

Enforcement of equality before the law in Poland during the coronavirus pandemic

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Introduction

On 12 March 2020, the government declared the state of the epidemic in Poland. A day later, Prime Minister Mateusz Morawiecki informed about the ban on public gatherings of more than 50 persons. On 24 March 2020, the government introduced severe constraints on freedom of movement. Citizens could leave their houses only in duly justified circumstances, such as going to work or buying food. The police began controlling pedestrians and drivers to verify whether their movement was justified. All economic and social restrictions resulted in an almost complete lockdown. The public administration has gradually lifted the restrictions since mid-April. The will for social survival and the ruling party's determination to secure the re-election of Andrzej Duda in the presidential elections appeared to be stronger than a fear of infection and readiness to respect civil rights. The presidential elections (the first round on 28 June and the second round on 12 July 2020), held in an atmosphere of no epidemiological threats, ended Poland's first pandemic wave.

The government claimed that the chief objective was to protect the safety of citizens. In the opinion of the main opposition political parties, namely the Civic Coalition (*Koalicja Obywatelska, KO*), the Polish Peoples' Party (*Polskie Stronnictwo Ludowe, PSL*), and the Left (*Lewica*), the authorities restricted the freedom of movement and assembly unconstitutionally (Musiał-Karg and Kapsa, 2021). Instead of introducing a state of emergency based on the 1997 Constitution, the government brought in significant civic freedom limitations under ordinary law. If a state of emergency had been declared, the presidential elections would have had to be postponed (Drinóczi and Bień-Kacała, 2020). However, such a scenario disadvantaged President Andrzej Duda and the Law and Justice (*Prawo i Sprawiedliwość, PiS*) party supporting him. As a result, the administration limited liberties without declaring a state of emergency. Citizens who left their houses for purposes other than "to meet the necessary needs of everyday life" risked high fines and diverse repercussions, including court and detention proceedings. The public authorities did not classify exercising civil liberties, such as opposing democratic backsliding during protests, as a legitimate need (Orzechowski, Schochow, and Steger, 2021).

The clash between the ruling party, social groups, and political opposition uncovers opposing interests. On the one hand, the PiS strove for the highest possible social conformism and aimed to stay in power. Exercising the latter without its own president would be much more difficult. On the other hand, the various opposition actors fought for the survival of elementary freedoms and civil rights, striving simultaneously to achieve electoral excellence

(Guasti, 2020). These observations motivate the research problem of practising equality before the law in Poland during the pandemic.

Article 32 of the Constitution of the Republic of Poland (1997) establishes the principle of equality of citizens before the law. Everyone is equal before the law and has the right to be treated equally by public authorities. Moreover, no one may be discriminated against in political, social, or economic life for any reason. As an expression of the pursuit of a fair and just legal system, this principle is at the core of the rule of law (Acemoglu and Wolitzky, 2021, 1429). Breaking this constitutional concept means transforming the structure of the rule of law into the prerogative state (Fraenkel, 2018).

This article aims to determine to what extent the Polish government respected equality before the law during the pandemic. It is a sensitive indicator of the changes in the trajectory of political structure. As such, it enables us to identify and account for the direction and pace of Poland's movements on a continuum between the rule of law and the prerogative state in 2020–2022.

The remainder of the chapter is divided into five parts. The first one offers a literature review on equality before law enforcement as an indicator of the rule of law. It also establishes a theoretical framework for the analysis, including theory-based coding and data interpretation. Then, the discussion goes on to methodological assumptions and a corpus of sources. This part presents the research design and rationale behind the adopted research procedures. The other two parts introduce research findings on the two dimensions of equality before law enforcement, i.e. respecting the freedoms of assembly and movement. The chapter finishes with a discussion and conclusions on the implications of the identified instances of protection and violation of equality before the law for the drift from the rule of law to the prerogative state.

Literature Review and Theoretical Framework

The rule of law means that all citizens and institutions within the state structure are accountable to the same laws. This norm supports equality before the law and serves two main functions. While the first one is "to curb arbitrary and inequitable use of state power" (Bedner, 2010, 50), the second is "to protect citizens' property and lives from infringements or assaults by fellow citizens" (Bedner, 2010, 51). The prerogative state is the antinomy of the rule of law (cf. Schotel, 2021). It emerges when rulers restrict the freedom and rights of those they consider a threat to their rule regardless of the actual power of the latter to spark this potential threat (cf. Hendley, 2022). Accordingly, in the prerogative state, the state power is used arbitrarily, inequitably, and to secure the interest of rulers.

Researchers evaluate equality before law enforcement as one of the essential features of protest policing models since police officers play the role of law enforcement agents (Earl and Soule, 2006, 147). Jennifer Earl, Sarah A. Soule, and John D. McCarthy point to the threat approach as the most supported explanatory model in the scholarly literature. It assumes that the larger the threat to rulers, the greater and more severe the expected repression (Earl, Soule, and McCarthy, 2003, 583). This means that powers that be who cannot maintain their ruling positions according to the rule of law use the escalated force model of protest policing. They thereby breach the rule of law to eliminate the threat which underlies the transition into the prerogative state.

At the same time, equality before the law is one of many, and therefore often marginalised, determinants of the style of protest control in current studies on contentious politics. Donatella della Porta and Herbert Reiter differentiate between escalated force and negotiated management by applying the following criteria: the degree of force used by police, the number of prohibited behaviours, the number of repressed groups, police respect for the law, the timing of law enforcement, the degree of communication with demonstrators, the degree of "adaptability" understood as the capacity to adjust to emerging situations, the degree of formalisation of the rules of the game, and the degree of "preparation" (della Porta and Reiter, 1998, 4). Nevertheless, out of the factors included in the model, only the criterion of the number of repressed groups directly refers to equality before the law. While diffused repression is characteristic of escalated force, selective repression indicates negotiated management. Although della Porta and Reiter treat it merely as a quantitative indicator and thus aptly address mass arrest, its nature is qualitative as well.

The sheer number of repressed groups misses the other dimensions of protest policing selectiveness, which are qualitative, including partiality (when police repress some protesters and support or ignore others) and partisan actions (when police actions perform political interests of the ruling and act as their loyal supporters) (Suh and Tarrow, 2021). Recent studies draw attention to police partisanship and the political function of public order policing as one of its most under-theorised aspects (Smith, 2021). They emphasise that policing researchers must engage with the police's dependence on the government, the political context of their activity, and the resulting bias "to develop a comprehensive understanding of protest policing in the current era" (Gilmore, Jackson, and Monk, 2019, 48).

Clark McPhail, David Schweingruber and John D. McCarthy developed the della Porta and Reiter's model of escalated force and negotiated management by reducing the number and changing some criteria for their distinction. Their modified model of protest policing draws upon: the willingness of law enforcement to protect the right to assembly (also called the extent of police concern with the First Amendment rights of protesters), the extent of police tolerance for community disruption, the nature of the communication between the law enforcement officers and assembly participants, the extent and manner of arrests as a method of managing assembly participants, and the extent and manner of using force instead of or in conjunction with arrests to control assembly participants (McPhail, Schweingruber and McCarthy, 1998, 51). Here, only the first dimension concerns equality before the law directly. Nevertheless, since the very willingness may remain beyond the scope of empirical observation, it should be treated as the protection of the political right to peaceful assembly by police. According to McPhail, Schweingruber, and McCarthy, in the escalated force model, police officers consider selected public gatherings illegitimate and act to repress them. In the negotiated management model, they acknowledge the universality of the right to peaceful assembly and tolerate protests regardless of their political aims. At the same time, law enforcement officers aim to protect human rights, life, and property (McPhail, Schweingruber and McCarthy, 1998, 51). While escalated force is peculiar to the prerogative state, negotiated management is characteristic of the rule of law.

Another dimension of equality before the law is protecting freedom of movement. The rule of law assumes that the restriction applies to all citizens regardless of their characteristics. In turn, when members of the ruling elite do not have to obey the limitations, the prerogative state emerges. In the prerogative form, restrictions of movement aim to increase social conformism and subordination, while in the rule of law, they protect public health and human lives. Adherence to procedures is another important indicator of the type of political

structure. If the police act in accordance with their powers and the procedures provided for by law, the rule of law applies. In the prerogative state, the police operate outside the scope of the procedures and thus expand their powers.

To sum up, this two-dimensional approach to equality before the law may be useful for understanding the dynamics of balancing between the rule of law and the prerogative state or the transition from the former to the latter. During the pandemic, the Polish police were engaged by the government to control compliance with the ban on movement, organising, and participating in public gatherings. The characteristic of the rule of law is that all citizens are treated equally in enforcing these bans. At the same time, the prerogative state divides Poles into those affected by the prohibition and those excluded from its observance. The following parts of the chapter uncover the essential features of this engagement.

Research Methods and Data

The study addresses the following research question: to what extent did the Polish government respect equality before the law during the pandemic? Here, the authors emphasise that the ruling elite used police officers to enforce the law, and the latter were agents defining the attribute of equality before law enforcement. To gather data sufficient and necessary to tackle the research question, we carried out an intertextual qualitative document analysis of police statements and news released during the pandemic, from the declaration of the pandemic in Poland up until the lifting of the state of the epidemic there, so from 12 March 2020, to 16 May 2022 (Rozporządzenie 2022). We obtained validation, convergence, corroboration, and representativeness for law enforcement characteristics with data triangulation. Our corpus of sources includes the official governmental website, entries from the Polish Police official website, the Capital City Police (the Warsaw Police Headquarters), tweets of these two entities, and news distributed by the most opinion-forming Polish media (Onet.pl, TVN24, RMF FM, and Rzeczpospolita).

The governmental website was a major source of notifying Poles about restrictions. In turn, the police informed about the rules of enforcing the regulations and created their own image of relationships between police officers and citizens. As the watchdogs, the media provided independent views on the ruling administration, the police, and citizens' involvement in law enforcement during the pandemic.

The authors searched entries on the governmental website manually to determine binding restrictions. At the same time, we searched entries on the police's official websites and Twitter accounts to gather those containing at least one of (a) and (b1) or (b2) search phrase in one news or tweet: (a) we *and/or* law enforcement *and/or* police *and/or* police officers *and/or* officers; (b1) disorder *and/or* assembly *and/or* gathering *and/or* protest *and/or* demonstration *and/or* manifestation *and/or* rally *and/or* strike *and/or* riot *and/or* social unrest *and/or* participants of these contentious collective gatherings; (b2) movement *and/or* move *and/or* moving *and/or* travel *and/or* travelling *and/or* location.

We included our source corpus Onet.pl, TVN24, RMF FM, and Rzeczpospolita by drawing upon the Institute of Media Monitoring (IMM)'s "The most opinion-forming media in Poland" reports. While those titles had more than 3,000 during the pandemic, others gained about 2,000 and fewer citations (Rak, 2021). By applying the same search rules, we explored the media archives manually.

Additionally, we triangulated those sources with datasets of the Global Database of Events, Language, and the Tone Project database (GDELT Project), namely, the GDELT Event Exporter and the GDELT Event Database. It contains records from numerous news outlets worldwide, published in 65 languages (e.g. BBC Monitoring, New York Times). We thereby combined state and commercial media narratives to avoid bias in interpreting law enforcement agencies' behaviour. When in doubt concerning data interpretation, we used the dataset for fact-checking instead of reviewing the whole dataset. By inquiring the GDELT EVENT Exporter, we built the former with the following set of criteria: Date = 12/03/2020; End Date = 16/05/2022 (the official caesuras of the pandemic in Poland); Actor1 Country: Poland (location of event: Poland); Event Code: 14 (the type of event: protest); Event Country: Poland (type and state affiliation of the initiator of the action: Poland); Weighting: NUMEVENTS (an aggregation of the CAMEOevent codes into four categories ranging from Verbal Cooperation to Material Cooperation, Verbal Conflict, and Material Conflict) (Rak, 2021).

After collecting data on law enforcement characteristics, the authors went on to skim, examine, and interpret information. We employed content and thematic analysis techniques to facilitate these stages. First, we separated text excerpts directly referencing police respect for and protection of the freedoms of movement and assembly. Second, we organised these excerpts into two categories: the protection of freedom of assembly (a selective or stated top priority for all) and the protection of freedom of movement (a selective or stated top priority for all). These stages of content analysis were followed by thematic analysis. The latter commenced with multiple readings and reviewing the text passages in the two categories. It aimed at discovering themes (patterns of meanings) relative to equality before the law regarding the freedoms of movement and assembly enforcement across the dataset (Clarke and Braun, 2017). Then, we grouped text passages into instances of securing or breaking those selected civil rights. The coding rested on the groups of search terms from the theoretical framework. Evaluator triangulation and the constant comparative approach to data facilitated analysis and contributed to the validity. Whereas the text passages depicting individual instances were mutually listed, codes served to arrange ideas and isolate clustering concepts. When the corpus of sources contained contradictory evidence, we resorted to the generated GDELT dataset to delve into the cases further. It allowed us to define the possible values of the aspects of equality before law enforcement. Such data triangulation provided a convergence of evidence.

Equality before the Law and Freedom of Assembly

On 13 March 2020, with the declaration of an epidemiological emergency, the government introduced a ban on more than 50-person gatherings. On 24 March 2020, concerning the declaration of the epidemic, the Council of Ministers ordered a total restriction on assemblies. These regulations were relaxed in May 2020. In October 2020, with the rise of the second wave of the epidemic, a ban on public gatherings of more than ten individuals, and from 23 October 2020, more than five persons were introduced. From June 2021, organising public gatherings with no more than 150 participants became possible.

In Poland, acts of Parliament may only restrict civil rights and freedoms. Article 57 of the Constitution of the Republic of Poland of 1997 explicitly states that a legal provision (a statute) only may restrict the freedom of peaceful assembly. Meanwhile, all restrictions, including a total ban on assemblies from 24 March 2020, were introduced by the Regulation

of the Council of Ministers. Nevertheless, the government tried to force citizens to abide by the ban on public gatherings by controlling the activity of the police.

During the first wave of the pandemic, few protests were caused primarily by economic factors. On 24 April 2020, the Czech Republic and German border area inhabitants protested against closing the borders. This decision deprived them of the possibility of working abroad. In June and July, employees of LOT Polish Airlines, travel agencies, and coach companies joined protests. In each case, the police protected protest sites but avoided dispersing the gathered and checking their identity cards.

On 14 April 2020, the All-Poland Women's Strike (*Ogólnopolski Strajk Kobiet, OSK*) held a protest against attempts to tighten the abortion law. People in the streets, cars, and balconies kept homemade posters. They adhered to all sanitary restrictions. Nevertheless, the police checked the IDs of twenty-four protesters, fined four persons, and brought six cases to court. They also sent applications to the Chief Sanitary Inspectorate (*Sanepid*) to fine the protesters for non-compliance with sanitary regulations and accused them of blocking traffic (Malecki, 2020). Coronavirus sceptics held two very numerous protests of hundreds of individuals on 6 June and 10 July 2020 but did not encounter any reaction from the police. They were organised by the editorial office of "Gazeta Warszawska", supporting the ruling party.

On 26 March 2020, the Citizens of the Republic of Poland (*Obywatele RP*) activists put up a huge banner to thank healthcare workers for their work. Although they respected the principle of spatial distance, the police accused them of breaking sanitary rules and brought indictments before the court. Those activists were noted for opposing democratic backsliding in Poland. After reading the evidence and considering the accusation's legal basis, the courts acquitted them.

The first street demonstration of the Entrepreneur Strike (*Strajk Przedsiębiorców*) led by Paweł Tanajno took place on 9 May 2020. The police detained 62 individuals. During the second demonstration on 17 May 2020, law enforcement officers violently clashed with the participants and arrested 380 activists, including Senator Jacek Bury from the opposition Civic Coalition, despite his immunity (Mierzyńska, 2020, Police clash, 2020; Warsaw police, 2020). The police treated the protest as illegal, as officials did not register it. Thus, the police disregarded the decision of the Court of Appeal in Warsaw (*Sąd Apelacyjny w Warszawie*), which stated that the refusal to register does not constitute a decision prohibiting the demonstration. During the third demonstration on 23 May 2020, law enforcement officers detained Tanajno, a registered candidate for the presidency of the Republic of Poland and a counter-candidate of the incumbent Andrzej Duda, the president supported by the ruling party. It was the first time a candidate for president was arrested in post-communist Poland (Presidential candidate, 2020).

Other protests were far less numerous. On 3 May, activists from the Committee for the Defence of Democracy (*Komitet Obrony Demokracji, KOD*) walked in several cities with banners "Constitution" (*Konstytucja*). The police detained some of them, checked their IDs, and accused protesters of breaking sanitary regulations in a few cases. However, the organisers declared they adhered to the sanitary regime (Konstytucyjne, 2020). On 12 May 2020, KOD organised happenings to ridicule the farce of the presidential election that was to have taken place two days earlier. Again, law enforcement officers checked the identity cards of the protesters (Obywatelskie protesty, 2020). A one-person protest in May 2020 in Toruń

ended with the prosecution sending an indictment of unlawful use of public property, i.e. the accused was leaning against a streetlamp. Nonetheless, the court acquitted him.

On 22 and 23 May 2020, over 200 protesters gathered in front of the state radio headquarters. Radio managers nominated by the ruling party cancelled a weekly hit list, as Kazik's song entitled "Your Pain is Better than Mine", criticising Jarosław Kaczyński, took the No 1 spot. The police did not intervene.

On 8 June 2020, law enforcement officers arrested an activist from the Citizens of the Republic of Poland, the association also famous for opposing democratic backsliding. Her fault was putting up posters accusing the Minister of Health Łukasz Szumowski of corruption on sites belonging to AMS – the advertising company. Officers handcuffed the activist, took her to the police station, and searched her apartment. Moreover, they sent her personal data to the state media controlled by the ruling party. A demonstration in support of her organised two days later was dispersed by the police.

During the second wave of the pandemic, the All-Poland Women's Strike organised large demonstrations in over a hundred cities and towns after the ruling of the Constitutional Tribunal was announced, which strictly limited the right to abortion. In October 2020, law enforcement officers temporarily detained and checked the IDs of a few individuals. Subsequently, the police began to protect churches, Law and Justice's parliamentary offices, and the places of residence of politicians from the ruling party, mainly Kaczyński's, not only during *escraches*. On 10 November 2020, Paweł Dobrodziej, the Commander of the Capital City of Police, issued an instruction in which he ordered more decisive action against the demonstrators. Since then, the law enforcement officers claimed that assemblies during the epidemic were illegal, blocked marches, used the police technique of "kettling" to separate protesters from the crowd, fined, checked the IDs of the protesters, and sent requests for punishment to the *Sanepid*. On 18 November 2020, police officers in plain clothes used telescopic batons against protesting women in Warsaw. During the eight weeks of the Women's Strike, the Warsaw law enforcement officers detained over eighty persons (Rak and Bäcker, 2023, 207-208).

In sum, the principle of equality before the law was violated. The police avoided repressing the participants of public gatherings which were not anti-governmental. Nevertheless, they used multiple repressions against the participants of anti-government protests. The mildest form was identity card checking. The other forms included transporting to police stations, temporal detention, directing motions for punishment to the *Sanepid*, and prosecutor's accusations to courts. However, the judges, due to the unconstitutionality of the ban on public assemblies, usually ultimately acquitted the participants of the assemblies.

Notably, the participants in protests organised by the presidential candidate Tanajno suffered from severe repression. His activities were treated as posing a threat to President Duda's position. In addition, the ruling elite might have perceived them as potentially engaging in political participation with those who had not previously participated in social life. Due to the programme and social structure of Tanajno's supporters, they would support the opposition candidate more than Duda in the second round of the presidential election. Thus, the level of repression was much higher than in other cases.

Equality before the Law and Freedom of Movement

It is hardly possible to precisely determine to what extent the ruling administration failed to comply with the prohibitions on moving and staying in public places during the pandemic. This is due to many factors. The first is the whole system of privileges conferred by possessing a high official or political office. A company car at one's free disposal that is not subject to police control, together with a driver, is only one of many such privileges. It is also impossible to define the scope of remote work, even for individuals such as Kaczyński, the president of Law and Justice, who do not use the Internet. It is only possible to scrutinise the credible facts from the media regarding individual cases of violating the very variable prohibitions against moving and staying in public places.

The most famous are the numerous cases of breaking all restrictions by Kaczyński. Despite the ban on leaving the house, except for going to work and shopping, Kaczyński went to church every Sunday, and on 18 March 2020, he went to the Wawel Castle to the grave of his brother and sister-in-law. In the latter case, in addition to the bodyguards who were always with him, he was also accompanied by the MEP and former Prime Minister Beata Szydło (Koronawirus, 2020). Kaczyński was characterised by his disrespectful treatment of the obligation to wear masks and the lack of spatial distance during public meetings. It was he who decided that, despite the pandemic, ceremonies to commemorate the 2010 Smoleńsk aviation disaster would be held. The most famous example of this was the ceremony at the monument to the victims of the Smoleńsk catastrophe in the centre of Warsaw on 10 April 2020. Regardless of the gathered group of over one hundred law enforcement officers, over 50 activists from the ruling party participated in these celebrations (Rządzącym wolno, 2020). In the following year (2021), the celebration of the Smoleńsk disaster anniversary attracted fewer people, and the majority complied with the obligation to wear masks and keep spatial distance.

Additionally, Kaczyński visited the Powązki Cemetery on 10 April 2020, i.e. at the time when its administrator, the Archdiocese of Warsaw, banned entry. This information was made public immediately after the incident. However, it gained publicity again after the government introduced a total ban on visiting cemeteries on the Day of the Dead, 1 November 2020. This information, especially on the day when the commonly observed custom of remembering the dead in cemeteries was forbidden - caused widespread outrage (Jurszo 2020; Nie, 2020).

Also, on 10 April 2020, six Law and Justice politicians who neither wore masks nor respected the spatial distance appeared at the Wawel Castle. As the prosecutor's office discontinued the investigation, one of the NGOs under the watchdog (Centre for Monitoring Racist and Xenophobic Behaviour – *Ośrodek Monitorowania Zachowań Rasistowskich i Ksenofobicznych*) filed a complaint with the court. After a year, the court ruled that there was no violation of the law, as all prohibitions, including sanitary regulations, were unconstitutional. Limitations of civic rights may occur only through a legal act, not an ordinance of the Council of Ministers (Politycy, 2021).

In May 2020, right after the opening of cafes and restaurants, PM Morawiecki allowed himself to be photographed in a cafe in Gliwice. Contrary to the recommendations of the Ministry of Health, he sat at a table with persons he did not live with, failed to keep spatial distance, and there was no Perspex cover between the individuals seated opposite each other. Morawiecki explained that these were recommendations, not bans (Premier komentuje, 2020).

On 3 October 2020, the then-candidate and then the Minister of Education and Science, Przemysław Czarnek, visited his severely ill grandmother in the hospital. After three days, it turned out that he had developed symptoms of COVID-19. At the same time, 90% of patients in the ward visited by Czarnek fell ill with the disease. The prosecutor's office refused to investigate this matter (Kandydat, 2020; Opozycja, 2020).

During his leave from official duties, Minister for Health Szumowski repeatedly visited the Institute of Cardiology in Anin, despite the introduction of a total visit ban. This was also the case just before his isolation due to COVID-19 in September 2020. Szumowski confirmed that he had been in this hospital many times during his vacation ("GW", 2020).

To sum up, Kaczyński's behaviour shows that he completely ignored epidemiological threats at the beginning of the pandemic. It was only after many weeks that he hardly conformed to some of the restrictions imposed by the government created by his party. Despite the apparent evidence of non-compliance with the limitations they adopted, the ruling politicians did not feel obliged to bear any consequences. Their most important task was to look for some neat explanation so that the media would not continue dealing with it.

A tremendous volume of information on breaking the bans occurred during the first epidemic wave in the Spring of 2020. This is most likely due to the very high level of public concern about the consequences of the pandemic and, thus, the pursuit of the strictest possible compliance by all, without exception, of all restrictions. Their non-observance by the rulers was treated as a particular disregard not only for the rules they introduced but also a threat to public health and the lives of all citizens.

Conclusion

The police repressed the participants of those public gatherings, which were a sign of protest against the ruling party's policy or could have threatened its political position. Law enforcement officers used repression so as not to cause an even greater wave of protests. Thus, the most brutal and mass forms of repression, such as dispersing the crowd or imprisoning almost all demonstration participants, were rarely used. Repressions of a completely unlawful nature were very seldom. The most glaring case was the Women's Strike participants beaten on 18 November 2020 by police officers in plain clothes mingled with the crowd. The actions of the police are definitely on the side of the prerogative state, although it is undoubtedly a moderate stage, not a radical one.

Similar conclusions can be drawn in the case of non-compliance by high-ranking politicians of the ruling party with government regulations concerning restrictions on movement in public places. The most frequently reported cases involved the first wave of the pandemic, although they undoubtedly occurred later. However, during the successive waves of the pandemic, they did not arouse much interest from journalists and the broadly understood public opinion. The manipulative and cynical attitude of members of the ruling elite towards public opinion is worth noting. Any justification was necessary because it was already known that their fate was ultimately decided by the president of Law and Justice, who himself did not comply with the regulations of his own government.

The ruling party significantly limited civic freedoms under ordinary law, although they could have declared a state of emergency by drawing upon the 1997 Constitution. The latter solution would allow it to impose legal restrictions, but at the same time, it would force the

government to postpone the presidential election for at least three months. The logic of party interest and convenience won with the rule of law. Citizens were deprived of freedom of assembly and could not freely oppose the unconstitutional changes in electoral law. Furthermore, the ruling party attempted to tighten the abortion laws without public debate, although the issue was highly controversial. This way, they intended to avoid mass protests, which would have likely occurred under normal circumstances.

The enforcement of restrictions on the freedom of public assembly and movement in public places locates the Polish state on the continuum on the side of the prerogative state. However, this is a moderate stage mainly due to the judgments of the courts that adhere to the Polish Constitution and thus do not fulfil the will of the ruling elite. This applies to a lesser extent to the power of public opinion to influence the most prominent politicians of the ruling party.

The examination of Poland's case illustrates the method for assessing adherence to the principle of equality before the law. A higher degree of adherence places a political system closer to the ideal type of the rule of law, while a lower degree aligns it more with the ideal type of a prerogative state. This position on the continuum is influenced not only by the actions of the ruling elite but also by the resistance of independent state institutions and the extent of condemnation from public opinion. Notably, this principle applies even in exceptional situations like pandemics and wars.

Using the aforementioned theoretical and methodological framework to assess equality before the law is valuable. For instance, one could examine the situation in Ukraine following the Russian aggression that commenced on 24 February 2022 or in Israel after the Hamas attack on 7 October 2023. Investigating the extent to which a state aligns with the characteristics of a prerogative state or adheres to the rule of law yields valuable insights into the nature of its governance and the state of its legal system. This analysis serves as a critical tool for understanding the balance between state power and individual liberties. Governance quality is a prominent aspect of this evaluation. A higher alignment with the characteristics of a prerogative state may suggest a concentration of power in the hands of a few, potentially leading to authoritarian tendencies and a lack of checks and balances. Conversely, a strong adherence to the rule of law reflects a commitment to legal principles, accountability, and transparency, contributing to a more just and equitable governance structure. Simultaneously, the institutional strength of a state is a critical factor in this analysis. A system leaning towards a prerogative state may be characterised by weak or manipulated institutions, potentially susceptible to the abuse of power. In contrast, a commitment to the rule of law is often associated with strong, independent institutions that act as checks on governmental power, promoting stability and accountability.

Respect for individual rights is another crucial dimension. Characteristics of a prerogative state may imply a potential disregard for individual rights and freedoms, as decisions may be made without due process or consideration for legal protections. On the other hand, adherence to the rule of law indicates a commitment to protecting individual rights, ensuring fair treatment, and upholding the principles of justice. In a prerogative state, public dissent may be suppressed, and civil society may face restrictions, limiting the ability of citizens to voice concerns. In contrast, a society that upholds the rule of law typically allows for open discourse, encourages civic engagement, and values the participation of citizens in shaping governance.

Finally, the analysis based on the above tool provides insights into how a state handles extraordinary situations. In a prerogative state, the response to crises may involve concentrated decision-making, potentially at the expense of individual liberties. However, even in extraordinary situations, a commitment to the rule of law ensures that responses are consistent with legal principles, maintaining a balance between security and individual rights. The analysis of whether a state embodies the characteristics of a prerogative state or upholds the rule of law offers a comprehensive framework for assessing the overall quality of a nation's governance and legal system.

Funding: This paper results from the research project *Civil Disorder in Pandemic-ridden European Union*. It was financially supported by the National Science Centre, Poland [grant number 2021/43/B/HS5/00290].

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