 60 at the latest on election day and people with disabilities, and for the rest of the citizens in the traditional form. The amendments to the Electoral Code enabled this. The First Amendment extended the scope of postal voting. Another amended provision stipulated that postal vote would not be possible in foreign circuits, on seagoing vessels, and voters over 60 would be able to choose the form of proxy voting that had hitherto been possible for people with disabilities instead of voting by correspondence (zdr/ac/luq/polsatnews.pl, PAP, 2020). At the same time, internet activists encouraged people not to participate in elections. They held social media events, e.g., ‘I’m not going to go to the elections’. Activists also displayed billboards, such as a Polish President’s photo against the background of a graphic image of grim reapers, coronavirus molecules, and the slogan ‘elections in May can kill you’, ‘Campaign tramples on everyone?’ (Gontarek, 2020). Then, in the capital city, they hung several dozen posters which showed the Minister of Health, Łukasz Szumowski, the slogan ‘Gospel according to Łukasz Sz.’, and the following allegations, ‘deception of statistics on the COVID-19 epidemic’, ‘the recommendation of the elections’, ‘ass masks for PLN 5 mln’, and the slogan ‘walking over everybody’ below. They also emphasised that the minister was guilty in light of article 165 of the Penal Code (Pytlakowski, 2020) regarding causing danger to many people’s life or health. Faced with opposition and doubts, the ruling party decided to extend the correspondence form of elections so that all active voters could participate.

On March 31, a group of Law and Justice parliament members submitted a draft to the Sejm, which assumed postal voting for all voters. Numerous researchers conducted public opinion polls, indicating that most Poles were against organising elections on a predetermined date of May 10 (Gazeta Prawna, 2020).

Correspondence Elections and the Non-Respect for the Freedom of Assembly

The Law and Justice continued its actions toward the organisation of elections because the opposition represented by social movements against the date and form of elections was inexistent. Moreover, the party perceived the opposition and its supporters as wanting to express aversion to the incumbent president. The party treated the virus’s fear as exaggerated and convinced the society that all precautionary measures would be met. According to the party, grassroots mobilisation became a threat to the state’s safety and a democratic system. The elections became a symbol of the ruling party’s power and the government’s conviction of a big chance of keeping the office of the incumbent president. During the Coronacrisis, the party’s political interest became a priority, even for the price of restricting voting rights. The elections planned for May also constituted a serious breach of the restrictions adopted during the pandemic relating to a significant reduction in assemblies’ capacity. It would mean that freedom of assembly, which has been significantly restricted, was to be restored to pursue a political interest. It led to dangerous manipulation of the existence and func-

tioning of civil society. As a result, the government can start treating freedom of assembly instrumentally and restrict it when citizens' activity is inconsistent with the government's agenda-setting and politicians' interests. It is also one indicator of Poland's quasi-militant democracy (Mareš, 2012), where freedom of assembly is seen as a tool to discipline citizens for political reasons. Moreover, activists pointed to numerous threats, doubts, and fears related to the date and form of elections adopted in pandemic realities.

The following four groups of arguments advanced by activists informed political mobilisation: 1) the rule of law and democratic principles; 2) technical and organisational aspects of elections; 3) emotions, feelings, and trust in state institutions; 4) institutional opposition. The paper explains how election matters determined the social mobilisation and activity of the new social movement by referring to them.

The indicated groups of arguments and fears show discrepancies in the electoral discourse, although the voters seemed to uphold a coherent standpoint concerning the opposition to organise elections on May 10. *Ipsa facto*, the society lost its will to fight against systemic difficulties, mainly violating the Constitution's provisions and the Electoral Code governing electoral issues in Poland. They also abandoned reaching their main aims: postpone the elections and continue fighting against the virus. These factors may explain why there was a general lack of formation of social movements against the ruling party's activities. However, Fuchs (2006, p. 111) argued that 'it is not determined if and when a social movement will emerge if certain social conditions are given' since they are 'based, but not determined by social antagonisms'. In Poland, social antagonism has indeed occurred. Still, the dispersion of argument and the absence of a single leader may not have laid a strong foundation for the emergence of the social movement. Thus, it may have different results, including protests, if respective resources are mobilised and an identity, structure and goals are formed. Poland's planned presidential elections are a particularly interesting case in this context, especially since divisions within the ruling elite and diminishing state repression are considered one of the main structural conditions for forming social movements (Meyer, 2004, p. 132; Marszałek-Kawa, 2019). The studied case proves these conditions were met, but the formation of the social movement opposing the process of becoming quasi-militant democracy did not reach the institutional stage. Significantly, it was limited to the preliminary stage. It means that society was becoming aware of the essence of the election problem during the pandemic.

This awareness of difficulties might have resulted from the actions taken by the Law and Justice itself. First of all, the party's proposals caused legal and organisational chaos. It completely infringed regulations provided by the Electoral Code, which made them unconstitutional. If the term of the election were changed, active and passive voting rights would be restricted by infringement of terms in the Electoral Code. Due to the longer time for collecting at least 100 000 voters' signatures needed for registering candidates, those committees that kept original terms could sue the elections' outcome. Earlier, these committees would not have a chance to start in the elections because they failed to gather signatures on

time and register their candidates at the required time. Also, if the elections were to be held later, passive voting rights would be restricted because a voter who was not old enough to be a candidate for the presidential office (35 years) would have the required age in the following term. Moreover, the committees would get an additional week to conduct the campaigns in public media and on the radio. However, the Election Code (Election Code) provides three weeks for promoting candidates, or the committees would finish the campaigns after two weeks. In this way, they could not promote the candidates until the pre-election silence. As if this was not enough, the election term changes would cause the infringement of several others terms, though less critical in the pandemic situation. Accordingly, political activists focused on an electoral process that did not meet fundamental democratic principles such as secrecy, immediacy, universality (mostly because of the choice of a citizen between health and participation in elections with exposure to infection), changes to the Electoral Code shortly before the scheduled elections which violated it and the Polish Constitution.

The general chaos caused by the party increased when a significant figure of the ruling coalition, Jarosław Gowin (the leader of *Porozumienie* (Agreement)), criticised the decision to organise the elections on May 10. On April 15, he stated that organising correspondence elections was a good idea but needed several months of preparations. He admitted that there were significant differences inside the ruling camp, which he underlined by resigning from the position of deputy Prime Minister and the Minister of Science and Higher Education. Gowin’s behaviour proved that there were divisions within the ruling party, which is one of the conditions for the emergence of a social movement. However, it was considered an element of political opportunity for taking power, which was lower than surviving the pandemic in the hierarchy of interests.

Another explanation of social movements’ inactivity may be the civil disobedience of local self-governments that became an institutional opposition to the May 10 elections and their form. After deciding to hold elections on May 10 in the correspondence form, the ruling party ordered local self-governments to convey voters’ data to the Polish Post. Almost all of them refused to do so and publicly announced their objections. First of all, at that time, there was no legal basis for data transfer by municipalities since a special bill was under the deliberations of the Senate. Mentioned law intended only to regulate activities aimed at a direct fight against the virus. The transfer of data also meant a violation of the RODO, and the municipalities that would send them it would have to consider the possibility of liability for illegally transferring personal data and exceeding their rights (Kubicka-Żach, 2020). As a result, the coalescence and institutionalisation stages of social movement emergence were no longer required. The action taken by the Senate supported this observation. Four days before the scheduled date, its three commissions recommended refusing the act on corresponding elections. The argument justified that such a form of voting may be unsafe for voters’ health and life. In other words, Senate’s decision represented the possible social movement’s interest; hence its institutional formation was no longer necessary. Thus, the argumentation drew on the risk of intercepting and processing voters’ data

by unauthorised entities if ballot papers were lost; exposure to infection by touching ballot papers and envelopes; general logistical concerns about Polish Post's capabilities to deliver the voting packages on time (the anxiety resulted from outstandingly low quality of Polish Post's services); the lack of installed mailboxes by citizens and possible penalties for their absence; the question of receiving voting cards either from post officers (they also expressed opposition because they would expose themselves and voters to infection by contact with a large number of residents) or soldiers and police officers, who would guard mailboxes since they were easily accessible. Noteworthy, there was a risk of stealing ballot papers.

The pandemic factor was the main starting point for the resulting tension. The restrictions introduced earlier and further actions were often mutually exclusive, causing citizens to feel injustice. Members of the government themselves did not comply with the safety rules they had introduced. In the case of a pandemic, the psychological element, i.e., how to deal with the fears and stresses associated with the threat to life and health, cannot be excluded either. The factors that informed the activity included permanent anxiety and danger to life and health; fear of loved ones, sense of injustice due to restrictions on attending church masses, funerals, weddings and other family celebrations, and restrictions on gatherings, meetings with friends; periodic limitation of access to promenades, green areas, parks, forests; dissonance between limiting contacts between people and participation in elections; a different nature of the political campaign and restrictions on access to material for digitally excluded persons, as well as obstacles for campaign staffs, candidates and volunteers themselves; concerns about the possible consequences of the candidate's choice in case of a data leak; the fear that elections within this timeframe may be part of a political game that may be relevant to the final outcome of the elections; limited trust in the Polish Post; anger and frustration due to the possible transfer of data to the Polish Post without the citizen's knowledge.

The Catholic Church, which in Poland is one of the actors on the political scene, also spoke about the May elections. The Hierarchs, who are members of the Polish Episcopal Conference, the most important ecclesiastical body immediately after the Vatican, raised their objections to the organisation of elections in a pandemic situation and asked for a dialogue to seek solutions that did not raise legal doubts and those concerning the principle of free and fair elections (Polish Bishops' Conference, 2020). Resistance also appeared on the part of some local government representatives. Therefore, institutional opposition embodied by local self-government representatives, mostly city presidents, to share voters' data and objections of the Polish Episcopal Conference underlay political activism.

Conclusion

The presidential elections show the imperious relation between the government and citizens in becoming quasi-militant democracy. The ruling party presented its supremacy over the rule of law and other democratic principles, organisation of public life, emotions, and

citizens’ feelings. It marked its position in the state hierarchy. The dismissal of the elections by the ruling party was certainly not due to constitutional doubts or fears of an increase in the incidence of COVID-19. The grassroots movement was perceived as the main obstacle to organising the elections and renewing the rules’ legitimacy. Meanwhile, the biggest role in stopping the May 10 elections was played by institutional opposition in the form of almost prominent-governments’ civil disobedience and the Senate’s action, which efficiently blocked the ruling party’s initiative. That, combined with the legal chaos caused by the party and its organisational inability, resulted in the party’s discredit and cancelling the elections without the formation and opposition of social movements. However, there were convincing arguments it might have happened. In the pandemic situation, institutional opposition may prevail over the social one. Although society’s resistance and the argument that has arisen are not the only reasons to cancel the elections, they allow for a better understanding of pandemic-driven Poland’s tensions. Another factor is the procrastination of the decision on the date of elections in time and the indecision on their form. Finally, the awkward actions taken by Deputy Prime Minister Jacek Sasin undermined the government’s reliability. Sasin convinced Poles that elections could take place and subjected the State’s Treasury to considerable costs connected with the prepared electoral materials. Divisions have arisen within the party, and opposition groups refused to cooperate or form a coalition with the government. It is worth pointing out that in connection with the organisation of the presidential elections, an inspection by the Supreme Audit Office was carried out (pl: NIK). The report clearly shows that NIK negatively assessed the process of organising the elections ordered on May 10, 2020 in the correspondence form. Numerous irregularities were indicated, incl. shortcomings on the part of relevant ministers, failure to provide funds to finance the implementation of the entrusted tasks, unauthorised acquisition and processing of data and improper spending of public funds. The audit also confirmed that local government units had no legal basis to fulfil Polish Post’s request for voters’ data access (NIK, 2021).

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