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Populism in times of pandemics

A chance or danger for democracies?

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In light of the global Covid-19 pandemic, not only health issues have been pushed onto the agendas of nation states but also questions of how to deal with the impact of the crisis in broader political terms. Thus, this publication addresses the subject of populism in times of pandemics and whether this (global) phenomenon preceding the outbreak of the Corona crisis poses a chance or danger for democracies. Perspectives from Germany, Hungary, Israel and Poland are presented as all four countries are not only affected by the health crisis (as are most countries around the world) but have also had to grapple with populist developments to varying degrees. The following articles provide a specific country perspective in addition to contemplating the possible effects of populism in times of crises more broadly.

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The war against COVID-19, another nail in the coffin of Hungarian democracy

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The Hungarian government has been exploiting various crises for a very long time. The COVID-19 pandemic has also been abused to deepen the power grab. The Enabling Act allowing Orbán to rule by decree during the pandemic for an undetermined period is an important step in dismantling the rule of law. At the same time it shall be seen as the result of a continuous decline of liberal democracy and constitutionalism. The EU failed to give any dissuasive responses. Not only did the situation on the ground get worse by the day, but the disease of illiberalism is now spreading across Member States. One of the most vital lessons to be learnt is that time is on the side of those dismantling the rule of law. Prompt and effective action is needed; otherwise changes will hardly be reversible in a peaceful manner.

Introduction

Coronavirus is spreading across the world. People are sitting at home in lockdown, quarantine or in curfew – and panic. As a result of Covid-19, many countries have introduced a 'state of emergency or exception' limiting fundamental rights and constitutional checks and balances.

While extraordinary times might indeed require extraordinary measures, these must not result in override the founding principles of liberal democracies, the rule of law and fundamental rights. However, the pandemic is often abused as an excuse to engage in or complete a power grab. This is particularly true for authoritarian regimes across the world. Autocracies became very creative in seizing the chance to introduce different restrictive measures from taking away the power from parliaments to controlling emergency measures, to limiting freedom of the press and applying large scale digital surveillance.

The Hungarian government has come under scrutiny after passing Act XII of 2020, colloquially termed 'Enabling Act' on March 30 2020, 'enabling' the government to rule by decree in order to fight Covid-19. Interestingly even government officials themselves use this nickname,¹ albeit in light of Hitler's *Ermächtigungsgesetz* of 1933,² it should invoke the darkest memories of European history. From a substantive viewpoint, with passing the Enabling Act, Parliament had given up its regular control over government actions. The very first government steps taken in the name of the fight against the virus show the real purpose of the law, which is granting the government unlimited powers. An ominous bill submitted to Parliament on none other day than the international Transgender Day of Visibility would make it impossible to reflect one's gender change in official documents – an issue not related in any way whatsoever to controlling the spread of a virus. The pandemic is only abused to consolidate the government's exclusionary politics. The other urgent measure in the same ominous bill was the transfer of two very valuable properties in Buda to use free of charge by a foundation led by the government's favourite historian, a key figure in creating the identity politics Fidesz pursues. Another step deprived an opposition-led city from its major tax income and transferred the right to collect taxes to the county level, which is in Fidesz hands.

Not that power was controlled effectively in the near past. Arbitrary governance without checks and balances has been occurring in Hungary for more than a decade now, but the pandemic politics the government pursues makes this even more visible.³ But how did Hungary, once a poster child of transition, become the black sheep of the European Union?

From poster child to problem child

After the collapse of communism and change of the regime, Hungary was the first among “post-communist” countries to join the Council of Europe to abide by the European Convention on Human Rights in 1990. Later in the early 1990’s Hungary was also among the first Eastern-European countries to establish official relations with NATO and became a member in 1999. The country also started accession talks with the European Union Member States and signed the EU Association Agreements in 1991, which paved the way for a full EU membership.

The Treaty of Accession to the European Union was signed in 2003. Hungary, and seven other Central and Eastern European countries and two Mediterranean islands became members of the European Union on 1 May 2004. The European Union played an important role in the transformation of all the Eastern European states and in the context of their democratisation. The principle of conditionality was used to achieve this, coupled with the presumption that once a democracy, always a democracy, i.e. democratic decline and rule of law ‘backsliding’ would not be possible once the transformation was in place.

History proved this presumption wrong.

During the past decade a partly free, pseudo democracy has been created and consolidated in a country where democracy was previously said to be solidified. Technically, every step has a veneer of legality, but legal solutions that embed illiberal policies often abuse the law, oftentimes constitutional law. As Laurent Pech and I described,⁴ three main steps can be distinguished when pursuing this “constitutional chicanery”:⁵

- › Amending or readopting a constitution to make it ‘autocracy-compatible’;
- › Organising a legislative „blitzkrieg”, targeting first and foremost institutions that are supposed to be checks on the government, such as for example the judiciary;
- › Making a strategic use – whenever necessary – of the constitution and the captured constitutional court so as to defend the autocratic legal order against any criticism or legal action initiated by national or supranational actors.

Going through these steps after 2010, Fidesz eliminated all sources of criticism by both the voters and by the state institutions. Should a discontent electorate now wish to correct deficiencies, it will be difficult for it to do so due to the distorted election laws, which fundamentally question the fairness of future elections. Judicial oversight for correcting the failures of the executive or the legislative have been considerably impaired. Distortions of the media and lack of public information lead to the impossibility of a meaningful public debate and weaken the chances of restoring deliberative democracy. The Hungarian Constitutional Court has been a proactive enabler of the regime, by failing to declare obviously unconstitutional laws as such, or by postponing the rendering of judgment, thereby granting more time for the government to complete state capture. Freedom House in 2019 – for the first time since the democratic transition in 1989/90, and for the first time in EU history – downgraded Hungary from “free” to a “partly free country”.⁶

The price of fear

The Orbán government has always played on the insecurity of people very effectively. Since 2010 they always found or created scapegoats to fear and to fight: first the IMF and the World Bank alongside with foreign owners and investors that are allegedly working against Hungarian national interest. Later individuals and entities, such as academics and NGOs were depicted a national security threats. Then came Brussels, the quasi capital of the EU; First Vice President Mr. Timmermans then responsible for the rule of law and human rights; the immigrants; and Mr. Soros as prime enemies. Let’s take the combination of the threat of illegal migration, the NGO-s and the fight against George Soros as a case study. The mastermind behind the attack was Arthur J. Finkelstein, the advisor to Fidesz. His genius was designing the figure of the perfect scapegoat in a system, where fighting enemies (whether real or fake) is central to the government’s revolutionary and freedom fighter rhetoric.

This is how Finkelstein’s closest colleague describes the creation of the perfect enemy personified by George Soros. “From the end of 2015, the attacks will follow in ever shorter intervals. Any organization that has ever received money from the Open Society Foundations is portrayed as ‘controlled by Soros.’ Employees of the NGOs are ultimately referred to as foreign-funded ‘mercenaries’. [...] Around 3.6 million dollars were spent by the open-society foundations in Hungary in 2016. The anti-Soros campaign 2017 cost more than ten times, more than 40 million euros. It had an impact.

[...] Soros became the epitome of evil.”⁷ By passing Lex NGO,⁸ a parliamentary act stigmatising and shrinking space for foreign funded civil society organisations, Fidesz could press on with scapegoating George Soros, a billionaire of Jewish origin, without engaging in direct anti-semitic speech; and at the same time intimidating civil society so as to diminish their public watchdog function.⁹

Support by the electorate enhanced through identity politics, and the friend/foe dichotomy works well even with artificially created enemies. After a state-financed hate campaign, the fear of migrants for example was deeply embedded in the whole electorate, albeit the average Hungarian never met an asylum seeker or a refugee in real life.¹⁰ Even better, when the insecurity stems from real dangers, such as Covid-19.

Whoever the enemy, threat creates emergency, and emergency situations call for a different allocation of liberties than what we are used to in normal times. And the state of emergency resulting from the fight against them, has the peculiarity that it is likely to be extended beyond the period of war or emergency. What is even worse, the public may get used to the elevated level of security measures, initially perceiving emergency provisions as annoying but tolerable, but eventually coming to accept them as being part of normal life.

How far the boundaries of a system based on the rule of law can be pushed by the novel techniques of risk prevention, is a grave concern. Even existing threats, such as terrorisms or pandemics should not question our belief in the rule of law, however appealing or pressing it might be for political forces to respond to “people’s fears. As Miguel Maduro, then Advocate General at the European Court of Justice said, a government’s “responsibility is to guarantee that what may be politically expedient at a particular moment also complies with the rule of law without which, in the long run, no democratic society can truly prosper.”¹¹ He continued with the words of Aharon Barak, former President on the Supreme Court of Israel: “Every struggle of the state – against terrorism or any other enemy – is conducted according to rules and law. There is always law which the state must comply with.”¹² In a rule of law as understood today superficial and remote precautionary principle type of justifications for grave curtailment of liberties shall never suffice for a law to survive.

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¹ <https://www.kormany.hu/en/ministry-of-justice/news/justice-minister-judit-varga-rejected-criticisms-related-to-enabling-act-in-politico>.

² Officially in original: Gesetz zur Behebung der Not von Volk und Reich, 24 March 1933.

³ See Amichai Magen’s paper in the present volume arguing that pandemics themselves do not trigger autocracies, but allow them to be radicalized. See also Petra Bárd and Sergio Carrera, Showing true illiberal colours – Rule of law vs Orbán’s pandemic politics, CEPS Policy Insights No 2020-10, April 2020.

⁴ Petra Bárd and Laurent Pech, How to build and consolidate a partly free pseudo democracy by constitutional means in three steps: The ‘Hungarian model’, RECONNECT Working Paper No. 4, October 2019, <https://reconnect-europe.eu/wp-content/uploads/2019/10/RECONNECT-WP4-final.pdf>.

⁵ The term is borrowed from Renáta Uitz, The Rule of Law at Risk: What is Next? Hague Journal on the Rule of Law, November 2019, Volume 11, Issue 2–3, pp 473–478.

⁶ Freedom House, Freedom in the World 2019: Democracy in Retreat, 2019, https://freedomhouse.org/sites/default/files/2020-02/Feb2019_FH_FITW_2019_Report_ForWeb-compressed.pdf.

⁷ The official link pointing to the interview that originally appeared in the weekend magazine of the *Basler Zeitung* got broken, but is still available at <https://mobile2.12app.ch/articles/15982301>. The translation is taken from <https://www.politicsforum.org/forum/viewtopic.php?f=45&t=175980>.

⁸ Act LXXVI of 2017 on the transparency of foreign funded organisations adopted on 13 June 2017.

- ⁹ Opinion of Advocate General Campos Sánchez-Bordona, in the Case C-78/18 *European Commission v Hungary (Transparency of associations)*, 14 January 2020; For an immediate assessment see Petra Bárd, The Hungarian “Lex NGO” before the CJEU: Calling an Abuse of State Power by its Name, 27 January 2020, <https://verfassungsblog.de/the-hungarian-lex-ngo-before-the-cjeu-calling-an-abuse-of-state-power-by-its-name/>. Opinion of Advocate General Kokott, in the Case C-66/18 *European Commission v Hungary*, 5 March 2020, for a quick assessment see Niels Kirst, Academic Freedom protected via the CJEU? – The Advocate’s General Opinion in *Commission v Hungary (C-66/18)*, 29 April 2020, <https://europeanlawblog.eu/2020/04/29/academic-freedom-protected-via-the-cjeu-the-advocates-general-opinion-in-commission-v-hungary-c-66-18/>.
- ¹⁰ The issue only got graver after the hate campaign, but has always been there. A decade before the so-called migration crisis and its abuse by the government a majority of Hungarians opposed to grant entrance to the Pirez, a non-existent ethnic group, invented by sociologists, in order to measure xenophobia. See Ferenc Bódi, Gergely Fábrián, Thomas R. Lawson (Eds.), *Local Organization of Social Services in Hungary. Crises - Reactions – Changes*, Bremen: Europäischer Hochschulverlag, 2012, 126. Cf. יהודים צריך לא אנטישמיות בשביל.
- ¹¹ Opinion of Advocate General Poiares Maduro, Case C-402/05 *P Yassin Abdullah Kadi v Council of the European Union and Commission of the European Communities*, 16 January 2008, paragraph 45.
- ¹² Supreme Court of Israel, HCJ 769/02 [2006] *The Public Committee Against Torture in Israel et. al. v. The Government of Israel et. al.*, paragraphs 61 and 62.

Populism and the Covid-19 Pandemic – an Israeli Perspective

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The Covid-19 pandemic now sweeping across the globe poses the worst public health crisis faced by humanity in over a century, but also its greatest economic, cultural, and political shock since World War II.

At the time of writing, a total of 3.6 million people are known to have contracted Covid-19 and some 250,000 have perished from the virus – a global mortality rate of 7.2 percent, making the Covid-19 virus 36 times more deadly than the common flu. The worldwide infection potential remains enormous, not least in the already fragile states of the Middle East. An effective vaccine is unlikely to be mass produced and distributed for at least another two to three years.

In the midst of this radical uncertainty – a rapidly evolving and uniquely interconnected epidemiological, economic, and geopolitical maelstrom – we are concerned with another critical issue: the impact of the pandemic on the quality, and fate, of our domestic political systems. We are compelled to ask what will be the likely effects of the Covid-19 pandemic, and its various fallout consequences for democratic and authoritarian politics and the struggle between them? Specifically, we are interested in the nexus between populism and the Covid-19 pandemic, approaching the topic from different national perspectives – in this case an Israeli perspective.

Back to the State

Modern liberal democracies, as Francis Fukuyama rightly observes, combine three basic institutions: effective statehood, democratic accountability, and the rule of law.¹³ The first of these – the state – is often ignored in discussions of the quality of democracy. This is a fundamental mistake, however, as times of crisis make clear. Effective statehood is an integral and indispensable component of democratic order. Statehood that is able to concentrate and employ power to defend communities from external enemies – including pandemics – and provide basic public goods, not least public health. Effective statehood is not antagonistic to liberal order, in other words, but a part of it that then needs to be restrained and balanced by democratic accountability and the rule of law.

Two key points are central in this regard: First, if placed in a situation of emergency, most human beings tend to choose security and order over individual liberty. At times of crisis (war, economic collapse, or pandemic) the instinct of the public is to seek the protection of the state. This is especially true in countries like Israel, where the popular sense that "the state is us" is strong, and where the population is strongly inclined to turn to the state (*Ha'Medina*) or the government (*Ha'Memshala*) – rather than to the free market or civil society – for solutions to collective problems.

Second, the Covid-19 pandemic can be seen as a natural, and rather gruesome, "stress test" for states around the world. Indeed, one of the key political fault-lines that is emerging as the result of the pandemic is not between democracies and dictatorships, but rather between states that are showing themselves to be effective and competent in managing the crisis, and those that are not.

In this context – which is not the only context that matters, as we shall see, but which is critical nonetheless – Israel appears to have withstood the stress-case quite well, at least in terms the principal public health goal of saving lives. At the time of writing, the number of confirmed Covid-19 cases in Israel stands at 16,208, and the total number of fatalities 232 people. This represents a mortality rate of 1.4 percent – far lower than Belgium (15.7 percent), the United Kingdom (15.4 percent), the US (5.9 percent) or Germany (4.1 percent).¹⁴ Moreover, the median age of the Israeli victims of Covid-19 is 84 years old, with most of the victims having serious prior background medical conditions.¹⁵

Socio-Economic Costs

The considerable public health success has, however, come at a very high socioeconomic price. This can be gleaned from the country's unemployment rate which stood at an historic low of 3.4 percent in February, only to catapult to 26 percent by mid-April 2020.¹⁶ Small and medium size businesses in Israel have been hit especially hard and, unlike in Denmark or Germany, the state compensation scheme established by the Ministry of Finance in Israel has delivered relatively low levels of financial assistance and has done so slowly.

Where more serious strains in statehood have appeared in Israel is not in the ability of the public healthcare system to manage the crisis, but rather in highlighting fractures between different segments of Israeli society. Rates of infection have been significantly higher in ultra-orthodox Jewish communities and some Arab towns and villages – communities that tend to be poorer and more densely populated – compared with more affluent and secular parts of the country. Moreover, it took longer for the former communities to internalize social distancing rules; a reality which was quickly publicized by Israeli media, and drew the ire of the broader public. Seeing images on TV or social media of mass gatherings in synagogues and mosques, weddings, or funerals – all in violation of quarantine rules – made many Israelis question social solidarity and complain that precious Intensive Care Unit (ICU) beds would be disproportionately allocated to those from less disciplined segments of the population.

A Stress-Test for Democracy

Another critical fault-line that can be gleaned from the "stress test" imposed by the Covid-19 pandemic on different countries has to do with the potential of the virus and its fallouts to accelerate anti-democratic trends. Such trends vary in intensity and can take a variety of forms: from the invocation of emergency regulations, to the curtailment of press and protest freedoms; from the restriction or even suspension of parliamentary and judicial oversight of executive power, to the deployment of highly intrusive surveillance technologies without adequate safeguards or rollback mechanisms.

In this context too, the Covid-19 pandemic should be thought of as a catalyst and an accelerator of preexisting conditions, rather than an independent cause of democratic backsliding. One heated debate currently pursued by social scientists is whether there is a discernable democracy or authoritarian advantage in handling the Covid-19 pandemic.¹⁷ But perhaps a more useful analytical distinction here, is between those democracies that entered the crisis with a high degree of social solidarity, political legitimacy, and public trust, versus those that were already hampered by some authoritarian tendencies, fractured societies, and shaky public trust.

In the former category – which include countries like Australia, Canada, Denmark, and New Zealand – the risk of democratic backsliding is low. In contrast, in a country like Israel – which experienced three inconclusive general elections in less than a year and whose Prime Minister, Benjamin Netanyahu, is under indictment for three charges of corruption – the risk of deterioration is significantly higher, though not as high as in countries where processes of autocratization are more advanced.¹⁸

To date, the most concrete political effect of the pandemic in Israel has been to create an atmosphere of public emergency that placed enormous pressure on the center-left bloc opposing Netanyahu to break ranks and join Netanyahu in a so-called "National Emergency Government". Under the auspices of the Covid-19 emergency (and under a legitimate desire to avoid a fourth round of general elections under conditions of radical public health and economic uncertainty), the opposition leader, Benjamin (Benny) Gantz, split from his opposition partners and abandoned his declared refusal to sit with Netanyahu in a coalition government. In the process, Gantz both accepted the dubious constitutional position of having a Prime Minister under indictment for serious criminal charges form a new coalition government, and dashed the hopes of millions of center and center-left Israeli voters for a higher standard of ethics in public life in Israel. Indeed, at the core of the "populism-pandemic nexus" in Israel, is not the immediate danger of Hungarian style state capture, rule by decree, or the muzzling of a free media, but the gradual erosion of public trust in the essential integrity of the country's democratic system. In the Israeli context, in other words, it is the nagging doubt about whether the decisions taken by the Prime Minister and his acolytes at the height of the pandemic crisis – such as the decision made by Justice Minister, Amir Ohana, to delay the opening of Netanyahu's criminal trial by two months on account of social-distancing rules – are driven by genuine public concerns or are merely exploitative, self-serving moves on the part of a Prime Minister seeking to extricate himself from the law. It is this corrosive mixture of suspicion and creeping mistrust that is currently gnawing at Israel's democratic system.

Still, unlike in Hungary, the guardrails of Israeli democracy have, so far at least, also shown themselves strong enough to push back against creeping democratic erosion and any autocratization tendencies. Barring any last minute changes, Netanyahu's criminal trial is scheduled to open on May 24th. A legislative proposal that would have authorized the Israeli internal security service to track and record the phone movements of tens of thousands of citizens suspected of having come into contact with persons infected with Covid-19 was successfully blocked by civil society opposition in late April. And the Israeli Supreme Court has received and deliberated on several legal petitions challenging the legality of having a Prime Minister under criminal indictment permitted to form a new coalition government.

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¹³ Francis Fukuyama, *The Origins of Political Order* (2011).

¹⁴ Figures drawn from the Johns Hopkins Coronavirus Resource Center (available: <https://coronavirus.jhu.edu/data/mortality>).

Figures drawn from the Haaretz Newspaper Coronavirus data center (available: <https://www.haaretz.co.il/health/corona/.premium-MAGAZINE-1.8730699>).

¹⁶ Ibid.

¹⁷ See for example: Adam Garfinkle, "Covid-19 and the Regime Type Fallacy", *The American Interest*, April 27, 2020 (available: <https://www.the-american-interest.com/2020/04/27/covid-19-and-the-regime-type-fallacy/>).

¹⁸ For an attempt to provide a systematic, comparative evaluation of this risk see: V-DEM Policy Brief #23 "Pandemic Backsliding: Does Covid-19 Put Democracy at Risk?" (available: <https://mail.google.com/mail/u/0/#search/antoni.abat.ninet%40jur.ku.dk/KtbxLrjCJqTxCCLRDsWdKHpQtjTgCcbkVV?projector=1&messagePartId=0.1>).

Populism and the Covid-19 Pandemic – a German Perspective

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Similar strategies were employed in every country to cope with the Covid-19 Pandemic: more or less strict rules of exit locks paired with societal and economic lockdowns. Naturally, measures differed from country to country, especially with regard to the time management and the impact the restrictions on movement have had on the lives of citizens.

In Germany the spread of the virus was initially managed by a containment strategy with lockdowns and shutdowns. This step was followed by a protection stage e.g. kindergarten and school closures, the postponement of physical meetings and events and prohibitions on visiting nursing homes to protect the elderly. Shops as well as the German border were closed, more and more people started working from home.

The phase of the exit from the lockdown has started in late April, thereby introducing the strategy of “Dancing with the Tiger”, i.e. trying to return to normality in all aspects of public life (going on vacation is even possible again) while still controlling the spread of the virus.

But even when the economic and social life was brought to a standstill, political rights were not infringed upon. Though some civil liberties were massively curbed, especially the freedom of movement, the German public never lost the right to hold political protests. Only social distancing rules are still in place to slow the spread of the coronavirus which has been confirmed by the Constitutional Court. The parliamentary process has never been stopped and federalism worked. Thus, no signs can be registered that German democracy is not working as it should. In addition, and compared to other countries, the lockdown did not interfere with life's of people's so strongly. For example, people could leave their homes for the purpose of shopping or doing sports at any time.

Populism in Germany during the Corona crisis

With regard to populism, the situation in Germany is as follows: The far right-wing party Alternative für Deutschland (AfD), founded in 2013, began to gain popularity during the migration crisis in 2015. The party is xenophobic and islamophobic. Thus, immigration is seen as a threat for Germany's national identity which is why the party thinks that the influx of foreigners migrating to Germany has to be limited. Parts of the party tend to be against feminism (women should stay at home and raise children) and full rights for homosexuals while others within the party deny climate change. The party is part of a network of conspiracy theories.

The AfD has entered federal state parliaments as well as the national German Parliament. In the last national election, the AfD won 12,6 percent of the total vote count. Before the corona crisis hit, the parties' support was more or less stable. During the crisis the support in the polls has decreased, while the Christian Democrats (CDU) are gaining support in the polls. The Social Democrats, governing with the Christian Democrats in a coalition, are still suffering from a general vote loss, thus in the polls they could not win more support. The so called hour of the executive has one winner by now: The Christian Democrats and chancellor Angela Merkel who is a member of the CDU. Nevertheless, the current rise in support for this party is very volatile and could change quickly.

In the current situation, the AfD is more or less helpless. The virus is an invisible foe which does not care about borders. So the AfD agreed in the national parliament with the measures/laws of the government with only few exceptions. The party itself is grappling with an inner party fight as it is being discussed how to treat the far right wing within the AfD. The reason for this can be traced to the circumstance that the office for the protection of the constitution classified a part of the party (“der Flügel”) as an extremist faction and placed it under intelligence surveillance. Hence, parts of the party board fear that the party could lose support. So, it is not the extremist character of the faction itself the party is afraid of, it is just its reputation. That is why the position of the Flügel could be seen as an accepted contextual part within the party. The Flügel is currently in a formal process of dissolving itself and has declared to no longer exist, but it never was a formal association with a list of members. Everybody following the Flügel policy is free to do so.

Questionable whether regime type matters in handling a health crisis

As far as we can see by now, we have no common response to the crisis by different political systems. The strategies of democracies e.g. comparing Italy and Sweden differ as much as the reactions of populists e.g. in India or Brazil.

The long run, whenever and if we obtain sustainable, reliable and valid data, will reveal the winners and losers (if winning is even possible during a deadly pandemic). It is questionable whether or not reliable data that allows comparisons between countries will ever be available to prove the success/failure of different strategies that were employed by different countries to fight the crisis. Economic recovery, mortality displacement, sustainable changes in democratic, populist or authoritarian systems or alterations in the structure of societies should be part of a carefully conducted analysis. Right now it is not clear, if it makes a difference which kind of system a given country is governed by.

So is it typical for populism when Boris Johnson defined a herd immunity strategy? What is the difference to the Netherlands or Sweden, who both preferred this model? What will happen in the corona aftermath? Will Jair Bolsonaro or Donald Trump lose their power or find themselves consolidated? And what are the reasons? Is it mismanagement of the crisis, economic dislocation, societal disillusion, ignorance of science or their communication during the pandemic? Both understated the devastating nature of the pandemic as a “flue”. Looking to another case: Hungary, first accused of power abuse, has now stopped to govern by decree. The Italian populist Matteo Salvini or the French Marine Le Pen are not playing an important role in the political debate in their countries at the moment. Preliminary figures of the mortality rate are not very helpful in evaluating different strategies of different political systems. Since data is collected differently in almost every country, it comes with limitations. Hence, it is difficult to define a common ground for international comparison; considering Belgium in this regard could be telling: a democracy without a populist party in government has suffered the most losses from COVID-19 per capita up until June 2020.

Much more important than the political system is the civic culture as an intervening variable, which is underestimated in the discussion about what has the greatest effects in fighting the pandemic. It differs a lot if people are not used to kissing and hugging and keep social distance as a normal habit. It differs a lot if people are used to wearing masks or if it gives them a feeling of alienation. And it differs a lot if you can stay at home because you can afford it, have enough room and comfort.

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Poland: Political crisis amidst the epidemic

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By the end of May 2020 it appeared that, as far as the health situation was concerned, Poland weathered the COVID-19 epidemic better than most states in the EU.¹⁹ There have been fewer infected and fewer deaths in Poland than in Germany or France so far. As life is slowly returning to normal it is clear that the Polish economy has taken a major hit during the months of the shutdown. However, the government-sponsored program of support for domestic industry has been largely praised for its fast execution and uncomplicated procedure.

Yet, the epidemic led to the further deepening of the nation's political polarization marked by the attempt of the ruling party to expand the government's powers and gain political advantage at the time of national emergency. Poland's presidential elections, meant to be held on the 10th of May, were cancelled. Meanwhile the electoral code was changed by the governing majority with no consultations with the opposition and in the manner that violates the ruling of the Constitutional Court. The epidemic and its handling has only amplified political divisions in Poland exposing the weakness of its political culture. The elections were finally held on 28 of June 2020 and then the second round on the 12th of July 2020. The incumbent President Andrzej Duda was re-elected for a second 5-year term narrowly beating (by less than 400 000 votes) Rafał Trzaskowski in the second round. Whilst the Supreme Court ruled that the election was free and the victory of Duda was legitimate, the election observing office of the Organization for Security and Cooperation in Europe (OSCE) deemed the election not fair because of the unequal access of opposition candidates to state-owned media and the smear campaign directed against the main opposition candidate.²⁰

The health situation and economy

Poland was hit by the epidemic later than its neighbors and it applied harsher social distancing measures relatively early. Borders were closed in early March and all returning to Poland had to undergo a 14-day quarantine. Restaurants, shops other than grocery and pharmacies, were shut alongside all schools, universities and courts. All public gatherings, sport events and concerts were cancelled. The public's observance of these measures was at relatively high level, considerably higher than in Italy or the UK, as documented by the mobile phone companies' data.

Today, two months later, as Poland begins to relax most of its restrictions, the public health situation is less alarming than in most of the EU. By the end of May 2020 there were close to 24000 confirmed cases of infections with COVID-19 virus and 1064 deaths (as of 30th of May). Over 11000 of infected have recovered.²¹ Overall, there is practically no change in the mortality rate before and during the epidemic. It is possible that Poland is re-opening its economy too soon as it lags behind in testing, having one of the lowest rates of performed tests in the EU. Still, as far as the data available today suggest, the overall outlook for the nation coming out of the lockdown is relatively positive.

The economic implications of the crisis are not quite clear as the data for the second quarter of the year – the lockdown quarter - are not available yet. The data of the first quarter are already demonstrating a moderate slowdown but less dramatic than in the rest of the EU. The Polish economy grew by 2% in the first quarter, which is slower by 0.4% when compared with the former quarter. Still, whilst the Polish economy still grew, the rest of the Eurozone declined by 3,8% in the first three months of 2020. However, perspectives for the second quarter of the year – which was the quarter of the lockdown – are far more alarming.

The European Commission projects that the Polish economy will decline by 8,7% on a quarter-to-quarter basis. Annually, it is expected that the economy will decline by 3,5% when compared with the former year. Whilst a recession in Poland is probably inevitable it seems however that, if the projections are confirmed, the decline will be less harsh than in the rest of the EU. The government-sponsored programs stand to be credited for easing some of the pressure on domestic businesses, especially in small and medium size sector. The value of the programs – called a 'shield' – accounted for 212 billion zloty, which amounts to 10% of the GDP. Part of these programs took a form of direct financial support for domestic industries. Most importantly, the application procedure was relatively uncomplicated and a decision

was swift: the applicants were informed within 24 hours about the decision and in case it was positive the funds were arriving at their accounts within no more than three days after the processing of their applications.

The politics

Whilst the government's managing of the health crisis and economy during the pandemic has so far been not worse than in the rest of the EU, the same cannot be said about politics. In this area, the Polish governmental majority, and especially its leader Jarosław Kaczyński, used the crisis to expand the role of the executive, change the nation's electoral rules and solidify the current majority's grip on power to the point resembling Orbán's Hungary. The case in point was the organization of the Presidential election, which was meant to take place on the 10th of May – in the midst of the lockdown.

The term of the current President Andrzej Duda, of the governing Law and Justice, expires on the 6th of August 2020. According to the Constitution, the President proposes the date of new elections, which should not take place later than 70-90 days before the expiry of term of the sitting President. Following his Presidential prerogatives, the President therefore proposed the date of the 10th of May, which was then confirmed by the Speaker of the Parliament. Then, however, the epidemic broke out, the nation went into lockdown and all the Presidential candidates were forced to suspend their campaign. Thus, it became clear that holding elections under these circumstances would be hazardous to public health and would stand in clear violation of the social distancing provisions that the government was enacting. Consequently, the opposition called for the postponement of the elections, which was constitutionally possible provided the government would have enacted the state of national emergency. However, the leader of Law and Justice, Jarosław Kaczyński, who holds no governmental position but remains a de facto leader of the country, refused to support the state of emergency and continued to maintain that the election had to be held on the 10th of May.

Holding the election on this day was undoubtedly advantageous for the sitting President Andrzej Duda, who continued to enjoy a constant exposure on state-owned media during the epidemic whilst opposition candidates could not campaign and their messaging was practically confined to internet sources. Moreover, as the nation was pre-occupied with matters more pressing than politics, it became clear that only Duda's hard-core supporters would be willing to turn up at the polling stations whilst most of the nation would remain at home. All opinion polls were clearly showing that in the scenario in which the election would have gone ahead on the 10th of May, Duda would have scored a resounding victory.

However, as the election date was nearing, the health crisis was only intensifying (with daily infections rate growing) and the government was enacting stricter and stricter social distancing regulations encouraging the population to stay home. Whilst Kaczyński kept refusing to acknowledge the new reality – defying social distancing regulations in a demonstrative manner – the population grew overwhelmingly hostile towards the idea of holding the election under those circumstances. Still, Kaczyński rejected the call for the declaration of the state of emergency and postponing of the elections. Instead, the governing majority adopted a rapid change of the electoral code that replaced physical voting with postal ballot. Under the new rules the non-partisan electoral commission, which was charged with organizing the polling and counting votes, would be replaced by the Polish Post Office, which is a state-owned company currently run by the former Deputy Minister of Defense and a staunch loyalist of the governing Law and Justice party.

The new law was declared unconstitutional by Poland's Ombudsman and criticized by the Supreme Court. The Constitutional Court's past rulings on the matter declared any major changes in the electoral code in a proximity to the actual polling closer than six months as violation of the Constitution. In the meantime, the Organization for Security and Co-operation in Europe (OSCE) expressed concerns about the legality and fairness of Polish elections and called for the postponing of the vote in which the opposition candidates were deprived an opportunity to campaign. Kaczyński's pressing for election under these circumstances proved too controversial even for some government members, with the leader of the moderate faction Jarosław Gowin leaving the government in protest. Eventually the new electoral law was rejected in the Senate and then many local governments refused to co-operate in organizing the vote. As a result, on the 10th of May, the Electoral Commission declared that the election was invalid as no voting was possible. The elections were finally held on 28 of June 2020 and then the second round on the 12th of July 2020. The incumbent President Andrzej Duda was re-elected for a second 5-year term narrowly beating (by less than 400 000 votes) Rafał Trzaskowski in the second round. Whilst the Supreme Court ruled that the election was free and the victory of Duda was legitimate, the election observing office of the Organization for Security and Cooperation in Europe (OSCE) deemed the election not

fair because of the unequal access of opposition candidates to state-owned media and the smear campaign directed against the main opposition candidate.²²

Conclusion

The Polish government's handling of the epidemic has been uneven and inconsistent. On one hand, as far as managerial abilities are concerned, it is fair to say that the Polish government has managed the COVID-19 health crisis and its economic implications adequately. On the other hand, the government's insistence on holding the election on the 10th of May under lockdown conditions was in clear contradiction with the strict social distancing regulations that were imposed on the population. Moreover, the government's refusal to institute the state of emergency have in act rendered the strict regulations legally dubious since they lacked a constitutional basis. The situation in Poland, Hungary and some other states in the region, in which the populists' parties have been in power during the epidemic, demonstrate that populists do not hesitate to use any opportunity to expand their power, destroy the opposition and re-write constitutional rules to serve their advantage.

The crisis has also demonstrated that a national emergency like a pandemic is handled very differently by liberal and illiberal democracies and has very different implications for the stability of these political systems. In liberal democracies the pandemic prompted more national unity with no attempt to undermine the constitution. In Poland the government sought to use the pandemic to change the electoral code, take an advantage of the situation in which the opposition could not campaign and extend the term of the sitting president under dubious circumstances.

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¹⁹ However, there has been a spike in the number of infections since the second half of July 2020 – growing from 300-400 daily in May 2020 to 500-600 at the beginning of August 2020.

²⁰ <https://www.osce.org/odihr/elections/poland/457204>.

²¹ By early August 2020 the number of infected doubled to reach 46 000 and the number of deaths climbed to over 1700.

²² <https://www.osce.org/odihr/elections/poland/457204>.

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