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Theme analysis of the abortion discourse in Poland

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Abstract:
Democracy and human rights are concepts whose definition depends on contextual cues. The paper analyzes what themes related to those concepts can be found in the context of abortion discourse in Poland in the years 2020-2023 and how they define or redefine these ideas, especially in the context of democratic regression. The study uses theme analysis to find common patterns and establish a clear structure. Findings present two main themes: values present in the discourse with three subthemes: morality and rights, church influence and national identity, question of doctors; and present institutions and their role: validity of Tribunals verdict and question of who should decide on this law. Themes prove some significant shifts in the discourse compared to previous studies and further show a divide in the definitions of democracy and human rights in Poland.

Keywords: democracy, human rights, abortion, Poland, discourse analysis, theme analysis
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Introduction

The XXI century was supposed to open a new chapter in the history of democracy. Huntington (1993) talks about the "third democratization wave" that started in the second half of the XX century and was predicted to shape the following century. Diamond (2020) notes that in the period between the third wave and the year 2006, democracy became a worldwide predominant form of government (p.3). The future was supposed to be bright and equal. At least this is what was expected before the tendency of democratic backsliding became present. Democratic backsliding is broadly defined as the process characterized by the regression of democratic values and structures (Skaaning, 2020; Luhrmann 2019; Cianetti et al, 2019). But, the same as with the definition of democracy, this term can be understood in various ways. To understand democratic regression first, we need to understand what the "democratic" part is supposed to present. This paper will navigate concepts of democracy and human rights in the case of Poland, one of the most common and noticeable examples of democratic regression (Diamond, 2020, p.6; Pospieszna & Vetulani, 2021; Cianetti, 2018; Freedom House Index 2023; EIU Democracy Index 2022).

Bauer et al (2014) in their study focused on policies related to democratic backsliding and pointed out how many various spheres overlap in the understanding of democracy and therefore democratic backsliding. They recommend that to collect more information about those concepts, research should tackle them from different perspectives. One of them can be gender. McBride and Mazur (2010) in their book study the connection between democracy and gender. Their results prove that the quality of democracy can be measured by its level of inclusivity, specifically its approach to women's rights. Countries with higher levels of gender equality tend to be more democratic (Freedom House Index 2023, EIU Democracy Index 2022). Gender equality is often considered one of the major principles of democracy, as explained by authors like Inglehart et al (2003) or Mansbridge (1998). The connection between democracy and women's rights also leads to a correlation between democracy and reproductive rights, including the right to abortion. Countries, where abortion is accessible in most cases, score high in the democratic indexes (Freedom House Index 2023, EIU Democracy Index
2022). Therefore for a better understanding of both, and of democratic backsliding, it is relevant to consider how these concepts intertwine and define each other. Based on these assumptions, this paper analyzes the discourse on reproductive rights using a case study of Poland. Roggeband and Krizsan (2019) note that the two spheres, democratic backsliding, and gender issues, are rarely analyzed together and that future research should aim at closing this gap. In another paper, Roggeband and Krizsan (2020) call for rethinking the democratic backsliding from the gendered context and point to the current processes in this sphere, including reproductive rights restriction and oppositional discourse. My paper is a contribution to this previous research aiming to partially fill the research gap noted by Roggeband and Krizsan (2019). This paper will adopt theme analysis to discuss the discourse around reproductive rights issues, specifically of the legal changes regarding abortion established in 2021 with the consideration of themes of democracy and human rights. The research questions that the study aims at answering are: What themes revolving around democracy and human rights, including democratic backsliding, can be distinguished in the abortion discourse in Poland between 2020-2023 regarding the new law from 2021? How does it affect the creation and definition of those concepts? And how do they interplay with the process of democratic regression in Poland? The research goal is to contribute to the understanding of how democratic values and human rights are conceptualized in the context of abortion discourse. The research will contribute to the field of gender studies and its overlap with democracy, human rights, and nation studies. Kramer (2003) states that while the abortion issue is gendered, in Poland this debate does not revolve solemnly around gender. The complexity of the discursive structures makes it a "symbolic issue" that contributes to the creation of political, national, and gendered identities and represents fundamental questions (Kramer, 2003, Zielinska, 2000). Therefore understanding this discourse will shed more light on the construction and understanding of values and assumptions underlying democracy and human rights in Poland.
Background and studies of the case

Before PiS

Kapelanska-Pregowska (2021) describes Poland's approach to reproductive rights as "taking one step forward, two steps back". But Poland has not always been restrictive with its abortion rights. From 1953, therefore still under the sphere of the USSR influence, abortion was widely accessible on socioeconomic grounds, sometimes even used as a form of birth control (Kapelanska-Pregowska, 2021; David, 1982). The interpretation of the law often varied but abortion was not difficult to access (Kapelanska-Pregowska, 2021; David, 1982). Furthermore, the law from 1956 decriminalized abortion and gave permission for the procedure at any stage for various reasons including difficult social situations for mothers (Dziennik Ustaw, 1956). The collapse of the USSR and the shift towards democracy led to changes in this. In 1993 the Family Planning Act restricted access to abortion, guaranteeing it is only in three cases: pregnancy posing a threat to the life/health of the woman; when in the case of a high chance of a severe and irreversible fetal defect or incurable illness in fetus; if pregnancy was the result of a criminal act. (Dziennik Ustaw, 1993). The condition referring to a difficult socioeconomic situation was annulled. In 1996 amendment was liberalized but the change was short-lived, ending in 1997 and bringing back the order from 1993 (Dziennik Ustaw, 1997). Interestingly, it was a Constitutional Tribunal (which can be referred also as the Constitutional Court) that forbade the 1996 liberalization of the law, stating that permitting abortion on the economic or social ground is "too vague to justify the sacrifice of prenatal life" (Zolkos, p.7). A very similar turn of events took place in 2020-2021 when it was also the Tribunal that banned the 1997 law and adopted more restrictive measures.

Disputes in the ‘90s regarding the legality of abortion were based on the long-term imposition of an outside system of values which led to "reverse learning" (Fuszara, 1991). Restricting abortion was supposed to symbolize rejection of the communist values and the introduction of new, moral post-USSR Poland. Solidarnosc's statement on the commitment to the protection of "unborn life" from 1990 and promotion of the restrictive measures contrast with liberalization measures of the ‘50s (Kościelniak, 2018, p.25). Law from 1993 overturned the
liberal approach and introduced restrictions that were present until 2020. Zolkos (2006) presents these changes as a middle ground: no one was really happy and through the years both sides of the discussion tried to liberalize or restrict it more. "Kompromis aborcjny”, a Polish term meaning abortion compromise that was commonly adapted to describe this situation, became a status quo for the next decades.

**PiS in Power**

The abortion compromise meant that in the XXI century, Poland was one of the countries with the most restrictive abortion laws in Europe (PEW Research Center, 2015; Fabbrini, 2014). Especially after Ireland softened their previously restrictive laws in 2018 the spotlight fell on Poland, hoping for a loosening of the rules. But in 2015, when PiS came to power, the fight for abortion rights developed unexpectedly. The previous vision of potential liberalization was gone and its place took the regression of women's rights that divided society on issues like abortion.

Diamond (2020) notes that in the current recession of democracy populist parties are not a product of polarizing narration but a cause of it, and lists Poland as one of the examples of it. In the case of Poland, the discourse includes protection of the national (conservative) values and protection from alien outside forces like liberalization from the side of the EU (Szczygielska, 2018). In the case of movements related to reproductive rights, feminism, and lgbtq+ right-wing politicians refer to using derogatory terms "'genderism” or "gender ideology”", that signify the attack on the values of the traditional family (Szczygielska, 2018). During the PiS governance gender ideology became a ”'threat from the West” that put traditional values at risk (Roggeband et al, 2018). This direction of discourse points to conservative parties as foundations of polarization including topics of feminism and abortion.

The communist legacy and the history of a threat from the outside are often discussed as a source of religious and conservative nationalism in Poland (Zolkos, 2006). Keeping the Polish values unchanged, no matter the pressure from the oppressive powers helped to maintain Polish national identity even when the oppressors like the USSR were pushing for its destruction. Zolkos (2006)
discusses the moral exceptionalism of Poland sourced in the close link between the Polish identity and christianity. The Polish nation is supposed to be ‘’chosen’’ as protectors of christianity (Zolkos, 2006). An example of this national identity building can be the battle of 1920 when Poland won against a much bigger Bolshevik army. In Poland, this battle is referred to as Miracle over Vistula and is often considered proof of godly support for Poland and the special mission of the nation as a defender of christianity (Siren, 2009; Garbowski, 2014). The long struggles against various enemies also meant that the church was one of the agents who helped to establish free democratic Poland, leading to a close connection between democracy, human rights, and christian values. These links are visible in the discussion of abortion where the religious arguments are treated as universal and as having higher moral ground than the international, western, organizations which this paper and others like Zolkos (2006) prove.

The process of regression of access to abortion can be analyzed in two steps based on two attempts. Firstly, in 2016 the government tried to implement a more restrictive law that was a popular initiative created by the conservative group Ordo Iuris, that criminalized abortion under any circumstances (Banasiuk, 2017). The project was considered by the Polish legislative bodies after quickly passing the first stages. Attempt was met with a widely negative response leading to the wave of protests under the name Czarny Protest (Black Protest). The international support for the activist movement furthered the isolation of the Polish right-wing government on the European scene. Because of the wide manifest of dissatisfaction and disagreement with the initiative, the law was not passed.

The second stage took place in 2020. After the unsuccessful first attempt, PiS decided to introduce change via the Constitutional Court where it was known that judges are supportive of bias towards the favor of the leading party Krajewska (2021). 15 members of the Constitutional Tribunal are elected by Sejm for 9 years. In 2015, the year when PO lost Sejm and PiS won the majority of seats, was also the year when 5 judges were due to be replaced. PO elected them two weeks before the parliamentary elections but President Duda refused to approve their oaths. After winning elections PiS nominated 5 new judges but this time the remaining Tribunal judges refused to accept 3 of them and in their place approved
3 judges selected by PO. In response, PiS passed the law that coerced the Tribunal to approve all 5 of their judges and gave power to the minister of justice to secondment. This resulted in the "tribunal crisis" and a wave of protests in Poland. The situation led to an EU Court of Justice ruling that the ability of the government to appoint judges, especially for the already filled positions, is against EU law. Nevertheless, the Tribunal continues its work. This was the institutional context for the passing of the abortion law. The case was submitted by conservative ministers who argued that abortion in the case of fatal fetal abnormality is against the Constitution (Dziennik Ustaw, 2020). After less than a year, the Court ruled in favor of the proposal and more restrictive measures were approved. This time the waves of protests and disapproval of the international scene did not prevent the. As a result, currently, abortion in Poland is accessible only if pregnancy is a result of a criminal act or puts woman's health/life at risk. It is no longer possible to abort in the case of a fatal anomaly. Considering that before the ruling 96% of abortions were caused by fetus defects, it means that in practice Poland approved a near-total ban on abortion (Kapelanska-Pregowska, 2021).

**Previous research on democracy and abortion discourse**

The evolution of the question of abortion in Poland can be traced in the research on this subject. One of the few papers on this topic before 2000 is the analysis by Heinen and Matuchniak-Krasuska (1996) studying abortion discourse in Poland. In their paper authors found some common linguistic techniques that they refer to as semantic manipulation (p.28), that were used by the pro-life movement supporters. They classified them into four categories: elimination (avoiding the use of neutral terms), replacement (using synonyms that are convenient for the movement), exclusion (omitting some of the terminology altogether), and redefinition. This study, even if not referring to the present context, helped to navigate the linguistic background of analyzed materials. This led to a better understanding of speech patterns and consequently classification of themes, with consideration of implied or not explicit meanings. However, the interesting paper lacks a contextual background and in-depth analysis that would help to navigate it better.
In the paper "Human Rights and Democracy in the Polish Abortion Debate" Magdalena Zolkos (2006) also analyzes polished discourse on abortion at the time of the established abortion compromise. In contrast to Heinen and Matchniak-Krasuka, Zolkos does not focus on linguistics but on the conceptualization of the concepts and definitions of democracy and human rights. Zolkos bases her analysis on the communist legacy context that is characteristic of Poland, which affects the use of concepts of democracy and human rights as tools to articulate specific goals, interests, and values. The result is an argument stating that the discourse is in an attempt to present concepts like democracy and human rights as not political but moral issues. The legality of abortion is not an "issue on its own" (p.2), it is a deeper-rooted symbol of different perspectives on ethics and human rights. Zolkos in her paper aims at "mapping" different conceptualizations and interpreting them according to the post-communism context of democracy and human rights (p.4-5). She also proves that on the general level concepts like this tend to be flexible and difficult to establish one solid definition. This idea gave a theoretical and empirical ground for my paper and helped me to navigate the study of this subject. Based on Zolkos's work my paper assumes abortion to be a symbol of the questions of human rights and flexibility of the definitions related to it. To build on Zolko's work this research assumes that public discussion affects and reflects the societal discourse on the topic of reproductive rights therefore studying common themes will bring information on understanding of this subject. While Zolkos does not use theme analysis her work still created an empirical basis for this paper considering her analysis of discourse and media materials.

Roggeband and Krizsan (2020) in their paper "Democratic Backsliding and the Backlash against Women’s Rights" analyze the emergence of oppositional discourse on the topic with more focus on the link between political actions and morality, which was not considered by Zolkos. This could be caused by the presence of PiS as the government. They note that populist governments do not want to be seen as undemocratic therefore they do not aim at closing the civic space. They use strategies that are supposed to configure it in a way that would be beneficial for them and still sustain the idea of open civil society (p.49). Nevertheless, the groups focused on gender issues are specifically targeted because
their promotion of non-traditional values is endangering the right-wing populism narrative. Therefore their opposition uses what Roggeband and Krizsan call ”gendered mechanisms” (p.15) which are supposed to repress the actions of the organizations often by public endorsement of radical conservative organizations. PiS has been promoting organizations that are in line with the traditional family values that it wants to promote, also often highlighting the strong position of the Church (p. 22). This observation of the redefinition of democracy and not destroying civic society but creating substitutes within it is one of the assumptions and further considered topics in my research. This links to the discussion of the regression of civil society presented by Krajewska (2021) and introduces a new strain to it. Their paper also introduces the tendency of Poland to be more on the conservative side rooted in its historical and religious background helps to better analyze themes related to morality and brings more context than just a communist legacy as it was in Zolkos (2006).

In a similar vein of connecting democracy and reproductive rights, Krajewska (2021) in her process tracing analysis argues that reproductive rights can be often seen as an indicator of the status of democracy and can signal the first cracks in the system that could lead to the backsliding. Krajewska, in the context of the Tribunal decision in 2020, argues that the weak institutionalist background is the source of the attack on reproductive rights but also a proof of weak civil society and a recession of democracy. The author efficiently proves a close relationship between reproductive rights and the state of democracy in Poland. The results of the paper built a theoretical foundation for my research. They proved connections between the themes of reproductive rights and democracy and encouraged further studies, especially in the context of Poland and democratic backsliding. The findings gave ground for the continuation of work connecting the state of democracy and abortion rights in Poland that my paper presents. Krajewska, differently than other authors here, does not highlight the moral tone of the discourse. The author makes the institutional background a focal point of analysis therefore drawing attention to issues deeply embedded not only in values but also in structures. This context helped to understand the role of the Tribunal and its effects, which are part of the themes in my analysis.
Theoretical background: Concepts of democracy and human rights

As with most of the complex concepts, there is no settled definition of democracy. One can think about it as a scale stretching from a minimalist to a maximalist approach. The minimalist view denotes it purely as a way of governing where the majority dictates the rule by participation in competitive elections (Schumpeter, 1962; Przeworski, 1999). This can be contrasted with the maximalist approach where democracy represents not only a system of elections but also a set of views and values revolving around freedom and equality (Dahl, 2008; Merkel, 2018; Moller and Skaaning, 2013). These differences lead to different approaches to democratic backsliding. From the perspective of a minimalist approach democratic backsliding is not very prominent and relates only to countries where the election system has been sabotaged (Moller and Skaaning, 2013). The maximalist view since this approach includes values, various rights and institutions, and their quality as part of democracy therefore backsliding is more visible in its consideration.

Choosing a definition when conducting discourse analysis is a difficult task. On one side, the spotlight of the analysis is on the understanding of different perspectives therefore adapting their definitions (Vromen, 2018). On the other hand, every researcher, while not only presenting materials but also analyzing them, adopts some definitions and stands (Vromen, 2018). Considering the question of the research and its relation to democratic backsliding, the maximalist definition of democracy was adopted. The minimalist definition does not include the rule of law or much consideration for the quality of human rights that are relevant to the chosen case therefore adopting a maximalist approach seems to be the most reasonable choice. Without the definition, it would be impossible to discuss findings in the context of democratic backsliding and the results would not have much of a conclusion. The maximalist definition allows generalizing the study and points to Poland as an example of a democratic regression process present in reproductive rights. The paper adopts discourse analysis and since this method considers subtle cues and relations within the socio-historical context, it is more in line with the maximalist definition that pays attention to the wider picture...
and brings more depth. Other papers conducting similar research like Zolkos (2006) or Krajewska (2021) also opt for the maximalist understanding.

It also correlates with the spotlighting of human rights discourse (Merkel, 2018). As the paper proves, concepts of democracy are often rooted in the ethical values that are essential for understanding human rights. In the maximalist definition, democracy seems to be treated like a human right itself. For one to exist, the other one needs to be present. They also share the same system of ethics where values of freedom and equality are essential for the prosperity of both. On the other hand, concepts of human rights can be often used in the political discourse to support some of the notions or alienate others. Diamond (2020) considers how populist leaders in regressing democracies, like Kaczynski in Poland, use threatening narrations where certain groups like immigrants or liberals are presented as oppressors who take away the rights of the ”good citizens”. Diamond (2020, p.11) also points out that for democracy to thrive there is a need for a strong civil society which also creates a ground for the development of human rights. In this case, derogation of one can mean derogation of both.

Human rights represent the universal values and beliefs that we have regarding the quality of human life (UDHR, 1948) but the same as with democracy there are problems regarding the definition. Even if the theoretical definitions are created, as is in UDHR (1948), they are difficult to easily apply in the empirical way which is noticeable in the abortion discourse. The right to live is one of the most fundamental human rights. Abortion is rooted in the understanding of it. This paper, like many others, proves that the root of the conflict is an existential question of what it means to be a human (Warren, 1973; Bok, 1974; Marquis, 2017). To simplify, for pro-life promoters the fetus is a human who has the right to live (Zolkos, 2006; Williams, 2015). The pro-choice movement stresses two points: the fetus is not a human being and, therefore, does not possess the right to live, and the right of the fetus should not trespass the right of women to their choice and bodily independence (Zolkos, 2006; Zampas, 2008). In the context of this paper, both standpoints will be presented in the collected materials and analyzed from the point of conceptual understanding of them and their relations to democracy.
**Methodology**

The paper employs theme analysis as a method of research. The approach is based on the clear and systematic categorization of themes present in the discourse/materials which will not help to create a structure and chain of evidence (Alhojailan, 2012; Miles and Huberman, 1994). Theme analysis is an approach that gives the researcher the possibility to trace similarities and cross-references (themes) within the data (Alhojailan, 2012). In a very broad sense, it helps to better understand the potential of the chosen topic (Marks and Yardley, 2004).

Alhojailan (2012) specifies that this type of analysis is especially useful for studies that aim to determine the connection between the variables and analyze how they interplay in different data. It also helps to estimate how common the theme is and how relevant it is for overall discourse. Namey et al (2008) highlights that in this approach focus does not need to lie on particular words or phrases. Researchers are studying common ideas that can take implicit and explicit forms (p. 138).

Why is it relevant to conduct this form of analysis for the question of democracy? What we know is that the democratic backsliding happens. What we miss is why. Analyzing patterns in discourse, how they differ or are similar between the countries, and how they interact with other concepts helps us understand the current approach to democracy and its various characteristics. Theme analysis clarifies not only the main topics but also the values, goals, tendencies, and feelings that are standing behind them. Szczygielska (2018) highlights that the especially emotionally charged discourse, in this case abortion, built up by the right-wing and its promoters is not only supposed to enforce already existing policies. It also helps out with creating a ground for future initiatives in this spirit. This means that analyzing one issue can help us understand mechanisms present in the other, or even potentially, future situations like this.

This paper selects the theme analysis in the topic of democracy and rights in Poland as a piece of the puzzle that will contribute to this bigger picture referring to democratic backsliding. The research analyzes themes within various sources, from media that are both supportive and opposing of the new regulation. Theme analysis allows indicative study, meaning starting at a small scale and more precise focus, leading to broader patterns and generalizations. This fits the goal of the
paper which aims at finding general patterns of themes of democracy based on the context of the abortion law restriction in Poland.

To achieve this, the paper utilizes a model of analysis described by Miles and Huberman (1994). The model is based on three simultaneous steps performed after data collection: data reduction, data display, and data conclusion drawing. The stage of data reduction involves coding which is supposed to categorize the information with the goal of clear and visible conclusions. Data reduction was performed in three different ways: reading all of the data multiple times to pinpoint common themes and to get a better feel of them (also recommended by Bogdan and Biklen, 2007), highlighting quotes answering the research question, and using them to create initial themes and subthemes. The second stage, data displaying, presents data in a structured and organized way. The last stage, data conclusion, draws some of the conclusions from the found patterns and categories.

Collection of materials
The analysis is conducted based on the collected materials from the years 2020-2023 since that is the period when the changes started taking place and the discussion of this issue that is still present in the Polish political sphere. Over the period of those three years, the topic has been discussed in irregular intensity patterns.

Analyses use speeches, quotes, and interviews of the supporters of both pro-life and pro-choice groups. The majority of the materials have been gathered by using online news articles. This helped to collect satisfactory quality and quantity of materials that presented a wide spectrum of voices. Selected outlets were: OKO press, News from Poland, TVN24, TVP info, Rzeczpospolita, and Do Rzeczy. While the journalistic independence of the outlets almost controlled by the government can be questioned (mostly TVP and Do Rzeczy), their presence is necessary to create a diverse, representative sample. The multiple sources helped in the verification of the information. Media in Poland is very polarized and a detailed process of verification is necessary to acquire a trustworthy sample. Editing changes to interviews or speeches are common and including them could undermine the legitimacy of the material. By applying multiple sources that support different fractions it is possible to compare materials
between each other and narrow down which material is authentic and which one has been edited too much. Additionally added by article authors commentary, pictures, or similar incorporation was not considered. Doing this would miss the point of the research and focus too much on media perception but it is an interesting topic for future studies.

Materials have been collected by entering the search engines of selected media sources words "abortion", "pro-life", "pro-choice" resulting in high numbers of articles. Transcripts from the parliamentary debates are obtained from the official government website. Videos and social media posts, if linked in the articles, were used to verify the authenticity of the speeches but were not considered as the self-standing sources of materials.

Additionally, some of the official governmental documents, transcripts of the debate, and tribunal documentation of the verdict were considered. There was no necessity to verify them too much since they come from official first-hand sources.

The research followed the steps described by Miles and Huberman (1994), repeating all of the steps each time, with the section materials detailing how the sources were found and selected. The first cycle was a rough selection of all of the materials and first reading through them to select the ones related to the topic and creation of broad categories and themes. The second round was more detailed work, where each article was closely analyzed, considered in the light of the research question (what is the place of democracy and rights in this discourse, how they are explicitly or implicitly presented), and categorized with a few keywords.

The third round was focused on quotes and highlighting the most important parts of the articles and further categorization and clustering according to keywords and themes. The fourth cycle was again less detailed by reading articles from each theme together to get a better grasp of the general context and to affirm or negate some of the previous conclusions that were formulated through the previous phases.

As for data displaying, the table was adapted from the start as the preferable form of graphic data presentation since it fitted the model of the research well and was also recommended by Miles and Huberman (1994) among others. During the first cycle, the table included only the main themes that now are presented on the left side (Table 1). Additionally, there was also a list of keywords describing each
article that later were clustered together under main headings that made out subcategories of each theme (right side of Table 1).

**Discussion of the method**

The theme analysis poses advantages in creating structures that are visually and contextually easy to navigate. It helps to analyze the topic in an organized manner. Alhojailan (2012) also points to theme analysis as one of the mechanisms that can help with the distinction between the analysis and interpretation. By categorizing and grouping themes research can create some structure that is not essentially affected by the interpretation. At the same time, the process of collection and categorization is also interpretative so it does not completely solve the issue, it just makes the structure more clear. Additionally, themes are a form of classification that may not always perform well for complex topics like this. During writing it was often tricky to classify one issue under one theme since they often interlaced or affected each other. Theme analysis can create a false impression that each theme is its own body when in reality they are part of one big system, being causes and effects at the same time.

The method and topic of this research could be easily reproduced to understand how the Polish abortion discourse is changing in the context of democracy and human rights. This approach can point to long-term, systematic issues, like for example the position of the Church that was mentioned in all of the papers over the decades as one of the core problems. Specification and classification of themes also help to link these issues with other research topics, like LGBTQ+ rights for example, to notice which themes tend to repeat themselves over the spectrum of different issues and analyze why they would be so prevalent. It helps to build a chain of causes and results that can lead to findings of a more generalizable and wide nature of findings. At the same time, there are also clear limits to this generalization. Findings may also be tricky to generalize since the typically Polish context of the case may not give too much opportunity for a wider application, especially if used alone. This paper draws some general conclusions supported by the previous research but in different contexts, they should be considered with a distance and critical thinking.
Case Selection
Since 1998 Poland has been a golden child of the European democratization process. After the collapse of the USSR Poland was on the path to slow liberalization and merging with the West, especially after joining the EU in 2004 (Kolodziejczyk, 2016). It was also a good example of a newly democratic country implementing gender equality strategies (Gruziel, 2015 from Szczygielska, 2018). But the election in 2015 changed the context and priorities. The win of the right-wing party PiS (Prawo i Sprawiedliwość, eng.: Law and Justice) meant promotion of the conservative values and the reversing of the liberal changes, including the restriction of abortion (Meardi and Guardiancich, 2021; Gwiazda, 2021).

Poland started separating from the European Union and its values (Reggeband et al, 2018). A common argument held by politicians from PiS is that the EU does not respect Poland's different set of priorities and values (Pankowska from OKO Press, 2021; PJ from OKO Press, 2018). The common feeling of moral exceptionalism and the historical trauma of constant oppression became a driving force in the narration of traditional, conservative values (Szczygielska, 2018). In this context, Poland is a good example of a country where democratic values are still deeply respected and demanded from the government, but at the same time, they lack clear definitions. This leads to different fractions redefining what democracy and human rights are according to their system of values which is a common tendency attributed to the democratic regression (Kwiatkowska et al, 2023). At the same time, a close connection to the religion related to the feeling of national exceptionalism and moral superiority over other countries, in combination with the new democratic status acquired after the various conflicts and occupations makes the case unique and outstanding, especially in the European context.

Found themes and their analysis
As discussed above, found themes are collected in the table that makes it visually clear how they are categorized and how they relate to each other (Table 1). As Miles and Huberman (1994) recommend, research analyzed materials in several rounds which resulted in creation of two levels of themes.
In the initial stages of analysis, two primary themes were selected (first column of the table): one revolving around morality, rights, and values; and the other around structure and institutions. Both of them broadly encompassed the majority of the topics that dominated the discourse collected sources. The first one refers to the questions of the values and ethical considerations that are rooted in the moral and theoretical analysis of abortion. The second theme focuses on the legislative approach to abortion law and considers the legal nature of the case. The further analysis led to the selection of sub-themes that would in a clear manner present the main themes of the discourse (second column of the table).

Within the first theme, three sub-themes were found: the church's influence, the morality of abortion, and doctors' questions. They were categorized together since all of them in the majority refer to the question of ethics and values that are driving the discourse. The morality of abortion theme focuses on what are the ethical values underpinning pro-life and pro-choice motivations and reasonings in the case of Poland. The Church influence theme presents the prominent role of Christianity in the consideration of values and place of religion in the discourse. The Question of Doctors analyzes the ethical dilemma that doctors face and considers the question of professional vs private morals and ethics. The first two themes, morality, and religion, seem to be commonly discussed in the literature and can be analyzed in the context of previous findings (examples can be previously discussed by Zolkos (2006) or Roggeband and Krizsan (2020)). The theme of analyzing the
The situation of doctors seems to be a recent addition to the abortion discourse that has not been previously analyzed.

The second theme involves two subcategories: the validity of the Tribunal and its verdict; and the question of who should decide on the matter of abortion. The first sub-theme analyzes the juridical power of the ruling and how the controversy about the character of the Tribunal affected the reaction and the discourse around the verdict. The second one considers the legal basis for the legislative process and what different groups consider to be a legitimate approach to the creation of law. These findings prove to be close to the research presented by Krajewska (2021).

As mentioned in the methodology section, the categorization of themes can pose some obstacles. In this case, it was not difficult to find the two main themes since these topics were noticeably dominating the discourse. But further breakdown and categorization of themes posed some of the questions of what is really of essence in the analyzed materials. For example, the question of who gets to decide refers to the democratic structure and the institutional rules of decision making but at the same time, it is rooted in the ethics of decision making. Originally research considered breaking subthemes into more themes but this proved to be impossible and created boundaries that were too artificial. The real-life discourse is malleable and covers various grounds, moving smoothly between the themes. Settling for two levels of themes was performed to give it some of the more clear lines of argument but nevertheless respect the flexible nature of discourse.

**Morality of abortion**

The question of morality is the central issue of the abortion debate. In the case of Poland, the Tribunal was considering if abortion in the cases of fetuses with irreversible birth defects breaks constitutional principles of the fight for life, human dignity, the prohibition of discrimination, and the democratic rule of law (Dziennik Ustaw, 2021). Their task was to vote on the moral and abstract issue of what is human, to create a very structured answer within the letter of law. Most research considers that how different fractions perceive human rights lies in their definition of human, but in the light of the collected materials the theme here is more complex. The spotlight is on the prioritization of different human rights.
Supporters of the pro-life movement believe that human life begins at the moment of conception. Piskorski, the Tribunal's rapporteur, when announcing the verdict to the press said that “A child in the prenatal period of life, as a human being who is entitled to inherent and inalienable dignity, is an entity having the right to life, and the democratic system must guarantee the proper protection of this” (Wilczek, 2020; Dziennik Ustaw, 2021). The pro-life movement emphasizes the universality of human rights, especially the right to life and personal integrity. As a consequence of abortion fetus does not have access to any other following human rights. A democratic state is supposed to ensure human rights therefore the state should protect the ones who cannot protect themselves, in this case, fetuses. In this sense, abortion becomes an issue of not only the morality of the individual but also of the state. For the pro-life supporters states prerogatives and the human right to life stand above individuals' right to choice. Zolkos (2006) notes a similar tendency in her analysis.

Zolkos (2006) also noted another tendency that was also lining up with this paper's findings. In the pro-life discourse human rights are based on natural rights and therefore stand below it. Human rights and institutions of the state need to follow natural order and traditional established values. Commonly, promoters of the restrictions refer to the duty of a mother to protect her child and highlight the "pathology" of women who would decide to seek abortion (Rzeczpospolitaa, 2023). In this perspective, women have a moral duty to continue their pregnancy no matter what. It is especially visible in the supporters of the pro-life movement referring to "immorality" and "cruelty" with Banasiks, an activist of Ordo Lurdis, and her famous speech in the Parliament in 2016 when introducing the project of restrictive abortion the first time (Sejm Rzeczypospolitej, 2016). Human rights are based on the morality of a natural/traditional order where a mother takes care of a child and the state should ensure that.

For the pro-choice movement banning abortion means imposing certain opinions or values and goes against the principles of non-interference and individuality, as Zolkos (2006) finds. Katarzyna Sekowska-Kozłowska, a professor of law, in her analysis of the ruling, wrote for OKOpress shortly after the verdict, stating that in the case of abortion "the lawful democratic state is leaving for citizenships to
decide, in this case, women, a margin of freedom to decide on the choice regarding beings that cannot be decided in the philosophical sense" (Sękowska-Kozłowska, 2020). In this approach, democratic states should aim at increasing freedoms and individual choices. However, there is a significant shift in the narration of supporters of liberalization. Currently, the conversation of morality is dominated by a focus on the rights of bodily autonomy and women's physical and mental health. While presenting legislation to liberalize abortion Biedron, a left-wing deputy, said that "Forcing women to use underground abortions or travel abroad is a violation of women’s fundamental rights" (Tilles, 2020; TVN24, 2021). Adam Bodnar, a human rights commissioner for Poland, made it clear in his official statement that according to human rights the new regulation “strip women of the right to decide for themselves and often condemned them to torture.” and “the tribunal’s verdict ignored women's rights” (Gmiterek-Zabłocka, 2021; Rzecznik Praw Obywatelskich, 2020). Sękowska-Kozłowska (2020) reflects that the new act ” is an act of inhuman or degrading treatment which is against the European Convention of Human Rights”. The state should not be obtrusive in one's decision and should protect individual freedoms and rights. But in 2023 it is not only about taking the freedom of choice away. For supporters of liberalization, current law abuses women who cannot get an abortion which is undemocratic and against the notion of human rights.

To sum up, moral questions about abortion revolve around the prioritization of human rights. For the pro-life movement, democratic states need to ensure that human rights are universally applied, meaning that all lives, even fetuses, are protected. The state should ensure laws are in line with morals. On the other hand, there has been a significant shift towards the valorizing of morality in the context of women's right to choice and bodily autonomy. The democratic state needs to ensure access to freedoms and protection of health guaranteed by human rights, meaning that abortion especially in extreme cases should be accessible. In both understandings, democracy has a maximalist meaning and is morally charged, but only pro-choice fractions see the current law as a sign of democratic regression since it is abusive towards women.
Church's influence

The discourse highlights the role that the church plays in the state and Polish identity. Jaroslaw Kaczynski, leader of PiS, often emphasizes the connection between Polish national identity and church. In his video statement responding to the pro-choice protests targeting churches, he said “These attacks are aiming at destruction of Poland, want to lead to the victory of authorities that will end the history of the Polish nation as we know it” (Tilles, 2020; Prawo i Sprawiedliwość, 2020). For him and similar minded there is a clear connection between the church and the Polish nation and state. Protection of Poland means protecting the church.

Szczerbiak (2020), a professor of political science, in his article on the protests as an effect of the ruling, wrote that targeting churches and committing what a lot of people would see as disrespect towards a trusted institution that was involved in nation-building, may have led to creating more negative responses towards the protesters, even among the people who support liberalization of abortion. Poland is still a majority Christina country so it could do more harm than good for the pro-liberalization movement (CBOS, 2020). It also led to PiS creating a discourse where protesters are targeting Polishness and traditional values that are a foundation of civil society. As discussed in the morality section human rights in the pro-choice narration are based on natural and traditional rights therefore targeting them by pro-choice protest is often seen as targeting the freedoms and rights of democracy and human rights.

Christian morality is seen as the foundation of democratic freedoms and human rights. Kaczynski in his video statement said that "the church is a respirator of the only moral system commonly known in Poland" (Tilles, 2020; Prawo i Sprawiedliwość, 2020). Values do not exist outside of the church, they are generated there. In 2018 Kaczynski said in the interview with the Polish Press Agency that PiS will “ensure that even very difficult pregnancies (...) will end in birth so that the child can be christened” (Tilles, 2020; Wilczek, 2020). Baptism becomes a more essential value than the quality of life or health of a woman. The religious ritual is treated in a similar way as a human right since it should be guaranteed in any circumstances.
For many this approach is undemocratic since it does not consider any other members of the states besides catholics. This is one of the reasons why OSK, a committee created during the protests, in its list of demands presented at the press conference during the height of strikes, pushed for Poland to become a secular state (Wilczek, 2020; TVPinfo, 2020). According to them, women's rights cannot be properly represented in the state where the church is so influential (Wilczek, 2020). However, this may generate the same negative response as the protests in churches did. Lempart, one of the leading activists of the pro-choice movement, later commented on her social media that ”this [demand of secular state] may have been an error” and that ”while they [feminist movement] are still supporting the idea of a secular state, the government is still the main enemy’ (Wilczek, 2020). A big part of the movement seems to be aware of the question of democracy and majority here: the church does not include everyone but at the same time the majority is still committed to it. Therefore taking steps that villainize religion may not help their case.

The main narration of the pro-life discourse, that the fetus is a human who also has the right to life, is often supported by christian morality. Bishop Gadecki in the interview with KAI (press agency of the episcopate), calls on the Declaration of Human Rights to highlight that ”everyone has a right to live (...) which means the unlawfulness of all forms of abortion and euthanasia” (Tilles, 2020; Krolak, 2020; TVPinfo, 2022). Calling upon the universality of this human right Gadecki concludes that ” church in Poland is not on the right or left, or even on the side of the center, but on the side of the gospel” (Tilles, 2020; Krolak, 2020). Gadecki draws the parallel between the human rights and moral rights of the church, therefore leading to a connection between the human rights organization and religious organizations. It is curious considering that organizations like the UN, Amnesty or Human Rights Watch consider abortion to be a right and obstruct it as discrimination against women which is an argument the support of liberalization of the law (Amnesty International, 2022; Human Rights Watch, 2022; OHCHR, 2020). To this Gadecki responded that “killing innocent life as a human right is a testament to cultural confusion” (Tilles, 2020; Krolak, 2020; TVPinfo, 2022). The Church is the judge on the matters of human life, therefore also human rights, and stands above ”earthly” institutions (Krolak, 2020). The religious arguments are
treated as universal and as having higher moral ground than the international organizations.

Another reason why organizations like this are treated as inferior is their international background. Gadecki said that the anti-restrictions protests are a result of the presence of ”streaming services and social media that promote homosexuality, hedonism and promiscuity (...) leading to the cultural Marxist” (Tilles, 2020; Krolak, 2020). This anti-colonial sentiment is supported by the anti-communist narration. This theme is interlaced with the idea of victimhood of the Polish nation and the messiah mission rooted in the moral superiority provided and inspired by catholicism (Janion, 2006; from Szczygielska, 2018). On a large scale, the propaganda from the West is supposed to be just another form of domination of foreign power in Poland, the same as it was with the USSR. On the scale of abortion laws specifically, the last time abortion was easily accessible in Poland was during the Soviet Union. This creates an easy opportunity to build up the similarities and to exaggerate them in a way that would demonize the feminist movement including the promotion of reproductive rights. The West is treated as an ideological enemy that promotes the loosening of morals under the cloak of human rights and democracy.

In conclusion, church presence is an essential theme of the abortion discussion that is rooted in the Polish history of oppression. This theme is certainly more present in the pro-life narration and more in the definition of human rights than democracy. In their case, the link between the church and Polish identity leads to its huge influence on political concepts including democracy and human rights. Human rights and freedoms are based on christian morality therefore abortion, which the church does not support, cannot be allowed. The pro-choice narration seems to avoid this theme besides sporadic calls for less connection between the state and church which is seen as undemocratic. Since in majority of Poland is a christian country that means that too much targeting of religion in the discourse could lead to people not supporting the liberalization project.

**Question of doctors**

The situation of doctors is a newly emerging theme that has not been often discussed before 2021. The new restrictions on the law mean that gynecologists
and other medical personnel who are involved can face serious consequences if they perform abortions. Besides losing their qualifications or employment doctors can also face up to 3 years in prison, 8 if the abortion is performed in the late stages of pregnancy (Dziennik Ustaw, art.152).

This led to situations where women died on the hospital tables waiting for an abortion because doctors were too afraid to operate and the potential consequences. Waldemar Kraska, a representative of PiS, during the parliamentary debate on reproductive rights in 2023 that was summoned in response to death of women who could not get an abortion, pointed out that ”Tribunal did not decide on the question of protecting life and health of women” therefore actions taken in the name of this are not considered to be a criminal offense (TVN24, 2023; Sejm Rzeczypospolistej, 2023). The point is to not view it as a systematic issue and question of human rights but as an individual situation. But the situation is complex from a choice perspective. Bodnar said, “The weight of choice and responsibility is pushed on the medical staff – doctors, but also the hospital and nurses, without providing them with adequate legal protection” (Gmiterek-Zablocka, 2021; Rzecznik Praw Obywatelskich, 2020). Doctors feel that the current legislation often ties their hands and puts them between the impossible choices in the more complex cases. State law pushes them to judge on the matter of human rights and choose if they prioritize women's health or the life of a fetus.

The reproductive rights parliamentary debate in 2023 included representation of the medical sector. During it, doctor Przeszlakowski pointed out that doctors need to follow laws that were created by the government without any consultation with them but ”that were discussed between Kaja Godek [pro-life activist]” (Sejm Rzeczypospolitej, 2023; Chrzczonowicz, 2023). In the legislative process, their input was not considered. The law was influenced and admitted by the pro-life movement, conservative parties, and constitutional tribunal where no one of these structures included expertise that would consider the impact of the doctor's profession. They show the non democratic context pointing out that, similar to women, the group who is impacted was not included in the decision-making process. Their stand and rights were not taken into consideration therefore undermining the democratic quality of the law. It also has contributed to the
creation of an environment where doctors are encouraged to dismiss the rights of patients to protect their well-being.

Another question is a clause of conscience meaning a law exempting professionals from performing their task if it goes against ethics. This again puts doctors in the place of decision between their rights and patients' rights. Most of the supporters of liberalization disagree with the doctor's capacity to use the conscience clause and not perform the abortion. Some of the politicians from KO (central party supporting liberalization) that were present during the debate on reproductive rights like Biejat or Dziemianowicz-Bąk say that the conscience clause should be completely erased in this context (Sejm Rzeczypospolitej, 2023; Chrzczonowicz, 2023; TVN24, 2023). At the same time, they view it as an issue of law and not of a personal choice. In their understanding, the fault lies on the side of the structure and they avoid dismissing doctors' behaviors.

Contrary to this, activists often appeal to doctors directly. Lempart, during the reproductive rights debate after doctors' complaints, said to gynecologists calling upon the conscience clause "How can you constantly pity yourself about how you are constantly attacked?" (Sejm Rzeczypospolitej, 2023; Chrzczonowicz, 2023). Broniarczyk, an activist, added that "for the Polish doctor, even unlikely to survive pregnancy is more important than the life and health of a woman" (Sejm Rzeczypospolitej, 2023; Chrzczonowicz, 2023; TVN24, 2023). Activists argue that doctors executed their freedom of choice while choosing this profession. The following path dependency means that some of the choices are not possible for them. In this case, if someone decides to be a gynecologist, they cannot also decide to not perform an abortion since this procedure is included in their responsibilities.

If someone does not want to perform then they should not be a doctor. While in general supportive of the conscience clause, Pro-life narration does not often mention it. They focus on the attacks on the doctors. Kwiecien (PiS) answered complaints about doctors with "You are in no place to create arguments that doctors neglect saving the life and health of women" (Sadlo, 2023; Sejm Rzeczypospolitej, 2023). There seems to be awareness that answering questions about the individual responsibility and rights of doctors is a safer option than considering the validity of the conscience clause, especially after cases of women dying because of not getting abortions.
The overall emerging theme of the discussion of the level to which doctors should be able to decide on the rights within the profession. In the pro-life narration, decision-making lies on the side of the doctors who choose when to perform abortion and if they want to execute conscience clauses. Questions of it are treated as an individual matter. Pro-choice narration proves a supportive more systematic approach to both matters. Doctors needing to decide on the human rights question is problematic, both in the consideration of the new law and of the clause of conscience. Theme considers the matter of complexity of defining human rights in the context of the overlap of profession and individualism. An interesting trend is the switching of roles: pro-life emphasizes an individual approach, while pro-life aims at systematic measures. The theme does not mention the context of democracy too often.

**Legitimacy of the Tribunal and its verdict**

One of the themes characteristic of the narration in 2020 is the validity of the Tribunal's verdict. The theme refers to a wider question of the legitimacy of institutions and the objectivity of those who serve in them.

Among the politicians of PiS, the opinion is clear: the Tribunal is an independently functioning judiciary body and its acts are binding. It is especially visible in the speeches by high-standing representatives like Kaczynski or Morawiecki who in the discussion of the verdict clearly emphasize the independence of the Constitutional Tribunal (Tilles, 2021; Prawo i Sprawiedliwość, 2021). The supporters of the law who are not politicians, but activists and others involved, seem to avoid taking a stance on this issue. This can mean that they do not want to voice their opinions on the institutional side of the discourse. Most of their narration is based on the ethical ground therefore they do not have the background to discuss the Tribunal's role. Nevertheless, they also never openly undermine the validity of the institution or verdict. The decision is seen as democratic and in line with the values of human rights therefore there is no reason to question the Tribunal.
In the pro-choice narration, the question of the legitimacy of the Tribunal is probably the most present theme. This argument does not rely on ethical or moral issues therefore people with different values can support it without tensions. It is also difficult for conservative groups to minimize it, considering that the Constitutional Tribunal has been reprimanded by multiple judiciary organizations and international actors (TVN 24, 2020; European Commission, 2021). Human Rights Watch (2022) describes the Constitutional Tribunal as a "dependent political institution (...) whose legitimacy is compromised". Pro choice movement uses this argument to emphasize the general issue of the democratic regression in Poland and abortion as one of the symptoms of it. Therefore the discussion of passing the restrictions is not a question of ethics but of the quality of the institution. The verdict is a matter of compromised structure and not protection of human rights or democracy. If anything, it opposes it since the foundational democratic institution is not legitimate. Cezary Tomczyk during the Parliamentary press conference said that "KO (central/left-wing party) does not recognise this institution [Tribunal] and this verdict" (TVN24, 2020).

Multiple experts on the topic, like the Association of the Polish Judges (SSP Iustitia), point out the invalidity of this act rooted in the lack of authorization for the ruling in the regard of three judges (Muszynski, 2021; SSP Iustitia, 2020). Other lawyers like Hermelinski and Kieres also point out that one of the judges, Krystyna Pawlowicz, was also one of the proposers of the application for the Constitutional Tribunal to analyze the law (Dziennik Ustaw, 2020; Rzeczpospolita, 2020). Since she was both judge and one of the sides during the trial it rules her out as an independent judge and compromises the validity of the verdict and foundational instances of democracy. The flawed institution will always bring a flawed result therefore the verdict on abortion is also not legitimate. This then spotlights the deep issue with the quality of democracy in Poland and the necessity of building strong, trustworthy institutions that Krajewska (2021) points to.

In their separate statements on the verdict, judges Kieres and Pszczolkowski put to question not only the validity of the verdict but also its content (Dziennik Ustaw, 2020). Both believe that even if institutional doubts are not present, the verdict is not a correct one. In their consideration, the previous law does not go against the constitution and there is no necessity to prohibit abortion in the case of a fetus.
defect or illness. This argument closely links with the morality argument that was already explained. Stands of both sides are rooted in their different understandings of human rights therefore leading to different interpretations of the constitution. The tribunal in its statement on the verdict wrote that ”the constitution protects human life at every stage” and classified a fetus as a human (Dziennik Ustaw, 2020). For pro-life narration current law makes Poland more considerate of human rights than any other country. For pro-choice movements, this interpretation of the Constitution is a violation of human rights and democratic values.

In Poland, under the same constitution, the abortion laws have been changed because of different interpretations. Constitutions in democratic countries are often treated as a set of rules of the state (Gordon, 1999). It gives everyone an idea of values and roles within the state. It builds stability and continuity because while governments often change, the constitution is supposed to be a solid foundation that cannot be easily moved (Gordon, 1999). Situations like the one in Poland show the limits of this document. Even if the document did not change, the body interpreting it did, which resulted in a very different decision and change of law. There have been a significant amount of comments regarding the weakening of the Constitution and the lack of trust in the organ interpreting it (CBOS, 2021). In this case, one can easily see how the context and change of government affected the interpretation of the law. This instability leads to the undermining of the constitution and its values (CBOS, 2021). For the democratic system, it is a difficult balance to maintain. The malleable character of the institutions and differences in the interpretation of the constitution are often used in pro-choice narration to signify the regression of democracy in Poland and imply other risks for democracy and human rights that it could lead to.

To sum up, the theme of the validity of the Tribunal and its verdict is probably the most prominent in the pro-choice narration since it does not rely on the moral context. For them, both the legitimacy of the Tribunal and the interpretation of the constitution put into question the democratic status of Poland and the place of human rights. PiS proclaims the legitimacy of the incision and therefore its verdict. Pro-life supporters are not vividly present in this theme but they view the verdict as in line with human rights. The discourse shows different notions of interpretation of the Constitution.
Who and how should decide

Deeply democratic matters are voiced in the question of who should decide on the matter of abortion. The question is not only about women deciding to get an abortion or not. It is also about how to in democratic ways decide on abortion laws.

Supporters of the pro-choice movement believe that women are the ones who should have the right to decide if they want to undergo the procedure or not. The role of the state is to not decide for them but to create safe structures suitable for the potential choices. Women have the right to bodily autonomy and to make this decision by themselves. This choice is a private matter and should not be controlled by a state. However, supporters of the movement emphasize that private matters need to be discussed as the political right. Activists of the Abortion Dream Team write on their website that "the fear of abortion is political” and "socially constructed through the sociohistorical context to the discourse" and public initiatives are necessary to impact it (Ikonowicz, 2023; Abortion Dream Team, 2023). Abortion relates to the human right of bodily autonomy, therefore the private-political question is at the heart of it. Human rights are to some level an individual matter, but their utility and safe access to their application of them needs to be ensured by the state. For the feminist movement, it means that women should be the ones to decide and the state should give them structures to safely do it.

From the perspective of PiS and the pro-life movement abortion is a crime and therefore cannot be considered as a private matter. President Duda in an interview with the catholic journal Sunday (in Polish Niedziela) in 2020 said that he ”will sign the new law because abortion is a murder” and that ”Tribunal is the institution to decide on matters like this” and supported this opinion multiple times over the next years (TVN24, 2021; Chrzczonowicz, 2020). It is clear that abortion, same as any other crime committed against human rights, cannot be considered as the question of a private choice. In this perspective democratic countries use democratic institutions like the Tribunal to establish laws therefore the current situation is in line with the rule of law.
An alternative that many see as more democratic is a referendum. PSL (center-right agrarian party) and Poland 2050 (center) during the press conference in 2023 declared that ”the decision should be made by Polish people and not politicians or bishops” and that they will conduct a referendum to settle the matter (Rzeczpospolita, 2023; TVN24, 2023). Pszczolkowski, the Tribunal judge who was not supporting the verdict, during the Parliamentary proceedings that included Tribunal representatives, argued that ”If nation would not agree to this, what gives this legitimacy to the Constitutional Tribunal?”, pointed out that the matter should have been never commissioned to the Tribunal considering that polls kept proving that most of the Poles do not want further restrictions (Sejm Rzeczypospolitej, 2023). According to the polls commissioned by OKOpress in 2021-2022 45-50% wanted to preserve the abortion laws as they were before 2021 (Chrzczonowicz, 2023; Ptak, 2022). The second biggest group, 35-40%, wanted liberalization while only 10-15% supported further restrictions. A similar tendency is visible in the polls conducted by CBOS (2021). According to most of the opposition, this solution would be the most democratic and would remove the potential veto from the president, which could be a risk during the parliamentary legislative procedure (Chrzczonowicz, 2023; TVN24, 2023). At the same time, this choice is not favored by feminist groups since most people wish to come back to the previous abortion compromise and would not agree to further liberalizations. In their perspective this solution, even if democratic, violates women's rights (Wilczek, 2021; Tilles, 2023; Ikonowicz, 2023). PiS deputy Wroblewski during the parliamentary discussion after the verdict argued with this approach saying that ”Tribunal has both competencies and experience to decide on this matter” (Dziennik Ustaw, 2020). Ironically, they use the same argument as feminist groups, saying that matters of human rights should not be put up for a question in a referendum. Of course, both groups understand what human rights include very differently.

Additionally, the question of abortion was considered and voted on under the coronavirus lockdown. This meant that some of the protests that took place after the ruling were illegal to organize and the government described them as ”irresponsible and selfish” (TVPinfo, 2020; TVPinfo, 2023). Organizations like Abortion Dream Team point out how the government used the time focus when
everyone was focused on abortion to push for a change of the law (Rzeczpospolita, 2023). To quote Lempart in her interview conducted during the protests “The government is purposefully targeting abortions and women’s rights, during the coronavirus crisis” (Bayer, 2020; TVPinfo, 2023; TVPinfo, 2020). It would have been more democratic to wait until pandemic restrictions were not in place for people to be able to execute their right to protest. In response, Wroblewski pointed out that neither the government nor the Tribunal were obliged to wait with it and that the matter needed to be settled after the proceedings began. The opposition sees it as keeping the facade of democracy while acting against the democratic values and interests of the citizens, further proving the democratic regression. This notion is also supported by Krajewska (2021).

In summary, pro-life supporters do not consider the possibility of the referendum as a democratic alternative to the decision of abortion and believe that the question of abortion is of a human right nature and should be considered by the state structures. The circumstances of coronavirus were not considered to be an obstacle. In the pro-choice narration, there are two notions: abortion as a human right matter should be made accessible without a referendum, and the other where a referendum is the preferred option as the most democratic one. Tribunal verdicts during the pandemic are seen as a facade of democracy and prove democratic backsliding. This is in line with Krajewska’s (2021) findings where the institutional layer and civil society are showing signs of democratic regression.

**Conclusions and Further Research**

The research found a variety of themes that have been analyzed and further supported previous studies on the topic of reproductive rights in Poland. The first main themes relate to the ethical values of rights and freedoms behind abortion and the verdict, including consideration of the morality of abortion, church influence, and the question of the doctor's role. The second main theme focuses on the structures and institutional side of the decision. It includes the legitimacy of the Tribunal and its verdict; and the question of who and how should be deciding on abortion.
The findings of the research show that democracy and human rights are concepts that are correlated but deeply disputed in the abortion discourse. Both of them are created by the discourse and defined by the agents and contexts. Both sides adopt the maximalist definition of democracy that includes respect for human rights as a certain part of the democratic system. In this case, what is responsible for considering whether the democratic backsliding is happening or not is not the broadness of the spectrum of democracy, but the set of values that it carries and that can be easily socially constructed.

As the findings of this research prove, what a given individual or group contributes to their understanding of human rights will also decide on their approach to democracy and its potential regression. From the perspective of supporters of the pro-life movement, human rights in Poland, at least in the context of abortion, are respected and do not have any negative impact on the quality of democracy. There is no cue for democratic backsliding. Supporters of the pro-choice movement would be more willing to agree with the notion that the democratic backsliding is causing or caused by the current abortion debate. In this perspective, human rights are not followed which leads to laws abusive for women. From the perspective of the topic of abortion, one side will always view democracy and human rights as regressing.

This can be explained by the maximalist understanding of democracy and its connotations with human rights. Since in Poland, both concepts are considered to be normatively and ethically good, discourse is created in a way that would redefine them for the benefit of the particular case or actor. This leads to blurring the line between the concepts and common redefinitions. This leads to discourse like the one presented here, where different fractions with very different goals both present themselves as democratic. In this sense, democratic regression also became a disputed term. As Zolkos (2006) abortion is only one of the subjects in which tendencies like this can be found.

The adoption of maximalist definition by both sides points to the fact that the majority of people seem to see democracy as a broad concept that imposes not only an institutional spectrum but also certain ethics. These ethics, including the approach to human rights, are not uniform. They can be socially constructed by the present or past discourse, and unique experiences of a nation, for example, a stronghold of religion or a conflict-ridden past as it is in Poland. It therefore shows
how malleable and context-dependent is the definition of democracy. Democracy does not create a nation, it's a nation that creates a concept of democracy that fits them.

This tendency should be studied more deeply, especially in consideration of countries like Poland or other post-USSR states, where the adoption of democracy was the goal itself and not a tool that served to achieve other goals. This meant that their adoption of democracy may have been focused on the potential additional benefits resulting in a lack of a strong institutional basis and the “identification with the democratic values” (Diamond, 2020, p. 3).

Poland also serves as an example of the concept of democracy being deeply influenced by morality and ethical values especially from the side of religion, resulting in christian normative morality. This kind of pattern can be visible in more countries and subjects, therefore future studies are necessary to understand it better. Fields of democratic studies and reproductive rights need to be studied more to draw clearer conclusions. Future studies should help to navigate the patterns not only between these two concepts but also within the wider context. In the case of Poland, it would be interesting to see themes analysis within the abortion discourse and LGBTQ discourse. Both are influenced by christian normative morality and are common examples of withdrawal of rights during democratic backsliding but there is still not much research linking both. Similar studies can be conducted on an international scale, aiming at finding these forms of common themes between the countries. Research like this will help to clarify not what democracy is, but what it means in different contexts and for different nations or about different themes like reproductive rights. It would also shed more light on how to define democratic regression and as a result how to potentially minimize it.

The moral character of democracy is used by authoritarian leaders like Kaczynski to facilitate the polarization of society. Diamond (2020) writes how authoritarian leaders aim at creating divisions and not closing them, leading to further democratic breakdown. Diamond (2020) reflects that issues like financial crises or pandemics potentially ”took the shine off democracy”. The research results here do not support this statement. Democracy is still a positive value for most and populist governments can use the narration and ethics of human rights to redefine the concept for their agenda to seem democratic. The pattern of polarization and demonization that Diamond (2020, p.12) points out as characteristic of
authoritarian leaning rule is supposed to ”delegitimize and marginalize” certain groups. Diamond (2020) predicts that with this they also dismiss the notions of democracy. This paper points to the evidence that the goal of populist leaders is to dismiss the definition of human rights and democracy presented by their opponents and to promote their definitions to legitimize their agenda. Diamond (2020, p. 19) concludes his paper by stating that the global regression of freedoms cannot be stopped unless the most established democracies redevelop their democratic commitments. This is probably the strongest incentive for more research into the topic of democratic backsliding of established democracies; not only for the sake of theory but also for real-world change.

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