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**Anna Rakowska-Trela,  
Election campaign in terms of legal  
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**Anna Rakowska-Trela, Kampania wyborcza w regulacji prawnej i w praktyce,  
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In modern democratic countries, execution of electoral process with respect to the free election, is, I dare to point out, their status quo. No election can be truly free if it is not held according to the international standards. An electoral campaign is an inseparable element of every electoral process. During this stage, the involvement of participants in the electoral process seems to be the most far-reaching. The majority of electoral activities are also carried out during the election campaign. Therefore, it is extremely important to define temporal limits, normative frameworks, and above all the concepts.

The Polish legislators, in the period of political transition, made modest attempts to organize and regulate this issue. However, representatives of the social sciences, mainly political scientists and constitutionalists, for years have noticed the necessity to make a moment of reflection, which would result in substantive discussion in order to formulate *de lege ferenda* proposals for the vernacular lawmaker regarding the broadly understood issues of the election campaign.

In the source literature, it was no use to look for a congeneric and sufficiently comprehensive study, in which the issue of the election campaign would be treated both from the point of view of practice and the theory of law.

This tedious and difficult task was undertaken by Anna Rakowska - Trela in her publication titled „*Election campaign in legal regulation and practice*,” published by the University of Lodz at the end of 2015. Despite the passage of more than two years, since the release of publication, it is still very much up-to-date and did not get a prominent competition. That is why I made an attempt to create constructive and

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reliable assessment. Election campaign as an extremely dynamic stage of the electoral process, characterized by a high degree of complexity due to the nonhomogeneous legal subjects. They perform a number of activities, including legal actions which have a significant impact on its course. As the author rightfully points out in the introduction of the monograph, the legal regulation of the election campaign should serve as the protection of integrity and free competition, equality of subjects participating in it, the legal rights of voters and the accuracy of the electoral process. Organization of the issues related to the election campaign and the unification of the concepts such as the election campaign, electoral canvassing, a multitude of subjects participating in it, rules for its conduct and delimitation of the time limits have not yet been accomplished. Despite the passage of over 25 years since the first free elections made in Poland by the legislator. The uniqueness of the reviewed monograph is not limited to the fact that it is the first of its kind in the legal literature. In my opinion, the author due to her professional experience, often gives many proposals for specific legislative solutions, or at the very least creates the field open to discourse on the legal framework of the election campaign in Poland. In the country with stabilizing democracy, in which the elections are carried out cyclically and in accordance with all international standards, the election campaign will be an issue that never loses its relevance.

The discourse is quite extensive and includes nine diversified, in terms of volume, chapters. However, it has its justification in terms of their substantive content.

In chapter one, designed to introduce the topic, the author emphasizes the lack of a definition of legal election campaign in the Polish electoral law. After performing an analysis of the concept of an election campaign in the legal doctrine and politics, the author submits her own definition of an election campaign. It is worth noting as in the further course of the narrative, the author repeatedly refers to it e.g. in the context of the election function versus electoral campaign. As a result, the reader is not obligated to search for a definition proposed by the author, which further promotes an easy way of understanding and following her discourse. The discussed legal frameworks of the election campaign, used in the international documents, as well as constitutional principles and freedoms, allow to better understand the complexity of the election process. What is more, Anna Rakowska – Trela's reflection used in chapter two, concerning the time limits of the election campaign, presents the genesis of the current legal status. In a transparent way, she compares the existing regulations of the aforementioned topic. However, the author negatively refers to the length of the electoral campaign in any local government's elections which is constantly extended by the legislator and results in an imminent risk of fatigue of voters by the election itself. The view is interesting, although in my opinion, the electoral campaign in these elections, which took about 11 weeks, is optimal. As it allows, with full respect for the principle of equality, to get familiarized with the profiles and views of all candidates and for them to become more famous. For years, the issue that raises many doubts is the so-called pre-campaign, otherwise known as permanent campaign. The National Electoral Commission has consistently believed that all forms of electoral canvassing, practiced outside the strictly defined time frames of an election campaign, are not allowed and should be condemned. Anna Rakowska

- Trela points out the differences between election canvassing, which form and time are determined by the legislator, and political agitation carried out by political parties as their statutory activity, which roots are built based on the basic law. For years, the practice of the vernacular political scene show quite different practices, that is strong, grant-aided political parties which representatives represent parliament against the principle of equal election prospects and who use their position and capabilities to conduct “veiled” election canvassing. Such activities often bear illegal marks and the public opinion, or in other words voters, agree to this often against their will. Particular attention should be given to the author’s reflections regarding the election silence, as the final stage of the election campaign. The ban on publishing content with regard to the election canvassing, in the forms referred to in the Electoral Legal Code on the Internet, is unrealistic in the author’s opinion, which I fully agree with. At the same time, the author points out its statutory deficit of campaign regulations and election canvassing on the internet. The development of new technologies, the unthought-of growth of social media users, points to the negative effects of the lack of legislative solutions. Because of that it is impossible not to agree with the author, as we exist in two realities - the traditional one, in which regulations and prohibitions result from the character of the election campaign and are possible to enforce and virtual one - where, except in a few cases, correct solutions proposed by the author e.g the ban on the paid sponsored links or “banners” made by electoral committees during the election silence are hard to enforce.

In the third chapter of the monograph, the author discussed participants of the election campaign as the main research problem and stressed the importance and role of electoral committees, as the only subjects authorized by the legislator to conduct the election campaign. The attempt to define the electoral committee is also interesting. The author fluently and fairly discusses the ability of this subject, points out the advantages and disadvantages of many legislative solutions in that regard. However, I was surprised by the author’s constation, as it was possible for her to abolish electoral committees, ensure the rights of subjects and use the principle of equality in a different way. The electoral committee, as a legal subject unknown to other legal systems, was appointed by the legislator in 1991. From that point on, its structure evolved (especially in terms of legal status). Still, there was no other legal form found in our young democracy, which would guarantee such (because it is rather impossible) advanced level of the execution of the principle of equality, used in electoral law in the context of participants of the electoral competition.

The issue of electoral materials, electoral canvassing and its forms and rules of conduct became the subject of the author’s reflections in chapters from four to six. In my opinion, the author’s *de lege ferenda* postulates deserve special attention in regard to resignation of their usage in the Electoral Code. The changes were made by the legislator and involved the casuistic redacted form of the regulation in relation to the electoral canvassing and the definition of its general forms according to a unitary criterion. Moreover, the author’s demand for regulation of the Internet campaign is also demanding an urgent consideration. Anna Rakowska – Trela provides constructive criticism of the lack of ramifications of the legislator in terms of applied nomenclature,

as the concept of electoral materials is replaced by concepts of slogans and election posters. This accusation is fully justified, since in practice it often leads to the reasonable doubts regarding the interpretation. In article 109 of the Electoral Code, the author proposes the notion of redefining the electoral material and to made it public. She also took into consideration the materials from other subjects than just electoral committees and the necessity to ensure that the latter will be not promulgated.

In chapter seven, the author is concerned about the publication of election polls during the election campaign and the ban on such practice during the election silence. In addition to the well-known and preached demands, such as the need to regulate this particular activity, a special attention should be given to the extension of time period of the inhibition to print the poll results during the election, also known as the blackout period.

One of the most important endeavours undertaken by electoral committees is to conduct an election campaign with the usage of the mass media. The election success, observed during the last two parliamentary and presidential elections, is largely determined by the message which reaches potential voters. However, as the author rightfully notices in chapter eight, many forms, such as debates, information services, interviews and journalistic broadcasts, are not the subject of regulation appointed by the legislator even though many international subjects pay attention to it.

In the last chapter, the author study the binding legal regulations related to the procedure for choosing the electors. In previous publications, the author postulated the implementation of specific changes which should be made in this field, certainly derived from her practical experience. These demands are still valid and apply to the introduction of a fast delivery of electoral procedures, the change of legal claims' index, implementation of a short deadline in order to fill in the defects of form by the proponent as well as the necessity of delivering the decision along with legitimization.

The systematic work described in such a way that seems to be transparent and comprehensible for every reader, especially the one who did not yet have the opportunity to get familiarized him or herself with the otherwise hard-to-reach literature on this subject. The adoption of a chronological and problem method, with the usage of rich and wider in scope source materials such as the normative acts which regulate the working conditions, stenographic records of parliamentary works, books and expert appraisals of the representatives of constitutional law. All of this proves that the author is very knowledgeable about the subject and put a huge effort into assemblage of these materials and formulation of various *de lege lata* and *de lege ferenda*'s postulates.

The issue of the election campaign has been comprehensively discussed by the author, in a very interesting way. It reflected the atmosphere of the public stake debate and shed a new light on many still up-to-date dilemmas and demands which constantly are resumed with the arrival of a new electoral calendar.

This literary work is certainly worth recommending, not only to the electoral and constitutional law researchers but to anyone who would like to learn something more about our modern statehood.