

Democracy After Illiberalism: A Warning from Poland | Journal of Democracy

Stanley Bill Ben Stanley

This article examines the challenges facing governments aiming to restore liberal democratic institutions after illiberal rule. It uses the case study of Poland under Donald Tusk's current government — which defeated populist Law and Justice (PiS) in 2023 — to construct a wider conceptual framework for understanding dilemmas of post-illiberal reform that may also confront other democracies. A key legacy of democratic backsliding is a series of institutional traps that are difficult to counteract without resorting to the same decisionist methods that made them. Proceduralist approaches risk leaving the damage unrepaired and demobilizing supporters, while more decisive action may require capitulation to the illiberal playbook.

In October 2023, Poland's populist Law and Justice (PiS) party lost power after two terms in government to a “prodemocratic” opposition alliance led by former prime minister and, more recently, European Council president Donald Tusk. In a triumph of democratic mobilization against PiS's illiberal rule, the alliance won a decisive majority in both chambers of parliament. The outcome was trumpeted as Poland's “return to Europe” and the “restoration” of liberal democracy after eight years of democratic backsliding. Tusk again became prime minister, and his government pledged to repair Poland's degraded institutions, rehabilitate the rule of law, and hold PiS to account for its actions. The European Commission released long-blocked funds based on the new government's “action plan” to reestablish the constitutional order,¹ and “in recognition of his unwavering commitment to restoring democracy,” Tusk received the 2024 Chatham House Prize.² Liberals celebrated the Polish example as a signal case of democracy fighting back against an illiberal threat, with lessons for other European countries facing a resurgence of radical-right populism.

About the Authors

Stanley Bill

Stanley Bill is professor of Polish Studies at the University of Cambridge.

[View all work by Stanley Bill](#)

Ben Stanley

Ben Stanley is associate professor at the Centre for the Study of Democracy, SWPS University, Warsaw. He is author, with Stanley Bill, of Good Change: The Rise and Fall of Poland's Illiberal Revolution (2025).

[View all work by Ben Stanley](#)

The first year of the Tusk government soon tempered such triumphalism. Disagreements within the diverse ruling coalition, together with the veto power of PiS-aligned president Andrzej Duda (2015–present), prevented progress on key election promises, including the liberalization of abortion laws. The new government's migration policy reinforced PiS's hard line on border control, and its efforts to depoliticize the judiciary and state institutions either failed to reverse PiS capture or managed to do so only by resorting to measures resembling the former ruling party's “decisionist” methods — that is, methods that are legal only by virtue of being deemed so by the ruling power. To justify such tactics, Tusk invoked the concept of “militant democracy,” which prioritizes efficacy over a strict commitment to democratic procedure and the rule of law. The prime minister claimed that to stamp out PiS's lasting influence on captured institutions, it might be necessary to bend the rules. Now in opposition, PiS has accused Tusk and his allies of becoming the real threats to Polish democracy.

The crucial presidential elections of May–June 2025 have revealed the extent of public dissatisfaction with the new government. Tusk's candidate, Rafał Trzaskowski, lost a runoff to PiS's radical-right newcomer Karol Nawrocki — 49.1 percent to 50.9 percent — after an acrimonious campaign. Barely six months earlier, Trzaskowski had been a strong favorite; even in early May he led by 7–8 percentage points in polls. The first-round vote on May 18 set the scene for his defeat, as Tusk's coalition and other left-liberal candidates performed far below their parties' combined parliamentary results of 53.7 percent, winning only 44.9 percent of the vote. Antiestablishment, far-right candidates

took an unprecedented 21 percent of the vote, much of which then went to Nawrocki in the June 1 runoff. These results exposed growing disaffection with the government's record, as it failed to mobilize left-liberal voters on the same scale as in 2023, while the electorate as a whole swung substantially to the right. Trzaskowski's defeat amounted to a kind of "midterm" verdict in a virtual referendum on an increasingly unpopular government.

The case of Poland after eight years of PiS rule illustrates the challenges, dilemmas, and paradoxes of liberalism after illiberalism. In redressing PiS's transgressions, the new government faced a "post-illiberal trilemma": In principle, Tusk's government was committed to delivering quick, effective, and unimpeachably legal solutions to illiberalism. In practice however, it could often fulfill at best only two of these three conditions at once. For the most part, the coalition has either taken no action at all or produced rapid, makeshift solutions at the bounds of legal probity. A key legacy of illiberalism turns out to be a series of institutional traps that are difficult to counteract in the short term without resorting to the same methods that established them in the first place. Inaction leaves the damage unrepaired and demobilizes supporters, while effective action may involve capitulation to the illiberal playbook. In both cases, the restoration of liberal democracy remains mostly declarative, suggesting — along with the presidential election results — that Poland's illiberal moment is far from over.

Tusk's Prodemocratic Coalition Prevails

When PiS took power in 2015, it was almost immediately perceived — both in Poland and internationally — as a fundamental threat to democracy. As the party moved to take over the country's Constitutional Tribunal by installing its own political appointees with the help of President Duda, PiS appeared to be part of a dangerous global wave of right-wing, illiberal populism, or even authoritarianism. Over the following eight years, the PiS government was accused of undermining the rule of law, eroding the division of powers, weakening checks on the executive, and colonizing the state as it purged and stacked with loyalists a host of key institutions, including the judiciary, prosecution service, civil service, and public media.³ These actions brought the party into a state of permanent conflict with international partners and institutions. Beginning in 2016, leading democracy indexes such as V-Dem and Freedom House documented sharp declines in the quality of Polish democracy. And in 2017, the European Union took the unprecedented action of activating Article 7 of the EU Treaty (which allows for suspension of EU membership rights) against Poland for breaching the rule of law.

Inside Poland, the criticism was just as fierce: The main opposition parties, large parts of the mainstream commercial media, and civil society groups all attacked PiS for undermining democracy. In November 2015, a new civic movement called the Committee for the Defense of Democracy (KOD) formed and began leading a series of mass protests in early December, barely a month into PiS's rule, over judicial appointments that were in violation of a Constitutional Tribunal ruling. Although the KOD was formally independent of political parties, opposition politicians often appeared in the crowds and spoke at marches, harnessing the protests to build their own political narratives of resistance to PiS. By late 2016, politicians, mainstream media, and the KOD were working together, as renewed protests erupted over PiS-imposed restrictions on media coverage in the parliament. Opposition MPs occupied the parliament building, media outlets boycotted reporting on the parliament, and protesters took to the streets.

Opposition parties, in dialogue with activists and supportive media, built a central narrative of a fundamental clash between an antidemocratic, authoritarian PiS and a prodemocratic opposition supported by civil society. PiS, for its part, cast the opposition parties as anti-Polish and beholden to crooked elite and foreign-interest groups, while portraying itself as the only defender of the interests of ordinary Poles through its right-left combination of conservative cultural politics and redistributive social programs. According to this rhetoric, the liberal opposition was the real threat to democracy because it ignored the concerns of the majority of citizens. In this polarized climate, both sides presented elections as a Manichean struggle for the future — perhaps the very existence — of Polish democracy.

In the 2019 parliamentary elections, the opposition's grand defense of democracy failed: PiS not only won another term in government but significantly expanded its vote share from 38 percent to 44 percent. A large plurality of Polish voters clearly perceived no serious threat to Polish democracy, and were instead convinced by PiS's record of delivering on many key promises — above all, on social-spending initiatives that materially improved the lives of many Poles and reduced inequality. Among such initiatives was the party's flagship Family 500+ program, still in operation today, which initially provided families with a monthly allowance of 500 Polish zł (about US\$125) for each child after the first, before being extended to all children. PiS was aided in its success by favorable macroeconomic conditions that helped to sustain the party's spending programs and created a climate of economic optimism and a sense of well-being among Poles. At the same time, the opposition was divided among various quarreling parties and often appeared poorly led and devoid of constructive new ideas. That would change in 2023, when a grand coalition of parties styling themselves as the prodemocratic opposition stormed to victory with historically high turnout.

The PiS government faced successive crises beginning in 2020 with the covid-19 pandemic, which put an end to the positive economic climate. Then came Russia's full-scale invasion of Ukraine in 2022, and the accompanying economic downturn amid an energy crisis and rampant inflation. The party also suffered from its ideological overreach: A decision of the PiS-captured Constitutional Tribunal to narrow Poland's already restrictive abortion laws brought hundreds of thousands of protesters into the streets during the pandemic lockdown in late 2020. Meanwhile, Donald Tusk's return to domestic politics in 2022 gave the opposition a more dynamic, savvy leader. In the 2023 election campaign, Tusk's Civic Coalition (KO) — the largest opposition grouping — would work more cooperatively than in the past with the other opposition parties, promising a new coalition government to restore Polish democracy.

The opposition parties began to formally cooperate in 2019 ahead of European Parliament elections in the short-lived European Coalition and later that year for the Polish parliamentary elections in a "Senate pact" that wrested control of the upper house away from PiS. In civil society, meanwhile, a group of radical anti-PiS activists coalesced around the social-media hashtag *#SilniRazem* (*#StrongTogether*) to demand that opposition parties work together in defense of democracy. This loose civic movement presented another opportunity for the opposition to unite, with KO even appropriating the *#SilniRazem* slogan. Bolstered, and partly pressured, by this civic activism as well as wider social expectations of opposition cooperation in defense of democracy, the anti-PiS alliance thus crystallized, with parties representing a wide range of views on various issues united around the central aim of restoring Poland's legal order and democratic norms.

The opposition parties initially debated whether to run on a single ticket in 2023, but in the end landed on what turned out to be an advantageous configuration of three main groupings: KO, the Third Way (TD), and The Left (Lewica). By maintaining their independence while agreeing to cooperate, the allied parties were able to represent distinct ideological positions and could thus target their messages to mobilize different groups of voters. Liberal KO remained generally centrist, though it increasingly turned to the left on cultural issues, where it sought to attract voters from its Left allies, and also on economic issues, where it promised to preserve PiS's popular redistributive programs. The Left's own multiparty list represented a range of positions generally more progressive than KO's on culture and more supportive of state spending than what PiS had delivered. The Third Way coalition of former television star and presidential candidate Szymon Hołownia's Poland 2050 and the agrarian Polish People's Party (PSL) held moderate conservative positions and sought to offer a plausible alternative for any vacillating PiS voters. The Third Way also provided a viable choice for PiS opponents who remained suspicious of Tusk as well as those who disliked the radical polarization of the PiS–KO dichotomy and the *#SilniRazem* movement.

This combination of options in opposition to an already weakened PiS succeeded in mobilizing an extraordinary number of voters, with a massive 74.4 percent of eligible voters turning out on election day in October 2023. Although PiS's own result was far from calamitous — it remained the largest single party with 35.4 percent of the vote — the opposition won a solid majority with 53.7 percent of the vote and 248 out of 460 seats in the lower house of parliament. In the Senate, the opposition won 61 of the 100 seats, while PiS received 34. Such a decisive victory over PiS and the enormous turnout seemed to give the coalition a strong democratic mandate to deliver on its central campaign promise to restore Polish democracy and "de-PiSify" captured institutions.

Public-opinion polls suggested that most coalition voters anticipated this settling of accounts, and more-radical activists from the KOD and *#SilniRazem* movements clamored for legal retribution. At the same time, it was clear that redemocratization was the only common policy position among the coalition parties, which held markedly different views on other key issues from the campaign. Abortion, which had been almost completely banned by the Constitutional Tribunal in 2020, loomed as the most significant point of difference: KO and The Left promised decisive liberalization, while TD held to the more conservative position of a return to the still restrictive status quo ante from before the current law.

The new government that formed in December 2023 under Tusk's leadership — after two months of procedural delays from PiS and President Duda — faced significant pressure to deliver on its redemocratization and de-PiSification agendas. This pressure was magnified by the government's more-radical supporters, often under the *#SilniRazem* slogan, and by the likely difficulties the coalition would experience in seeking cross-party agreement in other policy areas. The government needed to show strength, energy, and efficacy to keep its supporters mobilized, especially with local and European Parliament elections immediately on the horizon in the first half of 2024. Each party also had its own incentives, whether pragmatic or self-serving, to remove PiS loyalists from key institutions in order to make way for its own appointees. For all these reasons, the anti-PiS, prodemocratic coalition was motivated to move quickly and decisively. But choosing the appropriate methods for change would be far from easy.

Tusk's First Year: Ideal versus Reality

Lacking a constitutional majority and forced to work with an uncooperative president, the new Tusk government

could never realistically achieve its ideal of rapid, effective, comprehensive, and legally unimpeachable reform. Instead, it faced a fundamental choice about how to approach repairing Poland's institutions: One path would require punctilious attention to legal probity but would have limited effect, at least in the short term, while the other would involve robust, assertive action, parts of which could be interpreted as legally dubious or even unlawful. The clash between these two styles, amid frustration that more-comprehensive reform was unworkable, would mark the government's first year in power. The ensuing controversies adversely affected the coalition's unity, its relationship with previously supportive judicial and media elites, and its public-approval ratings. The poor performance of its candidates in the presidential elections of May–June 2025 was clearly connected in part with the failure to meet these challenges.

The government's first steps were more characteristic of the second strategy, given the practical advantages of taking immediate control of key institutions after assuming power and the limited window of opportunity before full scrutiny of the coalition's actions began. The government's first move was to wrest control of public media away from PiS. The former ruling party had used its political domination of the National Broadcasting Council to appoint staunch loyalists to the boards of public media outlets and thus turn Poland's major public news programs into instruments of executive propaganda. Less than two weeks after taking power, the Tusk government exploited a legal loophole to assert that the culture minister had the right under the Commercial Companies Code to reappoint the boards of public media companies since the state treasury was their sole shareholder. This led to a dramatic purge of PiS-appointed public-media boards, the shutdown of the state news channel TVP Info, which had operated largely as a PiS propaganda instrument since 2016, and the transmission of an entirely rebooted evening news program hosted by new presenters and reporters.

Unsurprisingly, PiS and its supporters cried foul, picketing the new broadcaster and using parliamentary privilege to prolong a sit-in of the TVP offices. More problematic for the government was the reaction of some independent legal experts and the courts. The Helsinki Foundation for Human Rights, a prominent critic of the PiS government, expressed concern about the legality of the Tusk government's approach.⁴ A registry court responsible for commercial legal matters then rejected the media-board reappointments entirely. In short, the new government's first decisive action was effectively declared unlawful by an independent court. Changing tack, the culture minister placed the public media companies into liquidation, which courts eventually approved amid ongoing legal debate.

At the same time, the government pushed for the imprisonment of two PiS politicians previously convicted of abuses of power. President Duda claimed to have pardoned the pair preemptively in 2015, but the Supreme Court rejected the pardon's validity months before the 2023 election. The two convicted criminals took refuge in the presidential palace in Warsaw but were subsequently arrested there in January 2024. PiS and Duda then claimed that the two were "political prisoners," until the president reissued his pardon that month, triggering their release.

While many saw the government's stance on the pardon as defensible in isolation, in the wider context of the public-media purges it appeared to some as abrupt and vindictive. Members of PiS claimed that a "coup" was in progress and appealed for international support, and around a hundred-thousand people protested the arrests and public-media takeover in a PiS-organized "demonstration in defense of democracy" outside the parliament in January 2024. Meanwhile, two separate chambers of the Supreme Court — one of them created by PiS — made contradictory rulings on whether the pardoned politicians had lost their status as MPs, fueling further disagreement over the validity of legislative acts undertaken without their involvement.

Around the same time, yet another controversy arose when the justice minister removed national prosecutor Dariusz Barski, a PiS appointee whose position the party had tried to "cement" prior to the 2023 election through changes to the law requiring the president's agreement for the dismissal of the national prosecutor. The new government's methods — declaring that Barski had been incorrectly reinstated following a previous period of retirement and was thus ineligible for the appointment in the first place — again raised doubts among independent legal experts about the Tusk coalition's methods.⁵

The new government staunchly defended the legality of its moves, and many supporters applauded its show of strength and agency.⁶ Yet the air of controversy surrounding these actions underlined the substantial role of pretext-hunting and political self-interest in decisionmaking. The government knew that President Duda would have vetoed any legislative solutions that might have lent the purge of media boards a patina of respectability. But with local and European Parliament elections looming, it was not politically expedient to wait for the existing appointees' terms of office to expire, as this would have ensured a continued stream of attacks from public media still controlled by PiS. Under new management, public broadcasters would instead show some bias in the other direction — in favor of the Tusk government. Similarly, leaving Barski in the national prosecutor's office was unpalatable, as it would have allowed PiS to interfere with any prosecutorial actions to bring Law and Justice politicians and associates to justice for illegal actions taken between 2015 and 2023.

The Tusk government's immediate recourse to robust or even decisionist methods — with convenient political benefits — indicated that the coalition would likely take further action at the bounds of lawfulness. It also drove a wedge between supporters of more-radical reform, including the loose *#SilniRazem* group, who were prepared to countenance actions of disputable legality, and those who held fast to the need for “legalism, legal certainty, and building citizens’ trust in public institutions.”⁷ This clash would play out most prominently in the arena of judicial reform, an area in which the PiS government had left its successors a particularly intractable set of problems. Over its eight years in government, PiS had politicized Poland’s existing judicial bodies and established new ones, using methods widely regarded — including by the Court of Justice of the European Union (CJEU) and the European Court of Human Rights (ECHR) — as defective or illegal. In particular, the Constitutional Tribunal, the National Council of the Judiciary and the “neo-judges” it appointed after its political capture, and the newly created Chamber of Extraordinary Control and Public Affairs of the Supreme Court were all considered illegitimate by the Tusk government, citing CJEU and ECHR rulings as justification.

Accordingly, the gap widened between two different perceptions of Poland’s legal order: a “legal dualism,” in which each side referred to authorities not acknowledged by the other.⁸ The PiS-dominated Constitutional Tribunal continued to rule on various matters, including the liquidation of public television, while the government duly ignored these rulings, referring to Supreme Court and ECHR judgments that the Tribunal was not a valid court because some of its judges had not been properly appointed.⁹ In the Supreme Court, two different chambers operated in parallel and issued mutually contradictory rulings. And two competing public-television boards existed simultaneously in early January 2024. Some MPs and supporters of the new government even called for it to simply ignore the president’s right to veto, while leading PiS figures argued that all the parliament’s actions were invalid or illegal in the absence of the two convicted PiS politicians.¹⁰

While the very term “legal dualism” was disputed, with some claiming it wrongly equated legality with plain illegality, in practice PiS’s foothold in key judicial institutions ensured that the two sides of Poland’s political divide would continue to subscribe to parallel legal realities. With no universally recognized higher body to adjudicate these disputes, they could only be resolved in terms of how much popular support the new government enjoyed after the election and the relative monopoly it held on the main instruments of power in the country. This seemed to consolidate in Poland the pattern of an electoral democracy in which the party or parties that win a majority — however slim — effectively assume a mandate to use any means possible to take control of institutions, ignoring liberal-democratic limits on power. From this point of view, the new government’s most effective methods would not undo PiS’s damage to democracy but rather would deepen it. The choices remained extremely difficult, since any failure to act would also leave institutions compromised.

For European institutions and increasingly frustrated domestic supporters, it was imperative that the government move to repair judicial bodies that had been captured by PiS. The politicized National Council of the Judiciary continued to appoint neo-judges in a manner open to political influence; the presence of these judges rendered new Supreme Court benches illegitimate in the eyes of the ECHR; and improperly appointed justices (or their successors) continued to vitiate the authority of the Constitutional Tribunal. Any further delay on judicial reform risked exacerbating a systemic problem.¹¹ Yet strictly proceduralist action could be easily stalled or thwarted by PiS’s foothold in these apex institutions and the protection that President Duda provided. The president refused to countenance any reforms that would lower the status of judges whom he himself had appointed, stymying various reform attempts by referring the relevant bills to the Constitutional Tribunal, whose verdict — valid or not — could be predicted by the very fact of this referral.

The government’s attempts to navigate this situation also deepened the clash between dovish and hawkish elements of the judicial system. Among the doves was Justice Minister Adam Bodnar, who initially sought to secure President Duda’s assent for reforms to the National Council of the Judiciary with the compromise of leaving neo-judges in place. The hawks comprised the judicial associations and individual judges who most actively opposed the PiS government and were dismayed at the sight of improperly appointed judges and justices of the Constitutional Tribunal continuing to wreak legal havoc with impunity.¹²

The new government, having raised expectations in the first months of its tenure, became hostage to its own radicalism. Legally irreproachable reforms seemed increasingly necessary but were also increasingly implausible as the enmity between the two halves of Poland’s executive deepened. Over time, the fruitlessness of self-constraining proceduralism became ever clearer. Yet recourse to more politically effective alternatives threatened to undermine the very purpose of the reforms: to restore liberal democracy. In a meeting with Polish judges and constitutional scholars in September 2024, Tusk invoked the need to employ instruments of “militant democracy,” arguing that current circumstances made it impossible to implement necessary reforms without “committing . . . actions that may be inconsistent with the letter of the law.”¹³ The promised end would have to justify the means in a partial state of

exception.

We have found evidence that the public holds ambiguous attitudes regarding this trade-off between respect for liberal-democratic norms and effective action. A split-sample survey conducted in April 2024 revealed that voters who were strongly supportive of KO were somewhat willing to accept actions not strictly consistent with liberal-democratic principles and procedures.¹⁴ For example, when asked to what extent it was legitimate for a government to fire public-media heads if the preceding government had done the same, 56.3 percent of respondents who strongly preferred KO were, in principle, willing to endorse such actions. Even after receiving contextual information stressing that KO's own public-media purges had been criticized by many legal scholars, still more than half (50.6 percent) of these respondents did not oppose the purges.

Another survey question referred to the wider challenges facing a government with a restricted capacity for action. Respondents were told that governments often face dilemmas in realizing their political plans, and that effective, swift, and unambiguously legal action was not always possible simultaneously. Respondents were asked to choose the two most important criteria in such a situation. Among strongly pro-KO respondents, 46.3 percent opted for acting effectively and legally, even if it meant acting slowly. Just over a third (36.2 percent) preferred swift and legal action on a limited scale, even at the expense of wider efficacy in the pursuit of more-ambitious goals. However, 17.4 percent of strongly pro-KO respondents opted for action that was swift and effective, if not unambiguously legal. Notably, among respondents who strongly favor PiS, now in opposition, fewer approved of legally dubious actions (12.4 percent), with 59.7 percent emphasizing the need for governments to be effective but fully law-abiding versus just 46.3 percent of their strongly pro-KO counterparts.

These results do not point to any wholesale endorsement of bending or breaking the norms and principles of liberal democracy. In general, most Poles still see legal governance as preferable, even if things get done more slowly. Yet a significant minority of supporters of the ruling coalition, which came to power on the promise of restoring liberal democracy, is prepared to see breaches of law occur in the service of swift and effective action. Moreover, when the government does take quick and effective actions that are also legally problematic, only a minority disapprove of those moves in retrospect, regardless of their general preference for legally unimpeachable action. Even among strong KO supporters who declared themselves in favor of effective but slow action over illegality, 52.2 percent nevertheless strongly agreed that governments have a right to purge public media when taking office.

Such figures may reflect the specific character of the present situation, in which the urgency of reversing illiberalism seems to outweigh the need to adhere to liberal-democratic norms. Yet even if this is the case, the evidence indicates that both liberal elites and supporters of liberal-democratic parties see these norms as subordinate to more-immediate concerns and interests. Though naturally a less existential challenge to liberal democracy than the wholesale rejection of the rule of law, the readiness of elites and voters alike to suspend key democratic principles for the sake of expediency risks Polish democracy drifting further into decisionist majoritarianism, especially in the context of growing polarization. Subsequent governments may claim the same exceptional rights to a widened scope of action without procedural restraint, invoking in their turn the defective composition of existing institutions and the urgent need to undo the malfeasance of their predecessors.

Effective, Legal, Swift: The Post-Illiberal Trilemma

From the outset of the Tusk government's tenure, it was clear that there were significant structural barriers to delivering on the coalition's ambitious "100 concrete promises for the first 100 days." It was always likely that such an ideologically heterogeneous alliance would face difficulties operating alongside a hostile president possessing a veto. Yet the context of a government ostensibly seeking to restore liberal democracy after a period of democratic backsliding laid bare a more difficult set of constraints, the effects of which might persist even if the presidency were to change hands. These constraints can be likened to Dani Rodrik's "political trilemma of the world economy," which holds that governments pursuing international economic integration, preserving mass politics, and retaining the nation-state as a political unit are structurally restricted to choosing only two of these three goals.¹⁵ Similarly, governments seeking to deal with the consequences of democratic backsliding face demands and incentives to act effectively, legally, and quickly, but realizing two of these goals often means excluding the third.

Governments aiming to respond to democratic backsliding must do so effectively, undoing the consequences of illiberal measures taken by their predecessors and removing or negating policies and mechanisms that, if left unchecked, would continue to corrode liberal democracy. Without effective action against both the specific consequences of illiberalism and the processes that generate and perpetuate those consequences, no genuine and lasting post-illiberal reform is possible. As the Polish case demonstrates, when domestic and international enthusiasm for the rescue of liberal democracy brings a government to power, that government will naturally be expected to deal

with the stuff of ordinary politics but will come under scrutiny, above all, for its successes or failures in addressing backsliding.

At the same time, if the goal is restoring liberal democracy as a polity subject to the rule of law, reforms obviously need to be legally sound. Not every illiberal change can be rolled back unproblematically, and post-illiberal governments cannot rely on the same unrestrained scope of action enjoyed by their decisionist predecessors. The absence of a constitutional majority and the presence of significant veto players may considerably diminish the range of legal instruments open to post-illiberal administrations, as in Poland. They may then be doubly constrained by the legal uncertainty created by the earlier political capture of the very institutions that will determine the legality or illegality of their actions.

The problems of reconciling legality with efficacy are compounded by the third factor: the political need to act swiftly. Governments that come to power on the promise of repealing illiberal changes may have emphasized to electorates the difficulties of doing so. The evident complexity of the tasks may afford these governments a honeymoon period of understanding from voters, interest groups, and international observers. Nevertheless, the nature of illiberal changes mandates urgent action — not only to restrict the extent to which those changes can continue to create illiberal consequences, but also to satisfy popular demands that illiberal protagonists be brought to a reckoning or even to justice for their actions. When polarization is particularly acute, these demands will likely be difficult to ignore. At the same time, the swift deployment of democratic “hardball” may serve to compound this polarization in the absence of any clearly articulated — and commonly believed — rationale for how such actions will work to the benefit of democracy in the longer term.¹⁶

The most desirable course of action from a strictly liberal-democratic perspective is to implement full reforms that provide comprehensive, effective, and legally unimpeachable solutions to discrete problems. However, this path is always likely to be slow, to an extent that might ultimately even negate the overall effectiveness of the wider response to illiberal challenges. Therefore, post-illiberal governments must contemplate two alternatives. They may opt to take swift and effective action, cutting through the Gordian knot of post-illiberal complexity regardless of legal concerns.

This “militant democracy” might seem justifiable to liberal reformers on the grounds that desirable outcomes should be valued above due process. Yet the argument risks duplicating the executive-decisionist mentality that drove illiberalism in the first place, giving convenient pretexts for post-illiberal governments to stack institutions with their own political appointees or bypass checks and balances themselves. Such decisionist reforms may settle certain problems created by illiberal governments in the short term, but replicating the illiberal *modus operandi* risks embedding the Schmittean logic of “deciding on the exception” as a legitimate mode of governance.

There may be considerable moral force to legal arguments about the legitimacy of “violat[ing] the rule of law writ small . . . in order to achieve the rule of law writ large.”¹⁷ Yet, in a political sense, identifying which laws may be broken to that end is up to powerholders, and citizens, in turn, must agree to trust that those powerholders will not abuse the privilege. Such a consensus is unlikely to be gained among a polarized electorate in the aftermath of a thwarted illiberal revolution.

A post-illiberal government may instead decide to pursue only those limited actions that are legally sound and can be implemented quickly. This allows them to maintain the principle of legality while delaying ambitious reforms in the hope that more propitious circumstances might arrive — in the case of the Tusk government, a hope now dashed by the defeat of their candidate in the presidential elections. This politics of partial reform avoids the problem of replicating illiberal decisionism but has its own negative repercussions for the quality of liberal democracy: If key state institutions remain populated by individuals who were appointed in breach of the legal process, the actions they take will continue to generate illegitimate outcomes, with lasting consequences. Slow progress also risks alienating voters who elected the post-illiberal government specifically to roll back illiberal changes and thus have good reason to expect swift and effective action. This may undermine support for the government and thus increase the chances that illiberal forces could return to power in subsequent elections. In Poland, the rapid ascent to the presidency of a PiS-supported candidate of the radical right clearly brings this possibility closer to reality.

The fundamental problem of post-illiberalism is that there is no easy or obvious course of action for a reforming government to take, even with a strong democratic mandate for change. Such governments are structurally impeded in their capacity to respond to the consequences of illiberalism, and perhaps also susceptible to the temptations of exploiting illiberal precedents or pretexts for their own benefit. Whichever choice post-illiberal governments make — whether to act effectively and legally, effectively and quickly, or legally and quickly — there are abundant risks that they will deepen and compound the problems they inherited.

The Stakes of Post-Illiberal Reform

When Donald Tusk's government came to power in late 2023, liberal Europe celebrated Poland's return to the fold of liberal democracy, anticipating the repair of institutions damaged by PiS's illiberalism and the restoration of the rule of law. But the new government has achieved little on these fronts in its first year and a half and has even continued some PiS-era policies instead. Of Tusk's one-hundred campaign promises, his government has delivered on only twelve. The lack of meaningful action may be attributed to the short timeframe, disruptions from local and European election campaigns, the challenges of policymaking in a diverse coalition, and the threat of President Duda's veto. Whatever the cause, the only successful actions so far have mostly just reversed the illiberal packing of institutions through answering personnel changes, often using means as dubious as those employed by PiS. As a result of these controversies and the wider lack of progress, negative approval ratings for Tusk's government have outweighed positive ratings since July 2024.¹⁸

This record raises a host of theoretical questions on the trajectory of Polish democracy with potentially wider relevance. Is it possible to repair the damage done to public institutions by illiberal actors without resorting to similarly illiberal, decisionist means? Are such means justified in a sort of temporary state of exception, as some observers have argued, under notions of "militant rule of law"?¹⁹ Or does their use rather suggest the triumph of illiberal forces, as self-declared liberals capitulate to a logic of illiberalism and executive overreach, adopting decisionist tactics at the borders of legality to undo their predecessors' abuses? Does this capitulation risk perpetuating an escalating cycle of arbitrary institutional takeovers and elite replacement after elections, pushing Poland further down a path to a new form of democracy: majoritarian and illiberal, where elected majorities increasingly operate without checks on power, as those checks are either coopted or ignored? Is an "evolutionary" rather than "revolutionary" approach therefore preferable to restore the principles of rule of law and eroded democratic institutions through strict adherence to the limits of the law?²⁰ But what are the political costs of such self-limiting proceduralism, which might appear to many voters as a simple failure to deliver on key promises?

The answers to some of these questions have become clearer after Poland's recent presidential election. With Nawrocki's victory, the Tusk government now faces another two years of a hostile president with veto powers to block its putative plans for reform. Any accommodation with Nawrocki looks both impossible and likely to further alienate the coalition's own voters. In consequence, Tusk may face a choice between limping ineffectively to defeat in the 2027 parliamentary elections and a more determined path of radical action. The latter could lead to a more fulsome embrace of "militant democracy" through various forms of executive aggrandizement to achieve concrete policy outcomes. Either way, this may turn out to be the crucial period of the Tusk government's tenure, subsequently allowing for a fuller judgment of its approach to the post-illiberal trilemma.

The result of the presidential election reveals the high stakes of post-illiberal reform. The coalition's lack of progress in delivering change probably demobilized some of its 2023 voters. Conversely, its executive overreach may have motivated opponents perceiving a threat to democracy. Meanwhile, Nawrocki shifted PiS closer to the radical right, where he harnessed support — especially among disaffected younger voters — for antiestablishment positions on migration, the EU, and Ukraine. If PiS and the far-right Confederation can overcome their differences on social policy, this move could prefigure a wider electoral alliance in 2027. To have any chance of victory, the Tusk coalition will need to reinspire its own constituencies by delivering on its promises — despite the presidential veto and its own internal divisions. Rapid action at the borders of legality may consolidate the pattern of methods used by its illiberal predecessors, further eroding institutional curbs on executive power in a spiral of majoritarian decisionism. Yet a failure to deliver effective reform not only leaves the previous damage to institutions unrepaired but may clear the path for the illiberals themselves to return. 🐾

NOTES

Ben Stanley's research for this article was funded by the National Science Center (NCN) under grant 2020/39/B/HS6/00853.

1. "Press statement by President von der Leyen with Belgian Prime Minister De Croo and Polish Prime Minister Tusk," European Commission, 22 February 2024, https://ec.europa.eu/commission/presscorner/detail/en/statement_24_1023.

2. "Donald Tusk awarded 2024 Chatham House Prize," Chatham House, 20 June 2024, <https://www.chathamhouse.org/2024/06/donald-tusk-awarded-2024-chatham-house-prize>.

3. For a full account of PiS's two terms in government and eventual fall from power, see our forthcoming book *Good Change: The Rise and Fall of Poland's Illiberal Revolution* (Stanford: Stanford University Press, 2025).

4. “Position Statement by the Helsinki Foundation for Human Rights on the Changes in the Public Media,” Helsinki Foundation for Human Rights, 22 December 2023, <https://hfhr.pl/en/news/statement-changes-in-the-public-media>.
5. Tomasz Mincer, “Barski jednak jest Prokuratorem Krajowym? Prawnicy podważają argumentację ministra Bodnara” [Barski Is the National Prosecutor After All? Lawyers Undermine Minister Bodnar’s Arguments], *Dziennik.pl*, 16 January 2024, <https://wiadomosci.dziennik.pl/polityka/artykuly/9404468,barski-jednak-jest-prokuratorem-krajowym-prawnicy-podwazaja-argumenta.html>.
6. “Przejęcie mediów przez nowy rząd: Większość Polaków popiera przyjęte metody” [Takeover of the Media by the New Government: A Majority of Poles Support the Methods Used], *Rzeczpospolita*, 2 January 2024, <https://www.rp.pl/polityka/art39645901-przejecie-mediow-przez-nowy-rzad-wiekszosc-polakow-popiera-przyjete-metody>.
7. Marcin Szwed, “Rebuilding the Rule of Law: Three Guiding Principles,” *Verfassungsblog*, 29 April 2024, <https://dx.doi.org/10.59704/794ecd417ad8ac53>.
8. Michał Szuldrzyński, “Polski dualizm prawny,” [Polish Legal Dualism], *Rzeczpospolita*, 22 December 2023, <https://www.rp.pl/komentarze/art39611781-michal-szuldrzynski-polski-dualizm-prawny>.
9. Alicja Ptak, “Polish Constitutional Court Has Lost Ability to Adjudicate Lawfully, Rules Top Administrative Court,” *Notes from Poland*, 6 December 2022, <https://notesfrompoland.com/2022/12/06/polish-constitutional-court-has-lost-ability-to-adjudicate-lawfully-rules-top-administrative-court/>; “Komunikat Ministra Kultury i Dziedzictwa Narodowego: Wyrok Trybunału Konstytucyjnego jest wadliwy,” [A Communique of the Ministry of Culture and National Heritage: The Verdict of the Constitutional Tribunal is Defective] Ministry of Culture and National Heritage, updated 18 January 2024, <https://www.gov.pl/web/kultura/komunikat-ministra-kultury-i-dziedzictwa-narodowego-wyrok-trybunalu-konstytucyjnego-jest-wadliwy>.
10. Piotr Miączyński, “Gra o budżet. Elżbieta Witek grozi Trybunałem Konstytucyjnym. Posłowie rządu okupowali mównicę, broniąc jej przed PiS,” [The Game Over the Budget: Elżbieta Witek Raises Threat of the Constitutional Tribunal. Government Deputies Occupied the Rostrum to Protect It from PiS] *Wyborcza.biz*, 16 January 2024, <https://wyborcza.biz/biznes/7,147582,30600017,gra-o-budzet-witek-grozi-trybunalem-konstytucyjnym-poslowie.html>.
11. Laurent Pech, “7 Years Later: Poland as a Legal Black Hole,” *Verfassungsblog*, 17 January 2023, <https://dx.doi.org/10.17176/20230118-001918-0>.
12. Magdalena Gałczyńska, “Szef stowarzyszenia sędziów podsumowuje pół roku Adama Bodnara, ‘Utknęliśmy na mieliźnie,’” [Head of Judicial Association Sums Up Half a Year of Adam Bodnar’s Tenure. “We Are Stuck in the Shallows”] *Onet.pl*, 13 June 2024, <https://wiadomosci.onet.pl/tylko-w-onecie/utknelismy-na-mieliznie-szef-stowarzyszenia-sedziow-podsumowuje-pol-roku-adama/gsj0ffk>.
13. Anton Ambroziak, “Tusk, Hołownia i Kidawa z prawnikami o przywracaniu ładu konstytucyjnego i „demokracji walczącej,” [Tusk, Hołownia, Kidawa and Lawyers on Restoring the Democratic Order and “Militant Democracy”] *OKO.press*, 10 September 2024, <https://oko.press/na-zywo/na-zywo-relacja/tusk-holownia-i-kidawa-rozmawiaja-z-prawnikami-o-przywracaniu-ladu-konstytucyjnego>.
14. Ben Stanley, “Partisan Bias or Indifference? Panel Survey, Wave 3,” *Harvard Dataverse*, August 2024, <https://doi.org/10.7910/DVN/TUUHGV>.
15. Dani Rodrik, “How Far Will International Economic Integration Go?” *Journal of Economic Perspectives* 14 (Winter 2000): 180–81.
16. David A. Bateman, “Democracy-Reinforcing Hardball: Can Breaking Democratic Norms Preserve Democratic Values?” *Comparative Political Studies* OnlineFirst article, 6 January 2025, <https://doi.org/10.1177/00104140241312107>.
17. Kim Lane Scheppele, “Blinded by Legality: The Venice Commission’s Change of Heart on Restoring the Rule of Law in Poland,” *Verfassungsblog*, 23 December 2024, <https://doi.org/10.59704/15d128d43218f87c>.
18. CBOS (Centrum Badań Opinii Publicznej [Public Opinion Research Center]), “Trends: Evaluation of Government,” *CBOS.pl*, 2025, https://www.cbos.pl/EN/trends/trends.php?trend_parametr=stosunek_do_rzadu.
19. András Sajó, “Militant Rule of Law,” *Verfassungsblog*, 20 December 2023, <https://verfassungsblog.de/militant-rule-of-law>.

20. Jarosław Sidorowicz, “Prof. Zimmermann: Demokratyczna większość będzie zmuszona iść trochę po bandzie, ale nie możemy przekroczyć tej granicy,” *Wyborcza.pl*, 5 January 2024, <https://krakow.wyborcza.pl/krakow/7,44425,30563235,prof-zimmermann-demokratyczna-wiekszosc-bedzie-zmuszona-isc.html>.

Copyright © 2025 National Endowment for Democracy and Johns Hopkins University Press

Image Credit: Tomasz Zasinski/SOPA Images/LightRocket via Getty Images