

## History, State-Building, and Patriotism A Dialogue with Rafał Pankowski

Democracy in Poland is under threat. Since the conservative Law and Justice party (*Prawo i Sprawiedliwość*) won a parliamentary majority in the October 2015 elections, the country has been plunged into crisis. On a cool Sunday morning in Warsaw, I sat down to discuss this with Rafał Pankowski, a political scientist, author of scholarly works on nationalism, and editor at *Never Again* magazine. We met in an old wooden amphitheater on the twelfth floor of the Palace of Culture, the imposing brick skyscraper that was Stalin's gift to the Polish capital. Since 1989, it has housed a range of new institutions, including the university Collegium Civitas, where Rafał is a faculty member. As we faced the steep rows of risers, we analyzed the relationship of Poland's complex past and long subjugation to the recent series of political events. At the center of the controversy is what critics believe is the new government's intention to undermine the country's parliamentary democracy through its "capture" of the public media and the civil service, and most importantly, its weakening the authority of the Constitutional Tribunal, equivalent to the Supreme Court of the United States. The last decade has seen the rise of illiberalism and populism worldwide, and Poland is not alone in seeing its democracy threatened. By analyzing Poland's roots as a nation, however, it is perhaps possible to understand how the country arrived at this junction after regaining its hard-won democracy after 1989. The following dialogue explores the dangers of the current political situation by placing it in historical context.

**Ellen Hinsey:** Before we speak about recent political developments and how they relate to Polish state-building and identity, let's take a brief look at Poland's history. It's impossible to understand the current situation without referring, for example, to the three eighteenth-century Partitions—or annexations—when Poland was divided up among the Great Powers: Russia, Austria, and Prussia. This meant that when Poland approached the twentieth century, it was not a sovereign state. Could you start by addressing these events and the Polish experience of national identity in the nineteenth century?

**Rafał Pankowski:** There are many paradoxes about Polish history and identity: one certainly concerns the Partitions. Without overcomplicating the matter, it's true that modern Polish identity came into being under the conditions of the Partitions, the so-called "Nation Without a State." This is not, however, an atypical model for Eastern European nation-forming. According to the "standard" perspective of European history, Western nations were formed with and by their respective States, while in Eastern Europe they were built on the basis of ethnicity rather than statehood.

In this regard, Poland certainly belongs to the Eastern European model: in the late nineteenth century, when the idea of the modern nation-state gained ascendancy across Europe, Poland was not a state. But the Polish national movement—or movements—did exist, and as a result of this historical process, the modern Polish nation came into being. That said, I think it would be wrong to see the creation of the modern Polish nation exclusively in this way. What was also significant for the construction of modern national identity was a strong memory of the tradition of Polish statehood that existed before the Partitions, up until the late eighteenth century. In fact, Polish statehood in some form existed under Napoleon, and then under the Czar. Until 1831, there were national state institutions in Poland.

**EH:** What you are describing is essentially a double track, where there was collective memory of the pre-Partition Polish-Lithuanian Commonwealth that existed from 1569 to 1795 (and which established one of Europe's first parliaments), concurrent with the repression of national identity under the Partitions. Both of these are significant as we move closer to the modern period.

**RP:** Exactly. I think that the memory of civic identity, including the memory of a state and state patriotism—that is, patriotism attached to the national institutions we have just evoked—played a very important role. In this sense Polish nationalism, if you like, or Polish national identity, was not only founded on ethnicity, i.e., kinship, blood, and so forth. Of equal importance was the relatively recent memory of the existence of a state, which was, of course, multicultural and diverse. It was by no means exclusively an ethnic Polish state.

**EH:** One often forgets the extent to which Poland was historically a multi-ethnic and multi-religious space. In the late nineteenth century, minorities made up nearly 30 percent of the population. It should also be noted that, under the Partitions, particularly in areas controlled by Russia and Prussia, there was a suppression of language and religious freedom. Language instruction was conducted in Russian and German, respectively, and the imposed state religions were Russian Orthodoxy and Protestantism. This is sometimes evoked to explain the prioritization of Roman Catholicism with regard to Polish identity.

**RP:** When we think about the nineteenth century, we often look back upon it as a period when national and religious identity merged, which is largely true. But I believe it's more complicated than that, because, even prior to this, Roman Catholicism had been important for Polish identity; in some other ways, however, it was never—and still is not, in my view—a necessary part of Polish identity as such. For instance, in the nineteenth century, the Church was not particularly supportive of the Polish national movement. As you know, the Pope actually condemned the Uprisings and the Vatican was absolutely against them. Further, many Polish revolutionaries who believed in the idea of Polish independence struggled with Roman Catholicism on both intellectual and spiritual levels. Adam Mickiewicz, the quintessential symbol of nineteenth-century Polish national aspirations—and not just in the field of literature—was also a political thinker and activist. He was critical of Catholicism, and expressed his very bitter disappointment, not just concerning the Vatican's policy but with the Church's approach to the Polish question.

**EH:** Such discrepancies within the historical narrative are of critical importance.

**RP:** Yes, and while it's quite understandable that the narrative becomes simplified over time, we agree that it's also good sometimes to problematize it. Regarding this issue especially, simplification is actually quite dangerous if we equate a denominational affiliation with national identity. This results in an exclusion of non-Catholics from Polish identity.

**EH:** Following the First World War, which resulted in Poland's regained independence, a parliamentary government was reestablished. During this period, two major political forces emerged: the first was aligned with Józef Piłsudski. As a statesman his legacy is complex: on the one hand, he was a socialist, an initial supporter of democracy, and had dreams of reinstating a multi-ethnic federation similar to the Polish-Lithuanian Commonwealth. On the other hand, he led a military coup in 1926 and remained in power until 1935.

**RP:** Piłsudski is, in certain ways, a prime example of the type of "civic nationalism" that was informed by the memory of the state that had existed before the Partitions. He definitely did not think of himself as a Polish nationalist in the ethnic sense.

**EH:** He was born in Lithuania—

**RP:** That's right, he was born in Lithuania, and he often emphasized this fact. He was a member of the Lithuanian gentry, but Polish—which was the language of the upper class—was his first language. Poland was the focus of his identification, but as we discussed, it was a broader understanding of Poland, which was still very much alive in Piłsudski's time. This was the idea of Poland as a multicultural state: not just in a territorial sense, but above all in a symbolic one. Piłsudski derived his vision from that history and

tradition and merged it with a very modern idea, which was socialism. The Polish Socialist Party was formed in Paris in 1892, and Piłsudski became one of its leaders.

**EH:** Piłsudski's socialism was forged in the nineteenth century. Later, individuals across Europe would adapt their conception of socialism in the wake of the Russian Revolution and subsequent events. This was also true in Piłsudski's case: although he continued to maintain a multi-ethnic vision of Poland, his political position evolved under the changing historical circumstances.

**RP:** Yes, at some point Piłsudski stopped calling himself a socialist, even though most of the people who were with him, or supported him, came from the Socialist movement. Until the very end, an essential cleavage in interwar Polish society – the main cleavage – was between Piłsudski and the Left on one side, and most of the Church (including the majority of the clergy) and the Right on the other. It was in fact very different from what is often evoked today. Now Piłsudski is seen as the symbol of Polish nationhood or nationalism, but it is often forgotten that his idea of the nation was not the hegemonic concept of nationalism that is used in the contemporary context.

**EH:** Let's talk about the major opposing political force to Piłsudski, the National Democrats. This tradition in Polish politics will also turn out to be very important for our discussion of contemporary events.

**RP:** The National Democratic tradition appeared at approximately the same time as Polish socialism – in other words, in the late nineteenth century – but its basic foundation was very different. It was not so much informed by a civic understanding of national identity as by an ethnic conception of the nation. From the outset, therefore, this so-called *Endecja* movement disposed of the idea of multicultural citizenship. The movement was largely based upon exclusion. And the exclusion of non-ethnic Poles from national identity in the context of the late nineteenth and early twentieth centuries first and foremost concerned the exclusion of Jews, as they were the second-largest ethnic group living in Poland. Many Polish cities and towns were half-Jewish or mostly Jewish. It has been argued that what the National Democratic movement did was to channel national feelings away from challenging the imperial occupation – of the Russian Empire, especially – and directed them towards anti-Semitic hostility.

**EH:** Thus, it reoriented the forging of national identity based on opposition to an exterior force to an interior "enemy."

**RP:** Yes, and the focus of the *Endecja* ideology and political practice was to achieve ethnic homogeneity. Considerable effort went into this, both on an ideological level and on the level of political practice, which led to anti-Jewish violence.

**EH:** This intensified in the early 1930s, in the wake of the global economic depression and the rise of fascist movements across Europe.

**RP:** Correct, by the thirties it had radicalized, largely under the influence of fascism in Europe. I think you could call the radicalized version of *Endecja* ideology the Polish equivalent of fascism. This was particularly true of some of the National Democratic movement's radical splinter groups, such as the National-Radical Camp (ONR): they definitely reflect the European fashion that was fascism. I'm afraid this tradition is still very much alive in Poland; we'll speak about this a bit later.

**EH:** How would you characterize the National Democratic movement's relationship to the parliamentary process?

**RP:** I think this also evolved. It was a popular movement; it was also a successful party in democratic terms, performing well in every election in which it participated. Over time, however, the *Endecja* movement, despite its original name "the National Democratic Party" – again, under the

influence of the pan-European tendency towards authoritarianism—became increasingly hostile to the idea of democracy. The more radical splinter groups embraced a totalitarian model; they didn't want to have anything to do with democratic ideals. This is why the National Democrats eventually dropped the “democratic” from their name, which obviously had become a problem. Beginning in the late 1920s they simply called themselves the National Party (*Stronnictwo Narodowe*). There is an extreme-right party in Poland today that claims this tradition called the National Movement (*Ruch Narodowy*). Its leader, Robert Winnicki, is a member of the Sejm, the lower house of the Polish parliament.

**EH:** The understanding of the division of Poland into two main camps in the twenties is critical.

**RP:** Yes, and I think the 1922 assassination of Gabriel Narutowicz, the first president of the newly independent Poland, is very important in all this. Narutowicz had been elected by members of Parliament (MPs) with a small majority, and a percentage of those MPs were from the national minorities. This gave the *Endecja* a pretext to challenge Narutowicz's legitimacy as president, since he had been chosen by what they considered non-Polish representatives. Leading up to this there had been a very intensive hate campaign in the right-wing press and related street demonstrations.

This culminated in the assassination of Narutowicz by a far-right sympathizer, a painter named Niewiadomski. He is actually a hero today to some people on the far right. Narutowicz's death symbolized a turning point in the breakdown of a shared identity based on the recognition of state institutions. For some people on the Left this implied a loss of trust in democracy as such. According to Piłsudski's biographers, this has been viewed as a formative moment when he also lost faith in democracy. This led to the coup that he orchestrated—in fact, it was a short civil war—in which several hundred people died.

**EH:** Concurrently, we have also spoken about how, by definition, the very existence of the nation-state within its modern boundaries creates a pressure towards national homogeneity.

**RP:** Yes, for example, take Poland between the wars: it was much smaller than the area that the Polish-Lithuanian Commonwealth had historically occupied. It was still, however, a substantial territory, and, as we've discussed, a significant percentage of its inhabitants were non-ethnic Poles and non-Catholics. Thus, one of the challenges during the interwar period was how to address the issue of diversity. In simple terms, there were two possible answers: one was to achieve a degree of shared civic identity that would allow for the co-existence of national and ethnic groups on the basis of that identity. This was more or less what Piłsudski's movement and the Left stood for.

On the other side, there was the *Endecja* movement, which was very powerful and influential in society. One could sum up their philosophy by two of their slogans: “Poland for the Polish” and “Polish-Catholic,” *Polak-katolik*. Both these phrases are still very much in circulation. The idea of “Poland for the Polish” implies, above all, an ethno-nationalist understanding of what it means to be Polish and who can have civic pride in Poland. Moreover, the National Democratic movement, including the National Radical splinter movement, openly campaigned to deprive the national minorities of their political and other rights, or even to eliminate the minorities in other ways.<sup>1</sup> When you read some of the National Radical propaganda from the mid- to late thirties—in light of what happened later—it makes for disturbing reading. They advocate “getting rid of Jews,” without specifying what methods should be used. Obviously it was not the National Radicals who perpetrated the Holocaust during the Second World War, but in a sense, their demand to rid Poland of Jews was fulfilled in a very tragic way.

**EH:** We'll return to this complex issue when we talk about Law and Justice's response to the work of the historian Jan Tomasz Gross. I think we are in agreement, however, that despite tragic episodes such as the Jedwabne pogrom, it is important to be clear that the Wannsee Conference and the establishment of the Final Solution happened in Germany, not in Poland.

**RP:** We know there was not a lot of organized collaboration in Poland; as you said, it is important to stress that the Holocaust was carried out by German Nazis. That said, I think one way the Polish National Radicals contributed to the Holocaust was through their propaganda and their activities in the 1930s. By reinforcing the social distance between the Polish and Jewish communities, they fostered a kind of hostility, mistrust, and isolation. During the war this turned out to be critical, because in places that were more integrated, where the social distance was smaller—such as in the Żoliborz district in Warsaw—the probability of survival was much greater. When the communities were segregated or separated by social distance, the chances of survival were minimal. In a wider geographic sense, if you analyze the map of places in Poland where anti-Jewish violence happened, it corresponds in many ways to the same places where the *Endecja* and the National Radical movement had been strong before the war.

**EH:** Jewish and ethnic Polish relations during the war were exceedingly complex.

**RP:** Precisely. I personally find it very interesting and paradoxical that certain radical anti-Semites actually found themselves in situations where they were actively involved in saving Jews during the Holocaust. Fighting against the Germans was understandable, because the movement was also very strongly anti-German. But the fact is that a number of the leading figures in the National Radical movement—the fascist movement, let's call it what it was—actually saved the lives of Jews who were persecuted by the Nazis. One example is Jan Dobraczyński, who was a leading far-right intellectual, and the author of a 1938 article entitled "The Duty of Anti-Semitism."

Today, this fact is often used by apologists for the National Radical movement who say, well, they were involved in saving Jews. But one must ask whether they saved Jews because of, or thanks to, the National Radical ideology, or perhaps *despite* the ideology, which I think is a better way of looking at it.

**EH:** This posits the complex question of whether people who had initially held rightist or fascist leanings—after they saw what was occurring—were capable of actions that contradicted their original positions.

**RP:** This question is of course important not just for Polish history, but for universal history: how the Holocaust happened, who resisted it, why, and how. It is perhaps easier for us to understand if someone had a revelation and said, "I was wrong about the Jews; now I'm helping them." But that's not necessarily the case with people such as Jan Dobraczyński. I don't think he revised his ideology in a very profound way. Obviously, the whole experience of the war had a significant impact on him, there's no doubt about it. But someone asked him after the war something like "Why did you help the Jews? You were against the Jews, why did you do this?" He replied, "No, we *baptized* them so they wouldn't be Jews anymore. We were eliminating Jews not in physical way, but in a *spiritual* way, through baptism." <sup>2</sup> This is not exactly a 100 percent revision of anti-Semitic ideology.

**EH:** We have been looking at some of the interwar political cleavages and legacies that have relevance to the current political scene. However, the Left/*Endecja* legacy is not the only historical fault line. Overlaid onto this is another critical division in Polish society that stems from differing interpretations of the 1989 transition. But first, let's look at what the transition achieved.

**RP:** The post-1989 transition resulted in liberal democracy and a market economy. The gradual institutionalization of the liberal democratic system took place within the context of a peaceful, negotiated process, in agreement with the pro-reform elements of the ex-communist establishment, symbolized by the Round Table talks in 1989. There is no denying the important achievements of the 1990s.

**EH:** While this was a historic accomplishment, social exclusion and poverty remain key issues in contemporary Poland. These realities have impacted on radical right discourse.

**RP:** Indeed. The economic restructuring in the 1990s resulted in large-scale structural unemployment and different patterns of social exclusion. There was also cultural dislocation and confusion about social values. In the absence of a progressive alternative, social anger came to be channeled through radical identity discourse. Still today, the populist and nationalist Right speak of a sinister conspiracy involving former communists, liberals, and foreigners. This conspiracy theory also often invokes older anti-Semitic myths. The liberal elites have tended to ignore these challenges. They have no doubt been wrong to assume democratization is a linear process that progresses through set stages in a predetermined direction. Democratic culture cannot be taken for granted. The “Never Again” association warned of threats to Poland’s democratic culture beginning in the mid-1990s. For example, we observed a creeping far-right influence in youth culture both on the street and in soccer stadiums, and the growth of anti-democratic sentiment. Some of these concerns are now materializing before our eyes.

**EH:** The tragic Polish presidential plane accident in Smolensk has also come to play a central role in the conspiracies you have just evoked. On April 10, 2010, flying to Russia to commemorate the anniversary of the 1940 Katyń massacre, the Tu-154M airliner crashed, killing all ninety-six passengers, including President Lech Kaczyński, members of government, public officials, and civic figures.

**RP:** I remember the shock and immediate aftermath of the accident. I personally knew some of the people on the plane, including Izabela Jaruga-Nowacka, who was the Social Democratic Party’s ex-deputy prime minister, a very good person and politician, who had a brilliant record on antidiscrimination. There were people of all political stripes on the plane, and in the aftermath of the tragedy – which was enormous by any standard – the mood was one of national unity and reconciliation. Before the crash, the level of political conflict had been high, and then, for a brief moment, it seemed as if this had changed. But that did not last long. Rather, in a way, the crash provided fuel for a level of political conflict far beyond what we could have previously imagined. Accusations and conspiracy theories surrounding the crash began circulating very widely – though not immediately – rather some months after the accident. It appears they had a ready-made audience.

**EH:** Let’s now turn to the current political situation. On May 24, 2015, the Law and Justice candidate Andrzej Duda was elected president. In the 2015 October parliamentary elections, Law and Justice obtained a majority;<sup>3</sup> this is the first time this has occurred since 1989. The election was considered free and fair. Since the start of the new government’s term, however, some Polish and international observers have expressed concern about aspects of Law and Justice’s legislative initiatives, particularly with regard to rule of law – above all the undermining of the authority of the Constitutional Tribunal. To understand this in context, let’s review a bit about Poland’s democratic climate since 1989, and the ways in which recent events represent a departure.

**RP:** Yes, very briefly, if you look at the politics of the ’90s, they were characterized by, among other things, a high degree of consensus regarding many basic elements of the liberal democratic order. Of course there were controversies concerning a number of areas, such as the role of the Church, etc. But there was also agreement on a range of important issues, including European integration, the market economy, and so forth.

**EH:** Further, you have noted elsewhere in your work that during the first ten years following the democratic transition there was a comparatively low level of visibility of extremist parties on the right. For their part, following 1989 the Kaczyński twins were involved in mainstream post-Solidarity parties.

**RP:** Lech and Jarosław Kaczyński were members of the wider Solidarity movement, and during the initial post-Communist period, when they were building their own political group, they were situated within the broader democratic spectrum. In fact, the first party they organized, in 1990, was a centrist party called *Porozumienie Centrum*, or “Centre Agreement.” At that time Jarosław Kaczyński often made a point of emphasizing that it was a centrist party. He didn’t want it to be seen as a right-wing party, as he said

that the right-wing in Poland had a controversial legacy, tainted with anti-Semitism and nationalism, such as we just discussed in relation to the *Endecja* tradition. Then in 2001, the Law and Justice party was formed, when Lech Kaczyński was Minister of Justice.

**EH:** But at that time, Law and Justice was still more or less positioned as a centrist party.

**RP:** I think “center-right” is a good description of what Law and Justice stood for in 2001. It definitely focused on issues such as law and order, and crime. As Minister of Justice, Lech Kaczyński positioned himself as a tough, anti-corruption politician. But once again, most of Law and Justice’s policies were still within the general democratic spectrum, with conservative leanings.

**EH:** I think it’s also important to remember that Jarosław Kaczyński was not originally drawn to Radio Maryja.

**RP:** No, in fact Jarosław was an outspoken critic of Radio Maryja, publicly accusing it of being an instrument of Russian influence in Poland. I think that something important changed in 2005, when Law and Justice and Radio Maryja became very close partners and allies. To be clear, when we talk about “Radio Maryja,” we aren’t just referring to a radio station that is popular with a large number of people. There is also a daily newspaper *Nasz Dziennik* [Our Daily], a TV station (TV Trwam), a university (the University of Social and Media Culture in Toruń), and a whole network of clubs and organizations. Thus “Radio Maryja” is, in fact, a whole social-political movement, which in my view is more political than religious in nature, despite all the religious trappings and religious symbolism. Its political identity is very strongly nationalistic and xenophobic, and has largely drawn its strength from the frustrations and anger we just spoke about: the disappointment that many people feel regarding the social, political, and economic reality of the 1990s. Starting in the mid-1990s, Radio Maryja, as well as its founder Father Rydzyk, became big political players. Rydzyk is often referred to in Poland as a kingmaker on the Right. Radio Maryja first supported the League of Polish Families, which was a relatively successful far-right party, but then due to personal differences, Rydzyk dropped the League of Polish Families as his party of choice—

**EH:** But not until after the 2005 elections.

**RP:** That’s right: in 2005 most people still thought Radio Maryja was supporting the League of Polish Families, but they were already changing their alliance. Rydzyk supported Lech Kaczyński in the 2005 presidential election, and I remember when Kaczyński gave his acceptance speech after being elected, he specifically thanked Rydzyk. That was an interesting moment: it was an example of an alliance in the making, which by 2007 had been cemented. I think the price that Law and Justice paid for this was to move sharply to the right, and to accept much of Radio Maryja’s ideology in the process.

**EH:** Jarosław Kaczyński once remarked that one cannot win an election without Radio Maryja: “First, I have to win elections. For this reason I move to the right as much as I can, not as far as Orbán in Hungary, he took over an extreme nationalist electorate [ . . . ]. You can’t win elections without Radio Maryja. Once I wanted to do it in another way. The Centre Agreement was an attempt to base oneself on centrist voters. It ended up as a failure.”<sup>4</sup>

**RP:** This quote reflects a very frank and open explanation of Kaczyński’s strategy.

**EH:** In 2005, when Law and Justice won the parliamentary elections they formed a coalition with the League of Polish Families and Self-Defense. Though Law and Justice only governed for a short time, a number of their policy priorities became apparent. One of these was Kaczyński’s concept of “the Fourth Republic.”

**RP:** The concept of the Fourth Republic symbolized a rupture: it represented the idea of building a different kind of system. It's not entirely clear what that would have been like, but it would have been very different from the liberal democratic system that was constructed in the 1990s. While Law and Justice's time in power was curtailed—a year and a half into their mandate the coalition collapsed and there were early parliamentary elections—it lasted long enough for many people to begin to have a sense of their policies. Another significant change was the absorption of extremists into positions of power, including activists from both the League of Polish Families and Self-Defense, who were given positions in the government and different state institutions. One highly symbolic example of this was the appointment of a young man, Piotr Farfał, as president of TVP, the Polish state-run TV network. Before this, Farfał's only journalistic experience had been editing a Nazi skinhead fanzine. He was exposed by Marcin Kornak, the editor of *Never Again* magazine, which led to a huge scandal.

But this appointment was, of course, reflective of a bigger problem: the collapsing of boundaries between what had been considered unacceptable in the democratic game, and what was now seen as acceptable. Up until that point, the idea of extremists entering the political mainstream was more or less unthinkable. While there had been exceptions to this rule, between 2005 and 2007 this became much more systematic. At the same time, this gave rise to a considerable amount of public shame, anger, and resistance, which was particularly visible during the 2007 snap parliamentary elections. This was the only time, after 1989, that I remember people queuing for hours in order to cast their votes. What was interesting was that many people—the young—felt that the idea of “the Fourth Republic” constituted a threat to their vision of Poland, which they saw as being much more open and liberal. As we have just seen with the recent elections, there is a significant difference between 2007 and 2015 in this respect: eight years on, it now appears many young people have a different vision of what they want in politics.

**EH:** Over the last ten years, while in opposition, Law and Justice completed its move to the right and absorbed much of the political terrain previously held by Poland's more radical right-wing parties. The result is that—unlike in 2005—following the recent 2015 parliamentary elections they did not need to govern in coalition.

**RP:** That's correct: it seems that Law and Justice has taken over much of the territory that was previously occupied by the League of Polish Families and to some extent Self-Defense. Jarosław Kaczyński said his idea was to not allow any competition from the Right, thus he would move as much to the right as was necessary, or possible. Further and perhaps even more importantly, he has, as I mentioned, accepted Radio Maryja's symbolic and ideological framework. The language of politics provided by Radio Maryja is not necessarily one of rational political discourse; it is heavily loaded with super-patriotic and religious symbolism. This takes political discourse to a totally different level that's much more difficult to debate.

**EH:** What we've just discussed allows us to contextualize the current political situation. Let me quickly sum up some specific circumstances that have unfolded since Law and Justice's October 2015 victory.

First and foremost there is the constitutional crisis, which began in the summer of 2015. As the end of Civic Platform's time in office neared, there arose the complex situation that the tenures of five Constitutional Tribunal judges would expire between the Sejm's seventh and eighth terms, which is to say, at the end of Civic Platform's mandate and the beginning of the new Law and Justice government. On June 25, 2015, the “The Constitutional Tribunal Act”<sup>5</sup> initiated by the incumbent government entered into force, and on October 8, before the transfer of power, the Sejm adopted five resolutions in which it nominated five new judges to the Tribunal. An appeal against the Act was sent to the Constitutional Tribunal, which on December 3 ruled that the nominations of three of the five judges had indeed been constitutional.

However, prior to the Tribunal's decision, in mid-November, the Law and Justice majority Sejm amended the Act,<sup>6</sup> and despite an appeal from the court to wait for its verdict the same day, proceeded to elect five new judges of its own. President Duda accepted the oath of four of the five new judges on December 3 at

1:30 am (and the fifth on December 9). On December 22, further amendments to the Act were adopted, which stipulate, among other things, that the court must hear cases as a full bench of thirteen out of fifteen judges and that motions must be considered in the sequence in which they were filed, a change that, critics say, would effectively paralyze the court from carrying out its work. In March 2016, the Constitutional Tribunal again ruled that the amendments to the Act were unconstitutional,<sup>7</sup> but the government refused to uphold the ruling, which Kaczyński publically dismissed as “the private standpoint of a group of people who happen to fulfill the functions of judges of the Constitutional Tribunal.”<sup>8</sup> The Council of Europe’s Venice Commission issued an opinion on the Polish situation,<sup>9</sup> in which they stated that “crippling the Tribunal’s effectiveness will undermine all three basic principles of the Council of Europe” including democracy, human rights, and the rule of law.<sup>10</sup> Other controversial legislative initiatives include a new media law<sup>11</sup> that allows for government control over public media and an amendment to the Civil Service Act, which critics call a “politicization” of the civil service.<sup>12</sup> The government has also stated its intention to write a new Polish Constitution.<sup>13</sup>

**RP:** Absolutely. The situation is volatile, and the crisis is ongoing. It is clearly reflective of a deep polarization in Polish society, and calls into question the stability of Poland’s relationship to European institutions. Subsequently, a number of other government policies have proved highly controversial in terms of constitutional principles including civil rights and the rule of law. These have met with widespread protests on international and national levels by groups such as the KOD (*Komitet Obrony Demokracji*, Committee for the Defense of Democracy).

**EH:** It is important to note that such things are unfolding against a backdrop of similar developments in the region: on January 6, 2016, there was a much-heralded meeting between Kaczyński and Hungarian Prime Minister Viktor Orbán at Niedzica on the Polish-Slovak border. Previously Kaczyński had vowed to “bring Budapest to Warsaw.”<sup>14</sup> During Orbán’s first twenty months in power, Fidesz, Hungary’s ruling conservative party, passed 365 laws and legal amendments, and in the process subjugated all major governmental institutions, brought the Hungarian media under the government’s control, and rewrote the Hungarian constitution. Observers of the Polish scene have remarked that Kaczyński has indeed brought Budapest to Warsaw, but at an even more accelerated pace. This raises the issue of “state capture” as well as the specter of Orbán’s directly stated intention in 2014 to embrace “illiberal democracy.”<sup>15</sup>

**RP:** What has also been very noticeable is the brutalization of political discourse. The 2015 electoral campaign was often shockingly xenophobic, as various right-wing parties competed in their use of anti-refugee and Islamophobic rhetoric. This eruption of hate speech has been accompanied by a wave of hate crimes. In the past, the “Never Again” association registered five to ten such cases a week; now there are often five to ten cases per day. The burning of a Jew in effigy at an anti-refugee demonstration in Wrocław in November 2015 is one of the most disquieting examples. The demonstration was organized by the National-Radical Camp (*Obóz Narodowo-Radykalny*, ONR) and the All-Polish Youth (*Młodzież Wszechpolska*, MW); both these ultra-nationalist organizations take their names from the violently anti-Semitic groups active in the 1920s and 1930s, which we previously discussed. Also significant is that more than 60 percent of young voters (under thirty) voted for Law and Justice or parties further to the right. Xenophobia seems widespread among young people today. It is a disturbing picture.

**EH:** Quite a number of Law and Justice’s legislative initiatives also pertain to historical and cultural issues, including a draft law against “defaming the Polish nation.”<sup>16</sup> This has been evoked in relation to the work of the Polish historian Jan Tomasz Gross, whose books, such as *Neighbors*, and recent comments about the Holocaust, have come under attack. This brings us full circle to questions about national identity and patriotism.

**RP:** The new amendment is rather serious, as it would make “defaming the Polish nation” a criminal offense punishable by a three-year prison sentence. According to the current proposal by the Ministry of Justice, the provision would be included in the penal code as well as in the Constitution. There is an

important intellectual tradition in Poland, however, that I think we can honestly be very proud of, which has been called “critical patriotism.” In his famous essay, “Two Patriotisms,” Jan Józef Lipski juxtaposes two traditions: one is a liberal, open-minded, and critical patriotism, and the other is an intolerant ethno-nationalistic patriotism. In literature, Czesław Miłosz and particularly Witold Gombrowicz also stand for the possibility—or perhaps the necessity—of being patriotic in a way that’s open-minded and also critical of one’s own history. I think Jan Tomasz Gross, in exposing some problematic, painful, and shameful aspects of Polish history, such as Polish-perpetrated anti-Semitic crimes, can be included in this tradition.

I sincerely believe it is a feature of a mature democratic nation to be able to discuss things in an open way. Over the last fifteen years, the Gross debate has been very important. It’s perhaps even something we can be proud of as citizens of Poland: that a book like *Neighbors* can be published and discussed, and that views can be expressed that challenge a one-sided, ethno-nationalistic narrative. I think we can take pride in the fact that facts of the Jedwabne pogrom were recognized at an official level by President Kwaśniewski (1995–2005) and later by President Komorowski (2010–2015). Lithuania, for example, is beginning a similar debate now, but it’s not an easy thing for a country in Central and Eastern Europe.

**EH:** There’s a quote by Tomas Venclova that I find quite apt—he says that it is the sign of a mature nation to be able to face its past: “The truth does not humiliate. Telling the truth is the only proper way of restoring dignity.”<sup>17</sup>

**RP:** Absolutely. And there are many things about Polish history to be very proud of: the first is the tradition of constitutional patriotism. We should not forget that, in 1791, Poland had the first written constitution in Europe. Regarding the parliamentary tradition, Poland also had a very important, original system of decision-making that strictly protected minority rights; another original feature was the *liberum veto*, where any individual member of the Sejm could nullify legislation, a check that all bills were passed unanimously—even if this led to problems when the procedure was abused in the late seventeenth and early eighteenth centuries. Thus, there is a longstanding Polish tradition of the idea of freedom, coupled with the very important fact that Poland avoided the bloodshed of the European religious wars and prided itself on its relative tolerance for centuries, embodied in the historic act of the Warsaw Confederation in 1573.

This is why multiculturalism, for so long, was important to Polish history, and why so many different ethnic and religious groups found refuge in Poland. I am also proud of the new Jewish museum “Polin” in Warsaw, because it portrays this very important part of Polish history. Another thing to be proud of—and I hope this sounds optimistic—is our vibrant civil society that we have just been discussing, which is in part a legacy of the opposition and dissident movements of the ’70s and the ’80s.

I believe this will remain an important dimension of the open democratic debate we are witnessing. I am also quite sure that the different models and understandings of Polish identity will endure—including the critical, liberal model of Polish patriotism. Finally, I don’t know how this will happen, but Poland was a multicultural society for nearly its entire history, until the mid-twentieth century. Despite the recent xenophobic rhetoric, today’s Poland needs immigration for demographic, economic, and other reasons. I believe that a mono-cultural Poland is, in a way, an anomaly set against the breadth of Polish history. Thus, for Poland to become multicultural again would represent a return to normality.

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Notes:

1. “The mid-1930s saw the emergence of a number of radical groups including the National Radical Camp (Obóz Narodowo Radykalny, ONR) and the National Radical movement (Ruch Narodowo-Radykalny, RNR).” For a discussion of the interwar Polish radical groups see: Rafał Pankowski, *The Populist Right in Poland* (London: Routledge, 2010), pp. 31–38.”
2. “Jerzy Pilch, *Upadek człowieka pod Dworcem Centralnym* (Kraków: Wydawnictwo Literackie, 2002), p. 46.”
3. Law and Justice won 235 seats out of 460 in the the Sejm with 37% of the vote. Voter turnout was 51%. The party thus secured a majority with 5.7 million votes, out of slightly under 16 million cast (Poland’s population is nearly 39 million).
4. Pankowski, op cit., p. 156.
5. See: “The Constitutional Tribunal Act of 25 June 2015, <http://trybunal.gov.pl/en/about-the-tribunal/legal-basis/the-constitutional-tribunal-act/>.
6. See: “Act of 25 June on the Constitutional Court of Poland and amendments,” [http://www.venice.coe.int/webforms/documents/?pdf=CDL-REF\(2016\)009-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-REF(2016)009-e).
7. See: “The Act of 22 December 2015 amending the Constitutional Tribunal Act,” <http://trybunal.gov.pl/en/hearings/judgments/art/8859-nowelizacja-ustawy-o-trybunale-konstytucyjnym/>.
8. “Kaczyński dismisses court ruling as ‘private’ opinion of certain people,” March 15, 2016. <http://www.thenews.pl/1/9/Artykul/244671,Kaczynski-dismisses-court-ruling-as-private-opinion-of-certain-people>. In July 2016, further legislation concerning the workings of the Tribunal was enacted, and was again judged in part unconstitutional. See: The Constitutional Tribunal Act of 22 July 2016 and Judgment in the Name of the Republic of Poland, August 11, 2016. <http://trybunal.gov.pl/en/about-the-tribunal/legal-basis/the-constitutional-tribunal-act/>.
9. See: “On Amendments to the Act of June 25, 2015 on the Constitutional Tribunal,” [http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2016\)001-e](http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2016)001-e).
10. President Duda has also come under domestic and international pressure for his refusal to appoint ten judges put forward by the National Council of the Judiciary, the body that recommends and oversees the functioning of Poland’s judiciary. See: Marek Strzelecki, “Polish Judiciary Warns Government Is Damaging State With Attacks,” *Bloomberg*, September 4, 2016 <http://www.bloomberg.com/news/articles/2016-09-04/poland-escalates-standoff-with-judges-who-fear-creeping-coup>.
11. The new media law places the appointment of the management and supervisory boards of Poland’s public media—TV (TVP), Polish radio and the PAP news agency—under the control of the Treasury Minister, rather than the existing National Broadcasting Council. See: [http://www.krrit.gov.pl/Data/Files/\\_public/Portals/0/angielska/Documents/tekst-ze-strony\\_ustawa\\_en.pdf](http://www.krrit.gov.pl/Data/Files/_public/Portals/0/angielska/Documents/tekst-ze-strony_ustawa_en.pdf)
12. The amendment to the Civil Service Act allows ministers to directly appoint senior civil servants, replacing competitive examinations, and removes the stipulation that high-ranking staff must not have been members of a political party for the previous five years. See: “Dziennik Ustaw Rzeczypospolitej Polskiej” (Journal of Laws of the Republic of Poland): Ustawa z dnia 30 grudnia 2015 r. o zmianie ustawy o służbie cywilnej oraz niektórych innych ustaw. <http://www.dziennikustaw.gov.pl/du/2016/34/1>
13. “Kaczyński confirms work on new constitution for Poland,” *Radio Poland*, July 2, 2016, [www.thenews.pl/1/9/Artykul/259953,Kaczynski-confirms-work-on-new-constitution-for-Poland](http://www.thenews.pl/1/9/Artykul/259953,Kaczynski-confirms-work-on-new-constitution-for-Poland)
14. Kaczyński: Przyjdzie taki dzień, że będziemy mieli Budapeszt <https://www.youtube.com/watch?v=tXIYsu17MqU>.
15. See: “Prime Minister Viktor Orbán’s Speech at the 25th Bálványos Summer Free University,” <http://www.kormany.hu/en/the-prime-minister/the-prime-minister-s-speeches/prime-minister-viktor-orban-s-speech-at-the-25th-balvanyos-summer-free-university-and-student-camp>.
16. “Dobre imię Polski i Polaków ma być chronione proem,” February 15, 2016. <http://www.rp.pl/Prawo-karne/302159929-Dobre-imie-Polski-i-Polakow-ma-byc-chronione-prawem.html>.
17. Tomas Venclova, Ellen Hinsey, *Magnetic North: Conversations with Tomas Venclova* (Berlin: Suhrkamp Verlag, 2016).

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