

**Defending enlightenment philosophy of the rule of law.  
(the image of the concept of usurping democracy in Poland Post-2015  
created by independent media)**

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**Abstract**

The main political party in power in Poland arouses much controversy, which is caused, among other things, by omnipresent propaganda and manipulation of content. This article results from a meta-analysis of framing media messages in Poland's leading independent media. The ruling party's reign of power, the reduction of opponents and the swearing in of (also illegitimate) allies in the most strategic positions, or the abuse of immunity and attempts to subjugate institutions such as the courts and the prosecutor's office are clearly discernible. Such acts have also directly affected citizens who have chosen to take to the streets and defend their rights, which has entailed, for example, court proceedings being brought against them. The declaration and actions of the ruling party, which invokes Catholic values, are contradictory - even mutually exclusive. The Polish free independent media show how many abnormalities and abuses have occurred during the reign of the current government. Consequently, various measures are also being taken against the fourth estate to restrict its freedom, influence its content, obstruct its journalistic integrity, and there have even been attempts to seize such media and drag them to the "right" side.

**Key words:** fourth estate, separation of powers, the concept of the state, post-soviet society, post-scientific society, philosophy of power

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**Introduction**

In 2005 a new political acronym appeared in the Polish media — POPIS, describing the expected coalition of the two victorious parties of the parliamentary elections: Civic Platform (PO) and Law and Justice (PiS). Both had around 40% support and similar (almost identical) electoral programs. The average voter did not perceive any major or significant differences between them, and it probably appeared to them that it didn't matter which of them would be in power, as both would guarantee a stable pro-European course and continuation of the economic successes of previous governments.

Imagine the surprise of the voters when, during the live-streamed negotiations between party representatives on forming a joint government, it turned out that both parties understood their political interests differently and could not agree on basic matters. Ultimately, PiS turned out to be a right-wing party, which formed a coalition government with two other parties and held power for 2 years. This period was assessed as being full of conflicts and crises (Wójcik, 2007). As a result, the government fell apart in the mid-term, and after new elections, power was assumed by the opposition party — already clearly democratic and liberal — which went on to dominate the political scene for two terms.

The right wing has been successful since 2015, when power was taken over by the PiS party, which formed a coalition government with two other small right-wing parties, and Andrzej Duda, whom it supported, won the presidential election. Since then, the independent media has been showing a completely new, hitherto unknown, approach

to the concept of exercising power, presented by the ruling party; and a new understanding of the definition of such basic concepts as the rule of law, the constitution, representative democracy, separation of powers, electoral mandate, and the duties of a political representative.

### **Method**

For the article, a meta-analysis of framing and interpretation frameworks of media messages presenting the activities of state authorities (president, prime minister, members of the government, members of government parties) after 2015 in Poland was carried out. Only independent media were taken into account, as those that are able to present the least distorted picture of reality and have a large group of recipients, thanks to which they can influence the shaping of public opinion. Such media include TV station TVN, Gazeta Wyborcza newspaper, and the Onet.pl website. Media that were dependent on the authorities (including state television) quickly became a means of broadcasting party propaganda. It was symbolic that in 2016, Jacek Kurski (a faithful propagandist of PiS, who became famous for saying "the stupid people will buy it") was appointed Director of the state television. It was a response to opponents' doubts about the sense of disseminating manipulated information about the opposition. The appointment of such a man was meant as a clear signal that the role of the "fourth estate" in the hands of the party was to support government manipulation and the official (falsified) vision of reality.

An analysis of frames and framing was made primarily based on observations of news frames in order to build more complex thematic frames by induction, by analysing many messages in diachronic terms (Goffman, 1974; Maćkiewicz, 2020; Niesłony, 2016). This approach is closely related to critical discourse analysis and the study of media interpretations by referring additionally to presuppositions and implicatures (Wilkoń, 2002) and to the concept of discourse nebulae (Kalaga, 2001).

### **Framing the Image of the World of Power**

After winning the elections, the united right wing showed first and foremost its hunger for power. The first statements of president-elect Andrzej Duda presented on TVN were primarily appeals to the incumbent president to refrain from making any crucial decisions.

Similarly, from the very beginning of the takeover of power, we could see the party's actions as being aimed at appropriating and controlling everything possible. The symbol of such a takeover was to dismiss the director of the state equine stud in Janów Podlaski and replace him with their own man. The former director was an outstanding specialist who had made millions in profits for the stud. After the change, the stud began making losses in the millions, and further staff purges were needed for the breeding activities to start bringing in any income at all. There was no question of returning to its former glory. The television station TVN regularly reminds viewers of this image failure of the party, each year analyzing the stud's profit and loss account.

Another important event that became a symbol showing the ruling party's approach to exercising power was the exclusion of one of the opposition deputies from the parliamentary session and a blockade of the Sejm in December 2016, which was extensively reported in the media. The debate concerned the restriction of the presence of journalists in the Sejm, proposed by the ruling party (they were to be restricted to moving only in designated zones in a very limited area). The Marshal of the Sejm (a member of the ruling party) conducting the debate turned off an opposition MP's microphone during his speech and excluded him from the discussion. The Marshal had been unnerved by a piece of paper with the inscription *#WolneMediawParlamencie* (*#FreeMediaInParliament*), which the opposition MP had

placed in front of him during his speech. Opposition members blocked the Sejm rostrum, citizens gathered in front of the parliament building to protest, and the Marshal moved the proceedings to another hall, which had been conveniently prepared.

Television news station TVN24 reported the course of events on an ongoing basis, adapting the framework program and inviting comments from experts, including political scientists and lawyers. Reports focusing on limiting the control of power by the media (a significant reduction in the work of journalists) very quickly gave way to images of political clashes and coercion by the parliamentary majority. The protests of citizens in front of the parliament building, the blockade of the rostrum (which was later criticized), and doubts relating to the powers of the Marshal and the legitimacy of his further actions were all reported.

Thanks to these broadcasts, we were able to see:

- denial of opposition members entry to the space where voting took place;
- the manual, inaccurate counting of votes by representatives of the ruling party;
- false additions to the attendance list of deputies leaving the Sejm after voting.

The package of bills being voted on at the time included one relating to the budget, and the opposition claimed that as there wasn't a quorum in this case, the vote was invalid.

A year later, the state body supervising the media — the National Broadcasting Council (KRRiT) — issued a controversial ruling imposing the highest ever fine on TVN, amounting to almost 1,500,000 PLN, for its coverage of the parliamentary crisis. After many protests and the intervention of the US Embassy, the National Broadcasting Council withdrew its decision.

### **The State and the Law of the Stronger**

By obtaining a parliamentary majority and with the additional support of the President, the ruling parties had the means to pass any act into law. One of the first significant acts forming a new legal order was the Law on the Prosecutor's Office of 28 January 2016, which subordinated the prosecutor's office and prosecutors to the Minister of Justice. From then on, the Minister of Justice, also the Attorney General, could influence any state investigation. As some commentators have pointed out, this has become a convenient tool for efficient control and political struggle (Augustyn & Bała, 2021).

Independent media regularly reported on the gradual decline of the standards of democratic parliamentary debate. The deputies of the ruling parties were reluctant to engage in debate, but almost always voted following the party line, as their leader instructed them. It was more like a punitive army than a set of thinking parliamentarians with their own opinions and the interests of voters in mind. Thanks to this, parliament became a "voting machine," operating so fast that the deputies could not even read the content of the bills adopted by the Sejm a few hours after they had been shown passed to them. It was as if the coalition members did not have to analyse the bills, and the opposition's opinion did not matter anyway (see: Alam et al., 2021). It became a common practice to turn off the microphones of opposition deputies, shorten the length of speeches in committees to 30 seconds, hold parliamentary sessions at night, exclude opposition deputies from the sessions, and omit the necessity for social and sometimes even legal consultations. The image of the political game that began to emerge was of a technically efficient governing power

versus an opposition that could not put up any resistance and could be defeated in many ways.

The image of a subordinate prosecutor's office as an instrument of strengthening power manifested itself in a selective approach to reporting suspected crimes. The independent media, recorded examples of doubts and irregularities (probably also criminal activities) in which the prosecutor's office either suspended proceedings or took no action at all, as well as presenting indictments to the courts for consideration, which were rejected because the reported events did not bear the characteristics of prohibited acts.

The first category includes:

- the collision between a column of government cars carrying the then Prime Minister Beata Szydło and a legally manoeuvring Fiat Seicento passenger car. The accident happened on February 10, 2017. At a press conference a few hours after the incident, the then Minister of the Interior stated that the driver of the Fiat was to blame. The trial in such a minor case lasted almost 6 years (the verdict was not announced until February 2023), and during it, a number of deceptions and irregularities on the part of state authorities were revealed: lies by security officers, the persuasion of witnesses to give false testimonies, and the loss of key evidence by the prosecutor's office;
- the "two towers scandal". In 2019, Austrian businessman Gerald Birgfellner filed a notification in the Prosecutor's Office regarding the failure to settle an account for the design work performed by him for the Srebrna company, planning to build offices in the center of the state capital. The Prosecutor's Office failed to take some of the evidence into account and suspended the proceedings, "giving credence" to the testimony of the president of the ruling party, Jarosław Kaczyński, who is the *eminence grise* of the company's management board (Onet, 2019). Among other things, the president was to persuade the businessman to pay a bribe;
- the respirator scandals. One of these scandals involved the purchase of 1,241 respirators by the Ministry of Health in the spring of 2020 during the peak of the Covid-19 pandemic. The company that signed the contract had never dealt with medical equipment, and the UN wanted its owner for illegal arms trafficking. Additionally, the cost of the goods was significantly overestimated, and the respirators which were supplied did not have the appropriate approvals and turned out to be inoperative, with the result that the Ministry could not sell them even for a fraction of their value. So far, no ministers have suffered any consequences (Onet, 2023). The second irregularity involved the sale of over 1,200 respirators by the state-owned company KGHM to the Ministry of Health at a price that was 10 times higher than their worth (Onet, 2022).

Civil protests were an example of widely reported events where the Prosecutor's Office was exceptionally active. And so indictments were formulated against:

- the leaders of the Women's Strike, organizing protests after a verdict pronounced by the politicized Constitutional Tribunal. that practically outlawed abortion in Poland. The court dismissed the charges;
- grandmother Kasia (Katarzyna Augustynek), who was accused of violating the bodily integrity of policemen. A final acquittal was announced this year (2023).

Marta Gordziewicz's report for TVN deserves special mention for showing how the Minister of Justice / Prosecutor General involved all subordinate services to obtain a

favorable verdict in the case against her father's doctors. The independent prosecutor suspended the proceedings twice before Zbigniew Ziobro came to power; after gaining influence over the justice system, Minister Ziobro used all means possible to influence the proceedings (Pawlicka, 2023). The case has been dragging on for 17 years, and this year even the European Court of Human Rights rejected the Ziobros' (minister and his mother's) complaint against Poland.

The extraordinary persistence and determination of the Minister of Justice in prosecuting doctors for imaginary medical errors in a personal case correspond to the image of his actions in government. He is primarily presented as rejecting any possibility of control and influence by EU bodies on Polish law.

### **An inept unfinished revolution**

After winning the elections in 2015, the ruling party sought to subordinate everything to itself that could be subordinated. A stable parliamentary majority made it possible to pass any law, but it was impossible to amend the constitution, requiring two-thirds of the votes. Thus, for two terms of office, we were able to observe in the independent media an attempt to change the system by a coalition of ruling parties without formally changing the system, which in itself is an interesting lesson for democracy in the future.

After gaining influence over the Prosecutor's Office, thanks to which the party was given a realistic opportunity to define what constitutes a crime (as in the case of the scandals described above), an attempt was made to politicize the entire judiciary.

The reform of the courts was preceded by a national advertising campaign in the form of billboards that aimed to present judges as a dishonest and untouchable (outside the law) caste. Added to this were messages supporting the campaign in government media outlets and discrediting activities on the Internet. Anyway, both were controlled or inspired by the Ministry of Justice itself (sic!). TVN analyzed the whole mechanism in detail in one of its reports.

The official goal of the 2017 reform of the judiciary was to improve the work of the courts and shorten the time citizens had to wait for decisions. Instead, we were dealing with a clear picture of the struggle between the authorities and the judicial circles, which could not be subordinated, and court proceedings were getting longer and longer. The independent media presented a thorough analysis of the legal situation, conducted by eminent lawyers — constitutionalists (including law professors), journalists, political scientists and politicians, pointing to violations of the constitution and the rule of law by subsequent actions of representatives of the ruling party — top state officials (including the President) as well as members of parliament and representatives of the government.

It soon turned out that the effect of the reforms was attempts to subordinate judges and the possibility of influencing judgments (Skrzydłowska-Kalukin, 2021). The Minister of Justice acquired the ability to influence the appointment of court presidents, which he quickly took advantage of — he replaced 158 presidents with his own people, informing them of his decisions by fax. In addition, the Minister of Justice was given the right to appoint and dismiss disciplinary prosecutors, who were able to file indictments against rebel judges. The independent media reported on the development of the situation in the case of rebellious judges who dared to request a preliminary ruling, issued judgments that the authorities would not think of, or were too inquisitive. Protests against these reforms of the judiciary were also shown and juxtaposed with the authorities' determination.

Other safeguards of the legal system, such as the Constitutional Tribunal and the National Judiciary Council (KRS), were dismantled in a similar way.

In the case of the KRS, it was re-established by an act that resulted in the unconstitutional termination of the term of office of its members. As a result, the body that was supposed to guard the independence of judges became their controlling body, as only individuals supporting the ruling party entered the new KRS. The legal community started calling the new KRS the "neo-KRS", which emphasized its illegality, and the judges appointed by it as "neo-judges", which also emphasized the illegality of their appointment. This led to further problems because legally appointed judges, citing the supremacy of EU law, began to question the right of the neo-judges to adjudicate, and did not want to participate alongside them in hearings. This situation was not changed by the "muzzle act" — so-called because it was supposed to act as a muzzle on judges, preventing them from questioning the status of other judges. The independent media reported the fight for the independence of the courts on an ongoing basis, inviting representatives of the judiciary and politicians pushing for new solutions to take part in interviews.

In the case of the Constitutional Tribunal, immediately after the elections, the ruling party enacted a law on the election of new judges, and the President quickly swore them in. According to lawyers, both of these actions violated the constitution, and judges re-elected to legitimately occupied positions began to be called doubles (Polityka, 2016). Although the president of the Tribunal did not take the oath from them, they entered the Tribunal building, accompanied by officers of the Government Protection Bureau. On 9 December 2015, the Constitutional Tribunal, chaired by a legitimate incumbent president, issued a judgment in which it declared as unconstitutional the provisions relating to the re-election of judges and the removal of the functions of the then president and vice-president of the Constitutional Tribunal. The then Prime Minister withheld publication of this judgment, and the ruling party maintained that the published judgment did not exist in the legal order. The stalemate lasted until the end of the President's term of office, when he was replaced by a new, subservient president, elected and appointed in violation of the constitution, as declared by independent lawyers. Since then, the legal community has referred to the Constitutional Tribunal as the Julia Przyłębska Tribunal (after the new president's name).

This contradiction of procedures, actions and judgments has been noticed by numerous lawyer-commentators nationally and confirmed by numerous judgments of the Court of Justice of the European Union and the European Court of Human Rights. The most serious of them, regarding the consequences, ordered the liquidation of the Disciplinary Chamber of the Supreme Court as not being a court under EU law due to a faulty appointment procedure. The Disciplinary Chamber was composed of judges selected by the ruling authorities and was intended to punish judges for, amongst other things, the content of their judgments.

The independent media continually and thoroughly reported the blocking and subsequent takeover of institutions and the fight for independent judges. The fight for independent courts and the Constitutional Tribunal became a kind of sensational film, broadcast live, with elements of civic education on the basics of the modern state, based on the Montesquieu principle of the three-way separation of powers.

In the long run, massive nationwide protests did not stop the actions of the authorities. Civil society turned out to be too weak, and the ruling party's activities were often compared to a steamroller because of its ability to level everything to the ground. The judgments of the EU courts turned out to be more effective. They at least partially put a stop to the destructive actions of the Polish authorities because they supported the resistance in legal circles. In media coverage, the judges developed into the true heroes of civil society because they were not afraid to pass judgments according to their own conscience.

TV station TVN regularly interviewed (and still does) the so-called rebellious judges who had been suspended from their duties and were subject to disciplinary proceedings due to their sentences being unfavorable to the authorities. In many cases, however, the ruling party applies the principle of *fait accompli* (as in the case of bringing judges to the building of the Constitutional Tribunal), its own interpretation of the law (as in the case of not publishing the judgments of the Constitutional Tribunal), and does not act in accordance with many of the EU judiciary's judgments. So far, this has resulted in huge penalties deducted from EU funds allocated to Poland (e.g., a fine of EUR 1,000,000 for failure to liquidate the Disciplinary Chamber of the Supreme Court) and the lack of funds from the National Reconstruction Plan due to violations of the rule of law.

### Summary

All this leads to the conclusion that the media image of the ruling party and its approach to exercising power is related to a specific understanding of the free mandate and the way it is fulfilled. In Poland, political representatives exercise power on the basis of a free mandate, which for them means the possibility of acting according to their conscience without the need to consult the citizens. Based on an analysis of media-mediated performances, two opposite hypotheses can be put forward:

- 1) The politicians of the ruling party are convinced that they are fulfilling some special mission of improving the world and accomplishing moral renewal, and this goal is so important that it justifies the use of any means, including those which are ethically dubious.
- 2) The ruling party's politicians are seasoned, cynical players who do not take anything or anyone into account to achieve their goals, which are power and money.

The ruling party's politicians are trying to convince us to accept the first hypothesis, referring to the Catholic tradition, the national community, and the resentment of marginalized groups in the process of social change (Cerovac, 2014). The ruling party is an integration party (March & Olsen, 1989), leader-like, and by assumption, socially oriented.

The image of politicians, politics and the ruling party in the independent media shows a chasm between declarations and deeds. They shine a light on what is false and mercilessly expose logical inconsistencies. They have successively deconstructed such terms and slogans as:

- "Poland in ruins" — the party's 2015 election slogan, accusing previous governments of destroying the nation. Interestingly, it was alternately used with the slogan "warm water in the tap" to symbolize the blandness and forced moderation of previous governments. The media image of current governments shows everything is in actual ruin — from the national stud to the entire economy, with the nation recording one of the highest inflation rates in Europe, and having the highest level of debt since the fall of communism, and the expenses have been largely outside the budget (i.e., without parliamentary control).
- "You don't go into politics for the money" — the independent media point to party millionaires who have acquired significant fortunes by unknown means, members of the supervisory boards of state-owned companies who are totally incompetent but faithful to the party, and foundations set up by party people to drain the state and mechanisms of political corruption

(lucrative positions in exchange for the support of the ruling party in key parliamentary votes).

- "Pro-family politics" — the symbol of this slogan was supposed to be an allowance for each child of 500 PLN (about 100 EUR) per month. In the first years of the party's rule, the number of births increased, but then the birth rate quickly began to fall, and after the anti-abortion judgment of the Constitutional Tribunal of Julia Przyłębska, the demographic situation in Poland became catastrophic because Polish women are afraid to get pregnant, as even if their life and health are at risk or fetal suffers from serious disease, they may face imprisonment if they terminate the pregnancy.
- "The politics of dignity" — the same supplement of 500 PLN was given as an example of the fight against poverty. Statistics show that after two terms in office, the party has a serious problem, as the level of poverty has increased significantly. Independent media also indicate that Poland has ceased to count in the international arena and has caused further disputes between the government and major international partners (Lewin & Miller-Katav, 2020).
- "Decommunization" — there are many activists and collaborators of the former communist security service in the ranks of the current ruling party. One of the most spectacular careers belongs to a prosecutor responsible for accusing opposition activists under martial law in Poland during 1981-3. As an obedient executor of party orders and a loyal member of parliament, he was nominated as a judge in Julia Przyłębska's new Constitutional Tribunal.

This leads to the conclusion that the usurping actions of the governing party are not the result of conviction and belief in worthy values but a cynical game in which citizens are treated as something like a herd of sheep to be sheared. The examples cited above are only a part of the issues analyzed and discussed in the media space.

It is open to question to what extent the media image reflects reality (Jakopović, 2013). Rather, the prevailing belief is that we always deal with a certain reality distortion. However, some media distort reality more, while others are closer to the truth. Taking into account the ideologized picture of the world and the activities of the ruling party, presented by propaganda in the government media, it is rather the curiosity and tenacity of independent journalists that are able to influence our critical thinking and civic awareness to a greater extent.

The independent media in Poland pay a high price for their activities. A state-owned company and its editors-in-chief bought out local media and had to adopt a new narrative or leave.

In relation to TVN and TVN24 (the news channel), attempts were made first to buy it out and then to introduce a tax on advertising, primarily aimed at hitting the independent media. When this failed, the ruling party tried to push through a special act called the 'lex TVN' (TVN Law), which was supposed to prevent the station from obtaining a broadcasting license. Ultimately, after numerous protests, diplomatic pressure and the mobilization of the interested parties themselves, none of these actions succeeded. The only thing left for the authorities to do was bully the independent media by delaying the decision to grant the concession. In the case of TVN24, this happened after several months of waiting, at the last moment before the current license expired.



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