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### Contentious Politics in Defense of Neo-Militant Democracy in Poland: The Rationale Behind Fighting a Quasi-Militant Democracy

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# Contentious Politics in Defense of Neo-Militant Democracy in Poland: The Rationale Behind Fighting a Quasi-Militant Democracy<sup>1</sup>

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## Abstract<sup>3</sup>

The article aims to present voters, and self-governments' opposition toward the correspondence form of the presidential elections in Poland. The elections were to take place during the coronavirus pandemic (in May 2020), and due to the epidemiological threat, a decision was made to change their form. Initially, correspondence elections were to include older people, those being at risk of infection, and later all citizens with active voting rights. The organization of elections in this form faced great resistance due to doubts related to the secrecy of the elections, the transfer of voters' personal data to the Polish Post (Poczta Polska), or the pragmatic nature - no letterboxes, as well as legal ones - violation of the provisions of the Electoral Code which regulates electoral issues in Poland. Limiting electoral rights is also one of the symptoms of becoming a neo-militant democracy. The emphasis was put primarily on fears, doubts and allegations raised by protesters regarding the organization of elections in the correspondence form and the actual processes of quasi-militant democracy implementation. The analysis makes it possible to explain the reasons and motives for the resistance of the protesters and what solutions were proposed in their place. On this basis, it introduces recommendations to the government to restore stability in the state and end protests.

**Keywords:** elections; president; Poland; neo-militant democracy; civic freedoms; contentious politics.

## Introduction

Presidential elections in Poland are held every 5 years. They are characterized with higher turnout than in other types of elections, although a president's role narrows down mainly to representation. In 2020, presidential elections were scheduled for May 10, and a possible second round for two weeks later. However, no one expected that the virus causing COVID-19 would begin to spread in January at such a large scale, and the coronavirus pandemic would be announced in March. As a result, state governments began to implement numerous restrictions and recommend staying at home. All mass events that could contribute to the spread of the epidemic have been cancelled. In Poland, however, questions have arisen about the organization of presidential elections in a difficult epidemiological situation. Initially, the elections were to be held in normal procedures as before the pandemic but with keeping extreme caution. However, this solution has been met with great resistance from society,

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including some politicians from the ruling party and even presidential candidates. At the end of March (March 31, 2020), a group of Law and Justice members submitted a draft to the Sejm which assumed postal voting for all voters. Public opinion polls conducted by numerous researchers indicated that most Poles are against the organization of elections on a predetermined date of May 10, 2020. The article aims to present voters' and self-governments' opposition toward the correspondence form of the presidential elections in Poland. The focus is primarily on fears, doubts and allegations raised by protesters regarding the organization of elections in this mode. The analysis explains the reasons and motives for the resistance of the protesters and solutions that were proposed in its place.

### **Presidential Election during the Coronavirus Pandemic**

The events are perceived mainly within the theoretical framework the process of neo- and quasi-militant democracy. 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 as its enemies (Loewenstein, 1937a: 418, Molier & Rijpkema, 2018). The term militant democracy was first used by Karl Loewenstein, who sought the reasons for the failure of the Weimar Republic against Nazism (Loewenstein, 1937a; 1937b). Although the characteristics adopted by democratic regimes have differed considerably since then, on the basis of the current literature, it is possible to indicate measures, which are useful for the study of modern democracies, i.e., neo-militant democracies. These include: the limitations of the freedom of assembly (Mareš, 2012: 34); the limitations of the freedom of the press (Capoccia 2005: 57–61); the limitations of the freedom of speech (Ijabs, 2016: 289; Mareš, 2012: 36); the limitations of the freedom of association (Mareš 2012: 36); the limitations of the freedom of religion (Müller, 2012: 1119); the limitations of passive voting rights (Ijabs, 2016: 289); the limitations of active voting rights (Ijabs, 2016: 289); the limitations of referendum organization (Ijabs, 2016: 288); legislation on counterterrorism and anti-terrorism (Macklem, 2006: 488–489); the limitation of registration and functioning of political parties (Mareš, 2012: 36); the limitation of naturalization (Ijabs, 2016: 289); the limitation of access to public employment (Mareš, 2012: 36); legislation on anti-extremism (Capoccia, 2005: 57–61; Sajó, 2005: 2280); movement restrictions (Sajó, 2005: 2280); restrictions on the independence of the judiciary (Kirshner, 2014: 21). Quasi-militant uses legal means, a characteristic of neo-democracy not to protect democracy, but to extend politicians' power competencies.

There are numerous reasons behind perceiving the correspondence voting in Poland in the context of the categories of neo- and quasi-militant democracy. Voters' and self-governments' opposition

indicated numerous threats, doubts and fears related to the form of elections adopted in pandemic realities. Based on the qualitative analysis of the statements appearing in the analyzed period they were arranged into four groups: 1) a group of factors related to the rule of law principle and democratic principles; 2) a group related to technical and organizational aspects of elections; 3) a group related to emotions, feelings, and trust in state institutions; 4) the last group which is related to the position held by authorities, institutions, and politicians. The groups were selected on the basis of the criterion of the frequency of their appearance and quotation in the mass media. The study focused on the news channels that had the greatest reach in Poland. The most opinion-forming media in the analyzed period were internet portals: Onet.pl, Wp.pl, TV stations: TVN24, Polsat News and the press: Rzeczpospolita, Gazeta Wyborcza (IMM, 2021). The listed media had the highest citation rates. Moreover, in the case of TV stations, the main news services were included in the analysis, TVN 24 at 7 p.m. and Polsat News at 6.50 p.m.

In the first group there are such elements as: an electoral process that does not meet fundamental democratic principles such as secrecy, immediacy, universality (especially 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 thereby failing to comply with and violating the rules and deadlines set therein (which violated also the Polish Constitution); the threat of invalid election of president.

The second group includes: voters' personal data could be intercepted and processed by unauthorized entities if ballot papers were lost (the cards contained, among others, personal ID number (PESEL), which can be easily used for taking bank loans); exposure to infection by touching ballot papers and envelopes; general logistical concerns about Polish Post's capabilities to deliver the voting packages in the short time which remained until the elections (this anxiety results 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 postmen (they also expressed opposition because they would expose themselves and voters to infection by contacting with a large number of residents) or from soldiers and police officers, who would guard mailboxes since they are easily accessible and there is a risk of stealing ballot papers.

The third group of arguments encompasses: 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 restriction of access to promenades, green areas, parks, forests; dissonance 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 fourth group includes the following factors: opposition of local government representatives, e.g., city presidents to share voters' data; objections of the Polish Episcopal Conference (in Poland the Catholic Church has a significant voice on many issues).

Most of the measures indicating the occurrence of neo-militant democracy could be observed during the coronavirus pandemic in European countries, which was related to the lockdowns. However, the restrictions often were introduced unjustifiably and infringed democratic principles. In a crisis situation, citizens at first impulse to be scared by an unknown, look for help from the state and expect that it will allow them to safely go through the crisis. It turns out, however, that many political groups use such situations to achieve their political goals. When politicians use neo-militant democracy measures, not to protect democracy, but to expand the scope of their own power competencies, a quasi-militant democracy is created.

The categories of neo- and quasi-militant democracy allow researchers to study how and why within democratic systems there are introduced restrictions that make the political systems of modern states take on undemocratic features. The planned presidential elections in Poland are a particularly important case in this context, especially since election rights constitute the foundation of a democratic system. Conscious choice and the possibility to vote for candidates who will represent the public interest is a fundamental right of every citizen. In Poland, the proposed solutions became the subject of contentious politics and the source of conflicts and protests, mainly on the part of voters and self-governments' opposition. In such a way, the Law and Justice discriminated against other social groups considered as its enemies or enemies of democracy. Other social groups than the elderly were left with a choice 'vote and die' or 'stay at home and survive'. That is the main reason why the process of taking advantage of neo-militant democracy measures in Poland has become particularly clear. Previously introduced restrictions on, among others, public gatherings, restrictions on freedom of movement (e.g., for a certain period it was impossible to go to the forest or on the promenade), religious freedom - manifested by a limited number of people who could participate in church ceremonies and rites, did not prevent the rulers from organizing elections in which thousands of voters take part. The government also proposed to organize postal elections. However, under the pandemic, it would pose voters to the risk of infection potentially spread by postmen. Moreover, these proposals

also completely omitted regulations provided by the Electoral Code, which made them unconstitutional.

## **Conclusions and Recommendations**

Presidential elections were to be held in Poland on May 10, 2020, but the pandemic hindered their organization. The government proposed to organize the elections in a correspondence form, violating the principles of the rule of law. For this reason, the categories of quasi- and neo-militant democracy were used to explain the resistance of public opinion, which allows to study modern democracies in terms of the presence of undemocratic features in order to either weaken or maintain democratic regimes. The paper draws upon a theoretical framework that sheds light on the nature of the actions of the government that resulted in public opinion's resistance. The purpose of using neo-militant democracy measures was closer to quasi-militant democracy purposes. The reasons for it were divided into four groups: 1) a group of factors related to the rule of law and democratic principles; 2) to technical, organizational aspects; 3) to emotions and feelings, trust in state institutions and 4) to the position held by authorities, institutions and politicians. Referring to them, the paper explains the reasons and motives for the resistance of the protesters which was caused mainly for limiting their active voting right in the context of contradictory government activities implemented for countering the pandemic. Accordingly, Poles opposed the expansion of the scope of the ruling powers of politicians, i.e., the implementation of goals characteristic of a quasi-militant democracy.

The recommendations that can be proposed on the basis of the analysis focus on the governmental policy. It should admit that organizing elections during a pandemic was not the best idea and officially apologize citizens for its reckless decision. Furthermore, nothing justifies the desire to extend its power competencies and focusing on power rather than the health security of Poles. The next step should be taking action against those responsible for spending large sums on elections that had not taken place. It would also be better to regulate the transfer of sensitive citizens' data in order to avoid future transfers to other institutions without the consent of the persons concerned. In this way, the steps taken to rebuild voter confidence would become apparent. Citizens should be assured that the common good and their interests are more important than party and political interests, because politicians should be the representatives of the voters who voted for them. At the institutional level, it is important to take action to change and restructure the institution, which is The Polish Post, to which citizens have a low level of trust. One way would be to improve the functioning of this institution at every level. Next, an information campaign should be carried out with a positive impact, which would encourage citizens to use improved services.

The situation that took place in Poland is particularly important for the researchers of the process of quasi- and neo-militant democracy measures implementation. It is also a guide for other countries in which elections will take place possibly under equally difficult conditions, as another waves of coronavirus infections are expected. They reveal that social consultations are necessary to maintain democratic structures also in times of the pandemic.

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