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Poland's New Front

A Government's War against Civil Society

August 2017

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ACKNOWLEDGEMENTS

Human Rights First would like to thank the following for their contributions to this report: Helsinki Foundation for Human Rights in Poland; Campaign Against Homophobia; Karol Chwedczuk Szulc, Assistant Professor of Political Science, University of Wroclaw; Brian Griffey; Law Firm of Kieszkowska Rutkowska Kolasiński; Institute of Public Affairs; Batory Foundation; Citizen Watchdog Network Poland; Polish Society of Anti-Discrimination Law; Autonomia Foundation; Panoptykon Foundation; Association for Legal Intervention (SIP); Lambda Warszawa; Amnesty International; Ewa Siediecka, Journalist; American Bar Association Rule of Law Initiative ; Radoslaw Markowski, Center for Study of Democracy, Poland; Transfuzja Foundation; Centre for Women's Rights; Office of the Polish Commissioner for Human Rights; and other anonymous organizations and individuals.

Human Rights First also wishes to thank Jacob Kostrzewski for his dogged assistance with the research and preparation of this report.

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Executive Summary

Poland's democratic backsliding, which began after the country's Law and Justice (PiS) party gained a political majority in October 2015, is increasingly attracting headlines in the United States. In its zeal to reestablish a hardline approach to Polish nationalism, and redefine the country as a bulwark against the intertwined threats of Western European-style liberalism, migrants, and modernity, PiS has sought to bring under its control all independent institutions that might check its power: the courts, the media, and civil society.

Over the past 20 months, tens of thousands of Poles have repeatedly taken to their streets to protest a string of new laws and policies that they and international watchdogs see as intended to gut Poland's democratic institutions and the rule of law.

The latest demonstrations, which began over the weekend of July 16 and continued for nearly two weeks, brought large crowds out in Warsaw, Krakow, Poznan, Wroclaw, and roughly 100 other cities across the country to decry the Polish government's attempts to pass a "reform" of the common courts.

Three new laws comprising the reform agenda would have replaced the current judicial selection body with a process controlled by the parliament, forced the retirement of all Supreme Court judges except those approved by the Ministry of Justice, and similarly ejected the heads of lower courts. Polish President Andrzej Duda, in a surprise move given his affiliation with PiS, vetoed the first two proposals, but signed the third.

While an obvious setback, Duda's vetoes do not likely signal the end of PiS's efforts to take control of Poland's courts. The parliament, in which PiS enjoys a majority, could amend and reintroduce

legislation in a bid to appease Duda's concerns. For now, however, some of Poland's judicial independence remains intact.

In its slide toward what can appropriately be termed illiberalism, Poland's PiS-led government has in recent months:

- Dismantled the country's Constitutional Tribunal, ensuring that it is unable to check the power of the executive or legislature.
- Attacked public media and independent-minded journalists, firing or forcing out those that disagreed with the government.
- Increased police power and surveillance, made it easier to restrict public demonstrations, and codified automatic suspicion of foreigners in anti-terror and police laws passed with almost no input from civil society.
- Passed legislation, approved budgets, and appointed judges using fast-tracked, questionably legal procedures, often under cover of night, and after blocking media access; or used armed guards to intimidate civil society attempting to monitor the process.
- Characterized refugees and foreigners as "terrorists" by use of inflammatory, xenophobic language, and called critics "national traitors" or enemies of the people.
- Consolidated power within the General Prosecutor's office by appointing the Minister of Justice to hold the position concurrently, effectively limiting oversight of the Ministry. With the Act on the Common Courts, the Minister of Justice will have power in some cases to determine both who will prosecute, and who will judge, a given case.

Throughout 2015 and 2016, the Polish government's rapid expansion of executive power elicited statements of significant concern from international organizations, the European Commission, and senior U.S. senators, who

called on the government to preserve the rule of law and protect individual rights. Polish politicians, including President Duda, Prime Minister Beata Szydlo, and party leader Jaroslaw Kaczynski, uniformly denied that their policies did anything but strengthen the country's rule of law and promotion of human rights.

Often, these leaders offered harsh rebuttals. Kaczynski said that he was ready to take on the European Union and NATO member states to "make Poland a truly sovereign nation." In response to the European Union's ultimatum threatening action under the Treaty on European Union's Article 7, which would sanction Poland for violating the body's values, PiS's Minister of Justice argued that the European Union was "occupying" Poland in a manner akin to the Nazis during World War II.

As with its efforts to reconstitute Poland's court system in a manner that allows for its ultra-nationalist, far-right ideology, the PiS-led government is now attempting to remake the country's civil society in its own image. Contrasted with the government's assault on Poland's courts and media, its work to discredit and weaken non-governmental organizations (NGOs) through audits, media campaigns, and the selective application of funding has generally flown under the radar of most domestic and international observers.

Given the relative success of the recent protests against the Polish government's court reform laws, these attacks are now likely to increase. Throughout July, party leader Kaczynski and his officials called the concerned citizens flooding Poland's streets "scumbags" and "traitors;" his justice minister argued that protestors were organized by a European conspiracy. The government's media mouthpiece argued that the protests were pre-planned by foreign PR firms and by George Soros.

PiS has taken a multifaceted approach to stifling work it views as critical of its policies, orchestrating attacks through state-controlled media, the use of so-called "government-organized non-governmental organization," or GONGOs, and via direct intimidation by government ministries.

The government's attacks—on media, civil society, and other sectors such as education—reflect an overarching strategy of reasserting a Polish ideology rooted in nationalism and conservative Catholicism. Kaczynski has said that he hopes to initiate a "cultural counter-revolution" in pursuit of his vision of traditional values and patriotism. Others view this drive as grounded in state-sponsored support for xenophobic and anti-immigrant sentiment.

Government decision-making reflects Kaczynski's outlook. Since coming to power, PiS has abolished both the government's anti-racism council (the Council for Counteracting Racial Discrimination, Xenophobia and Related Intolerance) and the Interior Ministry's Human Rights Protection Team. It also pushed through an education reform that terminated programs on equality and xenophobia. The programs' successors now focus on concepts such as "strengthening the process of identifying with one's own gender" and producing "a new patriotic Pole."

A common theme running throughout these efforts is to equate Polish identity only with far-right values, which has led the government to criticize some organizations as not being "Polish enough." In the Polish context, such phrasing often carries xenophobic and antisemitic overtones. The government also has adopted something of a "Poland First" philosophy, fearing and calling out the "foreign influence" of some domestic institutions, such as the media, and calling for a "repolonization" of these entities.

Using public media coopted by the government in its first months in office, PiS has waged attacks on organizations that defend human rights and the rule of law, maligning these groups as serving what the government terms “liberal” causes. The government has argued that human rights watchdogs attack Polish civilization and identity, and insinuated that, in the past, they only received funding from the E.U. and Polish government as a result of corruption. It has aimed to turn public opinion against these organizations in a bid to drain them of community support. It has refused to condemn physical attacks that feed xenophobic movements. And it has attacked the sources of NGOs’ funding, outright defunding organizations where it can, and intimidating and threatening organizations when defunding proves difficult.

This campaign is beginning to have an effect: organizations that do not share the current government’s worldview, including those that support the rights of women and LGBT groups, government transparency, and refugee and immigrant resettlement, are finding themselves under increasing pressure. As independent groups face funding cuts, reduced staffing, and in some cases physical attacks, the Polish government is actively creating a Potemkin village of organizations that work to advance its social agenda. These largely focus on the rights of Catholic families, priests, Christian refugees outside of Poland, and nationalist Poles. The Polish government’s endgame is a GONGO-heavy civil society ecosystem that avoids dissent and conforms to the government’s narrow concepts of democracy and rights.

According to an announcement in July, the Polish government now stands poised to introduce legislation that would largely mark the end of the country’s independent civil society. The legislation would establish a new entity, the “National Freedom and Center for Development of Civil Society,” that would centralize control over NGO

funding and civil society activity in Poland within the office of the Prime Minister.

The office, as envisioned, would aggregate all Polish and E.U. funds earmarked for non-governmental civic organizations. It would thus give the PiS-led government ample leverage to shutter NGOs it views unfavorably, using procedures largely hidden from public scrutiny. Polish civil society experts have begun to raise an alarm, warning that the government is disregarding basic principles of democracy, transparency, and consultation.

In restricting funds for human rights-focused NGOs and using smear tactics to target critical organizations, Kaczynski is taking a page from fellow E.U. leader and “illiberal democrat” Viktor Orban of Hungary. Kaczynski’s substantive inspiration isn’t limited to Europe, however; he is also clearly taking notes from an unlikely source: Russia.

Whether consciously or not, the Polish government has chosen to follow in the footsteps of Russian President Vladimir Putin, as it turns its attention to what has been until now a robust and vocal civil society. While, in keeping with Polish politics, Kaczynski loudly decries what he describes as Russian aggression, he is at the same time implementing lessons from the very government he claims to oppose. These include manifestly replicating Russia’s use of nationalist ideology and “family values” rhetoric to impair NGOs that advocate for individual rights, and attempting to coopt and redefine the concept of human rights for political ends.

As NATO allies with close historical and cultural ties, the United States maintains a special relationship with Poland. The voice of the U.S. government carries great weight with both the Polish government and larger Polish society. Regrettably, in the last 20 months the United States has not effectively made use of this voice,

failing to condemn many of the numerous actions taken by the Polish government to undermine the country's democracy. President Trump has recently gone so far as to laud the Polish government's actions as "an example for others who seek freedom." Close observers of Polish politics view Kaczynski's attempted takeover of the court system as reflecting a belief that his actions enjoy tacit White House support.

The U.S. government must now act purposefully if it hopes to maintain a democratically-minded Poland as an ally in NATO and partner in the European Union. A failure to do so risks seriously damaging the centrality of human rights and enlightenment values as the basis for an enduring trans-Atlantic community.

This report documents Human Rights First's conversations with activists, members of civil society organizations and think tanks, journalists, and academics in Poland during a research trip conducted in June and July 2017.

It details a systemic, ongoing, and relatively undocumented assault on civil society in Poland, where organizations protecting rights are being smeared as agents of corruption, criticized as traitors that refuse to serve "Polish interests," physically attacked and threatened, and targeted with funding cuts, financial audits, and other threats to their existence. As a result, Polish organizations are being compelled to shut down and restructure, shedding staff and capacity to serve the needs of communities.

We conclude by offering recommendations for how the United States should address the Polish government's attempts to undercut independent civic voices, and outline opportunities for the U.S. government to use its influence to urge the Polish government to change course.

Turning Democratic-Backsliding in the European Union from a Novelty into a Trend: Poland and Hungary

Poland's slide toward an increasingly authoritarian form of governance has followed E.U. and "Visegrad Group" counterpart Hungary's movement in the same direction. Kaczynski seems to have learned from Hungary's governing Fidesz party the recipe for turning a democracy into a quasi-authoritarian regime: first, attack and render dependent the constitutional court; second, obtain control of the media, and use it to create an external enemy—for example, of migrants—to stoke nationalism and party loyalty; and third, use that fear to mask attacks on civil society in order to stem criticism and dissent. For a more in-depth description of Hungary's backsliding, see Human Rights First's issue briefs: [How the U.S. Government Should Respond to Hungary's Slide to Authoritarianism](#) and [No Society Without Civil Society: Orban, Putin, and Why the United States Should Resist Hungary's Attack on NGOs](#).

By joining with Hungary in thumbing its nose at E.U. values and policies, Poland has turned what was heretofore an isolated rogue state into a trend. After following Orban's playbook to hamstring the Polish judicial system, Kaczynski is now picking up the tools needed to dismantle Poland's robust civil society.

Like in Hungary, where Orban has called NGOs "agents of foreign powers" and has waged a borderline antisemitic media campaign against Hungarian-American emigre George Soros, in October the PiS-led government alleged in state media, without any evidence, that a number of human rights organizations receive funds fraudulently and non-transparently as a result of family ties to the prior Civic Platform government. State media has also insinuated that NGOs critical

of PiS policies have received money from George Soros in order to overthrow the government, and threaten the rights of patriotic, Catholic Poles, with their "multicultural politics and political correctness."

After the Hungarian government declared several well-respected human rights and watchdog organizations the "dirty 13" in 2014, it demanded that these groups produce two years' worth of financial and administrative documentation within one week, and then raided several organizations and tried to freeze their bank accounts.

In 2017, the Polish government began its own financial review of targeted "liberal" NGOs, requiring many to produce documents in an audit-like procedure for the first time. It has ordered several to return grant money, while withholding funding from others. And it has thus far signaled an unwillingness to reach an agreement with the government of Norway that would allow for transparent decision-making in the distribution of Norwegian NGO support funds. The disagreement with the Norwegian government has larger repercussions, because Norway has threatened to withhold its aid to the Polish government if the latter does not agree to a transparent procedure for distributing such funds.

In June, Hungary passed a new anti-NGO law—modeled largely on the so-called "foreign agents" law in Russia—that requires organizations and foundations to register publicly if they accept foreign funding. While Poland has not to date considered a foreign agent-type law, its Prime Minister has announced that she will propose a draft law that would create a "National Freedom and Center of Development of Civil Society," establishing a bureau within the Office of the Prime Minister to control awards of civil society funding in the country. The drafted bill has yet to be published, though leaked copies have circulated widely. The effect of such a change would be to politicize and render less transparent

procedures for NGO funding decisions and civil society oversight. Government leaders have said they would like the draft bill to go into effect before the close of 2017.

The European Commission has threatened to initiate the Lisbon Treaty's Article 7 "rule of law framework" against both Hungary and Poland for their implementation of policies incompatible with the E.U. values of individual rights, tolerance, rule of law, and protection of minorities. To date, the commission's criticism of Poland has been more rapid and severe than in the earlier case of Hungary. Yet in neither case has the framework formally been initiated.

With respect to Poland, Commission First Vice President Frans Timmermans has so far resisted pressure to launch the procedure, instead preferring continued dialogue with PiS. However, with the July 24 passage of the law giving the Minister of Justice the power to appoint and dismiss the heads of common courts, Timmermans said that the EC is "very close to triggering article 7," and the Commission threatened to take action if Poland starts to fire judges. On July 26, the EC issued supplementary recommendations in light of the new law, with a new deadline of for the government to comply.

The Paradox of Russophobia and Russian influence in Poland

Whatever their similarities, Poland's anti-democratic turn differs in one substantial respect from Hungary's: the two nations' relationship to Vladimir Putin's Russia. Through policy and public rhetoric, Orban does little to hide his interest in moving Hungary closer to its large eastern neighbor in a bid to garner economic and diplomatic support. He has responded to opportunities for personal enrichment provided by the Kremlin with several Russia-funded projects,

such as the PAKS nuclear plant, reflecting telltale signs of high-level corruption.

Kaczynski, on the other hand, is a proud Russophobe who makes regular political use of Polish anti-Russian tendencies. Rejecting credible evidence to the contrary, Kaczynski continues to maintain that the Russian government murdered his brother and then-president Lech Kaczynski in April 2010 by orchestrating a plane crash near the Russian city of Smolensk. He has recently campaigned for a re-investigation of the crash, including the exhumation of his brother's body, along with those of many other passengers.

Though equally focused on maintaining power, Kaczynski's turn toward quasi-authoritarianism also appears to be much more ideologically driven than Orbán's. He is a true believer that nationalistic, Catholic, far-right values must reign. He has called the European Union's acceptance of migrants a "social catastrophe" that will not happen to Poland, and cited refugees from the Middle East as a source of "diseases long absent from Europe," as well as carriers of "parasites and protozoa which ... while not dangerous in the organisms of these people," will be dangerous to Poles.

These sentiments were later echoed by President Duda. On the social flash-point issue of abortion rights, Kaczynski has argued that even in cases in which a fetus is deemed likely not to survive birth, a woman must give birth so that the child can be baptized. The Polish cabinet, chosen by Kaczynski, shares his euroskepticism and nationalism. Justice Minister Zbigniew Ziobro, for instance, has compared the European Union's rule of law investigation and other forms of oversight with the Nazi occupation of Poland.

Ironically, Kaczynski's form of Polish far-right nationalism looks strikingly similar to Russian far-right nationalism. For example, the Polish government has become obsessed with protecting

children, but only from approved threats. Abuse by family members is not one of these threats; teaching a child about sex education, discrimination, and gender is. Domestic violence against women is also a non-threat for the Polish government, an approach in step with the Kremlin, which de-criminalized domestic violence against women earlier this year. And, as in Russia, the touchstone for definitions of human rights in Poland is increasingly not the country's preexisting commitments to international agreements and instruments, but the government's interpretation of national religious values as established by (in Poland's case) the Catholic church.

While Kaczynski can point to his bona fides as a Polish-style Russophobe, claims that Russia has no influence in Poland are being whittled away by whispers of Russian soft power and corrupt influence. Though Russophobia ensures that the Kremlin cannot wield direct influence in Poland easily, its clout has increased in the last several years.

Russian soft power exerted through social media and propaganda messaging, including via disinformation, aims to stoke Polish nationalism. In particular, this work aims to provoke anti-NATO, anti-European Union, and anti-Ukraine sentiment in order to drive a wedge between Poland and its allies. Russian disinformation is amplified and injected into popular discourse in Poland by means of roughly 20 niche websites that disseminate it, while detaching the information from its original source, such that it is not known to be Russia-originated.

Where corruption is concerned, Deputy Defense Minister Bartosz Kownacki's recently-surfaced links to Kremlin-funded far-right groups are one important piece of evidence in a growing tableau. A German newspaper reported in 2012 that Kownacki was part of a far-right coalition that visited Moscow, along with four Polish "NGO"

representatives that included the main contact for the Polish pro-Russian political party Zmiana, Mateusz Piskorski.

Piskorski was a founder of the pro-Russian think tank the European Center for Geopolitical Analysis, and has longstanding ties to Russian right-wing influential thinker Alexander Dugin. After his own links to this think tank were exposed, former deputy head of the state defense group Polska Grupa Zbrojeniowa (PGZ) Marcin Szolucha resigned. Documents obtained by hackers and later confirmed through an RFE/RL interview also show that a pro-Kremlin operative has established a network working in Poland to drive a wedge between Poland and Ukraine. According to RFE/RL, the operative works closely with Pawel Kukiz, a political leader and member of Parliament.

The United States Needs to Support Real Values, not “Real Poles”

Like Hungary's Fidesz, the Law and Justice (PiS) party stands at the forefront of a growing movement of democratic European states marrying increased state control with nativism and nationalism. If the Polish government reconstitutes itself as a body unchecked by judicial oversight, the media, or civil society watchdogs, the effect will be to give the “Hungarian approach” a solid foothold within the European Union.

With normalization may come replication. Political factions within the Czech Republic, Slovakia, Greece, and Italy are watching the European and American response to Poland closely. Such actors may decide that the benefits of flouting E.U. laws and norms they do not agree with related to refugees, countering xenophobia, or preserving

basic principles of rule of law and separation of powers outweigh the costs.

Greater disunity within the European Union will only make cooperation with the United States more difficult, and threaten transatlantic efforts to combat corruption, maintain stability in the face of the global refugee crisis, uncover and combat Russian influence and disinformation, and maintain Ukraine-related sanctions.

Taking a stand against the Polish government's radical overhaul of democratic institutions should include calling out its support for far-right and xenophobic groups. This includes the support it gives to organizations that rally the public against refugees and LGBT advocates, its political alliance with Ordo Iuris, an organization that equates LGBT identity with pedophilia, and its insistence on maintaining a homogeneous, white, Catholic country. Ignoring these problems will not make them go away. On the contrary, doing so may lead to the further mainstreaming of euroskeptic, far-right ideologies in Europe.

Unfortunately, in the short term, U.S. government responses have largely stoked, rather than alleviated, the problem. President Trump's July 6 speech in Warsaw, which heavily lauded the Polish government, was widely considered an affirmation of PiS's assault on Poland's separation of powers and rule of law.

On his trip, Trump visited the site of the Warsaw Uprising, but not the monument to the Jewish Ghetto Uprising. Omitting the latter observance marked a break with decades of tradition, a fact undoubtedly not lost on those eager to advance an antisemitic agenda.

During his speech, Trump emphasized the need to rally in defense of “Western civilization” to combat Islamic terrorism, playing right into the warped nationalism promulgated by PiS to deny rights to refugees, Muslims, and “multiculturalists.” The president addressed a fawning, enthusiastic

crowd that had been promised to him in negotiating the visit; PiS supporters were bused into Warsaw from rural areas, and many took the opportunity to boo and shout insults at opposition politicians.

The U.S. government has largely, though not exclusively, shied away from public disagreement with the Polish government's assault on checks and balances. PiS's attacks on Poland's Constitutional Tribunal elicited a noteworthy, if relatively mild, statement of concern from President Obama in July 2016. The U.S. government has to date failed to call out the sharp rise in xenophobic violence and online hate speech taking root in Poland since PiS took power, including forms that target NGOs, journalists, and opposition figures.

President Trump's latest visit emboldened some members of the Polish parliament to feel comfortable telling the United States that it should withdraw its support for LGBT Pride events in the country, and led state media to call out certain journalists as "enemies of Western civilization," echoing Trump's words from his speech.

In response to the Polish government's latest attacks on judicial independence, and two weeks after President Trump's address in Warsaw, the State Department released a statement that urged "all sides to ensure that any judicial reform does not violate Poland's constitution or international legal obligations and respects the principles of judicial independence and separation of powers." The statement went on to note, "Poland is a close ally of the United States, and a strong and healthy democracy in Poland is vital to relations between our two countries." Diplomatic niceties aside, these words likely registered strongly in the Polish capital, though they fell short of calling on President Duda to take specific action. Three days later, the Polish president announced that he would veto two of the three bills threatening to erode Poland's independent judiciary.

Poland's New Front against Civil Society

Polish civil society has spawned more than 100,000 NGOs since the end of communist rule in 1989. Today, according to a Deutsche Welle report, NGOs reportedly manage roughly eight percent of the country's education system, most of its homeless shelters, and virtually all of its athletic associations. Many also serve communities the government is unable or unwilling to serve, protecting the rights of individuals and of minority groups, and demanding transparency from authorities.

Today, many of these organizations are under attack. In particular, those that assist communities the government perceives as "not Polish enough" are suffering attacks on their reputations, on their funding, and even on their physical presence. The Polish government has opened this new front based on a new dangerous ideology combining a highly intolerant nationalism with Catholic religious values that approve of a narrow range of citizens and families, conclusively defining who is a "true Pole."

Summing up the Polish government's perspective, Wojciech Kaczmarczyk, who was chosen by the Prime Minister's office to oversee its plans for a future center on civil society funding, has recently argued that the government has "had enough of militant atheists and enthusiasts of sexual revolution appropriating the principle of equality."

Attacks Using State-run Media

Since coming to power, the PiS-led government has waged a campaign against what it terms NGOs "subordinate to the politics of previous ruling regimes," "loyal to the opposition," or "leftist." Using inventive language, Foreign Minister Witold Waszczykowski recently encapsulated this view, condemning Poland's previous center-right government for pursuing a

“left-wing” political agenda, as if the world “were destined to evolve only in one direction—towards a new mix of cultures and races, a world of bicyclists and vegetarians.”

In October 2016, Poland's main public news service, TVP 1, aired at least seven broadcasts concerning NGOs. A station that had previously been well-respected and viewed as independent, early in 2016 TVP 1 was taken over by the PiS government and turned into a mouthpiece.

Its broadcasts alleged that roughly 10 organizations and individuals working on human rights, government oversight and transparency, and rule of law programs were receiving funding as a result of fraud and corruption. TVP 1 shows claimed that the organizations were given funding based on familial relationships and personal ties to the prior Civic Platform government, and insinuated that funding did not serve the interests of Poland.

One line of attack was opened against Roza Rzeplinska, the daughter of Andrzej Rzeplinski, the (now former) chief judge of the Constitutional Tribunal. The elder Rzeplinski was at the time also under pressure from the Polish government, given his status as one of its most vocal critics. Roza Rzeplinska's organization, founded in 2006, focused on government transparency, and had received funding throughout previous changes in government without incident. TVP 1's broadcasts made no concrete allegations, but instead levied insinuations removed from hard evidence. They relied largely on a graphic indicating that funding for the group came from George Soros, implying that money provided by his foundation was somehow improper and being used to undermine the government.

The Stefan Batory Foundation, which provides funding for many civic and human rights activities in Poland, and the left-wing publishing house Krytyka Polityczna have also been accused of

being “agents” of Soros in Poland. In scapegoating a Jewish philanthropist well known for supporting open societies and responsive governments, far-right groups associated with the government have gone so far as to declare that Soros-funded NGOs are responsible for opening Poland's borders to refugees, promoting “gender ideology,” diluting Polish national identity, and attempting to overthrow the government.

In early 2016, the director of the organization Hejt Stop was targeted with hundreds of threatening social media messages, including some threatening to kill or rape her, after she called out MP and public figure Pawel Kukiz for his online anti-migrant statements. As a result of Kukiz's angry response, his followers flooded the director with hate and threats. She was required to have a police detail at her home and office for weeks afterward.

In July 2017, attackers waged a similar campaign against respected Brussels-based journalist Dorota Bawolek, after TVP 1 said that she asked the European Commission questions that were intended “to harm” Poland. Bawolek's questions to the EC pertained to then-pending legislation to force the retirement of Supreme Court judges, and permit the minister of justice to appoint replacements. TVP 1's coverage unleashed hundreds of messages to Ms. Bawolek on Twitter, in which the Polsat correspondent was called a “snitch,” “anti-Polish,” “a Soviet stooge,” and a “prostitute.” Reports regarding the incident in Poland contained calls to ban Bawolek's media outlet, and to establish a “list of traitors.”

Pro-government organizations have jumped in to support the government's verbal attacks on rights-promoting NGOs. A parliamentary committee has labeled the NGO Campaign Against Homophobia as “gender ideology” pushers who seek to harm children. And Ordo Iuris, an organization led by a former member of PiS that now collaborates closely with the government on policy, claims that

organizations that seek to end discrimination against LGBT persons are infringing on freedom of belief and economic freedoms, for example by forcing businesses to serve them.

Attacks on Funding: Zapping Norwegian Funds

The Norwegian government plans to provide 809.3 million Euros (\$882 million) to Poland between 2017 and 2021 to, among other things, reduce economic and social disparities. However, following a dispute with the Polish government, the Norwegians have placed their funding on hold. The PiS-led government wants to take over administration of the 40 million Euros that are currently earmarked for building Polish civil society, but the Norwegians know that this will mean that funds are not likely to reach groups that address refugees, women's issues, child abuse, LGBT rights, or other non-government-sanctioned social causes. An impasse has ensued.

The Batory Foundation has been in charge of allocating Norwegian funds since 2014, and has awarded more than \$34 million to 667 groups, ranging from organizations that protect democracy and gender equality to church charities. The PiS government has recently labeled some of these awards "controversial projects." A new Confederation of Non-Governmental Initiatives of the Republic of Poland (a union of right-wing NGOs) has accused the Batory Foundation of promoting projects that violate Polish law, including LGBT and women's reproductive health projects.

Public TV talk show host Jan Pospieszalski exclaimed his alarm on his show, saying that "public money" was being spent on "ideology-driven projects" such as NGOs working on marriage equality issues, or providing services to LGBT families. If the Polish government continues to refuse to make its grant administration process independent and transparent, Norway has

threatened to withhold all funds to Poland, the largest European recipient of its aid.

The Batory Foundation is now concerned that it will be starved of funding. Other organizations have had to reduce their functions, and lay off employees, as they wait to see if Norwegian-backed funds will be forthcoming. The Polish Society of Anti-Discrimination Law, for example, has had to stop training lawyers and curtail their program supporting shadow reports to international bodies, due to lack of funds. "The longer this negotiation stalls, the worse it will be for us," noted the group's director, Krzysztof Smiszek, in conversations with Human Rights First. "We have had to reduce our activities to just surviving."

Defunding Those not "Polish" Enough: Refugees, Women's NGOs

Since coming to power, the PiS government has attempted to systematically weaken support to communities it deems undesirable, such as refugees, immigrants, LGBT populations, and women fighting for equality and physical protection. For the last two years, it has withheld the distribution of what are called AMIF funds, or Asylum, Migration, and Integration Funds, because it does not believe it should accept any refugees or immigrants. AMIF funds come from the European Commission, and are generally awarded in multi-year grants.

The last grants awarded under AMIF were given to NGOs working with migrants and refugees in the fall of 2015. In the spring of 2016, the PiS government cancelled a call for proposals issued by the prior government. Instead of granting funds to organizations that assist refugees and immigrants, the government has said that awarding these grants and providing services for refugees would conflict with national security.

These "policies ... will make Poland safer than countries that are accepting refugees," said

Zbigniew Ziobro, Minister of Justice, in defense of the government's position. As a result, NGOs are laying off employees and fewer refugees are able to receive services. The Association for Legal Intervention (Stowarzyszenie Interwencji Prawnej, or SIP), one of the leading providers of legal and integration assistance, has lost about 65 percent of its funding. "We have had to lay off employees and significantly shrink support to refugees and immigrants," said Aleksandra Chrzanowska, SIP's board member.

The Helsinki Foundation for Human Rights, a leading, critical voice in Poland concerning the rule of law and human rights as well as in assisting immigrants and refugees, also received AMIF funding until PiS came into power. Until recently, public funds, including AMIF, accounted for one-fourth of its funding, or 2.5 million PLN. In 2017, this amount has been reduced to near zero. The organization has had to cut its staff working with migrants and refugees in half, and is supporting its ongoing work on these issues out of other funds.

In mid-2016, in deciding whether to award funding to women's rights organizations, the Ministry of Justice refused to award grants to two organizations that assist women victims of violence: the Center for Women's Rights and the BABA Lubuskie Center for Women's Rights. It also refused funding to an organization focused on child abuse, the Nobody's Children Foundation. The reason given for the denials to the women's organizations was that they discriminated against men in providing care. In their stead, two organizations that had more general mandates received the grants. One was a Catholic religious organization that generally works with poor people, and another states that it "supports families in carrying out their natural function."

The defunding of Nobody's Children (now known as the Empowering Children Foundation)

appeared to be motivated by its conflict with the government's ideological worldview, according to interviews conducted with NGO watchdogs monitoring the situation. The organization had recently conducted a study of the incidence of sexual abuse in Poland, and found that, as in many countries, there is a high incidence of physical and sexual abuse committed by family members.

The idea of family members threatening children, rather than providing an inviolable unit that the government must protect, clashed radically with PiS's outlook. As a result, the organization lost its funding from the Ministry of Justice. The hotline that it had created for reporting child abuse was deleted on all government websites, according to several interviewees. In place of funding Nobody's Children, the government funded a Catholic organization, Caritas, which works through religious dioceses, rather than with the public in general.

While funding of organizations focused on the indigent is a laudable goal, the complete defunding of organizations that focus on violence within the home leaves a significant need unmet. It also contributes to the societal perception that domestic violence against women and children is not a problem, arguably condoning such violence.

Audits, Intimidation, and Funding Cuts

The Polish government is now conducting a series of "audits" of NGOs that focus on issues that the government would prefer didn't receive attention. A growing body of evidence suggests that these audits are an attempt to burden and ultimately shutter the NGOs disfavored by the government, and to free up funding for GONGOs likely to focus on issues more amenable to PiS. Documenting this process in January 2017, a report published by the Polish Federation of Non-Governmental Organizations listed 17 cases of NGOs being audited or asked to return funds, spanning eight

government ministries, from when PiS took power in November 2015 to November 2016. Such audits remain ongoing.

In illustrative cases, organizations advocating on behalf of immigrants and refugees, LGBT communities, and women's rights were ordered to produce all financial and administrative documentation related to their programs for the past two to three years, within a week. As reported by representatives of one organization interviewed by Human Rights First, one auditor disclosed to the organization that the auditor had been told to come back with some form of violation—regardless of the merits of the case—from each organization.

In many instances, targeted organizations were told that they were in violation of financial rules, and ordered to pay grant money back to the government. One organization that works with refugees reported to Human Rights First in an interview that it was ordered to pay back 200,000 PLN. The government demanded 20,000 PLN back from a women's rights organization, and ended its funding agreement with the organization, while others reported that they were ordered to pay smaller amounts.

Most organizations negotiated with the ministry demanding a return of funds to reduce the amount claimed to be owed, or to show there was not a violation. Often, violations that the government claimed existed could be explained as erroneous. However, as Malgorzata Szuleka of the Helsinki Foundation for Human Rights noted, "Since 2016, we have seen numerous incidents of attacks against specific NGOs. The government is systemically limiting operational space. We worry that now it will get worse." To make matters worse, groups' attempts to appeal to the Polish public for funding—necessary to make up for the support they are losing from the government—struggle to overcome the government's increasingly hostile rhetoric.

The government also cut the funding of the most central human rights office in Poland, the Commissioner for Human Rights, reducing its funding by seven million PLN (\$1.9 million). Accompanying the funding reduction was a statement of reasoning by PiS members of Sejm that it will not "fund gender."

The government's interest in cutting funding for these organizations appears to be largely, if not entirely, politically motivated. PiS and its new NGO partners adhere to the belief that organizations that combat discrimination are often acting against the interests of Poland's Catholic majority. They have therefore urged removal from national rankings certain academic journals that concern lesbian and gay studies. A transgender organization was denied registration rights in Poznan because its objectives were deemed "incompatible with the interests of the state." Combating domestic violence is similarly associated with threats to the family under Poland's "family mainstreaming" ideology, which prioritizes the protection of the traditional family over the individual rights of persons that might be threatened within it.

Physical Attacks

NGOs that serve communities targeted by government rhetoric have also experienced physical attacks in the past year.

In February 2016, Human Rights First documented a Celtic cross and the phrases "white power" and "fagging forbidden" carved into the door of Lambda Warszawa Association, which provides legal, medical, and psychological assistance to LGBT people. In March, the organization's office was again attacked, with two people breaking a window. Also in March, the Campaign Against Homophobia, another LGBT organization, was attacked by a group of men who threatened employees and tried to break down the group's door.

In both cases, investigations were initiated by law enforcement, but then discontinued. In May, Campaign Against Homophobia suffered another attack when a rock was thrown through the office's window as attackers yelled "we're gonna burn you!" During Human Rights First's visit, the office was, for the second time in a year, monitored by a 24-hour a day police presence. The group's director, [A. Chaber](#), noted that "during the prior 15 years of our organization's existence, there have been protests, threats, and attacks on marches, but [until now] no one has bothered to find us on the map, and come try to break down our door."

In an environment characterized by the Polish government's harsh rhetoric toward NGOs and the minority communities they serve, those eager to carry out violence are undoubtedly emboldened by a sense of impunity. Organizations that measure hate speech and related attacks reported a drastic uptick since PiS came to power. Ombudsman [Adam Bodnar](#) noted in March 2016 that there had been a rise in "racial beatings" and "an extraordinary wave of hatred on the internet" since the latest election. NGOs focused on issues of xenophobia, and the office of the Ombudsman, confirmed to Human Rights First that they noted an increase in physical assaults and beatings of people that do not look Polish.

"By this I mean they have dark skin—even if they are Italian, or they don't conform to expected gender roles, or even that they wear a shirt in favor of the opposition," said Karol Chwedczuk-Szulc, a political scientist interviewed by Human Rights First.

It was shortly after Bodnar's statement regarding the increase in hate crimes that the government abolished the entity charged with monitoring and investigated hate crimes, the Council Against Racial Discrimination, Xenophobia, and Related Intolerance. The government's rhetoric of seeking to serve "the interests of Poles," broadly

understood to mean white, Catholic, far-right leaning Poles, while seeking to exclude "deviants," meaning refugees, Muslims, LGBT persons, and multiculturalists, has energized a virulent xenophobia in the country.

Creation of a Parallel Civil Society: GONGOs

Polish government officials, like the Plenipotentiary for Civil Society and Equal Treatment, have stated that they seek to develop a cadre of "conservative" NGOs that can focus on topics such as women's and family issues, discrimination, and refugee/migration from a traditional perspective. Some have noted that this intent appears to be political.

"Law and Justice lost power in 2007 because they hadn't realized the value of media and NGOs," said [Ewa Kulik-Bielinska](#), a leading human rights defender and head of the Batory Foundation. "In the decade since, they have been building up an alternative civil society, which helped them to power." These organizations are civil society, because they engage many people in their actions. But they aren't civic in terms of values," added Kulik-Bielinska.

In practice, the creation of a PiS-approved civil society means attempts to push out organizations that serve communities it considers unsavory, and the channeling of funding to only certain limited issues and causes. PiS priorities are twofold, as stated by the Plenipotentiary in 2016 in meetings with a number of NGOs and think tanks interviewed by Human Rights First.

First, terminating all funding for current anti-discrimination programs that protect women or LGBT groups. Second, channeling that funding toward programs that combat discrimination against clergy and large (presumably Catholic) families. It will likely mean that instead of providing asylum and resettlement assistance to the mostly Muslim refugees and migrants fleeing war and destabilization in Syria, Iraq, and

Afghanistan, the Polish government will seek to fund refugee and migration organizations that assist Christian refugees, and help them “in place” – i.e., in their place of origin. Indeed, the new darling of the government on refugee issues, according to NGO interviewees, is Fundacja Estera, a group run by a Polish-born daughter of a Syrian Presbyterian minister, which only assists Christian refugees.

Consistent with their statements, while decimating the funding and tarnishing the reputations of NGOs protecting human rights and transparency, the government is now creating its alternative “right-wing,” in its words, cadre of NGOs. These organizations, many of which are brand new and created at the behest of the government, are quickly gaining policy-making power. Ordo Iuris, a far-right anti-LGBT organization that focuses on “traditional values,” recently authored a controversial bill that would have instituted a complete ban on abortion, including in cases of incest or rape, and subjected women who received an abortion or miscarried to penalties including prison.

PiS introduced into the Polish parliament a law based on Ordo Iuris’s draft, but scrapped it in the wake of widespread popular protests. The organization was recently granted observer status at the U.N. Economic and Social Council (ECOSOC). It is now one of only three groups with such status from Poland, according to the Helsinki Foundation for Human Rights, one of the other organizations with such status. (The third is FEDERA: the Federation for Women and Family Planning.)

Inexperienced but politically-approved NGOs are increasingly in charge of implementing large swaths of government programs. At times, the Polish government holds up or re-solicits bids in order to allow these organizations to participate in the grant making process. They are, unsurprisingly, serving those communities likely to

support PiS, while largely ignoring those that don’t.

The organizations now receiving funds include:

Father Rydzyk’s empire. Father Tadeusz Rydzyk is a virulently anti-refugee and anti-Muslim priest who has been labeled by the last two Popes as antisemitic, homophobic, and xenophobic. The State Department called his radio station, Radio Maryja, “one of Europe’s most blatantly anti-Semitic media venues.” His ventures are currently receiving money from no fewer than four different Polish government entities. Rydzyk has refused to disclose his funding sources to a watchdog group with legal authority to obtain the information, arguing that it has “links with foreign entities that are not fully transparent.” However, some sources can be identified through public information.

Those that are known include:

- National Fund for Environmental Protection. In February 2016, the National Fund for the Defense of the Environment and Water Resources agreed to pay Rydzyk 26.5 million PLN for the cancellation of a subsidy supporting development of geothermal energy sources in Torun. The Minister of the Environment himself recently wrote a letter to parliament detailing Father Rydzyk’s virtues, including that he “openly fights leftist ideologies such as ‘gender’...[and] restores dignity to and stands in defense of the large part of society whose voice is not heard in the mainstream media and is despised by the liberal-leftist camp.”
- Ministry of Justice. In late 2016, the ministry awarded Rydzyk’s college, the Academy of Social and Media Culture, three million PLN to train Polish judges and prosecutors. The college educates young people in a “religious patriotic spirit.” PiS has also sought to earmark 20 million PLN to develop Rydzyk’s college.

- Ministry of Foreign Affairs. The Polish foreign ministry awarded Rydzyk's college 710,000 PLN in 2016 to create a Regional Center for International Debate. It also gave his foundation, Lux Veritas, 200,000 PLN to build a chapel commemorating Poles who saved Jews during World War II. The foreign ministry is also the source of funds awarded to Rydzyk's television station, Telewizja Trwam, which was given 495,000 PLN for a television series discussing E.U. funds to Poland. The ministry has also granted Rydzyk's Academy of Social and Media Culture 105,200 PLN for a project entitled, "Death for a slice of bread. Restoring international memory of Polish help to Jews during World War II."
- Ministry of Culture and National Heritage. The ministry awarded Telewizja Trwam 140,000 PLN for a social campaign on reading in April 2016.
- Agency for Reconstruction and Modernization of Agriculture gave Telewizja Trwam 250,000 PLN to create a TV show called, "The Countryside is Poland Too."
- Ministry of Science and Higher Education. The ministry has given Rydzyk's Academy of Social and Media Culture 60,000 PLN to teach 45 foreign students Polish, funding which had previously been awarded annually to Jagiellonian University.

In addition to Father Rydzyk's education and media empire, the following organizations are receiving funds from Polish government sources:

- The Foundation for Parents' Rights (Fundacja Rzecznik Praw Rodzicow). A "pro-family" organization and a longtime ally of PiS that has fought for, among other things, raising the mandatory age at which children start school from six to seven years old, and for the elimination of middle schools. The reforms sought by this group have been instituted as part of the education reform initiated by PiS in 2016. The group now partners with the Ministry of Education to implement its reforms, and consults with the ministry on "social changes" for students. In 2016, the group received a budget of 5.3 million PLN. The previous winners of the funding, a coalition of NGOs that taught a course on equality in schools, had their contract terminated.
- Foundation for Legal Culture, Institute Ordo Iuris. A think tank with ties to the Ministry of Foreign Affairs, this anti-LGBT and "traditional values-focused" organization drafted the complete ban on abortion proposed by PiS. The organization opposes abortion in all cases, as well as same-sex marriage and civil partnerships, and sexual education. The organization also advocates for maintaining children in custody of parents even in situations of domestic abuse.
- Estera Foundation (Fundacja Estera). This organization has been approved by authorities to organize acceptance of 150 Christian refugees from Syria with the assistance and support of the government. These are the only refugees the government will accept. It is turning back Muslim refugees arriving at its border, and all funds for organizations that work with refugees more generally (AMIF funds) have been withheld, as detailed above. Unlike other refugee organizations, Fundacja Estera likely receives assistance because its director agrees with the government that Muslim immigrants are a "huge threat" to Polish citizens.
- "Solidarity Association 2010" (Stowarzyszenie Solidarni 2010). This fringe group was created after the April 2010 plane crash that killed a number of Polish political leaders, including former president Lech Kaczynski, brother of current PiS leader Jaroslaw Kaczynski. The group advances the

position that the prior government, Civic Platform, engaged in “treason” to kill Lech Kaczynski. It has posted a tent across from the presidential palace with its four demands (several of which have been met): (1) the firing and punishment of a number of leaders, including Donald Tusk and Radoslaw Sikorski; (2) that an international commission be appointed to investigate the plane crash; (3) that permission be given to exhume all bodies of the dead from the plane crash; and (4) that satellite pictures of the crash site be disclosed. A collection of long-time PiS allies, the organization received 174,400 PLN from the Ministry of Foreign Affairs for a project titled “Past and Future—New Political History.”

- The Republican Institute, a religious institution with ties to the far-right National Movement, and to the Republicans party, a splinter from the right-wing Kukiz’15. It received 137,000 PLN from the Ministry of Culture to conduct audits of other organizations financed by the Ministry. The organization had no prior experience in conducting audits. In awarding the grant, the culture minister argued that despite a lack of experience, the group would be more objective than the existing Bureau of Internal Audits and Verification. The former director of one of the audited organizations, who was dismissed on April 1, 2016, told an independent newspaper that the procedures used to investigate his organization were less than legal. “Unlike official audits that are based on laws, these auditors did not have to worry about legal restrictions normally put in place. They claimed there was no need to receive written permission from the directors [of the investigated organizations for these audits], nor was there an option to appeal the results. It thus resembles a kangaroo court rather than an audit.”

A National Federation of Polish Non-Governmental Organizations (OFOP) has coordinated the work of over 400 Polish NGOs since 2003, organizing programs to support the sector, promoting performance standards among members, and advocating for a strong civil society. Recently, however, the government has created a competing organization, the Confederation of Non-Governmental Initiatives of Poland, that will presumably become the coordinating body of the new community of GONGOs currently being established and funded. A meeting of these “right-wing” NGOs was held in March 2017 to inform them of new funding procedures. Very few of the currently-funded NGOs were invited to attend.

One theory interviewees offered Human Rights First as to why the government has withheld AMIF and other refugee and migrant integration funds suggests that it appears to be waiting to award the money until a pro-government refugee organization can be formed. This organization, whose creation already appears to be in the works, will focus on assisting Christian refugees, and will provide assistance “in place,” i.e., in the home country. It will not assist with resettlement, or with obtaining legal status in Poland. Once this organization has finalized its registration, interview subjects argued, the Polish government will likely award all AMIF funds and any other immigration-related funds to it.

Finally, human rights activists in Poland expect that their government will soon introduce new legislation that will establish executive control over all NGO funding and oversight. If passed, the legislation envisions establishing a “National Freedom Institute and Center for Development of Civil Society” under the auspices of the Office of the Prime Minister. The institute’s director, and the majority of its council, will constitute a new body, chaired by a member of the Polish cabinet.

As the Helsinki Foundation for Human Rights notes, the relevant [legislative proposal](#) contains no guarantees that this new body will follow applicable E.U. rules related to non-discrimination, or to the development of a sustainable civil society. The institute would control the funding formerly awarded by the Ministry of Labor and Social Policy, or roughly 60 million PLN (\$16.5 million), in addition to the remainder of the [Norway Grants](#), a total of 32 million euros (about \$37.4 million) to be distributed between 2013 and 2017. Adam Lipinski, the current Plenipotentiary for Civil Society and Equal Treatment, said the center will be [launched by next year](#).

Recommendations

On the basis of its research, Human Rights First offers the following recommendations to the U.S. government and Congress. Implementing these recommendations would make clear the importance the United States places on a Poland that continues to support the rule of law, governmental checks and balances, and a vibrant civic sector.

The Trump Administration Should:

- Urge President Duda, Prime Minister Szydlo, and the head of the Law and Justice (PiS) Party Jaroslaw Kaczynski to uphold the shared values of the United States and NATO, including the values of democratic governance, transparent governance, separation of powers, and a robust civil society, by maintaining and funding a broad array of rights-protecting NGOs through transparent and independent procedures that include an appeals procedure for funding awards.
- Urge the European Parliament to include discussion of attacks on NGOs as part of the procedure considering whether to trigger Article 7 (1) of the Treaty of the European Union and initiate rule of law proceedings. On July 19, First Vice-President Frans Timmermans said that the European Parliament is very close to invoking Article 7. The U.S. government should make clear its support for such an invocation if the Commission finds that Poland is violating and rejecting the shared values on which the European Union and trans-Atlantic security rests.
- Urge the European Union to quickly and effectively enforce ongoing infringement proceedings concerning Poland's violations of E.U. rules.
- Urge the Polish Prime Minister and Ministry of Justice to condemn physical attacks on NGOs, immigrants, and LGBT groups in Poland, reminding them that their failure to do so can be interpreted as creating an enabling environment.
- Indicate U.S. support to the Norwegian government for its intention to withhold aid to the Polish government until Poland agrees to institute an independent and transparent procedure for selection and distribution of civil society grants.
- Urge the Polish government, including the Sejm, the Senate, and the Executive, not to pass or sign into law the draft bill establishing the National Freedom Institute and Center for Development of Civil Society.
- Issue public statements urging the Polish government to cease verbal attacks on NGOs that serve communities it disfavors; speak out against politically-motivated defunding of organizations that serve refugees, immigrants, women, child victims of abuse, LGBT communities, those that promote human rights, and government transparency.
- Call on the Plenipotentiary for Equal Treatment and Civil Society and the Chancellery of the

Prime Minister to ensure that any audits or “inspections” of NGOs comply with Polish law and international standards of due process.

- Support Polish civil society’s call for the Venice Commission to review Poland’s process for administering civil society grants.

Members of Congress Should:

- Publicly urge the Polish government, including through the passage of resolutions, to end its campaign against civil society groups and journalists simply because they disagree with government policy, and to maintain transparent and independent funding procedures for civil society groups. Urge the Trump Administration to do likewise.
- Support the European and Eurasian Democracy and Anti-Corruption Initiative, a portion of S.94, the Counteracting Russian Hostilities Act of 2017. The initiative would earmark funds for civil society programs in Eastern Europe to combat disinformation, and support pro-democracy and rule of law programs.
- Maintain funding sources that support Eastern European organizations, including Polish organizations, engaged in human rights, democracy development, and anti-xenophobia programs.
- Create a new fund and emergency assistance program that can serve human rights defenders in Europe, including in Poland, recognizing that current emergency assistance programs are prohibited from serving Polish human rights defenders because Poland has provided recent financial assistance for these programs.

