

## LEGAL AND SOCIAL CONSCIOUSNESS

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### The Inconsistent, Everyday Legal Consciousness of Contemporary Poles

*Abstract:* On the basis of a nationwide survey conducted in 2020, this article strives to answer questions concerning the legal consciousness of contemporary Poles. Above all, it aims to establish whether the law is of value in Polish society—used as a tool for the resolution of conflicts, protection of rights, and the management of social relationships. The analysis is anchored in the Polish tradition of research on legal consciousness, but goes beyond that tradition to emphasize a sense of agency and competency as key components of legal consciousness. Moreover, the analysis links legal consciousness to other areas of life controlled by legal regulations. Supported by such theoretical considerations, this article presents an empirical model of legal consciousness in order to ponder a question about the empirical roots of the rule of law and legal alienation in the consciousness of Poles today.

*Keywords:* agency, legal competency, legal alienation, everyday legal consciousness, legal nihilism from above

What traits are typical of the legal consciousness (LC) in a society whose laws have been and continue to undergo frequent and fundamental changes? Fundamental shifts took place over 30 years ago as a consequence of the profound transformation of the political system, accompanied by the introduction of a market economy and institutional reforms aimed at establishing the rule of law in Poland. That transformation was followed by Poland's accession to the European Union (EU) and the need to bring Polish law into line with EU law.

The most recent and equally fundamental legal revolution has been initiated by *Prawo i Sprawiedliwość* (PiS) [Law and Justice], the party that came to power in Poland in 2015. The current changes, however, are antithetical to those begun in 1989: these aim to dismantle the rule of law, at least robbing it of its most vital fixture which is legal control of the government. These changes, therefore, constitute an important component of the context for LC formation. Here one should stress the government's "legal nihilism" which manifests itself as a whole and utter disrespect for the law unless it is a useful instrument for the protection of vested interests. This pertains to governmental agencies, including the President, Prime Minister, cabinet ministers (especially the Minister of Justice), ruling party parliamentarians, and, above all, the ruling party's leader who informally, but effectively decides upon the contents and interpretations of the law, exerting more and

more influence on its application (Skąpska 2023; Izdebski 2021). Additionally, according to a recent research study, popular criticism or lack of interest in the rule of law is a consequence of hindered access to justice—something experienced by Polish society today (Winczorek and Muszyński 2022; Winczorek 2022).

What are the characteristic features of the everyday LC of citizens who experience not only a “legal nihilism from above,” but whose daily lives are saturated by law? On the one hand, such a saturation is characteristic of modern societies (Hertogh 2018: 8). Moreover, this is especially true with respect to Western societies where everyday life is steeped in law in a way that goes unquestioned, unnoticed, and uncontested, seemingly not open to negotiations (Silbey 2005: 323, 331), and where legality is an ongoing social action (Ewick and Silbey 1998: 33–56). On the other hand, however, this kind of saturation bears quite unique features in the ordinary lives of today’s Polish citizens. Here the law is undergoing constant and deep changes; poorly written or faulty law is overproduced, created quickly and messily. According to data published in the Legal Barometers—reports prepared annually by the accounting and advisory legal firm Grant Thornton on the amount and quality of law in Poland—the sheer amount of hastily produced law places its addressees in an extremely difficult situation, one that prevents citizens from meaningfully knowing and comprehending the law of the land.<sup>1</sup> This law is also repetitively altered: it has been assessed as the most unstable law in the European Union (Cipiur 2016). In consequence, Poles are faced with a contradictory need to, on the one hand, use the law, and, on the other, overcome the great difficulties in grasping its contents while avoiding the risks and stress associated with its sheer and shifting magnitude.

There is yet another important feature of the new legal revolution in Poland: the so-called “reform” of the judiciary launched in 2015. That restructuring consisted mainly in the actual subordination of the judiciary to the government as well as a packing of the Constitutional Tribunal, the Supreme Court, and, consequently, the lower courts with obedient servants of the government. This has resulted in a devastation of the rule of law—among other things, also in the growing timespan and costs of legal proceedings (Pech, Wachowiec and Mazur 2021: 1–43). According to the Rule of Law Report for Poland, the average court proceedings have steadily lengthened since 2015, from 4.2 months in 2015 to 7 months in 2020.<sup>2</sup>

Considering the possible consequences of a top-down legal nihilism, an overproduction of faulty laws, and the hurdles erected by an alleged judiciary reform, are average Poles indeed “legally alienated”—to use the term coined by Hertogh (2018: 13)? Do Polish citizens treat the law with hostility and/or disrespect, substituting for it with informal rules of justice, reciprocity norms, or pure strength and power? Or does the law nevertheless attain practical value or even importance due to the fact that it is a necessary, unavoidable tool for the resolution of conflicts and the management of social relationships (including

<sup>1</sup> Grant Thornton 2019. “Legislacyjna burza słabnie,” Barometr stabilności otoczenia prawnego w polskiej gospodarce (<https://granthornton.pl/wp-content/uploads/2019/02/BAROMETR-PRAWA-2019-Legislacyjna-burza-s%C5%82abnie-RAPORT-Grant-Thornton.pdf>); Grant Thornton 2020. “Zmienność prawa nadal przytłacza,” Barometr stabilności otoczenia prawnego w polskiej gospodarce (<https://granthornton.pl/wp-content/uploads/2020/03/Barometr-prawa-RAPORT-2020-03-05-2020.pdf>).

<sup>2</sup> Poland. Rule of law report for 2021. ([https://www.batory.org.pl/wp-content/uploads/2022/02/Rule-of-law-report\\_CSOs\\_Poland\\_submission.pdf](https://www.batory.org.pl/wp-content/uploads/2022/02/Rule-of-law-report_CSOs_Poland_submission.pdf)).

those between the citizen and the state) in a contemporary, diversified society (particularly one characterized by an overwhelming lack of mutual trust)?<sup>3</sup> What component of LC is decisive in the acceptance and even positive assessment of the law in the consciousness of Poles, notwithstanding their precarious situation?

This article sketches out some answers to the questions posed above on the basis of the findings of a nationwide survey conducted in 2020. This study is vital not only from the perspective of discovering the opinions and views contemporary Poles hold on the subject of the law, but also because it constitutes the first post-1989, comprehensive research into the LC of Polish society as a distinctive phenomenon.<sup>4</sup> Moreover, as there are not many quantitative studies treating LC consciousness as a complex construct and providing general population data (Horák, Lacko and Klocek 2021), we are of the conviction that both the data and its analysis could be useful in theory building when focusing on contemporary problems in the conceptualization of LC. Finally, this line of inquiry is also valuable because of the roots which rule of law principles might have in popular, even mundane opinions and paradigms of law.

The study is anchored in the Polish sociology of law tradition of research into the LC. At the same time, however, this analysis goes beyond that tradition by, above all, expanding the foundations for its theoretical conceptualization. Theoretical inspirations are drawn here from the concepts of agency and structure. The empirical assumptions upon which the survey was based arose from the practical implications of the earlier-mentioned general inundation of daily life by law that is typical of contemporary societies, and the burgeoning flood of faulty law that is typical of Poland. Therefore, the classic component of KOL (Knowledge and Opinion about Law) surveys was replaced here by that of popular paradigms of law which comprise some knowledge about law, opinions about it, as well as its more or less coherent images and perception.<sup>5</sup>

In addition to inclusion of the key context of PiS's nihilistic legal revolution, another novelty of our study lies in the assumption that the law's addressees are not simply passive recipients of legal regulations. On the contrary, this inquiry postulates that, especially in modern societies, citizens are often active agents who use the law to reach their goals, even if sometimes declaring a general disrespect for it. This is all the more true when conflicts of interests or values arise and, rather than wait for an ex cathedra decision, active legal subjects decide about strategies of conflict resolution. Thus a noteworthy component was added to our concept of LC: imaginable, relevant strategies for fulfilling specific objectives in a regulated domain. Consequently, novel in and central to this research has been the assumption of human agency<sup>6</sup> and competency as key components of the legal consciousness.

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<sup>3</sup> CBOS, Research Report no. 37/2022, "Zaufanie społeczne" ([https://www.cbos.pl/SPISKOM.POL/2022/K\\_037\\_22.PDF](https://www.cbos.pl/SPISKOM.POL/2022/K_037_22.PDF)).

<sup>4</sup> This differs from the comparative research in the United Kingdom, Poland, and Bulgaria, where legal consciousness was investigated in close connection with the local legal cultures (Hertogh and Kurkchian 2016).

<sup>5</sup> In a similar vein, LC has been recently defined as "a cognitive image of law that is constructed through the life experience of people"; "a pattern of thinking among people about what law is and how they relate to it" (Hertogh and Kurkchian 2016: 404, 422), and "dominant perceptions of law" (Kurkchian 2012).

<sup>6</sup> Other studies of LC do take human agency under consideration, but these have been focused mainly on rights consciousness as a crucial factor in deciding upon legal action. See the overview in Halliday's (2019) review essay of Hertogh's (2018) *Nobody's Law*.

Hence, our conceptualization of LC refers directly to sociological and socio-psychological theories of agency as a property of social action. Considered first is Anthony Giddens's (1976: 75) concept of agency as a "stream of actual or contemplated interventions [...] in the ongoing process of events-in-the world" with the power to shape life circumstances. Second is Margaret Archer's (2000: 135) concept of agency as a continuous sense of self, acquired as a result of practical activity. Finally, there are the socio-psychological conceptualizations of human agency that stress intentionality, forethought, self-reactiveness, and self-reflectiveness as its core features (Bandura 1989:1175).

In accord with such a theoretical perspective, and in order to delve deeper into the everyday LC reconstructed from the survey results, we link the issue of LC to that of the potential experiences of ordinary people in areas of life encompassed by legal regulations.<sup>7</sup> Hence the findings presented in the first section of this article refer to two aspects of LC: 1) general opinions and images of the law along with declared, general strategies in conflicts between either the citizen and government or between citizens themselves, and 2) the opinions, convictions, and strategies associated with the potentially most common, everyday life experiences. In the second part of the paper we present an empirical model of LC built on the basis of the conducted analyses. The text concludes with remarks on the possible roots of the rule of law in the everyday LC of Poles.

### A Theoretical Model of Legal Consciousness

In recent years, debates on law and LC have focused on the empirical foundations of the sociology of law and the legacy of Eugen Ehrlich's conceptualization of "living law"—i.e., the law as interpreted and applied in various sociocultural milieus (Hertogh 2004; Rottleuthner 2016; Bucholc 2019). Thus, the first important point in the debate on and research into LC concerns the conceptualization of its object—the law as it is perceived, imagined, and understood by its addressees within the context of their daily life. The second concerns the law's addressees seen as autonomous, reflective and intentionally acting human agents.

In classic Polish literature in the field, research into LC has been characterized either by an objective approach focused on the law as an object of knowledge, evaluations, and postulates, or by a more subjective one focused on the sociopsychological foundations of "legality" as understood by ordinary people. The objective approach was fundamental in the studies conducted by Maria Borucka-Arctowa (1974; 1978; 1981). Its distinguishing feature consisted mainly in a separation of the law "in the books" from that of "law in action" as well as from the knowledge and opinions about the law in books held by citizens. The subjective approach led to the conceptualization of the law itself as a generally defined sense of legality, and LC as popular convictions about what is rightful and lawful, independent of the official, written law. The latter conceptualization was fundamental in studies conducted by Adam Podgórecki (1966; 1971; 1974; Kojder and Podgórecki 1972; Kojder 1990). Both these approaches are countered by the pragmatic approach

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<sup>7</sup> For instance, Laura Nielsen (2000: 1059) speaks of "the subtle ways in which law affects the everyday lives of individuals."

focused on the experiences of ordinary citizens in their everyday encounters with law-applying institutions. In contrast to the classic conceptualization of “living law”, the concept here takes the form of “law in action”—the law applied in courts, by the police or by governmental institutions; as such, it is experienced and critically evaluated by people. Among the works which pragmatically address LC, particularly noteworthy is *The Common Place of Law* by Susan S. Silbey and Patricia Ewick (1998). LC is defined by these authors as the experiencing and understanding of what is perceived as rightful and lawful by ordinary people. Yet another American scholar, Sally Engle Merry (1990: 5) calls this “the ways people understand and use the law.”

The research project debated here goes beyond the objective as well as subjective conceptualizations of the law. It also tries to avoid the trap of treating an object of legal consciousness either as written or applied, “living” law. Firstly and obviously, the law exists as a key part of the social reality in modern, complex societies; it cannot be reduced to a subjective sense of legality. However, because of the complexities of modern law, and the simultaneously expanding scope of legal regulations with their frequent changes, that social reality (from an average citizen’s viewpoint) may be perceived as distant or even intimidating, stressful, and risky but, above all, difficult to understand. The law thus takes the form of a „black box”, one whose contents and internal workings are incomprehensible for the average person. In popular consciousness, knowledge about the law is replaced by the mix of convictions regarding legal regulations, opinions thereof, images of the more or less clear rules of the game absorbed in the process of legal socialization, and by experiences in the domains regulated by law. However, the addressees of law—active human agents—use those convictions to obtain their goals. Hence convictions, images, and opinions about the law are coupled with strategies on how to act in legally-regulated situations in order to achieve some planned goal.

The practically-oriented concept of LC is connected to the aforementioned sociological concept of agency: a capability to wield control, to have the power and potential to act at one’s will in the achievement of specific goals, and to overcome personal and structural hurdles. Such an aptitude is affected by cognitive belief structures, personal experiences, and the set of structural factors that bears the potential of supporting or inhibiting agency (Giddens 1984). This is all the more true under the circumstances of “legal nihilism from above” in combination with the complexities of malfunctioning, everchanging laws; all this must be overcome by the individual if his or her goals are to be achieved. Therefore, for research into the LC of contemporary Poles, the “anti-necessitarian” concept of agency seems particularly viable—one that finds the individual able to resist, deny or transcend structural context (Unger 2004).

Considering the theoretical assumptions discussed above, a model of LC was created consisting of three core elements: 1) beliefs, convictions, and opinions about the law, 2) evaluations of the law, and 3) the declared legal competence (including a declared knowledge about the law, action-taking, strategies, etc.). Associating the phenomenological sociology applied in research with everyday life, legal competence is further defined as a subjective declaration of the knowledge an individual possesses about the law. This includes, too, an adjunct, avowed readiness to take actions (in first order, the seeking of useful, relevant information) expedient in the solving of precise legal problems. With

regards to general beliefs about the law, taken first into account were views on the importance and functions of the law itself, with a particular accent on the protection of rights. Finally, the notion of evaluating the law was conceptualized as an assessment of its fairness and functionality.

That analysis was based on the assumption that agency encompasses a broad spectrum of human action and correlates with key social characteristics of the agents themselves: their professional activity, level of education, age, gender, and income. Legal competence—as conceptualized here and as it operates in Polish society—represents merely a single aspect of agency. From the survey perspective, civic agency is also of importance: firstly, in the sense of political agency (operationalized herein as a readiness to participate in parliamentary elections), and, secondly, as civic agency proper (operationalized herein as membership in civil society organizations, such as NGOs, political parties or labor unions). Because other normative systems are also significant for the functioning of law in society, religion (operationalized here as religiosity and participation in religious practices), and political sympathies (operationalized as support for a particular political party) were also included as independent variables.

### **Research Method**

The survey of the project at hand was conducted by the Public Opinion Research Centre (Centrum Badania Opinii Społecznej, CBOS) in August 2020 on a representative, nationwide sample of 1000 adult Poles. The survey has yielded a more wide-ranging and deeper picture of the Polish LC than the typical KOL survey. It was composed of closed-ended, partially-closed, and open-ended questions. Regarding the closed questions, respondents were provided with the option of multiple answers as well as scaling or ordering of the presented possibilities, thus contributing to more comprehensive survey results. The questionnaire itself consisted of four main parts. The first contained questions with regards to general opinions and images about the law, declared knowledge of the law, and general strategies preferred in dealing with legal problems. The second part was devoted to contacts with the law and institutions which apply it, as well as with sources through which people acquire knowledge about the law. The third part included questions about the constitution. The fourth, last, and longest section of the questionnaire presented specific and feasible case examples associated with the following branches of law that regulate select spheres of social life associated with commonplace experiences: labor law, civil law (family, inheritance, and property law), patient rights, and administrative law. In this article which focuses on the everyday LC of Poles, only the results of the first and (partially) fourth sections of the questionnaire (inasmuch as they concerned private law and interpersonal relations) will be discussed in detail.

### **General Images of the Law**

In light of the survey responses, it is clear that Poles commonly believe that the law is necessary. Indeed—to the straightforward question of “Is the law necessary at all?”—

99% of those participating in the study confirmed that it is. The answers provided by the respondents to the next question show that, in Poland, a generally-shared belief in a need for the law is accompanied by distinct preferences regarding its functions (see Table 1). The law, in the respondents’ opinion, is necessary because it chiefly serves the seeking of justice, and then, in second place, the resolution of disputes and conflicts. It is only in third place that safety and social order appear. Moreover, the protection of rights is selected significantly more often than punishment and nearly twice as often as the enforcement of duties and obligations.

Table 1

**Frequency distribution of responses to the question: “What does the law primarily serve to do?”  
(More than one response permitted)**

Responses	Percent
Seek justice	68.9
Resolve disputes and conflicts	60.2
Ensure social safety and order	45.2
Protect rights	41.2
Penalize	28.2
Enforce obligations	21.3
Pursue the interests of the authorities	6.5
Something else	1.1
Hard to say	0.4

Respondents were also asked about the significance of the law in contemporary society. Responding to such a query, the overwhelming majority of Poles stated that they attach great importance to the law (see Table 2). Only around 21% did not share so strong a belief about the law in contemporary society. Both with regards to the question of whether the law is needed and the question regarding its contemporary significance, noteworthy is the very low percentage of persons answering that it is hard to say (2% and 0.5% respectively). This means that the respondents have well-developed, strong opinions—mostly positive—with regards to the importance of the law and its necessity.

Certain opinions on the functions of law as well as its importance in modern society can be linked to certain meaningful sociodemographic factors.<sup>8</sup> With respect to the functions of law, it is the declared level of religiousness which affects indications that the law serves the seeking of justice, and ensures social safety and order. Of those who stated that they are deeply religious, respectively 72% and 64% thought that these two purposes are the primary functions of the law. In contrast, respondents who stated that they are nonreligious opt more often than average for protection of rights, the enforcement of obligations, and conflict and dispute resolution. One can conclude, that “penal” and, above all, “law and order” conceptualizations of the law are principally more typical of deeply religious persons, whereas its “civilistic” (conflict resolution) or civic (rights protection) is more typical of respondents who declare themselves as not religious. As for the penal conceptualization, it

<sup>8</sup> All relationships presented here are statistically significant—at the level of  $p < 0.05$  or  $p < 0.01$ .

Table 2

**Frequency distribution of responses to the question:  
“Very broadly speaking, the significance of the law in contemporary society is...”**

Responses	Frequency	Percent
Very great, the law is indispensable in contemporary society	422	42.2
Great, it is difficult to do without it in many cases	361	36.1
Neither of great nor little importance	160	16.0
Little, the law is not especially important	33	3.3
Very little, the law (in principle) does not really matter	19	1.9
Hard to say	5	0.5
<b>Total</b>	<b>1000</b>	<b>100.0</b>

is more often chosen by men, whereas women more often opt for seeking justice, protection of rights, and execution of duties.

A different set of sociodemographic factors influences opinions on the importance of law in present-day society. The most evident dependencies are connected with civic agency. Respondents declaring themselves to be politically active (planning to participate in elections) as well as socially active (members of civic organizations) appreciably more often express the opinion that the importance of law is very great and indispensable in modern society, or that it is difficult to do without it in many cases.

Support for these opinions depends also on age. Observable here is a linear regularity: the frequency of the opinion that the law's importance is very great increases with increasing age, whereas the opinion that “it is difficult to do without the law” decreases. Still, both of the positive opinions about the importance and usefulness of the law were most often chosen by respondents aged between 30 and 64 years; this might be natural since, hypothetically, this population subset is at a stage in life when a citizen has the most contact with the law.

Another meaningful factor here is the level of education or type of professional activity. Affirming opinions—that the law is important and even indispensable, or that it is difficult to do without it in many cases—are seen most often among persons of a relatively high level of education. All respondents who are directors of companies (100%) believe that the importance of law is very great or great; such opinions are very often found among highly-educated specialists and artists (89%), among those holding a permanent employment contract (87%) and those who have their own firm (72%). On the other hand, only 15% of the unemployed opted for the response “Great, it is difficult to do without it in many cases.”

With respect to how significant the law is for the regulation of interpersonal relations, the data indicates that the opinions of Poles are nearly the reverse of those presented in [Table 2](#). In the opinion of the respondents, it is not the law which is the primary regulator here, despite a high value assigned to it elsewhere. Such a conclusion can be reached through answers provided to the question “What primarily guides people in dealings with one another?” ([Table 3](#)). In light of these results, in the area of interpersonal relations, the law (although generally evaluated as very important) is replaced predominantly by morality and ethics or by common mores. Interestingly enough, religious rules are indicated as the



Table 3

**Frequency distribution of responses to the question:**  
**“What primarily guides people in dealings with one another?” (Respondents could choose three answers, ranking them from 1 to 3; the ambivalent “hard to say” responses are not considered in the table).**

Responses	First choice	Second choice	Third choice
Moral and ethical rules	44.8%	25.2%	15.4%
Common mores	26.5%	29.1%	28.1%
Legal norms	13.9%	21.9%	20.0%
Emotions	10.6%	12.5%	13.0%
Religious rules	3.2%	8.7%	11.9%

least in regulating interpersonal relations—quite unexpected a result in a society which perceives itself as religious.

That said, the religiousness factor does, in fact, bear an influence upon answers to the question at hand—morality and ethics were more often chosen by religious persons, and common mores by the nonreligious. Another factor differentiating the opinions of Poles are their political preferences. An above-average emphasis on morality and ethics is found among supporters of *Koalicja Obywatelska* (KO) [Civic Coalition], *Konfederacja* [Confederation] and *Ruch Polska 2050* [Movement Poland 2050] while an emphasis on common mores is found among supporters of *Lewica* (Left). The electorate of the PiS chose religious norms more often than the average respondent, but the difference here is not substantial.

Further, respondents were asked to declare how they would react in two key sets of circumstances: if they were aggrieved by the government or had problems with a contractual relationship. Regarding the first situation, the question was: “What would you do, first of all, if you were wronged by the government (e.g., if you were deprived of your disability or other benefits, retirement pension, or property)?”. The second situation was explored by the question: “What would you do, first of all, if you had a legal problem related to a lawful contract (e.g., rental agreement, car repairs, etc.)?”. Respondents’ answers to both questions (see Table 4) are meaningful indicators of combined activity and engagement—that is, agency in legally-regulated domains.

As it turns out, when confronted with the government, the participants in this study not only declared action-taking (a negligible 0.6% declared inaction as a response), but also a preference for individualistic strategies. The three most frequently chosen answers were to get advice from an attorney-at-law, to independently familiarize oneself with the provisions of the law, and to take a case to court. In fourth place, in terms of selection frequency, was to obtain advice from among one’s closest circles. Mentioned further was the internet which indicates an individualistic strategy as well. It is curious that the assistance of the Commissioner for Human Rights in Poland—an office enjoying a great deal of public trust (see the earlier mentioned CBOS report on trust)—was a much less frequently taken strategy.

Individualistic strategies are also visible in the sphere of private contracts. In the case of problems with a contract—apart from an avowed, considerable willingness to take action—the most frequently declared strategies were again to seek advice from an attorney and to

Table 4

**Declared strategies of action-taking in (1) a situation when one is aggrieved by the government and in (2) a situation of contract dispute (Respondents could choose 1–3 responses)**

Declared strategy	Grievance against the government	Contract dispute
	Percent	Percent
I would go to an attorney	75.1	72.4
I would familiarize myself with the provisions of the law	40.3	45.0
I would take the case to court	33.9	23.8
I would consult with someone from my family, friends, or close acquaintances	29.8	29.5
I would check the internet	23.9	23.8
I would turn to the Polish Commissioner for Human Rights	22.7	10.2
I would report the case to the prosecutor's office	13.6	8.2
I would use the help of some social organization	13.6	9.8
I would go to the police	—	19.5
I would take some other action	2.8	4.0
I would do nothing	0.6	0.6

familiarize oneself with the legal provisions. It was only the third most frequent answer that hinted at the importance of community ties, that is, to seek advice from someone in the family, a friend or a close acquaintance. With regards to this survey question, internet queries were lower on the list, with taking a case to court slightly behind.

Once more it should be emphasized that the most frequently declared strategy was to seek an attorney's advice. This is not in the least surprising when considering the previously-discussed complexity, poor quality, sheer amount, and frequent changes of the law in Poland. The second most frequently declared strategy was to individually and personally learn about the existing law—among other ways, by checking the internet. The third most popular strategy is to bring a case to court. Hence, all three of the most often chosen responses are signs of a rather high level of personal agency within this domain. Bearing in mind the poor quality and high complexity of the law as well as the effects of the post-2015, reworked judiciary in Poland which has resulted in lengthier and costlier proceedings, the top three strategies chosen indicate that these respondents feel that they can overcome “structural necessities,” the structural barriers imposed upon them.

With reference to both the case of a grievance against the government and of a contract dispute, taking it upon oneself to learn about existing law is influenced by those sociodemographic factors—political activity, civic activity, and occupation—which imply a rather high level of agency. Individual learning about the law and seeking internet sources of information were especially more often chosen by persons who have held high managerial positions, are highly-educated specialists, or who are creative artists. Such strategies were also more often chosen by respondents with a relatively high education and those relatively younger. As mentioned earlier, neither seeking the advice of the Commissioner for Human Rights, nor among family and friends was the most frequently chosen, but, interestingly, these responses were more often favored by women when aggrieved by the government.

**Everyday Legal Consciousness**

To capture the everyday LC consciousness in the Polish population, a series of questions was posed, touching upon various parts of social life and various everyday situations regulated by law. This included labor relations, family relationships, and routine contracts. One way in which we posited this type of query was to present a hypothetical case. Those appearing in our questionnaire presented situations in which conflict might arise due to violations of individual rights. Respondents were asked about their readiness to take action—specifically to initiate a formal or informal dispute.<sup>9</sup> This questioning also acted as a filter: respondents who declared a willingness to openly register an objection were asked about the type of action they would take in first and second order. In the realm of private law, participants in our survey were provided with two cases, answers to which are shown in [Tables 5 and 6](#).

Table 5

**Frequency distribution of responses to the question:**  
**“Imagine the following situation—You have been employed at a new workplace without signing an employment contract. You work 9 to 5; all tasks performed have been assigned by a supervisor. The boss denies your request for a signed contract. Would you take any action towards the establishment of an employment contract or of the existence of an employment relationship through the courts?”**

Responses	Frequency	Percent
I would not because I do not care about a contract	61	6.1
I would not because I do not know what to do	41	4.1
I would not because I would be afraid of the consequences	68	6.8
I would not but I would change my job	247	24.7
Yes, I would because I believe I have the right to do so	428	42.8
Yes, I would if I would find it beneficial	117	11.7
Hard to say	37	3.7
Refuse to answer	1	0.1
<b>Total</b>	<b>1000</b>	<b>100.0</b>

It is crucial to emphasize here that the findings of our survey present only declared choices and courses of action in hypothetical situations. Such an approach does not purport to predict how respondents would actually behave under these circumstances. As this is a research study of LC consciousness, the primary focus is on attitudes and thoughts explored through declarations. It is neither the aim, nor within the purview of the research at hand to explore factual paths to justice or the means by which actual legal conflicts have been resolved. Worth noting here is that ours is not an isolated approach, although the construction of the survey questions may differ. Fuszara and Kurczewski (2017: 105) also queried respondents about hypothetical situations, though focusing on general preferences for formal or informal dispute resolution (see, too, Kurczewski and Fuszara 2017: 507). While no claim can be made as to how Polish citizens will, in fact, resolve their conflicts

<sup>9</sup> The term “dispute” will be understood here as defined by Małgorzata Fuszara and Jacek Kurczewski (2017: 23) “any set of interactions whose aim—at least in the case of one of the actors—is the satisfaction of a claim not acknowledged by at least one of the other actors.”

Table 6

**Frequency distribution of responses to the question:**

**“Imagine the following situation—For a few months you have lived in a rented apartment. Lately it has turned out that the landlord has regularly, without notice, been entering the flat while you are away.**

**Would you take any action that would put an end to such visits by the landlord?”**

Responses	Frequency	Percent
No, because I would not know what to do	16	1.6
No, because one should not interfere with someone else’s property	34	3.4
No, because I want to have good relations with the landlord and pushing back could undermine that	58	5.8
No, because I do not have the time, power or resources to act in such case	16	1.6
Yes, I would if I would find it beneficial	92	9.2
Yes, because I do not agree to such actions	758	75.8
Hard to say	26	2.6
<b>Total</b>	<b>1000</b>	<b>100.0</b>

(because they would need to face a real one), results from that work by Fuszara and Kurczewski (see [Table 7](#)) shows declared preferences (noticeably changing longitudinally).

Our approach to a fairly similar issue does vary, as we presented respondents with detailed, hypothetical cases rather than posing a single, general question. Although we could expect dissimilarities among declarations regarding different branches of the legal domain, the results unveiled the interesting and not immaterial structure of those differences. Presenting respondents with detailed cases is not the only modification that our study introduced. We decided to ask about distinct steps that respondents would take to resolve their conflicts.

Table 7

**Frequency distribution of responses to a question asked by Fuszara and Kurczewski (2017: 105)**

What is, in your opinion, better in the case of an interpersonal dispute resolution:	Percent	
	1974 (n = 974)	2014 (n = 1036)
Resolving the dispute through an official institution (e.g., court) that has power and can impose its resolution	32	52
Resolving the dispute through a third party who can only advise	52	38

In both of the case questions regarding private law that we put forth ([Tables 5](#) and [6](#)), a majority of respondents professed a willingness to take action. There are, however, noticeable differences between the answers given in the two cases. Distinctly more respondents (85%) expressed a desire to take action in cases wherein tenant rights were violated. To the question pertaining to an employment contract, 55% replied that they would take action towards signing a written contract or towards a court determination that an employment relationship existed. Noteworthy is that, among the 42% of those surveyed who did not want to take legal action, most would simply change their job. This response is not simple to interpret but does signpost the supra-legal resolution of legal conflicts or their avoidance—something which could be understood as a sign of legal alienation.

Crucial differences in declared reactions arose in further questioning. As mentioned earlier, the queries about hypothetical cases served as an initial filter and respondents were asked

Table 8

**Actions selected by respondents as the first step taken in a conflict situation with an employer**

Responses	Frequency	Percent
Speaking to the employer	418	76.7
Seeking support among workplace colleagues	5	0.9
Seeking the support of trade unions	32	5.9
Seeking professional legal assistance	42	7.7
Seeking information to handle the case personally	12	2.2
Contacting state authorities (e.g., labor inspectorate)	35	6.4
Something else	1	0.2
<b>Total</b>	<b>544</b>	

Table 9

**Actions selected by respondents as the first step taken in a conflict situation with a landlord**

Responses	Frequency	Percent
Speaking with the owner	778	91.6
Seeking support among neighbors	2	0.2
Seeking professional legal assistance	36	4.2
Seeking information to handle the case personally	7	0.8
Contacting state authorities	19	2.2
Something else	7	0.8
<b>Total</b>	<b>849</b>	

additional questions about preferred courses of action in first and second order (Tables 8 and 9 show the first steps foreseen in both cases; Tables 10 and 11 show the second steps).

In both situations, the first steps chosen were similar as the overwhelming majority (77% and 92%) of respondents chose direct contact with the other party (the employer and landlord respectively). Respondents did favor informal, direct methods of conflict resolution—without the assistance of a third party and without referring to formal institutions or regulations. Nevertheless, preferences do undergo a visible shift when respondents are asked about a second step, should the first one not bring a desired outcome. While responses are much more dispersed among the options, it is still possible to spot a pattern: a clearly leading choice (36% and 44%) which is the seeking of professional legal assistance. Responses show that although Poles prefer informal, and individual contact as a first step, references to formal resolutions supersede that initial course as the second step. However, what remains unchanged is the prevailing lack of involvement of a third party in conflict resolution: respondents would rather involve their own attorney (who is not a third party) than state institutions or associations of any sort. Therefore, although there is an involvement of another person, this is the matter of a complainant reaching for a personally selected service, rather than relying on social support networks (formal or informal).

Respondents from certain sociodemographic backgrounds were more likely to declare that they would take action in the situation of a grievance.<sup>10</sup> Such declarations were

<sup>10</sup> Analysis of responses to the questions about specific courses of action to resolve conflicts (both the first and second step) brought no substantial relationships with sociodemographic variables that would be statistically significant and could be reasonably explained or provide a valuable explanation.

Table 10

**Actions selected by respondents as the second step taken in a conflict situation with an employer  
when the first step does not bring satisfaction**

Responses	Frequency	Percent
Speaking with the employer again	75	13.8
Seeking support among workplace colleagues	14	2.6
Seeking support of trade unions	70	12.9
Seeking professional legal assistance	194	35.7
Seeking information to handle the case personally	18	3.3
Contacting state authorities (e.g., labor inspectorate)	139	25.6
Something else	34	6.3
<b>Total</b>	<b>544</b>	

Table 11

**Actions selected by respondents as the second step taken in a conflict situation with a landlord  
when the first step does not bring satisfaction**

Responses	Frequency	Percent
Speaking with the landlord again	130	15.4
Seeking support among neighbors	17	2.0
Seeking professional legal assistance	373	44.2
Seeking information to handle the case personally	74	8.8
Contacting state authorities	88	10.4
I would pursue a court resolution	37	4.4
Something else	125	14.8
<b>Total</b>	<b>844</b>	

significantly more common among residents of metropolises, the higher educated, women, and those enjoying better financial circumstances.<sup>11</sup>

While a tertiary education did not lead to much difference in comparison with a secondary one (accordingly, 62% and 60% declaring action-taking), in the case of a labor law violation, only 45% of the respondents with an education lower than secondary maintained that they would take some action. A fairly similar pattern could be observed in the answers to the question of trespassing by one's landlord: 90% of the respondents with a tertiary education asserted that they would act, alongside 86% of those with a secondary education, and followed by a slightly lower number of 77% of those with an elementary education.

The case-based question pertaining to an employment contract led to a significantly higher rate of declared action-taking among inhabitants of major cities (over 500,000 inhabitants) and among women. Among metropolitan residents, 70% asserted that they would act, while 53% of those living in smaller localities felt they would do likewise (no major difference between smaller towns and villages). A like-minded declaration was expressed by 57% of the women, in comparison to 52% of the men.

A respondent's financial situation was another variable influencing answers. Regarding the labor law question, among those who considered their material conditions to be good,

<sup>11</sup> All relationships are statistically significant—at the level of  $p < 0.05$  or  $p < 0.01$ .

61% declared action-taking, as did only 49% of those in worse material condition. The financial situation variable also led to noticeable, albeit smaller differences in the kind of action which might be taken with reference to the second case. Here, 91% of the highest earning respondents (4000 PLN or higher net monthly income) claimed that they would take action, as did 85% of those earning less.

The response variations described above match our initial anticipations with regard to Poles who would take action and engage in the legally-regulated domain. Undereducated citizens may lack the resources or resilience required to consider taking action against a dishonest party. Living in a metropolitan area opens up many more possibilities for initiating a formal claim against a prepotent party (also finding new employment or housing is simpler). As for higher income, it is a useful resource when seeking legal aid and/or when needing to transition to another job or tenancy.

There are also dissimilarities as to a readiness to take action among respondents who gave different answers to the question “What primarily guides people in dealings with one another?” (see Table 3). Those who answered “legal norms” to this question were less likely to take any action and would follow more informal means of conflict resolution. Those who consider moral and ethical norms as key guiding principles declared a more active approach in both the labor and contract law cases.

In the part of our questionnaire dedicated to private law, respondents were also asked about the social norms and principles which should serve as a guideline in the resolution of family conflicts. Here respondents selected three answers in sequential order; Table 12 presents their first, second, and third choices. Although the law is the sole type of social norm which is binding in the settlement of certain family disputes, this was not the most common choice. It is further worth noting how rarely respondents chose customs or religious principles as the norms which more properly lend direction when conflict arises between family members.

Table 12

**Frequency distribution of responses to the question: “What social norms and principles should people follow in the resolution of family conflicts?” (“hard to say” responses are not considered in the table)**

Responses	First choice	Second choice	Third choice
Moral principles	52.9%	28.8%	9.8%
The law	38.2%	34.3%	14.5%
Customs	5.7%	24.3%	40.6%
Religious principles	2.3%	4.8%	9.0%
Other norms and principles	0.7%	3.0%	15.0%

Different sociodemographic groups have different normative preferences.<sup>12</sup> The oldest respondents were more likely to choose religion, while the age group most often indicating the law were persons aged 45 to 64. Legal norms were most often chosen by residents of metropolitan cities (43%) as well as of small towns (45%), but least often by inhabitants of medium-sized cities (35%). Most of the more highly-educated participants evidenced an above-average preference for a moral compass that should guide other people (57%).

<sup>12</sup> All relationships are statistically significant—at the level of  $p < 0.05$  or  $p < 0.01$ .

Noteworthy is that we can observe a “juridification” of Polish society. A comparison of the results presented above with those from studies conducted in the 1970s demonstrates that reference to family law was less common in the past (Pałeczki 1977). Nonetheless, no linear tendencies are manifest in our research results. Variables pertaining to level of education, age or the population density where someone lives do not consistently yield a higher preference for legal norms.

Returning to the employment and tenancy cases, we clearly see that the majority of Poles asserted that, in cases of conflict, they would act and strive to resolve the dispute. Moreover, most of those who claimed that they would undertake action were led by a sense that they possess rights which they are willing to protect—this was more important than purely pragmatic motivations. These respondents were more oriented towards their rights than towards declaring profit as a motivation for taking action.

In both of the suppositional lines of questioning we have discussed here, detectable is a fairly similar strategy preferred by a majority of the respondents: an individual, informal course of action for dispute resolution. As a first step, Poles choose to speak with the other party. This entails direct and unassisted contact with the social actor with whom they are in conflict. Other informal possibilities—such as requesting the assistance of coworkers or neighbors—were barely chosen. As a second step, answers provided seem to be turning towards a more formalized process of resolution: respondents most commonly pointed to professional advice. Still, it is only when direct contact fails that Poles will refer to professional advice and services. Nevertheless, it is significant that respondents opted more frequently for legal advice, looking for paid services rather than involving state agencies or other third party actors such as trade unions or NGOs. At the same time, when asked about social norms to be followed when resolving family conflicts, Poles appear to avoid (to some extent) the law and legal instruments, but also avoid those normative systems that involve group or other third party authorities (such as customs or religious norms).

Thus it is evident that the Polish approach to the settlement of grievances and to private law blends both informal and formal elements. Nevertheless, there is a lack of reliance upon institutions associated with the community [*Gemeinschaft*] or society [*Gesellschaft*], understood in the way they were defined by Ferdinand Tönnies (2001). When Poles declare that they would operate in the realm of private law, it is still on the basis of individual action. It is extremely difficult to find traces of any kind of traditional, community-based institutions actively present in this sphere. At the same time, there is also a serious lack of institutions (e.g., NGOs, labor unions, etc.) that are based on formal, legal rules.

LC in the realm of private law in Poland is situated somewhere between the community and the society—or found nowhere at all, indicating an atomization of Polish society. On the one hand, Polish society does not appear to be upholding numerous elements and institutions characteristic of a *Gemeinschaft* understood as a collectivity based on informal, traditional, and social norms and bonds. On the other hand, it seems as if Poland’s society has not managed to create social relations anchored in official and legal norms, instruments, and institutions that would function as a cornerstone for the *Gesellschaft*.

While Table 12 shows that the law was not the first choice for most respondents, it was their most common second choice. The law thus seems to play an important, albeit secondary role as a formal means of solving conflicts. As already emphasized in this article,



Polish society has a low (and declining) level of social trust. In the absence of this crucial cornerstone underpinning social relations, the law enters the stage to deliver effective conflict resolution. While avowed trust in public institutions (especially in the courts) is also low, it is noticeably higher than trust in fellow citizens (see the earlier mentioned CBOS report on trust).

The presented findings support an exploration of respondent agency as a phenomenon affected by numerous factors—be they situational, practical, and/or cognitive. While there is considerable support for direct and informal dispute resolution, as well as an evident preference for application of social norms other than the law, when all else fails, Polish citizens prefer to take recourse to the courts. The rationale behind this could be that the decisions of legal institutions actually hold sway: they are often the only means by which rights are protected and claims can be executed. Such a notion was already put forward by Polish entrepreneurs at the beginning of this century (Skapska 2002).

As the above-presented analyses demonstrate, the majority of the Polish population situates law more in the background: it is the “toolbox” into which one reaches when all other means fail. It is not a guiding principle from the start for conflict resolution. In Polish society imagined strategies encompass both informal and formal elements, direct individual contact and professional legal aid, moral rules and legal norms. The patchwork nature of those presumable strategies reflects the difficulties faced in a society that is experiencing crises and an unstable and very complex legal reality.

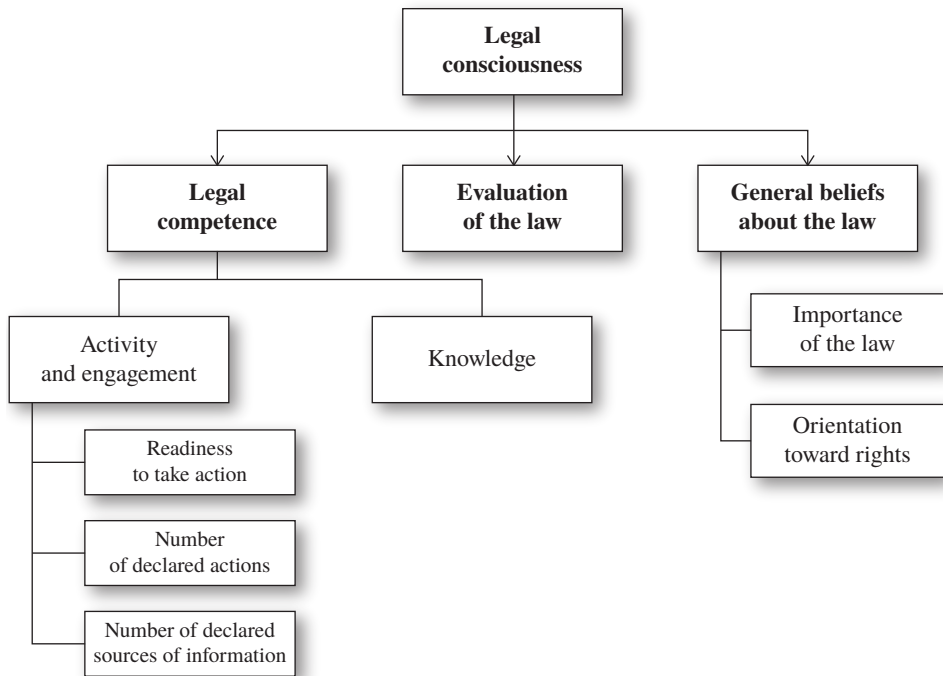
### **An Empirical Model of Legal Consciousness**

In order to examine the characteristics and variations in the LC shared by the general population of Poland—as well as specific social groups and sociodemographic categories thereof—an empirical model of LC was created. Diagram 1 reflects the results of in-depth statistical analysis, and consists of those elements and sub-elements of the theoretical model which have been confirmed by our data. Empirical verification of particular theoretical constructs was carried out in two stages.

During the first stage, we checked to see whether those constructs create distinct dimensions in the data space established on the basis of the survey dataset. In order to accomplish this, a factor analysis and analysis of reliability were carried out. An exploratory factor analysis facilitated reduction of the data in order to obtain only those survey items that constituted interpretable dimensions (factors). Principal component analysis (PCA) was used in order to identify the structure of factors explaining the relationships between variables. Based upon the extracted factors, indicator variables were assigned to hidden constructs. Moreover, factor-based scales were constructed by summing the scores for items forming extracted factors. Analysis of the reliability of these scales served as an additional step in the first stage of verification. Because the study we conducted is, at this point, of an explanatory nature, all factor-based scales were included in the empirical model, regardless of the level of reliability.

The factor analysis attests to the fact that five theoretical constructs of which LC is built do create separate dimensions: 1) declared activity and engagement in the area of

Diagram 1

**An empirical model of legal consciousness**

law, 2) knowledge about the law, 3) an orientation towards civil rights, 4) the importance of the law itself, and 5) an assessment of the law. The first two—knowledge and active involvement—are components of legal competence. Next, an orientation towards civil rights and a conviction about the importance of the law are classified together as general beliefs held about the law. Finally, when the law is under evaluation, a fifth dimension is identified in which legal documents and regulations undergo a detailed assessment.

The scale measuring the level of legal action and engagement (the activity scale) was built upon answers to three types of questions: 1) those describing hypothetical cases,<sup>13</sup> 2) those pertaining to the types of actions taken when addressing general legal problems,<sup>14</sup> and 3) those pertaining to the sources of information required in the solving of different

<sup>13</sup> Single answers (treated as binary, 0–1 variables) which relayed a declared readiness to take action in a specific situation were treated as indicators of action-taking. The following items were included: 1) taking steps to formally sign an employment contract when a job is of a permanent nature; 2) taking steps to ensure that a landlord stops making unwanted visits; 3) taking action when a receptionist enters the doctor's office during a medical examination; and 4) taking steps to avoid paying a tax surcharge when there is suspicion of a miscalculation by the income tax service.

<sup>14</sup> Answers to the previously discussed questions about actions to be taken when grievances are committed by the government or in contract issue cases, transferred onto two three-point subscales.

categories of legal problems.<sup>15</sup> On the basis of the first type, the “declared readiness to take action” subscale was built. The second and third type of questions measured the number of declared actions and sources of information. The scale measuring the level of knowledge consists of answers to questions about knowledge<sup>16</sup> and knowledge assessment,<sup>17</sup> along with the subscale built upon answers to questions pertaining to the assessment of competence in dealing with specific legal problems. The “law evaluation” scale encompasses answers to questions in which respondents were asked to assess particular legal regulations. The “importance of the law” scale was built upon those responses to survey questions which stressed the significance of the law in contemporary society.<sup>18</sup> Finally, the scale measuring the level of an orientation towards rights was created by combining those responses to survey queries connected with the role that the protection of these rights plays in various areas of the law as well as in select, everyday life situations.<sup>19</sup>

The confirmatory analysis carried out at the second stage of empirical verification of theoretical constructs partially confirms the proposed model of LC. One of the hierarchical models of factors created using SEM (structural equation modeling)<sup>20</sup> confirms the hypothesis of the existence of a higher-level theoretical construct measured indirectly by the five theoretical (latent) constructs described above, whose indicators are scales built on the basis of specific answers to the survey questions (see [Diagram 2](#)). However, the constructed structural model fails to overcome all acceptable thresholds of fit, as the GFI and AGFI values are unsatisfactory.

Pointing out that other measures of model fit do not exceed acceptable thresholds, as well as stressing that GFI and AGFI depend on the complexity of the model (see, e.g., Baumgartner and Homburg 1996), we decided not to reject the model at this point. The chief justification for this decision is that there is a dearth of general population data in LC studies ([Horák, Lacko and Klocek 2021](#))—and yet data is crucial when seeking to

<sup>15</sup> Answers to questions about the above-referenced information sources were transferred onto three subscales: 1) seeking information about a general legal problem (0–15); 2) seeking information about a private law problem (0–15); and 3) seeking information about how to complete bureaucratic, administrative procedures (0–14).

<sup>16</sup> Answers to questions on 1) how to find out about Polish legal acts and 2) on the consequences of not collecting registered mail with an administrative decision.

<sup>17</sup> The knowledge assessment was measured by the question ‘How do you assess your knowledge about Polish law?’ Respondents were asked to place themselves on a 4-point scale (1—my knowledge is definitely insufficient for my needs, 2—my knowledge is rather insufficient for my needs, 3—my knowledge is rather sufficient for my needs, and 4—my knowledge is definitely sufficient for my needs).

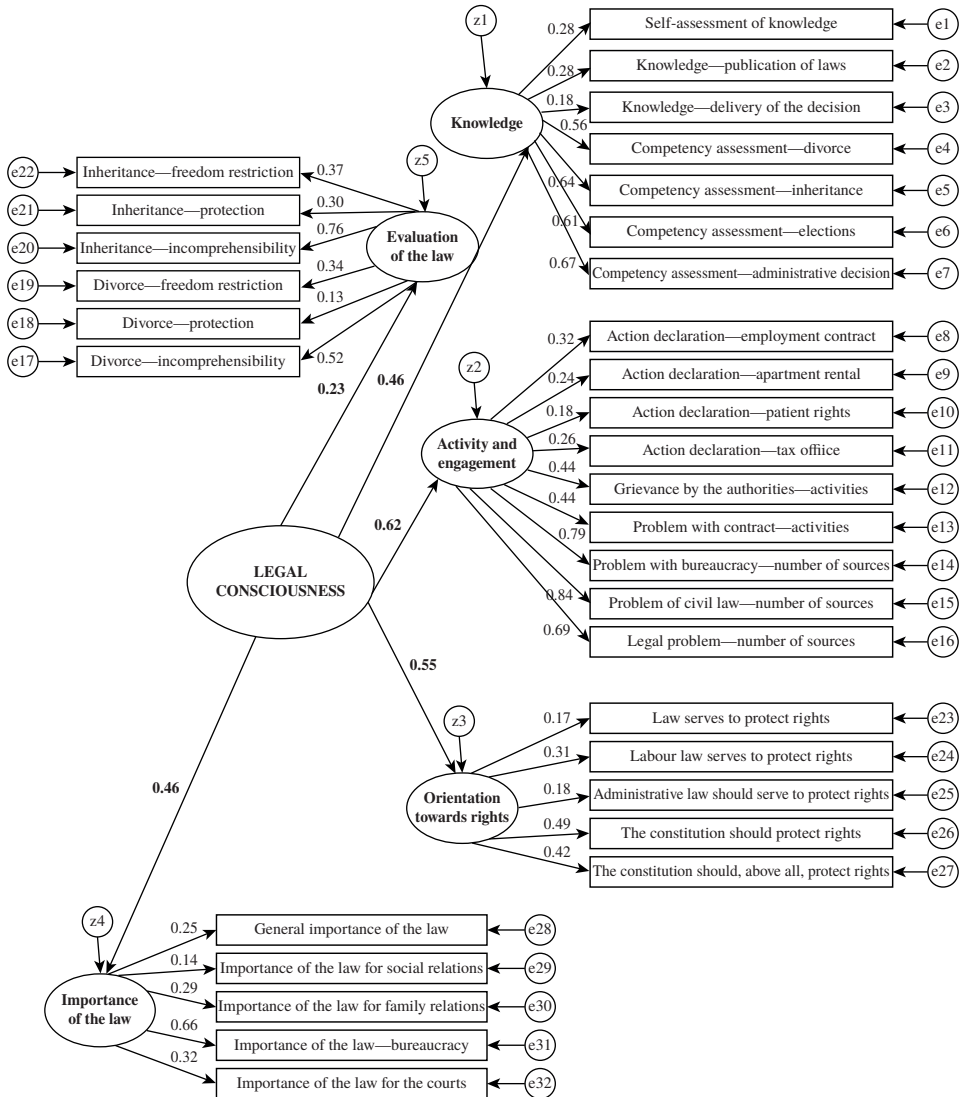
<sup>18</sup> The “importance of the law” scale consists of five items (subscales and 0–1 variable): 1) general importance of the law in contemporary society (1–5); 2) importance of the law in regulating interpersonal contacts (0–3); 3) importance of the law in regulating family relations (0–3); 4) importance of the law in regulating contacts with public administration (0–3); and 5) importance of the law for the courts (0–1).

<sup>19</sup> The “orientation towards rights” scale includes seven items (subscales and 0–1 variables): 1) the law primarily protects rights (0–1); 2) labor law should primarily protect workers’ rights (0–1); 3) administrative law should primarily protect the rights of citizens (0–1); 4) the constitution should be the law that primarily protects the rights and freedoms of citizens (0–1); 5) the constitution should primarily protect the rights and freedoms of citizens, identically for all (1–5); 6) based on a guaranteed right, action-taking to legally establish an employment contract or the existence of an employment relationship by the court (0–1); and 7) based on a guaranteed right, action-taking that would put an end to unwanted visits by a landlord (0–1).

<sup>20</sup> Structural modeling is an example of confirmatory analysis and aims at modeling causal relationships between variables. It allows assessment of the adequacy of a theoretical model describing the relationships between variables. In cases of hierarchical models of factors, higher order constructs explain the intercorrelations (the common variance) among lower order constructs.

Diagram 2

**Hierarchical model of elements of legal consciousness**



Selected measures of model fit (acceptable thresholds in square brackets):  $\chi^2 = 1490.936$  ( $p < 0.000$ );  $\chi^2/ss = 3.22$  [max 5]; GFI = 0.866 [min 0.9]; AGFI = 0.847 [min 0.9]; RMSEA = 0.058 [max 0.1]; Hoelter (0.05) = 226 [min 200]; Hoelter (0.01) = 236 [min 200].

develop a theory which would address the current conceptualization problems observed in this research field. Although, many scholars assume that existing theories of LC are data-driven and, therefore, no further inquiry is needed, we think that more survey data should be employed in theory building. Furthermore, we agree with Evermann and Tate (2011: 633) that “models that do not fit the observed data are useful, because, given the

extensive theory building and data collection effort that goes into any research study, we can learn much from them.”

### Types of Legal Consciousness

The confirmatory analysis not only allows assessment of the adequacy of the theoretical model of LC, but also substantiates the idea that action-taking and engagement with the law can be treated as a (latent) variable that explains the remaining elements of the model. One of the structural models of factors created using SEM justifies the treatment of activity as a central element in the proposed model in the sense that it explains a part of the variation (here only a small percentage of this variation) from other model elements: knowledge, evaluation of law, orientation towards rights, and the importance of the law (see [Diagram 3](#)).<sup>21</sup> Therefore, the activity scale was adopted as a starting point in distinguishing particular types of LC. For this purpose, the scale’s values<sup>22</sup> were categorized, dividing (via standard deviation classification) the surveyed population into four groups, differing in the degree of their engagement with the field of law. Subsequently, we decided to equate activity with LC. Apart from the results of the structural modeling, such a decision is justified by the fact that action-taking and engagement in the field of law is the most coherent element of LC<sup>23</sup>; it is also supported by our theoretical assumptions according to which legal competence constitutes an aspect of agency.

The first group, representing approximately 17% of Polish society, was identified as the one with the lowest level of engagement with the field of law. The second and third groups—each representing approximately 33% of the general population—were associated with citizens whose engagement with the field of law and thus LC was below and above average, respectively. Finally, the fourth group, representing less than 17% of Polish society, was distinguished by a high level of engagement with the field of law. In order to characterize these four groups, an analysis of the relationship between the scale of declared activity and other elements of the LC was conducted using tabular analysis and analysis of variance. That analysis was supplemented by a tabular analysis of the interrelations between the activity identified with LC and a) claimed experiences with the law and law-applying institutions, and b) the sociodemographic characteristics of representatives of the four distinguished groups.<sup>24</sup> As a result, each group was thoroughly characterized and four types of LC were distinguished in Polish society (see [Diagram 4](#)).

People belonging to the first group—the group with the lowest level of declared activity—registered the lowest scores on the scales of knowledge, evaluation, and importance of the law. We have branded this category “outsiders”<sup>25</sup> as they are unquestionably the group exemplifying the highest level of legal alienation. Typical “outsiders” are in their 50s, have no higher than a vocational-technical education (46%), and are not professionally active

<sup>21</sup> This model also failed to overcome acceptable thresholds of GFI and AGFI.

<sup>22</sup> The activity scale takes values from 0 to 54; the mean score in the surveyed population was 17.98.

<sup>23</sup> The Cronbach’s alpha for the scale measuring the level of legal action and engagement is 0.721—thus exceeding the conventional minimum value of 0.7.

<sup>24</sup> Only statistically significant relationships were included—at the level of  $p < 0.05$  or  $p < 0.01$ .

<sup>25</sup> This group’s label was inspired by, but is not identically synonymous with Hertogh’s (2018) analogical term.

(41% are retirees or pensioners). They are also characterized by a low level of civic activity: they are very often uncertain about their participation in elections and few of them belong to social organizations. More than half the members of this group claimed that they had no contacts with institutions that apply the law and had gained no knowledge on the subject of the law over the course of their education. Furthermore, over 60% of “outsiders” do not use the Internet as a source of information about legal regulations and institutions. Interestingly, representatives of this group, too, demonstrate the lowest level of sensitivity to the law’s unfairness.<sup>26</sup>

The part of Polish society evidencing a below-average LC is characterized not only by a low level of action-taking, but also by a low (albeit slightly higher than among the outsiders) level of a declared knowledge about the law accompanied by a low level of importance placed on the law. An outcome is that this group experiences a certain degree of legal alienation—but one that does not entail low levels with regards to an orientation towards rights and to assessments of the law. This category of Polish citizens we labelled “sceptics.” The distinguishing feature of this group is that its representatives have little experience with the law and law-applying institutions.

An above-average LC correlates with a high level of the declared knowledge, a positive assessment of the law, a high level of orientation towards civic rights, and a strong belief in the importance of the law. Because citizens who belong to the group with an above-average level of LC also avow the highest sensitivity to the law’s unfairness towards marginalized social groups and categories, this segment of Polish society can be named “empathetic participants.” Worth noting is that “empathetic participants” are among those declaring more frequent experiences with the law and law-applying institutions.

Last but not least, the fourth category is the members of Polish society who bear the highest level of engagement with the field of law. These are citizens who are the most engaged, most knowledgeable (according to their declarations), and most rights-oriented as well as those who most highly value the law and are the most convinced of its importance. This group has, therefore, been named the category of “active participants.” Typical “active participants” are in their early 40s, have a tertiary education (45%), and are professionally active (over 70%)—almost 25% of them are managers or specialists. Representatives of this group are characterized as well by an above-average level of civic activity and a higher number of experiences with the law and law-applying institutions. All its members undertake activities aimed at gaining knowledge about legal regulations and legal institutions.

This outlined sketch of the four types of LC shows that—despite the fact that, according to most Poles, the law is an important sphere of life in contemporary society (see [Table 2](#))—almost half the population falls in the category of legally alienated. Such an observation is consistent with Hertogh’s (2018: 149) diagnosis that at least half of society is affected by some kind of legal alienation, as ordinary citizens usually turn away from the legal system. However, for our purposes, we adopted a slightly different definition of legal alienation. Contrary to Hertogh, we took into account not only the cognitive (awareness) and normative (identification) dimensions of legal alienation, but also its relation to a declared engagement

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<sup>26</sup> Serving as an indicator of this kind of sensitivity was the discrimination scale which we constructed on the basis of answers to a query about the categories of persons most unfairly treated by the law.

Diagram 3

**Structural model of relations between elements of legal consciousness**

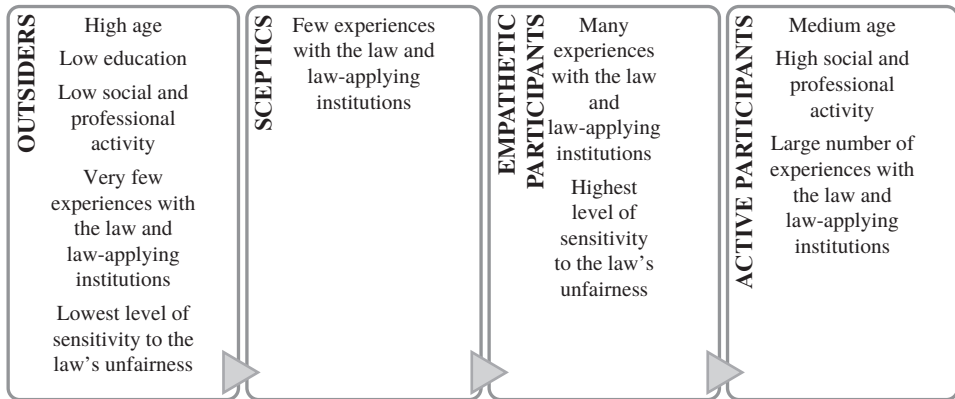


Selected measures of model fit (limit values in square brackets):  $\chi^2 = 1517.237$  ( $p < 0.000$ );  $\chi^2/ss = 3.30$  [max 5]; GFI = 0.862 [min 0.9]; AGFI = 0.842 [min 0.9]; RMSEA = 0.059 [max 0.1]; Hoelter (0.05) = 221 [min 200]; Hoelter (0.01) = 231 [min 200].

under the trying circumstances created by a flood of inferior legislation (briefly described in our introduction).

Because “outsiders” and “sceptics” are characterized both by a conviction that the law does not play an essential role in their lives and an unreadiness to take action in the domain of law, the legal alienation of Polish citizens can take the form of a “non-identification

Diagram 4

**Characteristics of the types of legal consciousness**

with the law” or an “irrelevance of law” (Aidinlis 2019: 13). According to Aidinlis (2019: 13–15), a lack of understanding of the law’s significance is a manifestation of “alienation as non-identification” and “estrangement” (a weak non-identification with the law) that is typical of individuals who “do not turn away from the law, but simply remain unaware of its imperial realm.” In turn, “law’s irrelevance to a behaviour, a process or an outcome,” which urges people to “identify the non-legal resources and driving forces,” is an example of another type of alienation (Aidinlis 2019: 16).

Moreover, the sociodemographic traits of those most alienated—the “outsiders”—indicate that legal alienation overlaps with social and professional marginalization. This means not only that structural factors inhibiting activity and engagement in the domain of the law are the same as those inhibiting a more general agency among the citizenry, but also that variables of age, education, occupation, and social class may interact in such a way as to cause a subject’s legal identification to be a citizen alienated from the law. At the same time, “sceptics” and “empathetic participants” are less “determined” by social structure. Thus, we may assume that a relatively large segment of the Polish population is able to resist its structural context, including the one inherent in the legal field. Especially important is the observation that the part of Polish society with a below-average LC (declared inactivity) manifests an average (not below average) orientation towards rights.

### **An Orientation towards Rights**

As already mentioned, the scale measuring the level of an orientation towards rights was built upon responses connected with the role that the protection of these rights plays in various areas of the law as well as in select, everyday life situations. The Cronbach’s alpha for this scale is only 0.407, although items composing it are intercorrelated and do shape an interpretable dimension.<sup>27</sup> Moreover, this is a first attempt at creating such a scale:

<sup>27</sup> The KMO (The Kaiser–Meyer–Olkin test) value for the data used in PCA is 0.649.



we did not assume initially that such a theoretical construct as this could be empirically distinguished.

The mean score on the scale of an orientation towards rights—taking values from 1 to 11—was 8.55 in the surveyed population. Our analysis of correlations between an orientation towards rights and sociodemographic variables shows that, for women (8.69), the importance of rights protection is slightly greater,<sup>28</sup> than for men (8.40). Additionally, a higher level was more likely among people with tertiary degrees (8.83), among managers and specialists (8.98), and among people who expressed a readiness to participate in elections (8.71). A high level of orientation on rights was also correlated with acquiring knowledge about the law during one's education (8.77). At the same time, a lower than average focus on the need for rights protection was observed among persons with no more than a vocational-technical education (8.01), respondents working in agriculture (8.18), Poles undecided about their participation in elections (7.58), those who claimed a dearth of learning about the law over the course of their education (8.24), and people who practice their religious faith, attending services at least once a month (8.05). Moreover, the degree of importance attached to the protection of civic rights correlated with the political affiliations of respondents. For instance, a greater orientation towards rights was typical of Poles who stated their support for the center, center-left, and leftwing parties such as *Lewica* (9.00), *Ruch Polska 2050* (8.98), and KO (8.95); a lower orientation was typical of supporters of the rightwing PiS (8.35).

The fact that Poles achieve very high scores on the scale measuring the level of an orientation towards rights illustrates that rights protection is very important for Polish citizens. This coheres both with the fact that most of our respondents were convinced of the importance of the law, and with the observation that 41% of the respondents asserted that the law primarily serves to protect the rights of citizens (see [Table 1](#)). However, considering the context of the everyday LC of Polish citizens described at the beginning of this article, much more important is the relationship between an orientation towards rights and the political affiliations of Poles. In fact, those who support the ruling party (*PiS*) are the least rights-oriented, in contrast to the citizens supporting opponents of the current government who achieve the highest scores on the scale of an orientation towards rights.

### Some Conclusions and Thoughts for Further Discussion

The research results we have discussed here do lead to certain theoretical conclusions contributing to discussions on the conceptualization of LC itself, but also on the issue of the empirical foundations of the rule of law. As there is extensive room for methodological improvement within the research field focused on LC ([Horák, Lacko and Klocek 2021](#)), an aim of our research LC has been to search for a new and valid means by which to measure this concept. The chief result of the research undertaken thus far is the empirical model

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<sup>28</sup> This observation confirms the importance of the new wave of women's rights activism and the women's movement in Poland (see, for instance, [Hall 2019](#); [Korolczuk 2016](#)). However, it should be noted that the surveyed difference between men and women is quite small.

elaborated and exhibited above. Its analyses illustrate that the most important and most coherent element of LC is action-taking and engagement in the field of law.

The presented findings also allow for the formulation of a few conclusions about the LC of contemporary Poles, bearing in mind the top-down nihilistic upheaval which is the backdrop for LC formation and functioning in Poland today. Key here is also an observation that PiS is promoting a specific legal culture precisely in order to transform the social reality. One element of this legal imaginary is criticism of the rule of law—a stance which, as Bucholc (2022: 54) rightly noticed, “diminishes the subject’s agency.” That notwithstanding, the outcomes of our study indicate that the process of destruction initiated from above is not yet fully completed.

First of all, in light of what the respondents in our study declared, the law is, by and large, of great importance for about 80% of the Polish population. Secondly, distinctive in the consciousness of Poles—at least at the level of their most general opinions, attitudes, and views—is the civilistic way they perceive the law. This civilistic envisaging of the law is much more popular than the penal-oriented one. Therefore, even if Poles most often express a belief that the law primarily serves the pursuit of justice, they emphasize secondly that it is a useful tool for the resolution of conflicts and disputes.

It should, however, be strongly emphasized that, according to the analyses which led to the distinction of four types of LC, it turns out that about 50% of all Poles are actually “outsiders” or “skeptics.” Hence, despite the very frequently expressed opinion that the importance of law in society is at least high, many are completely indifferent about the law or find it of little consequence in everyday life. In other words, our research findings reveal that a substantial segment of the Polish population experiences a high or very high level of legal alienation. Thus, the LC of a great part of Polish society hypothetically reflects a certain helplessness when confronted with the everyday reality of lawmaking, law application, and law enforcement in the country.

Structural factors also play a key role here: the “outsiders” tend to be persons of older age, with a lower level of education, and exemplifying a low level of professional activity and civic engagement. They also claim to have had little experience with the law—a characteristic they share with “skeptics.” Nonetheless, those Poles who represent the “active” or “empathetic” type of LC, are characterized by factors typical for agency and social action: a high level of education and professional competency, regular contact with the law, and a higher than average level of political engagement. These respondents also possess a high capability for overcoming the structural hurdles imposed upon them by a nihilistic legal revolution.

Broad conclusions about the prevalence of a civilistic image of the law should be pointedly tempered: a clear duality is manifest here. In view of the opinions prevailing among the participants in our survey, it is principally supra-legal, informal norms—the moral and the customary—that are of paramount relevance in the resolution of conflicts and disputes. The data gathered through this study leads to a hypothetical conjecture that the LC functioning in Poland is characterized by something of a transitional state between the *Gemeinschaft* and the *Gesellschaft*. On the one hand, the strategies Poles choose in order to resolve conflicts and disputes are essentially a mix of informal, direct interaction and references to legal norms. On the other hand, these strategies are strongly individualistic

which signifies the rejection of core elements of the *Gemeinschaft*. Moreover, as we have noted recurrently, Poles are marked by an exceptionally low level of social trust. This “character flaw” consequently fortifies skepticism about an alleged communality in Polish society in terms of social relations, and rather indicates social atomization.

In both private and public law disputes, Poles mostly indicated direct contact, seeking the advice of an attorney or other individual familiar with legal provisions. Personally seeking advice or help amidst informal circles in cases of disputes that are work- or contract-related, or reaching for assistance from civic organizations (such as labor unions), or the Commissioner for Civic Rights in cases of disputes with the government, are much lower on the list of preferred strategies. Therefore, although no longer a traditional community bound by informal relations and supra-legal norms, present-day Polish society is also not a modern society in which disputes are resolved via assistance from dedicated NGOs or state institutions.

There is yet another notable feature of the LC functioning in Polish society that is worth accentuating, particularly with regard to the fairly recent debate on the critical potential of the concept of LC.<sup>29</sup> This involves the abovementioned orientation toward civic rights that is characteristic of the active categories of the law’s addressees. It seems plausible to assume that, at least in specific circumstances—such as when the law is faulty and undergoing drastic change—it is neither the hegemony of an impersonal law, nor the orders of “a headless tyrant” or unquestioned “bureaucratic-legal authority,” nor the *Rechtsstaat* principle reduced to mere ideology, but rather the axiology of rights protection which constitutes the critical edge of the LC concept.

As our analysis illustrates, LC functions as part of a broader cognitive framework which is inseparably connected with the social praxis—either in the form of a cognitive competence (education level) or an active, general involvement in the functioning of society due to one’s professional, political, and/or civic activity. More concisely, a high level of agency bears a hypothetical impact on experiences with the law and law-applying institutions; in contrast, a low level of education, and generally low engagement in the functioning of society leads to a low level of agency in situations regulated by law. Hence, factors that are connected with a higher level of professional, political, and/or civic agency are crucial not only for overcoming specific hurdles, such as the structural necessities imposed on citizens by bad law. These factors appear to be crucial, too, for the formation of societal conceptualizations of the rule of law which are rooted in the practical, personal experiences citizens have with the law and its institutions. These are also the factors that lead citizens to use the law in their daily life praxis.

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<sup>29</sup> We refer here to the debate on the hegemonic features of impersonal law summarized in Susan S. Silbey’s impactful article, “After legal consciousness” (Silbey 2005).

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