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Shadow tactics

What the opposition in Poland needs to do to beat the ruling Law and Justice party at the next election

In Poland, the erosion of democracy is moving at full tilt. Hot on the heels of attacks on the constitutional court and the media, the dismantling of the civil service, new snooping rights for the government and the wholesale replacement of state-owned enterprise boards, new laws pushing to end judicial independence are in the pipeline. The ruling Law and Justice party (PiS) says it wants to "democratise" the way Polish judges are appointed, replacing the independent body that currently chooses them with recruiters selected by the government. The state is omnipotent, with the rights of ordinary citizens dimly fading into a mirage.

"Why all this whining about the threat to democracy? You can demonstrate if you want," is PiS leader Jarosław Kaczyński's patronising response to Poles unhappy with their country's slide into increasing authoritarianism.

I do hope the freedom to demonstrate remains intact, there is no shortage of measures to protest against. Yet commentators are wondering what future opposition parties and Polish NGOs, such as the Committee for the Defence of Democracy (KOD), will have under the increasingly authoritarian regime.

Although demonstrations are an effective way of expressing social discontent, it seems to me that those opposed to the government need to employ different tactics. We have to show the positive difference a democratic opposition could make if it won a parliamentary majority.

Democrats, unite!

Despite the differences that divide them, there are some key issues the opposition parties – including the centrist Civic Platform and the strongly pro-European Nowoczesna ("Modern") Party – agree on: the constitutional court, civil service, public prosecution service, judiciary,

public media and state enterprise. In other words, on how to fix all the things the PiS has destroyed.

Unfortunately, the opposition parties, with the exception of the Nowoczesna which has never been in power, are themselves not beyond reproach on any of these issues. Rebuilding those values and institutions torn down by the PiS shouldn't mean a return to the status quo. The PiS didn't just win the last election because they promised extra child benefits, early retirement or free medicine for pensioners. Many undecided voters turned to the populists because the democratic institutions were not working as they ought. None of the parties in power before the current government invested enough in the institutions necessary for a democratic state to function. Sometimes they even weakened them.

Opinions polls show that in the 27 years since the fall of communism in Poland, belief in democracy as the best way to exercise power has lost support, while more citizens say a "firm hand" is needed to govern the country effectively. Many no longer see the point in supporting pro-democracy parties such as Civic Platform (PO) or the Polish People's Party (PSL). The PiS, despite its anti-democratic rhetoric, has moved into the mainstream.

Opposition parties need to take a long, hard look in the mirror. The list of misdemeanours by both PO and the PLS, as well as former left-wing governments, is a long one. Take the constitutional court, whose judgements were often implemented only after huge delays, or not at all.

The civil service, modelled on that of the UK, has been gradually dismantled by successive governments. Positions were filled by cronies, interviews put on for show. Poland's public prosecution often lacked teeth when it needed to act. PiS is now dragging these flaws into the spotlight, and using them as justification to change how judges are chosen.

Party politics crept into state-owned companies and public authorities. A proposal to create an independent council to select candidates for the supervisory boards of state-owned companies was rejected.

Walking the talk

Opposition parties need to learn from mistakes made while in power, and demonstrate how they will improve not only on the PiS's record, but also their own. They need to propose concrete laws, drafted by legal experts, not just vague policy suggestions. Oppositions, NGOs and specialists

should form a type of shadow parliament, where they can publicly debate further draft bills. It would be wise to hold off on making specific welfare policy suggestions just yet, but broader social policy suggestions could begin right away, and dangerous internal disputes would likely die down in the process. An army with nothing to do will quickly become demoralised and subject to revolt.

The final versions of the draft bills would be binding for future elections. Ratified by the signatures of the opposition leaders, they would provide a guarantee that these bills would be quickly implemented if the opposition were voted in and would not be lost amid internal party disputes. There is much to make right.

- The *law on the constitutional court* should not only strengthen the independence of the constitutional court's independence and resistance to political pressure but also enable it to function more quickly, with fewer political electoral procedures.
- The *law on the civil service* should include strong guarantees that positions are available for young, well-educated individuals and that selection processes will be transparent.
- The *law on the public prosecution service* must not only free this institution from political pressure but also ensure greater effectiveness and an improved public image.
- The *law on the public media* should provide public media organisations with a stable and secure source of income. The BBC is a good model to follow when it comes to public oversight.
- Rules surrounding police surveillance must incorporate increased judicial oversight. (
- The *law on the courts* needs to include mechanisms to better protect the judiciary against meddling from the executive branch.
- The opposition needs to propose a new *law on the management of state-owned enterprises* and a new, detailed code of ethics.

Why should people turn from the PiS and vote for the opposition? Because Polish people, contrary to the PiS' demeaning view of them, are concerned with more than just filling their stomachs. Demonstrations by the KOD show the majority of Poles opposed dismantling the democratic rule of law in their country. Paradoxically, though the PiS represents a threat to Poland's future, its time in government may be just the shake up the country needs to get back on form. For this to happen, however, the democratic opposition cannot rely on its old ways of campaigning to get back into power – it must learn from the past and convince the people that it will not only govern better than the PiS but better than it has itself in the past.

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