

The Mask Slips: Rights Under Attack in Poland

Article by Adam Rogalewski

November 30, 2020

Around the world, authoritarian governments seized the pandemic as an opportunity to increase their grip on power. In Poland, the ruling Law and Justice party attacked the social partners before moving on to assault women's rights. Trade unionist Adam Rogalewski analyses the party's opportunistic attempt on trade union rights, explaining the links to growing attacks on LGBT people and reproductive rights, and drawing lessons for the struggle over Poland's future.

Polish trade unions have been challenged by shrinking memberships and declining power for a long time. Since 2015, the right-wing populist party Law and Justice (PiS) has confronted unions not only through assaults on fundamental rights and the rule of law but also by hijacking their social policies.^[1] With Covid-19, the mask has slipped to reveal that PiS's only objective is authoritarianism, not social rights. In true populist fashion, the party used employment and social rights to win elections but is hostile to any external power base. The pandemic was an opportunity for PiS to attempt to dismantle Poland's already weak social dialogue and attack reproductive rights. However, trade unions have, if anything, emerged stronger and new possibilities have opened up. If the opposition can recapture the issue of social rights, it could make progress against right-wing populism.

From neoliberalism to authoritarian populism

Between 2007 and 2015, Poland was governed by the Civic Platform (PO). During this time, work in Poland became increasingly precarious, the retirement age was raised, and social partners were sidelined. Towards the end of its time in office, PO changed its stance and introduced improvements to social dialogue, but it was too little, too late. In 2015, PiS came to power on a platform of social policies, most notably a substantial child benefit package. As [David Ost](#) has argued, Law and Justice emerged in opposition to the liberalism of the first post-communist decade. In its place, the party called for reviving "traditional values" and a strong state. After a landslide win in 2015, Law and Justice delivered on its social promises early. Ever since, the minimum wage has steadily been raised to reach almost half the median wage (an increase from 1750 to 2250 zloty between 2015 and 2019). Higher pensions and free medical prescriptions attracted support from older voters, while many trade union demands, such as a minimum wage for freelancers, were met.

In true populist fashion, the party used employment and social rights to win elections but is hostile to any external power base.

However, the background to this was the slow dismantling of democracy. Social policies were a smokescreen for destroying the rule of law and a gradual attempt to build an authoritarian system. Since taking power, PiS has taken over the Constitutional Tribunal and created a politically managed body to oversee the Supreme Court and the judiciary. Reproductive rights have consistently been under threat. PiS's first attempt to ban abortion sparked the 2016 Black Protests. In October 2020, just before the second wave, party judges on the Constitutional Tribunal

significantly reduced the already limited right to abortion, causing general outrage. Since the 1990s, abortion has only been allowed when the woman's life or health is endangered, when pregnancy is a result of a criminal act, or when there is a high probability of a severe and irreversible foetal impairment. The third possibility, under which 90 per cent of abortions are carried out in Poland, was declared unconstitutional.

Social policies were a smokescreen for destroying the rule of law and a gradual attempt to build an authoritarian system.

The government has also fuelled attacks on LGBT people with politicians declaring their cities and regions "LGBT-free zones". In August 2020, LGBT activists were brutally arrested by the police for peacefully protesting. The EU has criticised these attacks but to little avail. When the EU cut subsidies for municipalities that declared "LGBT-free zones", the Polish government committed to compensating any losses.

Progressive trade unions such as the [All-Poland Alliance of Trade Unions](#) have strongly criticised the brutal attacks on the judicial system, women's rights, and LGBT people. Until recently Law and Justice was commonly perceived as the party that understands the blue-collar working class. The perception was that PiS would promote long-forgotten social rights even if it came at the cost of other fundamental rights. But with PiS attacking social rights during the pandemic, this perception has shifted fundamentally.

Never waste a crisis

Poland was one of the first countries to close its borders in early 2020. The government was keen to show that it was protecting the health and wellbeing of Polish citizens. The government rushed to introduce new legislation, known as "shields", to manage the effects of the pandemic. Four shield bills have been adopted, of which two undermine working conditions and trade union rights.

The shield legislation contained many provisions similar to what other European governments have introduced, including short-term working scheme and deferred tax payments. However, it also introduced more controversial changes, safe in the knowledge that society was too preoccupied to notice. The legislation was tabled with almost no time for consultation. The only groups that could resist the changes were the opposition, which controls the upper house, and the social partners, both employers' organisations and trade unions.

The second shield bill, tabled in mid-March, tried to exclude trade unions from representing workers in negotiations over layoffs and reduced hours. Eventually, following resistance from trade unions, these changes were removed. However, PiS MPs in the lower chamber then introduced amendments on the Social Dialogue Council, the body that brings together unions, employers, and the government. The amendments entered into force on 31 March 2020, giving the prime minister the power to dismiss council members almost at will.

Trade unions were outraged. The Solidarność union, previously supportive of the government, warned that "Solidarność does not forget." European social partners wrote to the presidents of the European Commission and the European Council to request intervention. The president eventually submitted the regulations to the Constitutional Court. But, as the court is dominated by PiS-appointed judges, it was a rather symbolic gesture.

This was not the end of the attacks on workers' rights. The third shield bill in April ostensibly aimed to provide emergency liquidity to businesses but its provisions went far beyond that. Again, the bill tried to allow employers to suspend collective agreements, make workers redundant, and force workers to go on leave. It also proposed

abolishing a company social fund that supports low-paid workers and cutting the number of civil servants. It seemed that the government was testing the unions' patience. Solidarność threatened a national demonstration even under lockdown and other unions were also vociferously opposed. Eventually, the government withdrew most of the proposals but went ahead with the abolition of the social fund and civil service cuts.

Defending social and reproductive rights

After March and April, PiS did not propose any more anti-worker legislative changes. With presidential elections in July, the party changed its stance and unemployment benefits for people laid off during the pandemic were increased (unemployment benefit is below the poverty line in Poland). Nor did the prime minister use his new prerogative to dismiss members of the Social Dialogue Council. PiS won the presidential election by a slim margin in the second round (51.03 to 48.97 per cent of votes, a difference of roughly 400 000 ballots). The narrow result proved that support for PiS is shrinking, and that working people are changing their minds.

The crisis has exposed new government weakness on social rights. The government came to power by increasing spending on social transfers, yet its response to the pandemic unprecedentedly targeted workers and sought to make them pay the costs of the pandemic. If populism is about claiming to represent the people against an elite, by choosing business, PiS has demonstrated its hollowness. Moreover, Covid-19 has been a catalyst for Law and Justice's autocratic tendencies. Social dialogue and workers' rights are one of the few spheres still excluded from the party's influence. The pandemic has been a convenient opportunity to take them on. Covid-19 will have devastating economic and social consequences in Poland, as in other countries. However, it will also leave right-wing populism weaker. PiS has paid a high price for using the pandemic to undermine social dialogue.

If populism is about claiming to represent the people against an elite, by choosing business, PiS has demonstrated its hollowness.

PiS made a second crucial mistake in attacking women's rights through its judges on the Constitutional Tribunal. After the moves to curtail reproductive rights became public, people risked their health to gather in their hundreds of thousands in cities across Poland. A show of solidarity with women, the protests were of a scale not seen since the end of Communism. Protesters were convinced that the ruling was timed to coincide with the ban on demonstrations and called for the government to restore reproductive rights. "PiS has to go" was one of the most popular slogans.

Alienating the trade unions will have consequences for an increasingly isolated Law and Justice. After undermining fundamental and social rights, the only agenda left for the party is pure nationalism and ultra-conservatism. PiS has "played with fascism" in the past but they now face competition. Ultra-right Konfederacja is increasingly popular; their presidential candidate Krzysztof Bosak received almost 7 per cent of the votes. In comparison, the Social Democrat candidate Robert Biedroń received 2.22 per cent. This shift may drive PiS even further to the right in the future. Its attacks on reproductive rights cater to its only remaining support base: the conservative right.

Sadly, the opposition has not yet been able to increase its support at Law and Justice's expense. The Civic

Platform, to which the Greens are allied, is still associated with its record in government between 2007 and 2015. The parties of the Left re-entered parliament as a coalition in the 2019 election but their support cannot exceed 10 per cent. Though they are united, they are struggling to regain the trust of voters. Polling from November 2020 indicated that while support for PiS had decreased by 12 points to 28 per cent, the opposition has yet to make major gains as the share of undecided voters rose from 9 to 18 per cent.

For all parts of the opposition, the opportunity is there to take on Law and Justice on social rights. Trade unions and opposition parties should use the chance offered by the pandemic to recapture this agenda and convince the undecided. Like other countries, Poland is facing the second wave. PiS may well use the pandemic to once more crackdown on fundamental rights – as the abortion law already does – but it will also likely fail to protect citizens' wellbeing. In the country with the lowest health spending in the EU, the opposition has an unmissable opportunity to defend health and civil liberties.

Footnotes

[1] J. Czarzasty and A. Rogalewski (forthcoming, 2021). "Polish unions towards populism: strategies and dilemmas". In: B. Colfer and R. Hyman, *European Trade Unions in the 21st century – workplace democracy and solidarity in the digital age*. Oxford: Palgrave Macmillan.



Adam Rogalewski is the director of the OPZZ's international department and the vice-president of the Pan-European Regional Council of the International Trade Unions Confederation. From 2015 to 2020, he was a member of the European Economic and Social Committee.

Published November 30, 2020

Article in English

Published in the *Green European Journal*

Downloaded from <https://www.greeneuropeanjournal.eu/the-mask-slips-rights-under-attack-in-poland/>

The Green European Journal offers analysis on current affairs, political ecology and the struggle for an alternative Europe. In print and online, the journal works to create an inclusive, multilingual and independent media space. Sign up to the newsletter to receive our monthly Editor's Picks.