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## **Introduction: A Polarized Country in Need of a New Social Contract Let's Agree on Poland. A Case Study in Strategic Constitutional Design**

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Let's Agree on Poland. A Case Study in Strategic Constitutional Design

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**Introduction: A Polarized Country in Need of a New Social Contract**

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How to talk about the crisis

“This is perhaps the most important election of our lifetime. The very future of our democracy is at stake.” How often have we heard such a dramatic call to action? In democracies old and new, worries about the survival of our constitutional systems have become the central theme of the political discourse. In the United States, three presidential elections have revolved around the spectacle of Donald J. Trump challenging mainstream democratic standards and the political establishment desperately trying to stave off his electoral advances. In France, three of the five presidential elections held in the past two decades involved runoffs with Trump’s counterparts Jean- Marie and Marine Le Pen. In those two and many other countries, the democratic experience of an entire generation has resembled an at times apocalyptic struggle against supposed existential threats to the very continuation of the democratic form of governance. In some nations, the politicians branded as villains in these struggles have eventually broken through mainstream cordons and risen to power. The

home nation of this book's co- authors— Poland— is on that list. Writing about what happens next is not easy for us, the editors of this work by the most remarkably diverse group of contributors— intellectuals whose political leanings span from social democratic to very conservative. Since 2017, when we started our work in a group of more than 130 Polish intellectuals, which we named the Social Contract Incubator— or IUS, which is the abbreviation of our Polish name— we have been following a few simple rules. For a start, each of us continued our work as a leftist, centrist, or conservative intellectual.

In the context of Poland, this meant that we could all be active and passionate participants in the above- mentioned spectacle of the (real or imagined) democratic crisis. Many of us loudly protested the staunchly conservative government of the Law and Justice party, known by its Polish acronym PiS, believing that it was leading Poland on a path to autocracy. Others, on the contrary, supported the government or at least viewed the alarm as wildly exaggerated and perhaps politically motivated. What we did agree on was that the “Polish– Polish war,” a term coined with our typical national sarcasm, could not continue. Not when the historically unique period of geopolitical calm that our nation experienced after 1989 had ended so abruptly. Coming from our distinct ideological traditions, we also focused from the outset not on some elusive policy compromise, a “centrist” position that would satisfy no one, but rather on identifying an institutional arrangement that would allow “our” respective sides of the political game to continue to vigorously disagree and compete for voters’ support, but within some mutually accepted rules of the game. The motto of

our group, reflected in the structure of this book and proposed by one of our conservative members, became: “Agreed, we are Different.”

Our endeavors have indeed unfolded very much in the spirit of what Cass Sunstein called an “incompletely theorized agreement”<sup>1</sup>— a shared constitutional proposal that its various proponents support for different reasons. The intellectual task of determining the social, political, and economic why behind our proposal was never our objective. When the Polish edition of this volume was published in May 2023, quickly becoming an unlikely nonfiction bestseller and dubbed “the most important book on Polish politics since 1989” in the country’s main opinion weekly, *Polityka*,<sup>2</sup> this absence of a deeper diagnosis was not too much of a problem: following decades of increasingly heated and high- stakes political conflict, every Pole intuitively understood what the “Polish– Polish war” meant, and why stopping it made sense. For this international edition, however, we found it useful to place our efforts in a broader comparative context. But in doing so, we immediately encountered the challenge of creating a theoretical frame that would remain true to the spirit of our unusual exercise: a comparatively understandable diagnosis of the problem that Poland and, we believe, many other nations are facing— but a diagnosis that both a conservative and a progressive would consider fair. This is easier said than done.

Lawyers and political scientists are too rarely ready to admit the degree to which our analytical work is influenced by our normative convictions. Even the labels that mainstream scholars use to describe right- wing leaders and movements are hardly neutral. Populists, far- , extreme- or radical right,

authoritarians, autocrats, neo- fascists . . . As individual scholars of liberal and centrist political persuasion, the authors of this introduction often describe modern radical right- wing movements in these terms. As organizers of a cross- ideological network, we became used to seeing things from differing perspectives. And, perhaps, there is something analytically interesting in trying to describe the current democratic crisis in a way that engaged citizens on both sides of our political barricades can see as reasonably impartial. Let us try.

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