

# The Biopolitical Incarnation of Populism: A Voice From Poland

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In the presented paper, the author starts with diagnosing the state of research on populism and biopolitics simultaneously. The author states that most often in the literature the topic of populism (Laclau, Mouffe, Mudde, and Panizza) is considered separately from the problems related to biopolitics (Foucault, Negri, Agamben, and Esposito). The author would like to change this separation by bringing these two discourses closer together. The author's main aim is to rethink populism from a biopolitical perspective, i.e., to implement national politics over the population. Furthermore, the author reconstructs the logic of such biopolitical populism with the example of Poland, and as a consequence, the program of the "Law and Justice Party (PiS)", which, after coming to power in 2015, introduced a new policy of "legal populism", closely related to the conservative "procreative policy" (prohibition of abortion), and the family-oriented economy (financial supplement for each family for the second child, the so-called "500 plus" program).

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## Theoretical Premises

Let us start with a few conceptual corrections. The wave of populism that has flooded the modern world requires precise and unbiased thinking. Perhaps it also requires a new dictionary to understand the technique of populism in the world of new media and new digital technologies, but also requires reflections on the new political subject articulating new demands. The return of populism can certainly be associated with the threat of blurring collective identities, employment, loss of social security, the migration crisis, etc. Populism has always been associated with a dangerous excess that undermines clear forms of a rational society. Today, however, this "irrationality" of populism has become the mainstream of all "rational" politics. This is the fundamental challenge of our time.

In this text, I will try to understand who the addressee of the new populist policy is; therefore, I will, first of all, ask about a new political entity who, as I claim, is no longer "people", "sovereign nation", but also not a "lonely crowd", "mass", "plebs", "proletariat", but "population". Ernesto Laclau (2005) wrote, in *On Populist Reason*, in a completely open style

My attempt has not been to find the *true* referent of populism, but to do the opposite: to show that populism has no referential unity because it is ascribed not to a delimitable phenomenon but to a social logic whose effects cut across many phenomena. Populism is, quite simply, a way of constructing the political. (p. XII)

Yes, one must agree with Laclau that “populism is a way of constructing the political”, but this does not mean that its “object of reference” remains “empty”, “unclear”, “difficult to identify”, “fuzzy”, or “devoid of unity”. On the contrary, such style of thinking limits populism to “populist logic”, that is, depriving populism of “ideological content” and “clear reference”, risks equating populism with politics at all. In such an approach, there is no policy other than populist policy. In this paper, I argue that the key subject of populist rhetoric is a population that is only declaratively presented as “sovereign union of people”. In fact, however, this “sovereign people” is relegated to the role of a bare “material, biological resource” on which politics is working.

In the first volume of *The History of Sexuality*, Michel Foucault (1978) noted a significant new quality of modern politics. One of the innovations in the techniques of power in the 18th century was the emergence of the population as an economic and political problem.

Governments perceived that they were not dealing simply with subjects, or even with a “people”, but with a “population”, with its specific phenomena and its peculiar variables: birth and death rates, life expectancy, fertility, state of health, frequency of illnesses, patterns of diet and habitation. (p. 25)

A few chapters later, Foucault (1978) added, in his prophetic style, an important generalization—“For millennia, man remained what he was for Aristotle: a living animal with the additional capacity for a political existence; modern man is an animal whose politics places his existence as a living being in question” (p. 118).

Many years have passed since this declaration, which did not help to clarify the meaning of the concept of biopolitics. As interpreted by Foucault (1978; 2003; 2007; 2008), the concept of biopolitics gave rise to numerous neologisms—biopower, thanatopolitics, necropolitics, positive and negative forms of bio-power, and neuropolitics. Jacques Derrida (2009), Donna Haraway (1989), and Rosi Braidotti (2007) argued that biopolitics should be studied from the point of view of the concept of immunization and autoimmunity. Giorgio Agamben (1998; 2015), referring at the same time to the idea of “camps without biopolitics” in Hannah Arendt and “biopolitics without camps” in Foucault, postulates that the beginnings of the emergence of biopolitics should be extended to Greek and Roman times (pp. 30-37).

Roberto Esposito (2008; 2010; 2012), trying to counteract the negative, i.e., the thanatopolitics of Agamben, and the positive interpretations of the productive and new revolutionary class—the multitude—of Antonio Negri and Michael Hardt, argued that biopolitics should be read more widely in the context of community, nihilism, the right to possession, and the policy of the non-personal. Hardt and Negri’s concept of biopolitics concerns only immaterial life, while physiological or biological life is exiled to the oppressive and fatal realm of transcendent biopower. The authors of *Assembly* seem to introduce innovation into the standard accounts of biopower and biopolitics, by conceiving of life as both biological (the object of biopolitics) and immaterial (the object of biopower) (Negri & Hardt, 2004; 2017).

Furthermore, Foucault’s concept of biopolitics was also criticized by Dipesh Chakrabarty (2007), who accused it of being “narcissistic provincial”, arguing that it was impossible to write a history of genocide that begins and ends in Europe, for example, even if Europe is assumed to be the distinguished point of reference. Finally, Achille Mbembe (2003) supplemented that German Nazism was genealogically related to the era of European colonialism and therefore cannot be abstracted from this broader context. Therefore, it must be stated that we do not know what precise meaning should be assigned to the term “biopolitics” (Mbembe, 2003).

The very concept of biopolitics does not imply a new quality of modern politics because biopolitics has always existed and defined the West’s political horizon. The meaning of the term should therefore not so much

be expanded as it should be sharpened. In a new, more precise sense, biopolitics is responsible for the regulation of political populations and constitutes a significant element in nation-building, state sovereignty, capable of producing various collective identities. The subject of biopolitics is still the population, but its technique is a set of practices and devices to control human and inhuman bodies and the world's materiality in general. Finally, and importantly, biopolitics can serve diverse, also, conservative purposes.

In this sense, I would like to go beyond the theoretical framework set by Foucault, Agamben, and Esposito: Biopolitics is more than just a technique for executing and legitimizing power relations over life. I argue that the biopolitical practices of constructing normativity and the mechanisms of social surveillance and social inclusion and exclusion techniques are powerful tools for creating what I would call a "biopolitical community". I refer to this concept for clarification—how biopolitical investments shape specific populations as belonging to specific communities—national, religious, linguistic, class and gender and the like. To put it bluntly, I believe that the strategy of biopolitical thinking in Foucault's style should be combined with the tactics of populist thinkers, like Ernesto Laclau (2005) and Chantal Mouffe (2018).

### **Populism in the Question**

When it comes to populism, let us start with a similar finding like the one that opened the discourse on biopolitics: Populism has many names (Mudde, 2007; Panizza, 2005; Crouch, 2005; Babones, 2018; Müller, 2016; Mounk, 2018; Bill & Stanley, 2020). Certainly, such concepts as "democratic decay", "radical right political movements", "post-democracy", "the new authoritarianism", "not liberal-minded", "neo-Nazi", "national-radical front", "fundamentalist", and "anti-constitutional political regime" do not have the same meaning, nor even the same content. Populism is a vague and contested concept.

There are many understandings of "populism", some of which simply identify it with popular governmental initiatives; others, with state interventionism in the economy, or with a focus on closeness to working people, "blue-collar workers", farmers, and other lower or lower-middle classes. In recent years, the most influential understanding is offered by Jan-Werner Müller (2016) who identified populism with anti-pluralism, and, more specifically, with making the "claim to exclusive moral representation of the people" (p. 48). Populists, Müller (2016) added, attempt "to speak in the name of the people as a whole" and to morally de-legitimize those who contest that claim, which is to say: those who contest their involuntary inclusion in a "We the People"; such resisters to populism are effectively saying: "not in our name" (p. 55).

Perhaps the most comprehensive concept of populism was proposed by Ernesto Laclau. For Laclau, populism is not just a collection of anti-system movements, but the logic of political action itself. Mouffe (2018) supplemented this general thesis by implementing it in a specific political context: We are witnessing, in Europe, a "populist moment" that signals the crisis of neoliberal hegemony. By establishing a frontier between "the people" and "the oligarchy", a left-populist strategy could bring together the manifold struggles against subordination, oppression, and discrimination. Right-wing populism, on the other hand, contrasts the oligarchic system of privileged and well-educated people with a "common man" who did not get a chance to occupy a privileged position in society and success (Mouffe, 2018). This populist moment points to a "return of the political" after years of "liberal post-politics". Can biopolitics help deepen the conception of populism understood in this way?

To apply biopolitical ideas to understand the current demand for populism, I will attempt to go beyond the opposition formulated by Foucault himself, which opposes biopolitics with the logic of sovereignty. I do this

largely by showing that sovereignty is a highly biopolitical concept in the sense that different strategies of sovereign power place the issues of the body and “man as species” at the center of their concerns. Elizabeth A. Povinelli (2016) argued that the modern world is full of political events pointing to the return of the logic of sovereign power. These expressions of new sovereign power are deeply rooted in the practice of biopower (Povinelli, 2016). Therefore, there is no gap separating modern regimes of biopower from the ancient order of sovereignty.

Reading Foucault, we have been told that disciplinary power works through “subjugation techniques” directed at bodies and persons. Sovereign power operates through “elimination techniques” directed towards the death side, and biopolitical power manifests itself through “medical and demographic techniques” directed towards the multiplication of life in the population. These divisions have now become insufficient. Sovereignty does not develop dialectically towards disciplinary power, and disciplinary power does not cross the biopolitical threshold. On the contrary, all three of these formations are always co-present, although they are distributed and positioned relative to each other according to time and place. All three power formations—sovereign, disciplinary and bio-power, act as mechanisms of regulating life and distinguishing life from non-life.

Such a biopolitical, and, at the same time populist orientation allows us to understand why old practices so often reproduce in modern societies, despite the existence of an institutional framework intended to produce “liberal effects” opposing nativism, nationalism, racism, and authoritarian tendencies. Perhaps this direction of thinking between the “modern population” and the “pre-modern commoners” allows us to understand the revival of nationalist traditions in the liberal world.

What constitutes the still unexplained political paradox of our times is contained in the question: How is it possible that in the 21st century, in the era of globalization, that the most primitive temptations of building political communities are based on the bodily and genetic characteristics of human existence, such as gender, race, and ethnicity? We cannot be content with expressing formulas like—bare life, *immunitas*, panoptic apparatus, population, state of exception, control, surveillance, threshold, apparatus, government, or disposition. Each time, we must re-track the implementation of these concepts in a specific territory and at a specific time (Makarychev & Yatsyk, 2019). Biopolitics might be part of nation-building, a force that produces collective identities grounded in accepting the sets of corporeal practices of control over human bodies. Even more—modern medicine and molecular biology make it possible to refine the physical characteristics that enable more precise, advanced methods of distinguishing enemy from friend.

So, what is populism in the light of biopolitics? Populism is characterized by a central paradox: constant lip service to the power of the people but ultimate control and decision-making by a small clique of politicians. In this respect, left populism and right populism are too often uncomfortably close. Populism, in this framework, retains strategy in the hands of leadership and limits the movements to tactical actions. After creating deep political divisions, populist logic makes a sudden turnaround towards regaining unity. We need to understand what the main promise of biopolitical populism is. It is not only about the promise of regaining symbolic unity; it is about something more, regaining a unity of the species, purely biological. The novelty of biological populism stems not from “embodied philosophy” or “embodied ideology” but from embodied and fully realized “biology” (Esposito, 2012, p. 58).

There are strong arguments for the thesis that biopolitics is less and less able to exist and function as Foucault described it. On the one hand, most of its functions are taken over by the modern enterprise and its

managerial logic, as the coronavirus crisis is showing today. On the other hand, throughout the 20th century, political movements have functioned oppositely to biopolitics, which translates historical processes into biological ones. Today, public health sectors are not governed by the biopolitical logic of “taking care of the population” or by the equally generic “necropolitics” (biopolitics of death, or eugenics). Rather, they are ruled by a meticulous, pervasive, rational, and violent mode of production driven by profit and rent.

### **Populism and the Right to Property**

To say that populism is grounded in the claim of identity is undoubtedly true, but behind identity lurks property. Sovereignty and racialized property are the stigmata that mark the body of right-wing populisms. Right-wing movements are reactionary in that they seek to restore a past social order and borrow the protest repertoires, vocabularies, and even goals of left resistance and liberation movements (Negri & Hardt, 2004; 2017). This is especially evident in right-wing populist movements that mobilize the poor and subordinated segments of society to protest against elites in the people’s name but serve to maintain or restore social hierarchies. That is the task of right-wing populism: to appeal to the masses without disrupting the power of elites or, more precisely, to bind the energy of the masses to reinforce the power of elites. Right-wing populisms serve to reinforce the power of some elites but to make sense of this we have to distinguish among different kinds of social hierarchies and, in fact, different forms of property.

Populist politics often expresses indignation against the rule of property, a form that is disembodied, mobile, and unattached to identity. The power of money, global markets, and even national central banks that depreciate currency are particular objects of criticism. On the other hand, populists, in seeking to defend the people, especially defined in racial, religious, gender or civilizational terms, affirm another kind of property: immobile and embodied property, and ultimately property that is tied to identity. Land rights are thus a recurring theme as is the constancy of monetary values.

This relationship between identity and property takes two primary forms. First, identity is meant to provide privileged rights and access to property. A primary appeal of populist movements is to restore the economic power and social prestige they imagine to have lost, most often conceived, explicitly or implicitly, in terms of racial identity. Conceptions of a superior race, as Hannah Arendt (1976) observed, take the aristocratic experience of pride in privilege without individual effort and merit, simply by virtue of birth and make it accessible to ordinary people said to share a common nature. In the populist anti-migrant movements that have expanded throughout Europe, the people’s identity—sometimes defined explicitly in terms of whiteness and Christianity and at other times in “civilizational” terms centered on liberal values—is strongly mixed with promises of property.

For both the criminal movements that violently attack migrants, such as Golden Dawn in Greece and Casa Pound in Italy and their more “respectable” counterparts, such as the Front National and the Sweden Democrats and last but not least, Law and Justice in Poland, the racist, anti-migrant rhetoric is backed by the promise to restore the social position they believe they have lost, specifically the race privilege of working-class whites. Unfortunately, it became very visible in Poland’s last presidential election, during which President Andrzej Duda (representative of the “Law and Justice” party) used openly illiberal messages in the summer campaign, contesting the rights of sexual minorities related to the LGBTQ movement. People belonging to this movement were stripped of their humanity and treated as the effect of the LGBTQ ideology. During the election rallies, President Duda shouted: “We are told that these are people, but this is ideology!” (Reuters

News Agency, 2020). Speaking to his supporters at the campaign rally in Brzeg, in southern Poland, president Duda said that, “parents are responsible for the sexual education of their children ... no institutions can interfere in the way parents raise their children” (Reuters News Agency, 2020). As part of his run-up to the elections, President Duda signed a “Family Charter” on June 10, 2020 in which he pledged to prevent gay couples from being able to get married or adopt children. The bill will also see the outlawing of teaching LGBT issues in schools.

The link between populism and the promise of a right of ownership to some indigenous citizens is no different in Poland, where the success of the Law and Justice party is based on the promise of “regaining dignity” by a simple (read: uneducated) Pole, an ordinary man who was deceived and rejected by liberal and modernist political agendas. A simple Polish worker, who is a “zealous Christian”, not only has to regain the right to his property, land and means of production but above all, he has to “get up from his knees”. This means that during the last years of Polish modernization, a significant part of the population was lying in humiliation and rejection, watching only the growing success of the few “foreign-educated, pro-European elite” that have succeeded.

The democratic and liberal forces in Poland gathered, in vain, in mass marches on the streets of 2017, where the people shouted—“Free courts, free elections, free Poland”—against the current “power of counter-revolution”, “conservative revolution”, aimed at managing the life of the population, which in the mind of the ruling party, only expects the return of the *nomos* that allows the understanding of the unjust liberal order of things. The victories of the conservative bloc were not only an expression of rebellion against global financial capitalism, but also—to use the concept coined by Nancy Fraser—“progressive neoliberalism”, i.e., an alliance of emancipatory social movements (Fraser, 2017)—feminism, anti-racism, multiculturalism and LGBTQ rights, and a well-educated class of intellectual workers which supported the liberal “Civic Platform” party led by Donald Tusk and found its apparatus of ideological articulation in “Gazeta Wyborcza” newspaper and the independent television station TVN.

In conservative propaganda, the alliance of “progressive forces” has been effectively linked to the “forces of cognitive capitalism”, and “progress” with “meritocracy” instead of “equality”, and “emancipation” with the formation of a “new elite” of talented women and all sorts of “minorities”, well-installed in corporations. Perhaps it is correct, then, to also conclude that the future of Democrats representing the precariat will have to give up the comforting but false myth that the Left has lost to the “defective” racists, misogynists, and homophobes, and will have to rethink how the political economy of capitalism can be changed, renewing the slogan “common institution” and reflecting on what it can mean in the 21st century.

### **Populism and Extremism**

So, is there any fundamental difference between extremism and populism? Does extremism have clear indicators or clues of political presence that would take it significantly away from populism, particularly populism, which is focused on protecting populations? Golden Dawn in Greece and the Casa Pound party in Italy, for example, are clearly an extremist party, which might use a populist style, but it is foremost xenophobic; hence the question of the difference between extremism and populism is so important.

Well, my thesis would be like this: Extremism can become part of populist logic, but never the other way. Extremism is always local, contingent, impermanent, and devoid of a clear political subject. Populism, on the contrary, has a clearly defined subject and goals. Populism is an enduring political technique that merely

creates the constellation for various local and transient extremisms. Extremism is idiosyncratic, populism is never ephemeral, and it always targets biological indicators of the population or the population's well-being as a whole. As a result, there is no rationality of extremism. There is an autonomous logic of populism. Extremism could be described merely in vagueness, imprecision, intellectual poverty, radicalism, and manipulative procedures; there is no way of determining its *differentia specifica* in positive terms. Extremism is heterogeneous, multiple articulations of dissatisfaction with the moderate politics of institutions and parliamentarism. On the contrary, when it comes to populism. In this case, "the question 'what is populism?' should be replaced by a different one: 'to what social and ideological reality does populism apply?'" (Laclau 2005, p. 17). Just again: By "populism", we do not understand a *type* of movement but a *political logic* concentrated on one population's interest.

To put it another way, I would say that extremism has its "tools of expression" but is devoid of its "enduring rhetoric" which is at the service of populism. This is why extremism is mainly based on the radicalization of sentiments, demands, expectations, beliefs, etc. On the other hand, populism does more than just radicalize it: It indicates solutions, it judges—it puts the accused, calls for other economic solutions, it breaks with the impossibilism of the existing policy. As a result, populism cannot be derived from group suggestion, collective hypnosis, group contagion, imitation, or even escape disposition, not even a process of deindividuation. Extremism is always violent, populism, on the contrary, is based on very complex rhetoric and the promise of regaining unity. The category of "population as people" is a strictly politically produced category in the process of producing unity. In extremism, "people" are rather a datum of the social structure. As a result, populism seeks to achieve lasting changes in political representation and the political structure itself. Extremism is satisfied with performative effects. Populism aims to achieve a permanent new political hegemony; extremism is satisfied with temporary effects and has no systemic aspirations.

If we assume that the construction of the "people" is always a radical construction, we must assume that there is always an element of radicalism in populism. However, this is the "radicalism of operations", not the radicalism of demands or "pure expressions". The radicalism of populism tends to close the population state radically. It is the radicalism of the "nationalization of society" (population), not the radicalism of the liberal rationalization and new reorganization of the state.

### Legal Populism

The argument about the link between populism and the economy focused on national population growth, and rising national income is reinforced by the analysis carried out by Katharina Pistor. In *The Code of Capital: How the Law Creates Wealth and Inequality*, she argues in favour of the thesis that "capital is coded in law" (Pistor, 2019, p. 23). Ordinary assets are just that—a plot of land, a promise to be paid in the future, the pooled resources from friends and family to set up a new business, or individual skills and know-how. Yet every one of these assets can be transformed into capital by cloaking them in the legal modules used to code asset-backed securities and their derivatives, which were at the core of the rise of finance in recent decades. These "legal modules", namely—contract, property rights, collateral, trust, corporate, and bankruptcy law, can be used to give the holders of some assets a comparative advantage over others. For centuries, private attorneys have molded and adapted these legal modules to a changing roster of assets, thereby enhancing their clients' wealth. States have supported the coding of capital by offering their coercive law powers to enforce the legal rights that have been bestowed on capital.

The classic way of thinking and the empire of law made us think that this is the realm of wild capitalism regulation. From the time of Motesquieu to the times of the German ordo-liberals, we were told that the empire of law is a collection of regulations, statutes, ordinances, and other legal acts that are to regulate the market, control human entrepreneurship and profit, administratively, establishing a list of permitted forms of ownership and property exchange. From Pistor's point of view, however, this is not true. The empire of law is rather a set of regulations that strengthen some forms of ownership and eliminate others.

*The Code of Capital* tells a story of the legal coding of capital from the asset's perspective: land, business organizations, private debt, and knowledge, even nature's genetic code (Pistor, 2019). Pistor has tried to make the legal institutions accessible and interesting and relevant for current debates about inequality, democracy, and governance. The law is a powerful tool for social ordering and, if used wisely, has the potential to serve a broad range of social objectives. The law has been placed firmly in the service of capital.

In regard to the question about the genesis of capital—how is wealth created in the first place?—we hear the simple answer: Capital power lies in its legal code. Fundamentally, capital is made from two ingredients: an asset and the legal code. It should be immediately added that Pistor uses the term “asset” broadly to denote any object, claim, skill, or idea, regardless of its form. In their unadulterated appearance, these simple assets are just that: a piece of dirt, a building, a promise to receive payment at a future date, an idea for a new drug, or a string of digital code (Pistor, 2019). With the right legal coding, any of these assets can be turned into capital, thereby, increasing its propensity to create wealth for its holder(s). How does this legal capital code work in a specific case?

Let us look at the scandal of the so-called “two towers” in Poland, which the ruling Law and Justice Party (PiS Party) wanted to build in the center of Warsaw as its main capital investment. The most important element in this affair turned out to be the testimony of the Austrian businessman, Gerald Birgfellner, regarding Fr. Rafał Sawicz, member of the board of the Institute Lech Kaczyński. According to the businessman, the PiS president was to persuade him to give Sawicz 50,000 PLN in cash in February 2018. It was supposed to be a form of payment for the priest's signature on the resolution of the foundation council. Without this signature, as a foundation council member, it was impossible to start building the skyscrapers.

Two days before the elections—October 11, 2019, the Prosecutor's Office in Warsaw refused to start an investigation into the building of the two towers. How did the prosecution justify the refusal to investigate? First, it concluded that the Lech Kaczyński Institute Foundation, which is the owner of the main investor—Srebrna Company, whose council is Jarosław Kaczyński, does not conduct any economic activity. “Only a person who performs a managerial function in an entity carrying out economic activity may be the subject of a crime”—we read, in the justification. Secondly, according to the prosecutor's office, the priest is only a member of the collective body, which takes resolutions, statements, and other decisions by a simple majority of votes. According to the prosecutor, the dispute between the parties is purely civil-law and may be resolved through civil proceedings.

As a result of a far-reaching journalistic investigation, complex connections between prominent politicians of the “Law and Justice” party, investment companies and the construction industry were revealed. The real estate on Srebrna Street—two office buildings with plots of land—is the “assets” of the Solidarity Press Foundation. This Foundation was established in the early 1990s as an instrument of the “Porozumienie Centrum” (Center Agreement), the first party of Jarosław Kaczyński. Based on the Foundation, Kaczyński wanted to create a media concern in opposition to the liberal “Gazeta Wyborcza”.



I mention the “Srebrna affair” because it has become symbolic in Poland. Jarosław Kaczyński, who earlier was considered the Maximilien de Robespierre of Polish politics, the father of the nation, deprived of the accumulative drive and cunning of people promoted during the modernization process, the king of the poor, revealed his new face of a rational and aggressive capitalist, who perfectly understands that ideas must be valued by capital. The subordination of the judiciary branch and the courts to the political will also allow for the blocking of all investigations in cases that could harm the unblemished public image and reputation of the Robin Hood of the Polish political scene.

### Procreative Policy

However, the subject of subordinating legal institutions to politics in the service of capital does not end with the twin tower affair. Wojciech Sadurski (2019), in his important book *Poland’s Constitutional Breakdown*, highlighted how Poland, once the great success example of the post-1989 new world order has been brought to the brink of authoritarianism. Without tanks in the streets or dissidents imprisoned, Poland’s legal institutions are being commandeered to crush the democratic opposition. This is the most careful account of how democracy is undermined from within, by the most insightful constitutional scholar on contemporary Eastern Europe. According to Sadurski (2019), in just a few years, Poland has been transformed from a model state to a pariah, and his account shows how and why in ethnographic and legal detail.

After 2015, a dramatic change in Polish politics occurred, not as a result of a coup but through a takeover by democratically elected politicians, by and large playing by the democratic rules of the game. It started with two national elections. The first was the presidential election on the 10th and 24th of May, 2015, which the Law and Justice party candidate Andrzej Duda won—a young and largely unknown political newcomer. I remember that when I saw him for the first time on an election poster, with his jacket over his shoulder and his shirt unbuttoned, I thought he was probably a singer, a musician of disco-polo—the most popular and undemanding music for the working masses of recent years. Besides, I was not surprised that this musical genre gained the greatest support from the new governing formation, promoting, among others, a film about one of the most popular disco-polo musicians Zenon Martyniuk. Andrzej Duda is the Martyniuk of Polish politics. There is no doubt about that the second step occurred soon after: in the parliamentary elections of the 27th of October 2015. PiS won with an absolute majority of five seats, giving them the authority to govern single-handedly. It ended the two-term, eight-year domination by the centrist-liberal PO, ruling in coalition with the politically moderate “Polish Peasants” Party (Polskie Stronnictwo Ludowe).

Victorious populism in Poland is part of a broader surge of populism worldwide, and more specifically in Europe, with populism being, in turn, a species of a broader phenomenon of general global discontent with liberal democracy in recent years (Sadurski, 2019). But the Polish case is different. Nowhere else in Europe did populist parties manage to dismantle the institutional system of checks and balances. In some countries—such as the UK Independence Party in the United Kingdom or the Freedom Party in Austria, populists did not even display any particular illiberalism when it came to the constitutional structure of government. The Polish assault upon constitutional checks and balances is exceptional, and more specifically, Poland is unique in its ostentatious disregard for its own formal constitutional rules.

According to Sadurski (2019), the essence of the political developments in Poland after the 2015 elections, is “anti-constitutional populist backsliding”, and all three ingredients are equally important (pp. 6-29). The important dimension of the anti-constitutional character of PiS power is governance through multiple breaches

of the Constitution. The first instance of the constitutional breakdown was the president's refusal to swear in elected judges correctly. The constitution does not give the president any such role in designing the composition of the Constitutional Tribunal. The notion of populism emphasizes that what is going on in Poland is not authoritarianism simpliciter, but that it is an illiberal condition whereby the rulers care about popular support.

The concept of "backsliding" is the third feature central to the characterization of Polish developments in recent years. The trajectory of backsliding has to be distinguished from the absence of democratic progress in countries that have not achieved a satisfactory level of democracy in the first place. The use of the notion of backsliding emphasizes a temporal dimension and highlights a retrogression that is not visible in a time-slice account. The word "backsliding" accurately describes the process of reversal and the fact that there is no rapid, immediate rupture, as in a coup. It also emphasizes a process as opposed to a state of affairs (Sadurski, 2019). What is important to us in the recent history of the non-liberal mind is that dismantling separation of powers, constitutional checks, and democratic rights, undermine democracy itself.

At the moment, we do not have time to precisely analyze all the consequences of this new legal order related to Poland's Constitutional Breakdown; we will focus only on the last piece of the puzzle, i.e., the decision of the Constitutional Tribunal on abortion. This decision is so important to us because it most clearly shows the link between populism and biopolitics. On October 22nd, 2020, the Constitutional Tribunal, chaired by Julia Przyłębska, a person closely associated with the PiS community, ruled that the right to abortion in the event of severe and irreversible fetal impairment is inconsistent with the constitution. In connection with this decision, demonstrations are being held all over the country against the tightening of the anti-abortion law.

The problem is that protests against the abortion interdict are taking place during a pandemic, and therefore a time of restrictions on civil liberties. As a result, the participants of these protests are being accused of contributing to the creation of a life-threatening situation. The public media has repeatedly presented the protests as anarchist riots by feminists and left-wing youth in the streets, intended only to disturb social peace, not to restore the constitutional, lawful order. Protesters were systematically accused of vandalism, the vulgarization of the language, aggressive behavior, and lack of respect for the public good. Despite this, a wave of protests against the sentence passed on October 22nd continues on the streets of all big cities across Poland. There is a discussion in Parliament on how to silence these anxieties. "Those who call for protests after the judgment of the Constitutional Tribunal, and those who participate in them, bring about a common danger, and thus commit a serious crime"—said Jarosław Kaczyński, PiS president. He also called on PiS members to "defend the Church" (Barteczko & Florkiewicz, 2020).

"I think, feel, decide!"—such a slogan is heard in front of the Polish Parliament in autumn 2020. The strike in defense of women's right to legal abortion is sweeping through Poland like a new generation of rebellion. This protest is gaining huge support from both men and older women. Perhaps it is a symbol of cultural change, a kind of counter-revolution to the conservative PiS counter-revolution. In the spirit of our intellectual conduct, we only need to note that this rebellion is also biopolitical in a threefold sense. First, it takes place during a pandemic, and despite the protesters marching in face masks, there is no doubt that they come into conflict with the law restricting the right to collective demonstrations. Second, it is a biopolitical issue because it concerns the body and the reproductive process. This protest is a reaction to the political temptation to "nationalize the body". To the question—"to whom does the body belong?", the protesters reply: to women, to the individual! What is surprising about this answer is that the liberal category of "person" and

“individual” returns from oblivion. Thirdly, it is a biopolitical protest, because on the streets of Polish cities, the PiS’s “family-oriented” procreative policy with the flagship “500-plus project” ahead, according to which every family receives a financial allowance for a second and subsequent child, reaches the bottom here. It seems that young people want to decide for themselves about the process of reproduction and are faced with an absurd morally shaming choice: Either you are for the civilization of death with euthanasia and abortion and a free narcissistic will to self-determination, or you are for the civilization of life, the duty to the state, and for the protection of the unborn life, they choose this first civilization. Polish young people no longer want to defend the church.

Perhaps the novelty of Polish biopolitics is not the focus on “life that does not deserve to live” or “life unworthy of being lived”, “life devoid of value”). The novelty of Polish biopolitics is rather “forcing life” and “giving birth to life” against the will of the woman who is responsible for giving this life a “human dimension”. Agamben (1998) argued that the novelty of modern biopolitics lies in the fact that the biological given is, as such, immediately political, and the political is, as such, immediately the biological given. This is exactly what is happening in Poland. In some sense, it is a kind of “upside-down euthanasia”. “Upside down euthanasia” is no longer “mercy killing” or “death by grace”, but a “blessed life”, which is to be the grace of the state, by a sovereign decision the leader of the nation.

### Instead of the End

What kind of conclusions are we to draw from our brief history of populism as concern for the national population’s future? Are we doomed, in the future, to the development of this kind of populism and the fall of liberal democracies, disappointed with the subordination of the value of all things to the authority of the market as the only measure of the real value of goods, disappointed with the idea of the free play of competition as the only guarantee of good economy, and finally, disappointed with the institution of sovereign judicial power as the only guarantee of justice as impartiality and fairness?

To answer this difficult question, let us return once again to the idea of biopolitics. It seems that we have two paradigms in understanding this concept. In the first sense, the goal of biopolitics is the control of life in its biological sense. For Foucault and Agamben, the state’s essential function is to take control of life, manage it, compensate for its aleatory nature, explore and reduce biological accidents and possibilities. In the second sense, biopolitics means control of life in its immaterial work. On the other hand, for Hardt and Negri, biopolitics concerns only immaterial (and hence immortal) life, while physiological or biological (and hence mortal) life is exiled to the oppressive and fatal realm of transcendent biopower. However, both paradigms share a common denominator. They both operate within a dualism that attributes biological life to transcendence and immaterial life to immanence, thereby producing the further political dualism between the subjection of the material aspects of life to an oppressive power (biopower), and the attribution of revolutionary potential (biopolitics) to the immanent and immaterial aspect of life. The question is: Can we trust this convenient distinction between oppressive transcendence and revolutionary immanence? Moreover, can this dualism help us grasp the actual workings of the politics of biopower?

A. Kiarina Kordela (2013), author of *Being, Time, Bios: Capitalism and Ontology*, calls biopolitics the production, management, administration, and control of the presence or absence of gazes that allow the subject to experience itself as mortal or immortal. What does this mean? It means that the central biopolitical mechanism is “secular administration of the illusion of immortality—a kind of Faustian pact in which subjects

give up their ethical dimension in exchange for immortality” (Kordela 2013, p. 150). Does the essence of biopolitics concern the regulation of our perception of mortality and immortality?

For Kordela, biopolitical order is not limited to the symbolic order, understood as a given society with its ideological systems, laws, rules of kinship, principles of economic exchange, technologies of empowerment, as in many scholars, like Slavoj Žižek’s or Ernesto Laclau and Chantal Mouffe’s argue. No society is ever given in its totality as an object to be perceived by an empirical subject. By that token, we can say that empirically “society” is impossible as a whole. But for Kordela (2013), “secular” does not mean the simple elimination of transcendence; rather, the “unconscious” is a term for indicating the enfolding of transcendence within immanence. The true formula of atheism is not *God is dead*, but *God is unconscious* (Kordela, 2013, p. 11).

But what conclusions we are to draw from this displacement of the element of immortality? Does shifting God’s place into unconscious positions result in an unconscious belief in the body’s mortality and a conscious image of the mortality of the self (soul)? A. Kiarina Kordela offers a completely independent interpretation of biopolitics. In Kordela’s interpretation, what we have so far called the “biological unity of the population”, which did not know the division into an individual and society, singularity and collective, she calls “the sense of immortality of the body”. It is not the body under the biopolitical regime that is mortal, and it is not the soul that is immortal, but rather the “illusion of the immortality of the body” is the main object of biopolitical strategies. How is this illusion even possible? To explain to us this “biopolitical manipulation”, Kordela turns to the famous distinction proposed by Hans Kelsen into two distinct systems of representation, double representation of bios—*Darstellung* and *Vertretung*. How does this distinction work?

Kordela refers to Hans Kelsen’s observation that the idea of the parliament as a simple representative (proxy or placeholder) of the people is the fiction of representation since the appointed members of the parliament are not obliged to follow any binding instructions from their voters (Kelsen, 2013). The advent of the parliamentary system replaced in politics *Vertretung*—as was practiced in the *Ständerversammlungen*, in which the representers (*Stellvertreter*) were bound to reflect the interests of the caste or profession of their voters—with *Darstellung*. What does this conversion really mean? Whereas *Vertretung* involved an organic link between represented and their representatives, *Darstellung* is an arbitrary representation system. Whereas the representation (*Vertretung*) is based on an *organic link* determined by its specific kind and the cultural and moral norms of the society in which it is performed; its representation (*Darstellung*) is purely “fictitious”, that is, it involves no apodictic rapport between the representer and the represented.

It follows that *Vertretung* is a pre-secular mode of representation, as was, at least conceptually and structurally, also the *Ständerversammlung*. For *Vertretung* is based on ternary signs: the thing, the mark, and the similitude (“moral” and other historically determined judgments) that provides the “organic” bond between the mark and the thing. By contrast, *Darstellung* is a secular system of representation. It consists of binary, differential signs: the thing and the mark with no “apodictic rapport” or “organic” bond but only an “arbitrary” or “fictitious” connection. In short: *Vertretung is a scandal* within the realm of liberal democracy for this political order is that *Vertretung* remains its repressed (Kelsen, 2013, pp. 47-67).

As a result, we get a new formula of biopolitical mechanisms which involve arrangements and administrations of representation in such a way that the persistent perpetuation of *Vertretung* within secular order of modernity is hidden, so that everything appears as abstract, immortal, differential, arbitrary, and autonomous value—as if there were no bodies whose labor bears an organic link with the money that remunerates it.

My last thesis in this text is: The strength of biopolitical populism results from the reversal of modernity's liberal formula, i.e., recalling and trying to recreate and reactivate the representation understood as *Vertretung*. Biopolitical populists promise a return to the world without abstract and contractual, arbitrary representation, they promise a return to an organic order that gives a sense of an unqualified relationship between representation and what is represented. This is a formidable promise that we should fear. It is a false promise that no one can fulfill. It is a promise of a return to the archaic times before modernity. In history, such returns always end in tragedy or tragicomedy.

The analysis of A. Kiarina Kordela should be completed and expanded. At present, what we are concerned with is not the transformation of the end of History into the Age of Imitation or even the transformation of the Age of Imitation into the end of the Liberal Mind (Krastev & Holmes, 2020), but the metamorphosis of the Anti-Liberal Mind into something that does not yet have a unique name. Seventy years after the publication of Theodor W. Adorno's authoritarian personality, we are still trying to rethink the fascism of everyday life, fascism not outside of democracy, but in democracy.

Adorno writes about people in America ready for fascism but thinking of themselves in conservative or even liberal terms. Thus, he diagnoses the chances of a potential triumph of fascism in America. *The Authoritarian Personality* is a book on the birth of fascism in a democracy, not *after* or *against* democracy (Adorno, Frenkel-Brunswik, Levinson, & Sanford, 1950). This brings Adorno's work closer to the subtle analysis of Alexis de Tocqueville's *Democracy in America*, although the latter was obviously not talking about fascism, but about anti-democratic tendencies in radical democracy itself (Tocqueville, 2000). Adorno explicitly declares that the focal point of his interest is a potentially fascist individual, that is, an individual with a personality structure that makes him particularly vulnerable to anti-democratic propaganda.

People who are ready for fascism are people who would be willing to accept fascism if it turned into a strong and acceptable social movement. The main premise for the return of fascism is that democracy has never become a "real democracy". We live in apparent democracies, i.e., democracies by name only, legitimized by referring to election procedures. For Adorno, not a single real democracy in the socio-economic sense has developed to this day. Democracies are only formally present, and in this sense, fascist movements could be described as "wounds" or "scars of democracy", which until today has not been able to satisfy its own concept (Adorno et al., 1950). The concept of fascism would, therefore, be closely related to the concept of democracy. The enigmatic nature of the concept of democracy would make the concept of fascism enigmatic.

The loss of Donald Trump in the last US presidential election will not allow us to sleep. This is not a failure of populism or, much less, politics of populism. Donald Trump did not lose the elections because of populism, but he almost won the elections again for the simple reason that the most important category for voters was not the pandemic and COVID-19, or even racial politics, but the economy and economic growth rates. Populism is not a strategy alongside economics or biopolitics; it is a strategy embedded in both issues, it is a kind of managing of life and its biological parameters by managing the brain and its cognitive or affective states. A few months before Trump's defeat in the USA, Andrzej Duda wins Poland's elections using xenophobic, anti-LGBTQ and overtly populist rhetoric. The promise of a "holiday supplement" and the launch of new social programs resulted in the oblivion of attacks on the rule of law, the separation of powers and the destruction of the Constitutional Tribunal, which took place during the three-year rule of PiS.

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