

**CHURCH – STATE RELATIONSHIP AND DEMOCRATIC TRANSITION:
A COMPARATIVE STUDY OF CHILE, BRAZIL, SPAIN AND POLAND**

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A Thesis
Submitted to the School of Graduate Studies
In Partial Fulfillment of the Requirements
For the Degree
Master of Arts

McMaster University

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MASTER OF ARTS (2004)
(Political Science)

McMaster University
Hamilton, Ontario

TITLE: Church-State Relationship and Democratic Transition:
A Comparative Study of Chile, Brazil, Spain and Poland

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NUMBER OF PAGES: v, 134

Abstract

The main objective of this thesis is to examine the role of the Catholic Church in transition to democracy in Chile, Brazil, Spain and Poland. The main question under examination is whether the Catholic Church in these countries promoted or impeded the process of democratic conversion and consolidation. In an attempt to measure the Church's political influence during and following the democratic transformation four variables were examined. The selected variables were: abortion, divorce, education and constitutional amendments. The analysis revealed that the extent to which the Catholic hierarchy was able to impact these issues depended on the local context in each state. However, the main conclusion that can be reached is that the Catholic Church does not pose a serious obstacle to further consolidation of democracy in each of the countries examined.

Moreover, the larger question of the appropriate conduct of church-state relations in a democratic system is considered. One of the main conclusions that could be drawn from this study is that a presence of a strong religious institution does not necessarily hinder democracy. Instead, cooperation between the church and state is acceptable, and even desirable, as long as two conditions are met. First, all citizens must be guaranteed full religious freedom. Second, the dominant religious institution cannot impose its version of the 'good life' on the rest of society.

Acknowledgements

The completion of this thesis would not have been possible without the support and help of many people along the way. In particular, I would like to express my sincere gratitude my supervisor, Dr. Nibaldo Galleguillos, for his constant guidance and encouragement. Also, I would like to thank the other members of my committee, Dr. Stefania Szlek Miller and Dr. Barbara Carroll, for their sound advice and comments. I am equally grateful to Gerald Bierling for his help in gathering the statistical information for my thesis. Finally, to my family and friends for their strength, support, and love – thank you.

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Introduction

During the last three decades a number of countries in Southern Europe, Latin America and Eastern Europe have shed the shackles of authoritarianism and moved to embrace democratic values. In many of these countries the church¹ assumed a dominant role in challenging the repressive authoritarian regimes while in others the church's role in promoting democracy was marginal. In Chile, Brazil and Poland, for example, the Catholic Church denounced the authoritarian regimes and publicly rallied for political change. However, in Spain the Catholic Church's support for democratization was significantly delayed and limited in scope. Thus, one of the main objectives of this inquiry is to examine what is it that determines, directs, or influences the commitment of the Catholic Church to democratization. An examination of the relationship between the Catholic Church and the dictatorial and elected governments of Brazil, Chile, Poland and Spain will be used to assess the Church's role in the process of democratic transition and consolidation. For explanatory purposes the concept of transition will be defined as "the process whereby the authoritarian regime is replaced by a new order enjoying democratic legitimacy."²

At the outset of this study it is important to explain that in each of the selected countries the Roman Catholic Church has been and continues to be the dominant religious institution. As such, the Church hierarchy has the capability to exert considerable social and political pressure which, in turn, raises the question of how such influence should be

¹ The lower case 'church' refers to religious institutions in general without a particular reference to any specific religion, whereas upper case 'Church' refers solely to the Roman Catholic Church.

² John Anderson, "Catholicism and Democratic Consolidation in Spain and Poland." West European Politics. Vol. 26 no 1 (January 2002), 137.

dealt with in a democratic system. In an attempt to understand both the Church's role in the transition process and the present nature of church-state relations a brief description of the historical status of the Catholic Church in these countries is necessary. This analysis will reveal that traditionally the Catholic Church was closely aligned with the ruling elites³, however, during the authoritarian period the nature of Church-state relations changed. In Brazil, Chile, Poland, but to a much lesser extent in Spain, the Catholic Church moved to actively oppose the ruling dictatorial regimes. As a consequence the Catholic Church in these countries became identified as an important social institution promoting democratic change. The position taken by the national Churches towards their respective authoritarian governments was in line with the internal changes which were occurring within the Roman Catholic Church in general during the time period under scrutiny. The key event was the Second Vatican Council (1962-1965) which formally committed the Church to the idea of human rights and democracy. The Council was a significant development because it both recognized the value of democratic systems and formally identified itself with the plight of the poor.

Following the demise of authoritarian regimes in each of the four countries the Church's social status increased as a result of its role in the democratic change. Yet, despite its support for democratization Church representatives wanted to protect the Church's interests in the aftermath of the transition. The main issues of concern for the hierarchy were especially those dealing with questions of morality, Church's status and

³ The case of Poland presents somewhat of an anomaly due to its problematic history. Mainly, for a significant portion of its history Poland was conquered and ruled by foreign powers and as such it would be unjustified to claim that the Church was closely aligned with those elites. Instead, it will become apparent that the Polish national Church was an important supporter for the country's unity and independence.

education. Determining the extent to which the Church was able to influence the political decisions dealing with these issues in the aftermath of the transition will help to clarify the degree to which these states have entrenched democratic standards. The specific focus will be on the issues of abortion, divorce, constitutional reform, and religious education and the extent to which these matters were politically resolved in spite of Church's opposition. The following analysis will reveal that the degree of success which these new democracies had in countering the Church's political influence varied in each country. The differences between these states are mainly a result of local circumstances and experiences. As a consequence not all issues addressed in this study sparked equal amount of debate and concern in each state under examination. For instance, in Chile the issue of divorce has been and continues to be a significant source of controversy whereas in Poland divorce did not become a cause of friction between the Church and the post-dictatorship governments. Hence, the local context must be taken into consideration while examining Church-state relations in the post-transition period. However, despite individual variations comparable trends are found between these countries.

The last point the reader should note is that this paper does not suggest that democracy requires a complete separation between church and state. Rather, as it will be argued in the following section, a certain level of cooperation between the state and religious institutions is acceptable, and even desirable, as long as two basic conditions are met: All citizens must be guaranteed complete freedom of religion and conscience and the dominant church cannot impose its teachings and values on the rest of society. Fulfillment of these two requirements provides a good indication of whether the states in

transition are moving closer towards democratic consolidation. However, it is essential to remember that although these conditions are necessary they are only a partial measure of democratic progression. These stipulations should be considered in addition to the eight institutional requirements identified by Robert Dahl. Table 1 summarizes Dahl’s democratic prerequisites.

Table 1: Robert Dahl’s Institutional Requirements for Democracy⁴

I. Formulate preferences	<ol style="list-style-type: none"> 1. Freedom to form and join organizations 2. Freedom of expression 3. Right to vote 4. Right of political leaders to compete for support 5. Alternative sources of information
II. Signify preferences	<ol style="list-style-type: none"> 1. Freedom to form and join organizations 2. Freedom of expression 3. Right to vote 4. Eligibility for public office 5. Right of political leaders to compete for support 6. Alternative sources of information 7. Free and fair elections
III. Have preferences weighted equally in conduct of government	<ol style="list-style-type: none"> 1. Freedom to form and join organizations 2. Freedom of expression 3. Right to vote 4. Eligibility for public office 5. Right of political leaders to compete for support 5a. Right of political leaders to compete for votes 6. Alternative sources of information 7. Free and fair elections 8. Institutions for making government policies depend on votes and other expressions of preference

⁴ Robert A. Dahl, *Polyarchy: Participation and Opposition*. New Haven: Yale University Press (1971), 3.

The institutional requirements, singled out as necessary by Dahl, have been largely met within all four countries, making it even more important to analyze the nature of Church-state relations as a means of evaluating democratic consolidation in those states. In each of the selected countries the Church attempted to exert political authority following the overthrow of the authoritarian system and in each case the democratic forces have attempted to counter the Church's influence. In general, Spain has been more successful in restricting the Church's political intervention in comparison to Brazil, Chile and Poland which could be due to the fact that the Spanish transition occurred much earlier than in the other three countries. The following analysis will illustrate the impact of the Catholic Church on democratic transition and consolidation. However, before proceeding any further the theoretical basis for church-state relations will be briefly examined.

Theoretical Perspective

Throughout centuries the relationship between church and state has been subject to extensive debates. The discussion over the appropriate conduct of church-state relations has once again taken on importance as a consequence of recent political transformations in parts of Latin America and Europe. In the period between 1974 and 1990 nearly 30 countries have moved away from authoritarian regimes to embrace human rights and democracy.⁵ The Catholic Church in particular has been identified to be a crucial force which helped the democratization process in many of these countries. Samuel Huntington, for instance, suggested that the Catholic Church was one of the key contributing factors to what he identified to be the third wave of democratization. Specifically, Huntington argued that it was the Catholic Church's change in position from that of support or neutrality to that of opposition towards the authoritarian regimes which significantly aided the democratization process.⁶ Other authors echoed Huntington's conclusions. Bryan Hehir, for example, in his analysis of the correlation between human rights and the Catholic Church, similarly acknowledged the gradually more progressive approach of the Church towards human rights and democracy.⁷ As such, in the last several decades the Catholic Church has shown an increasingly supportive attitude towards modern liberal ideas.

⁵ Samuel P. Huntington, "Democracy's Third Wave." Journal of Democracy. Vol. 2 No. 2 (Spring, 1991), 12.

⁶ Ibid, 13.

⁷ Bryan Hehir, "Religious Activism for Human Rights: A Christian Case Study." Religious Human Rights in Global Perspective. Ed. J. Witte and J.D. van der Vyver. The Hague: Martinus Nijhoff Publishers (1996), 97-119.

The Catholic Church's new role as a defender of democracy and human rights has significantly increased its prestige; consequently the Church on a number of occasions has attempted to exalt its influence in the politics of post-authoritarian states. The Church's increased social and political influence in consolidating democracies raised the question of the appropriate conduct of church-state relations in a democratic system. Since one of the main objectives of this study is to draw conclusions as to whether the church-state relations in the selected countries conform to democratic standards, it is necessary to establish a framework for an appropriate pattern of church-state relations in democratic systems. The following discussion of various theories of church-state relations illustrates that in a healthy democracy a degree of cooperation between religious institutions and the state is acceptable and even desirable. However, before proceeding any further in this analysis it is important to address the question of compatibility of Catholicism with democracy, because Brazil, Chile, Poland and Spain are predominantly Catholic countries.

Roman Catholicism is one of the oldest and most influential religious systems in the world. The Catholic Church's political power has been best exemplified throughout the middle ages. The Papacy, for instance, was the "first political system of feudal Europe to utilize Roman jurisprudence wholesale, with the codification of canon law in the 12th and 13th centuries."⁸ To use another example, certain states in history were often heavily dependent on the assistance of the clerical bureaucracy of the Church.⁹ Although latter liberal movements have considerably diminished the political power of the Church

⁸ Perry Anderson, Lineages of the Absolutist State. London: NLB (1974), 28.

⁹ *Ibid.*, 47.

its presence, nevertheless, continued to be greatly felt within many societies. However, with the development of modern ideas of liberty and democracy some scholars stressed the rigid and hierarchical structure of the Catholic Church and labeled it to be incompatible with democratic tenets. As suggested by Seymour Martin Lipset, the Catholic Church's traditionally close links to the state and its non-flexible teachings have been regarded as anti-democratic.¹⁰ Especially in the pre-Second World War period the Catholic Church had been closely associated with conservative political circles.¹¹ The Church's active support of the fascist elements in the Spanish Civil War was one of the most cited examples of this phenomenon.¹² Hence, the early debates on necessary prerequisites and conditions for democracy often concluded that Catholic nations constituted weak candidates for democracy. A review of some of the early teachings of the Catholic Church, to a large extent, reinforced this religious incompatibility theory. For instance, the 1832 encyclical of Pope Gregory XVI, *Mirari Vos*, took a strong position against freedom of conscience and opinion.¹³ Likewise, the 1864 *Syllabus of Errors* promulgated by Pope Pius IX argued against religious freedom.¹⁴ These documents illustrated that certain traditional Catholic beliefs were at odds with modern liberal thought. Instead,

¹⁰ Seymour Martin Lipset, "The Social Requisites of Democracy Revisited." American Sociological Review. Vol. 59 (February, 1994), 6.

¹¹ Seymour Martin Lipset, Kyoung-Ryng Seong and John Charles Torres, "A Comparative Analysis of the Social Requisites of Democracy." International Social Science Journal. Vol. 45 (May 1993), 169.

¹² Philip Gleason, "Pluralism, Democracy and Catholicism in the Era of World War II." The Review of Politics. Vol. 49 (Spring 1987), 209.

¹³ Paul E. Sigmund, "The Catholic Tradition and Modern Democracy." The Review of Politics. Vol. 49 no 4 (Fall 1987), 536.

¹⁴ *Ibid*, 536-7.

Protestantism has been suggested to be a better match for democracy because of its emphasis on individualism and its clearer separation between church and state.¹⁵

In recent years, however, the theories of Catholicism's incompatibility with democracy have been largely discredited. The participation of many Catholic countries in the recent wave of democratization, including our four case studies, has significantly weakened the argument that the Catholic religion is in conflict with democracy. In light of these developments, scholars stressed the changes that have occurred within Catholic social thought since the 1960s as an explanation for this phenomenon.

The most notable changes within the teachings of the Catholic Church date to the Second Vatican Council of 1965. The Second Vatican Council expressed the Catholic Church's concrete commitment to human rights and freedoms and, in turn, democracy. The first notable document of the Council was the Declaration on Religious Freedom, *Dignitatis Humanae*. Within this document the Church expressed its support for one of the fundamental democratic rights – freedom of religion and conscience. The declaration stated that not only did every individual have the right to freedom of religion and conscience but the “government is to see to it that equality of citizens before the law, which is itself an element of the common good, is never violated, whether openly or covertly, for religious reasons.”¹⁶ Hence, the document took a contrasting view to the earlier Church writings such as the *Mirari Vos* and the *Syllabus of Errors* and instead

¹⁵ David Beetham, *Democracy and Human Rights*. Polity Press (1999), 81.

¹⁶ *Dignitatis Humanae*. Declaration on Religious Freedom by Pope Paul VI, 1965.
http://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_decl_19651207_dignitatis-humanae_en.html.

illustrated a more progressive and democratic approach of the Church towards religious freedom.

The second equally important document released by the Second Vatican Council was the Pastoral Constitution on the Church in the Modern World, otherwise known as *Gaudium et Spes*. This document reemphasized the importance of religious freedom but more importantly it supported various other liberties such as freedom of speech, association and opinion. Specifically, the Pastoral Constitution spoke in favour of greater tolerance and respect for “those who think or act differently than we do in social, political and even religious matters.”¹⁷ Moreover, the document spoke against totalitarian forms of governance and instead praised the states with “national procedures which allows the largest possible number of citizens to participate in public affairs with genuine freedom.”¹⁸ *Gaudium et Spes* was the defining document which illustrated the Catholic Church’s support for democracy.¹⁹ Thus, the teachings of the Second Vatican Council committed the Catholic Church to a number of fundamental human rights which constitute the cornerstone of modern democracy.

Although many scholars see the Second Vatican Council as the point of divergence within the Catholic doctrine from anti-democratic towards more progressive social teachings one can make the case that certain early Church writings also promote human rights and democratic values. One of the first progressive documents released by

¹⁷ *Gaudium et Spes*. Pastoral Constitution on the Church in the Modern World, 1965.
http://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_cons_19651207_gaudium-et-spes_en.html.

¹⁸ Ibid.

¹⁹ Paul Sigmund, “The Catholic Tradition and Modern Democracy.” *The Review of Politics*. Vol. 49 no 4 (Fall 1987), 545.

the Catholic Church, *Rerum Novarum* by Pope Leo XIII, dated back to 1891. The encyclical explicitly supported the protection of workers against exploitation, which given the time period was a progressive act.²⁰ Moreover, the Papal document argued that “public administration must duly and solicitously provide for the welfare and the comfort of the working classes.”²¹ Thus, *Rerum Novarum* was the first step taken by the Church towards protection of human rights. Another important action taken by the Vatican which illustrated the Church’s evolving attitudes was the 1944 Christmas radio address by Pope Pius XII. In the broadcast the Pope indirectly supported democracy by acknowledging that a democratic form of governance was a system that most closely conformed to the Catholic teachings.²² The two events were important examples of the Church’s changing perception of the modern world.

However, the most significant Papal document prior to the Second Vatican Council which showed the Church’s ability to modernize its teachings was the 1963 encyclical of Pope John XXIII, *Pacem in Terris*. The encyclical was an illustration of the Church’s shift towards a stronger endorsement of human rights and democracy. *Pacem in Terris* identified a number of individual rights that should be universally protected. For instance, these rights included, but were not limited to,

the right to bodily integrity and to the means necessary for the proper development of life, particularly food, clothing, shelter, medical care, rest, and, finally, the necessary social

²⁰ Bryan Hehir, “Religious Activism for Human Rights: A Christian Case Study.” Religious Human Rights in Global Perspective: Religious Perspective. Ed. J. Witte and J. van der Vyver. The Hague: Martinus Nijhoff Publishers (1996), 100-1.

²¹ Rerum Novarum. Encyclical of Pope Leo XIII on Capital and Labour, 1891. http://www.vatican.va/holy_father/leo_xiii/encyclicals/documents/hf_l-xiii_enc_15051891_rerum-novarum_en.html.

²² Paolo Pombeni, “The Ideology of Christian Democracy.” Journal of Political Ideologies. Vol. 5 no 3 (2000), 297.

services. In consequence, he [an individual] has the right to be looked after in the event of ill health; disability stemming from his work; widowhood; old age; enforced unemployment; or whenever through no fault of his own he is deprived of the means of livelihood.²³

In addition *Pacem in Terris* argued in support of political rights such as freedom of speech, publication and association as well as the right to be able to speak against coercive governments.²⁴ Although the document did not endorse a specific political system it did nonetheless acknowledge that certain types of governments were superior to others. For example, the document stated that the government should have a certain form such as “a threefold division of public office properly corresponding to the three main functions of public authority,” and citizens should have the right to freely participate in government.²⁵ Hence, these examples illustrate that prior to the Second Vatican Council a number of the Church’s documents and statements also advanced human rights and democracy which further disputed the argument that democracy was unlikely to succeed in Catholic countries.

In the present context, few scholars, if any, would suggest that Catholicism is an obstacle to democracy. Instead many would argue that it was the practice of religion rather than specific religious teachings, which determine a religion’s compatibility with democracy. David Beetham, for instance, suggested that, “any form of belief, whether sacred or secular, is incompatible with democracy if it claims that the final truth for

²³ *Pacem in Terris*. Encyclical of Pope John XXIII on Establishing Universal Peace in Truth, Justice, Charity and Liberty, 1963. http://www.vatican.va/holy_father/john_xxiii/encyclicals/documents/hf_j-xxiii_enc_11041963_pacem_en.html.

²⁴ Ibid.

²⁵ Ibid.

society lies in some superior and esoteric knowledge that is beyond question by the uninitiated, and to which political authority must be subject.”²⁶ Therefore, any religion could be compatible with democracy as long as the dominant religious institutions are not absolutist. Given that recent Catholic teachings emphasize that the Church “respects *the legitimate autonomy of the democratic order* and is not entitled to express preferences for this or that institutional or constitutional solution,”²⁷ this reinforces the view that the religious incompatibility thesis could be effectively dismissed in the case of Catholicism.

Accordingly, having determined that our case studies were not disadvantaged because of their predominantly Catholic identification, the remainder of this section will focus on the conduct of church-state relations in democratic states. More specifically, the debate will attempt to determine the extent to which religious institutions should be separated from the state in a democratic system. In the following discussion different theories on church-state relations will be presented in an effort to establish a basic framework against which democratic progress in the newly democratic states could be assessed.

The opinions regarding the appropriate conduct of church-state relations are many and diverse. While certain theories argue for a complete separation between the government and religious institutions, others favour a theocratic form of governance. In recent years, however, a number of scholars have argued that neither strict secularism nor theocracy was fully compatible with democracy. In the context of the current debate,

²⁶ David Beetham, *Democracy and Human Rights*. Polity Press (1999), 81. See also: Samuel Huntington, “Democracy’s Third Wave.” *Journal of Democracy*. Vol. 2 no 2 (Spring 1991), 22-30.

²⁷ *Centesimus Annus*. Encyclical of Pope John II, 1991.
[http://www.vatican.va/edocs/ENG0214/_P7.HTM#\\$2L](http://www.vatican.va/edocs/ENG0214/_P7.HTM#$2L).

secularism refers to a complete separation between religious institutions and the state, while theocracy may be defined as a “fusion of religious and political power under religious control.”²⁸ Authors such as Alfred Stepan and Cole Durham suggest that a certain degree of cooperation between the church and state maybe necessary in order to maximize religious liberty and safeguard democracy.

Alfred Stepan argues that since religious institutions are an important part of civil society their influence could not be completely isolated from the public sphere. Stepan put forth a theory of ‘twin tolerations’ where he maintains that cooperation between church and state maybe needed. Accordingly, Stepan suggests that “minimal boundaries of freedom of action...must somehow be crafted for political institutions vis-à-vis religious authorities, and for religious individuals and groups vis-à-vis political institutions.”²⁹ The theory of ‘twin toleration’ argues in favour of full religious freedom, however, it does stipulate that “religious institutions should not have constitutionally privileged prerogatives which allow them authoritatively to mandate public policy to democratically elected governments.”³⁰ Thus, Stepan’s thesis on religious liberty disputes the notion that secularism is necessary in a democratic system. On the contrary, Stepan suggests that “secularism and separation of church and state have no inherent affinity with democracy, and indeed can be tightly related to nondemocratic forms.”³¹

Cole Durham’s analysis of church-state relations reinforces a number of Stepan’s conclusions. Durham argues that both secularism and theocracy are problematic because

²⁸ Alfred Stepan, “The World’s Religious Systems and Democracy: Crafting the “Twin Tolerations.” *Arguing Comparative Politics*. Oxford: Oxford University Press (2001), 224-225.

²⁹ *Ibid.*, 213.

³⁰ *Ibid.*, 217.

³¹ *Ibid.*, 223.

“in both situations, the state adopts a sharply defined attitude towards one or more religions, leaving little room for dissenting views.”³² Durham refers to the example of Stalinist constitutions to demonstrate the problem of secularism. As illustrated by history, the strict secularism imposed by the communist system reduced rather than enhanced religious freedom.³³ Therefore, Durham suggests that an ‘accommodationist’ model provides the most democratic basis for church-state relations. Specifically, the ‘accommodationist’ model promotes separation between religious institutions and the state but simultaneously it recognizes the “importance of religion as part of national or local culture, accommodating religious symbols in public settings, allowing tax, dietary, holiday, Sabbath, and other kinds of exemptions, and so forth.”³⁴ Hence, both authors argue against strict separation between church and state.

Although Stepan and Durham presented convincing arguments in favour of cooperation between religious institutions and the government other authors continue to maintain the superiority of secularism. John Swomely, for instance, in his discussion of the American case argues that “only when the state is secular can it be impartial and therefore guarantee equally the liberty of all religious organizations.”³⁵ However, the secular model adopted in the United States is an anomaly rather than a rule. Peter Danchin rightly points out that the American notion of religious freedom diverges from that of international laws on human rights. Various international documents, such as the Universal Declaration of Human Rights and the International Covenant on Civil and

³² Cole Durham, “Perspectives on Religious Liberty: A Comparative Framework.” Religious Human Rights in Global Perspective: Legal Perspective. The Hague: Martinus Nijhoff Publishers (1996), 18.

³³ *Ibid.*, 19.

³⁴ *Ibid.*, 21.

³⁵ John Swomley, Religious Liberty and the Secular State. Buffalo: Prometheus Books (1987), 13-14.

Political Rights, identify freedom of conscience and religion to be a fundamental human right; however, as argued by Danchin, these laws do not invoke the necessity of separation between religion and the state.³⁶ A review of church-state policies in many established democracies reveals that most states do not adhere to the principle of secularism. Instead, one could make the argument that the notion of religious neutrality was far from the norm in many democratic states, especially in Europe.³⁷

A number of prominent Western European countries with firmly entrenched democratic forms of government provide some type of recognition to their dominant religious institutions. One of the most obvious examples of this phenomenon could be found in the United Kingdom. The United Kingdom, which is often considered to be one of the pillars of democracy, has an established church. The Church of England continues to play an active role in the British public sphere. For instance, twenty five seats in the House of Lords were reserved for the Church bishops.³⁸ Similarly, in Germany the state has also made certain accommodations for the country's main religious institutions. Specifically, the German government collects religious taxes as well as substantially subsidizes its Catholic and Protestant Churches.³⁹ Even France, which claims a strict separation between church and state, indirectly supports religious activities. For example, the French state provides funding for teachers' salaries in Catholic schools as well as it

³⁶ Peter Danchin, "Religion, Religious Minorities and Human Rights." In Protecting Human Rights of Religious Minorities in Eastern Europe. Ed. Peter Danchin and Elizabeth Cole. New York: Columbia University Press (2002), 11.

³⁷ John Madeley, "European Liberal Democracy and the Principle of State Religious Neutrality." West European Politics. Vol. 26 no 1 (January 2003), 18.

³⁸ Michael Minkenberg, "The Policy Impact of Church-State Relations: Family Policy and Abortion in Britain, France and Germany." West European Politics. Vol. 26 no 1 (January 2003), 203.

³⁹ Alfred Stepan, "The World's Religious Systems and Democracy: Crafting the "Twin Tolerations." Arguing Comparative Politics. Oxford: Oxford University Press (2001), 220.

supports church personnel in hospitals, prisons and the army.⁴⁰ However, the most surprising example illustrating the continued importance of religion in public life was found in the Netherlands. The Netherlands could be considered one of the most progressive societies in the world, yet, denominational schools and other church activities continue to be heavily subsidized by the Dutch state.⁴¹ These examples demonstrate that in reality a significant number of democratic countries do not eliminate religious institutions from public life.

The strong religious presence in many democratic countries illustrate that newly democratic states do not necessarily need to embrace the principle of secularism. Instead, the evidence from Western Europe reveals that church-state relations in democratic countries can embody various forms. However, in order to meet democratic standards consolidating democracies must guarantee all citizens full freedom of religion and conscience. Moreover, the dominant church cannot impose its vision of the 'good life' on the rest of society. These two conditions must be met, in addition to the basic institutional requirements identified by Dahl, by newly democratizing states in order to fully embrace democracy.

The following chapters will show that the democratic governments of Chile, Brazil, Spain and Poland have made a commitment to protect the religious freedom of their citizens. Despite this guarantee the Catholic Church in those states has made a considerable effort to impose its moral teachings on the whole of society. Nonetheless, in

⁴⁰ Michael Minkenberg, "The Policy Impact of Church-State Relations: Family Policy and Abortion in Britain, France and Germany." West European Politics. Vol. 26 no 1 (January 2003), 204.

⁴¹ Frank Lechner, "Secularization in the Netherlands?" Journal for Scientific Study of Religion. Vol. 35 no 3 (1996), 258.

most cases the democratic forces have opposed the Church's influence over the public sphere. Yet the degree to which these governments were successful in countering the Church's public presence varied based on the local circumstances in each of the countries under examination. The next four sections will examine Church-state relations individually in each country.

Church-State Relations in Chile

In comparison to a number of other Latin American countries Chile's historical experience with democracy has been impressive. Prior to the military coup of 1973, which overthrew the socialist government of Salvador Allende and established Army-General Augusto Pinochet's military rule, Chile had been host to a relatively stable democratic system. Periodic elections, competitive political parties, and established constitutionalism had characterized much of Chile's history from 1830s up to 1973.⁴² Yet, the 1973 coup led by the armed forces stalled Chile's democratic experience, and it was not until 1990 that democratically elected civil authorities once again regained control over the polity. The move towards re-democratization was initiated by the October 1988 plebiscite at which point the Chilean people voiced their widespread discontent with the authoritarian military government by voting against the extension of General Pinochet's presidency. Hence, after nearly seventeen years of repressive authoritarian rule the plebiscite marked the first step towards Chile's return to democracy.

During the period of Pinochet's reign the Catholic Church became a vital institution in Chilean society. The regime's institutionalized repression pushed the Chilean Catholic Church to assume a position of a surrogate political opposition to the military rule, which had a positive impact on Chile's struggle to reestablish democracy. Although the role of the Church was indispensable throughout the dictatorial period its impact on democratization following the initial transition became more controversial. In particular, the Church's opposition to divorce, abortion and its strong influence over the

⁴² Thomas Sanders, "Catholicism and Democracy: The Chilean Case." *Thought*, Vol. 63 no 250 (September 1988), 273.

educational sphere has had a negative effect on the country's consolidation of democracy. Hence, the objective of this section is to examine the role of the Catholic Church in Chile prior to the 1973 coup, during the military rule and, subsequently, the political transition to a civilian government. The Church's direct and indirect presence in the country's political affairs throughout most of Chile's history, and especially during the authoritarian period, has made it difficult to contain the Church's influence following the 1990 transition.

The roots of the Catholic Church in Chile date back to the Spanish conquest which brought Catholicism to the continent. The relationship between the Church and the ruling elites prior to the country's independence was effectively described by Virginia Marie Bouvier as one of interdependency;

The church continued to rely on the crown for protection, grants, privileges, and exemption from taxes. The crown, in turn, relied on the church to implant Spanish civilization in the New World and imbue a colonial spirit of obedience to the Spanish monarchy.⁴³

The Catholic Church from the early days of its existence in Chile, and Latin America in general, has been granted a privileged status. Following the country's formal independence from the Spanish crown Catholicism remained the dominant religion of the state. According to the 1828 Constitution, Catholicism was granted an official status while other religions were forced to confine their worship to the private sphere.⁴⁴ Moreover, the clergy performed a considerable bureaucratic role for the state by

⁴³ Virginia Marie Bouvier, Alliance or Compliance: Implications of the Chilean Experience for the Catholic Church in Latin America. Syracuse, NY: Syracuse University (1983), 3.

⁴⁴ Kevin Middlebrook, "Introduction: Conservative Parties, Elite Representation, and Democracy in Latin America." Conservative Parties, the Right, and Democracy in Latin America. Baltimore: The John Hopkins University Press (2000), 12.

maintaining the registry of births, marriages and deaths which was given to the Church by the 1857 civil code.⁴⁵ Thus, the political elites have formally recognized and confirmed the importance of Catholicism early in the newly independent Chilean state.

Although the Church was granted extensive privileges by the state its advantageous position was challenged over time by liberal forces. Most notably a law passed in 1865 allowed other religions the freedom of worship and establishment of religious schools.⁴⁶ In the later part of the century a number of other legislations were introduced to further restrict the privileged status of the Church. For example, civil marriages became mandatory, the government rather than the Church assumed responsibility for civil records, and even the clergy's immunity was abolished in civil cases.⁴⁷ However, the Church hierarchy did not accept the anti-clerical reforms without a struggle. The Church sponsored the Conservative Party, which defended the Church's position, and appealed to Catholic voters to support Conservative representatives.⁴⁸ In the latter part of the century the Church hierarchy assumed an even more active role in politics as "several bishops were official party members, a number of priests held Conservative seats in the legislature, and Church funds were used to support Conservative

⁴⁵ *Ibid.*, 12.

⁴⁶ "Chile: Chronology", *Constitutions of the Countries of the World*. Ed. Albert Blaustein and Gisbert Flanz. New York: Oceana Publications Inc. (September 1989), vi.

⁴⁷ Michael Fleet and Brian Smith, *The Catholic Church and Democracy in Chile and Peru*. Notre Dame: University of Notre Dame Press (1997), 37.

⁴⁸ Thomas Sanders, "Catholicism and Democracy: The Chilean Case." *Thought*. Vol. 63 no 250 (September 1988), 273.

candidates in elections.”⁴⁹ The Church hierarchy was not only closely allied with political elites on the right but the clergy assumed a direct role in politics.

The active participation of the Church leaders in Chilean politics came to an end in the early part of the twentieth century. One of the strongest measures taken against the Catholic Church was a clause introduced in the 1925 Constitution which established a legal separation between the church and state.⁵⁰ The Constitution also further reinforced freedom of belief and worship.⁵¹ Although the new law was a considerable blow to the Catholic Church’s social status the government has nevertheless made a number of concessions in order not to completely isolate the Catholic Church. The Church was reassured that certain practices would continue despite the new constitution, specifically the government maintained that “religious instruction in public schools and government support for Catholic schools would continue.”⁵² Furthermore, the state relinquished its authority over ecclesiastical appointments and gave the Church freedom to establish religious communities, dioceses and seminaries without state permission.⁵³ The state’s partial compromise with the Catholic religious leaders illustrated that the Church continued to be an influential institution. Yet, it is relevant to mention that the Chilean Church, along with the Vatican, did not fully mobilize to prevent the separation partly

⁴⁹ Michael Fleet and Brian Smith, The Catholic Church and Democracy in Chile and Peru. Notre Dame: University of Notre Dame Press (1997), 37.

⁵⁰ “Chile: Chronology”, Constitutions of the Countries of the World. Ed. Albert Blaustein and Gisbert Flanz. New York: Oceana Publications Inc. (September 1989), ix.

⁵¹ *Ibid.*, ix.

⁵² Thomas Sanders, “Catholicism and Democracy: The Chilean Case.” Thought. Vol. 63 no 250 (September 1988), 274.

⁵³ Brian Smith, The Church and Politics in Chile. Princeton, New Jersey: Princeton University Press (1982), 77.

because such efforts in the past, for instance in France and Portugal, proved fruitless.⁵⁴ Hence, the favourable terms of separation and the unlikelihood of a successful opposition resulted in the Church's acceptance of the law.

As a consequence of the 1925 constitutional reform the Church's direct participation in Chilean politics declined; nevertheless, the Catholic presence has not been completely diminished by the law. A number of movements emerged since the establishment of the constitution which closely linked to the teachings of the Catholic Church and had an impact on Chile's political situation. The Catholic Action formed in 1931 was an example of an organization promoting social change in the context of Catholic teachings.⁵⁵ Another similar but more radical organization was a political party, Falange Nacional. Fleet and Smith described the Falange organization as a "partisan political voice of social Christianity, aspiring to a 'third road' alternative to liberal capitalism and Marxist socialism."⁵⁶ Consequently, the party's ideology was at odds with the mainstream Catholic hierarchy, which during the period was linked to the Conservative political circles and as a result at times Falange engaged in a confrontation with the Church. For example, in 1948 the Falange Nacional defended the rights of the Communist Party by opposing the Law of Defense of Democracy which aimed to outlaw communist organizations.⁵⁷ The move angered the Conservative Catholics and some members of the Church hierarchy attempted to ban the Church's affiliation with the party,

⁵⁴ Brian Smith, The Church and Politics in Chile. Princeton, New Jersey: Princeton University Press (1982), 75-76.

⁵⁵ Virginia Marie Bouvier, Alliance or Compliance: Implications of the Chilean Experience for the Catholic Church in Latin America. Syracuse, NY: Syracuse University (1983), 24.

⁵⁶ Michael Fleet and Brian Smith, The Catholic Church and Democracy in Chile and Peru. Notre Dame: University of Notre Dame Press (1997), 45.

⁵⁷ *Ibid.*, 46.

a move which was eventually prevented by intervention from The Vatican.⁵⁸ Over time the Falange became a relevant political group particularly throughout the 1940s and 1950s. In 1957 the party had a senator and fourteen deputies in the parliament.⁵⁹

The creation of the Christian Democratic Party (PDC) continued the Church's indirect influence in the Chilean political sphere. The Christian Democratic Party, established in 1957, was the result of a merger between the Falange Nacional and other Christian organizations.⁶⁰ The PDC's ideas were closely associated with Catholic ideologies especially those criticizing capitalism and promoting workers rights.⁶¹ During that period the Church's perspectives on the political and social situation in the country also began to change. In light of the social issues of the day and the rapid spread of Marxist ideas the Church began to consciously promote Christian social teachings. For example, in 1962 a pastoral letter entitled "Social and Political Responsibility in the Present Hour" called for social reforms without turning to communism.⁶² The relevant changes included agrarian restructuring and a more equitable distribution of income.⁶³ The reforms encouraged by the Chilean Church conformed to the greater changes which took place within the Catholic Church in the years preceding the Second Vatican Council. Hence, the early 1960s also signified a shift in support by the Church from the

⁵⁸ Ibid., 46.

⁵⁹ Brian Smith, The Church and Politics in Chile. Princeton, New Jersey: Princeton University Press (1982), 89.

⁶⁰ Ibid., 89.

⁶¹ Virginia Marie Bouvier, Alliance or Compliance: Implications of the Chilean Experience for the Catholic Church in Latin America. Syracuse, NY: Syracuse University (1983), 25.

⁶² Thomas Sanders, "Catholicism and Democracy: The Chilean Case." Thought. Vol. 63 no 250 (September 1988), 275-6.

⁶³ Virginia Marie Bouvier, Alliance or Compliance: Implications of the Chilean Experience for the Catholic Church in Latin America. Syracuse, NY: Syracuse University (1983), 27.

Conservatives to the Christian Democrats.⁶⁴ The Church's actions from 1925 until 1960s show that despite the constitutional requirements of religious neutrality towards political matters the partisan identifications on behalf of the Church remained evident.

The trend of indirect engagement of the Church in Chilean politics continued until the coup of 1973. The Church's commitment to social change continued especially following the appointment of a reform-minded Raul Silva Henriquez as the archbishop of Santiago.⁶⁵ As the political situation intensified with the election of a left wing coalition of Popular Unity led by Salvador Allende the clergy was urged to remain neutral, a strategy which was relatively successful. The Church did not oppose the socialist government, and Cardinal Silva maintained that the coalition's reforms were backed by the Catholic Church.⁶⁶ On occasions during times of economic and political crisis faced by the Allende government the bishops actually endorsed negotiations between conflicting parties.⁶⁷

However, it is relevant to mention that the clergy was not fully united on the Church's neutral position towards the Allende government. For instance, the radical elements within the Church such as the Christians for Socialism (CpS) strongly supported the Popular Unity government. During the 1973 election "CpS activists campaigned on behalf of Popular Unity candidates. Some even demanded political support of the left as a

⁶⁴ Manuel Antonio Garretón, "Activism and Democratic Ambiguity in the Chilean Right." Conservative Parties, the Right, and Democracy in Latin America. Baltimore: The John Hopkins University Press (2000), 55-6. See also: Michael Fleet and Brian Smith The Catholic Church and Democracy in Chile and Peru., 49.

⁶⁵ Brian Smith, The Church and Politics in Chile. Princeton, New Jersey: Princeton University Press (1982), 112.

⁶⁶ Michael Fleet and Brian Smith, The Catholic Church and Democracy in Chile and Peru. Notre Dame: University of Notre Dame Press (1997), 55.

⁶⁷ *Ibid.*, 56.

criterion for membership in the base communities with which they worked.”⁶⁸ Similarly, some members of the clergy were fundamentally opposed to the Allende government and later supported the military coup.⁶⁹ Therefore, not all Church representatives perceived the political situation in the same fashion. However, since the Catholic Church is a hierarchic institution most members of the clergy accepted the official position of the Church.

During the Allende period the Church remained formally neutral towards the government except in one case. The policy which the Church opposed was the National Unified School project. The Church initially agreed with a number of aspects of the proposal which aimed to reform Chile’s education system, for example, the intention of the government to make access to education more egalitarian.⁷⁰ However, in the end the Catholic hierarchy opposed the project on the grounds that it did not “respect fundamental human and Christian values.”⁷¹ The conflict over the educational reform was another notable example that Catholicism in Chile was a politically relevant institution even though legally it was separated from the political sphere.

Thus far, one can observe that the Chilean Catholic Church has been an influential organization throughout the country’s history. Although the liberal forces were successful in constraining the direct political power of the Church at the later part of nineteenth and the early part of the twentieth century the Catholic Church has

⁶⁸ Ibid., 57.

⁶⁹ Virginia Marie Bouvier, Alliance or Compliance: Implications of the Chilean Experience for the Catholic Church in Latin America. Syracuse, NY: Syracuse University (1983), 42.

⁷⁰ Joseph Farrell, The National Unified School in Allende’s Chile. Vancouver: University of British Columbia Press (1986), 193.

⁷¹ Ibid., 216.

nevertheless maintained its presence in the Chilean political affairs. As a result, the Church's established position allowed it later on to become a credible opposition to the military regime.

The 1973 coup, which ousted the democratically elected Popular Unity government, set the stage for nearly seventeen years of brutal military rule. The armed forces "repressed all vestiges of the old system – persecuting political and labour leaders, purging universities and bureaucracies – and sought to build a new system above the fray of party politics, based on a new constitution that envisioned a strong president and a tutelary role for the military."⁷² Statistics have indicated that well over ten thousand people were killed in the initial months of the coup.⁷³ In sum, the institutionalization of violence became the dominant means of military control. As a result, any viable opposition to the new government was banned and the only institution which remained comparatively autonomous was the Catholic Church. Hence, over the course of Pinochet's reign the Church became an increasingly politicized organization.

In the early days of the military rule the Church's formal position towards the armed forces was somewhat ambiguous. A number of bishops who feared the spread of communism welcomed the coup. For instance, bishop Francisco Valdes publicly thanked the armed forces for overthrowing the Popular Unity government.⁷⁴ However, other members of the Church hierarchy were less enthusiastic about the military's intervention. In particular, Cardinal Silva and the Permanent Committee of the Episcopal Conference

⁷² Pamela Constable and Arturo Venezuela, "Chile's Return to Democracy." *Foreign Affairs*. (Winter 1989/1990), 172.

⁷³ Virginia Marie Bouvier, *Alliance or Compliance: Implications of the Chilean Experience for the Catholic Church in Latin America*. Syracuse, NY: Syracuse University (1983), 43-4.

⁷⁴ *Ibid.*, 44.

appealed to Pinochet and his forces for moderation and an end to violence.⁷⁵ Given the climate of uncertainty and the fact that the Chilean Catholic Church was a large organization divergence of opinions was unavoidable. Moreover, because of the hierarchical nature of the Church the top leaders, such as cardinals and bishops, did not necessarily have the same contact with victims of the repression as the priests and nuns. As suggested by Sanders, some bishops in the provinces, for example, were not fully informed of the violence exercised by the army and still trusted that the military had the country's best interests in mind.⁷⁶ Thus, in the early period of Pinochet's government the Church, holding conflicting views of the coup, lacked a coherent response to the political situation.

Although the official position of the Church was divided, a large portion of clergy was actively involved at the grassroots opposition movement from the beginning of the military government. The Church played a key role in providing aid and forming resistance groups for the opposition. One of the leading groups was the Cooperative Committee for Peace in Chile (COPACHI) formed by Cardinal Silva along with Jewish, Methodist and Lutheran leaders.⁷⁷ The organization offered legal and other aid,

COPACHI provided people with safe havens in which they could share concerns, compare ideas and experiences, and coordinate future activities. Drawing on information from its provincial offices and from local churches, the organization prepared reports for the Church on arrests and disappearances, verified cases of torture and was able to counter the lies and distortions of the controlled media.⁷⁸

⁷⁵ Ibid., 44.

⁷⁶ Thomas Sanders, "Catholicism and Democracy: The Chilean Case." *Thought*. Vol. 63 no 250 (September 1988), 280.

⁷⁷ Michael Fleet and Brian Smith, *The Catholic Church and Democracy in Chile and Peru*. Notre Dame: University of Notre Dame Press (1997), 61.

⁷⁸ Ibid., 62.

In November 1975 the government forced the closing of COPACHI but in a matter of a month Cardinal Silva reestablished the organization under the name of Vicaria de Solidaridad.⁷⁹ The clergy's commitment to human rights and its involvement in the resistance movement at the community level led to criticisms and attacks from the regime. The armed forces throughout the authoritarian years killed, tortured, harassed and exiled many church representatives for their participation in the opposition.⁸⁰ Consequently, the clergy's participation in helping the victims of the regime led to the government's retaliation against the Church.

Although many members of the clergy were active in the underground anti-regime movement the Catholic Church refrained from officially criticizing and challenging the Pinochet regime. However, with continued state repression and mounting human rights crimes on behalf of the military the Church leaders began to publicly criticize the government's actions. In April of 1977 Church leaders produced a statement which endorsed a need for diverse public opinion, condemned the human rights violations and the inequitable economic policy; a year later the Episcopal Conference even called for the return to the rule of law.⁸¹ Over the course of the following couple of years the Church continued to speak out against the Pinochet government. These criticisms were intensified following the public mistreatment of three bishops, at an airport by

⁷⁹ Cathy Lisa Schneider, "Violence, Identity and Spaces of Contention in Chile, Argentina and Colombia." *Social Research*. Vol. 67 no 3 (Fall 2000), 783.

⁸⁰ Margaret Crahan, "Church and State in Latin America: Assassinating Some Old and New Stereotypes." *Daedalus*. Vol. 120 no 3 (Summer 1991), 143.

⁸¹ Thomas Sanders, "Catholicism and Democracy: The Chilean Case." *Thought*. Vol. 63 no 250 (September 1988), 282.

government agents, and the 1978 discovery of mass graves.⁸² The regime's actions angered the Church and led to a greater confrontation between Church and state authorities. The Church's support for the return to civil governance, its disapproval of the regime's human rights abuses and inequitable economic policies illustrated the Church's commitment to Christian democratic values.

The 1980s witnessed a change in the Church-state relations. Specifically, the Catholic Church assumed a less confrontational position towards the Pinochet government. The changes were mainly attributed to two factors; The Vatican expressed concern over the Chilean Church's direct involvement in politics and moved to appoint a number of moderate and conservative bishops.⁸³ Especially, the replacement of a liberal and outspoken Cardinal Silva by Msgr. Juan Francisco Fresno was aimed to limit confrontations between the clergy and state. The Church's new strategic approach resulted in Pinochet's agreement to engage in discussions with the opposition in Fresno's presence.⁸⁴ At that point, a looming economic crisis led to mass demonstrations against the military regime, which illustrated the strength of the renewed opposition.⁸⁵ Although the dialogue was broken in October of 1983, the initiative illustrated the potential mediating role of the Church under the leadership of Cardinal Fresno.⁸⁶ Hence, for the

⁸² Michael Fleet and Brian Smith, The Catholic Church and Democracy in Chile and Peru. Notre Dame: University of Notre Dame Press (1997), 64-5.

⁸³ Carl Meacham, "The Role of the Chilean Catholic Church in the New Chilean Democracy." Journal of Church and State. Vol. 36 no 2 (September 1994), 278.

⁸⁴ Thomas Sanders, "Catholicism and Democracy: The Chilean Case." Thought. Vol. 63 no 250 (September 1988), 284.

⁸⁵ Cathy Lisa Schneider, "Violence, Identity and Spaces of Contention in Chile, Argentina and Colombia." Social Research. Vol. 67 no 3 (Fall 2000), 786.

⁸⁶ Thomas Sanders, "Catholicism and Democracy: The Chilean Case." Thought. Vol. 63 no 250 (September 1988), 284.

remainder of the period the leaders of the Catholic Church attempted to bring back the democratic rule through negotiations.

A significant breakthrough in bringing the opposition forces together was the signing of the National Accord on the Transition to Full Democracy. The negotiations between the opposition leaders, which led to the agreement, were initiated by Cardinal Fresno in the beginning of 1985.⁸⁷ The agreement among other things called for reestablishment of the rule of law, respect for human rights, and legalization of political parties.⁸⁸ Although the agreement eventually failed, the initiative illustrated that General Pinochet's claim that no coherent alternative existed to the military government was unsupported.⁸⁹ The Church's involvement and push towards a workable consensus reflected the Church's commitment towards a negotiated solution. The Church leaders' ability to bring the diverse opposition groups together would prove indispensable in the final years of the military rule.

The National Accord showed popular discontent with the political situation. Following the failed initiative to appeal for change to the Pinochet government, many opposition leaders continued to remain moderate and supported a negotiated solution. However, several members of a radical group made an assassination attempt on Pinochet's life which set into motion severe repression by the military.⁹⁰ By then, it

⁸⁷ Carl Meacham, "The Role of the Chilean Catholic Church in the New Chilean Democracy." Journal of Church and State. Vol. 36 no 2 (September 1994), 280.

⁸⁸ Thomas Sanders, "Catholicism and Democracy: The Chilean Case." Thought. Vol. 63 no 250 (September 1988), 284.

⁸⁹ Michael Fleet and Brian Smith, The Catholic Church and Democracy in Chile and Peru. Notre Dame: University of Notre Dame Press (1997), 126.

⁹⁰ Carl Meacham, "The Role of the Chilean Catholic Church in the New Chilean Democracy." Journal of Church and State. Vol. 36 no 2 (September 1994), 282.

became apparent that the only plausible path to reestablishing democracy was through the legal means outlined in the 1980 Constitution. The greatest fear among the forces fighting for democracy was a possibility that an unsuccessful plebiscite, which was supposed to decide whether General Pinochet should remain the head of state for the next nine years, would result in legitimization of the constitution and the regime.⁹¹ Yet, due to the lack of an alternative, most groups within the political opposition decided to take part in the 1988 plebiscite. During that period the Church's support for the plebiscite was crucial. In the months preceding the plebiscite the Church actively urged the citizens to register and vote.⁹² More importantly, Catholic activists were "instrumental in the decision of several still skeptical parties to finally endorse registration and establish an alliance to promote a No vote."⁹³ The vote, which gave the public an opportunity for the first time since 1973 to express their political preferences, ended in the victory of the opposition. Much to General Pinochet's dismay, the opposition forces surpassed their ideological differences and united in a common goal of reestablishing a democratic order.

Although it would be unsubstantiated to claim that the Church was the most important institution responsible for pushing the country towards re-democratization its role should not be underestimated. Throughout the military rule numerous members of the clergy actively worked to help the victims of Pinochet's violence, the Church leaders dedicated a great deal of effort into bringing the opposition groups to the negotiating table

⁹¹ Pamela Constable and Arturo Valenzuela, "Chile's Return to Democracy." *Foreign Affairs*. (Winter 1989/1990), 173.

⁹² Margaret Crahan, "Church and State in Latin America: Assassinating Old and New Stereotypes." *Daedalus*. Vol. 120 no 3 (Summer 1991), 144.

⁹³ Michael Fleet and Brian Smith, *The Catholic Church and Democracy in Chile and Peru*. Notre Dame: University of Notre Dame Press (1997), 132-3.

and finally the Church made many attempts to reason with the repressive regime. As a result countless members of the clergy were subjected to violence while others lost their lives. The political involvement had another price for the Church. Specifically, the Catholics who supported the regime distanced themselves from the Church as a result of the Church's criticisms.⁹⁴ The overall experience of the Church during the authoritarian period had elevated the Church's social status. The Catholic Church became associated with human rights and democracy.

In the aftermath of the transition Chile still faces a number of obstacles in its path to a full consolidation of democracy. At the heart of the problem is the complex relationship between the military and civil authorities. The military continues to be a relevant actor in Chile's current political life which poses a practical dilemma for democratically elected political authorities. As argued by Robert Dahl in a democratic system the military must be depoliticized.⁹⁵ As such, the political role of the armed forces must be restricted before Chile can completely embrace democracy.

The difficulties associated with limiting the power of the military in the post-transition system are linked to the 1980 Constitution formulated by Pinochet's regime in an attempt to institutionalize and legitimize the military's rule. For example, the 1980 Constitution awarded extensive powers to the military's National Security Council that permitted the armed forces' intervention in cases of external as well as internal threat.⁹⁶ Moreover, the constitution guaranteed Pinochet a lifetime seat in the Senate which apart

⁹⁴ Ibid., 74-5.

⁹⁵ Robert Dahl, *Polyarchy: Participation and Opposition*. New Haven: Yale University Press (1971), 50.

⁹⁶ Mark Ensalcado, "In with the New, Out with the Old? The Democratizing Impact of Constitutional Reform in Chile." *Journal of Latin American Studies*. Vol. 26 (1994), 415.

from being undemocratic angered many who demanded that the former dictator be brought to justice for the atrocious violations of human rights during his rule.⁹⁷ Although the democratic coalition was successful in amending certain parts of the 1980 constitution a number of anti-democratic characteristics remained. Most importantly, the veto power held by the military and the inability of the democratically elected officials to sanction and remove key military personal exemplified a few of the most obvious problems.⁹⁸ Similarly, the biased electoral system that favoured the parties on the right of the political spectrum and the non-democratic selection of senators were the other difficult to amend legacies left by the military government.⁹⁹

The lasting presence of the military in the political sphere poses a serious roadblock in Chile's consolidation of democracy and must be resolved before the democratic process can be completed. Although much of the current emphasis is placed on amending the constitution and constraining the power of the military a reexamination of church-state relations is equally important. Once the dictatorship of General Pinochet was replaced by democratically elected politicians the role of the Catholic Church as the surrogate political opposition ended. However, despite Chile's return to democracy the Church continues to exercise significant influence over the society. The Catholic Church's privileged social status, its role in education, and its opposition to divorce and abortion hinders Chile's democratization process.

⁹⁷ Manuel Antonio Garretón, "Chile 1997-1998: The Revenge of Incomplete Democratization." *International Affairs*. Vol. 75 no 2 (1999), 261.

⁹⁸ Peter Siavelis, *The President and Congress in Postauthoritarian Chile*. University Park, PA: The Pennsylvania State University Press (2000), 210-211.

⁹⁹ Alfredo Riquelme, "Voting for Nobody in Chile's New Democracy." *NACLA Report*. Vol. 32 no 6 (May/June 1999), 33.

As discussed earlier, the Chilean Catholic Church has been historically accepted to be the dominant religion of the state and its active opposition to the military government in the post 1973 coup further elevated the Church's social standing. Legally all religions and belief systems are deemed equal under the country's law. The 1980 Constitution, still in effect today, upholds "freedom of conscience, manifestation of all creeds and the free exercise of all cults which are not opposed to morals, good customs and public order."¹⁰⁰ Although, Catholicism is not legally recognized to be the official religion of the state in practice the Catholic Church continues to maintain religious monopoly. As a result other religious denominations have been given inferior treatment. Chile's Protestant community, which comprises over twelve percent of the population,¹⁰¹ has been especially vocal in pointing out occurrences of religious discrimination in the country. The absence of Protestant pastors in state institutions such as the armed forces and military hospitals and the prevalence of Catholic education in public schools have been identified to be some of the main problems.¹⁰² Similarly, in October of 1996 a cabinet minister and another member of the government made anti-Semitic remarks, which resulted in a resignation of a Jewish vice minister.¹⁰³ More disturbingly, there has also been evidence of religiously motivated violence. For example, on a number of

¹⁰⁰ "Chile", Constitutions of the Countries of the World. Ed. Albert Blaustein and Gisbert Flanz. New York: Oceana Publications Inc. (September 1989), 7. Article 19(6).

¹⁰¹ "Chile: 1999 Country Report on Human Rights Practices." US Department of State. (February 2000), http://www.state.gov/www/global/human_rights/1999_hrp_reports/chile.html

¹⁰² *Ibid.*

¹⁰³ "Chile: 1996 Country Reports on Human Right Practice." US Department of State. (January 1997), http://www.state.gov/www/global/human_rights/1996_hrp_report/chile.html

occasions Mormon temples have been attacked.¹⁰⁴ Such violence however has not been prevalent and has not been identified to be a significant problem. These examples, nevertheless, suggest that religions other than Catholicism have not been given equal treatment which violates one of the core individual rights guaranteed in any democratic society.

In recent years the government has taken action and introduced legislation in an attempt to rectify religious inequality. The law, which took effect in March 2000, permitted chaplains of various religious denominations in prisons, state hospitals and armed forces.¹⁰⁵ More importantly, the new legislation “removed the ability of the State to dissolve religious entities by decree. Instead, this only can occur after a judicial review began by complaint filed by the autonomous State Defense Council.”¹⁰⁶ Passing of the religious law has illustrated that the democratic government has taken positive steps in bringing about religious freedom.

Another problematic issue has been the Catholic Church’s influence over education. As discussed earlier, the Catholic Church has historically exercised a significant control over the country’s education. In the post-transition period the Church has attempted to retain certain authority over the educational sphere. As a result, the 1992 government proposal to reform the education system was met by strong opposition from the Church. For example, Msgr. Cristian Caro criticized the document for its

¹⁰⁴ Paul Sigmund, “Religious Human Rights in Latin America.” Religious Human Rights in Global Perspective: Legal Perspective. Ed. Johan van der Vyver and John Witte. The Hague: Martinus Nijhoff Publishers (1996), 473.

¹⁰⁵ “Chile: Country Reports on Human Rights Practices for 2001” US Department of State. (March 2002), <http://www.usis.usemb.se/human/2001/west/chile.html>

¹⁰⁶ Ibid.

“failure to even mention absolute values, to link human freedom to values capable of fulfilling the human potential, and to relate sex education to the family and the indissolubility of the marriage bond.”¹⁰⁷ The draft was eventually amended so that both the Church and state could agree¹⁰⁸ which showed that the Catholic Church continues to receive preferential treatment from the state. Currently, religious instruction continues to be mainly Roman Catholic but parents have the option of withdrawing their children from religious classes.¹⁰⁹ Although Catholicism maintains monopoly over religious education in schools the opting out option for religious classes has been a positive step towards greater religious equality.

Until recently, Chile was one of the last democratic countries in the world to prohibit divorce.¹¹⁰ The issue of divorce has been one of the most contentious matters faced by the democratic government since nearly eighty five percent of Chileans were in favour of its legalization.¹¹¹ The Catholic Church’s opposition was the main reason behind the delay in legalization of divorce. Yet despite the Church’s opposition, President Ricardo Lagos signed the law legalizing divorce, which was approved by Congress in March of 2004, and will officially come into effect in autumn of 2004.¹¹² The new law requires that a couple must be separated for a minimum of one year, in case

¹⁰⁷ Michael Fleet and Brian Smith, The Catholic Church and Democracy in Chile and Peru. Notre Dame: University of Notre Dame Press (1997), 176.

¹⁰⁸ *Ibid.*, 176.

¹⁰⁹ “Chile: Country Reports on Human Rights Practices for 2001” US Department of State. (March 2002), <http://www.usis.usemb.se/human/2001/west/chile.html>

¹¹⁰ “Chilean President Approves Divorce Law.” CBC News. (Friday May 7, 2004), http://www.cbc.ca/stories/2004/05/07/world/Chiledivorce_040507.

¹¹¹ Mala Htun, Sex and State: Abortion, Divorce, and the Family Under Latin American Dictatorships and Democracies. Cambridge: Cambridge University Press (2003), 104.

¹¹² “Chilean President Approves Divorce Law.” CBC News. (Friday May 7, 2004), http://www.cbc.ca/stories/2004/05/07/world/Chiledivorce_040507. See also: “Chileans Granted Right to Divorce.” BBC News. (Friday May 7, 2004), <http://news.bbc.co.uk/2/hi/americas/3693627.stm>

both partners agree, and three years if only one spouse agrees to the divorce.¹¹³ Passing of this legislation was a considerable achievement for Chilean democracy considering the Church's opposition to any government's initiatives legalizing divorce. The struggle to change the country's strict anti-divorce law was long and complicated; however, change was necessary because a legal loophole that permitted annulments was widely used as an alternative to a divorce.

Access to marriage annulments was relatively easy to acquire and as such many people took advantage of it thus making the law largely ineffective. The 1884 Civil Marriage Act, which gave the state full authority over civil marriages, required that in order for the marriage union to be legal it had to be performed in the district where the couple resided and in the presence of two witnesses.¹¹⁴ The residency requirement has made annulments feasible to obtain. Simply, all that had to be done was to convince the witnesses to testify that the couple resided in a different place than they have originally stated hence the ceremony was performed in the wrong jurisdiction and it was deemed illegal.¹¹⁵

The relatively easy access to annulments resulted in a widespread use of the practice. The statistics have indicated that nearly eight thousand couples ended their marriage in annulments per year.¹¹⁶ As such, the fraudulent practices have made the divorce law ineffective since they clearly failed to prevent couples from breaking up their

¹¹³ Eduardo Gallardo, "Chile Legalizes Divorce over Opposition." Washingtonpost.com. (Saturday May 8, 2004), <http://www.washingtonpost.com/wp-dyn/articles/A9982-2004May8.html>

¹¹⁴ Mala Htun, Sex and State: Abortion, Divorce, and the Family Under Latin American Dictatorships and Democracies. Cambridge: Cambridge University Press (2003), 102.

¹¹⁵ *Ibid.*, 102-3.

¹¹⁶ Michael Fleet and Brian Smith, The Catholic Church and Democracy in Chile and Peru. Notre Dame: University of Notre Dame Press (1997), 174.

marriages; nevertheless, the Catholic Church actively opposed any changes in the law. Moreover, since the annulment signified that a marriage never took place it also meant that former spouses could not claim financial support, which has had an especially detrimental effect on women.¹¹⁷ Similarly, another significant problem which emerged as a result of the law has been the increasing number of Chilean children born outside of the wedlock. The 1854 Civil Code made a distinction between legal and natural children which disadvantaged natural children in terms of inheritance and family rights.¹¹⁸ However, the distinction was abrogated three years ago, in spite of the Church's opposition, and it no longer discriminates against natural children.¹¹⁹ The fact that the Church opposed changes to children recognition and the divorce law showed the Church's inconsistency towards democratic principles.

Segments within the government have made attempts in the post-transition period to change the marriage laws only to be met by significant opposition from conservative groups. For example, in September of 1990 members of the Socialist Party and the Party for Democracy introduced a bill addressing the problem of divorce but the initiative was at once criticized by Church leaders, conservatives and some members of the Christian Democratic Party.¹²⁰ Despite the failure, opponents of the law continued to mobilize and push for change. In 1997 another draft proposal was introduced by the government

¹¹⁷ "Chile: Country Reports on Human Rights Practices for 2001" US Department of State. (March 2002), <http://www.usis.usemb.se/human/2001/west/chile.html>

¹¹⁸ Dr. Nivaldo Galleguillos. McMaster University, (June 18, 2004).

¹¹⁹ Ibid.

¹²⁰ Michael Fleet and Brian Smith, The Catholic Church and Democracy in Chile and Peru. Notre Dame: University of Notre Dame Press (1997), 174.

coalition and approved in the Chamber of Deputies.¹²¹ Due to ideological differences, the proposed reforms have been relatively conservative. For example, the new law would allow divorce only under certain circumstances, such as violence, drug addiction and homosexuality and the couple would have to wait up to five years to finalize the process.¹²² Although the bill was passed in the Chamber of Deputies the legislation has faced tremendous opposition in the Senate.¹²³ It was not until March of 2004 that the Chilean Parliament finally agreed to amend the legislation.

The Catholic hierarchy made significant, but unsuccessful, efforts to block the legislation. For example, the Church sponsored a massive television campaign against the proposal.¹²⁴ Therefore, passing of the new law displeased the Church. The hierarchy showed its disapproval by not participating in the signing ceremony held at the presidential palace. As reported by Washington Post “the chair reserved at the ceremony for Cardinal Francisco Javier Errazuriz remained empty, reflecting the Catholic Church's displeasure.”¹²⁵ However, the introduction of the new divorce legislation indicates that Chilean democracy is progressing since the new law was introduced despite strong objections from the Church.

Abortion has been an equally problematic issue faced by the Chilean society in the post-transition period. Presently the Chilean law prohibits performance of abortions

¹²¹ “Chile: Country Reports on Human Rights Practices for 2001” US Department of State. (March 2002), <http://www.usis.usemb.se/human/2001/west/chile.html>

¹²² “Tied up in Knots; Divorce in Chile.” The Economist, Vol. 368 Issue 8338. London. (August 23, 2003), 42. <http://proquest.umi.com/pqdlink?index=0&sid=1&srchmode=1&vinst=PROD&fmt=3&st...>

¹²³ Mala Htun, Sex and State: Abortion, Divorce, and the Family Under Latin American Dictatorships and Democracies. Cambridge: Cambridge University Press (2003), 105.

¹²⁴ “Legislators Vote to Make Divorce Legal in Chile.” CNN.com (Friday March 12, 2004), <http://edition.cnn.com/2004/WORLD/americas/03/11/chile.divorce.ap/>

¹²⁵ Eduardo Gallardo, “Chile Legalizes Divorce over Opposition.” Washingtonpost.com. (Saturday May 8, 2004), <http://www.washingtonpost.com/wp-dyn/articles/A9982-2004May8.html>

under all circumstances.¹²⁶ In addition, the rights of the unborn child are entrenched in the country's Constitution which states that "the law protects the life of those about to be born."¹²⁷ The Chilean state first criminalized abortions in 1875 and punished abortion practitioners, doctors and women who performed self-abortions by a prison term of up to five years.¹²⁸ Yet, even though abortions have been strictly opposed by the state for a long period of time the practice has been permitted to save a mother's life. Specifically, the Health Code of 1931 did not punish doctors for performing abortions to save the life of the pregnant woman.¹²⁹ The Health Code was amended in 1989 by the military government to ban abortions in life threatening situations because the government argued that medical progress has made the practice unnecessary.¹³⁰

Despite legal prohibitions Chilean women continue to obtain illegal abortions. According to the United Nations reports, in 1990 one in every three pregnancies in Chile was ended in abortion.¹³¹ Illegal terminations of pregnancies have posed significant problems because the medical conditions under which many abortions are performed carry significant health risks for women. The United Nations has concluded that illegal

¹²⁶ "World Abortions Policies 1999," United Nations Population Division (1999),

<http://www.un.org/esa/population/publications/abt/abtplac.htm>

¹²⁷ "Chile: Constitution of 1980", Constitutions of the Countries of the World. Ed. Albert Blaustein and Gisbert Flanz. New York: Oceana Publications Inc. (September 1989), 6.

¹²⁸ Mala Htun, Sex and State: Abortion, Divorce, and the Family Under Latin American Dictatorships and Democracies. Cambridge: Cambridge University Press (2003), 56.

¹²⁹ *Ibid.*, 55-6.

¹³⁰ "Abortion Policy: Chile" United Nations. (2002-08-06), www.un.org/esa/population/publications/abortion/doc/chiles1.doc

¹³¹ "Concluding Observations of the Committee on the Elimination of Discrimination Against Women: Chile 1995" Office of the High Commissioner for Human Rights, United Nations. [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/A.50.38,paras.105-159.En?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/A.50.38,paras.105-159.En?Opendocument)

abortions were the second source of maternal death in Chile.¹³² Yet in spite of such statistics the legalization of abortion has not been seriously debated by the democratic government. Apart from a single attempt by the Socialist and Democratic parties to permit abortions for therapeutic reasons, which was immediately opposed, no other members of the government were willing to initiate a debate on the issue in Congress.¹³³ Instead the Right caucus has actually proposed a bill to increase punishment for those breaking the law, which was only defeated in the Senate by a small number of votes.¹³⁴ Accordingly, the government is still far away from solving the problems created by the lack of access to safe abortions. Nevertheless, the government has recognized the widespread problem created by illegal abortions and as a result Chile became the first Latin American country to formally promote family planning.¹³⁵ However, pressure from the Right and the Church has prevented any initiatives to reform the law.

Since the initial transition to democracy Chile has been successfully moving towards democratic consolidation by meeting the institutional requirements, such as free and competitive elections. According to the 2001 Freedom House Survey Chile is considered to be a free country. On a scale of 1 to 7, 1 being completely free and 7 the least free, Chile was given a rating of 2 in both the area of political and civil rights.¹³⁶ Whereas during the military years Chile's ratings ranged mostly between 4 and 7 making

¹³² "Press Release WOM1144" United Nations. (June 22, 1999), <http://www.un.org/News/Press/docs/1999/19990622.wom1144.html>

¹³³ Mala Htun, Sex and State: Abortion, Divorce, and the Family Under Latin American Dictatorships and Democracies. Cambridge: Cambridge University Press (2003), 166.

¹³⁴ *Ibid.*, 167.

¹³⁵ "Abortion Policy: Chile" United Nations. (2002-08-06), www.un.org/esa/population/publications/abortion/doc/chiles1.doc

¹³⁶ "Freedom in the World Country Ratings, 1972-3 to 2001-2." Freedom House Survey. <http://www.freedomhouse.org/research/freeworld/FHSCORES.xls>

it not free or partially free throughout the entire period of Pinochet's rule.¹³⁷ Although Chile is moving in the right direction the Catholic Church's political influence remains problematic.

Historically the Catholic Church has been the dominant religion of the Chilean state and its crucial role in opposing the military government and struggling for human rights has made the Church an important institution in the post-authoritarian period. Even in the years following the transition the Church continues to fight for justice for the victims of the previous regime.¹³⁸ As a result of the Church's activism during the authoritarian period the Church has established favourable ties with democratic groups currently governing the country which gives the Church significant clout in Chilean politics today.¹³⁹ As such the Church leaders have been able to lobby opposition to issues such as religious education, divorce and abortion even though some members of the government privately support changes dealing with these issues. The Church has even turned to measures such as publicizing the names of politicians who have supported reforms to the abortion and divorce laws.¹⁴⁰ Although the Church has the right to express its opinions it should not be permitted to impose moral views on the members of a religiously pluralistic society. However, the new religious law, the choice to opt out of religious education and the introduction of more liberal divorce legislation are evidence

¹³⁷ Ibid.

¹³⁸ Manuel Antonio Garretón, "Chile 1997-1998: Revenge of Incomplete Democratization." International Affairs. Vol. 75 no 2 (1999), 262.

¹³⁹ Mala Htun, Sex and State: Abortion, Divorce, and the Family Under Latin American Dictatorships and Democracies. Cambridge: Cambridge University Press (2003), 8.

¹⁴⁰ Carl Meacham, "The Role of the Chilean Catholic Church in the New Chilean Democracy." Journal of Church and State. Vol. 36 no 2 (September 1994), 296.

that the country is on the right path towards restricting the political interference of the Catholic Church.

Church-State Relations in Brazil

Brazil's political history resembles that of other Latin American countries in the sense that Brazil, too, was ruled by a military government in recent years. During the period between 1964 and 1985 the armed forces maintained supremacy over the political, economic and social life of the country. The generals were successful in institutionalizing their power through harsh violence, systematic violation of human rights and repression of all activities considered to be subversive. In light of these circumstances the Catholic Church became the only autonomous institution capable of openly criticizing the regime's policies and actions. The Church spoke out against the government's use of violence, the suspension of basic civil and political rights and the socioeconomic policies that disadvantaged the most impoverished sectors of society. As a result, since the late 1960s the *Brazilian Church* became increasingly identified as a defender of freedom and democracy.

The clergy's and bishops' role in opposing military rule gave the Church increased social recognition and respect. Consequently, the Church attempted to exercise its political clout in the post-1985 Brazilian society. Specifically, the Church tried to influence the political debates over abortion and the constitution, among other political issues. In many respects the history of the Brazilian Catholic Church has been similar to that of the Chilean Church. However, despite similar patterns of behavior in both the Chilean and Brazilian national Churches their influence over politics and society has been, to a certain degree, different. Comparatively, the Brazilian Church has been rather less successful in exerting its influence over relevant public policies. Therefore, similarly

to the previous chapter, the objective of this section is to examine the extent to which post-authoritarian Brazil has been able to ensure religious freedom and restrict the influence of the national Church over important public issues. Yet, in order to fully understand the Church-state relations in the post-transition Brazil, it is important to analyze both the historical status of the Church and its role during the authoritarian period.

The Roman Catholic Church has been the dominant religious institution in Brazil since the conquest of the territory by the Portuguese crown in the 1500s.¹⁴¹ Currently over eighty percent of Brazil's one hundred and eighty million people have been identified to be Roman Catholic, which makes Brazil one of the largest Catholic nations in the world.¹⁴² Although today Brazil has a strong and well established Catholic Church historically the Brazilian Church has been a relatively powerless institution. Much of the initial weakness has been the result of its dependence, especially financially, on the state.¹⁴³ The Church became deeply dependent on the colonial government and as such it was unable to develop a significant political influence. Yet, despite its institutional weakness it is necessary to recognize that the Church was a conservative force fully aligned with and supportive of the ruling elites.¹⁴⁴ Hence in Brazil, similarly to elsewhere on the continent, the cross legitimated the rule of the sword.

¹⁴¹ Thomas Bruneau, The Political Transformation of the Brazilian Catholic Church. Cambridge: Cambridge University Press (1974), 11.

¹⁴² The World Factbook. (August 2003), <http://www.cia.gov/cia/publications/factbook/geos/br.html>.

¹⁴³ Thomas Bruneau, The Political Transformation of the Brazilian Catholic Church. Cambridge: Cambridge University Press (1974), 16.

¹⁴⁴ Edward Cleary, "The Brazilian Catholic Church and Church-State Relations: Nation-Building." Journal of Church and State. Vol. 39 no 2 (Spring 1997), 255.

In the latter parts of the nineteenth century some initiatives were undertaken to reform and strengthen the Church. The pressure for change was supported by The Vatican which pushed the clergy to become more obedient to the Church hierarchy and to commit itself to accepted practices such as celibacy.¹⁴⁵ However, Dom Pedro II (1840-1889) opposed any plans for reform which eventually led to the imprisonment of two bishops in 1874 and heightening of the conflict between the Church and state.¹⁴⁶ By the end of the century Church-state relations were driven by tensions. By 1889 as Brazil gained full independence from Portugal the Church became formally separated from the state.¹⁴⁷

As the government severed relations with the Church many of the Church's privileges were lost. Specifically, in 1890 religious freedom was established and in 1891 the constitution "eliminated federal and state subsidies for all religious faiths, instituted compulsory civil marriage, placed cemeteries under municipal control, and established secular education."¹⁴⁸ The Church nevertheless managed to retain control over its property and its educational system.¹⁴⁹ Thus, the early period of the Church's presence in Brazil was marked by a relative social and political weakness.

Following the separation from the state, the Catholic Church underwent internal reforms and began to work towards establishing an influence in the country's political

¹⁴⁵ Scott Mainwaring, The Catholic Church and Politics in Brazil, 1916-1985. Stanford: Stanford University Press (1986), 26.

¹⁴⁶ *Ibid.*, 26.

¹⁴⁷ Edward Cleary, "The Brazilian Catholic Church and Church-State Relations: Nation-Building." Journal of Church and State. Vol. 39 no 2 (Spring 1997), 255.

¹⁴⁸ Kevin Middlebrook, "Introduction: Conservative Parties, Elite Representation, and Democracy in Latin America." Conservative Parties, the Right and Democracy in Latin America. Ed. Kevin Middlebrook. Baltimore: The John Hopkins University Press (2000), 21.

¹⁴⁹ *Ibid.*, 21.

affairs. The Vatican's aid was crucial in strengthening the Brazilian Church. As argued by Thomas Bruneau;

“The Holy See was aware of the great problems of the Brazilian Church and took steps such as national and regional synods, a Latin American Plenary Council in 1899, a full nuncio in 1901, a cardinalate in 1905 and the general channeling of ideas and resources in Brazil, to orient and strengthen the institution.”¹⁵⁰

The improvements in the organizational structure of the Church were tremendous. For example, from 1900 to 1920 the ecclesiastical divisions grew from 17 to 58 and the number of seminaries increased substantially.¹⁵¹ The Church's leadership during that period was equally progressive. One of the most influential leaders of the Brazilian Church at the time was Dom Sebastao Leme. Leme, who became the archbishop of Rio and later a cardinal, strongly supported an increase in the Church's political and social influence and advocated greater education of the masses about the Catholic faith as means of obtaining that objective.¹⁵² Thus, in an attempt to increase its influence the Church worked towards broadening its social appeal. Moreover, in an effort to become more directly involved in the political matters of the state the bishops supported and closely collaborated with the governments of Epitacio Pessoa (1918-1922) and Artur Bernardes (1922-1926).¹⁵³ Yet it was not until 1930 that the Church's influence increased significantly.

¹⁵⁰ Thomas Bruneau, The Political Transformation of the Brazilian Catholic Church. Cambridge: Cambridge University Press (1974), 32.

¹⁵¹ *Ibid.*, 33.

¹⁵² Edward Cleary, “The Brazilian Catholic Church and Church-State Relations: Nation-Building.” Journal of Church and State. Vol. 39 no 2 (Spring 1997), 256.

¹⁵³ Scott Mainwaring, The Catholic Church and Politics in Brazil, 1916-1985. Stanford: Stanford University Press (1986), 31-2.

During the administration of Getulio Vargas, between 1930 and 1945, the Catholic Church's political influence was at its highest in the history of the Brazilian Church. As a reward for its support of Vargas' coup against the First Republic the Church received favourable treatment from the new regime.¹⁵⁴ Accordingly, throughout the Vargas years the Church's position within Brazil was considerably strengthened. The support and resources received from the government allowed the Church to expand its social presence by creating more schools, hospitals, and newspapers among other endeavors.¹⁵⁵

Moreover, during this period the Church became directly involved in the political affairs of the state. One of the most convincing examples of expanding influence of the Church was the creation by Cardinal Leme of the Catholic Electoral League (LEC) in 1932.¹⁵⁶ In 1933 the LEC was crucial in influencing the selection of the members to the country's Constituent Assembly. Specifically, the LEC actively encouraged Catholics to vote only for those candidates who supported the Church's views.¹⁵⁷ Through the LEC's activism the Brazilian Church was successful in securing considerable constitutional privileges for itself. Specifically, "the 1934 Constitution met LEC's principal demands, including state financial support for the Church, prohibition of divorce and recognition of religious marriage, religious education during school hours, and state subsidies for public

¹⁵⁴ Kevin Neuhouser, "The Radicalization of the Brazilian Catholic Church in Comparative Perspective." *American Sociological Review*. Vol. 54 (April 1989), 235.

¹⁵⁵ Thomas Bruneau, "Cooperation or Conflict? The Church in the Brazilian Transition." *Thought*. Vol. 63 no 250 (September 1988), 292.

¹⁵⁶ Scott Mainwaring, *The Catholic Church and Politics in Brazil, 1916-1985*. Stanford: Stanford University Press (1986), 33.

¹⁵⁷ Mala Htun, *Sex and State: Abortion, Divorce, and the Family Under Latin American Dictatorships and Democracies*. Cambridge: Cambridge University Press (2003), 85.

schools.”¹⁵⁸ Thus, throughout this period the status of the Church became a prosperous and highly influential institution.

The 1950s and 1960s witnessed yet another change within the Church as members of the clergy and Church hierarchy began to refocus their attention to the needs and concerns of the impoverished and disadvantaged members of Brazilian society. New initiatives in the areas of popular education and culture were meant to bring the Church closer to the masses.¹⁵⁹ Nonetheless, friendly Church-state relations continued. For instance, the clergy and the government worked together on creating various development organizations and the state financially supported initiatives such as the literacy movement which was closely linked to the Church.¹⁶⁰ Some authors have argued that the reason behind the reform was a decline in the Church’s social status. According to Kevin Neuhouser, “the Catholic Church in Brazil began to radicalize when a sector of the church elite realized that support for the status quo was producing a steady decline in popular allegiance to the church. This institutional threat provided greater freedom for the hierarchy to innovate.”¹⁶¹ Regardless of the reason the Church was becoming less conservative and more concerned with the needs of the people. The National Conference of the Bishops of Brazil (CNBB), established in 1952, became an important institution

¹⁵⁸ Scott Mainwaring, The Catholic Church and Politics in Brazil, 1916-1985. Stanford: Stanford University Press (1986), 33.

¹⁵⁹ Scott Mainwaring, “The Catholic Church, Popular Education, and Political Change in Brazil.” Journal of Interamerican Studies and World Affairs. Vol. 26 no 1 (February 1984), 97.

¹⁶⁰ W.E. Hewitt, “Catholicism, Social Justice, and the Brazilian Corporative State since 1930.” Journal of Church and State. Vol. 32 no 4 (Autumn 1990), 838.

¹⁶¹ Kevin Neuhouser, “The Radicalization of the Brazilian Catholic Church in Comparative Perspective.” American Sociological Review. Vol. 54 (April 1989), 242.

that legitimated many of the initiated changes within the Church.¹⁶² In later years the CNBB would become the leading voice for the Brazilian Church.

The political and economic situation leading up to the coup of 1964 was discouraging. Between 1945 and 1964 the country witnessed an unstable political climate during which time power changed hands a number of times. Thomas Bruneau effectively summarized the political instability within the country in the following quote,

Vargas was deposed by a coup in 1945 and was followed by President Eurico Gaspar Dutra, whose five-year term saw little action and even less innovation. Vargas was elected in 1950 and initiated some changes in society, but he committed suicide in the face of scandal and threatened coup. Juscelino Kubitschek could not take office in 1955 until a preventive coup was staged to counter another coup, but once in office he largely fulfilled his promise of fifty years' development in five. Kubitschek was succeeded by the enigmatic Janio Quadros, who came into office to make politics moral and bureaucracy functional. After seven months of no progress, he quit office and left the country.¹⁶³

At that point, elements within Brazil's political elites became increasingly radicalized and dissatisfied with the situation. Quadros was eventually replaced by Vice-president Joao Goulart, who had little support among political groups, especially the military.¹⁶⁴ The country's political situation looked grim. The threat of spreading communist influence also furthered the political instability of the state.¹⁶⁵ As Brazil changed from a one-party dominant system in the 1940s to a multiparty competitive electoral system by 1960s, an

¹⁶² Scott Mainwaring, The Catholic Church and Politics in Brazil, 1916-1985. Stanford: Stanford University Press (1986), 48.

¹⁶³ Thomas Bruneau, The Political Transformation of the Brazilian Catholic Church. Cambridge: Cambridge University Press (1974), 58-9.

¹⁶⁴ *Ibid.*, 59.

¹⁶⁵ Kenneth P. Serbin, Secret Dialogues: Church-State Relations, Torture, and Social Justice in Authoritarian Brazil. Pittsburgh: University of Pittsburgh Press (2000), 28.

increasing political power fell on the left of the political spectrum.¹⁶⁶ In addition, by the early 1960s the economic boom of the earlier years declined and the economy faced severe problems.¹⁶⁷ The volatile political and financial situation in Brazil eventually led to the coup of 1964, which unleashed a twenty-one-year repressive military rule.

Since the initial days of the coup, the military established a strong hold over the entire country through systematic repression and a complete elimination of formal political opposition. In 1965 country's political parties were abolished and replaced by the government party (ARENA) and the formal 'opposition' (MDB).¹⁶⁸ However, unlike in Chile, in Brazil the "generals rotated the presidency, held regular elections, and used propaganda to maintain a façade of democracy."¹⁶⁹ Yet, despite its efforts the military's rule was brutal, violent and oppressive. Although violence was widely employed by the military in order to acquire and maintain power in the early years of the coup it was not until the latter part of 1968 that repression became remarkably brutal. In December of 1968 President Arthur Costa e Silva (1967-1969) introduced Institutional Act V, an authoritarian decree which among many things abolished civil rights, free press and closed Congress.¹⁷⁰ The most violent years of the authoritarian period were those between 1968 and 1974. Throughout this period political murders and tortures by the

¹⁶⁶ Ollie Andrew Johnson III, Brazilian Party Politics and the Coup of 1964. Gainesville: University Press of Florida (2001), 12-3.

¹⁶⁷ *Ibid.*, 56-7.

¹⁶⁸ W.E. Hewitt, "Catholicism, Social Justice, and the Brazilian Corporative State since 1930." Journal of Church and State. Vol. 32 no 4 (Autumn 1990), 839. (footnote)

¹⁶⁹ Kenneth P. Serbin, Secret Dialogues: Church-State Relations, Torture, and Social Justice in Authoritarian Brazil. Pittsburgh: University of Pittsburgh Press (2000), 14.

¹⁷⁰ *Ibid.*, xiii.

government forces became the norm.¹⁷¹ In the post-1974 period the situation to some extent improved and the use of violence became less prevalent. In 1979 the government allowed limited creation of new parties and in 1982 relatively competitive elections took place.¹⁷² By March of 1985 Brazil began the process of re-democratization.¹⁷³ These twenty one years of military rule were one of the darkest in the modern history of Brazil.

In the initial years of the coup the Church hierarchy was mostly silent and even supportive of the military takeover. During the presidency of Humberto de Alencar Castello Branco (1964-7) the official Church-state relations were characterized as stable and generally friendly.¹⁷⁴ Many bishops welcomed the coup in hopes that the new regime would actually restore the needed order in the country.¹⁷⁵ However, as suggested by Peter Flynn, many individual churchmen also did speak out against the military in the early years of the dictatorial order.¹⁷⁶ Yet, as time passed, the mounting brutality by the government forces and increasingly repressive state policies led the Church to change its position towards the state. The Church shifted from its neutral stance and officially began to speak out against the government. In addition to condemning human rights abuses the Church became equally vocal on the issues of social and economic injustices. The bishops were mainly concerned that the economic policies hurt the most impoverished

¹⁷¹ Scott Mainwaring, The Catholic Church and Politics in Brazil, 1916-1985. Stanford: Stanford University Press (1986), 80.

¹⁷² *Ibid.*, 147-8.

¹⁷³ *Ibid.*, 147-8.

¹⁷⁴ *Ibid.*, 3.

¹⁷⁵ Clara Amanda Pope, "Human Rights and the Catholic Church in Brazil, 1970-1983: The Pontifical Justice and Peace Commission of the Sao Paulo Archdiocese." Journal of Church and State. Vol. 27 no 3 (Autumn 1985), 431.

¹⁷⁶ Peter Flynn, Brazil: A Political Analysis. London: Ernest Benn (1978), 406.

and disadvantaged members of Brazilian society.¹⁷⁷ Thus, by the late 1960s the Catholic Church entered a new stage in its relations with the state and from that period until the end of the military rule the Church-state relationship was marked by conflict.

Throughout most of the period that followed the Church became deeply engaged in helping the victims of the regime. For instance, the Church aided the establishment of a number of organizations in order to assist those who were persecuted, impoverished and ignored by the oppressive regime. Examples of such organizations were the Indian Missionary Council, the Pastoral Land Commission, and the Justice and Peace Commission among others.¹⁷⁸ Moreover, the Church's political education through the Basic Ecclesial Communities' (CEB) was crucial. The CEB's were community level organizations composed of about ten to forty people, who gathered to pray and discuss relevant issues 'in the light of the Bible.'¹⁷⁹ As suggested by Bruneau and Hewitt the Church's role in increasing social and political consciousness of the people challenged the established order:

Through the preparation of documents for the lower classes, slides, and extensive discussion the church has encouraged an awareness of the importance of politics as a means whereby the lower classes may increase their negligible role in politics. At the most elementary level, the program has encouraged popular organization in order to pressure for services such as education, health care, and running water. In some cases it has also been conducive to the formation of cooperatives and other more general movements including unions, as well as preparation for elections through the identification of parties and candidates. The program also encouraged large rallies in

¹⁷⁷ Ibid., 348.

¹⁷⁸ W.E. Hewitt, "Catholicism, Social Justice, and the Brazilian Corporative State since 1930." *Journal of Church and State*. Vol. 32 no 4 (Autumn 1990), 832.

¹⁷⁹ Thomas Bruneau, "Church and Politics in Brazil: The Genesis of Change." *Journal of Latin American Studies*. Vol. 17 (1985), 281.

order to stimulate the formation of movements and to pressure the government to be more open to lower class demands.¹⁸⁰

Another effective means of de-legitimizing the regime was the publication of documents and statements countering the government's propaganda. Since the late 1960s the Church issued numerous documents criticizing the military dictatorship. For instance, at the Eleventh General Assembly in May 1970 the Church published a paper which condemned the government's actions, especially torture.¹⁸¹ Similarly, in February 1977 bishops released a document, "Christian Requirements of Political Order", which discussed the importance of bringing law and order to Brazilian society.¹⁸² In August of 1981 the CNBB released another important text that criticized the country's socioeconomic situation and stressed the importance of political rights and democracy.¹⁸³ Throughout the period members of the Church hierarchy published numerous such statements both at the national as well as regional levels.

Furthermore, the Church actively spoke out against specific cases of harassment, torture and murder. For instance Cardinal Paulo Evaristo Arns publicly denounced the regime for the assassination of popular Jewish journalist, Vladimir Herzog.¹⁸⁴ Similarly, in 1973 the bishops and clergy organized months-long protests against the security forces'

¹⁸⁰ Thomas Bruneau and W.E. Hewitt, "Patterns of Church Influence in Brazil's Political Transition." Comparative Politics. Vol. 22 no 1 (October 1989), 41.

¹⁸¹ Scott Mainwaring, The Catholic Church and Politics in Brazil, 1916-1985. Stanford: Stanford University Press (1986), 111.

¹⁸² Thomas Bruneau, "Cooperation or Conflict? The Church in the Brazilian Transition." Thought. Vol. 63 no 250 (September 1988), 294.

¹⁸³ Thomas Bruneau, "Church and Politics in Brazil: The Genesis of Change." Journal of Latin American Studies. Vol. 17 (1985), 277.

¹⁸⁴ Edward Cleary, "The Brazilian Catholic Church and Church-State Relations: Nation-Building." Journal of Church and State. Vol. 39 no 2 (Spring 1997), 258.

torture and murder of young university student, Alexandre Vannucchi Leme.¹⁸⁵ In one case the Church's activism was successful in bringing responsible officers to justice for the crimes they had committed. In the case of Barra Mansa, which involved brutal torture and killing of four soldiers, the bishops pressured the state to investigate and admit its responsibility for the acts.¹⁸⁶ According to Kenneth Serbin this was the only time the military punished the practice of torture and murder during the authoritarian period.¹⁸⁷

As a consequence of the Church's opposition the bishops, priests and nuns all became a target of the regime. In the years that followed a number of bishops were harassed, many priests and nuns were tortured and imprisoned and some were even murdered. For instance, in the period between 1968 and 1978 over a hundred priests were arrested, seven were killed, and nearly thirty bishops became subjects of state repression.¹⁸⁸ Thus, in Brazil, just as in Chile, the Church was placed in the line of fire for its defiance of the established military order.

Although Church-state relations through most of the authoritarian period were driven by conflict and antagonism there is evidence that both sides engaged discussions to minimize the tensions. These dialogues have been referred to as Bipartite. Kenneth Serbin has argued that between 1970 and 1974 several high-ranking bishops and generals met a number of times in an attempt to discuss their differences.¹⁸⁹ During these secret meetings the bishops mostly lobbied for human rights cases while the generals pressured

¹⁸⁵ Kenneth P. Serbin, Secret Dialogues: Church-State Relations, Torture, and Social Justice in Authoritarian Brazil. Pittsburgh: University of Pittsburgh Press (2000), 200.

¹⁸⁶ Ibid., 188.

¹⁸⁷ Ibid., 188.

¹⁸⁸ Ibid., 39.

¹⁸⁹ Kenneth P. Serbin, Secret Dialogues: Church-State Relations, Torture, and Social Justice in Authoritarian Brazil. Pittsburgh: University of Pittsburgh Press, 2000.

for greater moderation in the Church's criticisms of the regime.¹⁹⁰ According to Serbin to some extent the Bipartite process reduced Church-state tensions.¹⁹¹ Therefore, through both confrontation and dialogue the Catholic Church fought for social justice and democracy for the Brazilian people.

By 1985 the Church's role as a surrogate voice for the opposition to the military dictatorship was no longer necessary and as such the Church was under pressure to return to its previous social role. The more progressive circles within the Brazilian Church, especially those closely linked to liberation theology, were less eager to exit the country's political sphere.¹⁹² Yet the appointment of a number of conservative bishops and the pressure from The Vatican resulted in the Church's formal withdrawal from the country's political affairs.¹⁹³ However, an analysis of Church-state relations in the post-authoritarian period shows that the Church has not made a complete exit from the country's political life. Specifically, the Church attempted, both directly and indirectly, to influence elections, constitutional reform and the abortion debates in the new Brazilian democracy.

In the initial period following the transition Church-state relations were characterized as friendly. The newly elected representatives, fully realizing the social importance of the Church, attempted to gain its support through a number of symbolic gestures. For example, the new unelected President of Brazil Jose Sarney (the elected

¹⁹⁰ Ibid., 224.

¹⁹¹ Ibid., 223.

¹⁹² Iain Maclean, *Opting for Democracy? Liberation Theology and the Struggle for Democracy in Brazil*. New York: Peter Lang Publishing (1999), 154.

¹⁹³ Edward Cleary, "The Brazilian Catholic Church and Church-State Relations: Nation-Building." *Journal of Church and State*. Vol. 39 no 2 (Spring 1997), 261.

President was Tancredo Neves but he died in 1985 before formally assuming the position) shortly after taking power visited the CNBB making him the first president to ever do so.¹⁹⁴ Moreover, authors such as Maclean have suggested that the government in an attempt to please the Church banned the controversial film *Je Vous Salue, Marie*.¹⁹⁵ These acts, although largely symbolic, have illustrated that at first Church-state relations were friendly.

However, with time the relationship between the two institutions became strained. Specifically, there were efforts by certain members of the Church hierarchy to directly influence political outcomes during election times. For example, in the 1986 election some bishops, particularly Cardinal Arns and Dom Candido Padim, publicly endorsed certain political candidates over others.¹⁹⁶ Likewise, in 1988 the secretary-general of the CNBB announced that the Church would take active part in the presidential elections of 1989.¹⁹⁷ Apart from attempting to effect elections the Church became critical of the government. Members of the clergy publicly disapproved of the democratic government's policies and actions, especially the lack of reform of the country's socioeconomic situation.¹⁹⁸ The efforts of some Church personnel to influence political matters of the state were severely opposed by many members of the new government. President Sarney even traveled to The Vatican to express his concern with the Church's

¹⁹⁴ Iain Maclean, *Opting for Democracy? Liberation Theology and the Struggle for Democracy in Brazil*. New York: Peter Lang Publishing (1999), 156.

¹⁹⁵ *Ibid.*, 156.

¹⁹⁶ W.E. Hewitt, "Catholicism, Social Justice, and the Brazilian Corporative State sine 1930." *Journal of Church and State*. Vol. 32 no 4 (Autumn 1990), 848.

¹⁹⁷ W.E. Hewitt, "Catholicism, Social Justice, and the Brazilian Corporative State sine 1930." *Journal of Church and State*. Vol. 32 no 4 (Autumn 1990), 848.

¹⁹⁸ Thomas Bruneau, "Cooperation or Conflict? The Church in the Brazilian Transition." *Thought*. Vol. 63 no 250 (September 1988), 296.

involvement in politics.¹⁹⁹ Yet in spite of everything the Church was unlikely to remain on the sidelines and predictably it wanted to protect its institutional interests in the new democratic order.

Despite opposition to the Church's active role in Brazilian politics the government engaged in cooperation with the hierarchy. Church representatives and government officials have maintained official relations since the early 1990s. For example, the CNBB has held an office of Political Affairs in Brasilia since 1991. Through this office the two institutions maintained an active communication. Between 1991 and 1994 alone "there were fifty-eight high-level meetings. Fourteen meeting took place with the president of the country, twenty-seven with national ministers, and seventeen with members of Congress. The discussions were invariably focused on social questions."²⁰⁰

Similarly, Brazil's abortion debate has also illustrated that the Catholic Church continues to maintain a significant influence in the society. At present, Brazilian law permits abortion only to save a women's life and in cases of rape or incest.²⁰¹ Under the country's penal code abortions are punishable with a minimum of four years of imprisonment.²⁰² In the post-transition period unsuccessful attempts were made to amend the abortion laws. Specifically the Workers' Party proposed to decriminalize abortion but the uproar from the religious community effectively eliminated any possibility of

¹⁹⁹ Ibid., 296.

²⁰⁰ Edward Cleary, "The Brazilian Catholic Church and Church-State Relations: Nation-Building." Journal of Church and State. Vol. 39 no 2 (Spring 1997), 266.

²⁰¹ "World Abortions Policies 1999," United Nations Population Division (1999), <http://www.un.org/esa/population/publications/abt/abtplac.htm>

²⁰² Rita Simon, Abortion: Statutes, Policies, and Public Attitudes the World Over. London: Praeger Publishers (1998), 30.

success.²⁰³ In 1991 the Workers' Party introduced another proposal that would "require all of the country's public hospitals to perform abortions on women who had been raped or whose lives were at risk."²⁰⁴ However, the Church again actively opposed any initiative that would make access to abortion easier. As such the CNBB vigorously spoke out against the proposal and the clergy went as far as staging prayers in the hall of Congress.²⁰⁵ The bill was successful in both the Chamber of Deputies' Committee on Social Security and Family (1995) and in the Chamber of Deputies' Constitutional Committee (1997), however, the opposition prevented the proposal from being considered by the Chamber in its entirety and as a result the vote has been effectively delayed.²⁰⁶

Although the democratic government has not been very successful in changing the country's abortion legislation access to legal abortions has improved in recent years. For example, since 1994 the number of public health care centers performing legal abortions increased from two to twelve.²⁰⁷ Yet overall these improvements are negligible and illegal abortions continue to constitute a considerable medical and social problem.

Although the Church has been successful in blocking changes to the abortion law it was unable to secure its objectives during Brazil's constitutional reform. The Church has invested considerable effort into ensuring that the new constitution would reflect the

²⁰³ Mala Htun, Sex and State: Abortion, Divorce, and the Family Under Latin American Dictatorships and Democracies. Cambridge: Cambridge University Press (2003), 125.

²⁰⁴ *Ibid.*, 158

²⁰⁵ *Ibid.*, 158.

²⁰⁶ *Ibid.*, 158-9.

²⁰⁷ "Brazil: Abortion Policy." Population Division of the department of Economic and Social Affairs of the United Nations Secretariat. <http://www.un.org/esa/population/publications/abortion/doc/brazil1.doc>

Church's ethical values.²⁰⁸ Yet, in the end the demands of the Church were not included in the final copy of the document. In particular, the Church's view on family life, abortion and land reforms were rejected.²⁰⁹ The Church's procedural requests were also ignored. For instance, the bishops wanted the candidates for the Constitutional Assembly not to be aligned with any particular party but its goals were not met.²¹⁰ Therefore, the Church was largely unsuccessful in obtaining its constitutional aims.

Despite the fact that the Church's major constitutional objectives were rejected parts of the new document have benefited the Church. One of the most notable examples has been the assurance of religious education in public schools. Specifically, Article 210 of the constitution guaranteed that optional religious education would "be given during the regular school hours of public elementary schools."²¹¹ Moreover, Article 213 of the document also stated that "public funds are allocated to public schools, and may be channeled to community, religious, or philanthropic schools, as defined in the law."²¹² These provisions proved significant for the Church because they guaranteed the Catholic Church a role in the country's educational sphere.

The evidence thus far has shown that the Catholic Church continues to be an important institution in Brazilian society but its political influence has been moderate. In comparison to Chile, for example, the Brazilian Church's political power could be

²⁰⁸ W.E. Hewitt, "Catholicism, Social Justice, and the Brazilian Corporative State since 1930." Journal of Church and State. Vol. 32 no 4 (Autumn 1990), 848.

²⁰⁹ Iain Maclean, Opting for Democracy? Liberation Theology and the Struggle for Democracy in Brazil. New York: Peter Lang Publishing (1999), 157.

²¹⁰ Thomas Bruneau, "Cooperation or Conflict? The Church in the Brazilian Transition." Thought. Vol. 63 no 250 (September 1988), 296.

²¹¹ Constitution of Brazil (October 5, 1988), http://www.oefre.unibe.ch/law/icl/br00000_.html

²¹² *Ibid.*

considered to be limited. The strong presence of the Catholic Church in Chile has made the country a politically conservative society. The Chilean Church was successful in delaying reforms to the country's divorce laws (although in the end the law was amended) and prevented the government from even entertaining the idea of altering its restrictive abortion legislation. Whereas in Brazil even though the Church was quite successful in campaigning against altering the abortion laws and securing its privileges in education it nevertheless failed to influence the country's constitutional reforms. Thus, Brazil appears to be a more liberally progressive society despite the presence of a strong Catholic Church. Furthermore, Brazil, unlike Chile, permits legal termination of marriage. Even though historically the Brazilian Church actively protected the country's anti-divorce laws the Church-state conflict during the military rule pushed the government to pass liberal divorce legislation in an attempt to undermine the Church's position.²¹³ Therefore, it becomes evident that despite similar patterns of behaviour during the authoritarian periods the Catholic Church in both countries was unable to secure the same levels of political power in the post-transition years.

In light of this information it becomes necessary to evaluate the extent to which the presence of a strong national Church in Brazil has impeded or promoted democratic process. Most importantly, the fact that the Church was unable to secure its desired objectives during a period of constitutional change reassures that the Church does not maintain religious monopoly over the country. Moreover, the provisions which allowed religious education in public schools and provided subsidies to religious schools are not

²¹³ Mala Htun, Sex and State: Abortion, Divorce, and the Family Under Latin American Dictatorships and Democracies. Cambridge: Cambridge University Press (2003), 79-80.

necessarily undemocratic in nature since numerous democratic states assure similar privileges. In addition, the law did provide an opt-out clause which gives parents the opportunity to withdraw their children from religious classes if desired. The one area of concern is the Church's strong opposition to any reform of the abortion legislation. However, the recent political initiatives to alter the law have provided at least a limited hope for the future.

Although the Catholic Church continues to be the largest and most prominent religious institution in Brazil the government took steps to protect the religious freedom of its citizens. According to Article V (6), the country's constitution guarantees that "freedom of conscience and of belief is inviolable."²¹⁴ International reports on the status of religious freedom in Brazil have been quite favourable. According to the International Religious Freedom Report, the Brazilian state has guaranteed religious liberty and "the Government at all levels generally protects this right in full, and does not tolerate its abuse, either by governmental or private actors."²¹⁵ The only significant problem that has negatively impacted religious freedom in the country has been the emergence of neo-Nazi groups. In a 2001 human rights report on Brazil concerns were expressed over the spread of anti-Semitic websites in the country.²¹⁶ Similarly, earlier reports indicated that neo-Nazi groups have inspired a number of violent incidents since 1992.²¹⁷ Apart from the

²¹⁴ Constitution of Brazil (October 5, 1988), http://www.oefre.unibe.ch/law/icl/br00000_.html

²¹⁵ International Religious Freedom Report. Bureau of Democracy, Human Rights and Labour, US Department of State. <http://www.state.gov/g/drl/rls/irf/2001/5575.htm>

²¹⁶ Country Reports on Human Rights Practices for 2001: Brazil. US Department of State (March 2002), <http://www.usis.usemb.se/human/2001/west/brazil.html>

²¹⁷ "Brazil: 1998 Country Reports on Human Rights Practices." US Department of State. (February 26, 1999), http://www.state.gov/www/global/human_rights/1998_hrp_report/brazil.html

appearance of neo-Nazi groups, the religious freedoms of Brazilian citizens have been successfully protected by the new democratic government.

The evidence has thus far illustrated that the Catholic Church has not been an overly powerful force in the newly democratic Brazil. Accordingly, the presence of a strong national Church in Brazil did not significantly impede the country's consolidation of democracy. The fact that controversial issues such as abortion have been subject to political debate has indicated that the country was moving closer towards full democratization.

Although excessive religious influence has not created considerable concerns Brazil has however been plagued by a number of other problems which have hindered the process of democratic consolidation. Even though nearly twenty years have passed since the democratic opening began to take root undemocratic procedures continue to be practiced. According to the 2001-2002 Freedom House Survey, Brazil was considered to be only partially free. On a scale of 1 to 7, 1 being completely free and 7 the least free, Brazil was given a rating of 3 in both political and civil rights.²¹⁸ The problem remains that basic human rights of Brazilian people are not well protected by the democratic representatives. The previous government led by President Fernando Henrique Cardoso, Luiz Inacio Lula da Silva of the Workers' Party took over the office following the October 2003 elections, attempted to improve the situation in the country by introducing various human rights legislation and programs, yet, significant abuses continue.²¹⁹

²¹⁸ "Freedom in the World Country Ratings, 1972-3 to 2001-2." Freedom House Survey.
<http://www.freedomhouse.org/research/freeworld/FHSCORES.xls>

²¹⁹ "Brazil: AI Report 2003." Amnesty International. <http://web.amnesty.org/report2003/bra-summary-eng>

Extrajudicial killings by government forces, torture, unlawful arrests and corrupt judiciary were only some of the most prevalent problems faced by the Brazilian state.²²⁰ According to Human Right Watch, police brutality was one of the most notable problems. In the state of Sao Paulo alone,

police killings of civilians surged from 525 in 1998 to 664 in 1999, the highest total since 1992, when police killed 111 inmates in a massacre at Carandiru prison. This violent trend intensified over the first six months of 2000, as police in the nation's most populous state killed 489 civilians, an increase of 77.2 percent over the comparable 1999 figure.²²¹

Land reform activists, especially, have become frequent targets of violence. For example, in 1996, 19 land activists were massacred in the Eldorado dos Carajás, in the state of Para, by military police.²²² In 2002 alone, 38 killing of land activists were reported, which constituted 31 percent increase from the previous year.²²³ Land reform continues to be a serious problem in the country, since Brazil has one of the most unequal land distributions in the world. As reported by the UN Economic and Social Council, in Brazil “2 percent of landowners own 56 percent of all available land, while the smallest 80 percent of landowners own only 12 percent of the land between them.”²²⁴ The prevalent lack of respect for basic human rights in Brazil creates a serious barrier to

²²⁰ “Brazil: 2001 Country Reports on Human Rights Practices.” US Department of State. (March 2002), <http://www.usis.usemb.se/human/2001/west/brazil.html>

²²¹ “Brazil: World Report 2001” Human Rights Watch. <http://www.hrw.org/wr2k1/americas/brazil.html>

²²² “Brazil: AI Report 2003” Amnesty International. <http://web.amnesty.org/report2003/bra-summary-eng>

²²³ Ibid.

²²⁴ “Economic, Social and Cultural Rights: The Right to Food, Mission to Brazil.” United Nations Economic and Social Council. (3 January 2003),

[http://www.unhchr.ch/huridocda/huridoca.nsf/AllSymbols/B7A109D9387BC99DC1256CC6004D0C57/\\$File/G0310067.pdf?OpenElement](http://www.unhchr.ch/huridocda/huridoca.nsf/AllSymbols/B7A109D9387BC99DC1256CC6004D0C57/$File/G0310067.pdf?OpenElement)

Brazil's democratic development. Unless these and other problems are resolved the country would not be able to fully consolidate its democracy.

Church-State Relations in Spain

The Catholic Church in Spain has been a powerful institution throughout much of the country's history. By the late nineteenth century the traditionally strong influence of the Catholic hierarchy over secular matters of the state led to the development of anti-clerical attitudes among certain sectors of society. Such attitudes were most clearly apparent in the 1930s following the electoral victory of the Socialist-Republican coalition. However, the success of the right wing forces in the Spanish Civil war reinstated the traditional social status of the Spanish Catholic Church. Thus, since the end of the civil war until the death of Francisco Franco in 1975 the Church was under the protection of the right wing dictatorial regime. During most of that period the Church was closely aligned with the state enjoying the protection and numerous privileges offered by the regime. Church-state relations changed following the political transformation that began after Franco's death. By the second half of the 1970s Spain became committed to democracy and all which that entailed. As such the Church's ability to influence political decisions was significantly curtailed.

Similarly to the two previous sections, this chapter will examine the relationship between the Church and state before, during and after Spain's transition to democracy. The following analysis will show that historically the Catholic Church in Spain has held a significant social, economic and, of course, political power, much like the cases in Brazil and Chile showed. Unlike these countries, however, the Church remained closely aligned with the dictatorial regime of Franco throughout most of his rule. Despite the formal alliance with Franco it is necessary to indicate that some individuals and groups within

the Church hierarchy often spoke out against the authoritarian government and criticized the Church's close relations with the regime.²²⁵ In the aftermath of the transition the nature of the Church-state relations changed. The Church lost its previous social status as the official religion of the state, the hierarchy's role in education was challenged and most importantly the Church was unable to prevent the liberalization of abortion and divorce laws. Thus, once Spain established democracy the Church was reduced to the role of an interest group, although still a relatively powerful one.

Historically, the Spanish Catholic Church held a prominent position within the Spanish society and as such was able to exert considerable political influence. One of the most explicit illustrations of the Church's high social status was the infamous Spanish Inquisition. The Inquisition, which began in 1480 and officially ended in 1820, was designed to religiously unite the Spanish populace.²²⁶ The result was the persecution and eradication of the country's religious minorities, especially the Jewish and Moorish populations.²²⁷ Some of the most important and world renowned religious orders, such as the Dominicans, Jesuits and Opus Dei, were created in Spain.²²⁸ Therefore, from the early periods of Spain's history the Catholic religion was given a privileged status within the Spanish society.

In addition, members of the Church hierarchy held direct political power in the Spanish government. Priests were actually active representatives in the House of

²²⁵ A good number of dissidents actually moved to Latin America and became outspoken supporters of the Liberation Theology. (Source: Dr. Galleguillos)

²²⁶ Laura Desfor Edles, Symbol and Ritual in the New Spain. Cambridge: Cambridge University Press (1998), 26-7.

²²⁷ *Ibid.*, 26-7.

²²⁸ Jose Perez Vilarino and Jose Sequeiros Tizon, "The Demographic Transition of the Catholic Priesthood and the End of Clericalism in Spain." Sociology of Religion. Vol. 59 no 1 (1998), 26.

Parliament and as such were able to openly influence public policies. The ecclesiastical members of the government used their positions to protect the Church's interests. For example, in 1813 most priests in Parliament voted against the legislation to abolish the Inquisition.²²⁹ As a result groups within the society began to oppose the Church's influence over many aspects of the country's public sphere.

The main criticism against the Church was its close alliance to the ruling classes, but in addition to social class the support for the Church varied along regional lines. For instance, in the rural regions of the south as well as more developed urban areas anti-clerical sentiments were strong; however, in the agrarian areas of Castile the movement did not gain notable momentum.²³⁰ The support for the Church was divided by class as well as regional levels. In addition, many held the Church responsible for slow modernization of the country. As suggested by Juan Linz "many attributed the scientific and cultural backwardness of Spain, in comparison to other Western nations, to the influence of the Counter-Reformation and the insensitivity of the church to accept many trends in modern science and culture."²³¹ The prevalence of anti-clerical attitudes led to outbursts of violence.

The most violent attacks against the Church began at the turn of the twentieth century. July of 1909 was one of the most notable early examples of violence against the Catholic Church. In July 1909 the general strike in Barcelona led to bloodshed and attacks against the clergy and Church property. In the end considerable Church property

²²⁹ Ibid., 26.

²³⁰ Laura Desfor Edles, Symbol and Ritual in the New Spain. Cambridge: Cambridge University Press (1998), 28.

²³¹ Juan Linz, "Church and State in Spain from the Civil War to the Return of Democracy." Daedalus. Vol. 120 no 3 (Summer 1991), 161.

was destroyed, more than fifty churches, religious schools and convents were burned and over eighty people were killed.²³²

The 1930s witnessed further difficulties in the relations between Church and state. In the 1931 election the pro-Catholic candidates were largely unsuccessful in securing victory which led to the passing of an anticlerical Constitution.²³³ The 1931 Constitution abruptly ended all major privileges held by the Church. In particular, Catholicism's status as the official religion of Spain was revoked, the Church's role in education was ended and financial support for the Church was stopped.²³⁴ The new Constitution "also made it permissible to nationalize the property of all religious orders. Aiming at the Jesuit order, religious orders requiring a vow of obedience to a foreign power (The Vatican) were to be dissolved and their property nationalized."²³⁵ These circumstances led to the further politicization of religious convictions. The power struggle between the left and right continued in the following years. The 1933 election brought back to power more conservative forces only to be replaced by the narrow victory of the left in the 1936 elections.²³⁶

²³² Laura Desfor Edles, Symbol and Ritual in the New Spain. Cambridge: Cambridge University Press (1998), 28. *One of the main issues that led to the crisis was the undesirable conscription into the Morocco conflict, which at the time was under the Spanish protection. The conflict gained anti-clerical nature after upper class ladies distributed religious medals to conscripts on their way to Morocco. According to Callahan one of the main reasons for targeting the Church during the crisis was that these attacks "arose less from specific grievances than from the perception of the Church as a symbolic "protagonist identified with a political and social system that was frustrating working-class aspirations for profound change." William Callahan, The Catholic Church in Spain, 1875-1998. Washington: The Catholic University of America Press (2000), 77-8.

²³³ Juan Linz, "Church and State in Spain from the Civil War to the Return of Democracy." Daedalus. Vol. 120 no 3 (Summer 1991), 160.

²³⁴ ²³⁴ Laura Desfor Edles, Symbol and Ritual in the New Spain. Cambridge: Cambridge University Press (1998), 29.

²³⁵ "Spain: Chronology." Constitutions of the Countries of the World. Ed. Albert Blaustein and Gisbert Flanz. New York: Oceana Publications (March 1991), 12.

²³⁶ *Ibid.*, 13.

Throughout that period Church representatives became frequent victims of violence. Church buildings, property and clergy were attacked especially after the radical socialist coalition, Popular Front, won the 1936 election.²³⁷ The political instability eventually led to a vicious civil war which caused tremendous death and destruction. The Catholic Church became one of the main victims of the conflict. Over 6800 clergy members lost their lives and considerable portion of Church property was destroyed.²³⁸ The confrontation between the republic and the conservative nationalist led to the nationalist's victory in 1939.²³⁹ As the nationalists assumed power, General Francisco Franco was elevated to the leadership position. Thus, from the end of the civil war until his death in 1975 Franco maintained a rigid rule over Spain.

During Franco's reign civil and political freedoms were significantly curtailed as the regime used extralegal means of control. Most notably in the initial period following the civil war the government unleashed repression and violence against the opposition. As a result, "hundreds of thousands of Republicans were subsequently imprisoned, tortured, or killed."²⁴⁰ In the following years authoritarian tactics of control by Franco's government forces continued.

However, the attainment of power by the nationalists proved highly beneficial for the Catholic Church. Upon his ascent to power Franco reestablished Catholicism as the

²³⁷ Juan Linz, "Church and State in Spain from the Civil War to the Return of Democracy." *Daedalus*. Vol. 120 no 3 (Summer 1991), 161.

²³⁸ Laura Desfor Edles, *Symbol and Ritual in the New Spain*. Cambridge: Cambridge University Press (1998), 31.

²³⁹ Howard Wiarda and Margaret MacLeish Mott, *Catholic Roots and Democratic Flowers*. London: Praeger (2001), 42.

²⁴⁰ Laura Desfor Edles, *Symbol and Ritual in the New Spain*. Cambridge: Cambridge University Press (1998), 32.

official religion of the state. Consequently, freedoms for religious minorities were considerably curtailed. For example, Protestants were forbidden from holding public positions; worship in public was not permitted and often proof of baptism was required for school admissions.²⁴¹ It was bluntly obvious that Catholicism was the only religion that would benefit from the new regime.

The period following the war was characterized by cooperative relations between the Church and state. The Catholic hierarchy was able to exert considerable social influence under the protection of the government. Most notably, the Church was given extensive authority over education, divorce was abolished, and the state made a significant financial commitment to the hierarchy by covering clerical salaries and subsidizing Church projects.²⁴² For example, in the period between 1968-9 the government spent 6,075,355,000 *pesetas* on Church activities which accounted to 2.55 percent of the national budget.²⁴³ Considerable freedom to administer its own affairs in the period of repression and high state intervention into civil society was another substantial privilege granted to the Church.²⁴⁴ These privileges were further reinforced vis-à-vis the 1953 Concordat with the Vatican. The agreement proved equally beneficial for the regime. The document gave the head of state authority over the appointment of

²⁴¹ *Ibid.*, 110.

²⁴² Juan Linz, "Church and State in Spain from the Civil War to the Return of Democracy." *Daedalus*. Vol. 120 no 3 (Summer 1991), 162.

²⁴³ William Callahan, "Church and State in Spain, 1976-1991." *Journal of Church and State*. Vol. 34 no 3 (Summer 1992), 504. (Footnote)

²⁴⁴ Laura Desfor Edles, *Symbol and Ritual in the New Spain*. Cambridge: Cambridge University Press (1998), 33.

bishops which indirectly allowed Franco to partially shape the internal dynamics of the Spanish Catholic Church.²⁴⁵

Although interaction between Church and the regime during the Franco period was generally friendly and mutually accommodating minor complications did occur. In the initial years following the war Church representatives and the government quarreled over the issue of loyalty. Specifically, the government insisted that the Church should take an oath of allegiance to the head of state, a demand with which the national hierarchy and The Vatican was uncomfortable with.²⁴⁶ Despite opposition the hierarchy yielded to the government's request and agreed to take the oath.²⁴⁷ Disagreements over such issues occurred but overall it did not upset the generally cooperative nature of Church-state relations. The more significant problems began to emerge in the period following the Second Vatican Council.

The Second Vatican Council was an important step in the development of Catholic teachings. As argued in the earlier chapters, the Council committed the Church to human rights and more democratic forms of government. As such the Spanish Church was placed into an uncomfortable situation in ensuing years due to their close relations with an authoritarian government. As argued by Victor Perez-Diaz, the changes implemented through the Council had a tremendous impact on the Spanish Church, specifically

²⁴⁵ John Anderson, "Catholicism and Democratic Consolidation in Spain and Poland." West European Politics. Vol. 26 no 1 (January 2002), 139.

²⁴⁶ Juan Linz, "Church and State in Spain from the Civil War to the Return of Democracy." Daedalus. Vol. 120 no 3 (Summer 1991), 163.

²⁴⁷ Juan Linz, "Church and State in Spain from the Civil War to the Return of Democracy." Daedalus. Vol. 120 no 3 (Summer 1991), 163.

the Spanish hierarchy did not expect the shock of the council. It had convinced itself that its alliance with temporal power and its historic project of a denominational state and an orthodox Catholic society approached the 'Catholic ideal' more closely than the compromises, concessions, and tolerance of the European churches towards the modern world. To be rudely awakened from that dream and have to renounce that image of itself was very hard...From then on, change within the Spanish church became inevitable, for isolation was no longer possible and a schism was inconceivable; all that remained was to determine the tempo, the form, and the costs of the transformation.²⁴⁸

As a consequence of these developments groups within the hierarchy began to take a more critical approach towards the regime. For example, in 1966 over 130 members of clergy protested the use of police brutality against students.²⁴⁹ In later years a number of bishops including Mgr Diaz Merchan of Oviedo, Mgr Osés of Huesca, Mgr Iniesta and Mgr Echarren of Madrid and Mgr Palenzuela of Segovia became supportive of the Justice and Peace Commission which worked in defense of human rights.²⁵⁰ The group fought for basic rights such as freedom of expression and association and against the regime's ill treatment of political dissidents. Yet not all members of the clergy were eager to support the new direction the Church was taking. The most drastic divide was along the generation line, with older members of the clergy supporting the established order whereas the younger members taking a more critical stance.²⁵¹ It was difficult for the hierarchy to break the accommodating relations with the state and sectors within the hierarchy actively resisted such change. For example, when *Accion Catolica* attempted to

²⁴⁸ Victor M. Perez-Diaz, The Return of Civil Society: The Emergence of Democratic Spain. Massachusetts: Harvard University Press (1993), 163.

²⁴⁹ Audrey Brassloff, Religion and Politics in Spain. London: MacMillan Press Ltd. (1998), 18.

²⁵⁰ Audrey Brassloff, Religion and Politics in Spain. London: MacMillan Press Ltd. (1998), 74.

²⁵¹ Victor M. Perez-Diaz, The Return of Civil Society: The Emergence of Democratic Spain. Massachusetts: Harvard University Press (1993), 164.

speak out against the government Archbishop Morcillo severely criticized the organization which also led to its institutional decline.²⁵²

By the beginning of 1970s the hierarchy could no longer ignore the changing political landscape and dissent within Church ranks. As a result, many Church representatives began to push for greater autonomy and independence from the regime. In 1971 the hierarchy convened a Bishops and Priests Assembly which brought the Spanish Church closer towards democratic norms. The Assembly called for institutional autonomy between the Church and state, revoked the clergy's rights to directly participate in political institutions and apologized for its involvement in the civil war.²⁵³ The Bishops and Priests Assembly was a definite sign that the Church was anticipating and preparing for political change within Spain. Within that time period a number of influential bishops, including Cardinal Tarancon the Archbishop of Madrid, also made the effort to establish communication with groups opposing the authoritarian government.²⁵⁴ In comparison to Chile and Brazil, the Church's support for democracy in Spain was considerably delayed.

The divergence in attitudes towards the regime within the Church did not go unnoticed by the government. The Church's changing political perceptions led to severe criticisms from government representatives. For example, in 1972 the vice-prime minister, Admiral Luis Carrero Blanco, severely criticized the hierarchy for their lack of

²⁵² Ibid., 166.

²⁵³ Jose Perez Vilarino and Jose Sequeiros Tizon, "The Demographic Transition of the Catholic Priesthood and the End of Clericalism in Spain." *Sociology of Religion*. Vol. 59 no 1 (1998), 27.

²⁵⁴ John Anderson, "Catholicism and Democratic Consolidation in Spain and Poland." *West European Politics*. Vol. 26 no 1 (January 2002), 139.

loyalty and gratitude to the regime.²⁵⁵ Many within the ranks of government labeled the Church as opportunistic in light of the uncertain political future of the country.²⁵⁶ Considering the circumstances such criticisms were not completely unfounded. The Church did not formally and openly encourage democratic progress until after the death of Franco.²⁵⁷ Yet the hierarchy's efforts to promote democratization since the early 1970s must also be recognized.

Franco's death completely altered Spain's political landscape. Continuation of the authoritarian style government was unfeasible given the internal opposition and the political circumstances in the rest of Europe. As such, Spain made a commitment to adopt a democratic style of government. The political transformation had a significant impact on the Catholic Church since it altered the nature of Church-state relations. Although the Church hierarchy has made a formal promise not to pursue a privileged status under the new political order²⁵⁸ such assurance was difficult to fulfill given the Church's interest. Thus, in the years following the transition the representatives of the Catholic Church have actively attempted to influence public policy especially on issues of constitutional revision, divorce, abortion and education. The following is a discussion of the degree of success the Spanish Church had in shaping government policies on these issues.

²⁵⁵ William Callahan, "Church and State in Spain, 1976-1991." *Journal of Church and State*. Vol. 34 no 3 (Summer 1992), 504.

²⁵⁶ Audrey Brassloff, *Religion and Politics in Spain*. London: MacMillan Press Ltd. (1998), 82.

²⁵⁷ John Anderson, "Catholicism and Democratic Consolidation in Spain and Poland." *West European Politics*. Vol. 26 no 1 (January 2002), 139.

²⁵⁸ *Ibid.*, 140.

The first objective of the newly elected democratic government was to rewrite the country's constitution. The Catholic Church had an obvious interest in influencing the process of drafting the new constitution since it wanted to ensure that its interests were legally protected. The two main issues for the Church were those concerning morality and social status. Specifically, Church representatives wanted to ensure that the document reflected its views on moral questions such as abortion and that the Church's social status would be constitutionally recognized. As a result, the hierarchy actively spoke out in favour of a document that would embody these stipulations. For example, at the 1977 Episcopal Conference Cardinal Tarancon insisted that the constitution should include Catholic standards on marriage, education and human life.²⁵⁹ Similarly, in a document published in November of 1977, entitled 'Moral and Religious Values and the Constitution', the bishops argued that the constitution should reflect religious convictions of the citizens.²⁶⁰

In the end the Church was not very successful in securing its demands. On the issue of divorce it was agreed that the government would control the area of marriage and its dissolution. Specifically, article 32 (2) of the constitution stated that "the law shall regulate the forms of matrimony, the age and capacity for concluding it, the rights and duties of the spouses, causes for separation and dissolution and their effects."²⁶¹ This article ensured the possibility for future legalization of divorce, which was already on the agenda for a number of political parties. The Church was equally ineffective in trying to

²⁵⁹ William Callahan, "Church and State in Spain, 1976-1991." *Journal of Church and State*. Vol. 34 no 3 (Summer 1992), 509.

²⁶⁰ Audrey Brassloff, *Religion and Politics in Spain*. London: MacMillan Press Ltd. (1998), 95.

²⁶¹ Constitution

influence the constitutional status of abortion. The Church representatives, supported by UCD and AP, wanted the document to specifically prohibit abortion, whereas the PCE and PSOE opposed.²⁶² Attitudes towards abortion were divided along ideological lines as parties on left of center supported legalization whereas the more conservative right of center groups opposed any such initiatives. The constitution, however, did not adequately solve the issue of abortion. Instead, article 15 stated that “everyone has the right to life and physical and moral integrity and in no case may be subjected to torture or inhuman or degrading punishment or treatment.”²⁶³ Therefore, the question of whether protection applied to the fetus remained open to interpretation.

Apart from moral issues, the hierarchy was equally concerned about the legal status of the Catholic Church in the new era of democracy. Specifically, the Church wished to ensure that the constitution recognized the Catholic nature of the Spanish society. Accordingly, the hierarchy fought to have the Catholic Church’s traditional status entrenched in the country’s new constitution. In the end the government offered only partial concession to the Church by introducing article 16 (3) into the final draft of the document. Article 16 (3) stated;

“No religion shall have a state character. The public powers shall take into account the religious beliefs of Spanish society and maintain the appropriate relations of cooperation with the Catholic Church and other denominations.”²⁶⁴

²⁶² Laura Desfor Edles, *Symbol and Ritual in the New Spain*. Cambridge: Cambridge University Press (1998), 114.

²⁶³ “Spain: Constitution of 1992.” *International Constitutional Law*.
http://www.oefre.unibe.ch/law/icl/sp00000_.html

²⁶⁴ “Spain.” *Constitutions of the Countries of the World*. Ed. Albert Blaustein and Gisbert Flanz. New York: Oceana Publications, March 1991.

Therefore, the constitution assured a non-confessional nature of the Spanish state but made specific reference to the Catholic Church indirectly recognizing its importance. Audrey Brassloff has suggested that the UCD has agreed to add article 16 (3) because of its concern that the Church's opposition would lead to electoral strengthening of the AP.²⁶⁵ As such one could claim that the Church continued to have an somewhat of an impact on the political affairs of the state.

Although the Catholic Church was explicitly recognized in the constitution the document guaranteed full religious freedom to all citizens. In particular, article 14 prohibited religious discrimination and section 1 of article 16 ensured that "freedom of ideology, religion and cult of individuals and communities [would be] guaranteed..."²⁶⁶ The new constitution effectively ended the discriminatory treatment of religious minorities present during Franco's regime and throughout much of Spanish history. More importantly, however, article 16 called for cooperation between the government and established religious institutions. This was of particular significance because it permitted other religious denominations apart from the Catholic Church to establish formal relations with the state thus elevating their social acceptance and status. In light of the constitutional provisions on state cooperation with religious institutions the government passed the Organic Law of Religious Freedom (LOLR) two years following ratification of the new constitution. LOLR established that the government would enter into formal agreements with religious groups that have been recognized by the Registry of Religious

²⁶⁵ Audrey Brassloff, *Religion and Politics in Spain*. London: MacMillan Press Ltd. (1998), 96-7.

²⁶⁶ "Spain." *Constitutions of the Countries of the World*. Ed. Albert Blaustein and Gisbert Flanz. New York: Oceana Publications, March 1991.

Organization to have strong traditions within the Spanish society.²⁶⁷ The Protestant, Jewish and Islam religions have met these requirements and as such the state has entered into agreements of cooperation with the institutions representing these religions. The agreements among other points have focused on issues such as public protection for sites of worship and financial activities.²⁶⁸ As such these denominations were given certain privileges previously held only by the Catholic Church.

In the end the Church accepted the final draft of the document although some bishops within the hierarchy opposed the document and actively spoke out against it. For example, Cardinal Gonzalez Martin of Toledo and Mgr Guerra Campos of Cuenca criticized the document as agnostic and warned members of their dioceses of its dangers.²⁶⁹ Despite conflicts and disagreement the new constitution came into effect in 1978 following an approval of the final draft by national referendum.

Another matter which provoked opposition by the Church in the aftermath of the democratic transition was the issue of divorce. Since Catholic teachings opposed marital separation on moral grounds the Spanish hierarchy naturally disagreed with political

²⁶⁷ Rosa Maria Martinez de Codes, "The Contemporary Form of the Relationship between Religious Minorities and the State in Spain." Protecting the Human Rights of Religious Minorities in Eastern Europe. Ed. Peter Danchin and Elizabeth Cole. New York: Columbia University Press (2002), 397. *The main drawback to the law is the fact that only religions that have strong links to the Spanish society are permitted to make agreements with the state which creates a problem because it excludes newer, non-established religions. As a result, the system creates somewhat of a hierarchy of religions. The Roman Catholic Church continues to receive significant privileges such as state subsidies and indirect constitutional recognition. The other three religions which hold agreements with the state, Protestant, Jewish and Islam, are also given certain advantages such as benefits to their respective religious leaders and state protection of their places of worship and burial. Other minority religions do not share in all the rights enjoyed by the established religions. For example, regarding religious education the General Ordinance of the Education System Law of 1990 guarantees respect for denominations with an agreement but makes no reference to other minority religions. For further discussion on this issue see: Gloria Moran, "The Legal Status of Religious Minorities in Spain." Journal of Church and State, Vol. 36 no 3 (Summer 1994), 577-595.

²⁶⁸ *Ibid.*, 399.

²⁶⁹ Audrey Brassloff, Religion and Politics in Spain. London: MacMillan Press Ltd. (1998), 97.

initiatives to legalize divorce. Despite Church's resistance the legalization of divorce was placed on the agenda of the democratic government. In fact all major political parties except the Popular Alliance (AP) favoured liberalization of the country's divorce laws.²⁷⁰ In the spring of 1981 the UCD government introduced legislation that would permit divorce by law. Although the Church was disapproving of any such initiative its initial reaction was not overly critical because of a clause which allowed the judge to use discretion and refuse divorce.²⁷¹ However, a cabinet shuffle which occurred shortly after the draft of the divorce legislation was introduced led to the amendment of the proposal and the abandonment of the clause.²⁷² The draft of the new legislation led to severe criticisms and attacks from the Church. The hierarchy actively spoke out against the bill arguing that it contradicted not only Catholic values but the overall common good of society.²⁷³ A number of UCD members did attempt to prevent the passing of the legislation by voting against it in the final reading.²⁷⁴ In the end, however, the Church's efforts were fruitless and the bill was approved. The debate produced tension in the generally good relations between the UCD and Church but as suggested by Callahan the friction was momentary since "the Church appears to have accepted the law's passage as a foregone conclusion in spite of its harsh words on the topic."²⁷⁵ Although the initiatives

²⁷⁰ Ibid., 91.

²⁷¹ Ibid., 106.

²⁷² Ibid., 106.

²⁷³ William Callahan, The Catholic Church in Spain, 1875-1998. Washington: The Catholic University of America Press (2000), 579-80.

²⁷⁴ Ibid., 580.

²⁷⁵ William Callahan, "Church and State in Spain, 1976-1991." Journal of Church and State. Vol. 34 no 3 (Summer 1992), 509. See footnote 24.

to amend the divorce laws were opposed by the Church the issue generally sparked less controversy than the debates over legalization of abortion.

The abortion debate in the post-Franco period has shown that Spain was consolidating its newly established democratic order because despite grave opposition by the Church the issue was resolved through democratic means. Historically, abortion in Spain was deemed to be unacceptable. The first penal code of 1822 identified abortion to be a criminal offence punishable by law.²⁷⁶ During the civil war there were some initiatives to change the legal status of abortion but the efforts were brief and limited in scope. These changes were introduced in Catalonia and permitted abortion only if it threatened the health of the woman or in the case of the fetal impairment.²⁷⁷ However, such liberalization was narrow and once Franco assumed power the practice of abortion was once again recognized to be a criminal offence.

In Spain, as in other predominantly Catholic countries, the abortion issue raised notable uproar within the Church. The Church hierarchy organized to oppose the decriminalization of the abortion law following the democratic transition. For example, prior to the election of 1979 the clergy encouraged voters not to support parties that favoured legalization of abortion, which indirectly referred to the PSOE.²⁷⁸ Once the draft of the legislation was introduced the Catholic press harshly criticized the government. A prominent Catholic newspaper, *Ya*, claimed that if the bill become law

²⁷⁶ Celia Valiente, "Gendering Abortion Debates: State Feminism in Spain." Abortion Politics, Women's Movements and the Democratic State. Ed. Dorothy McBride Stetson. Oxford: Oxford University Press (2001), 229.

²⁷⁷ *Ibid.*, 229.

²⁷⁸ William Callahan, The Catholic Church in Spain, 1875-1998. Washington: The Catholic University of America Press (2000), 576.

the government would bear the moral repercussions and would have ‘blood on their hands.’²⁷⁹ Mgr Guerra Campos even appealed to the King to prevent passing of the proposed law.²⁸⁰

Yet despite its efforts the Church was unsuccessful in preventing the abortion bill from becoming law. In 1983 the newly elected PSOE government introduced a bill that would permit abortion in cases of rape, fetal deformation and to preserve the woman’s mental and physical health.²⁸¹ Given the controversial nature of the issue the bill was immediately challenged by opposition groups. However, the avenues for preventing the passing of the legislation were limited since the PSOE had the majority of seats in Parliament. Therefore the main opposition party, Alianza Popular (AP), turned towards the judicial branch in an attempt to block the initiative.²⁸² The bill was specifically contested on the grounds that it failed to ensure necessary procedural safeguards for the practice of legal abortions.²⁸³ In the end the Constitutional Court ruled against PSOE’s proposal indeed arguing that the bill should have included rules that would guide legal abortion procedures. In particular the Court demanded strict guidelines for permitting the use of therapeutic and eugenic abortions as well as concrete rules that would monitor the actual practice of abortions.²⁸⁴ Although the Court’s ruling created an obstacle in the government’s struggle to liberalize abortion the PSOE did not abandon the initiative.

²⁷⁹ , William Callahan, “Church and State in Spain, 1976-1991.” Journal of Church and State. Vol. 34 no 3 (Summer 1992), 512.

²⁸⁰ Audrey Brassloff, Religion and Politics in Spain. London: MacMillan Press Ltd. (1998), 123.

²⁸¹ Belen Barreiro, “Judicial Review and Political Empowerment: Abortion in Spain.” West European Politics. Vol. 21 no 4 (October 1998), 151.

²⁸² *Ibid.*, 152.

²⁸³ “Abortion Policy: Spain.” Population Division of the Department of Economic and Social Affairs: United Nations. <http://www.un.org/esa/population/publications/abortion/doc/spain.doc>

²⁸⁴ Belen Barreiro, “Judicial Review and Political Empowerment: Abortion in Spain.” West European Politics. Vol. 21 no 4 (October 1998), 154.

Instead the party amended the legislation by implementing the Court's recommendations. As a result, in July of 1985 a revised form of the legislation was implemented which permitted termination of pregnancy in circumstances where the woman's mental and physical health was threatened, in cases of rape and fetal impairment.²⁸⁵ Therefore, the democratic government did not succumb to the hierarchy's pressures but instead it passed the relatively permissive law independent of Catholic Church's influence.

Reform within the area of education was another issue which brought the Church and state into conflict. Over the years the Catholic Church has maintained a strong role in the system of education and the Catholic hierarchy wanted to uphold this position following the political transition. During Franco's period religious education in public schools was required but in addition the Church could set up its own schools which were well funded by the state.²⁸⁶ After Franco's death one of the main concerns for the Church was that under a new political system religious education in public schools and state funding of Church schools might be jeopardized. The Church's concerns were partially appeased with the passing of the new constitution since the new law guaranteed the continuation of religious education. Article 27(3) of the document specifically stated that "the public authorities guarantee the right, which will assist parents to have their children receive the religious and moral formation which is with keeping with their own

²⁸⁵ "Spain: Abortion Policy." Population Division of the Department of Economic and Social Affairs: United Nations. <http://www.un.org/esa/population/publications/abortion/doc/spain.doc> *The early 1990s have witness further attempts at liberalization of the law but thus far they proved unsuccessful.

²⁸⁶ William Callahan, "Church and State in Spain, 1976-1991." Journal of Church and State. Vol. 34 no 3 (Summer 1992), 504.

convictions.”²⁸⁷ Although Article 27 ensured the continuation of religious education in school the last part of the statement was of particular importance because it gave parents an opt-out option in case they did not wish to have their children receive religious education. The opt-out alternative further reassured freedom of religion and conscience for all citizens.

Although commitment to religious education in schools was entrenched in the constitution the specifics in the administration of education were subject to political debate. As such in the period following the transition a number of government initiatives were introduced to amend the country’s educational policies. One of the first government initiatives aimed at changing the educational system occurred in 1980 with the passing of *Ley Organica del Estatuto de Centros Escolares* (LOECE). The law called for adherence to government standards for all schools receiving funding from the state.²⁸⁸ However, the law had limited impact on the overall role of the Church in education since “Church schools retained a high degree of administrative, financial, and ideological autonomy in a religious educational system funded largely by the public treasury.”²⁸⁹ Due to the law’s relatively minor effects the Church did not challenge the new legislation.

The next attempt, this time by the new Socialist government, to change the education law provoked considerable opposition from the Church and other sectors of society. The 1983 Organic Law for the Right to Education (LODE) proposed to introduce free education for all schools by granting schools 100 percent conditional

²⁸⁷ “Spain.” *Constitutions of the Countries of the World*. Ed. Albert Blaustein and Gisbert Flanz. New York: Oceana Publications, March 1991.

²⁸⁸ William Callahan, *The Catholic Church in Spain, 1875-1998*. Washington: The Catholic University of America Press (2000), 576-7.

²⁸⁹ *Ibid.*, 577.

subsidies.²⁹⁰ The legislation had a significant impact on the Church because it gave the state considerable authority to intervene in the administration of private schools out of which nearly 90 percent were run by the Church.²⁹¹ The Catholic hierarchy opposed such high degree of interference into its educational sphere as a condition for continued funding. Specifically, the legislation demanded that all educational institutions accepting public funds were “to entrust virtually all aspects of administration to elected councils representing the institution’s legal proprietors, teachers, parents, students and their nonacademic staff.”²⁹² The law also placed restrictions on the admission criteria, additional fees, and allowed the proprietors to label the ‘character’ of their institution.²⁹³ In addition, the law required private educational institutions to recognize “the academic freedom of teachers and liberty of conscience for both staff and students.”²⁹⁴ The Church feared that these changes would compromise the Catholic integrity of its schools and as such opposed the legislation. Although the hierarchy failed in preventing the educational reform Church’s opposition has led to a slight modification of the law. In particular, the article which demanded educational institutions to define the ‘character’ of their school was abandoned.²⁹⁵ In the end, the hierarchy was unable to prevent the implementation of the new reforms. Despite this failure, however, William Callahan has argued that LODE

²⁹⁰ Audrey Brassloff, Religion and Politics in Spain. London: MacMillan Press Ltd. (1998), 124.

²⁹¹ *Ibid.*, 124.

²⁹² William Callahan, The Catholic Church in Spain, 1875-1998. Washington: The Catholic University of America Press (2000), 590.

²⁹³ William Callahan, The Catholic Church in Spain, 1875-1998. Washington: The Catholic University of America Press (2000), 590-1.

²⁹⁴ William Callahan, “Church and State in Spain, 1976-1991.” Journal of Church and State. Vol. 34 no 3 (Summer 1992), 515.

²⁹⁵ *Ibid.*, 515.

did not weaken the religious character of the Catholic schools.²⁹⁶ Nevertheless, the LODE legislation was a cause of considerable conflict between the hierarchy and the state.

In the following years the government has introduced additional adjustments within the educational sphere which further angered Church representatives. For example, the 1990 *Ley de Ordenacion del Sistema Educativo* (LOGSE) demoted religious courses to an inferior standing.²⁹⁷ Moreover, in 1991 religion classes were removed from university entrance course prerequisite lists.²⁹⁸ The hierarchy criticized these changes but comparatively these reforms sparked less controversy than the 1983 LODE legislation.

The above discussion illustrates that the Church hierarchy has attempted to influence various political issues which it viewed relevant to the Church's interests and mission. Yet despite its efforts the Church's ability to effect and shape the final policy outcome has been limited. As summarized by Brassloff, in the years following the introduction of democracy

[the Church] found itself largely reduced to the status of just another pressure group, having to adapt to laws which it only half supported or with which it disagreed altogether, with very limited influence on political class and, above all, an increasingly tenuous influence on society generally.²⁹⁹

The Church's historic role has been significantly curtailed yet its social and political influence could not be completely discounted and dismissed. In an attempt to resolve issues directly affecting the teachings and interests of the Church the government officials

²⁹⁶ Ibid., 515.

²⁹⁷ Ibid., 516.

²⁹⁸ Ibid., 517.

²⁹⁹ Audrey Brassloff, *Religion and Politics in Spain*. London: MacMillan Press Ltd. (1998), 137.

have indeed considered the hierarchy's perspectives. As a result, the state has made partial compromise to Catholic community on matters in which the Church had vested interests, such as, direct reference to the Catholic Church in the Constitution and refusal to make abortion available upon demand. Yet, overall, these concessions have been very limited. The most important point of emphasis should be that in the end these matters were resolved through democratic means independent of the Church's direct involvement.

At present one could make the case that Spanish democracy has been widely consolidated. According to the 2001 Freedom House Survey, on a scale of 1 to 7, 1 being completely free and 7 the least free, Spain rank 1 in terms of in political rights and 2 in civil liberties.³⁰⁰ These rating have remained consistent since the early 1990s. Whereas, under Franco Spain was not free, ranking 5 for political rights and 6 for civil liberties.³⁰¹ Moreover, the 2002 Report of Human Rights Practices, published by the US Department of State, has noted generally positive human rights conditions in present day Spain.³⁰² These reports have acted as a good indication that Spain is committed to the protection of human rights which is the pillar of any democratic society.

The reports specifically assessing Spain's religious freedoms have also been predominantly positive. In practice, the government has been fully committed to the protection of the constitutionally entrenched religious freedoms.³⁰³ Discrimination based on religious convictions has been prohibited and although religion continues to be taught

³⁰⁰ "Freedom in the World Country Ratings, 1972-3 to 2001-2." Freedom House Survey.

<http://www.freedomhouse.org/research/freeworld/FHSCORES.xls>

³⁰¹ "Freedom in the World Country Ratings, 1972-3 to 2001-2." Freedom House Survey.

<http://www.freedomhouse.org/research/freeworld/FHSCORES.xls>

³⁰² "Spain: Country Reports on Human Rights Practices for 2002" US Department of State. (March 2003),

<http://www.state.gov/g/drl/rls/hrrpt/2002/18392.htm>

³⁰³ *Ibid.*

in public schools course attendance has been optional. Religiously motivated violence was not a problem although there have been rare cases of violence against immigrants that have been partly linked to religion. For instance, a predominantly Romanian Evangelical church in Arganda del Rey was burned down in May of 2002.³⁰⁴ During the same time period, in town of Premia de Mar public demonstrations took place to oppose the construction of a mosque in the central part of town.³⁰⁵ Building of mosques has also been contested in towns of Lleida, Vendrell, Cervera and Badalona.³⁰⁶ Such violence, however, has not been considered to be a major problem.

A final point to consider should be that despite official state commitment to secularism and religious equality the Catholic Church has remained in a privileged social position. Most notably the Catholic Church has continued to receive generous funding from the state. In the initial negotiations the Church's dependence on public financing was to be phased out within three years following the transition.³⁰⁷ This plan, however, did not materialize. The second attempt was to transfer the financial responsibility to the people by giving citizens the option to allocate part of their taxes to the Church. The envisaged plan was based on the German model where the citizens contributed certain portion of their taxes to religious institutions.³⁰⁸ In the Spanish case the people were given the option to provide approximately 0.5 percent of their taxes to the Catholic

³⁰⁴ "Spain: International Religious Freedom Report 2002" US Department of State. (October 2002), <http://www.state.gov/g/drl/rls/irf/2002/13982pf.htm>

³⁰⁵ Ibid.

³⁰⁶ "Spain: Country Reports on Human Rights Practices for 2002" US Department of State. (March 2003), <http://www.state.gov/g/drl/rls/hrrpt/2002/18392.htm>

³⁰⁷ Howard Wiarda and Margaret MacLeish Mott, Catholic Roots and Democratic Flowers: Political Systems in Spain and Portugal. Westport: Connecticut (2001), 110.

³⁰⁸ William Callahan, The Catholic Church in Spain, 1875-1998. Washington: The Catholic University of America Press (2000), 134.

Church.³⁰⁹ Despite these arrangements a strong financial link between the Church and state remained because the government made up any shortfall in the taxpayer's contributions.³¹⁰ As a result, the Catholic Church has continued to receive a significant amount of money from the state. In 2001 the government gave the Church close to \$120 million (21,764 pesetas) in direct payments "not including state funding for religion teachers in public schools, military and hospital chaplains, and other indirect assistance."³¹¹ The generous state subsidies to the Catholic Church provide an excellent example of the Church's advantageous position within the Spanish society.

Other religious denominations, including Jewish, Muslim and Protestant communities which hold bilateral agreements with the state, have not enjoyed benefits comparable to those held by the Catholic Church. As such members of other religious groups have expressed their concern for the apparent religious inequality within the country. Some areas of concern raised by these groups have included "public financing, expanded tax exemptions, improved media access, removal of Catholic symbols from some official military acts, and fewer restrictions on opening new places of worship."³¹²

Without a doubt the Catholic Church continues to be the dominant religious institution in Spain. Yet, despite its privileged social position, the Church's political

³⁰⁹ "Spain: International Religious Freedom Report 2002" US Department of State. (October 2002), <http://www.state.gov/g/drl/rls/irf/2002/13982pf.htm>

³¹⁰ Howard Wiarda and Margaret MacLeish Mott, Catholic Roots and Democratic Flowers: Political Systems in Spain and Portugal. Westport: Connecticut (2001), 110.

³¹¹ "Spain: International Religious Freedom Report 2002" US Department of State. (October 2002), <http://www.state.gov/g/drl/rls/irf/2002/13982pf.htm>

³¹² "Spain: International Religious Freedom Report 2002" Us Department of State. (October 2002), <http://www.state.gov/g/drl/rls/irf/2002/13982pf.htm>

influence was at best partial. Accordingly, one could reasonably conclude that the Church does not pose a serious obstacle to the Spanish democracy.

Church-State Relations in Poland

Poland, similarly to the other three case studies discussed thus far, provides an interesting example of the relationship between the Catholic Church and the state during the period of democratic transition and consolidation. The Polish Catholic Church is considered to be one of the strongest national churches in Europe. For many Polish citizens the Church is much more than a religious institution, it is a national symbol. Throughout much of Poland's problematic history the Catholic Church worked to uphold Polish nationalism and during the communist period it became the main opposition to the communist regime. As such, following the events of 1989 the Church attempted to exert influence over the public sphere and impose its moral values on the whole of society.

The objective of this chapter is to examine the ways in which the Polish Catholic Church attempted to shape the political decision-making in the aftermath of the political transition and the extent of its success. Specifically, the topics of constitutional amendment, abortion, and religious education will be examined. The following discussion will illustrate that the Catholic Church continues to hold a privileged position in the Polish society but its influence cannot be overstated since the Catholic hierarchy has not been overly successful in obtaining its objectives. However, in order to fully understand the Church-state relations in the democratic era the Catholic Church's social position prior to 1989 must be briefly explained.

The Catholic Church has been an important unifying force throughout much of Poland's history. On more than one occasion, Poland was conquered and partitioned by foreign powers during which time the Church was one of the few common links to keep

the country together. Between 1795 and 1918 Poland was invaded and occupied by Austria, Russia and Prussia and throughout that period the Catholic Church became the key source of national resistance.³¹³ The opposition to foreign rule strengthened the people's faith in the Catholic institution especially since the Church often became the direct target of oppression.³¹⁴ Accordingly, Catholicism became strongly embedded in the country's national identity.

Following the Second World War the Church's status became further elevated. After 1945, Poland was included under the Russian sphere of influence, the infamous Iron Curtain. From that period up to the semi-free elections of 1989 Poland was ruled by governments heavily influenced by the Kremlin. During that time period, the Church became an important source of opposition to the communist regime.

Given the Church's position towards the authoritarian government the regime fought to suppress the Church's social influence. One of the first examples of the state's strike against the Church was the termination of the 1925 Concordat which put an end to any privileges held by the Catholic Church.³¹⁵ However, with time repression of Church activities became intensified as illustrated by frequent government harassments of the clergy. By the end of 1953, for example, eight bishops and nine-hundred priests were imprisoned, including the Polish Primate Cardinal Stefan Wyszyński.³¹⁶

³¹³ Timothy Brynes, *Transnational Catholicism in Post-Communist Europe*. Lanham: Rowman & Littlefield Publishers, Inc. (2001), 31.

³¹⁴ *Polska Wczoraj I Dzisiaj*. Toronto: Polish Teachers Association in Canada (1989), 293.

³¹⁵ Mirella Eberts, "The Roman Catholic Church and Democracy in Poland." *Europe-Asia Studies*. Vol. 50 no 5 (1998), 819.

³¹⁶ Mirella Eberts, "The Roman Catholic Church and Democracy in Poland." *Europe-Asia Studies*. Vol. 50 no 5 (1998), 819.

Despite the government's attacks, the clergy continued to speak out against the regime's repression. The Church spoke in favour of human rights, provided moral support to the opposition and defended those targeted by the administration.³¹⁷ Often the Catholic hierarchy released statements and letters directly condemning the regime's actions. For example, in June of 1962 the Church published a document that referred to the government's policy of secularization as 'totalitarian'.³¹⁸ Similarly, in March of 1968, the Church released another document, *A Statement of the Polish Episcopate on the Distressing Events*, which harshly spoke against the use of violence.³¹⁹ The election of Karol Wojtyla to the Papacy further strengthened the Church's cause. The Pope's visit to his native Poland, in spring of 1979, reinforced the Church's position towards the regime.³²⁰

Consequently, over the course of the communist period the Church became an increasingly politicized institution. As suggested by Irena Borowik by the 1980s "attending mass became a form of political rebellion."³²¹ Essentially, the Church assumed the role of a surrogate political opposition to the regime, "the Church and its members were to a large degree midwives of civil society. Pulpits, catechism classes, cloistered conference rooms, became arenas for debate of questions of the day."³²² Both

³¹⁷ John Anderson, "Catholicism and Democratic Consolidation in Spain and Poland." *West European Politics*. Vol. 26 no 1 (January 2002), 144.

³¹⁸ Michael Fleming, *National Minorities in Post-Communist Poland*. London: Veritas Foundation Publication Centre (2003), 82.

³¹⁹ *Ibid.*, 82.

³²⁰ Timothy Byrnes, *Transnational Catholicism in Post-Communist Europe*. Lanham: Rowman & Littlefield Publishers Inc. (2001), 32.

³²¹ Irena Borowik, "The Roman Catholic Church in the Process of Democratic Transition: the Case of Poland." *Social Compass*. Vol. 49 no 2 (2002), 241.

³²² *Ibid.*, 241.

through moral support and actual participation in resistance activities the Catholic Church became an important actor in the opposition movement.

The Catholic hierarchy, however, not only engaged in criticizing the regime but actually worked to minimize conflict. On a number of occasions the Church attempted to appease the workers by discouraging excessive clashes with the government and even justified the introduction of the 1981 martial law as a 'lesser evil.'³²³ Most notably, the Church was an important mediating force between the regime and the opposition in the period between 1987 and 1989, as well as during the Round Table Talks in April of 1989.³²⁴ As suggested by Marjorie Castle,

The physical presence of members of the church hierarchy during any such talks was indispensable, for it meant that the talks were observed by independent witnesses of unimpeachable morals. Indeed, the church's assistance went further than simply providing witnesses, for it promoted the cause of negotiation, providing neutral sites for preliminary talks and inviting the participants.³²⁵

Therefore, the crucial role played by the Church throughout the authoritarian period explains the Church's public prestige in the years after the political transition.

Although throughout most of the period the Church-state relations were characterized by conflict, it should be recognized that the two institutions have gone through stages of moderate cooperation. Most notably in the initial period following the Second World War the government recognized the social position of the Church and the

³²³ John Anderson, "Catholicism and Democratic Consolidation in Spain and Poland." *West European Politics*. Vol. 26 no 1 (January 2002), 144.

³²⁴ *Ibid.*, 144-5.

³²⁵ Marjorie Castle, *Triggering Communism's Collapse: Perception and Power in Poland's Transition*. Lanham: Rowman & Littlefield Publishers, Inc. (2003), 48.

benefits of maintaining non-hostile relations with the Catholic hierarchy. Accordingly, the government eased its censorship of the Church's activities. The Church's representatives were permitted to release Catholic periodicals such as *Universal Weekly* (*Tygodnik Powszechny*) and *The Sign* (*Znak*), and the state even provided some assistance in the reconstruction of Church buildings.³²⁶ The government has especially sought the Church's cooperation in times of popular upheaval. For example, during the workers' uprising of 1956 the state made a number of concessions to the hierarchy, including the reinstatement of Church's authority over its internal activities and appointments, in return for helping the government to appease the social discontent.³²⁷ However, such concessions on the part of the state were very rare and limited in scope. Apart from the brief phases of cooperation, the state was in conflict with the Church throughout most of the period especially since the communist ideology completely disregarded the relevance of religion.

By 1989 the communist system was no longer sustainable given the widespread discontent embodied through the Solidarity movement. As a result, the regime lost legitimacy, the system crumbled and the gates to democratic development were opened. The political transition, however, altered the nature of Church-state relations. The Church's role as the de facto political opposition was replaced by legitimate democratic forces which meant that the Church was expected to exit public life. The clergy recognized and acknowledged the necessity of formally withdrawing from politics.

³²⁶ Mirella Eberts, "The Roman Catholic Church and Democracy in Poland." *Europe-Asia Studies*. Vol. 50 no 5 (1998), 819.

³²⁷ Mirella Eberts, "The Roman Catholic Church and Democracy in Poland." *Europe-Asia Studies*. Vol. 50 no 5 (1998), 819.

Members of the hierarchy, including Bishop Bronislaw Dabrowski, the Secretary of the Polish Bishop's Conference, and Bishops Alojzy Orszulik, made declarations that the Church would take a step back from politics.³²⁸ Yet, given the clergy's active political role during the authoritarian period the Church's representatives found the transition difficult. Therefore, when issues such as drafting of the new constitution, abortion and religious education became politically debated the Church refused to not remain on the sidelines. Instead, many members of the Catholic hierarchy attempted to actively influence political outcomes in the post transition period. In the end, however, the Church was only partially successful in obtaining its political goals. The remaining part of this section will discuss some of the ways in which the Church attempted to impact political decisions during the democratic period and the degree of its success.

Drafting a new Constitution was one of the first objectives of the newly elected democratic government. Given the importance of the document, the process of writing the new Constitution became a source of conflict between the Episcopate and the government. The Catholic hierarchy wished for the Constitution to reflect the central values espoused by the Church. Most importantly, the Church's representatives wanted the text to include a direct reference to Catholicism and to provide full protection to the life of the unborn from the moment of conception.³²⁹ The original draft of the document, introduced in 1990, was the type of an agreement the hierarchy had hoped for. For instance, the proposal took a strong position against abortion by giving full protection to

³²⁸ Norbert A. Zmijewski, *The Catholic-Marxist Ideological Dialogue in Poland 1945-1980*. Aldershop: Dartmouth Publishing Company Ltd. (1991), 148. See also: Timothy Byrnes, *Transnational Catholicism in Post-Communist Europe*. Lanham: Rowan & Littlefield Publishers, Inc. (2001), 42

³²⁹ Mirella Eberts, "The Roman Catholic Church and Democracy in Poland." *Europe-Asia Studies*. Vol. 50 no 5 (1998), 834.

the rights of the unborn.³³⁰ However, given the fragmentation and internal conflict at the political level shortly following the original transition, and the shift in power from the Right to the Left of the political spectrum, the proposed draft did not become law.³³¹ Instead the debate over the Constitution continued over the course of the next few years and it was not until 1997 that the final draft of the document was adopted.

Throughout the period of negotiations the bishops appealed to the government to include in the document the Church's position on various moral issues. In February of 1997, the Episcopate released a formal statement on the Constitution, demanding, among other things, that the government explicitly prohibit abortion and make a specific reference to God in the Constitutional document.³³² The Church's representatives also frequently spoke out against the work of the constitutional commission. For example, Cardinal Glemp, among other things, actively criticized proposals to use the word 'separate' to describe the relationship between the Church and state.³³³ Many leaders within the Church, such as Bishop Tadeusz Pieronek, Secretary of the Bishops'

³³⁰ Stefania Szlek Miller, "Religion and Politics in Poland: The Abortion Issue." Canadian Slavonic Papers. Vol. 34 no 1-2 (1997), 73.

³³¹ It is relevant to note that following the initial transition the Polish political scene became very fragmented. During the authoritarian period the common objective was to overthrow the communist regime thus all groups united under the banner of Solidarity. However, once the objective was obtained the divisions within the movement became apparent. As such, the diversity of interests led to the creation of an array of political parties. Kitschelt et al identified three main political groups among the various parties: Left wing (Alliance of Democratic Left, SLD; Polish Peasant Party, PSL; Union of Labour, UP), liberal democratic (Democratic Union, UD; Liberal Democratic Congress, KLD; Beer Lovers' Party, PPPP; [UD and KLD later merged into Freedom Union, UW]), and Christian nationalists (Christian National Union ZChN; Center Alliance, PC; Solidarity, NZSS 'S'; Non-Party Bloc to Support Reform, BBWR). (Herbert Kitschelt et al, Post-Communist Party System. Cambridge: Cambridge University Press (1999), 111-5) The wide political pluralism made it more difficult to make and pass various legislations, including amending the constitution.

³³² Mirella Eberts, "The Roman Catholic Church and Democracy in Poland." Europe-Asia Studies. Vol. 50 no 5 (1998), 834.

³³³ Timothy Byrnes, "The Catholic Church and Poland's Return to Europe." East European Quarterly. Vol. 30 no 4 (January 1997), 440.

Conference, recognized the necessity of separating the two institutions but argued that in a predominantly Catholic country there was no need to include such a declaration in the country's Constitution.³³⁴ It was evident that the Church opposed complete separation between the Church and state because from the outset of the democratic period the Polish Episcopate pushed for closer relations with the state. For instance, in a formal letter published in 1990, the bishops called for greater cooperation between the two institutions.³³⁵ The hierarchy's struggle to avoid a formal separation was motivated by its previous experience with the communist regime. The Constitution of 1952 included a strict separation between the Church and state³³⁶ which legally restrained the Church's privileges and public authority. Accordingly, the hierarchy fought to avoid the same faith under the new political order.

In the end, the Church was unable to meet a number of its original objectives. The finished agreement differed significantly from the initial draft introduced in 1990. Most importantly, the new Constitution did not give full protection to the life of the unborn from the moment of conception. Likewise, the makers of the Constitution failed to make a specific reference to the Catholic nature of the Polish society. Instead the preamble to the document included a vague mention of the country's Christian traditions.³³⁷

³³⁴ John Anderson, "Catholicism and Democratic Consolidation in Spain and Poland." West European Politics. Vol. 26 no 1 (January 2002), 145-6.

³³⁵ Nathalie Gagnere, "The Return of God and the Challenge of Democracy: The Catholic Church in Central Eastern Europe." Journal of Church and State. Vol. 35 no 4 (Autumn 1993), 868-9.

³³⁶ "Constitution of Poland, 1952." ICL Constitutions of the World.

<http://www.oefre.unibe.ch/law/icl/home.html>

³³⁷ "Constitution of Poland" Constitutions of the Countries of the World. Ed. Gisbert Flanz. New York: Oceana Publications Inc. (1997), 1.

The new Constitution also recognized the plural nature of the Polish society. In particular, Article 53 guaranteed full freedom of conscience and religion to all citizens.³³⁸ In addition, Article 25 (1) maintained that all religious organizations possessed equal rights.³³⁹ These provisions indicated that the Catholic Church did not legally hold a privileged position within the Polish society. Instead, the text made a clear stand that Poland was not a denominational state. The end outcome of the Constitutional debate illustrated that the Catholic Church's public weight in the post-transition period was being curtailed.

Yet despite the inability of the Episcopate to impact the government's decision over these two issues the Church did not walk away from the process empty-handed. In the end the Constitution introduced a number of guarantees which clearly benefited the Catholic Church. For instance, Article 53 allowed religious instruction in public schools.³⁴⁰ As discussed below, this was a relevant achievement for the Church since the hierarchy maintained considerable authority over religious education and the document further safeguarded that position. Similarly, Article 25 (4) of the Constitution stated that the government's relations with the Catholic Church would be regulated by a formal agreement with the Holy See.³⁴¹ Article 25 was of importance because it made a direct reference to the Catholic Church, thus suggesting its social relevance. In addition, the text did not include the actual word 'separation', which the hierarchy actively oppose, to

³³⁸ "Constitution of Poland" *Constitutions of the Countries of the World*. Ed. Gisbert Flanz. New York: Oceana Publications Inc. (1997).

³³⁹ *Ibid.*,

³⁴⁰ *Ibid.*,

³⁴¹ *Ibid.*,

characterize the Church-state relations.³⁴² The government, therefore, did not completely ignore the Church's demands. Upon completion of the negotiations, the Church's formal position towards the document was that of neutrality; nevertheless, in a number of churches around the country anti-constitutional flyers were distributed.³⁴³ Yet, the members of the Catholic hierarchy refused to remove the flyers which contradicted their supposed neutrality towards the document.³⁴⁴ The efforts to block the agreement were unsuccessful as the final draft of the Constitution was approved by a national referendum in October of 1997.

The abortion debate proved to be an even more problematic issue for Church-state relations. The Catholic doctrine firmly opposes abortion and as such objects to any laws that permit the practice. Under the communist regime, however, termination of pregnancy was legally permissible. The government introduced a liberal abortion legislation in 1956 which allowed abortions to be performed under a number of circumstances including on socioeconomic grounds.³⁴⁵ As such, abortions became widely used by Polish women as means of birth control. Although the exact number of abortion procedures performed under the communist period could not be concretely established, estimates place the figure to have been between 300,000 to 500,000 annually.³⁴⁶ According to United Nations, in 1987 alone there were over 123,000 officially reported

³⁴² Mirella Eberts, "The Roman Catholic Church and Democracy in Poland." Europe-Asia Studies. Vol. 50 no 5 (1998), 834.

³⁴³ *Ibid.*, 835.

³⁴⁴ *Ibid.*, 835.

³⁴⁵ Andrzej Kulczycki, "Abortion Policy in Post-Communist Europe: The Conflict in Poland." Population and Development Review. Vol. 21 no 3 (1995), 474.

³⁴⁶ Joan Hoff, "Comparative Analysis of Abortion in Ireland, Poland and the United States." Women's Studies International Forum. Vol. 17 no 6 (1994), 39.

abortions.³⁴⁷ Considering the Church's position and the widespread use of the procedure, the Catholic hierarchy actively lobbied for the introduction of anti-abortion laws following the democratic opening. The Church pushed for the legislation even before the actual transition took place. In 1989 a proposal was introduced in the Lower House to ban abortions, "the bill was drawn up by deputies sympathetic to the Church, under the direction of lawyers appointed by the Polish Episcopate."³⁴⁸ Although the original proposal was postponed the issue reemerged soon after the democratic government took power.

Without a doubt, the Catholic Church has made a considerable effort to influence the abortion debate. The Catholic hierarchy released statements and issued sermons which spoke in favour of an anti-abortion legislation.³⁴⁹ The Church went as far as drafting its own version of the proposal and even threatening to withhold holy sacraments to those favouring abortion.³⁵⁰ Moreover, the clergy attempted to impact the abortion policy by directly and indirectly favouring certain political candidates and parties over others. Beginning with the parliamentary elections of 1991 such strategy became widely used by the clergy. During the 1991 election statements from the Episcopate appealed to people to vote for candidates who were committed to promoting Catholic values and in particular protection of life from the moment of conception.³⁵¹ The Catholic hierarchy

³⁴⁷ *Abortion Policies: A Global Review*. New York: United Nations Department of Economics and Social Information and Policy Analysis (1995), 39.

³⁴⁸ Mirella Eberts, "The Roman Catholic Church and Democracy in Poland." *Europe-Asia Studies*. Vol. 50 no 5 (1998), 834.

³⁴⁹ *Ibid.*, 823-4.

³⁵⁰ *Ibid.*, 823-4.

³⁵¹ Irena Borowik, "The Roman Catholic Church in the Process of Democratic Transition: the Case of Poland." *Social Compass*. Vol. 49 no 2 (2002), 243.

used the same approach in later elections. For instance, in the 1995 presidential elections the Church also appealed to voters to consider the candidate's commitment to Christian morality when making their electoral choices. Once again the clergy referred to the candidates' stand towards the specific issue of abortion, which clearly favoured parties on the Right.³⁵² Thus, the Church did not remain on the sidelines during political discussions over the issue. The Church went as far as objecting to a proposed referendum on the question in 1991, a position which was deeply anti-democratic in nature.³⁵³

Overall, the Church was largely successful in pressuring the government to introduce anti-abortion legislation. In 1993 a bill restricting the practice of abortion became the law. Specifically, the new legislation allowed abortion to be performed only on four grounds: to save the life of a woman, to preserve physical health, in case of rape or incest, and fetal impairment.³⁵⁴ As such, the Polish women could no longer obtain abortions upon demand. However, the introduction of the legislation did not settle the abortion issue but rather fueled the conflict further. The public debate over the legal status of abortion continued for most of the 1990s and even today the issue remains a political 'hot potato'. The question over the legal termination of abortion remained in the spotlight as a result of strong ideological divisions over the issue between competing political parties.

³⁵² Irena Borowik, "The Roman Catholic Church in the Process of Democratic Transition: the Case of Poland." *Social Compass*. Vol. 49 no 2 (2002), 244.

³⁵³ Mirella Eberts, "The Roman Catholic Church and Democracy in Poland." *Europe-Asia Studies*. Vol. 50 no 5 (1998), 824.

³⁵⁴ *Abortion Policies: A Global Review vol. III*. New York: United Nations Department of Economics and Social Information and Policy Analysis. (1995), 37.

The restrictive abortion legislation was passed by a right of centre conservative government which gained power following the political transition. The 1993 parliamentary elections, however, brought to power parties favouring liberalization of the abortion law. The Democratic Left Alliance (SLD), the Peasants Party (PSL) and the Union of Labor (UP) were the victorious parties in the 1993 election.³⁵⁵ The Democratic Left Alliance was especially committed to changing the restrictive legislation. The SLD made revising the law one of their election pledges.³⁵⁶ The SLD delivered on their promise by introducing changes to the law once they assumed power. The amendments, which included access to abortions on economic grounds, were passed by the Parliament in June of 1994 only to be vetoed by President Lech Walesa.³⁵⁷ As such, the first attempt to alter the law failed.

The second attempt at changing the legislation was equally unsuccessful. In 1996, amendments which created easier access to abortions were again introduced and passed in the Lower House of Parliament, Sejm.³⁵⁸ Although the Senate rejected the proposed bill, it was once again approved upon return to the Lower House and signed by the new President, Aleksander Kwasniewski.³⁵⁹ Nonetheless, this success was short lived. The opposing groups quickly challenged the introduced changes before a Constitutional Tribunal. In the end, the Tribunal concluded the amendments to be unconstitutional. As

³⁵⁵ Frances Millard, "The Shaping of the Polish Party System, 1989-1993." East European Politics and Societies. Vol. 8 no 3 (Fall 1994), 485.

³⁵⁶ Andrzej Kulczycki, "Abortion Policy in Post-Communist Europe: The Conflict in Poland." Population and Development Review. Vol. 21 no 3 (September 1995), 494.

³⁵⁷ Abortion Policies: A Global Review. New York: United Nations (1995), 39. and Andrzej Korbonski, "Poland Ten Years After: the Church." Communist and Post-Communist Studies. Vol. 33 (2000), 127-8.

³⁵⁸ Anna Titkow, "Polish Women in Politics." Women in the Politics of Post-Communist Eastern Europe. Ed. Marilyn Rueschemeyer. London" M.E. Sharpe Inc. (1998), 28.

³⁵⁹ *Ibid.*, 29.

noted by Eberts the Constitutional Tribunal “justified its decision on the basis that in a democratic state, human life, being the fundamental value, was implicitly protected from its conception by law.”³⁶⁰ Following the fruitless efforts to change the legislation, the 1993 law remains in-effect until present day. The issues, however, has not been completely resolved since the political representatives continue to be divided on the issue. Since 1997 the abortion debate has moved to the sidelines. One reason for the shift was the victory of the predominantly pro-life Akcja Wyborcza Solidarnosc (AWS) in the 1997 parliamentary election. Although the SLD regained victory in the 2001 election no serious challenge to the abortion law was brought forward. Even though the political controversy surrounding the issue has significantly declined in recent years, the matter has not been completely settled. As discussed below, during the negotiations with the European Union the abortion question once again reemerged in significance.

Another major issue in which the Catholic Church had an obvious interest was religious education in public schools. Prior to 1989, religion courses were offered on a regular basis but the classes took place outside of school.³⁶¹ Immediately following the democratic opening the Church put pressure on the government to reintroduce religion classes in public schools. In June of 1990 some bishops even recommended that such classes should not only be reintroduced in schools but they should be made compulsory.³⁶² As a consequence of the Church’s demands, the Mazowiecki government

³⁶⁰ Mirela Eberts, “The Roman Catholic Church and Democracy in Poland.” Europe-Asia Studies. Vol. 50 no 5 (1998), 826.

³⁶¹ Andzej Korbonski, “Poland Ten Years After: the Church.” Communist and Post-Communist Studies. Vol. 33 (2000), 125.

³⁶² John Anderson, “Catholicism and Democratic Consolidation in Spain and Poland.” West European Politics. Vol. 26 no 1 (January 2002), 149.

moved to restore religious education in public schools. In August of 1990, a Joint Commission of Government and Episcopate declared the reintroduction of religious classes was to take effect immediately the following school year.³⁶³ Although the agreement was introduced on non-compulsory bases significant pressure was put on the parents to place children in religion classes. In theory, other religious and ethics courses were supposed to be offered as an alternative but in reality access to such classes were limited especially in rural areas.³⁶⁴ As such, the new regulations gave the Catholic Church significant educational authority over the country's youth.

Not surprisingly, the new educational provisions were quickly challenged by democratic groups, many of which opposed the Church's interference in politics. The regulations were appealed before the Constitutional Tribunal which in January of 1991 ruled in favour of continuing religious education in public schools, claiming that the practice would not violate the principle of Church-state separation.³⁶⁵ In April of 1992, Andrzej Stelmachowski, the new Minister of Education, approved further changes to the regulations governing education. Specifically, students were to receive a grade for religion and ethics classes, although it would be considered as secondary in importance on the transcripts, also, the presence of religious symbols and prayers were permitted in classrooms.³⁶⁶ In August of the same year, Tadeusz Zielinski, the country's Ombudsman,

³⁶³ Mirella Eberts, "The Roman Catholic Church and Democracy in Poland." Europe-Asia Studies. Vol. 50 no 5 (1998), 821.

³⁶⁴ John Anderson, "Catholicism and Democratic Consolidation in Spain and Poland." West European Politics. Vol. 26 no 1 (January 2002), 149.

³⁶⁵ Mirella Eberts, "The Roman Catholic Church and Democracy in Poland." Europe-Asia Studies. Vol. 50 no 5 (1998), 821-2.

³⁶⁶ *Ibid.*, 822.

challenged these amendments before the Constitutional Tribunal but once again the provisions were upheld.³⁶⁷

As evident, the Catholic Church was fairly successful in obtaining its objectives on the issue of religious education in public schools. Currently, much of religious instruction in schools is Catholic in nature. Religion classes are frequently taught by members of the Catholic Church and the Catholic hierarchy is consulted in the selection of appropriate texts.³⁶⁸ Access to non-Catholic religious education is guaranteed by law but it is not very common since most of the country's population belongs to the Roman Catholic faith.³⁶⁹ Therefore, religious instruction continues to be dominated by the Catholic Church but parents have been given an option to opt-out, which adds to religious freedom in the country.

The issues dealing with constitutional reform, abortion and religious education have played an important role in defining the parameters of Church-state relations in Poland's post-communist period. Yet, in the case of Poland an additional variable should be considered to shed more light on the shape of Church-state relations. Specifically, this variable is the Church's attitude towards Poland's integration into the European Union. Since the early 1990s, the Church's position on Poland's accession into the European Union has not been entirely clear. In the aftermath of the political transition, members of the clergy made statements supporting Poland's return to Europe but simultaneously

³⁶⁷ Ibid., 823.

³⁶⁸ "Poland: Country Reports on Human Rights Practices." US Department of State: Bureau of Democracy, Human Rights and Labor. (February 25, 2004), <http://www.state.gov/g/drl/rls/hrrpt/2003/27858.htm>

³⁶⁹ Ibid.,

criticized Western Europe as too secular.³⁷⁰ For example, during a 1995 mass at Jasna Gora, Primate Glemp warned against Europe's widespread disregard for Christian values, including those towards sexuality and family.³⁷¹ The right-wing ultra Catholic and nationalistic group, Radio Maryja, became one of the most vocal critics of Poland's integration into the EU. The organization actively argued that the country's incorporation into the Union was likely to lead to de-moralization of Christian values among the citizens.³⁷² Despite the divergent opinions on the issue among the Church's representatives the bishops refrained from taking an official position on the question.

Given the Church's still notable influence over the Polish society, it was relevant for the government to secure the Catholic hierarchy's support for the European Union. The trip to Brussels by the Polish bishops in November of 1997 seemed to have improved the Church's attitudes towards Poland's integration into the Union. Following the visit the clergy expressed more favourable opinions of the EU, for instance, Bishop Pieronek suggested that there was little alternative to joining the Union.³⁷³ The pro-Union attitudes prevailed until the question of abortion resurfaced in the context of the EU. The issue raised concerns because in 2002 the European Parliament appealed to its member states and candidate countries to liberalize their abortion laws.³⁷⁴ Understandably, the matter raised serious concerns for the government because many feared that the Church might

³⁷⁰ Katarzyna Leszczynska, *Imprimatur Dla Unii? Kosciol Rzymskokatolicki w Polsce i Czechach Wobec Europy i Procesow Zjednoczeniowych*. Krakow: Zaklad Wydawniczy NOMOS (2002), 125-7.

³⁷¹ *Ibid.*, 129.

³⁷² *Ibid.*, 130.

³⁷³ Irena Borowik, "The Roman Catholic Church in the Process of Democratic Transformation: the Case of Poland." *Social Compass*. Vol. 49 no 2 (2002), 245.

³⁷⁴ Ian Traynor, "Abortion Issue Threatens Polish Admission to EU." *The Guardian*. (Thursday January 30, 2003), <http://www.guardian.co.uk/international/story/0,3604,884892,00.html>

encourage the people to vote ‘No’ in the referendum on Poland’s entry into the EU. Although during the parliamentary election the SLD promised to reexamine the country’s restrictive abortion legislation³⁷⁵, the party took a step back from the promise in order not to jeopardize the EU negotiations. Thus, when Marek Dyduch, SLD deputy and government’s general secretary, suggested that the government would appeal the anti-abortion legislation both Prime Minister Miller and President Kwasniewski denied the plans.³⁷⁶ Nevertheless, the Church pressured the government to seek official assurance from the Union’s representatives that the country’s abortion laws would not be challenged.³⁷⁷ Accordingly, during the final negotiations the Polish government reserved the right to control matters of moral significance, specifically those pertaining to human life.³⁷⁸ This example has further illustrated that the Church continues to carry some political weight in the Polish society.

Overall, much of the evidence thus far has suggested that the Church’s attempt to influence the Polish political scene have not been overly successful yet the Church’s political weight should not be completely understated. The Catholic clergy was successful in affecting important political decisions, especially the anti-abortion legislation and reintroduction of religious education in public schools. Yet, it is relevant

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³⁷⁶ “Constitutional Watch.” East European Constitutional Review. Vol. 11/12 no 4/1 (Winter 2002/Spring 2003), http://www.law.nyu.edu/eecr/vol11_12num4_1/constitutionwatch/poland.html See also: “Kwasniewski Against Abortion Law Changes.” Embassy of the Republic of Poland in Washington D.C. (December 19, 2001), http://www.polandembassy.org/News/Biuletyny_news/news%20biuletins%202002/p2002-12_19.htm

³⁷⁷ Ibid.

³⁷⁸ “Negotiations on Accession by the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia to the European Union.” (Brussels, 31 January 2003), Office of the Committee for European Integration. <http://www2.ukie.gov.pl/WWW/en.nsf/AllDocs?OpenView&Count=5&RestrictToCategory=Current%20news>Press%20releases>

to note that both these legislations were introduced shortly after 1989 at a time when the Church enjoyed considerable political influence. As argued by Timothy Byrnes, “the Catholic Church was, in the early 1990s, the most organized and most coherent institutional presence in a rather chaotic political environment.”³⁷⁹ In later years, the Catholic Church’s political influence declined but, nevertheless, the Church continues to be an important institution in the Polish society, as evident during the negotiations with the EU, and as such it has the right to publicly express its interests. Yet, the increasing opposition to the Church’s involvement in the public sphere is a good indication that its political influence is on the decrease.

Recent assessments rate Poland’s democratic development positively. According to the 2001 Freedom House Survey, Poland is considered to be a free country. On a scale of 1 to 7, 1 being completely free and 7 not free, Poland ranked 1 in terms of political rights and 2 in civil freedoms.³⁸⁰ Other human rights reports echo these conclusions. The 2003 International Religious Freedom Report informs that the Polish government promotes and protects religious liberty in practice.³⁸¹ Since 1989, democratic governments have implemented a legal framework to protect religious minorities in the country. Apart from the Constitutional provisions which guarantee religious freedom, the main examples are the 1991 legislation on the state’s attitude toward the Orthodox

³⁷⁹ Timothy Byrnes, Transnational Catholicism in Post-Communist Europe. Lanham: Rowman & Littlefield Publishers, Inc. (2001), 33.

³⁸⁰ “Freedom in the World Country Ratings, 1972-3 to 2001-2.” Freedom House Survey.
<http://www.freedomhouse.org/research/freeworld/FHSCORES.xls>

³⁸¹ “Poland: International Religious Freedom Report.” US Department of State: Bureau of Democracy, Human Rights and Labor. (2003), <http://www.state.gov/g/drl/rls/irf/2003/24427.htm>

Church and a similar law concerning the Gminas of Jewish Faith introduced in 1997.³⁸² Moreover, inciting hate speech based on religious grounds is punishable under the law. According to the Criminal Code such actions are punished by a fine or a prison term of up to three years.³⁸³ Despite legal restrictions there have been reports of discrimination against the Jewish and Orthodox minorities. However, such prejudice is usually isolated and carried out by skin-heads and other marginal sectors of society.³⁸⁴

Despite the increase of anti-clerical sentiments secularization of Poland is highly unlikely in the near future. Given the predominantly Catholic nature of the Polish society, Church and state are likely to maintain close relations in the years to come. However, the Church's influence cannot be overstated. As suggested by Mirella Eberts, Church-state relations in Poland are likely to resemble those in Spain, where the relationship between the two institutions are based on friendly cooperation.³⁸⁵ On that note, it is relevant to recognize that Spain's transition to democracy has occurred much earlier than that in Poland and as such many issues that continue to cause conflict between the Episcopate and the government in Poland have already been settled in Spain, the abortion debate being a good example.

³⁸² Michael Fleming, National Minorities in Post-Communist Poland. London: Veritas Foundation Publication Centre (2003), 246.

³⁸³ "Poland: International Religious Freedom Report." US Department of State: Bureau of Democracy, Human Rights and Labor. (2003), <http://www.state.gov/g/drl/rls/irf/2003/24427.htm>

³⁸⁴ *Ibid.*,

³⁸⁵ Mirella Eberts, "The Roman Catholic Church and Democracy in Poland." Europe-Asia Studies. Vol. 50 no 5 (1998), 835-6.

Conclusion

The examination of Church-state relations in Chile, Brazil, Spain and Poland reveals that the Catholic Church has played a relevant role in promoting democracy in those countries. In each of the selected states, although to a much lesser extent in Spain, the Church's representatives engaged in activities that criticized and challenged the legitimacy of their respective authoritarian governments. The Church's support for democracy considerably increased its social status in the aftermath of the political transition. As such, in the period following the democratic opening the Catholic hierarchy attempted to exert influence over public decisions especially those dealing with issues of morality. However, the rate of the Church's success in impacting public policies varied for each country.

Spain appears to have been most successful in countering the Church's influence. Following the initial transition, the government of Spain successfully introduced less restrictive abortion and divorce policies. Out of the four case studies, Spain has the most permissive abortion legislation which permits termination of pregnancy not only when it threatens the mother's life but also under circumstances where her mental or physical health is at stake. Brazil and Poland have more restrictive laws which permit abortion only when the mother's life or physical health is at stake, and in the case of rape or incest. The Chilean law does not permit abortions under any circumstances. In the case of divorce, the Chilean Church was the most successful in restricting access to divorce. Nonetheless, the Chilean government recently passed a bill that legalized the termination of marriage, which constitutes a considerable defeat to the Church which actively lobbied

to prevent the introduction of the law. In Spain, the legislation permitting divorce was introduced shortly after the democratic government took power. In Poland and Brazil, where divorce was legalized during the authoritarian period, the Church was unable to pressure the government to reintroduce restrictive divorce laws.

In the area of religious education all four states permit religious classes in public schools. In each country, religious education is dominated by the Catholic Church, yet, parents are given an opt-out option if the teachings violate their personal beliefs. Many established democracies offer funding for religious education and permit instruction of religion in public schools, hence, these new democracies are not unique in this respect. Since Catholicism is the principal faith in all four states it is understandable that the Catholic Church assumed an active role in religious education. However, the right to withdraw children from religion classes is an important part of maintaining religious liberty in those states.

The Catholic Church also attempted to impact the Constitutional debates in Spain, Brazil and Poland. In each country the Church was only marginally successful in influencing the final agreements. The Catholic hierarchy, for instance, was unable to lobby the government to include provisions granting legal protection to the fetus. Similarly, each document declared the state to be nondenominational. Both the Polish and the Spanish constitutions made a specific reference to the Catholic Church which is important in terms of recognizing its social status. In the end, the Catholic hierarchy was able to only partially influence the constitutional debates.

Thus, one of the main conclusions one could draw from this analysis is that the extent to which the Church was able to impact the political process in the democratic period depended on the local context in each country. Even though the Roman Catholic Church is a rigorously structured international institution the national circumstances have a relevant impact on the Church's behaviour. Spain was the most successful in countering the Church's influence but one must remember that the Church's opposition towards Franco's regime was not as strong in comparison to the other cases. Moreover, Spain embarked on the path towards democracy earlier than the other three countries and as such had more opportunity to normalize its relations with the Church. However thus far, the Church-state relations, although at times problematic, appear to be moving in the right direction in all four countries.

As argued throughout this paper the Roman Catholic Church has strong roots in each of these countries and as such its influence cannot be diminished overnight. Yet, the emergence of anti-clerical attitudes in those states has been indicative of the fact that people do not want a politically influential Church. In order to shed more light on people's perception of the Church a brief analysis of opinions towards some of the issues the Church lobbied to influence was examined. Specifically, public's attitudes towards abortion and divorce were analyzed. Although divorce did not become a contentious matter in Poland, or for that case even in Brazil, it is nonetheless useful to consider this issue in the context of all four countries in order to capture the degree of peoples' acceptance of the Church's values. In an attempt to understand public attitudes towards the Church and its doctrine in Chile, Brazil, Spain and Poland data from the World Value

Survey was examined.³⁸⁶ A basic comparison of means and a multivariate analysis of variance were the statistical procedures used to describe the relationships between the selected variables.

The data shows that in all four countries support for divorce was middle of the road. Even though the numbers were very similar (see Appendix 1a) the support for divorce was highest in Spain and lowest in Chile. On a scale 1 to 10 (1-never justified and 10-always justified) Spain's average response fell at 6.06, whereas, for Chile the mean response was 4.39. Considering the controversial nature of the divorce debate in Chile these results show that despite the Church's position a considerable proportion of the Chilean population supported legalization of divorce. These results inevitably raise the question of the impact of religion on a person's attitudes towards divorce. As shown in Appendix 1b, the more religious³⁸⁷ a person was the less likely they were to support divorce. However, in most cases it was apparent that regardless of the level of religiosity the support for divorce seemed to be the highest in Spain. The multivariate analysis of variance, Appendix 1c, further explained how well religion predicted people's attitudes towards divorce. Out of the three variables used to capture religiosity none were a particularly good predictor of a person's attitude towards divorce. The religiosity index explained only 29 percent of people's feelings towards the issue, and only 33 percent of

³⁸⁶ The 1995-1997 World Value Survey was used. Specifically the data for Chile was based on the 1996 survey, whereas the 1995 survey was used for Spain, and the 1997 for Brazil and Poland.

³⁸⁷ The religiosity index was measured on a scale of 1 to 7, 1 being the highest and 7 the lowest. The religiosity variable was created from two other variables: importance of religion (which was measured as very important, rather important, not very important, not at all important) and church attendance (which was measured as high, 2, 3, low). It was felt that the combination of those two variables adequately captured a person's religiosity since the importance of religion captured self perception of religiosity and church attendance showed actual participation in religious ritual.

people's view of divorce was explained by the combination of selected variables. As such, these statistics illustrate not only that in each country support for divorce was moderate but religiosity was a poor predictor of a person's stand towards divorce.

The results on the issue of abortion proved equally interesting. Although support for abortion rights was lower than in the case of divorce similar trends were found. The most support for abortions was found in Spain (Appendix 2a). On a scale of 1 to 10, 1 never justified and 10 always justified, Spain had a mean of 4.40, in Poland the mean was 3.50, whereas, the average was lower for Brazil and Chile. The results for Poland revealed that even though the country has very restrictive policies the support for abortions was comparatively high. Table 2b further illustrates that the more religious a person is the more likely they were to oppose termination of pregnancy. Religiosity was a slightly better predictor of people's attitudes towards abortion rights than divorce. However, as evident in Appendix 2c, the religiosity index explained only 32 percent of people's feelings towards abortion. Nearly 45 percent of people's attitudes towards abortion rights were explained by the combination of the selected variables.

The results are interesting but are not completely surprising. In each country Roman Catholicism is the main religion in the state, yet, people do not necessarily adhere to the Catholic doctrine. As showed in Appendix 3, even though each of these countries is predominantly Catholic in nature the people did not appear to be overly religious. On a scale of 1 to 7, 1 being most religious and 7 being least religious, Poland appears to be most religious with a mean of 2.51. Spain was the least religious with a mean of 4.11. Brazil proved only slightly less religious than Poland, with a mean of 2.87. The most

interesting result, however, was that for Chile. The statistics showed that people in Chile were less religious than in Poland or Brazil, with a mean of 3.54, yet in terms of the Church's influence in the post-transition period the Chilean Church was the most successful in obtaining its objectives.

Although both the Catholic Church and the people continue to support democracy in terms of specific policies, such as divorce and abortion, they seem to be diverging. As such, one could speculate that further interference by the Church in the political sphere will not go unchallenged. One could go as far as to predict that in the event of increased secularization the Catholic Church in Brazil, Chile, Spain and Poland is likely to be reduced to a status of just another interest group. Yet at the present time, the Catholic Church holds a privileged social position in each of the four countries. However, in most cases the Church is not a serious obstacle to further consolidation of democracy in those states. As previously discussed two conditions, apart from the institutional requirements, must be met by newly democratizing states in order to fully consolidate their democratic systems. Specifically, all citizens must be guaranteed full religious liberty and the dominant churches cannot impose their moral values on the rest of society. In each of the four states extensive legal provisions were introduced which granted freedom of religion and conscience to all citizens. As for the second condition, the Catholic Church attempted and to some extent was successful in imposing its vision of the 'good life' in these countries, yet the fact that the Church's political influence was challenged by democratic forces is a good indication that these states are moving in the right direction.

Appendix 1

Means

Case Processing Summary

	Cases					
	Included		Excluded		Total	
	N	Percent	N	Percent	N	Percent
divorce * nation	4415	97.8%	98	2.2%	4513	100.0%

Report

divorce

nation	Mean	N	Std. Deviation
Spain	6.06	1157	3.156
Poland	4.52	1124	2.788
Brazil	4.90	1143	3.376
Chile	4.39	991	3.156
Total	4.99	4415	3.196

Report

divorce

religiosity index	country-recoded	Mean	N	Std. Deviation.
Highest	Spain	3.93	144	2.975
	Poland	3.45	400	2.588
	Brazil	4.05	331	3.312
	Chile	3.25	172	2.847
	Total	3.67	1047	2.942
2	Spain	5.03	157	3.070
	Poland	4.43	267	2.635
	Brazil	4.58	202	3.299
	Chile	3.56	158	2.879
	Total	4.41	784	2.987
3	Spain	5.73	128	3.248
	Poland	5.17	147	2.731
	Brazil	5.46	172	3.238
	Chile	4.35	134	3.024
	Total	5.19	581	3.102
4	Spain	6.38	152	2.967
	Poland	5.63	134	2.738
	Brazil	5.14	241	3.299
	Chile	4.27	184	3.077
	Total	5.27	711	3.154
5	Spain	6.68	196	2.884
	Poland	5.32	87	2.739
	Brazil	5.57	115	3.403
	Chile	4.99	165	3.114
	Total	5.75	563	3.118
6	Spain	6.79	222	2.739
	Poland	5.75	44	2.660
	Brazil	6.30	47	3.113
	Chile	5.93	116	3.103
	Total	6.40	429	2.898
Lowest	Spain	7.77	128	2.860
	Poland	6.44	25	2.518
	Brazil	6.48	29	3.661
	Chile	6.54	41	3.515
	Total	7.22	223	3.111
Total	Spain	6.09	1127	3.146
	Poland	4.49	1104	2.794
	Brazil	4.90	1137	3.369
	Chile	4.40	970	3.162
	Total	4.99	4338	3.197

Means

Factor Summary^a

		Eta	Beta
			Adjusted for Factors
divorce	country-recoded	.201	.151
	religiosity index	.286	.298
	Church Attendance-Recoded	.248	.067
	religious denomin-recoded	.092	.033

a. divorce by country-recoded, religiosity index, Church Attendance-Recoded, religious denomin-recoded

Model Goodness of Fit

	R	R Squared
divorce by country-recoded, religiosity index, Church Attendance-Recoded, religious denomin-recoded	.331	.110

Appendix 2

Means

Case Processing Summary

	Cases					
	Included		Excluded		Total	
	N	Percent	N	Percent	N	Percent
abortion * nation	4410	97.7%	103	2.3%	4513	100.0%

Report

abortion

nation	Mean	N	Std. Deviation
Spain	4.40	1150	3.141
Poland	3.50	1129	2.741
Brazil	2.02	1141	2.187
Chile	2.21	990	2.248
Total	3.06	4410	2.797

Report

abortion

religiosity index	country-recoded	Mean	N	Std. Deviation
Highest	Spain	2.36	146	2.283
	Poland	2.27	403	2.089
	Brazil	1.54	332	1.719
	Chile	1.66	173	1.924
	Total	1.95	1054	2.011
2	Spain	2.96	159	2.477
	Poland	3.21	269	2.491
	Brazil	1.80	198	1.730
	Chile	1.84	158	1.940
	Total	2.53	784	2.302
3	Spain	4.02	127	3.011
	Poland	4.00	147	2.609
	Brazil	1.81	173	1.743
	Chile	2.14	134	2.149
	Total	2.92	581	2.590
4	Spain	4.68	151	3.114
	Poland	4.68	133	2.816
	Brazil	2.27	241	2.468
	Chile	1.95	185	2.065
	Total	3.15	710	2.876
5	Spain	4.90	191	3.040
	Poland	4.75	87	2.914
	Brazil	2.82	115	2.796
	Chile	2.58	163	2.258
	Total	3.76	556	2.961
6	Spain	5.54	218	2.854
	Poland	5.91	44	2.726
	Brazil	3.11	47	2.838
	Chile	3.09	115	2.515
	Total	4.64	424	3.003
Lowest	Spain	6.09	127	3.474
	Poland	6.50	26	3.010
	Brazil	3.21	29	3.222
	Chile	3.56	41	3.163
	Total	5.30	223	3.556
Total	Spain	4.42	1119	3.141
	Poland	3.45	1109	2.723
	Brazil	2.02	1135	2.179
	Chile	2.22	969	2.237
	Total	3.05	4332	2.787

Factor Summary^a

		Eta	Beta
			Adjusted for Factors
abortion	country-recoded	.339	.292
	religiosity index	.316	.411
	Church Attendance-Recoded	.233	.149
	religious denomin-recoded	.128	.010

a. abortion by country-recoded, religiosity index, Church Attendance-Recoded, religious denomin-recoded

Model Goodness of Fit

	R	R Squared
abortion by country-recoded, religiosity index, Church Attendance-Recoded, religious denomin-recoded	.450	.202

Appendix 3

Means

Case Processing Summary

	Cases					
	Included		Excluded		Total	
	N	Percent	N	Percent	N	Percent
religiosity index * country-recoded	4429	98.1%	84	1.9%	4513	100.0%

Report

religiosity index

country-recoded	Mean	N	Std. Deviation
Spain	4.11	1175	1.951
Poland	2.51	1132	1.621
Brazil	2.87	1143	1.651
Chile	3.54	979	1.788
Total	3.26	4429	1.865

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